

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

SENATE BILL 892

By: Mazzei

AS INTRODUCED

An Act relating to retirement plans for newly hired education employees; creating the New Education Employees' Contributory Retirement Act; providing short title; defining terms; creating certain retirement systems; specifying membership; designating the Teachers' Retirement System and the Board of Trustees of the System to assume certain roles; creating the New Education Employees' Contributory Retirement System Trust Fund; specifying content of the trust fund; requiring certain employers to participate in the New Education Employee's Contributory Retirement System; specifying eligibility for membership; requiring certain election to be made by certain persons; prohibiting an employer from withdrawing from the System; authorizing purchase of certain service credit; providing that certain employees are not eligible for service credit; requiring payment of certain contribution rates; specifying amount of such rates; providing procedures related to certain contributions; specifying when certain benefit increases may be granted; requiring certain employers to make a nonelective contribution in a specified amount; specifying types of plans in which contributions may be made; specifying investment options of such plans; prohibiting certain loans or hardship contributions from being made from certain contributions; providing procedures relating to the contributions of members who terminate employment; requires the establishment of a forfeiture account; authorizing the System to take certain actions; authorizing a member to receive an allowance from the System under certain conditions; allowing a retiree to choose from one of six retirement options; specifying provisions of each option; allowing lump-

1 sum payment in certain circumstances; authorizing
 2 election for certain lump sum payment; authorizing
 3 the purchase of certain service credit; stating
 4 eligibility requirements in order to purchase such
 5 credit; requiring the employer to make certain
 6 contribution to a member's defined contribution plan;
 7 specifying amounts of such contribution; providng
 8 procedures related to such contribution; specifying
 9 types of plans in which contributions may be made;
 10 specifying investment options of such plans;
 11 prohibiting certain loans or hardship contributions
 12 from being made from certain contributions; providing
 13 procedures relating to the contributions of members
 14 who terminate employment; requires the establishment
 15 of a forfeiture account; authorizing the System to
 16 take certain actions; authorizing distributions from
 17 the defined contributions for certain members
 18 receiving disability payments; providing for a death
 19 benefit; requiring the System to promulgate certain
 20 rules relating to the death benefit; specifying when
 21 the death benefit is payable; defining term; allowing
 22 for certain retirement option for certain deceased
 23 members; providing procedures relating to such
 24 retirement benefit; providing for codification; and
 providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
 in the Oklahoma Statutes as Section 17-301 of Title 70, unless there
 is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "New Education
 Employees' Contributory Retirement Act".

SECTION 2. NEW LAW A new section of law to be codified
 in the Oklahoma Statutes as Section 17-302 of Title 70, unless there
 is created a duplication in numbering, reads as follows:

1 As used in the New Education Employees' Contributory Retirement
2 Act:

3 1. "Compensation" means the total amount of payments made by a
4 participating employer to a member of this system for services
5 rendered to the participating employer, including:

- 6 a. bonuses,
- 7 b. cost-of-living adjustments,
- 8 c. other payments currently includable in gross income
9 and that are subject to Social Security deductions,
10 including any payments in excess of the maximum amount
11 subject to deduction under Social Security law,
- 12 d. amounts that the member authorizes to be deducted or
13 reduced for salary deferral or other benefits
14 authorized by federal law, and
- 15 e. member contributions.

16 "Compensation" may not exceed the amount allowed under Internal
17 Revenue Code, Section 401(a)17).

18 "Compensation" does not include:

- 19 a. the monetary value of remuneration paid in kind,
20 including a residence or use of equipment,
- 21 b. the cost of any employment benefits paid for by the
22 participating employer,
- 23 c. compensation paid to a temporary employee or an
24 employee otherwise ineligible for service credit,

- 1 d. any payments upon termination, including accumulated
2 vacation, sick leave payments, severance payments,
3 compensatory time payments, or any other special
4 payments, or
- 5 e. any allowances or payments to a member for costs or
6 expenses paid by the participating employer, including
7 automobile costs, uniform costs, travel costs, tuition
8 costs, housing costs, insurance costs, equipment
9 costs, and dependent care costs.

