

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

SENATE BILL 409

By: Brecheen

AS INTRODUCED

An Act relating to legislator's retirement; stating legislative intent; amending 70 O.S. 2001, Sections 17-101, as last amended by Section 2, Chapter 270, O.S.L. 2008, 17-103, as last amended by Section 1, Chapter 357, O.S.L. 2010 and 17-105, as last amended by Section 2, Chapter 357, O.S.L. 2010 (70 O.S. Supp. 2010, Sections 17-101, 17-103 and 17-105), which relate to the Teachers' Retirement System of Oklahoma; modifying definitions; adding to the membership of the Teachers' Retirement System of Oklahoma; specifying that certain members can qualify for monthly retirement benefits; amending 74 O.S. 2001, Sections 902, as last amended by Section 1, Chapter 435, O.S.L. 2010 and 913.4, as last amended by Section 2, Chapter 435, O.S.L. 2010 (74 O.S. Supp. 2010, Sections 902 and 913.4), which relate to the Oklahoma Public Employees Retirement System; modifying definition; providing exception; prohibiting certain elected officials from participation in the Oklahoma Public Employees Retirement System; specifying that certain elected officials may participate in the Teachers' Retirement System of Oklahoma; providing for noncodification; providing an effective date; and declaring an emergency.

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

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

1        In order to ensure the solvency of the Teachers' Retirement  
2 System of Oklahoma, it is the intent of the Legislature that persons  
3 elected to the Legislature on or after the effective date of this  
4 act who choose to participate in a retirement system when elected to  
5 office be required to join the Teachers' Retirement System of  
6 Oklahoma instead of being a member of the Oklahoma Public Employees  
7 Retirement System. Being a member of the Teachers' Retirement  
8 System of Oklahoma and subject to the same benefit structure as the  
9 educators of this state will make legislators more accountable to  
10 the Teachers' Retirement System of Oklahoma and as stakeholders in  
11 the System, the legislators will be even more aware of the financial  
12 status of the System.

13        SECTION 2.        AMENDATORY        70 O.S. 2001, Section 17-101, as  
14 last amended by Section 2, Chapter 270, O.S.L. 2008 (70 O.S. Supp.  
15 2010, Section 17-101), is amended to read as follows:

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

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

21        (2) "Public school" shall mean a school district, a state  
22 college or university, the State Board of Education, the State Board  
23 of Career and Technology Education and any other state educational  
24 entity conducted within the state supported wholly or partly by

1 public funds and operating under the authority and supervision of a  
2 legally constituted board or agency having authority and  
3 responsibility for any function of public education. "Public  
4 school" shall also mean a tuition free, nonprofit alternative school  
5 of choice that provides education, therapeutic counseling and  
6 outreach programs which is aligned with a school district and which  
7 receives grant funds from governmental sources.

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

1 Corrections shall contribute the employer's share to the Oklahoma  
2 Teachers' Retirement System.

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

11 (5) "Employer" shall mean the state and any of its designated  
12 agents or agencies with responsibility and authority for public  
13 education, such as boards of education of elementary and independent  
14 school districts, boards of regents, boards of control or any other  
15 agency of and within the state by which a person may be employed for  
16 service in public education. "Employer" shall also mean the board  
17 of directors of a tuition free, nonprofit alternative school of  
18 choice that provides education, therapeutic counseling and outreach  
19 programs which is aligned with a school district and which receives  
20 grant funds from governmental sources. "Employer" shall also mean  
21 the Oklahoma State Senate and the Oklahoma House of Representatives.

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

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

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

6 (9) "Prior service" shall mean service rendered prior to July  
7 1, 1943.

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

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

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

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

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

22 (15) "Average salary":

23 (a) for those members who joined the System prior to July  
24 1, 1992, shall mean the average of the salaries for

1 the three (3) years on which the highest contributions  
2 to the Teachers' Retirement System was paid not to  
3 exceed the maximum contribution level specified in  
4 Section 17-116.2 of this title or the maximum  
5 compensation level specified in subsection (28) of  
6 this section. Provided, no member shall retire with  
7 an average salary in excess of Twenty-five Thousand  
8 Dollars (\$25,000.00) unless the member has made the  
9 required election and paid the required contributions  
10 on such salary in excess of Twenty-five Thousand  
11 Dollars (\$25,000.00), or unless an eligible member  
12 fulfills the requirements of Section 17-116.2C of this  
13 title in order to have pre-cap removal service  
14 included in the retirement benefit computation of the  
15 member using the regular annual compensation of the  
16 member for any pre-cap removal year of service so  
17 included subject to the maximum average salary amount,  
18 and

19 (b) for those members who join the System after June 30,  
20 1992, shall mean the average of the salaries for five  
21 (5) consecutive years on which the highest  
22 contribution to the Teachers' Retirement System was  
23 paid. Only salary on which required contributions  
24

1           have been made may be used in computing average  
2           salary.

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

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

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

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

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

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

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

22           (23) "Actuarially determined cost" shall mean the single sum  
23 which is actuarially equivalent in value to a specified pension  
24

1 amount as determined on the basis of mortality and interest  
2 assumptions adopted by the Board of Trustees.

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

8 (25) "Regular annual compensation" means salary plus fringe  
9 benefits, excluding the flexible benefit allowance pursuant to  
10 Section 26-105 of this title or Section 1370 of Title 74 of the  
11 Oklahoma Statutes and for purposes pursuant to Section 17-101 et  
12 seq. of this title. For purposes of this definition, regular annual  
13 compensation shall include all payments as provided in subsection D  
14 of Section 17-116.2 of this title.

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

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

23

24

1 (28) "Maximum compensation level" shall, except as otherwise  
2 authorized pursuant to the provisions of Section 17-116.2C of this  
3 title, mean:

4 (a) Twenty-five Thousand Dollars (\$25,000.00) for  
5 creditable service authorized and performed prior to  
6 July 1, 1995, for members not electing a higher  
7 maximum compensation level,

8 (b) Forty Thousand Dollars (\$40,000.00) for creditable  
9 service authorized and performed prior to July 1,  
10 1995, for members electing a maximum compensation  
11 level in excess of Twenty-five Thousand Dollars  
12 (\$25,000.00),

13 (c) Twenty-seven Thousand Five Hundred Dollars  
14 (\$27,500.00) for members who, as of June 30, 1995, had  
15 elected to have a maximum compensation level not in  
16 excess of Twenty-five Thousand Dollars (\$25,000.00),  
17 and who were employed by an entity or institution  
18 within The Oklahoma State System of Higher Education  
19 for creditable service authorized and performed on or  
20 after July 1, 1995, but not later than June 30, 1996,  
21 if such member does not elect a higher maximum  
22 compensation level for this period as authorized by  
23 Section 17-116.2A of this title,  
24

1 (d) Thirty-two Thousand Five Hundred Dollars (\$32,500.00)  
2 for members employed by a comprehensive university if  
3 the member meets the requirements imposed by Section  
4 17-116.2A of this title and the member elects to  
5 impose a higher maximum compensation level for service  
6 performed on or after July 1, 1995, but not later than  
7 June 30, 1996,

