

**SENATE FLOOR VERSION**

March 17, 2014

ENGROSSED HOUSE  
BILL NO. 2566

By: DeWitt of the House

and

Schulz of the Senate

An Act relating to agriculture; amending 2 O.S. 2011, Sections 5-60.10, 5-60.11, 5-60.12, 5-60.13, 5-60.14, 5-60.15, 5-60.16, 5-60.18, 5-60.19, 5-60.20, 5-60.21, 5-60.22, 5-60.23, 5-60.24, 5-60.26, 5-60.27, 5-60.28, 5-60.29, 5-60.30, 5-60.31, 5-60.32, 5-60.33 and 5-60.34, which relate to the Oklahoma Agricultural Commodity Referendum Act; renaming act; expanding purpose of act; modifying certain board status; modifying definitions; authorizing certain organizations to petition the Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry to replace certain boards; requiring certain information in petition; directing certain organizations to follow certain board election procedures for notice, election, ballot, exemption, contest of election, election result and certification requirements; modifying references to board; specifying certain election schedule; modifying citation; modifying powers and duties of certain board; adding powers and duties of certain board; removing budget proposal and approval requirements; requiring certain board to provide annual budget and report to Commissioner; specifying certain schedule for certain audits; extending time to file certain annual report; modifying reference to certain grant; directing certain organizations to follow certain assessment collection requirements; directing certain organizations to follow certain assessment refund requirements; modifying references to certain board; replacing certain secretary-treasurer with certain organization; directing certain organizations to follow certain statutory

1 assessment and referendum requirements; modifying  
 2 reference to certain assessment; providing for  
 3 applicability of certain act; providing that certain  
 4 persons remain members of certain retirement system  
 5 and eligible employees; requiring certain  
 6 organization to pay certain contributions; excluding  
 7 certain persons to participate in certain retirement  
 8 system; requiring certain organization to recognize  
 9 certain employee accumulated sick and annual leave;  
 10 providing requirements for accrual, inclusion and  
 11 reimbursement of certain leave; transferring certain  
 12 property to certain organization upon approval;  
 13 providing for status of certain property; amending 2  
 O.S. 2011, Section 18-50, which relates to the  
 Oklahoma Peanut Act; modifying citation; dissolving  
 the Oklahoma Peanut Commission when certain  
 circumstances are met; amending 2 O.S. 2011, Section  
 18-300, which relates to the Wheat Resources Act;  
 modifying citation; dissolving the Oklahoma Wheat  
 Commission when certain circumstances are met;  
 amending 74 O.S. 2011, Section 902, which relates to  
 the Oklahoma Public Employees Retirement System;  
 modifying definition of eligible employer; providing  
 for codification; providing an effective date; and  
 declaring an emergency.

14  
 15  
 16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 2 O.S. 2011, Section 5-60.10, is  
 18 amended to read as follows:

19 Section 5-60.10 This act shall be known and may be cited as the  
 20 "Oklahoma Agricultural Commodity ~~Referendum~~ Act".

21 SECTION 2. AMENDATORY 2 O.S. 2011, Section 5-60.11, is  
 22 amended to read as follows:

23 Section 5-60.11 A. The purpose of the Oklahoma Agricultural  
 24 Commodity ~~Referendum~~ Act is ~~to~~ to:

1        1. To authorize and prescribe the necessary procedures by which  
 2 the producers of agricultural commodities grown in this state may  
 3 establish agricultural commodity producers boards to finance  
 4 programs devised to alleviate any circumstance or condition that  
 5 serves to impede the production, marketing, research or use of  
 6 agricultural commodities; and

7        2. To establish a procedure for an existing statutory commodity  
 8 board to privatize and convert to a successor organization.

9        B. Agriculture commodity producers boards established pursuant  
 10 to the Oklahoma Agricultural Commodity ~~Referendum~~ Act shall ~~not~~ be  
 11 ~~agencies of the state~~ agencies for purposes of The Governmental Tort  
 12 Claims Act and are exempt from taxation in the same manner and to  
 13 the same extent as other state agencies. The board shall not be  
 14 considered a state agency for any other purpose.

