

ENGROSSED HOUSE
BILL NO. 2986

By: Jones, DeWitt, Sullivan,
Walker, Cooksey, Denney,
Martin, Richardson and
Steele of the House

and

Paddack of the Senate

(Teachers' Retirement System of Oklahoma - Education
Employees Service Incentive Plan ("EESIP") -
amending 70 O.S., Sections 17-101 and 17-108.1 -
Teachers' Retirement System - amending 74 O.S.,
Section 902 - codification - noncodification -
effective date -
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. "Contribution deficit" means the amount of money computed
for an eligible employee by multiplying the employee contribution
rate in effect for any period of service performed on or after July
1, 1987, through June 30, 1995, multiplied by the amount of salary
earned by the member in excess of the applicable maximum
compensation level of the member for such period with interest at
the rate of ten percent (10%) per year compounded annually;

2. "Eligible employee" means a member of the System who has not retired prior to the effective date of this act 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 act and has not retired prior to the effective date of this act,
- b. who reaches a normal retirement age on or after the effective date of this act, 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;

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 and who makes payment of the applicable contribution deficit amount 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, and in addition to the payment of the contribution deficit amount required by 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, 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 act 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 act 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. 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 act or whether such service is performed on or after the effective date of this act, 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. The eligible member shall be required to make payment to the Teachers' Retirement System of Oklahoma of the contribution deficit amount for any year of service performed on or after July 1, 1987, but not later than June 30, 1995, as prescribed by subsections H through K of this section in order to have any years of pre-cap removal service included in the retirement benefit computation using the average salary of the member.

H. In order to have years of service included in the benefit computation using average salary, the member shall be required to make payment of the contribution deficit for the following years of service and in the sequence prescribed by subsection I of this section:

1. July 1, 1987, through June 30, 1988;
2. July 1, 1988, through June 30, 1989;

3. July 1, 1989, through June 30, 1990;
4. July 1, 1990, through June 30, 1991;
5. July 1, 1991, through June 30, 1992;
6. July 1, 1992, through June 30, 1993;
7. July 1, 1993, through June 30, 1994; and
8. July 1, 1994, through June 30, 1995.

I. For each year of service performed by the eligible member prior to the effective date of this act and after having reached a normal retirement age, or for each year of service performed by the member after reaching a normal retirement age on or after the effective date of this act, the member shall be required to make payment of the contribution deficit amount for each year of service beginning with the years described in paragraphs 7 and 8 of subsection H of this section. For each additional year of service performed by the eligible member after the normal retirement age of the member, the member shall make payment of the contribution deficit amount for each of the next two (2) years of service as described in:

1. Paragraphs 5 and 6 of subsection H of this section;
2. Paragraphs 3 and 4 of subsection H of this section; and
3. Paragraphs 1 and 2 of subsection H of this section.

J. After making payment of all required contribution deficit amounts for all periods of service described in paragraphs 1 through 8 of subsection H of this section, an eligible member who has performed any additional years of service after having reached a normal retirement age, or for each year of service performed by the member after reaching a normal retirement age on or after the effective date of this act, the member may then include any additional two-year period of service performed prior to July 1, 1987, using the average salary of the member in the retirement benefit computation for such years of service by performing one (1) additional year of service.

K. No contribution deficit payments shall be required of the eligible member with respect to years of service performed prior to July 1, 1987, if such years of service are included in the retirement benefit computation of the member using average salary as otherwise authorized by this section.

L. An eligible member may make the payment of the contribution deficit amount required by this section at any time prior to the retirement of the member from the System; however, no years of pre-cap removal service for which full payment of the required contribution deficit has not been made pursuant to the requirements of this section may be included in the retirement benefit computation of the otherwise eligible member using the average salary of the member for such period.

M. Any pre-cap removal years of service for which the required contribution deficit payment has not been made to the System shall only be included in a retirement benefit computation using the maximum compensation level in effect for the member at the time such years of service were performed.

N. All payments to the System for pre-cap removal service shall be made prior to the date as of which a member retires. No payments to the System for pre-cap removal service otherwise authorized by this section shall be made after a member retires from the System and begins to receive benefits.

O. Any eligible member who, prior to the effective date of this act, has not previously made an election for payment of employee contributions on a maximum compensation level of Twenty-five Thousand Dollars (\$25,000.00) for pre-cap removal service may file an election with the System to make payment of the required contribution deficit amount pursuant to this section. Such an election shall be irrevocable.