8 (e) Forty-four Thousand Dollars (\$44,000.00) for members  
9 who, as of June 30, 1995, had elected to have a  
10 maximum compensation level in excess of Twenty-five  
11 Thousand Dollars (\$25,000.00), and who were employed  
12 by an entity or institution within The Oklahoma State  
13 System of Higher Education for creditable service  
14 authorized and performed on or after July 1, 1995, but  
15 not later than June 30, 1996, if such member does not  
16 elect a higher maximum compensation level for this  
17 period as authorized by Section 17-116.2A of this  
18 title,

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

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

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

8 (i) Thirty-two Thousand Five Hundred Dollars  
9 (\$32,500.00) for service authorized and  
10 performed on or after July 1, 1996, but not  
11 later than June 30, 1997,

12 (ii) Thirty-seven Thousand Five Hundred Dollars  
13 (\$37,500.00) for service authorized and  
14 performed on or after July 1, 1997, but not  
15 later than June 30, 1998,

16 (iii) Forty-two Thousand Five Hundred Dollars  
17 (\$42,500.00) for service authorized and  
18 performed on or after July 1, 1998, but not  
19 later than June 30, 2000,

20 (iv) Forty-seven Thousand Five Hundred Dollars  
21 (\$47,500.00) for service authorized and  
22 performed on or after July 1, 2000, but not  
23 later than June 30, 2001,  
24

1 (v) Fifty-two Thousand Five Hundred Dollars  
2 (\$52,500.00) for service authorized and  
3 performed on or after July 1, 2001, but not  
4 later than June 30, 2002,

5 (vi) Fifty-seven Thousand Five Hundred Dollars  
6 (\$57,500.00) for service authorized and  
7 performed on or after July 1, 2002, but not  
8 later than June 30, 2003,

9 (vii) Sixty-two Thousand Five Hundred Dollars  
10 (\$62,500.00) for service authorized and  
11 performed on or after July 1, 2003, but not  
12 later than June 30, 2004,

13 (viii) Sixty-seven Thousand Five Hundred Dollars  
14 (\$67,500.00) for service authorized and  
15 performed on or after July 1, 2004, but not  
16 later than June 30, 2005,

17 (ix) Seventy-two Thousand Five Hundred Dollars  
18 (\$72,500.00) for service authorized and  
19 performed on or after July 1, 2005, but not  
20 later than June 30, 2006,

21 (x) Seventy-seven Thousand Five Hundred Dollars  
22 (\$77,500.00) for service authorized and  
23 performed on or after July 1, 2006, but not  
24 later than June 30, 2007,

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

4 2. for members who elected a maximum compensation  
5 level in excess of Twenty-five Thousand Dollars  
6 (\$25,000.00):

7 (i) Forty-nine Thousand Dollars (\$49,000.00) for  
8 service authorized and performed on or after  
9 July 1, 1996, but not later than June 30,  
10 1997,

11 (ii) Fifty-four Thousand Dollars (\$54,000.00) for  
12 service authorized and performed on or after  
13 July 1, 1997, but not later than June 30,  
14 1998,

15 (iii) Fifty-nine Thousand Dollars (\$59,000.00) for  
16 service authorized and performed on or after  
17 July 1, 1998, but not later than June 30,  
18 2000,

19 (iv) Sixty-four Thousand Dollars (\$64,000.00) for  
20 service authorized and performed on or after  
21 July 1, 2000, but not later than June 30,  
22 2001,

23 (v) Sixty-nine Thousand Dollars (\$69,000.00) for  
24 service authorized and performed on or after

1 July 1, 2001, but not later than June 30,  
2 2002,

3 (vi) Seventy-four Thousand Dollars (\$74,000.00)  
4 for service authorized and performed on or  
5 after July 1, 2002, but not later than June  
6 30, 2003,

7 (vii) Seventy-nine Thousand Dollars (\$79,000.00)  
8 for service authorized and performed on or  
9 after July 1, 2003, but not later than June  
10 30, 2004,

11 (viii) Eighty-four Thousand Dollars (\$84,000.00)  
12 for service authorized and performed on or  
13 after July 1, 2004, but not later than June  
14 30, 2005,

15 (ix) Eighty-nine Thousand Dollars (\$89,000.00)  
16 for service authorized and performed on or  
17 after July 1, 2005, but not later than June  
18 30, 2006,

19 (x) Ninety-four Thousand Dollars (\$94,000.00)  
20 for service authorized and performed on or  
21 after July 1, 2006, but not later than June  
22 30, 2007,  
23  
24

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

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

- 5 1. a member of the retirement system not employed by  
6 an entity or institution within The Oklahoma  
7 State System of Higher Education for all  
8 creditable service authorized and performed on or  
9 after July 1, 1995,
- 10 2. a member of the retirement system first employed  
11 on or after July 1, 1995, by an entity or  
12 institution within The Oklahoma State System of  
13 Higher Education for all creditable service  
14 authorized and performed on or after July 1,  
15 1995, but not later than June 30, 1996,
- 16 3. a member of the retirement system employed by an  
17 entity or institution within The Oklahoma State  
18 System of Higher Education, other than a  
19 comprehensive university, if the member elects to  
20 impose a higher maximum compensation level for  
21 service performed on or after July 1, 1995, but  
22 not later than June 30, 1996, pursuant to  
23 subsection B of Section 17-116.2A of this title,  
24

- 1           4.    a member of the retirement system who is first  
2               employed on or after July 1, 1996, by any entity  
3               or institution within The Oklahoma State System  
4               of Higher Education, including a comprehensive  
5               university, for creditable service authorized and  
6               performed on or after July 1, 1996,
- 7           5.    a member of the retirement system who, as of July  
8               1, 1996, is subject to a maximum compensation  
9               level pursuant to paragraph (g) of this  
10              subsection if the member terminates service with  
11              a comprehensive university and is subsequently  
12              reemployed by a comprehensive university,
- 13          6.    a member of the retirement system employed by a  
14               comprehensive university for all service  
15               performed on and after July 1, 2007, or
- 16          7.    an eligible member of the retirement system who  
17               fulfills the requirements of Section 2 of this  
18               act with respect to pre-cap removal service  
19               included in the retirement benefit computation of  
20               the member at the average salary of the member  
21               subject to the maximum average salary amount.

22       (29)   "Comprehensive university" shall mean:

- 23           (a)   the University of Oklahoma and all of its constituent  
24               agencies, including the University of Oklahoma Health

1 Sciences Center, the University of Oklahoma Law Center  
2 and the Geological Survey, and

3 (b) Oklahoma State University and all of its constituent  
4 agencies, including the Oklahoma State University  
5 Agricultural Experiment Station, the Oklahoma State  
6 University Agricultural Extension Division, the  
7 Oklahoma State University College of Veterinary  
8 Medicine, the Oklahoma State University Center for  
9 Health Sciences, the Technical Branch at Oklahoma  
10 City, the Oklahoma State University Institute of  
11 Technology-Okmulgee and Oklahoma State University-  
12 Tulsa.