15        SECTION 3.        AMENDATORY        2 O.S. 2011, Section 5-60.12, is  
 16 amended to read as follows:

17        Section 5-60.12 As used in the Oklahoma Agricultural Commodity  
 18 ~~Referendum~~ Act:

19        1. "Agricultural commodity" means an agricultural commodity,  
 20 horticultural commodity, silvicultural commodity, or agricultural  
 21 product, horticultural product, viticulture, or silvicultural  
 22 product, or bees and honey, planting seed, ~~rice,~~ livestock or  
 23 livestock product, or poultry or poultry product, produced in this  
 24 state, either in its natural state or as processed by the producer;

1        2. "Board" means an agricultural commodity producers board of a  
 2 certified organization or a successor organization;

3        3. "Certified organization" means the agricultural commodity  
 4 entity certified by the Oklahoma Department of Agriculture, Food,  
 5 and Forestry to conduct a referendum;

6        4. "Commissioner" means the Commissioner of the State Oklahoma  
 7 Department of Agriculture, Food, and Forestry;

8        ~~4.~~ 5. "District" means a geographical area within the  
 9 jurisdiction of a board;

10        6. "Person" means an individual, firm, corporation,  
 11 association, or any other business entity;

12        ~~5.~~ 7. "Processor" means a person who:

13            a. is a purchaser, warehouseman, processor, or other  
 14 commercial handler of an agricultural commodity, or

15            b. is engaged in the operation of packing, grading,  
 16 selling, offering for sale or marketing any  
 17 agricultural commodity in commercial quantities as  
 18 defined in a marketing program, who as owner, agent,  
 19 or otherwise, ships or causes agricultural commodities  
 20 to be shipped;

21        ~~6.~~ 8. "Producer" means a person engaged in the business of  
 22 producing or causing to be produced for commercial purposes an  
 23 agricultural commodity. The term "producer" includes the owner of a  
 24

1 farm on which the commodity is produced and the owner's tenant or  
 2 sharecropper;

3 ~~7. "Person" means an individual, firm, corporation,~~  
 4 ~~association, or any other business entity;~~

5 ~~8. "Secretary-treasurer" means the secretary-treasurer of a~~  
 6 ~~board;~~

7 9. "Certified Successor organization" means the agricultural  
 8 commodity entity ~~certified~~ approved by the Commissioner of the State  
 9 Oklahoma Department of Agriculture, Food, and Forestry to conduct a  
 10 referendum succeed an existing statutory commodity producers board;  
 11 and

12 10. "Volume of production" shall be defined by the certified  
 13 organization and can refer to units of product sold such as pounds,  
 14 tons, bushels, gallons, flats, containers, packages, or other  
 15 commonly recognized units of measure, square footage or acreage of  
 16 production space or other appropriate measurement units, or number  
 17 of production units such as trees, vines, head count of livestock or  
 18 poultry, or other commonly recognized measurement units, or gross  
 19 sales.

20 SECTION 4. AMENDATORY 2 O.S. 2011, Section 5-60.13, is  
 21 amended to read as follows:

22 Section 5-60.13 A. 1. Any nonprofit organization authorized  
 23 under the laws of this state representing the producers of an  
 24 agricultural commodity may petition the Commissioner of the ~~State~~

1 Oklahoma Department of Agriculture, Food, and Forestry for  
2 certification as the organization authorized to establish a new  
3 commodity producers board and conduct an assessment referendum  
4 pursuant to the Oklahoma Agricultural Commodity ~~Referendum~~ Act.

5 2. The petition shall state:

- 6 a. the reasons for and the purposes of the commodity  
7 producers board,  
8 b. the number of board members and board organization,  
9 c. propose either a six-member, nine-member, twelve-  
10 member or fifteen-member board and whether board  
11 members will be appointed by district or appointed at  
12 large,  
13 d. the maximum assessment to be levied pursuant to an  
14 election, and  
15 e. such other information required by the ~~commissioner~~  
16 Commissioner;

17 3. The petition shall be signed by at least twenty percent  
18 (20%) of the commodity producers in the state or at least two  
19 hundred commodity producers, whichever is less.

20 B. 1. Any new nonprofit organization authorized under the laws  
21 of this state representing the producers of an agricultural  
22 commodity may petition the Commissioner for approval as a successor  
23 organization authorized to replace an existing statutory commodity  
24 producers board.

