

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2226

By: Ingmire and Adkins of the
House

and

Morgan of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the Teachers' Retirement System of Oklahoma; enacting the Alternate Retirement Plan for Comprehensive Universities; defining terms; authorizing certain alternate retirement plans for certain eligible employees and electing employees; providing for in lieu treatment of plans; requiring certain benefits to be provided through alternate retirement plans; authorizing Board of Regents of participating institutions to establish alternate retirement plan; providing for determination of terms and conditions of plan; providing for administration of plan; providing for selection of companies to administer plan; providing for approval of agreements; authorizing delegation of authority; providing for designation of certain entities; prescribing certain period of election; providing for effect of failure to make election; providing for effect of election upon contributions to Teachers' Retirement System of Oklahoma; providing for effect of election to participate in Teachers' Retirement System of Oklahoma; providing for ineligibility to participate in Teachers' Retirement System of Oklahoma based upon certain election; prescribing period of duration for ineligibility; providing for applicability of certain retirement system provisions; prohibiting service credit in Teachers' Retirement System of Oklahoma during participation in alternate retirement plan; providing for irrevocable election to cease participation in Teachers' Retirement System; prescribing period for election; requiring notification to Teachers' Retirement System; providing for cessation of certain contributions; providing for disposition of employee contributions for nonvested employees; providing for disposition of interest; providing for transfers contingent upon receipt of certain notice from Internal Revenue Service; providing for treatment of service credit after transfer of contribution and related amounts; providing for refund of employee contributions and related amounts based upon disapproval by Internal Revenue Service; providing for certain options for vested employees of the Teachers' Retirement System of Oklahoma; providing for transfers contingent upon receipt of certain

notice from Internal Revenue Service; providing for treatment of service credit after transfer of contribution and related amounts; providing for refund of employee contributions and related amounts based upon disapproval by Internal Revenue Service; providing for effect of participation in alternate retirement plan upon service credit; requiring promulgation of rules by Board of Regents of participating institutions; requiring payment of initial funding surcharge; providing for effect of surcharge; prescribing amount of surcharge; providing for duration of initial surcharge; providing for additional surcharge amount based upon certain actuarial condition of Teachers' Retirement System; requiring review of additional funding surcharge; providing for determination of additional funding surcharge; authorizing agreements; prescribing procedures with respect to additional funding surcharge; imposing limitation upon additional funding surcharge; providing for effect of payments upon salary, fringe benefits or compensation due to employees; providing for certain allocation of assets and income sources of the Teachers' Retirement System of Oklahoma to participating institutions in alternate retirement plans; imposing restrictions with respect to certain income source; prescribing methodology for determination of allocation of certain income sources for certain periods of time; requiring separate determination of certain liabilities; requiring periodic review of actuarial methods and assumptions; providing for agreements between Teachers' Retirement System of Oklahoma and participating institutions; providing for determination of actuarial methods and assumptions by Board of Trustees of Teachers' Retirement System; requiring written acknowledgment with respect to obligations; providing for obligations of alternate retirement plans; amending 70 O.S. 2001, Sections 17-101, 17-103, as amended by Section 1, Chapter 326, O.S.L. 2003 and 17-116.2B (70 O.S. Supp. 2003, Section 17-103), which relate to the Teachers' Retirement System of Oklahoma; modifying definitions; modifying provisions related to membership of retirement system; modifying provisions related to participation in retirement system by certain employees of comprehensive universities; modifying provisions related to computation of retirement benefit amounts; authorizing recalculation of benefits by certain members of retirement system; providing for effective date based upon increase in benefits; prohibiting retroactive payment of increased benefits; defining term; providing for computation of average salary amount based upon certain formula; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-201 of Title 70, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 8 of this act shall be known and may be cited as the "Alternate Retirement Plan for Comprehensive Universities Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-202 of Title 70, unless there is created a duplication in numbering, reads as follows:

The following words and phrases as used in this act shall have the following meanings unless a different meaning is clearly required by the context:

1. "Participating institution" means only the entities that comprise a comprehensive university pursuant to Section 17-101 of Title 70 of the Oklahoma Statutes and which:

- a. maintain an alternate retirement plan pursuant to the provisions of this act, and
- b. employ eligible employees;

2. "Alternate retirement plan" means any employee retirement plan that is created solely to provide benefits for eligible employees and electing employees, as defined in this section, for periods of service on or after July 1, 2004. Such retirement plan shall be a plan meeting the requirements of Section 401(a) of the Internal Revenue Code of 1986, as amended, operated pursuant to the provisions of this act;

3. "Board of regents" means the board or body designated by the Oklahoma Constitution or by Title 70 of the Oklahoma Statutes as the board of regents or governing board of a comprehensive university that is a participating institution;

4. "Eligible employee" means any employee of a participating institution who (a) was initially appointed or hired after June 30, 2004, and (b) meets the eligibility requirements of the alternate

retirement plan of the participating institution that employs the eligible employee. However, the term "eligible employee" does not include a person whose employment is incidental to his or her educational program or whose employment is not continuous. Such eligible employees shall be eligible to participate in the alternate retirement plan if they make a one-time irrevocable written election pursuant to this act;

5. "Electing employee" means an employee of a participating institution hired prior to July 1, 2004, who is a member of the Teachers' Retirement System of Oklahoma and who makes a one-time irrevocable written election pursuant to this act to cease to make employee contributions to the Teachers' Retirement System of Oklahoma and to participate in an alternate retirement plan established by such employee's participating institution pursuant to this act; and

6. "One-time irrevocable written election" means a one-time election made pursuant to this act by an eligible employee or electing employee that shall be in writing and irrevocable and shall cover all future service with a participating institution regardless of a break in service.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-203 of Title 70, unless there is created a duplication in numbering, reads as follows:

Alternate retirement plans for eligible employees and electing employees are hereby authorized at participating institutions in lieu of the retirement plan offered by the Teachers' Retirement System of Oklahoma. Alternate retirement plans, shall, for eligible employees and electing employees, provide retirement and death benefits to such employees through the purchase of annuity contracts, qualified retirement trusts or custodial accounts, fixed or variable in nature, or a combination thereof, at the option of the participating institution.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-204 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. On or before June 30, 2005, the Board of Regents of a participating institution may establish an alternate retirement plan pursuant to the provisions of this act, for the entities under the jurisdiction of such Board of Regents, for eligible employees and electing employees in lieu of membership in the Teachers' Retirement System of Oklahoma. The Board of Regents of the applicable participating institution shall determine the terms and conditions of the alternate retirement plan including, by example, terms for eligibility, contributions, vesting and the amount of benefits, and provide for the administration of such an alternate retirement plan and perform or authorize the performance of such functions as may be necessary for such purpose in accordance with this act.

B. The Board of Regents shall select the company or companies that shall administer the qualified retirement trust, custodial accounts or from which annuity contracts are to be purchased under the alternate retirement plan and shall approve the form and content of all agreements governing such trusts, accounts or contracts.

C. The Board of Regents of the participating institutions may delegate certain responsibilities for administering the alternate retirement plan with respect to each institution's own employees.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-205 of Title 70, unless there is created a duplication in numbering, reads as follows:

Each Board of Regents which establishes an alternate retirement plan shall designate one or more companies to provide for the funding of alternate retirement plan benefits through the purchase of annuity contracts, qualified retirement trusts or custodial accounts.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-206 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. An eligible employee shall have ninety (90) days from such eligible employee's initial date of hire or the date the alternate retirement plan is adopted by the participating institution, whichever is later, to make a one-time irrevocable written election to participate in the alternate retirement plan or the Teachers' Retirement System of Oklahoma. If an eligible employee fails to make an election within the ninety-day period such eligible employee shall participate in the Teacher's Retirement System of Oklahoma. If an eligible employee makes the election to participate in the alternate retirement plan such eligible employee shall not participate in the Teachers' Retirement System of Oklahoma nor make employee contributions to the Teachers' Retirement System of Oklahoma and the participating institution shall not make employer contributions to the Teachers' Retirement System of Oklahoma except as otherwise required by this act. If an eligible employee elects to participate in the Teachers' Retirement System of Oklahoma, then the eligible employee shall make employee contributions to the Teachers' Retirement System of Oklahoma and the participating institution shall pay the employer contributions of such eligible employee to the Teachers' Retirement System of Oklahoma for the month that the eligible employee was hired through the month that the election is made and as long as the eligible employee participates in the Teachers' Retirement System of Oklahoma.

B. An eligible employee who elects to participate in the alternate retirement plan shall be ineligible for participation in the Teachers' Retirement System of Oklahoma. Ineligibility to participate in the Teachers' Retirement System of Oklahoma shall continue so long as such eligible employee remains employed by a participating institution. If such eligible employee assumes a

different position, which is governed by a state retirement system other than the alternate retirement plan authorized in this act, the eligible employee shall be subject to the retirement system rules applicable to that new position. However, such eligible employee shall not be eligible for service credit in the Teachers' Retirement System of Oklahoma for service performed while participating in an alternate retirement plan.

C. An electing employee who desires to cease to participate in the Teachers' Retirement System of Oklahoma shall make a one-time irrevocable written election to cease making employee contributions to the Teachers' Retirement System of Oklahoma and participate in the alternate retirement plan. Such election shall be made within one (1) year following the adoption of the alternate retirement plan or receipt of official written notice that the provisions of this act satisfy the applicable requirements of the Internal Revenue Code of 1986, as amended from time to time, whichever is later. If the electing employee makes the election pursuant to this subsection, then the participating institution shall notify the Teachers' Retirement System of Oklahoma of such election within thirty (30) days of receipt of the election. Upon the election to cease membership in the Teachers' Retirement System of Oklahoma, employer and employee contributions shall cease as of the first day of the month coinciding with or first following the receipt of the election from the electing employee by the participating institution.

D. Subject to receipt of official written notice that the provisions of this act satisfy the applicable requirements of the Internal Revenue Code of 1986, as amended from time to time, as provided in subsection C of this section, if the electing employee is not vested with the Teachers' Retirement System of Oklahoma at the time the election is made, the Teachers' Retirement System of Oklahoma shall transfer all of the electing employee's employee contributions (but not employer contributions) at the time of such

election, and attributable interest, pursuant to Section 17-105 of Title 70 of the Oklahoma Statutes, to the alternate retirement plan in an amount equal to what the electing employee would have received had the electing employee withdrawn his or her contributions at the date of such election. A transfer of employee contributions and interest pursuant to this subsection shall only be made upon receipt of official written notice that such transfer satisfies the applicable requirements of the Internal Revenue Code of 1986, as amended from time to time. Upon transfer of such employee contributions and interest to the alternate retirement plan, the electing employee shall have all service credit, rights, and benefits in the Teachers' Retirement System of Oklahoma canceled. In the event the Internal Revenue Service does not approve the transfer of contributions and interest to the alternate retirement plan as provided in this subsection, such employee contributions and interest shall be refunded to such electing employee upon termination, retirement, death or disability pursuant to Section 17-101 et seq. of Title 70 of the Oklahoma Statutes and the rules of the Teachers' Retirement System of Oklahoma.