13 SECTION 3. AMENDATORY 70 O.S. 2001, Section 17-103, as  
14 last amended by Section 1, Chapter 357, O.S.L. 2010 (70 O.S. Supp.  
15 2010, Section 17-103), is amended to read as follows:

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

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

21 (2) All full-time nonclassified optional personnel regularly  
22 employed for more than one (1) year may join the Teachers'  
23 Retirement System subject to the rules and regulations adopted  
24 pursuant to this act. Subject to the outcome of the private letter

1 ruling request (2003) submitted by the Board to the Internal Revenue  
2 Service (2001), the System shall permit eligible nonclassified  
3 optional personnel who have ceased to make otherwise required  
4 employee contributions after having made an election to become a  
5 member of the retirement system to resume employee contributions.  
6 No service shall be credited to any such member for any period of  
7 time during which employee contributions were not made;

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

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

15 (5) The Board of Trustees may, in its discretion, deny the  
16 right to become members to any class of members whose compensation  
17 is only partly paid by the state, or who is serving on a temporary  
18 or other than per annum basis, and it also may, in its discretion,  
19 make optional with members in any such class their individual  
20 entrance into the retirement system; ~~and~~

21 (6) Should any member, with less than ten (10) years of  
22 teaching service in Oklahoma, in any period of six (6) consecutive  
23 years after becoming a member be absent from service more than five  
24 (5) years, withdraw his contributions, retire or die, he shall

1 thereupon cease to be a member. The provisions of this paragraph  
2 shall not apply to any member of the Teachers' Retirement System who  
3 has been a member of such classes of military services as may be  
4 approved by the Board of Trustees, until a period of one and one-  
5 half (1 1/2) years from date of termination of such service shall  
6 have elapsed; and

7 (7) Any person first elected to a state office in the  
8 legislative branch of state government on or after July 1, 2011, may  
9 elect to become a member of the Teachers' Retirement System. The  
10 election on participation in the Teachers' Retirement System must be  
11 in writing and must be filed with the Teachers' Retirement System  
12 within ninety (90) days after the elected official takes office.  
13 The election to participate shall be irrevocable. Reelection to the  
14 same office will not permit new elections. Failure of a Legislator  
15 to file such election form within the ninety-day period shall be  
16 deemed an irrevocable election to participate in the Teachers'  
17 Retirement System.

18 SECTION 4. AMENDATORY 70 O.S. 2001, Section 17-105, as  
19 last amended by Section 2, Chapter 357, O.S.L. 2010 (70 O.S. Supp.  
20 2010, Section 17-105), is amended to read as follows:

21 Section 17-105. (1) (a) Any member who has attained age  
22 fifty-five (55) or who has completed thirty (30) years of creditable  
23 service, as defined in Section 17-101 of this title, or for any  
24 person who initially became a member prior to July 1, 1992,

1 regardless of whether there were breaks in service after July 1,  
2 1992, whose age and number of years of creditable service total  
3 eighty (80) may be retired upon filing a written application for  
4 such retirement. Such a retirement date will also apply to any  
5 person who became a member of the sending system as defined in this  
6 act, prior to July 1, 1992, regardless of whether there were breaks  
7 in service after July 1, 1992. Any person who became a member after  
8 June 30, 1992, whose age and number of years of creditable service  
9 total ninety (90) may be retired upon filing a written application  
10 for such retirement. The application shall be filed on the form  
11 provided by the Board of Trustees for this purpose, not less than  
12 thirty (30) days nor more than ninety (90) days before the date of  
13 retirement.

14 (b) An individual who becomes a member of the Teachers'  
15 Retirement System after July 1, 1967, shall be employed by the  
16 public schools, state colleges or universities of Oklahoma or be a  
17 member of the Oklahoma Legislature for a minimum of five (5) years  
18 and be a contributing member of the Teachers' Retirement System of  
19 Oklahoma for a minimum of five (5) years to qualify for monthly  
20 retirement benefits from the Teachers' Retirement System of  
21 Oklahoma.

22 (c) Any member with five (5) or more years of Oklahoma teaching  
23 service and whose accumulated contributions during such period have  
24 not been withdrawn shall be given an indefinite extension of

1 membership beginning with the sixth year following his or her last  
2 contributing membership and shall become eligible to apply for  
3 retirement and be retired upon attaining age fifty-five (55).

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

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

18 Any individual regardless of residence, who has a minimum of ten  
19 (10) years of teaching in Oklahoma schools prior to July 1, 1943, or  
20 who taught in Oklahoma schools prior to 1934 and thereafter taught a  
21 minimum of ten (10) years and who does not qualify under the present  
22 retirement System, or who has a minimum of thirty (30) years of  
23 teaching in Oklahoma schools and has reached seventy (70) years of  
24 age prior to July 1, 1984, and is not otherwise eligible to receive

1 any benefits from the retirement system shall receive a minimum of  
2 One Hundred Fifty Dollars (\$150.00) per month in retirement benefits  
3 from the Teachers' Retirement System of Oklahoma plus any general  
4 increase in benefits for annuitants as may be provided hereafter by  
5 the Legislature. Each individual must apply to the Teachers'  
6 Retirement System for such benefit and provide evidence to the  
7 Teachers' Retirement System that the service was actually rendered.  
8 The surviving spouse of any person who made application for the  
9 benefit provided for by this paragraph during his or her lifetime  
10 but did not receive said benefit may submit an application to the  
11 System for payment of said benefit for those months during the  
12 lifetime of the deceased person that he or she was eligible for but  
13 did not receive the benefit. Upon approval of the application by  
14 the Board of Trustees, the benefit shall be paid to the surviving  
15 spouse in one lump sum.

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

19 (5) Upon application of a member who is actively engaged in  
20 teaching in Oklahoma or his or her employer, any member who has been  
21 a contributing member for ten (10) years may be retired by the Board  
22 of Trustees not less than thirty (30) days nor more than ninety (90)  
23 days subsequent to the execution and filing thereof, on a disability  
24 retirement allowance, provided that it is found by the Board of

1 Trustees after medical examination of such member by a duly  
2 qualified physician that such member is mentally or physically  
3 incapacitated for further performance of duty, that such incapacity  
4 is likely to be permanent, and that such member should be retired.  
5 The Board of Trustees shall give due consideration to the  
6 conclusions and recommendations in the certified written report of  
7 the Medical Board of the Teachers' Retirement System regarding the  
8 disability application of such member. If a member is determined to  
9 be eligible for disability benefits pursuant to the Social Security  
10 System, then such determination shall entitle the member to the  
11 authorized disability retirement allowance provided by law. For  
12 members who are not eligible for disability benefits pursuant to the  
13 Social Security System, the Board of Trustees shall apply the same  
14 standard for which provision is made in the first two sentences of  
15 this subsection for determining the eligibility of a person for such  
16 disability benefits in making a determination of eligibility for  
17 disability benefits as authorized by this subsection.