1        2. The petition shall:

2            a. state the existing statutory commodity producers board  
3            to be replaced,

4            b. provide the bylaws for review and approval by the  
5            Commissioner for the new nonprofit organization, and

6            c. provide any other information required by the  
7            Commissioner.

8        3. The petition shall be signed by a majority of the board  
9        members of the existing statutory commodity producers board.

10       4. Any new nonprofit organization petitioning the Commissioner  
11       may retain the name of the existing statutory commodity producers  
12       board.

13       C. 1. Within fifteen (15) days following the day on which a  
14       petition for certification is received, the Commissioner shall  
15       schedule a public hearing to consider the petition. The public  
16       hearing shall be scheduled no later than forty (40) days after  
17       receipt of the completed petition is received by the Department.

18       2. Upon the scheduling of the public hearing, the nonprofit  
19       organization shall provide for notification of interested commodity  
20       producers in the manner, method and locations required by the ~~State~~  
21       ~~Department of Agriculture.~~

22       3. If the Commissioner determines that, on the basis of  
23       testimony presented at the public hearing, the petitioning  
24       organization is representative of the producers of the agricultural

1 commodity and that the petition conforms to the purposes and  
2 provisions of the Oklahoma Agricultural Commodity ~~Referendum~~ Act,  
3 the Commissioner shall:

- 4       a.     certify that the organization is representative of the  
5               producers of the commodity and is authorized to  
6               establish the commodity producers board and to conduct  
7               the board election and assessment referendum, or  
8       b.     approve the new nonprofit organization as a successor  
9               organization authorized to accept the statutory  
10              assessment.

11       SECTION 5.        AMENDATORY        2 O.S. 2011, Section 5-60.14, is  
12 amended to read as follows:

13       Section 5-60.14 A. A certified organization that does not have  
14 a statutory assessment may establish a new commodity producers board  
15 and conduct an election of members to the commodity producers board  
16 for the commodity. The ballot shall also provide for a referendum  
17 of the producers of an agricultural commodity on the proposition of  
18 whether or not the producers shall levy an assessment on themselves  
19 to finance programs of research, disease and insect control,  
20 predator control, education, or promotion designed to encourage the  
21 production, marketing, and use of the commodity. The certified  
22 organization shall give public notice of:

- 23       1. The date, hours, and polling places for voting in the  
24 referendum and election;

1        2. The estimated amount and basis of the assessment proposed to  
2 be collected;

3        3. Whether a producer exemption is to be allowed in accordance  
4 with Section ~~9~~ 5-60.18 of this ~~act~~ title; and

5        4. A description of the manner in which the assessment is to be  
6 collected and the proceeds administered and used.

7        B. The notice under subsection A of this section shall be  
8 published in one or more newspapers published and distributed within  
9 the boundaries described in the petition. The notice shall be  
10 published for not less than once a week for three (3) consecutive  
11 weeks, beginning at least sixty (60) days before the date of the  
12 election. In addition, at least sixty (60) days before the date of  
13 the election, the certified organization shall give direct written  
14 notice to each county extension educator in any county within the  
15 boundaries described in the petition.

16        C. A successor organization shall follow the board election  
17 procedures set in the bylaws of the successor organization and the  
18 statutory assessment provisions for the particular commodity  
19 represented by the successor organization.

20        SECTION 6.        AMENDATORY        2 O.S. 2011, Section 5-60.15, is  
21 amended to read as follows:

22        Section 5-60.15 A. Subject to the approval of the Commissioner  
23 ~~of the State Department of Agriculture~~, the certified organization  
24 shall conduct the election and referendum on a statewide basis.

1 B. A producer of the agricultural commodity is eligible to vote  
2 in the election and referendum if:

3 1. The producer's production occurs within the state; and

4 2. The producer would be required under the referendum to pay  
5 the assessment.

6 C. Any producer who is eligible to vote at the election and  
7 referendum is eligible to be a member or a candidate for membership  
8 on the commodity producers board.

9 D. A potential candidate ~~must~~ shall file with the certified  
10 organization an application to have the name of such potential  
11 candidate printed on the ballot. The application ~~must~~ shall be  
12 signed by the candidate and by at least ten producers who are  
13 eligible to vote at the election. The application ~~must~~ shall be  
14 filed at least thirty (30) days before the date set for the  
15 election.