10 The Executive Director of the Teachers' Retirement System of
11 Oklahoma may determine if a payment not listed under this paragraph
12 falls within the definition of compensation;

13 2. "Final average salary" means the amount computed by
14 averaging the highest five years of annual compensation preceding
15 retirement subject to subparagraphs a, b, c, and d of this
16 paragraph:

- 17 a. except as provided in subparagraph b of this
18 paragraph, the percentage increase in annual
19 compensation in any one of the years used may not
20 exceed the previous year's compensation by more than
21 ten percent (10%) plus a cost-of-living adjustment
22 equal to the decrease in the purchasing power of the
23 dollar during the previous year, as measured by a
24

1 United States Bureau of Labor Statistics Consumer
2 Price Index average as determined by the board,

3 b. in cases where the participating employer provides
4 acceptable documentation to the office, the limitation
5 in subparagraph a of this paragraph may be exceeded
6 if:

7 (1) the member has transferred from another agency,

8 or

9 (2) the member has been promoted to a new position,

10 c. if the member retires more than six (6) months from
11 the date of termination of employment, the member is
12 considered to have been in service at the member's
13 last rate of pay from the date of the termination of
14 employment to the effective date of retirement for
15 purposes of computing the member's final average
16 salary only,

17 d. if the member has less than five years of service
18 credit in this System, final average salary means the
19 average annual compensation paid to the member during
20 the full period of service credit,

21 3. "Member" means any teacher or other employee included in the
22 membership of the Teachers' Retirement System of Oklahoma as
23 provided in Section 17-103 of Title 70 of the Oklahoma Statutes;

1 4. "Participating employer" means an employer as defined in
2 subsection (5) of Section 17-101 of Title 70 of the Oklahoma
3 Statutes;

4 5. "System" means the New Education Employees' Contributory
5 Retirement System created pursuant to the New Education Employees
6 Contributory Retirement Act; and

7 6. "Teachers' Retirement System of Oklahoma" means the system
8 or plan that would have covered the member if the member had
9 initially entered employment before July 1, 2012;

10 SECTION 3. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 17-303 of Title 70, unless there
12 is created a duplication in numbering, reads as follows:

13 A. There is created for members employed by a participating
14 employer the "New Education Employees' Contributory Retirement
15 System."

16 B. The New Education Employees' Contributory Retirement System
17 includes:

18 1. The New Education Employees' Hybrid Retirement System
19 created in the New Education Employees' Contributory Retirement Act;
20 and

21 2. The New Education Employees' defined contribution plan
22 created in the New Education Employees' Contributory Retirement Act.

23 C. Members employed by a participating employer on or after
24 July 1, 2012, who are not members of the Teachers' Retirement System

1 of Oklahoma shall be members of the New Education Employees'
2 Contributory Retirement System and shall not be members of the
3 Teachers' Retirement System of Oklahoma.

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 17-304 of Title 70, unless there
6 is created a duplication in numbering, reads as follows:

7 For purposes of the New Education Employees' Contributory
8 Retirement Act, the Teachers' Retirement System of Oklahoma shall
9 act as the New Education Employees' Contributory Retirement System
10 created pursuant to the New Education Employees' Contributory
11 Retirement Act. The Board of Trustees of the Teachers' Retirement
12 System of Oklahoma shall act as the Board of Trustees of the New
13 Education Employees' Contributory Retirement System.

14 SECTION 5. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 17-305 of Title 70, unless there
16 is created a duplication in numbering, reads as follows:

17 A. There is created the "New Education Employees' Contributory
18 Retirement System Trust Fund" for the purpose of paying the benefits
19 and costs of administering the defined benefit portion of this
20 System.

21 B. The fund shall consist of all money paid into it, including
22 interest, in accordance with the New Education Employees'
23 Contributory Retirement Act, whether in the form of cash,
24

1 securities, or other assets, and of all money received from any
2 other source.

3 C. Custody, management, and investment of the fund shall be
4 governed by the Board of Trustees for the New Education Employees
5 Contributory Retirement System.

6 SECTION 6. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 17-306 of Title 70, unless there
8 is created a duplication in numbering, reads as follows:

9 A. Beginning July 1, 2012, a participating employer shall
10 participate in the New Education Employees' Contributory Retirement
11 System.