18 (6) (a) A member who at the time of retirement has been found  
19 to be permanently physically or mentally incapacitated to teach  
20 school shall receive a minimum monthly retirement payment for life  
21 or until such time as the member may be found to be recovered to the  
22 point where he or she may return to teaching. Any member retired  
23 before July 1, 1992 shall be eligible to receive the monthly  
24 retirement allowance herein provided, but such payment shall not

1 begin until the first payment due him or her after July 1, 1992, and  
2 shall not be retroactive. The Board of Trustees is empowered to  
3 make such rules and regulations as it considers proper to preserve  
4 equity in retirements under this provision, which shall include a  
5 provision to protect the rights of the member's spouse.

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

21 (c) Once each year the Board of Trustees may require any  
22 disabled annuitant who has not yet attained the age of sixty (60)  
23 years to undergo a medical examination, such examination to be made  
24 at the place of residence for said disabled annuitant or other place

1 mutually agreed upon by a physician or physicians designated by the  
2 Board of Trustees. Should any disabled annuitant who has not yet  
3 attained the age of sixty (60) years refuse to submit to at least  
4 one medical examination in any such year by a physician or  
5 physicians designated by the Board of Trustees his or her allowance  
6 may be discontinued until he or she submits to such examination.

7 (d) Should the Medical Board report and certify to the Board of  
8 Trustees that such disabled annuitant is engaged in or is able to  
9 engage in a gainful occupation paying more than the difference  
10 between his or her retirement allowance and the average final  
11 compensation, and should the Board of Trustees concur in such report  
12 then the amount of his or her pension shall be reduced to an amount  
13 which, together with his or her retirement allowance and that amount  
14 earnable by him or her, shall equal the amount of his or her average  
15 final compensation. Should his or her earning capacity be later  
16 increased, the amount of his or her pension may be further modified,  
17 provided the new pension shall not exceed that amount of the pension  
18 originally granted nor an amount, which when added to the amount  
19 earnable by the member, together with his or her annuity, equals the  
20 amount of his or her average final compensation.

21 (e) Should a disabled annuitant be restored to active service,  
22 his or her disability retirement allowance shall cease and he or she  
23 shall again become a member of the Teachers' Retirement System and  
24 shall make regular contributions as required under this article.

1 The unused portion of his or her accumulated contributions shall be  
2 reestablished to his or her credit in the Teachers' Savings Fund.  
3 Any such prior service certificates on the basis of which his or her  
4 service was computed at the time of his or her retirement shall be  
5 restored to full force and effect.

6 (7) Should a member before retirement under Section 1-101 et  
7 seq. of this title make application for withdrawal duly filed with  
8 the Board of Trustees and approved by it, not earlier than four (4)  
9 months after the date of termination of such service as a teacher,  
10 the contribution standing to the credit of his or her individual  
11 account in the Teachers' Savings Fund shall be paid to him or her  
12 or, in the event of his or her death before retirement, shall be  
13 paid to such person or persons as he or she shall have nominated by  
14 written designation, duly executed and filed with the Board of  
15 Trustees; provided, however, if there be no designated beneficiary  
16 surviving upon such death, such contributions shall be paid to his  
17 or her administrators, executors, or assigns, together with interest  
18 as hereinafter provided. In lieu of a lump-sum settlement at the  
19 death of the member, the amount of money the member has on deposit  
20 in the Teachers' Savings Fund and the money the member has on  
21 deposit in the Teachers' Deposit Fund may be paid in monthly  
22 payments to a designated beneficiary, who must be the spouse, under  
23 the Maximum or Option 1 Plan of Retirement providing the monthly  
24 payment shall be not less than Twenty-five Dollars (\$25.00) per

1 month. The monthly payment shall be the actuarial equivalent of the  
2 amount becoming due at the member's death based on the sex of the  
3 spouse and the age the spouse has attained at the last birthday  
4 prior to the member's death. Provided further, if there be no  
5 designated beneficiary surviving upon such death, and the  
6 contributions standing to the credit of such member do not exceed  
7 Two Hundred Dollars (\$200.00), no part of such contributions shall  
8 be subject to the payment of any expense of the last illness or  
9 funeral of the deceased member or any expense of administration of  
10 the estate of such deceased and the Board of Trustees, upon  
11 satisfactory proof of the death of such member and of the name or  
12 names of the person or persons who would be entitled to receive such  
13 contributions under the laws of descent and distribution of the  
14 state, may authorize the payment of accumulated contributions to  
15 such person or persons. A member terminating his or her membership  
16 by withdrawal after June 30, 2003, shall have the interest computed  
17 at a rate of interest determined by the Board of Trustees and paid  
18 to him or her subject to the following schedule:

19 (a) If termination occurs within sixteen (16) years from the  
20 date membership began, fifty percent (50%) of such interest  
21 accumulations shall be paid.

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

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

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

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

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

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

21 (c) The first payment of any benefit selected shall be made on  
22 the first day of the month following approval of the retirement by  
23 the Board of Trustees. If the named designated beneficiary under  
24 Option 2 or 3 dies at any time after the member's retirement date,

1 but before the death of the member, the member shall return to the  
2 retirement benefit, including any post retirement benefit increases  
3 the member would have received had the member not selected Option 2  
4 or 3 of this subsection. The benefit shall be determined at the  
5 date of death of the designated beneficiary or July 1, 1994,  
6 whichever is later. This increase shall become effective the first  
7 day of the month following the date of death of the designated  
8 beneficiary or July 1, 1994, whichever is later, and shall be  
9 payable for the member's remaining lifetime. The member shall  
10 notify the Teachers' Retirement System of Oklahoma of the death of  
11 the designated beneficiary in writing. In the absence of said  
12 written notice being filed by the member notifying the Teachers'  
13 Retirement System of Oklahoma of the death of the designated  
14 beneficiary within six (6) months of the date of death, nothing in  
15 this subsection shall require the Teachers' Retirement System of  
16 Oklahoma to pay more than six (6) months of retrospective benefits  
17 increase.

18 Option 1. If he or she dies before he or she has received in  
19 annuity payments the present value of his or her annuity as it was  
20 at the time of his or her retirement, the balance shall be paid to  
21 his or her legal representatives or to such person as he or she  
22 shall nominate by written designation duly acknowledged and filed  
23 with the Board of Trustees at the time of his or her retirement; or  
24

1       Option 2. A member takes a reduced retirement allowance for  
2 life. Upon the death of the member the payments shall continue to  
3 the member's designated beneficiary for the life of the beneficiary.  
4 The written designation of the beneficiary must be duly acknowledged  
5 and filed with the Board of Trustees at the time of the member's  
6 retirement and, except as provided in paragraph (e) of this  
7 subsection, cannot be changed after the effective date of the  
8 member's retirement; or

9       Option 3. A member receives a reduced retirement allowance for  
10 life. Upon the death of the member one-half (1/2) of the retirement  
11 allowance paid the member shall be continued throughout the life of  
12 the designated beneficiary. A written designation of a beneficiary  
13 must be duly acknowledged and filed with the Board of Trustees at  
14 the time of the member's retirement and, except as provided in  
15 paragraph (e) of this subsection, cannot be changed after the  
16 effective date of the member's retirement; or

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

23       (d) Provided that Option 2 and Option 3 shall not be available  
24 if the member's expected benefit is less than fifty percent (50%) of

1 the lump-sum actuarial equivalent and the designated beneficiary is  
2 not the spouse of the member.