E. In the event an electing employee is vested with the Teachers' Retirement System of Oklahoma on the date that the election is made, such individual shall have the option to either (a) leave all of his or her employee contributions in the Teachers' Retirement System of Oklahoma, or (b) transfer all of the electing employee's employee contributions (but not employer contributions) at the time of such election, and attributable interest, pursuant to Section 17-105 of Title 70 of the Oklahoma Statutes, to the alternate retirement plan in an amount equal to what the electing employee would have received had the electing employee withdrawn his or her contributions at the date of such election. A transfer of employee contributions and interest pursuant to this subsection shall only be made upon receipt of official written notice that such

transfer satisfies the applicable requirements of the Internal Revenue Code of 1986, as amended from time to time. Upon transfer of such employee contributions and interest to the alternate retirement plan, all of the electing employee's service credit, rights, and benefits in the Teachers' Retirement System of Oklahoma shall be canceled. However, such electing employee who leaves all of his or her employee contributions in the Teachers' Retirement System of Oklahoma shall not be eligible to retire from the Teachers' Retirement System of Oklahoma while employed by a participating institution. In the event the Internal Revenue Service does not approve the transfer of contributions and interest to the alternate retirement plan as provided in this subsection, such employee contributions and interest shall be refunded to such electing employee upon termination, retirement, death or disability pursuant to Section 17-101 et seq. of Title 70 of the Oklahoma Statutes and the rules of the Teachers' Retirement System of Oklahoma.

F. An electing employee shall not be eligible to obtain service credit in the Teachers' Retirement System of Oklahoma for service performed while participating in an alternate retirement plan as provided in this act, on or after July 1, 2004, even if the employee later returns to employment in a position governed by the Teachers' Retirement System of Oklahoma. The Boards of Regents of the participating institutions and the Teachers' Retirement System of Oklahoma shall promulgate any rules necessary to implement the provisions of this section.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-207 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Participating institutions establishing an alternate retirement plan pursuant to this act shall pay an initial funding surcharge, and if applicable an additional funding surcharge to the

Teachers' Retirement System of Oklahoma in an amount to amortize the unfunded accrued liability of the members of the participating institutions in the System.

B. The initial funding surcharge is intended to ensure amortization of the unfunded accrued liability of the participating institutions over a period of thirty (30) years or the amortization period of the System. The initial funding surcharge shall equal two and one-half percent (2.5%) of the regular annual compensation of the electing employees and the eligible employees, who are not participating in the System but who would have been mandated to participate in the System under the laws and rules applicable to the System in effect on June 30, 2004. The initial funding surcharge but not the additional funding surcharge, if any, shall remain in effect until the earlier of June 30, 2034, or the June 30th of the year in which the unfunded accrued liability of the participating institutions is reduced to zero.

C. In addition to the initial funding surcharge described above, the participating institutions shall pay to the System an additional funding surcharge, if required, in an amount necessary to provide for amortization of the unfunded accrued liability of the participating institutions over the applicable amortization period of thirty (30) years, or the amortization period of the System, if longer. The additional funding surcharge shall be reviewed and adjusted in subsequent years based on changes in the assets and liabilities of the membership in the System of the participating institutions. The additional funding surcharge shall be determined by the Board of Trustees of the System and the participating institutions pursuant to the separate agreement of understanding provided in subsection H of this section. Any change in the additional funding surcharge indicated to be necessary by the annual actuarial valuation shall be adopted by the Board of Trustees of the System provided that such change shall become effective on July 1 of

the year following such annual valuation and the participating institutions shall be notified by the System no later than January 1 of such year. Provided, the additional funding surcharge determined for any year shall not be greater than an additional funding surcharge determined under the separate agreement of understanding but using the "individual entry age normal cost method" as described in Revenue Procedure 2000-40, Approval 8, to determine the normal cost/normal cost percentage of the participating institutions.

D. Any payments made to the Teachers' Retirement System of Oklahoma pursuant to this section shall not be considered as salary, fringe benefits or compensation due to the eligible employee or electing employee for the purpose of meeting any legislative or contractual obligation of the employer of such person.

E. To determine the amount of assets of the participating institutions at any point in time after June 30, 2003, the participating institutions shall have allocated to such institutions Five Hundred Ninety-two Million Nine Hundred Seventy-four Thousand Two Hundred Sixty-four Dollars (\$592,974,264.00) of the assets of the Teachers' Retirement System of Oklahoma which reflects their portion of assets in the System as of June 30, 2003, plus future employer and employee contributions including service purchases attributable to the participating institutions and its members, nine and forty-one hundredths percent (9.41%) of all federal and state funding received by the System during the applicable year and other assets contributed to the System allocable to the participating institutions subject to the limitations in this subsection, earnings on investments less distributions and expenses allocable to the participating institutions. Provided, the allocation of nine and forty-one hundredths percent (9.41%) of federal and state funding received by the System to the participating institutions shall not exceed the unfunded accrued liability and shall remain in effect until the earlier of June 30, 2034, or when the unfunded accrued

liability of the participating institutions is reduced to zero. However, if for any applicable year during the thirty-year amortization period commencing July 1, 2004, there is any unfunded accrued liability allocable to the participating institutions in the System, then the allocable percentage of federal and state funding shall be nine and forty-one hundredths percent (9.41%) but not exceed the unfunded accrued liability. Provided further, after the expiration of such thirty-year amortization period, the allocation of federal and state funding to the participating institutions for any year shall equal the percentage of all such federal and state funding received by the System determined by dividing the actuarial accrued liability of the participating institutions by the actuarial accrued liability of the System, and such methodology to determine such allocation shall be made for all years thereafter.

F. After June 30, 2004, the liabilities associated with the members of the participating institutions participating in the Teachers' Retirement System of Oklahoma shall be determined on a separate basis, reflecting the level of benefits based on the actuarial methods and assumptions used by the System as applied to the participating institutions under this act.