16 E. A voter may vote for board members by writing in the name of  
17 any eligible person whose name is not printed on the ballot.

18 F. A successor organization shall follow the board election  
19 procedures set in the bylaws of the successor organization and the  
20 statutory assessment provisions for the particular commodity  
21 represented by the successor organization.

22 SECTION 7. AMENDATORY 2 O.S. 2011, Section 5-60.16, is  
23 amended to read as follows:

1 Section 5-60.16 A. The certified organization shall prepare  
2 and distribute all necessary ballots in advance of the referendum  
3 and election and shall cause ballots to be available at all polling  
4 places.

5 B. The referendum provisions of the ballot shall specify a  
6 maximum rate for the authorized assessment.

7 C. The election provisions of the ballot may be printed only  
8 with the names of candidates who have filed valid petitions under  
9 Section ~~6~~ 5-60.15 of this ~~act~~ title, but the ballot shall provide a  
10 space for write-in votes.

11 D. The ballot shall provide a space for the voter to certify  
12 the volume of the voter's production of the commodity during the  
13 preceding year or other relevant production period, as designated on  
14 the ballot.

15 E. A successor organization shall follow the board election  
16 procedures set in the bylaws of the successor organization and the  
17 statutory assessment provisions for the particular commodity  
18 represented by the successor organization.

19 SECTION 8. AMENDATORY 2 O.S. 2011, Section 5-60.18, is  
20 amended to read as follows:

21 Section 5-60.18 A. The original referendum and subsequent  
22 ~~biennial~~ board elections may provide exemptions for producers from  
23 payment of the assessment if the exemptions are included in full  
24 written form on the election ballot and are approved by:

1 1. Two-thirds or more of those voting in the election; or

2 2. More than one-half of those voting in the election and those  
3 voting in favor of the proposition produce at least fifty percent  
4 (50%) of the volume of production of the commodity during the  
5 relevant production period.

6 B. A successor organization shall follow the board election  
7 procedures set in the bylaws of the successor organization and the  
8 statutory assessment provisions for the particular commodity  
9 represented by the successor organization.

10 SECTION 9. AMENDATORY 2 O.S. 2011, Section 5-60.19, is  
11 amended to read as follows:

12 Section 5-60.19 A. In any contest of an election, a ballot is  
13 void if the voter overstated the volume of production of the  
14 producer by more than ten percent (10%). Any other error in stating  
15 volume of production is not grounds for invalidating the ballot.

16 B. If a ballot is void or if any other error is made in stating  
17 production volume, the returns shall be corrected and the results  
18 adjusted accordingly.

19 C. In the original referendum election, the Commissioner ~~of the~~  
20 ~~State Department of Agriculture~~ shall be authorized and is  
21 responsible for making the determination if a ballot is void due to  
22 overstatement of production volume. In any subsequent referendum  
23 elections the individual commodity producer boards are authorized  
24 and shall be responsible for making such determination.

1        D. A successor organization shall follow the board election  
2 procedures set in the bylaws of the successor organization and the  
3 statutory assessment provisions for the particular commodity  
4 represented by the successor organization.

5        SECTION 10.        AMENDATORY        2 O.S. 2011, Section 5-60.20, is  
6 amended to read as follows:

7        Section 5-60.20 A. Upon receiving the report of the returns of  
8 an election and referendum, the Commissioner ~~of the State Department~~  
9 ~~of Agriculture~~ shall determine:

10        1. The number of votes cast for and against the referendum  
11 proposition;

12        2. The total volume of production of the commodity during the  
13 relevant production period;

14        3. The percentage of the total volume of production of the  
15 commodity that was produced by those voting in favor of the  
16 referendum proposition; and

17        4. The appropriate number of candidates receiving the highest  
18 number of votes for membership on the commodity producers board.

19        B. A successor organization shall follow the board election  
20 procedures set in the bylaws of the successor organization and the  
21 statutory assessment provisions for the particular commodity  
22 represented by the successor organization.