12 B. A person entering regular full-time employment with a
13 participating employer on or after July 1, 2012, is eligible as a:

14 1. Member for service credit and defined contributions under
15 the New Education Employees' Hybrid Retirement System established by
16 the New Education Employees' Contributory Retirement Act; or

17 2. Participant for defined contributions under the New
18 Education Employees' defined contribution plan established by the
19 New Education Employees' Contributory Retirement Act.

20 C. A person entering regular full-time employment with a
21 participating employer on or after July 1, 2012, shall:

22 1. Make an election to participate in the System created
23 pursuant to the New Education Employees' Contributory Retirement Act
24 within thirty (30) days from the date of employment:

1 a. as a member for service credit and defined
2 contributions under the New Education Employees'
3 Hybrid Retirement System, or

4 b. as a participant for defined contributions under the
5 New Education Employees' defined contribution plan;
6 and

7 2. Submit to the System notification of the member's election
8 under paragraph 1 of this subsection in a manner approved by the
9 System.

10 D. An election made by a person entering regular full-time
11 employment with a participating employer under subsection C of this
12 section is irrevocable.

13 E. If no election is made under paragraph 1 of subsection C of
14 this section, the person shall become a member eligible for service
15 credit and defined contributions under the New Education Employees'
16 Hybrid Retirement System.

17 SECTION 7. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 17-307 of Title 70, unless there
19 is created a duplication in numbering, reads as follows:

20 A. An employer is a participating employer and may not withdraw
21 from participation in this System.

22 B. If a participating employer purchases service credit on
23 behalf of regular full-time employees for service rendered prior to
24 the participating employer's admission to this System, the service

1 credit shall be purchased in a nondiscriminatory manner on behalf of
2 all current and former regular full-time employees who were eligible
3 for service credit at the time service was rendered.

4 SECTION 8. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 17-308 of Title 70, unless there
6 is created a duplication in numbering, reads as follows:

7 The following employees are not eligible for service credit in
8 the New Education Employees Hybrid Retirement System:

9 1. An employee whose employment status is temporary in nature
10 due to the nature or the type of work to be performed, provided
11 that:

12 a. if the term of employment exceeds six (6) months and
13 the employee otherwise qualifies for service credit in
14 this System, the participating employer shall report
15 and certify to the System that the employee is a
16 regular full-time employee effective the beginning of
17 the seventh month of employment, and

18 b. if an employee, previously terminated prior to
19 becoming eligible for service credit in this System,
20 is reemployed within three months of termination by
21 the same participating employer, the participating
22 employer shall report and certify to the System that
23 the member is a regular full-time employee when the
24 total of the periods of employment equals six months

1 and the employee otherwise qualifies for service
2 credit in this System.

3 SECTION 9. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 17-309 of Title 70, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Participating employers and members shall jointly pay the
7 certified contribution rates to the New Education Employees' Hybrid
8 Retirement System to maintain the defined benefit portion of the
9 System on a financially and actuarially sound basis.

10 B. 1. A participating employer shall pay up to ten percent
11 (10%) of compensation toward the certified contribution rate to the
12 New Education Employees' Contributory Retirement Act for the defined
13 benefit portion of this System.

14 2. A member shall pay the amount, if any, of the certified
15 contribution rate for the defined benefit portion of this System
16 that exceeds ten percent (10%) to the System.

17 3. In addition to the percent specified under paragraph 1 of
18 this subsection, the participating employer shall pay the
19 corresponding Teachers' Retirement System of Oklahoma amortization
20 rate of the employee's compensation to the System to be applied to
21 the employer's corresponding Teachers' Retirement System of Oklahoma
22 liability.

23 C. A participating employer may not elect to pay all or part of
24 the required member contributions under paragraph 2 of subsection B

1 of this section, in addition to the required participating employer
2 contributions.

3 D. A member contribution is credited by the System to the
4 account of the individual member. This amount, together with refund
5 interest, is held in trust for the payment of benefits to the member
6 or the member's beneficiaries. A member contribution is vested and
7 nonforfeitable.

8 E. Each member is considered to consent to payroll deductions
9 of member contributions. The payment of compensation less these
10 payroll deductions is considered full payment for services rendered
11 by the member.

