

(2ND EXTRAORDINARY SESSION)
ENGROSSED HOUSE
BILL NO. 1179

By: Bengé and Newport of the
House

and

Crutchfield and Rabon of
the Senate

An Act relating to the Teachers' Retirement System of Oklahoma; enacting the Education Employees Service Incentive Plan (EESIP); defining terms; providing for applicability of definitions; providing method for computation of retirement benefits using certain years of service; providing for use of average salary in benefit computation; providing benefit computation without regard to certain maximum compensation levels; requiring performance of service on or after date as of which eligible members reach normal retirement age; prescribing effect of service upon inclusion of pre-cap-removal service in benefit computation; authorizing certain election with respect to certain maximum compensation level; providing for effect of election; prohibiting retired members from recomputing benefits; providing for payment of increased benefits attributable to certain computation on or after specified date; prescribing procedure related to benefit payments; amending 70 O.S. 2001, Sections 17-101, as last amended by Section 118, Chapter 1, O.S.L. 2005 and 17-108.1 (70 O.S. Supp. 2005, Section 17-101), which relate to the Teachers' Retirement System; modifying definitions; modifying employer contribution amounts; providing increase in employer contribution rate contingent upon certain appropriation levels; requiring expenditure of certain appropriated funds to the extent available for purposes of employer contributions; providing for employer contribution rate applicable to certain institutions within The Oklahoma State System of Higher Education; providing for codification; providing for noncodification; providing effective dates; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Education Employees Service Incentive Plan (EESIP)".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-116.2C of Title 70, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Eligible employee" means a member of the System who has not retired prior to the effective date of this section and who has performed service at any time prior to June 30, 1995, and who fulfills the requirements of this act with respect to inclusion of pre-cap-removal years of service in a retirement benefit computation and:

- a. who has already reached a normal retirement age prior to the effective date of this section and has not retired prior to the effective date of this section, or
- b. who reaches a normal retirement age on or after the effective date of this section, and
- c. who is employed by an institution within The Oklahoma State System of Higher Education that is not a comprehensive university or a regional institution offering a four-year degree program as designated or authorized by the Oklahoma State Regents for Higher Education;

2. "Maximum average salary amount" means Sixty Thousand Dollars (\$60,000.00) regardless of any otherwise applicable maximum compensation level;

3. "Maximum compensation level" means either:

- a. Twenty-five Thousand Dollars (\$25,000.00) if a member did not elect to make employee contributions on a higher salary amount for any pre-cap-removal years of service, or

b. Forty Thousand Dollars (\$40,000.00) if a member did elect to make employee contributions upon actual salary not in excess of such amount for any pre-cap-removal years of service;

4. "Pre-cap-removal service" means any service performed by an active member prior to June 30, 1995; and

5. "System" means the Teachers' Retirement System of Oklahoma.

B. Unless otherwise expressly provided by this section, any definition contained in Section 17-101 of Title 70 of the Oklahoma Statutes otherwise applicable to computation of benefits for retired members of the Teachers' Retirement System of Oklahoma shall have the same meaning for purposes of this section.

C. Effective July 1, 2006, any eligible member of the Teachers' Retirement System of Oklahoma, who, as of July 1, 2006, has already reached a normal retirement age or who on or after July 1, 2006, reaches a normal retirement age as defined by paragraph 24 of Section 17-101 of Title 70 of the Oklahoma Statutes, shall be eligible to have a retirement benefit computed as provided by this section. If a member is eligible for the benefit computation authorized by this section, the average salary used to compute the retirement benefit of the member shall be governed by the provisions of this section and such provisions shall govern in the event of conflict between this section and the provisions of Section 17-116.2 of Title 70 of the Oklahoma Statutes.

D. An eligible employee who performs service in the manner prescribed by subsection E of this section may have a retirement benefit computed as otherwise authorized by Section 17-105 of Title 70 of the Oklahoma Statutes, but shall have such benefit computed without regard to any maximum compensation level that would otherwise be applicable to the compensation of the member for any period of pre-cap-removal service.

E. In order to have retirement benefits computed as authorized by subsection C of this section in order to have any pre-cap-removal service included in the retirement benefit computation of the member using the average salary earned during such period of participating service subject to the maximum average salary amount, the member shall be required to perform one (1) year of participating service on or after the date as of which the member reaches a normal retirement age, for each two (2) years of service performed prior to July 1, 1995. For purposes of this section, any year of service performed prior to the effective date of this section after a member reached a normal retirement age shall qualify for purposes of the retirement benefit computation authorized by this section.

F. One (1) year of participating service performed by an eligible member who, prior to the effective date of this section, has reached a normal retirement age or who, on or after July 1, 2006, reaches a normal retirement age, shall result in the inclusion of the two (2) years of participating service immediately preceding July 1, 1995, in a retirement benefit computation using the average salary of the member, subject to the maximum average salary amount. For each additional year of participating service performed by the eligible member thereafter, whether such service has been performed prior to the effective date of this section or whether such service is performed on or after the effective date of this section, the two (2) next succeeding years of pre-cap-removal service performed prior to the end of the preceding two-year period may be included in the benefit computation without regard to the maximum compensation level of the member that would otherwise be applicable to such pre-cap-removal service.

G. No member of the System who has retired prior to July 1, 2006, shall have the ability to have a retirement benefit recomputed as a result of the provisions of this section.