3 (e) A member who chose the maximum retirement benefit plan at  
4 the time of retirement may make a one-time election to choose either  
5 Option 2 or 3 and name the member's spouse as designated beneficiary  
6 if the member marries after making the initial election. Such an  
7 election shall be made by July 1, 2011, or within one (1) year of  
8 the date of marriage, whichever is later. The member shall provide  
9 proof of a member's good health before the Board of Trustees will  
10 permit a change to either Option 2 or 3 and the naming of a  
11 designated beneficiary. A medical examination conducted by a  
12 licensed physician is required for purposes of determining good  
13 health. Such examination must be approved by the Medical Board.  
14 The member shall be required to provide proof of age for the new  
15 beneficiary. The Board of Trustees shall adjust the monthly benefit  
16 to the actuarially equivalent amount based on the new designated  
17 beneficiary's age. The Board of Trustees shall promulgate rules to  
18 implement the provisions of this subsection.

19 (f) A member who retires after the effective date of this act  
20 and has selected a retirement allowance for a reduced amount payable  
21 under one of the options provided for in this subsection may make a  
22 one-time irrevocable election to select a different option within  
23 sixty (60) days of the member's retirement date. The beneficiary  
24 designated by the member at the time of retirement shall not be

1 changed if the member makes the election provided for in this  
2 paragraph.

3 (9) The governing board of any "public school", as that term is  
4 defined in Section 17-101 of this title, is hereby authorized and  
5 empowered to pay additional retirement allowances or compensation to  
6 any person who was in the employ of such public school for not less  
7 than seven (7) school years preceding the date of his or her  
8 retirement. Payments so made shall be a proper charge against the  
9 current appropriation or appropriations of any such public school  
10 for salaries for the fiscal year in which such payments are made.  
11 Such payments shall be made in regular monthly installments in such  
12 amounts as the governing board of any such public school, in its  
13 judgment, shall determine to be reasonable and appropriate in view  
14 of the length and type of service rendered by any such person to  
15 such public school by which such person was employed at the time of  
16 retirement. All such additional payments shall be uniform, based  
17 upon the length of service and the type of services performed, to  
18 persons formerly employed by such public school who have retired or  
19 been retired in accordance with the provisions of Section 1-101 et  
20 seq. of this title.

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

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

4 (11) Upon the death of an in-service member, the System shall  
5 pay to the designated beneficiary of the member or, if there is no  
6 designated beneficiary or if the designated beneficiary predeceases  
7 the member, to the estate of the member, the sum of Eighteen  
8 Thousand Dollars (\$18,000.00) as a death benefit. Provided, if the  
9 deceased member had ten (10) years or more of creditable service and  
10 the death occurred after February 1, 1985, the member's designated  
11 beneficiary may elect to receive the retirement benefit to which the  
12 deceased member would have been entitled at the time of death under  
13 the Option 2 plan of retirement in lieu of the death benefit  
14 provided for in this subsection. Provided further, the option  
15 provided in this subsection is only available when the member has  
16 designated one individual as the designated beneficiary. Death  
17 benefits in the amount not to exceed Eighteen Thousand Dollars  
18 (\$18,000.00), but exclusive of any retirement benefit received by an  
19 electing beneficiary based upon creditable service performed by the  
20 deceased member, which are provided pursuant to this subsection may  
21 be assigned by the beneficiary to a person licensed as a funeral  
22 director or to a lawfully recognized business entity licensed as  
23 required by law to provide funeral services for the deceased member.

24

1           (12) Upon the death of an annuitant who has contributed to the  
2 System, the retirement system shall pay to the designated  
3 beneficiary of the annuitant or, if there is no designated  
4 beneficiary or if the designated beneficiary predeceases the  
5 annuitant, to the estate of the annuitant, the sum of Five Thousand  
6 Dollars (\$5,000.00) as a death benefit. Death benefits provided  
7 pursuant to this subsection may be assigned by the beneficiary to a  
8 person licensed as a funeral director or to a lawfully recognized  
9 business entity licensed as required by law to provide funeral  
10 services for the deceased member. The benefit payable pursuant to  
11 this subsection shall be deemed, for purposes of federal income  
12 taxation, as life insurance proceeds and not as a death benefit if  
13 the Internal Revenue Service approves this provision pursuant to a  
14 private letter ruling request which shall be submitted by the board  
15 of trustees of the System for that purpose.

16           (13) Upon the death of a member who dies leaving no living  
17 beneficiary or having designated his or her estate as beneficiary,  
18 the System may pay any applicable death benefit, unpaid  
19 contributions, or unpaid benefit which may be subject to probate, in  
20 an amount of Five Thousand Dollars (\$5,000.00) or less, without the  
21 intervention of the probate court or probate procedure pursuant to  
22 Section 1 et seq. of Title 58 of the Oklahoma Statutes.

23           (a) Before any applicable probate procedure may be waived, the  
24 System must be in receipt of the member's proof of death and the

1 following documents from those persons claiming to be the legal  
2 heirs of the deceased member:

- 3 1. The member's valid last will and testament;
- 4 2. An affidavit or affidavits of heirship which must  
5 state:

- 6 a. the names and signatures of all claiming heirs to  
7 the deceased member's estate including the  
8 claiming heirs' names, relationship to the  
9 deceased, current addresses and current telephone  
10 numbers,
- 11 b. a statement or statements by the claiming heirs  
12 that no application or petition for the  
13 appointment of a personal representative is  
14 pending or has been granted in any jurisdiction,
- 15 c. a statement that the value of the deceased  
16 member's entire estate is subject to probate, and  
17 that the estate wherever located, less liens and  
18 encumbrances, does not exceed Five Thousand  
19 Dollars (\$5,000.00), including the payment of  
20 benefits or unpaid contributions from the System  
21 as authorized by this subsection,
- 22 d. a description of the personal property claimed,  
23 (i.e., death benefit or unpaid contributions or  
24

1 both) together with a statement that such  
2 personal property is subject to probate,  
3 e. a statement by each individual claiming heir  
4 identifying the amount of personal property that  
5 the heir is claiming from the System, and that  
6 the heir has been notified of, is aware of and  
7 consents to the identified claims of all the  
8 other claiming heirs of the deceased member  
9 pending with the System;

10 3. A written agreement or agreements signed by all  
11 claiming heirs of the deceased member which provides  
12 that the claiming heirs release, discharge and hold  
13 harmless the System from any and all liability,  
14 obligations and costs which it may incur as a result  
15 of making a payment to any of the deceased member's  
16 heirs;

17 4. A corroborating affidavit from an individual other  
18 than a claiming heir, who was familiar with the  
19 affairs of the deceased member;

20 5. Proof that all debts of the deceased member, including  
21 payment of last sickness, hospital, medical, death,  
22 funeral and burial expenses have been paid or provided  
23 for.  
24

1 (b) The Executive Director of the System shall retain complete  
2 discretion in determining which requests for probate waiver may be  
3 granted or denied, for any reason. Should the System have any  
4 question as to the validity of any document presented by the  
5 claiming heirs, or as to any statement or assertion contained  
6 therein, the probate requirement provided for in Section 1 et seq.  
7 of Title 58 of the Oklahoma Statutes, shall not be waived.