23        SECTION 11.        AMENDATORY        2 O.S. 2011, Section 5-60.21, is  
24 amended to read as follows:

1 Section 5-60.21 A. In a referendum election, if the  
2 Commissioner ~~of the State Department of Agriculture~~ finds that  
3 either of the two conditions set forth in subsection B of this  
4 section are met, the Commissioner shall publicly certify the  
5 adoption of the referendum proposition and issue certificates of  
6 election to those persons elected to the board. Otherwise the  
7 Commissioner shall certify that the referendum proposition was  
8 defeated.

9 B. The referendum proposition will be adopted upon a finding  
10 that:

11 1. Two-thirds or more of those voting in the election voted in  
12 favor of the referendum proposition; or

13 2. More than one-half of those voting in the election voted in  
14 favor of the referendum proposition, and those voting in favor of  
15 the proposition produced at least fifty percent (50%) of the volume  
16 of the production of the commodity during the relevant production  
17 period.

18 C. A successor organization shall follow the board election  
19 procedures set in the bylaws of the successor organization and the  
20 statutory assessment provisions for the particular commodity  
21 represented by the successor organization.

22 SECTION 12. AMENDATORY 2 O.S. 2011, Section 5-60.22, is  
23 amended to read as follows:

24

1       Section 5-60.22 A ~~commodity producers board~~ certified  
 2 organization shall conduct ~~biennial~~ elections for the purpose of  
 3 electing members to the board on a schedule listed in the bylaws of  
 4 the certified organization. The board shall give notice and hold  
 5 the election in accordance with the applicable provisions of the  
 6 Oklahoma Agricultural Commodity ~~Referendum~~ Act relating to the  
 7 initial election and, to the extent necessary, in accordance with  
 8 the rules of the ~~Commissioner of the State~~ Oklahoma Department of  
 9 Agriculture, Food, and Forestry.

10       SECTION 13.       AMENDATORY       2 O.S. 2011, Section 5-60.23, is  
 11 amended to read as follows:

12       Section 5-60.23 If the Commissioner of the ~~State~~ Oklahoma  
 13 Department of Agriculture, Food, and Forestry certifies adoption of  
 14 a referendum proposition under Section ~~42~~ 5-60.21 of this ~~act~~ title,  
 15 the new commodity producers board is established and has the powers  
 16 and duties prescribed by the Oklahoma Agricultural Commodity  
 17 ~~Referendum~~ Act.

18       SECTION 14.       AMENDATORY       2 O.S. 2011, Section 5-60.24, is  
 19 amended to read as follows:

20       Section 5-60.24 A. On receiving certificates of election from  
 21 the Commissioner of the ~~State~~ Oklahoma Department of Agriculture,  
 22 Food, and Forestry, the ~~members of the commodity producers~~ certified  
 23 organization's board shall meet and organize.

1 B. Members of the certified organization's initial board shall  
2 draw lots so that one-third (1/3) of the members shall hold office  
3 for two (2) years, one-third (1/3) for four (4) years, and one-third  
4 (1/3) for six (6) years. Thereafter, members of the board shall  
5 serve for terms of six (6) years.

6 C. Each member holds office until a successor is elected and  
7 has qualified.

8 SECTION 15. AMENDATORY 2 O.S. 2011, Section 5-60.26, is  
9 amended to read as follows:

10 Section 5-60.26 A. The commodity producers board shall have  
11 the power and duty to:

12 1. Employ personnel deemed necessary by the board, fix the  
13 amount and manner of their compensation, and incur other expenses  
14 that are necessary and proper to enable the board to effectively  
15 carry out the purposes of the Oklahoma Agricultural Commodity  
16 ~~Referendum~~ Act;

17 2. Adopt ~~rules~~ and amend bylaws as necessary to promptly and  
18 effectively administer the Oklahoma Agricultural Commodity  
19 ~~Referendum~~ Act;

20 3. Retain legal counsel as is required to fulfill the purposes  
21 of the Oklahoma Agricultural Commodity ~~Referendum~~ Act;

22 4. Sue and be sued;

23 5. Initiate prosecution and civil remedies necessary to collect  
24 any assessments due and owing to the commodity producers board;

1       6. Cooperate with local, state ~~or~~, national or international  
2 organizations, whether public or private, in carrying out the  
3 purposes of contracts as may be necessary;