G. The actuarial methods and assumptions applicable to the participating institutions in determining an allocable share of assets, liabilities and associated costs as provided in this act shall be reviewed at least every five (5) years.

H. The Board of Trustees of the Teachers' Retirement System of Oklahoma and the participating institutions shall enter into a separate agreement of understanding which details the procedures to be applied to implement the required review and subsequent adjustments to the assets, liabilities and the additional funding surcharge attributable to the participating institutions or the actuarial methods or assumptions applied to determine the appropriate share of assets and liabilities applicable to the

participating institutions. Except as otherwise provided in this act, the Board of Trustees of the System shall be the final authority to determine all actuarial methods or assumptions to be used by the System and all such actuarial methods or assumptions shall be applied on a sound actuarial basis and on a uniform, fair and consistent basis which methods and assumptions reflect the actual experience of the members of the participating institutions.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-208 of Title 70, unless there is created a duplication in numbering, reads as follows:

All eligible employees and electing employees participating in the alternate retirement plan shall acknowledge in writing that benefits payable pursuant to such alternate retirement plan are not the obligations of the State of Oklahoma or the Teachers' Retirement System of Oklahoma. The alternate retirement plan shall be solely responsible for payment of retirement, death or other benefits earned under the alternate retirement plan and such benefits shall be paid to the participants or their beneficiaries pursuant to the terms of the alternate retirement plan.

SECTION 9. AMENDATORY 70 O.S. 2001, Section 17-101, is amended to read as follows:

Section 17-101. The following words and phrases as used in this act, unless a different meaning is clearly required by the context, shall have the following meanings:

(1) "Retirement system" shall mean the Teachers' Retirement System of Oklahoma, as defined in Section 17-102 of this title.

(2) "Public school" shall mean a school district, a state college or university, the State Board of Education, the State Board of Career and Technology Education and any other state educational entity conducted within the state supported wholly or partly by public funds and operating under the authority and supervision of a

legally constituted board or agency having authority and responsibility for any function of public education.

(3) "Classified personnel" shall mean any teacher, principal, superintendent, supervisor, administrator, librarian, certified or registered nurse, college professor, or college president whose salary is paid wholly or in part from public funds. An employee of any state department, board, board of regents or board of trustees, who is in a supervisory or an administrative position, the function of which is primarily devoted to public education, shall be considered classified personnel under the meaning of this act, at the discretion of the Board of Trustees of the Teachers' Retirement System. The term "teacher" shall also include instructors and counselors employed by the Department of Corrections and holding valid teaching certificates issued by the State Department of Education. Provided, that a person employed by the Department of Corrections as an instructor or counselor shall have been actively engaged in the teaching profession for a period of not less than three (3) years prior to employment to be eligible to participate in the Oklahoma Teachers' Retirement System. The Department of Corrections shall contribute the employer's share to the Oklahoma Teachers' Retirement System.

(4) "Nonclassified optional personnel" shall include cooks, janitors, maintenance personnel not in a supervisory capacity, bus drivers, noncertified or nonregistered nurses, noncertified librarians, and clerical employees of the public schools, state colleges, universities or any state department, board, board of regents or board of trustees, the functions of which are primarily devoted to public education and whose salaries are paid wholly or in part from public funds.

(5) "Employer" shall mean the state and any of its designated agents or agencies with responsibility and authority for public education, such as boards of education of elementary and independent

school districts, boards of regents, boards of control or any other agency of and within the state by which a person may be employed for service in public education.

(6) "Member" shall mean any teacher or other employee included in the membership of the system as provided in Section 17-103 of this title.

(7) "Board of Trustees" shall mean the board provided for in Section 17-106 of this title to administer the retirement system.

(8) "Service" shall mean service as a classified or nonclassified optional employee in the public school system, or any other service devoted primarily to public education in the state.

(9) "Prior service" shall mean service rendered prior to July 1, 1943.

(10) "Membership service" shall mean service as a member of the classified or nonclassified personnel as defined in paragraphs (3) and (4) of this section.

(11) "Creditable service" shall mean membership service plus any prior service authorized under this title.

(12) "Annuitant" shall mean any person in receipt of a retirement allowance as provided in this title.

(13) "Accumulated contributions" shall mean the sum of all amounts deducted from the compensation of a member and credited to his individual account in the Teacher Savings Fund, together with interest as of June 30, 1968.

(14) "Earnable compensation" shall mean the full rate of the compensation that would be payable to a member if he worked the full normal working time.

(15) "Average salary":

- (a) for those members who joined the System prior to July 1, 1992, shall mean the average of the salaries for the three (3) years on which the highest contributions to the Teachers' Retirement System was paid not to

exceed the maximum contribution level specified in Section 17-116.2 of this title or the maximum compensation level specified in subsection (28) of this section. Provided, no member shall retire with an average salary in excess of Twenty-five Thousand Dollars (\$25,000.00) unless the member has made the required election and paid the required contributions on such salary in excess of Twenty-five Thousand Dollars (\$25,000.00), and

(b) for those members who join the System after June 30, 1992, shall mean the average of the salaries for five (5) consecutive years on which the highest contribution to the Teachers' Retirement System was paid. Only salary on which required contributions have been made may be used in computing average salary.

(16) "Annuity" shall mean payments for life derived from the "accumulated contributions" of a member. All annuities shall be payable in equal monthly installments.

(17) "Pension" shall mean payments for life derived from money provided by the employer. All pensions shall be payable in equal monthly installments.

(18) "Monthly retirement allowance" is one-twelfth (1/12) of the annual retirement allowance which shall be payable monthly.