8 (c) After paying any death benefits or unpaid contributions to  
9 any claiming heirs as provided pursuant to this subsection, the  
10 System is discharged and released from any and all liability,  
11 obligation and costs to the same extent as if the System had dealt  
12 with a personal representative of the deceased member. The System  
13 is not required to inquire into the truth of any matter specified in  
14 this subsection or into the payment of any estate tax liability.

15 (14) Upon the death of a retired member, the benefit payment  
16 for the month in which the retired member died, if not previously  
17 paid, shall be made to the beneficiary of the member or to the  
18 member's estate if there is no beneficiary. Such benefit payment  
19 shall be made in an amount equal to a full monthly benefit payment  
20 regardless of the day of the month in which the retired member died.

21 SECTION 5. AMENDATORY 74 O.S. 2001, Section 902, as last  
22 amended by Section 1, Chapter 435, O.S.L. 2010 (74 O.S. Supp. 2010,  
23 Section 902), is amended to read as follows:

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

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

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

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

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

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

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

15 (7) "Beneficiary" means any person named by a member to receive  
16 any benefits as provided for by Section 901 et seq. of this title.  
17 If there is no beneficiary living at time of member employee's  
18 death, the member's estate shall be the beneficiary;

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

21 (9) "Compensation" means all salary and wages, as defined by  
22 the Board of Trustees, including amounts deferred under deferred  
23 compensation agreements entered into between a member and a  
24 participating employer, but exclusive of payment for overtime,

1 payable to a member of the System for personal services performed  
2 for a participating employer but shall not include compensation or  
3 reimbursement for traveling, or moving expenses, or any compensation  
4 in excess of the maximum compensation level, provided:

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

8 For compensation for service on or after January 1,  
9 1988, through June 30, 1994, the maximum compensation  
10 level shall be Forty Thousand Dollars (\$40,000.00) per  
11 annum.

12 For compensation for service on or after July 1, 1994,  
13 through June 30, 1995, the maximum compensation level  
14 shall be Fifty Thousand Dollars (\$50,000.00) per

15 annum; for compensation for service on or after July  
16 1, 1995, through June 30, 1996, the maximum

17 compensation level shall be Sixty Thousand Dollars  
18 (\$60,000.00) per annum; for compensation for service

19 on or after July 1, 1996, through June 30, 1997, the  
20 maximum compensation level shall be Seventy Thousand

21 Dollars (\$70,000.00) per annum; and for compensation  
22 for service on or after July 1, 1997, through June 30,

23 1998, the maximum compensation level shall be Eighty  
24 Thousand Dollars (\$80,000.00) per annum. For

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

4 (b) Compensation for retirement purposes shall include any  
5 amount of elective salary reduction under Section 457  
6 of the Internal Revenue Code of 1986 and any amount of  
7 nonelective salary reduction under Section 414(h) of  
8 the Internal Revenue Code of 1986.

9 (c) Notwithstanding any provision to the contrary, the  
10 compensation taken into account for any employee in  
11 determining the contribution or benefit accruals for  
12 any plan year is limited to the annual compensation  
13 limit under Section 401(a)(17) of the federal Internal  
14 Revenue Code.

15 (d) Current appointed members of the Oklahoma Tax  
16 Commission whose salary is constitutionally limited  
17 and is less than the highest salary allowed by law for  
18 his or her position shall be allowed, within ninety  
19 (90) days from the effective date of this act, to make  
20 an election to use the highest salary allowed by law  
21 for the position to which the member was appointed for  
22 the purposes of making contributions and determination  
23 of retirement benefits. Such election shall be  
24 irrevocable and be in writing. Reappointment to the

1 same office shall not permit a new election. Members  
2 appointed to the Oklahoma Tax Commission after the  
3 effective date of this act shall make such election,  
4 pursuant to this subparagraph, within ninety (90) days  
5 of taking office;

6 (10) "Credited service" means the sum of participating service,  
7 prior service and elected service;

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

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

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

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

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

1 federal funds shall be deemed an eligible employer,  
2 but only with respect to that class or those classes  
3 of employees as defined in this subsection; provided,  
4 that the required contributions to the retirement plan  
5 may be withheld from the contributions of state or  
6 federal funds administered by the state agency and  
7 transmitted to the System on the same basis as the  
8 employee and employer contributions are transmitted  
9 for the direct employees of the state agency. The  
10 retirement or eligibility for retirement under the  
11 provisions of law providing pensions for service as a  
12 volunteer fire fighter shall not render any person  
13 ineligible for participation in the benefits provided  
14 for in Section 901 et seq. of this title. An employee  
15 of any public or private trust in which a county, city  
16 or town participates and is the primary beneficiary  
17 shall be deemed to be an eligible employee for the  
18 purpose of this act only.

19 (c) All employees of the George Nigh Rehabilitation  
20 Institute who elected to retain membership in the  
21 System, pursuant to Section 913.7 of this title, shall  
22 continue to be eligible employees for the purposes of  
23 this act. The George Nigh Rehabilitation Institute  
24

1 shall be considered a participating employer only for  
2 such employees.

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

10 (14) "Employee" means any officer or employee of a  
11 participating employer, whose employment is not seasonal or  
12 temporary and whose employment requires at least one thousand  
13 (1,000) hours of work per year and whose salary or wage is equal to  
14 the hourly rate of the monthly minimum wage for state employees.  
15 For those eligible employers outlined in Section 910 of this title,  
16 the rate shall be equal to the hourly rate of the monthly minimum  
17 wage for that employer. Each employer, whose minimum wage is less  
18 than the state's minimum wage, shall inform the System of the  
19 minimum wage for that employer. This notification shall be by  
20 resolution of the governing body.

21 (a) Any employee of the county extension agents who is not  
22 currently participating in the Teachers' Retirement  
23 System of Oklahoma shall be a member of this System.  
24

1 (b) Eligibility shall not include any employee who is a  
2 contributing member of the United States Civil Service  
3 Retirement System.