P. No participating employer of the System shall make payment of any required contribution deficit amount on behalf of any

otherwise eligible member, whether directly or indirectly, in order for the member to have retirement benefits computed according to the provisions of this section.

Q. No member of the System who has retired prior to July 1, 2006, shall be eligible to make any payments of the contribution deficit amount and no such member shall have the ability to have a retirement benefit recomputed as a result of the provisions of this section.

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, 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,
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.

(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 July 1, 2006, through June 30, 2007, and for each fiscal year thereafter, eight percent (8%) 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 July 1, 2006, as provided by this paragraph, shall not become effective as law unless appropriation levels to each of the affected participating employers within the Oklahoma Teachers' Retirement System 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. 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. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 49-500 of Title 11, unless there is created a duplication in numbering, reads as follows:

Any person receiving benefits from the Oklahoma Firefighters Pension and Retirement System as of June 30, 2005, who continues to receive benefits on or after July 1, 2006, shall receive a two percent (2%) increase in said benefits on July 1, 2006.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 50-500 of Title 11, unless there is created a duplication in numbering, reads as follows:

Any person receiving benefits from the Oklahoma Police Pension and Retirement System as of June 30, 2005, who continues to receive benefits on or after July 1, 2005, shall receive a two percent (2%) increase in said benefits on July 1, 2006.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-395 of Title 47, unless there is created a duplication in numbering, reads as follows:

Any person receiving benefits from the Oklahoma Law Enforcement Retirement System as of June 30, 2005, who continues to receive benefits on or after July 1, 2006, shall receive a two percent (2%) increase in said benefits on July 1, 2006.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1195 of Title 20, unless there is created a duplication in numbering, reads as follows:

Any person receiving benefits from the Uniform Retirement System for Justices and Judges as of June 30, 2005, who continues to receive benefits on or after July 1, 2006, shall receive a two percent (2%) increase in said benefits on July 1, 2006.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-116.100 of Title 70, unless there is created a duplication in numbering, reads as follows:

The Teachers' Retirement System of Oklahoma shall provide a benefit increase to those persons receiving a benefit as of July 1, 2006, who retired not later than June 20, 2005, using an adjustment to final average salary, and based on years of service so that the

benefit adjustment authorized by this section approximates an average of two percent (2%).

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 975 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Public Employees Retirement System shall provide a benefit increase to those persons receiving a benefit as of July 1, 2006, who retired not later than June 20, 2005, using an adjustment to final average salary, and based on years of service so that the benefit adjustment authorized by this section approximates an average of two percent (2%).

SECTION 11. AMENDATORY 74 O.S. 2001, Section 902, as last amended by Section 134, Chapter 1, O.S.L. 2005 (74 O.S. Supp. 2005, Section 902), is amended to read as follows:

Section 902. As used in Section 901 et seq. of this title:

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

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

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

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

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

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

(7) "Beneficiary" means any person named by a member to receive any benefits as provided for by Section 901 et seq. of this title.

If there is no beneficiary living at time of member employee's death, the member's estate shall be the beneficiary;

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

(9) "Compensation" means all salary and wages, as defined by the Board of Trustees, including amounts deferred under deferred compensation agreements entered into between a member and a participating employer, but exclusive of payment for overtime, payable to a member of the System for personal services performed for a participating employer but shall not include compensation or reimbursement for traveling, or moving expenses, or any compensation in excess of the maximum compensation level, provided:

(a) For compensation for service prior to January 1, 1988, the maximum compensation level shall be Twenty-five Thousand Dollars (\$25,000.00) per annum.

For compensation for service on or after January 1, 1988, through June 30, 1994, the maximum compensation level shall be Forty Thousand Dollars (\$40,000.00) per annum.

For compensation for service on or after July 1, 1994, through June 30, 1995, the maximum compensation level shall be Fifty Thousand Dollars (\$50,000.00) per annum; for compensation for service on or after July 1, 1995, through June 30, 1996, the maximum compensation level shall be Sixty Thousand Dollars (\$60,000.00) per annum; for compensation for service on or after July 1, 1996, through June 30, 1997, the maximum compensation level shall be Seventy Thousand Dollars (\$70,000.00) per annum; and for compensation for service on or after July 1, 1997, through June 30, 1998, the maximum compensation level shall be Eighty Thousand Dollars (\$80,000.00) per annum. For

compensation for services on or after July 1, 1998, there shall be no maximum compensation level for retirement purposes.