12 F. Benefits provided under the defined benefit portion of the
13 New Education Employees' Hybrid Retirement System may not be
14 increased unless the actuarial funded ratio of the Teachers'
15 Retirement System of Oklahoma reaches one hundred percent (100%).

16 SECTION 10. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 17-310 of Title 70, unless there
18 is created a duplication in numbering, reads as follows:

19 A. 1. A participating employer shall make a nonelective
20 contribution on behalf of each regular full-time employee who is a
21 member of the New Employees Contributory Retirement System in an
22 amount equal to ten percent (10%) minus the contribution rate paid
23 by the employer pursuant to paragraph 1 of subsection B of Section 9
24 of this act of the member's compensation to a defined contribution

1 plan qualified under Section 401(k) of the Internal Revenue Code
2 which:

- 3 a. is sponsored by the New Education Employees'
4 Contributory Retirement System, and
- 5 b. has been grandfathered under Section 1116 of the
6 Federal Tax Reform Act of 1986, as amended;

7 2. The member may make additional payments to:

- 8 a. the qualified 401(k) plan which receives the employer
9 contribution described in subsection A of this
10 section, or
- 11 b. at the member's option, another defined contribution
12 plan established by the participating employer.

13 B. 1. The total amount contributed by the participating
14 employer under paragraph 1 of subsection A of this section vests to
15 the member's benefit after four (4) years of employment from the
16 date of employment; and

17 2. The total amount contributed by the member under sub
18 paragraphs 1 and 2 of paragraph 2 of subsection A of this section
19 vests to the member's benefit immediately and is nonforfeitable.

20 C. 1. Contributions made by a participating employer under
21 paragraph 1 of subsection A of this section shall be invested in a
22 default option selected by the Board of Trustees of the Teachers'
23 Retirement System of Oklahoma until the member is vested in
24 accordance with paragraph 1 of subsection B of this section;

1 2. A member may direct the investment of contributions made by
2 a participating employer under paragraph 1 of subsection A of this
3 section only after the contributions have vested in accordance with
4 paragraph 1 of subsection B of this section; and

5 3. A member may direct the investment of contributions made by
6 the member under paragraph 2 of subsection A of this section.

7 D. No loans shall be available from contributions made by a
8 participating employer under paragraph 2 of subsection A of this
9 section.

10 E. No hardship distributions shall be available from
11 contributions made by a participating employer under paragraph 1 of
12 subsection A of this section.

13 F. 1. Except as provided in paragraph 2 of this subsection, if
14 a member terminates employment with a participating employer prior
15 to the vesting period described in paragraph 1 of subsection B of
16 this section, all contributions made by a participating employer on
17 behalf of the member under paragraph 1 of subsection A of this
18 section are subject to forfeiture.

19 2. If a member who terminates employment with a participating
20 employer prior to the vesting period described in paragraph 1 of
21 subsection B of this section subsequently enters employment with the
22 same or another participating employer within ten (10) years of the
23 termination date of the previous employment:

- 1 a. all contributions made by the previous participating
- 2 employer on behalf of the member shall be reinstated
- 3 upon the member's completion of the vesting period
- 4 under paragraph 1 of subsection B of this section, and
- 5 b. the length of time that the member worked with the
- 6 previous employer shall be included in determining
- 7 whether the member has completed the vesting period
- 8 under paragraph 1 of subsection B of this section.

9 3. The System shall establish a forfeiture account and shall
10 specify the uses of the forfeiture account, which may include an
11 offset against employer contributions made under this section.

12 G. The System may request from any other qualified 401(k) plan
13 under subsection A and B of this section any relevant information
14 pertaining to the maintenance of its tax qualification under the
15 Internal Revenue Code.

16 H. The System may take any action which in its judgment is
17 necessary to maintain the tax-qualified status of its 401(k) defined
18 contribution plan under federal law.

19 SECTION 11. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 17-311 of Title 70, unless there
21 is created a duplication in numbering, reads as follows:

22 A. A member is qualified to receive an allowance from the New
23 Education Employees' Hybrid Retirement System when:

1 1. Before the member's retirement date, the member ceases actual
2 work for a participating employer in this System and provides
3 evidence of the termination;

4 2. The member has submitted to the System a notarized retirement
5 application form that states the member's proposed retirement date;
6 and

7 3. One of the following conditions is met as of the member's
8 retirement date:

9 a. the member has accrued at least four (4) years of
10 service credit and has attained an age of sixty-five
11 (65) years,

12 b. the member has accrued at least ten (10) years of
13 service credit and has attained an age of sixty-two
14 (62) years,

15 c. the member has accrued at least twenty (20) years of
16 service credit and has attained an age of sixty (60)
17 years, or

18 d. the member has accrued at least thirty-five (35) years
19 of service credit.