4 (c) It shall be mandatory for an officer, appointee or  
5 employee of the office of district attorney to become  
6 a member of this System if he or she is not currently  
7 participating in a county retirement system. Provided  
8 further, that if an officer, appointee or employee of  
9 the office of district attorney is currently  
10 participating in such county retirement system, he or  
11 she is ineligible for this System as long as he or she  
12 is eligible for such county retirement system. Any  
13 eligible officer, appointee or employee of the office  
14 of district attorney shall be given credit for prior  
15 service as defined in this section. The provisions  
16 outlined in Section 917 of this title shall apply to  
17 those employees who have previously withdrawn their  
18 contributions.

19 (d) Eligibility shall also not include any officer or  
20 employee of the Oklahoma Employment Security  
21 Commission, except for those officers and employees of  
22 the Commission electing to transfer to this System  
23 pursuant to the provisions of Section 910.1 of this  
24 title or any other class of officers or employees

1 specifically exempted by the laws of this state,  
2 unless there be a consolidation as provided by Section  
3 912 of this title. Employees of the Oklahoma  
4 Employment Security Commission who are ineligible for  
5 enrollment in the Employment Security Commission  
6 Retirement Plan, that was in effect on January 1,  
7 1964, shall become members of this System.

8 (e) Any employee employed by the Legislative Service  
9 Bureau, State Senate or House of Representatives for  
10 the full duration of a regular legislative session  
11 shall be eligible for membership in the System  
12 regardless of classification as a temporary employee  
13 and may participate in the System during the regular  
14 legislative session at the option of the employee.  
15 For purposes of this subparagraph, the determination  
16 of whether an employee is employed for the full  
17 duration of a regular legislative session shall be  
18 made by the Legislative Service Bureau if such  
19 employee is employed by the Legislative Service  
20 Bureau, the State Senate if such employee is employed  
21 by the State Senate, or by the House of  
22 Representatives if such employee is employed by the  
23 House of Representatives. Each regular legislative  
24 session during which the legislative employee or an

1 employee of the Legislative Service Bureau  
2 participates full time shall be counted as six (6)  
3 months of full-time participating service.

4 (i) Except as otherwise provided by this  
5 subparagraph, once a temporary session employee  
6 makes a choice to participate or not, the choice  
7 shall be binding for all future legislative  
8 sessions during which the employee is employed.

9 (ii) Notwithstanding the provisions of division (i) of  
10 this subparagraph, any employee, who is eligible  
11 for membership in the System because of the  
12 provisions of this subparagraph and who was  
13 employed by the State Senate or House of  
14 Representatives after January 1, 1989, may file  
15 an election, in a manner specified by the Board,  
16 to participate as a member of the System prior to  
17 September 1, 1989.

18 (iii) Notwithstanding the provisions of division (i) of  
19 this subparagraph, a temporary legislative  
20 session employee who elected to become a member  
21 of the System may withdraw from the System  
22 effective the day said employee elected to  
23 participate in the System upon written request to  
24 the Board. Any such request must be received by

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

6 (iv) A member of the System who did not initially  
7 elect to participate as a member of the System  
8 pursuant to subparagraph (e) of this paragraph  
9 shall be able to acquire service performed as a  
10 temporary legislative session employee for  
11 periods of service performed prior to the date  
12 upon which the person became a member of the  
13 System if:

- 14 a. the member files an election with the System  
15 not later than December 31, 2000, to  
16 purchase the prior service; and
- 17 b. the member makes payment to the System of  
18 the actuarial cost of the service credit  
19 pursuant to subsection A of Section 913.5 of  
20 this title. The provisions of Section 913.5  
21 of this title shall be applicable to the  
22 purchase of the service credit, including  
23 the provisions for determining service  
24 credit in the event of incomplete payment

1 due to cessation of payments, death,  
2 termination of employment or retirement, but  
3 the payment may extend for a period not to  
4 exceed ninety-six (96) months;

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

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

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

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

24

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

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

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

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

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

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

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

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

19 An eligible member under this paragraph shall include only those  
20 persons who shall have served during the times or in the areas  
21 prescribed in this paragraph, and only if such person provides  
22 appropriate documentation in such time and manner as required by the  
23 System to establish such military service prescribed in this  
24 paragraph, or for service pursuant to subdivision a of division (v)

1 of subparagraph (a) of this paragraph those persons who were awarded  
2 service medals, as authorized by the United States Department of  
3 Defense as reflected in the veteran's Defense Department Form 214,  
4 related to the Vietnam Conflict for service prior to August 5, 1964;

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

8 (a) the first day of the month coinciding with or  
9 following a member's sixty-second birthday,

10 (b) for any person who initially became a member prior to  
11 July 1, 1992, the first day of the month coinciding  
12 with or following the date at which the sum of a  
13 member's age and number of years of credited service  
14 total eighty (80); such a normal retirement date will  
15 also apply to any person who became a member of the  
16 sending system as defined in Section 901 et seq. of  
17 this title, prior to July 1, 1992, regardless of  
18 whether there were breaks in service after July 1,  
19 1992,

20 (c) for any person who became a member after June 30,  
21 1992, the first day of the month coinciding with or  
22 following the date at which the sum of a member's age  
23 and number of years of credited service total ninety  
24 (90),

1 (d) in addition to subparagraphs (a), (b) and (c) of this  
2 paragraph, the first day of the month coinciding with  
3 or following a member's completion of at least twenty  
4 (20) years of full-time-equivalent employment as:

5 (i) a correctional or probation and parole officer  
6 with the Department of Corrections and at the  
7 time of retirement, the member was a correctional  
8 or probation and parole officer with the  
9 Department of Corrections, or

10 (ii) a correctional officer, probation and parole  
11 officer or fugitive apprehension agent with the  
12 Department of Corrections who is in such position  
13 on June 30, 2004, or who is hired after June 30,  
14 2004, and who receives a promotion or change in  
15 job classification after June 30, 2004, to  
16 another position in the Department of  
17 Corrections, so long as such officer or agent has  
18 at least five (5) years of service as a  
19 correctional officer, probation and parole  
20 officer or fugitive apprehension agent with the  
21 Department, has twenty (20) years of full-time-  
22 equivalent employment with the Department and was  
23 employed by the Department at the time of  
24 retirement, or

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

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

22 (f) for any member who was continuously employed by an  
23 entity or institution within The Oklahoma State System  
24 of Higher Education and whose initial employment with

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

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

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

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

17          (28) "Retirant" or "retiree" means a member who has retired  
18          under the System;

19          (29) "Retirement benefit" means a monthly income with benefits  
20          accruing from the first day of the month coinciding with or  
21          following retirement and ending on the last day of the month in  
22          which death occurs or the actuarial equivalent thereof paid in such  
23          manner as specified by the member pursuant to Section 901 et seq. of  
24

1 this title or as otherwise allowed to be paid at the discretion of  
2 the Board;