(19) "Retirement Benefit Fund" shall mean the fund from which all retirement benefits shall be paid based on such mortality tables as shall be adopted by the Board of Trustees.

(20) "Actuary" shall mean a person especially skilled through training and experience in financial calculation respecting the expectancy and duration of life.

(21) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality and other tables as shall be adopted by the Board of Trustees.

(22) The masculine pronoun, whenever used, shall include the feminine.

(23) "Actuarially determined cost" shall mean the single sum which is actuarially equivalent in value to a specified pension amount as determined on the basis of mortality and interest assumptions adopted by the Board of Trustees.

(24) "Normal retirement age" means age sixty-two (62) or the age at which the sum of a member's age and number of years of creditable service total eighty (80) or ninety (90), for those who became a member after June 30, 1992, pursuant to Section 17-105 of this title, whichever occurs first.

(25) "Regular annual compensation" means salary plus fringe benefits, excluding the flexible benefit allowance pursuant to Section 7 26-105 of this ~~act~~ title and for purposes pursuant to Section 17-101 et seq. of this title. For purposes of this definition, regular annual compensation shall include all normal periodic payments as provided in subsection D of Section 17-116.2 of this title.

(26) "Teacher" means classified personnel and nonclassified optional personnel.

(27) "Active classroom teacher" means a person employed by a school district to teach students specifically identified classes for specifically identified subjects during the course of a semester, and who holds a valid certificate or license issued by and in accordance with the rules and regulations of the State Board of Education.

(28) "Maximum compensation level" shall mean:

- (a) Twenty-five Thousand Dollars (\$25,000.00) for ~~credited~~ creditable service authorized and performed prior to

July 1, 1995, for members not electing a higher maximum compensation level,

- (b) Forty Thousand Dollars (\$40,000.00) for ~~credited~~ creditable service authorized and performed prior to July 1, 1995, for members electing a maximum compensation level in excess of Twenty-five Thousand Dollars (\$25,000.00),
- (c) Twenty-seven Thousand Five Hundred Dollars (\$27,500.00) for members who, as of June 30, 1995, had elected to have a maximum compensation level not in excess of Twenty-five Thousand Dollars (\$25,000.00), and who were employed by an entity or institution within The Oklahoma State System of Higher Education for ~~credited~~ creditable service authorized and performed on or after July 1, 1995, but not later than June 30, 1996, if such member does not elect a higher maximum compensation level for this period as authorized by Section 17-116.2A of this title,
- (d) Thirty-two Thousand Five Hundred Dollars (\$32,500.00) for members employed by a comprehensive university if the member meets the requirements imposed by Section 17-116.2A of this title and the member elects to impose a higher maximum compensation level for service performed on or after July 1, 1995, but not later than June 30, 1996,
- (e) Forty-four Thousand Dollars (\$44,000.00) for members who, as of June 30, 1995, had elected to have a maximum compensation level in excess of Twenty-five Thousand Dollars (\$25,000.00), and who were employed by an entity or institution within The Oklahoma State System of Higher Education for ~~credited~~ creditable service authorized and performed on or after July 1,

1995, but not later than June 30, 1996, if such member does not elect a higher maximum compensation level for this period as authorized by Section 17-116.2A of this title,

(f) Forty-nine Thousand Dollars (\$49,000.00) for members employed by a comprehensive university if the member meets the requirements imposed by Section 17-116.2A of this title and the member elects to impose a higher maximum compensation level for service performed on or after July 1, 1995, but not later than June 30, 1996,

(g) the following amounts for ~~credited~~ creditable service authorized and performed by members employed by a comprehensive university, based upon the election of the member in effect as of June 30, 1995:

1. for members who elected a maximum compensation level not in excess of Twenty-five Thousand Dollars (\$25,000.00):

(i) Thirty-two Thousand Five Hundred Dollars (\$32,500.00) for service authorized and performed on or after July 1, 1996, but not later than June 30, 1997,

(ii) Thirty-seven Thousand Five Hundred Dollars (\$37,500.00) for service authorized and performed on or after July 1, 1997, but not later than June 30, 1998,

(iii) Forty-two Thousand Five Hundred Dollars (\$42,500.00) for service authorized and performed on or after July 1, 1998, but not later than June 30, 2000,

(iv) Forty-seven Thousand Five Hundred Dollars (\$47,500.00) for service authorized and

- performed on or after July 1, 2000, but not later than June 30, 2001,
- (v) Fifty-two Thousand Five Hundred Dollars (\$52,500.00) for service authorized and performed on or after July 1, 2001, but not later than June 30, 2002,
 - (vi) Fifty-seven Thousand Five Hundred Dollars (\$57,500.00) for service authorized and performed on or after July 1, 2002, but not later than June 30, 2003,
 - (vii) Sixty-two Thousand Five Hundred Dollars (\$62,500.00) for service authorized and performed on or after July 1, 2003, but not later than June 30, 2004,
 - (viii) Sixty-seven Thousand Five Hundred Dollars (\$67,500.00) for service authorized and performed on or after July 1, 2004, but not later than June 30, 2005,
 - (ix) Seventy-two Thousand Five Hundred Dollars (\$72,500.00) for service authorized and performed on or after July 1, 2005, but not later than June 30, 2006,
 - (x) Seventy-seven Thousand Five Hundred Dollars (\$77,500.00) for service authorized and performed on or after July 1, 2006, but not later than June 30, 2007,
 - (xi) the full amount of regular annual compensation for service authorized and performed on or after July 1, 2007, and
2. for members who elected a maximum compensation level in excess of Twenty-five Thousand Dollars (\$25,000.00):