4       7. Make such reasonable expenditures of funds as is necessary  
5 to carry out the provisions of the Oklahoma Agricultural Commodity  
6 ~~Referendum~~ Act;

7       8. Call and conduct such meetings and elections as may be  
8 necessary in carrying out the provisions of the Oklahoma  
9 Agricultural Commodity ~~Referendum~~ Act;

10       9. Keep minutes of its meetings and other books and records  
11 that clearly reflect all acts and transactions of the board. The  
12 board shall open its records to examination by any participating  
13 producer or the Commissioner of the Oklahoma Department of  
14 Agriculture, Food, and Forestry during regular business hours;  
15 provided, the board may determine ~~by rule~~ in bylaws that certain  
16 information provided by a commodity producer is confidential due to  
17 proprietary and is confidential or privacy reasons;

18       10. Set the rate of the assessment. The rate may not exceed  
19 the maximum established by statute in the case of a successor  
20 organization or in the election authorizing the assessment or a  
21 subsequent election establishing a maximum rate in the case of a  
22 certified organization;

23       11. Deposit all monies received by the board, including but not  
24 limited to assessments, donations, and grants, in a bank selected by

1 the board and invest in securities of the state or federal  
2 government, certificates of deposit or certificates of any bank,  
3 trust company or savings and loan association insured by a federal  
4 agency;

5 12. Establish an office or headquarters as necessary;

6 13. Purchase, lease, sell, exchange or dispose of real or  
7 personal property;

8 14. Formulate general policies and programs for the education,  
9 discovery, promotion, and development of markets and industries for  
10 the utilization of the commodity in cooperation with the Oklahoma  
11 Department of Agriculture, Food, and Forestry;

12 15. Hire or retain legal counsel to represent the board in any  
13 matter and producers in matters pertaining to transportation  
14 problems and other matters which could result in potential  
15 substantial loss to producers;

16 16. Borrow money for any lawful purpose;

17 17. Act separately or in cooperation with any person in  
18 developing, carrying out, and participating in programs of research,  
19 disease and insect control, predator control, education, and  
20 promotion designed to encourage the production, marketing, and use  
21 of the commodity on which the assessment is levied; and

22 ~~12.~~ 18. Exercise such other powers as necessary to carry out  
23 the purposes of the Oklahoma Agricultural Commodity Referendum Act.

24

1        B. ~~The Commissioner of the State Department Board of~~  
 2 Agriculture ~~shall~~ may promulgate rules for the establishment of  
 3 commodity producer boards pursuant to the Oklahoma Agricultural  
 4 Commodity ~~Referendum~~ Act as necessary. The rules shall ensure that  
 5 such commodity producer boards are established and administered in a  
 6 uniform manner.

7        SECTION 16.        AMENDATORY        2 O.S. 2011, Section 5-60.27, is  
 8 amended to read as follows:

9        Section 5-60.27 A. The commodity producers board shall ~~file~~  
 10 ~~with the Director of the Market Development Division of~~ provide the  
 11 annual budget to the State Department of Agriculture a proposed  
 12 ~~budget and may expend funds only after the division director has~~  
 13 ~~approved the budget. If after thorough review the division director~~  
 14 ~~disapproves the proposed budget, the proposed budget shall be~~  
 15 ~~returned to the submitting board not later than forty five (45) days~~  
 16 ~~after the date on which the proposed budget is submitted with a~~  
 17 ~~statement of reasons for disapproval~~ Commissioner of the Oklahoma  
 18 Department of Agriculture, Food, and Forestry.

19        B. Accounts of the board are subject to audit ~~by the State~~  
 20 ~~Auditor and Inspector~~ on a consistent schedule as established in the  
 21 organization's bylaws.

22        C. Within ~~thirty (30)~~ ninety (90) days following the end of  
 23 each fiscal year of the board, the board shall submit ~~to the~~  
 24 ~~Director of the Market Development Division of the State Department~~

1 ~~of Agriculture~~ a an annual report itemizing all income and  
2 expenditures and describing all activities of the board during the  
3 previous fiscal year to the Commissioner.