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

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

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

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

15 (34) "Elected official" means a person elected to a state  
16 office in the legislative branch before June 30, 2011, or executive  
17 branch of state government or a person elected to a county office  
18 for a definite number of years and shall include an individual who  
19 is appointed to fill the unexpired term of an elected state  
20 official;

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

23

24

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

4 SECTION 6. AMENDATORY 74 O.S. 2001, Section 913.4, as  
5 last amended by Section 2, Chapter 435, O.S.L. 2010 (74 O.S. Supp.  
6 2010, Section 913.4), is amended to read as follows:

7 Section 913.4. A. 1. ~~An~~ Except as otherwise provided in this  
8 section, an elected official may elect to participate in the System  
9 and if he or she elects to do so shall have the option of  
10 participating at any one of the computation factors set forth in  
11 paragraphs 3 or 4 of this subsection and will receive retirement  
12 benefits in accordance with the computation factor chosen. The  
13 election on participation in the System must be in writing, must  
14 specify the computation factor chosen, and must be filed with the  
15 System within ninety (90) days after the elected official takes  
16 office. The election to participate and the election of a  
17 computation factor shall be irrevocable. Reelection to the same  
18 office will not permit new elections. Failure of an elected  
19 official to file such election form within the ninety-day period  
20 shall be deemed an irrevocable election to participate in the System  
21 at the maximum computation factor.

22 2. Contributions and benefits will be based upon the elected  
23 official's annual compensation as defined in Section 902 of this  
24 title. Employer and elected official contributions shall be

1 remitted at least monthly, or as the Board may otherwise provide, to  
 2 the System for deposit in the Oklahoma Public Employees Retirement  
 3 Fund. Effective July 1, 1994, and thereafter, the participating  
 4 employer shall contribute as provided in Section 920 of this title.

5 3. Except as provided in paragraph 4 of this subsection,  
 6 effective July 1, 1994, the computation factor selected and the  
 7 corresponding elected official contribution rate shall be as  
 8 follows:

9	Elected official	Computation	Alternate
10	Contribution Rate	Factor	Formula
11	4.5%	1.9%	\$12.50
12	6%	2.5%	\$20.00
13	7.5%	3.0%	\$25.00
14	8.5%	3.4%	\$27.50
15	9%	3.6%	\$30.00
16	10%	4.0%	\$40.00

17 4. Elected officials who are first elected or appointed to an  
 18 elected office on or after November 1, 2010, shall elect a  
 19 computation factor of either 1.9% or 4%. The elected official  
 20 contribution rate for the 1.9% computation factor is currently 4.5%  
 21 and the contribution rate for the 4% computation factor is currently  
 22 10%. All other computation factors and contribution rates set forth  
 23 in paragraph 3 of this subsection shall not be available to any  
 24

1 person first elected or appointed to an elected office on or after  
 2 November 1, 2010.

3 5. The computation factors and corresponding elected official  
 4 contribution rates provided for in paragraphs 3 and 4 of this  
 5 subsection shall be based on the entire compensation as an elected  
 6 official subject to the definition and maximum compensation levels  
 7 as set forth in paragraph (9) of Section 902 of this title.

8 B. The normal retirement date for an elected official shall be  
 9 the first day of the month coinciding with or following the  
 10 official's sixtieth birthday or the first day of the month  
 11 coinciding with or following the date at which the sum of the  
 12 elected official's age and number of years of credited service total  
 13 eighty (80). Any elective official who has a minimum of ten (10)  
 14 years' participating service may retire under the early retirement  
 15 provisions of this act, including those electing a vested benefit  
 16 and shall receive an adjustment of annual benefits in accordance  
 17 with the following percentage schedule:

18		Percentage of Normal
19	Age	Retirement Benefits
20	60	100%
21	59	94%
22	58	88%
23	57	82%
24	56	76%



1 paragraph (1) of subsection A of Section 915 of this title with the  
2 final benefit result added to the final benefit result for elected  
3 service. In no event shall the elected official be entitled to  
4 apply the computation factor selected pursuant to subsection A of  
5 this section or the compensation received as an elected official to  
6 the computation of nonelected service.

7 4. Elected officials who are first elected or appointed to an  
8 elected office on or after August 22, 2008, may not receive a  
9 maximum benefit greater than their single highest annual  
10 compensation received as a member of the Oklahoma Public Employees  
11 Retirement System.

12 D. Any elected official making an election to participate at a  
13 computation factor less than the maximum and later selecting a  
14 higher computation factor shall contribute to the System a sum equal  
15 to the amount which the elected official would have contributed if  
16 the elected official had made such election at the time the elected  
17 official first became eligible, plus interest as determined by the  
18 Board, in order to receive the additional benefits for all service  
19 as an elected official; otherwise, the additional benefits shall be  
20 applicable only to service for which the elected official pays the  
21 appropriate percent of contributions to the System.

22 E. The surviving spouse of a deceased elected official having  
23 at least six (6) years of participating service shall be entitled to  
24 receive survivor benefits in the amount herein prescribed, if

1 married to the decedent continuously for a period of at least three  
2 (3) years immediately preceding the elected official's death.  
3 Provided the elected official had met the service requirements,  
4 survivor benefits shall be payable when the deceased member would  
5 have met the requirements for normal or early retirement. The  
6 amount of the benefits the surviving spouse may receive shall be  
7 fifty percent (50%) of the amount of benefits the deceased elected  
8 official was receiving or will be eligible to receive. Remarriage  
9 of a surviving spouse shall disqualify the spouse for the receipt of  
10 survivor benefits. Elected officials may elect a retirement option  
11 as provided in Section 918 of this title in lieu of the survivors  
12 benefit provided above.

13 F. Any elected official who served in the Armed Forces of the  
14 United States, as defined in paragraph (23) of Section 902 of this  
15 title, prior to membership in the Oklahoma Public Employees  
16 Retirement System shall be granted credited service of not to exceed  
17 five (5) years for those periods of active military service during  
18 which the elected official was a war veteran.

19 G. Any one appointed or elected to an elected position after  
20 July 1, 1990, shall not be eligible to receive benefits as provided  
21 in this section until such person has participated as an elected  
22 official for six (6) years.

23 H. Elected officials who terminate participation in the System  
24 and who have a minimum of six (6) years of participating service

1 shall be entitled to elect a vested benefit and shall be entitled to  
2 the retirement options as provided in Section 918 of this title in  
3 lieu of the survivors benefit provided above.

4 I. Any person first elected to a state office in the  
5 legislative branch of state government on or after July 1, 2011,  
6 shall not be eligible to participate in the System; however, the  
7 person shall be eligible to participate in the Teachers' Retirement  
8 System of Oklahoma pursuant to the provisions of Section 17-103 of  
9 Title 70 of the Oklahoma Statutes.

10 SECTION 7. This act shall become effective July 1, 2011.

11 SECTION 8. It being immediately necessary for the preservation  
12 of the public peace, health and safety, an emergency is hereby  
13 declared to exist, by reason whereof this act shall take effect and  
14 be in full force from and after its passage and approval.

15

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