- (i) Forty-nine Thousand Dollars (\$49,000.00) for service authorized and performed on or after July 1, 1996, but not later than June 30, 1997,
- (ii) Fifty-four Thousand Dollars (\$54,000.00) for service authorized and performed on or after July 1, 1997, but not later than June 30, 1998,
- (iii) Fifty-nine Thousand Dollars (\$59,000.00) for service authorized and performed on or after July 1, 1998, but not later than June 30, 2000,
- (iv) Sixty-four Thousand Dollars (\$64,000.00) for service authorized and performed on or after July 1, 2000, but not later than June 30, 2001,
- (v) Sixty-nine Thousand Dollars (\$69,000.00) for service authorized and performed on or after July 1, 2001, but not later than June 30, 2002,
- (vi) Seventy-four Thousand Dollars (\$74,000.00) for service authorized and performed on or after July 1, 2002, but not later than June 30, 2003,
- (vii) Seventy-nine Thousand Dollars (\$79,000.00) for service authorized and performed on or after July 1, 2003, but not later than June 30, 2004,
- (viii) Eighty-four Thousand Dollars (\$84,000.00) for service authorized and performed on or after July 1, 2004, but not later than June 30, 2005,

(ix) Eighty-nine Thousand Dollars (\$89,000.00)
for service authorized and performed on or
after July 1, 2005, but not later than June
30, 2006,

(x) Ninety-four Thousand Dollars (\$94,000.00)
for service authorized and performed on or
after July 1, 2006, but not later than June
30, 2007,

(xi) the full amount of regular annual
compensation for service authorized and
performed on or after July 1, 2007,

(h) the full amount of regular annual compensation of:

1. a member of the retirement system not employed by
an entity or institution within The Oklahoma
State System of Higher Education for all ~~credited~~
creditable service authorized and performed on or
after July 1, 1995,
2. a member of the retirement system first employed
on or after July 1, 1995, by an entity or
institution within The Oklahoma State System of
Higher Education for all ~~credited~~ creditable
service authorized and performed on or after July
1, 1995, but not later than June 30, 1996,
3. a member of the retirement system employed by an
entity or institution within The Oklahoma State
System of Higher Education, other than a
comprehensive university, if the member elects to
impose a higher maximum compensation level for
service performed on or after July 1, 1995, but
not later than June 30, 1996, pursuant to
subsection B of Section 17-116.2A of this title,

4. a member of the retirement system who is first employed on or after July 1, 1996, by any entity or institution within The Oklahoma State System of Higher Education, including a comprehensive university, for ~~credited~~ creditable service authorized and performed on or after July 1, 1996,
5. a member of the retirement system who, as of July 1, 1996, is subject to a maximum compensation level pursuant to paragraph (g) of this subsection if the member terminates service with a comprehensive university and is subsequently reemployed by a comprehensive university, or
6. a member of the retirement system employed by a comprehensive university for all service performed on and after July 1, 2007.

(29) "Comprehensive university" shall mean:

- (a) the University of Oklahoma and all of its constituent agencies, including the University of Oklahoma Health Sciences Center, the University of Oklahoma Law Center and the Geological Survey, and
- (b) Oklahoma State University and all of its constituent agencies, including the Oklahoma State University Agricultural Experiment Station, the Oklahoma State University Agricultural Extension Division, the Oklahoma State University College of Veterinary Medicine, the Oklahoma State University ~~College of Osteopathic Medicine~~ Center for Health Sciences, the Technical Branch at Oklahoma City ~~and~~, the Technical Branch at Okmulgee and Oklahoma State University-Tulsa.

SECTION 10. AMENDATORY 70 O.S. 2001, Section 17-103, as amended by Section 1, Chapter 326, O.S.L. 2003 (70 O.S. Supp. 2003, Section 17-103), is amended to read as follows:

Section 17-103. The Except as provided in the Alternate Retirement Plan for Comprehensive Universities Act, the membership of the retirement system shall consist of the following:

(1) All classified personnel shall become members of the retirement system as a condition of their employment-;

(2) All full-time nonclassified optional personnel regularly employed for more than one (1) year may join the Teachers' Retirement System subject to the rules and regulations adopted pursuant to this act. Subject to the outcome of a private letter ruling request which shall be submitted by the Board to the Internal Revenue Service, the System shall permit full-time nonclassified optional personnel who have ceased to make otherwise required employee contributions after having made an election to become a member of the retirement system to resume employee contributions. No service shall be credited to any such member for any period of time during which employee contributions were not made-;

(3) All persons who shall become classified personnel or who are regularly employed in any school system as new classified personnel after July 1, 1943, hereof, shall become members of the retirement system as a condition of their employment-;

(4) All other regular school employees may join the Teachers' Retirement System subject to the rules and regulations as may be adopted by the Board of Trustees of the Teachers' Retirement System-;

(5) The Board of Trustees may, in its discretion, deny the right to become members to any class of members whose compensation is only partly paid by the state, or who is serving on a temporary or other than per annum basis, and it also may, in its discretion,

make optional with members in any such class their individual entrance into the retirement system; and

(6) Should any member, with less than ten (10) years of teaching service in Oklahoma, in any period of six (6) consecutive years after becoming a member be absent from service more than five (5) years, withdraw his contributions, retire or die, he shall thereupon cease to be a member. The provisions of this paragraph shall not apply to any member of the Teachers' Retirement System who has been a member of such classes of military services as may be approved by the Board of Trustees, until a period of one and one-half (1 1/2) years from date of termination of such service shall have elapsed.