20 B. 1. The member's retirement date:

21 a. shall be the first or the sixteenth day of the month,
22 as selected by the member,

23 b. shall be on or after the date of termination, and
24

1 c. may not be more than ninety (90) days before or after
2 the date the application is received by the office;
3 and

4 2. A member may not be employed by a participating employer in
5 the System established by this chapter on the retirement date
6 selected under subparagraph 1 of paragraph 1 of this subsection.

7 SECTION 12. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 17-312 of Title 70, unless there
9 is created a duplication in numbering, reads as follows:

10 A. The retirees of the New Education Employees' Hybrid
11 Retirement System may choose from the six (6) retirement options
12 described in this section. Options Two, Three, Four, Five, and Six
13 are modifications of the Option One calculation.

14 B. 1. The Option One benefit is an annual allowance calculated
15 as follows:

- 16 a. if the retiree is at least sixty-five (65) years of
17 age or has accrued at least thirty-five (35) years of
18 service credit, the allowance is an amount equal to
19 one and one-half percent (1.5%) of the retiree's final
20 average salary multiplied by the number of years of
21 service credit accrued on and after July 1, 2012, or
22 b. if the retiree is less than sixty-five (65) years of
23 age, the allowance shall be reduced by the full
24 actuarial amount for each year of retirement from age

1 sixty (60) to age sixty-five (65), unless the member
2 has thirty-five (35) or more years of accrued credit
3 in which event no reduction is made to the allowance.

4 2. Years of service includes any fractions of years of service
5 to which the retiree may be entitled. At the time of retirement, if
6 a retiree's combined years of actual, not purchased, service credit
7 is within one-tenth (1/10) of one (1) year of the total years of
8 service credit required for retirement, the retiree shall be
9 considered to have the total years of service credit required for
10 retirement.

11 3. An Option One allowance is only payable to the member during
12 the member's lifetime.

13 C. The allowance payable under Options Two, Three, Four, Five,
14 and Six is calculated by reducing an Option One benefit based on
15 actuarial computations to provide the following:

16 1. Option Two is a reduced allowance paid to and throughout the
17 lifetime of the retiree, and, if the retiree receives less in
18 annuity payments than the amount of the retiree's member
19 contributions, the remaining balance of the retiree's member
20 contributions shall be paid in accordance with the provisions of
21 Section 101 et seq. of Title 70 of the Oklahoma Statutes.

22 2. Option Three is a reduced allowance paid to and throughout
23 the lifetime of the retiree, and, upon the death of the retiree, the
24

1 same reduced allowance is paid to and throughout the lifetime of the
2 retiree's lawful spouse at the time of retirement.

3 3. Option Four is a reduced allowance paid to and throughout
4 the lifetime of the retiree, and upon the death of the retiree, an
5 amount equal to one-half (1/2) of the retiree's allowance is paid to
6 and throughout the lifetime of the retiree's lawful spouse at the
7 time of retirement.

8 4. Option Five is a modification of Option Three so that if the
9 lawful spouse at the time of retirement predeceases the retiree, an
10 allowance equivalent to the amount payable at the time of initial
11 retirement under Option One shall be paid to the retiree for the
12 remainder of the retiree's life, beginning on the last day of the
13 month following the month in which the lawful spouse dies.

14 5. Option Six is a modification of Option Four so that if the
15 lawful spouse at the time of retirement predeceases the retiree, an
16 allowance equivalent to the amount payable at the time of initial
17 retirement under Option One shall be paid to the retiree for the
18 remainder of the retiree's life, beginning on the last day of the
19 month following the month in which the lawful spouse dies.

20 D. If a retiree under Option One dies within one hundred twenty
21 (120) days after the retiree's retirement date, the retirement is
22 canceled and the death shall be considered as that of a member
23 before retirement. Any payments made to the retiree shall be
24 deducted from the amounts due to the beneficiary.