- (b) Compensation for retirement purposes shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986 and any amount of non-elective salary reduction under Section 414(h) of the Internal Revenue Code of 1986.
- (c) Notwithstanding any provision to the contrary, the compensation taken into account for any employee in determining the contribution or benefit accruals for any plan year is limited to the annual compensation limit under Section 401(a)(17) of the federal Internal Revenue Code.
- (d) Current appointed members of the Oklahoma Tax Commission whose salary is constitutionally limited and is less than the highest salary allowed by law for his or her position shall be allowed, within ninety (90) days from the effective date of this act, to make an election to use the highest salary allowed by law for the position to which the member was appointed for the purposes of making contributions and determination of retirement benefits. Such election shall be irrevocable and be in writing. Reappointment to the same office shall not permit a new election. Members appointed to the Oklahoma Tax Commission after the effective date of this act shall make such election, pursuant to this subparagraph, within ninety (90) days of taking office;

(10) "Credited service" means the sum of participating service, prior service and elected service. Unless otherwise provided by law, for purposes of benefit calculations, each specific type of

service shall be multiplied by the percentage applicable to that type of service;

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

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

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

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

(b) A class or several classes of employees who are covered by Social Security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of this state, which is in operation on the effective date,

and when the qualifications for employment in such class or classes are set by state law; and when such class or classes of employees are employed by a county or municipal government pursuant to such qualifications; and when the services provided by such employees are of such nature that they qualify for matching by or contributions from state or federal funds administered by an agency of state government which qualifies as a participating employer, then the agency of state government administering the state or federal funds shall be deemed an eligible employer, but only with respect to that class or those classes of employees as defined in this subsection; provided, that the required contributions to the retirement plan may be withheld from the contributions of state or federal funds administered by the state agency and transmitted to the System on the same basis as the employee and employer contributions are transmitted for the direct employees of the state agency. The retirement or eligibility for retirement under the provisions of law providing pensions for service as a volunteer fire fighter shall not render any person ineligible for participation in the benefits provided for in Section 901 et seq. of this title. An employee of any public or private trust in which a county, city or town participates and is the primary beneficiary shall be deemed to be an eligible employee for the purpose of this act only.

- (c) All employees of the George Nigh Rehabilitation Institute who elected to retain membership in the System, pursuant to Section 913.7 of this title, shall continue to be eligible employees for the purposes of

this act. The George Nigh Rehabilitation Institute shall be considered a participating employer only for such employees.

- (d) A participating employer of the Teachers' Retirement System of Oklahoma, who has one or more employees who have made an election pursuant to enabling legislation to retain membership in the System as a result of change in administration, shall be considered a participating employer of the Oklahoma Public Employees Retirement System only for such employees;

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

- (a) Any employee of the county extension agents who is not currently participating in the Teachers' Retirement System of Oklahoma shall be a member of this System.
- (b) Eligibility shall not include any employee who is a contributing member of the United States Civil Service Retirement System.
- (c) It shall be mandatory for an officer, appointee or employee of the office of district attorney to become a member of this System if he or she is not currently participating in a county retirement system. Provided further, that if an officer, appointee or employee of

the office of district attorney is currently participating in such county retirement system, he or she is ineligible for this System as long as he or she is eligible for such county retirement system. Any eligible officer, appointee or employee of the office of district attorney shall be given credit for prior service as defined in this section. The provisions outlined in Section 917 of this title shall apply to those employees who have previously withdrawn their contributions.

- (d) Eligibility shall also not include any officer or employee of the Oklahoma Employment Security Commission, except for those officers and employees of the Commission electing to transfer to this System pursuant to the provisions of Section 910.1 of this title or any other class of officers or employees specifically exempted by the laws of this state, unless there be a consolidation as provided by Section 912 of this title. Employees of the Oklahoma Employment Security Commission who are ineligible for enrollment in the Employment Security Commission Retirement Plan, that was in effect on January 1, 1964, shall become members of this System.
- (e) Any employee employed by the Legislative Service Bureau, State Senate or House of Representatives for the full duration of a regular legislative session shall be eligible for membership in the System regardless of classification as a temporary employee and may participate in the System during the regular legislative session at the option of the employee. For purposes of this subparagraph, the determination of whether an employee is employed for the full

duration of a regular legislative session shall be made by the Legislative Service Bureau if such employee is employed by the Legislative Service Bureau, the State Senate if such employee is employed by the State Senate, or by the House of Representatives if such employee is employed by the House of Representatives. Each regular legislative session during which the legislative employee or an employee of the Legislative Service Bureau participates full time shall be counted as six (6) months of full-time participating service.