H. The additional retirement benefit attributable to the provisions of this section may be computed for members who retire on or after July 1, 2006, but prior to January 1, 2007, but the additional retirement benefit attributable to the provisions of this section shall not be payable until January 1, 2007. On and after January 1, 2007, the additional retirement benefit attributable to the provisions of this section shall be added to the retirement benefit amount of any member who retires on or after July 1, 2006, and prior to January 1, 2007, and such increased benefit amount shall be payable to the member or any beneficiary of the member as otherwise provided pursuant to the provisions of Section 17-101 of Title 70 of the Oklahoma Statutes in the same manner as other retirement benefits are payable.

SECTION 3. AMENDATORY 70 O.S. 2001, Section 17-101, as last amended by Section 118, Chapter 1, O.S.L. 2005 (70 O.S. Supp. 2005, 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), or unless an eligible member fulfills the requirements of Section 2 of this act in order to have pre-cap-removal service included in the retirement benefit computation of the member using the regular annual compensation of the member for any pre-cap-removal year of service so included subject to the maximum average salary amount, 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 26-105 of this 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 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, except as otherwise authorized pursuant to the provisions of Section 2 of this act, mean:

- (a) Twenty-five Thousand Dollars (\$25,000.00) for 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 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 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 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 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
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 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 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, or
 7. an eligible member of the retirement system who fulfills the requirements of Section 2 of this act with respect to pre-cap-removal service included in the retirement benefit computation of the member at the average salary of the member subject to the maximum average salary amount.

(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 Center for Health Sciences, the Technical Branch at Oklahoma City, the Technical Branch at Okmulgee and Oklahoma State University-Tulsa.

SECTION 4. AMENDATORY 70 O.S. 2001, Section 17-108.1, is amended to read as follows:

Section 17-108.1 A. The employer of any member of the Teachers' Retirement System of Oklahoma shall make the following contributions to the System:

1. Beginning July 1, 1998, through June 30, 1999, eleven and one-half percent (11 1/2%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member;

2. Beginning July 1, 1999, through June 30, 2000, four and eight-tenths percent (4.8%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member;

3. Beginning July 1, 2000, through June 30, 2001, five and eight-tenths percent (5.8%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member;

4. Beginning July 1, 2001, through June 30, 2002, six and eight-tenths percent (6.8%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member; ~~and~~

5. Beginning July 1, 2002, through June 30, 2003, ~~and for each fiscal year thereafter,~~ seven and five-hundredths percent (7.05%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member; and

6. Beginning January 1, 2007, through June 30, 2007, and for each fiscal year thereafter, seven and sixty-eight hundredths percent (7.68%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member. The employer contribution rate increase that would otherwise be effective as provided by this paragraph shall not become effective as law unless appropriation levels to each of the affected participating employers within the Teachers' Retirement System of Oklahoma are increased so that the additional employer contribution obligation is funded through such appropriation levels instead of requiring the additional employer contribution to be paid for from existing budgetary resources of such participating employers. The participating employers shall use any monies specifically appropriated for purposes of making employer contributions for such purpose and to the extent of the funds appropriated for that purpose. Beginning July 1, 2006, through June 30, 2007, and for each fiscal year thereafter, a participating employer that employs an employee of a comprehensive university or a regional institution offering a four-year degree program as designated or authorized by the Oklahoma State Regents for Higher Education shall make contributions to the System with respect to such employees at the rate of seven and five-hundredths percent (7.05%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level.

Any employer contribution paid to the System pursuant to this subsection shall not be considered as salary, fringe benefit, or total compensation due to members for the purpose of meeting any legislative or contractual obligation of the employer.

B. For entities or institutions within The Oklahoma State System of Higher Education, the contributions to the retirement system specified in subsection A of this section shall be made on regular annual compensation of a member who is an employee of such

entity or institution not to exceed the maximum compensation level in effect for the member as prescribed by law.

C. Employers paying contributions to the Retirement System pursuant to subsection A or B of this section shall receive credit for that portion of the gross production tax on natural gas and/or casinghead gas apportioned to the Retirement System pursuant to subsection 2 of Section 1004 of Title 68 of the Oklahoma Statutes in meeting the total required employer contribution. On an annual basis, the Board of Trustees shall estimate the net additional cost required to be paid by the contributing employers in order to meet the total employer contribution as provided in subsection A or B of this section. The Board of Trustees shall approve the amount of the additional contribution required to be paid by contributing employers as a percentage of total member salaries and fringe benefits for each fiscal year ending June 30, no later than April 1 of the previous fiscal year. In no event shall the additional contribution required to be paid by the contributing employer under this subsection be less than the contribution required under this subsection in the prior year. In the event actual contributions do not equal the required total contribution as provided in subsection A or B of this section, the net difference between the actual contributions and the required total contributions shall be determined and shall be included in the amount of the additional contribution required to be paid by contributing employers for the next fiscal year. All contributing employers shall pay the same percentage of total member salaries and fringe benefits during each fiscal year. The provisions of this subsection shall terminate June 30, 1999.

D. Any school district, state college or university, State Board of Education, State Board of Career and Technology Education, or other state agency may, for and on behalf of any member of the Teachers' Retirement System, pay all or any portion of the

contribution required by Section 17-108 of this title. Provided, the contribution so paid by any school district, state college or university, State Board of Education, State Board of Career and Technology Education, or other state agency shall be and remain subject to the withdrawal provisions set forth under the Teachers' Retirement System. Wherever the term "contribution" is used, it shall be deemed to include contributions paid for and on behalf of a member by a school district, state college or university, State Board of Education, State Board of Career and Technology Education, or other state agency.

SECTION 5. Sections 1, 2 and 3 of this act shall become effective July 1, 2006.

SECTION 6. Section 4 of this act shall become effective January 1, 2007.

SECTION 7. 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 House of Representatives the 21st day of June, 2006.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2006.

Presiding Officer of the Senate