1 E. If a retiree retires under either Option Five or Six and
2 subsequently divorces, the retiree may elect to convert the benefit
3 to an Option One benefit at the time of divorce, if there is no
4 court order filed in the matter.

5 SECTION 13. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 17-313 of Title 70, unless there
7 is created a duplication in numbering, reads as follows:

8 A. If a retiree's allowance, as computed pursuant to the New
9 Education Employees Contributory Retirement Act, amounts to Twenty-
10 Five Dollars (\$25.00) or less, the allowance may be settled by the
11 New Education Employees' Hybrid Retirement System by making a lump-
12 sum payment of an amount actuarially equivalent to the allowance.

13 B. A payment made under this section constitutes a full and
14 complete settlement of the retiree's claim against this System.

15 SECTION 14. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 17-314 of Title 70, unless there
17 is created a duplication in numbering, reads as follows:

18 A. 1. Upon retirement, a retiree may elect to have the New
19 Education Employees' Hybrid Retirement System deduct an actuarially
20 determined amount from the retiree's allowance to provide a lump-sum
21 benefit payable to a beneficiary upon the death of the retiree;

22 2. Upon retirement, a retiree may also elect to have an
23 actuarially determined amount deducted from the retiree's allowance
24 to provide a lump-sum death benefit payable to a beneficiary upon

1 the death of the retiree's lawful spouse at the time of retirement;
2 and

3 3. The System may promulgate rules for the administration of
4 this lump-sum death benefit.

5 B. For a retiree who pays for a lump-sum death benefit under
6 this section through a reduction of an allowance, benefits shall be
7 paid in accordance with the provisions of Section 17-101 et seq. of
8 Title 70 of the Oklahoma Statutes. If the retiree chooses Option
9 Three, Four, Five, or Six, and a lump-sum death benefit is payable
10 after the death of the retiree, the allowance shall be restored to
11 its original amount.

12 C. A retiree may elect to cancel the lump-sum death benefit
13 under this section. The cancellation allowed under this subsection
14 is irrevocable. Upon cancellation, the allowance shall be restored
15 to its original amount and benefits under this section may not be
16 paid.

17 SECTION 15. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 17-315 of Title 70, unless there
19 is created a duplication in numbering, reads as follows:

20 A. A member may purchase or a member and a participating
21 employer may jointly purchase a maximum of five (5) years of service
22 credit which cannot otherwise be purchased pursuant to the
23 provisions of Section 17-101 et seq. of Title 70 of the Oklahoma
24 Statutes. At a minimum, the years of service credit purchased shall

1 be sufficient to allow the member to meet the retirement eligibility
2 requirements of this New Education Employees' Contributory
3 Retirement Act with no actuarial reduction. The member's retirement
4 date shall be immediately after the purchase of years of service
5 credit. The member shall pay at least five percent (5%) of the cost
6 of the purchase. To qualify for a purchase of service credit under
7 this section, the member shall:

- 8 1. Have at least five years of service credit; and
- 9 2. Otherwise meet federal eligibility requirements.

10 B. The purchase price for the years of service credit shall be
11 calculated and paid for as provided in Section 17-116.8 of Title 70
12 of the Oklahoma Statutes. Prior to making any purchase of years of
13 service credit under this section, a participating employer shall
14 adopt a purchase policy that includes nondiscriminatory
15 participation standards for all regular full-time employees.

16 C. Only members retiring from the New Education Employees'
17 Contributory Retirement System may purchase service credit under
18 this section.

19 SECTION 16. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 17-316 of Title 70, unless there
21 is created a duplication in numbering, reads as follows:

22 A. Up to the amount allowed by federal law, the participating
23 employer shall contribute ten percent (10%) of the participant's
24 compensation to a defined contribution plan.

1 B. 1. The participating employer shall contribute the ten
2 percent (10%) nonelective contribution described in subsection A of
3 this section to a defined contribution plan qualified under Section
4 401(k) of the Internal Revenue Code which:

5 a. is sponsored by the Board of Trustees of the Teachers'
6 Retirement System of Oklahoma, and

7 b. has been grandfathered under Section 1116 of the
8 Federal Tax Reform Act of 1986, as amended.