- (i) Except as otherwise provided by this subparagraph, once a temporary session employee makes a choice to participate or not, the choice shall be binding for all future legislative sessions during which the employee is employed.
- (ii) Notwithstanding the provisions of division (i) of this subparagraph, any employee, who is eligible for membership in the System because of the provisions of this subparagraph and who was employed by the State Senate or House of Representatives after January 1, 1989, may file an election, in a manner specified by the Board, to participate as a member of the System prior to September 1, 1989.
- (iii) Notwithstanding the provisions of division (i) of this subparagraph, a temporary legislative session employee who elected to become a member of the System may withdraw from the System effective the day said employee elected to participate in the System upon written request to the Board. Any such request must be received by

the Board prior to October 1, 1990. All employee contributions made by the temporary legislative session employee shall be returned to the employee without interest within four (4) months of receipt of the written request.

- (iv) A member of the System who did not initially elect to participate as a member of the System pursuant to subparagraph (e) of this paragraph shall be able to acquire service performed as a temporary legislative session employee for periods of service performed prior to the date upon which the person became a member of the System if:
 - a. the member files an election with the System not later than December 31, 2000, to purchase the prior service; and
 - b. the member makes payment to the System of the actuarial cost of the service credit pursuant to subsection A of Section 913.5 of this title. The provisions of Section 913.5 of this title shall be applicable to the purchase of the service credit, including the provisions for determining service credit in the event of incomplete payment due to cessation of payments, death, termination of employment or retirement, but the payment may extend for a period not to exceed ninety-six (96) months;

(15) "Entry date" means the date on which an eligible employer joins the System. The first entry date pursuant to Section 901 et seq. of this title shall be January 1, 1964;

(16) "Executive Director" means the managing officer of the System employed by the Board under Section 901 et seq. of this title;

(17) "Federal Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as amended and as applicable to a governmental plan as in effect on July 1, 1999;

(18) "Final average compensation" means the average annual compensation, including amounts deferred under deferred compensation agreements entered into between a member and a participating employer, up to, but not exceeding the maximum compensation levels as provided in paragraph (9) of this section received during the highest three (3) of the last ten (10) years of participating service immediately preceding retirement or termination of employment. Provided, no member shall retire with a final average compensation unless the member has made the required contributions on such compensation, as defined by the Board of Trustees;

(19) "Fiscal year" means the period commencing July 1 of any year and ending June 30 of the next year. The fiscal year is the plan year for purposes of the federal Internal Revenue Code; however, the calendar year is the limitation year for purposes of Section 415 of the federal Internal Revenue Code;

(20) "Fund" means the Oklahoma Public Employees Retirement Fund as created by Section 901 et seq. of this title;

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

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

(23) "Military service" means service in the Armed Forces of the United States by an honorably discharged person during the following time periods, as reflected on such person's Defense Department Form 214, not to exceed five (5) years for combined participating and/or prior service, as follows:

(a) during the following periods, including the beginning and ending dates, and only for the periods served, from:

- (i) April 6, 1917, to November 11, 1918, commonly referred to as World War I,
- (ii) September 16, 1940, to December 7, 1941, as a member of the 45th Division,
- (iii) December 7, 1941, to December 31, 1946, commonly referred to as World War II,
- (iv) June 27, 1950, to January 31, 1955, commonly referred to as the Korean Conflict or the Korean War,
- (v) February 28, 1961, to May 7, 1975, commonly referred to as the Vietnam era, except that:
 - a. for the period from February 28, 1961, to August 4, 1964, military service shall only include service in the Republic of Vietnam during that period, and
 - b. for purposes of determining eligibility for education and training benefits, such period shall end on December 31, 1976, or
- (vi) August 1, 1990, to December 31, 1991, commonly referred to as the Gulf War, the Persian Gulf War, or Operation Desert Storm, but excluding any person who served on active duty for training only, unless discharged from such active duty for a service-connected disability;