4 D. Funds collected by the commodity producers board pursuant to  
5 the Oklahoma Agricultural Commodity ~~Referendum~~ Act or other statute  
6 authorizing an assessment shall not be subject to state budget and  
7 expenditure limitations. Such funds shall at no time become monies  
8 of the state or become part of the general budget of the state.  
9 Debts or obligations of the board shall not be construed to be debts  
10 or obligations of this state.

11 SECTION 17. AMENDATORY 2 O.S. 2011, Section 5-60.28, is  
12 amended to read as follows:

13 Section 5-60.28 A. The board is authorized to receive  
14 assessments as provided for in the Oklahoma Agricultural Commodity  
15 ~~Referendum~~ Act or other statute authorizing an assessment, and  
16 donations or grants from any source ~~and grants from governmental~~  
17 ~~agencies~~.

18 B. Money received by the board may be expended for the purpose  
19 of implementing the provisions of the Oklahoma Agricultural  
20 Commodity ~~Referendum~~ Act.

21 C. Funds assessed and collected under this act shall not be  
22 expended for use directly or indirectly to promote or oppose the  
23 election of any candidate for public office ~~or to influence~~  
24 ~~legislation~~.

1 SECTION 18. AMENDATORY 2 O.S. 2011, Section 5-60.29, is  
2 amended to read as follows:

3 Section 5-60.29 A. The processor at the first point of sale  
4 determined by the board shall collect the assessment. Except as  
5 provided by subsection B of this section, the processor at that  
6 point shall collect the assessment by deducting the appropriate  
7 amount from the purchase price of the commodity or from any funds  
8 advanced for that purpose.

9 B. If the producer and processor are the same legal entity, or  
10 if the producer retains ownership after processing, such entity  
11 shall remit the assessment at the time of first sale of the  
12 commodity.

13 C. ~~The secretary-treasurer of the commodity producers board,~~ by  
14 registered or certified mail, shall notify each processor of the  
15 duty to collect the assessment, the manner in which the assessment  
16 is to be collected, and the date on or after which the processor is  
17 to begin collecting the assessment.

18 D. The amount of the assessment collected shall be clearly  
19 shown on the sales invoice or other document evidencing the  
20 transaction. The processor shall furnish a copy of the document to  
21 the producer.

22 E. Unless otherwise provided by the original referendum, no  
23 later than the tenth day of each month the processor shall remit the  
24

1 amount collected during the previous month to the ~~secretary-~~  
2 ~~treasurer of the board.~~

3 F. No commodity shall be subject to the applicable fee more  
4 than once per growing season.

5 G. A successor organization shall follow the assessment  
6 requirements and procedures established in the statutory provisions  
7 for the particular commodity represented by the successor  
8 organization, if applicable.

9 SECTION 19. AMENDATORY 2 O.S. 2011, Section 5-60.30, is  
10 amended to read as follows:

11 Section 5-60.30 A. A producer who has paid an assessment may  
12 obtain a refund of the amount paid by filing an application for  
13 refund with the ~~secretary-treasurer of the commodity producers board~~  
14 certified organization within sixty (60) days after the date of  
15 payment. The application ~~must~~ shall be in writing, on a form  
16 prescribed by the board for that purpose, and accompanied by proof  
17 of payment of the assessment.

18 B. The ~~secretary-treasurer~~ certified organization shall pay the  
19 refund to the producer before the eleventh day of the month  
20 following the month in which the application for refund and proof of  
21 payment are received.

22 C. A successor organization shall follow the refund  
23 requirements established in the statutory provisions for the  
24

1 particular commodity represented by the successor organization, if  
2 applicable.

3 SECTION 20. AMENDATORY 2 O.S. 2011, Section 5-60.31, is  
4 amended to read as follows:

5 Section 5-60.31 A. At any ~~biennial~~ election of the commodity  
6 producers board, the ~~board~~ certified organization may submit to the  
7 voters a proposition to increase the maximum rate of assessment.  
8 ~~The proposition is approved and the new maximum rate is in effect~~  
9 ~~if:~~

10 The referendum proposition will be adopted upon a finding that:

11 1. Two-thirds or more of those voting in the election voted in  
12 favor of the referendum proposition; or

13 2. More than one-half of those voting in the election voted in  
14 favor of the referendum proposition, and those voting in favor of  
15 the proposition produced at least fifty percent (50%) of the volume  
16 of the production of the commodity during the relevant production  
17 period.