9 2. The member may make additional payments to:

10 a. the qualified 401(k) plan which receives the employer
11 contribution described in this subsection, or

12 b. at the member's option, another defined contribution
13 plan established by the participating employer.

14 3. In addition to the percent specified under paragraph 1 of
15 subsection B of this section, the participating employer shall pay
16 the corresponding Teachers' Retirement System of Oklahoma
17 amortization rate of the employee's compensation to the Teachers'
18 Retirement System of Oklahoma to be applied to the employer's
19 corresponding Teachers' Retirement System of Oklahoma liability.

20 C. 1. The total amount contributed by the participating
21 employer under paragraph 1 of subsection B of this section vests to
22 the member's benefit after four years of employment from the date of
23 employment.

1 2. The total amount contributed by the member under paragraph 2
2 of subsection B of this section vests to the member's benefit
3 immediately and is nonforfeitable.

4 D. 1. Contributions made by a participating employer under
5 paragraph 1 of subsection B of this section shall be invested in a
6 default option selected by the New Education Employees' Contributory
7 Retirement System until the member is vested in accordance with
8 paragraph 1 of subsection C of this section.

9 2. A member may direct the investment of contributions made by
10 a participating employer under paragraph 1 of subsection B of this
11 section only after the contributions have vested in accordance with
12 paragraph 1 of subsection C of this section.

13 3. A member may direct the investment of contributions made by
14 the member under paragraph 2 of subsection C of this section.

15 E. No loans shall be available from contributions made by a
16 participating employer under paragraph 1 of subsection B of this
17 section.

18 F. No hardship distributions shall be available from
19 contributions made by a participating employer under paragraph 1 of
20 subsection B of this section.

21 G. 1. Except as provided in paragraph 2 of this subsection, if
22 a member terminates employment with a participating employer prior
23 to the vesting period described in paragraph 1 of subsection C of
24 this section, all contributions made by a participating employer on

1 behalf of the member under paragraph 1 of subsection B of this
2 section) are subject to forfeiture.

3 2. If a member who terminates employment with a participating
4 employer prior to the vesting period described in paragraph 1 of
5 subsection C of this section subsequently enters employment with the
6 same or another participating employer within ten (10) years of the
7 termination date of the previous employment:

8 a. all contributions made by the previous participating
9 employer on behalf of the member shall be reinstated
10 upon the member's completion of the vesting period
11 under paragraph 1 of subsection C of this section, and

12 b. the length of time that the member worked with the
13 previous employer shall be included in determining
14 whether the member has completed the vesting period
15 under paragraph 1 of subsection C of this section.

16 3. The System shall establish a forfeiture account and shall
17 specify the uses of the forfeiture account, which may include an
18 offset against employer contributions made under this section.

19 H. The System may request from any other qualified 401(k) plan
20 under subsection B of this section any relevant information
21 pertaining to the maintenance of its tax qualification under the
22 Internal Revenue Code.

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1 I. The System may take any action which in its judgment is
2 necessary to maintain the tax-qualified status of its 401(k) defined
3 contribution plan under federal law.

4 SECTION 17. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 17-317 of Title 70, unless there
6 is created a duplication in numbering, reads as follows:

7 For a person who is disabled and receives contributions under
8 subsection (6) of Section 17-105 of Title 70 of the Oklahoma
9 Statutes, the disabled member may begin receiving distributions from
10 the defined contributions made by the participating employer on
11 behalf of the disabled member when the person would have been
12 eligible to retire if the person was covered by the defined benefit
13 portion of the New Education Employees' Hybrid Retirement System.

14 SECTION 18. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 17-318 of Title 70, unless there
16 is created a duplication in numbering, reads as follows:

17 A. The New Education Employees' Contributory Retirement System
18 shall provide a death benefit through the purchase of a group
19 insurance policy for members of this System.

20 B. The System shall promulgate rules to administer the death
21 benefit provided by this section and may, in accordance with federal
22 law, establish:

- 23 1. Benefit levels;
- 24 2. Classes of members; and

1 3. A living benefit option.

2 C. This death benefit is payable when:

3 1. The member dies prior to the member's retirement date or
4 dies under circumstances which subsection E of Section 11 of this
5 act requires to be treated as the death of a member before
6 retirement;

7 2. The office receives acceptable proof of death; and

8 3. Benefits are not payable under Section 14 of this act.