(b) during a period of war or combat military operation other than a conflict, war or era listed in subparagraph (a) of this paragraph, beginning on the date of Congressional authorization, Congressional resolution, or Executive Order of the President of the United States, for the use of the Armed Forces of the United States in a war or combat military operation, if such war or combat military operation lasted for a period of ninety (90) days or more, for a person who served, and only for the period served, in the area of responsibility of the war or combat military operation, but excluding a person who served on active duty for training only, unless discharged from such active duty for a service-connected disability, and provided that the burden of proof of military service during this period shall be with the member, who must present appropriate documentation establishing such service.

An eligible member under this paragraph shall include only those persons who shall have served during the times or in the areas prescribed in this paragraph, and only if such person provides appropriate documentation in such time and manner as required by the System to establish such military service prescribed in this paragraph, or for service pursuant to subdivision a of division (v) of subparagraph (a) of this paragraph those persons who were awarded service medals, as authorized by the United States Department of Defense as reflected in the veteran's Defense Department Form 214, related to the Vietnam Conflict for service prior to August 5, 1964;

(24) "Normal retirement date" means the date on which a member may retire with full retirement benefits as provided in Section 901 et seq. of this title, such date being whichever occurs first:

- (a) the first day of the month coinciding with or following a member's sixty-second birthday,
- (b) for any person who initially became a member prior to July 1, 1992, the first day of the month coinciding with or following the date at which the sum of a member's age and number of years of credited service total eighty (80); such a normal retirement date will also apply to any person who became a member of the sending system as defined in Section 901 et seq. of this title, prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992,
- (c) for any person who became a member after June 30, 1992, the first day of the month coinciding with or following the date at which the sum of a member's age and number of years of credited service total ninety (90),
- (d) in addition to subparagraphs (a), (b) and (c) of this paragraph, the first day of the month coinciding with or following a member's completion of at least twenty (20) years of full-time-equivalent employment as:
 - (i) a correctional or probation and parole officer with the Department of Corrections and at the time of retirement, the member was a correctional or probation and parole officer with the Department of Corrections, or
 - (ii) a correctional officer, probation and parole officer or fugitive apprehension agent with the Department of Corrections who is in such position on June 30, 2004, or who is hired after June 30, 2004, and who receives a promotion or change in job classification after June 30, 2004, to

another position in the Department of Corrections, so long as such officer or agent has at least five (5) years of service as a correctional officer, probation and parole officer or fugitive apprehension agent with the Department, has twenty (20) years of full-time-equivalent employment with the Department and was employed by the Department at the time of retirement, or

(iii) a firefighter with the Oklahoma Military Department either employed for the first time on or after July 1, 2002, or who was employed prior to July 1, 2002, in such position and who makes the election authorized by division (2) of subparagraph b of paragraph (8) of subsection A of Section 915 of this title and at the time of retirement, the member was a firefighter with the Oklahoma Military Department, and such member has at least twenty (20) years of credited service upon which the two and one-half percent (2 1/2%) multiplier will be used in calculating the retirement benefit,

(e) for those fugitive apprehension agents who retire on or after July 1, 2002, the first day of the month coinciding with or following a member's completion of at least twenty (20) years of full-time-equivalent employment as a fugitive apprehension agent with the Department of Corrections and at the time of retirement, the member was a fugitive apprehension agent with the Department of Corrections, or

(f) for any member who was continuously employed by an entity or institution within The Oklahoma State System

of Higher Education and whose initial employment with such entity or institution was prior to July 1, 1992, and who without a break in service of more than thirty (30) days became employed by an employer participating in the Oklahoma Public Employees Retirement System, the first day of the month coinciding with or following the date at which the sum of the member's age and number of years of credited service total eighty (80);

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

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

(27) "Prior service" means the period of employment of a member by an eligible employer prior to the member's entry date for which credit is granted a member under Section 901 et seq. of this title;

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

(29) "Retirement benefit" means a monthly income with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in which death occurs or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to Section 901 et seq. of this title or as otherwise allowed to be paid at the discretion of the Board;

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

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

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

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

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

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

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

SECTION 12. This act shall become effective July 1, 2006.

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.

Passed the House of Representatives the 16th day of March, 2006.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2006.

Presiding Officer of the Senate