~~(7) Notwithstanding paragraphs (1) through (3) of this section, employees of Comprehensive Universities who are eligible to become members of the Teachers' Retirement System of Oklahoma and who are at least age forty-five (45) at the time of employment may at their option become a member of the System.~~

SECTION 11. AMENDATORY 70 O.S. 2001, Section 17-116.2B, is amended to read as follows:

Section 17-116.2B Beginning July 1, ~~1996~~ 2004, a member who has any creditable service as an employee of an entity or institution within The Oklahoma State System of Higher Education on or after July 1, 1995, 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:

1. 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:

- a. ~~two percent (2%) of the member's salary upon which member contributions were made, multiplied by the number of the member's years of credited service~~

~~authorized and performed on or after July 1, 1995, but not later than June 30, 1996, plus~~

- ~~b. 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 for a comprehensive university on or after July 1, 1996, plus~~
- ~~c. 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 for an employer other than a comprehensive university or for service performed for an employer other than an entity or institution within The Oklahoma State System of Higher Education on or after July 1, 1996, but not later than June 30, 2001, plus~~
- ~~d. 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 creditable service authorized and performed on or after July 1, 2001.;~~

2. 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 Section 17-116.2 of ~~Title 70 of the Oklahoma Statutes~~ this title or pursuant to subsection E of Section 17-116.2 of ~~Title 70 of the Oklahoma Statutes~~ this title, 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:

- a. 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 ~~ereditd~~ creditable service authorized and performed prior to July 1, 1995, plus any years of prior service authorized under this title, plus

b. two percent (2%) of the average of the member's salary maximum compensation level upon which member contributions were made, ~~not to exceed~~ for those years between July 1, 1995, and June 30, 2007, in which the member's regular annual compensation meets or exceeds the maximum compensation level in effect for the member for the period July 1, 1995, through June 30, ~~1996~~ 2007, which shall be:

- ~~(1) Forty-four Thousand Dollars (\$44,000.00), if the member was subject to this maximum compensation level pursuant to paragraph 3 of subsection A of Section 17-116.2 of Title 70 of the Oklahoma Statutes and does not modify the maximum compensation level, or~~
- ~~(2) Forty-nine Thousand Dollars (\$49,000.00), if a member employed by a comprehensive university makes the election authorized by subsection A of Section 4 of this act and payment of contributions is made as required by law, or~~
- ~~(3) the full amount of regular annual compensation if a member employed by an entity or institution within The Oklahoma State System of Higher Education, other than a comprehensive university, makes the election authorized by subsection B of Section 4 of this act and payment of contributions is made as required by law~~
multiplied by the number of the member's years of

creditable service for the period July 1, 1995,
through June 30, 2007, in which the member's
regular annual compensation meets or exceeds the
maximum compensation in effect for the member for
the period July 1, 1995, through June 30, 2007,
plus

- c. ~~two percent (2%) of the member's salary upon which member contributions were made not to exceed the following amounts for members who, as of June 30, 1995, had elected to contribute upon compensation in excess of Twenty-five Thousand Dollars (\$25,000.00):~~
- ~~(1) Forty-nine Thousand Dollars (\$49,000.00) for service authorized and performed for a comprehensive university on or after July 1, 1996, but not later than June 30, 1997,~~
 - ~~(2) Fifty-four Thousand Dollars (\$54,000.00) for service authorized and performed for a comprehensive university on or after July 1, 1997, but not later than June 30, 1998,~~
 - ~~(3) Fifty-nine Thousand Dollars (\$59,000.00) for service authorized and performed for a comprehensive university on or after July 1, 1998, but not later than June 30, 2000,~~
 - ~~(4) Sixty-four Thousand Dollars (\$64,000.00) for service authorized and performed for a comprehensive university on or after July 1, 2000, but not later than June 30, 2001,~~
 - ~~(5) Sixty-nine Thousand Dollars (\$69,000.00) for service authorized and performed for a comprehensive university on or after July 1, 2001, but not later than June 30, 2002,~~

~~(6) Seventy-four Thousand Dollars (\$74,000.00) for service authorized and performed for a comprehensive university on or after July 1, 2002, but not later than June 30, 2003,~~

~~(7) Seventy-nine Thousand Dollars (\$79,000.00) for service authorized and performed for a comprehensive university on or after July 1, 2003, but not later than June 30, 2004,~~

~~(8) Eighty-four Thousand Dollars (\$84,000.00) for service authorized and performed for a comprehensive university on or after July 1, 2004, but not later than June 30, 2005,~~

~~(9) Eighty-nine Thousand Dollars (\$89,000.00) for service authorized and performed for a comprehensive university on or after July 1, 2005, but not later than June 30, 2006, and~~

~~(10) Ninety-four Thousand Dollars (\$94,000.00) for service authorized and performed for a comprehensive university on or after July 1, 2006, but not later than June 30, 2007, plus~~

~~d.~~ 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 ~~eredit~~ creditable service authorized and performed for an employer other than a comprehensive university or for service performed for an employer other than an entity or institution within The Oklahoma State System of Higher Education on or after July 1, ~~1996~~ 1995, but not later than June 30, 2007, plus

~~e.~~ d. 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 ~~eredit~~

~~creditable service authorized and performed for a comprehensive university on or after in which contributions were made that did not meet or exceed the member's maximum compensation level in effect for the member for the period July 1, ~~1996~~ 1995, but not later than through June 30, 2007, if the member terminates service with a comprehensive university and is subsequently re-employed by a comprehensive university, plus and~~

f. ~~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~~ creditable service authorized and performed after June 30, 2007-;~~

3. 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 Section 17-116.2 of ~~Title 70 of the Oklahoma Statutes~~ this title or pursuant to subsection E of Section 17-116.2 of ~~Title 70 of the Oklahoma Statutes~~ this title, in an amount equal to:

- a. 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~~ creditable service authorized and performed prior to July 1, 1995, plus any years of prior service authorized under this title, plus
- b. two percent (2%) of the average of the member's ~~salary~~ maximum compensation level upon which member

~~contributions were made, not to exceed~~ for those years of service between July 1, 1995, and June 30, 2007, in which the member's regular annual compensation meets or exceeds the maximum compensation level in effect for the member for the period July 1, 1995, through June 30, ~~1996~~ 2007, which shall be:

~~(1) Twenty-seven Thousand Five Hundred Dollars (\$27,500.00), if the member was subject to this maximum compensation level pursuant to paragraph 3 of subsection A of Section 17-116.2 of Title 70 of the Oklahoma Statutes and does not modify the maximum compensation level, or~~

~~(2) Thirty-two Thousand Five Hundred Dollars (\$32,500.00) if a member employed by a comprehensive university makes the election authorized by subsection A of Section 4 of this act and payment of contributions is made as required by law, or~~

~~(3) the full amount of regular annual compensation if a member employed by an entity or institution within The Oklahoma State System of Higher Education, other than a comprehensive university, makes the election authorized by subsection B of Section 4 of this act and payment of contributions is made as required by law, plus~~

~~c. two percent (2%) of the member's salary upon which member contributions were made, not to exceed the following amounts for members who, as of June 30, 1995, had elected not to contribute upon compensation in excess of Twenty-five Thousand Dollars (\$25,000.00):~~

- ~~(1) Thirty-two Thousand Five Hundred Dollars
(\$32,500.00) for service authorized and performed
for a comprehensive university on or after July
1, 1996, but not later than June 30, 1997,~~
- ~~(2) Thirty-seven Thousand Five Hundred Dollars
(\$37,500.00) for service authorized and performed
for a comprehensive university on or after July
1, 1997, but not later than June 30, 1998,~~
- ~~(3) Forty-two Thousand Five Hundred Dollars
(\$42,500.00) for service authorized and performed
for a comprehensive university on or after July
1, 1998, but not later than June 30, 2000,~~
- ~~(4) Forty-seven Thousand Five Hundred Dollars
(\$47,500.00) for service authorized and performed
for a comprehensive university on or after July
1, 2000, but not later than June 30, 2001,~~
- ~~(5) Fifty-two Thousand Five Hundred Dollars
(\$52,500.00) for service authorized and performed
for a comprehensive university on or after July
1, 2001, but not later than June 30, 2002,~~
- ~~(6) Fifty-seven Thousand Five Hundred Dollars
(\$57,500.00) for service authorized and performed
for a comprehensive university on or after July
1, 2002, but not later than June 30, 2003,~~
- ~~(7) Sixty-two Thousand Five Hundred Dollars
(\$62,500.00) for service authorized and performed
for a comprehensive university on or after July
1, 2003, but not later than June 30, 2004,~~
- ~~(8) Sixty-seven Thousand Five Hundred Dollars
(\$67,500.00) for service authorized and performed
for a comprehensive university on or after July
1, 2004, but not later than June 30, 2005,~~

~~(9) Seventy-two Thousand Five Hundred Dollars
(\$72,500.00) for service authorized and performed
for a comprehensive university on or after July
1, 2005, but not later than June 30, 2006, and~~

~~(10) Seventy-seven Thousand Five Hundred Dollars
(\$77,500.00) for service authorized and performed
for a comprehensive university on or after July
1, 2006, but not later than June 30, 2007,
multiplied by the number of the member's years of
creditable service for the period July 1, 1995,
through June 30, 2007, in which the member's
regular annual compensation meets or exceeds the
maximum compensation in effect for the member for
the period July 1, 1995, through June 30, 2007,
plus~~

~~d. c.~~ 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~~ creditable service authorized and
performed for an employer other than a
comprehensive university or for service performed
for an employer other than an entity or
institution within The Oklahoma State System of
Higher Education on or after July 1, ~~1996~~ 1995,
but not later than June 30, 2007, plus

~~e. d.~~ 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~~ creditable service ~~authorized and
performed for a comprehensive university on or
after~~ in which contributions were made that did
not meet or exceed the member's maximum

compensation level in effect for the member for the period July 1, 1996 1995, but not later than through June 30, 2007, if the member terminates service with a comprehensive university and is subsequently re-employed by a comprehensive university, plus

f. two percent (2%) of the member's average salary upon which member contributions were made, multiplied by and the number of the member's years of credited creditable service authorized and performed after June 30, 2007;

4. Any member who retired on or after July 1, 1995, shall be eligible to have the benefits recalculated in accordance with the terms and provisions of paragraphs 2 and 3 of this section. In the event such calculation results in an increase in benefits, such benefits will be adjusted commencing January 1, 2005, and thereafter. No such recalculation shall be applied in a retroactive manner to result in any increase in benefits which have been paid between July 1, 1995, and December 31, 2004;

5. For purposes of this section, the term "average of the member's maximum compensation level" means an average of the annual salary on which the maximum contributions were made to the Teachers' Retirement System of Oklahoma for the period between July 1, 1995, and June 30, 2007. The average for each member will be applied in accordance with paragraph (15) of Section 17-101 of this title;

6. In the event there are insufficient number of years for the time period between July 1, 1995, and June 30, 2007, to reach the high three (3) or high consecutive five (5) years in accordance with paragraph (15) of Section 17-101 of this title, the member's maximum compensation level shall be determined by an average of the salary on which maximum contributions were made. In no case shall the

member's maximum compensation level exceed the average salary as determined by paragraph (15) of Section 17-101 of this title.

SECTION 12. This act shall become effective July 1, 2004.

SECTION 13. 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.

49-2-9024 MAH 05/17/04