9 D. The death benefit payable to the beneficiary under this
10 section is a lump-sum payment consisting of:

11 1. The return of any member contributions under the New
12 Education Employees' Contributory Retirement Act; plus

13 2. A percentage of the final average salary of the member to be
14 determined by the System.

15 E. Any amount of a living benefit option paid to the member
16 prior to death shall be deducted from the benefit payable to the
17 beneficiary.

18 F. The cost of the death benefit shall be paid by the
19 participating employer in addition to the contribution rate
20 established under Sections 9 or 15 of this act.

21 G. The portion of the death benefit provided under paragraph 2
22 of subsection D of this section may not be paid to the beneficiary
23 of an inactive member unless the death of the member occurs either:
24

1 1. Within a period of one hundred twenty (120) days after the
2 last day of work for which the person received compensation; or

3 2. While the member is still physically or mentally
4 incapacitated from performance of duties, if the incapacity has been
5 continuous since the last day of work for which compensation was
6 received.

7 H. The death benefit provided under paragraph 2 of subsection D
8 of this section shall be paid in accordance with Section 17-105 of
9 Title 70 of the Oklahoma Statutes.

10 I. The death benefit paid to the beneficiary of an inactive
11 member, except as otherwise provided under subsection G of this
12 section, is a lump-sum return of the member's member contributions.

13 J. Payment of the death benefit by the System constitutes a
14 full settlement of any beneficiary's claim against the office and
15 the office is not liable for any further or additional claims or
16 assessments on behalf of the member.

17 K. A death benefit under this section may not be paid on behalf
18 of a retiree under this System.

19 SECTION 19. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 17-319 of Title 70, unless there
21 is created a duplication in numbering, reads as follows:

22 A. As used in this section, "member's full allowance" means an
23 Option Three allowance calculated under Section 12 of this section
24 without an actuarial reduction.

1 B. Upon the request of a deceased member's lawful spouse at the
2 time of the member's death, the deceased member is considered to
3 have retired under Option Three on the first day of the month
4 following the month in which the member died if the following
5 requirements are met:

6 1. The member has:

- 7 a. fifteen (15) or more years of service credit,
- 8 b. attained age sixty-two (62) with ten (10) or more
9 years of service credit, or
- 10 c. attained age sixty-five (65) with four or more years
11 of service credit; and

12 2. The member dies leaving a spouse to whom the member has been
13 married at least six months immediately prior to the death date.

14 C. The spouse who requests a benefit under this section shall
15 apply in writing to the New Education Employees' Contributory
16 Retirement System. The allowance shall begin on the first day of
17 the month:

18 1. Following the month in which the member died, if the
19 application is received by the office within ninety (90) days of the
20 member's death; or

21 2. In which the application is received by the office.

22 D. The allowance payable to a surviving spouse under subsection
23 B of this section is as follows:

1 1. If the member has twenty-five (25) or more years of service
2 credit at the time of death, the surviving spouse shall receive the
3 member's full allowance;

4 2. If the member has between twenty to twenty-four (20-24)
5 years of service credit and is not age sixty (60) or older at the
6 time of death, the surviving spouse shall receive two-thirds (2/3)
7 of the member's full allowance;

8 3. If the member has between fifteen to nineteen (15-19) years
9 of service credit and is not age sixty-two (62) or older at the time
10 of death, the surviving spouse shall receive one-third (1/3) of the
11 member's full allowance; or

12 4. If the member is age sixty (60) or older with twenty (20) or
13 more years of service credit, age sixty-two (62) or older with ten
14 (10) or more years of service credit, or age sixty-five (65) or
15 older with four or more years of service credit at the time of
16 death, the surviving spouse shall receive an Option Three benefit
17 with actuarial reductions.

18 E. Except for a return of member contributions, benefits
19 payable under this section are retirement benefits and shall be paid
20 in addition to any other payments made under Section 18 of this act
21 and shall constitute a full and final settlement of the claim of the
22 spouse or any other beneficiary filing a claim for benefits under
23 Section 18 of this act.

24 SECTION 20. This act shall become effective July 1, 2012.

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