18 B. 1. If twenty percent (20%) or more of the producers  
19 participating in the program present to the ~~secretary-treasurer~~  
20 certified organization a petition calling for a referendum of the  
21 qualified voters on the proposition of discontinuing the assessment,  
22 the ~~board~~ certified organization shall conduct a referendum for that  
23 purpose. An election on a proposition of discontinuing the  
24 assessment shall be held no more than once per year.

1        2. The ~~board~~ certified organization shall give notice of the  
2 referendum, the referendum shall be conducted, and the results shall  
3 be declared in the manner provided by law for the original  
4 referendum and election, with any necessary exceptions provided by  
5 ~~rule promulgated pursuant to the Oklahoma Agricultural Commodity~~  
6 ~~Referendum Act~~ in bylaws of the certified organization.

7        3. The ~~board~~ certified organization shall conduct the  
8 referendum within ninety (90) days of the date of filing of the  
9 petition.

10       4. The proposition shall be approved if:

11           a. two-thirds or more of those voting in the election  
12           voted in favor of the referendum proposition, or

13           b. more than one-half of those voting in the election  
14           voted in favor of the referendum proposition, and  
15           those voting in favor of the proposition produced at  
16           least fifty percent (50%) of the volume of the  
17           production of the commodity during the relevant  
18           production period.

19        C. If the proposition is approved, the assessment is abolished.

20        D. A successor organization shall follow the statutory  
21 assessment provisions and the assessment continuation referendum  
22 requirements established in the statutory provisions for the  
23 particular commodity represented by the successor organization.

1 SECTION 21. AMENDATORY 2 O.S. 2011, Section 5-60.32, is  
2 amended to read as follows:

3 Section 5-60.32 The commodity producers board may investigate  
4 conditions that relate to the prompt remittance of the assessment by  
5 any producer or processor. If the board determines that a person  
6 has failed to remit to the board the required assessment ~~as required~~  
7 ~~by the Oklahoma Agricultural Commodity Referendum Act~~, the board may  
8 independently institute proceedings for recovery of the amount due  
9 to the board or for injunctive or other appropriate relief.

10 SECTION 22. AMENDATORY 2 O.S. 2011, Section 5-60.33, is  
11 amended to read as follows:

12 Section 5-60.33 A violation of any provision of the Oklahoma  
13 Agricultural Commodity ~~Referendum~~ Act is unlawful and may be  
14 enjoined by a district court of competent jurisdiction. In any  
15 action brought by a board which results in an injunction against a  
16 person and the court determines that such person has violated any  
17 provision of the Oklahoma Agricultural Commodity ~~Referendum~~ Act, the  
18 court shall award costs and attorney fees to the board.

19 SECTION 23. AMENDATORY 2 O.S. 2011, Section 5-60.34, is  
20 amended to read as follows:

21 Section 5-60.34 All commissions and assessments established  
22 before July 1, 1999, are exempt from the requirements and provisions  
23 of the Oklahoma Agricultural Commodity ~~Referendum~~ Act. However, any  
24 statutory commodity board that is replaced by a successor

1 organization approved by the Commissioner of the Oklahoma Department  
2 of Agriculture, Food, and Forestry shall be subject to the  
3 provisions of this act.

4 SECTION 24. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 5-60.35 of Title 2, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. If a statutory commodity producers board becomes a successor  
8 organization, all persons employed by a statutory commodity  
9 producers board prior to the date of approval by the Commissioner  
10 shall remain members of the Oklahoma Public Employees Retirement  
11 System until retirement or termination, at the election of the  
12 employee.

13 B. For all employees who remain members of the Oklahoma Public  
14 Employees Retirement System pursuant to subsection A of this  
15 section, the successor organization shall pay the required employer  
16 contributions applicable to the participating employers in the  
17 Oklahoma Public Employees Retirement System pursuant to Section 920  
18 of Title 74 of the Oklahoma Statutes and the employee shall continue  
19 to pay employee contributions as required by Section 919.1 of Title  
20 74 of the Oklahoma Statutes.

21 C. All employees of a statutory commodity producers board who  
22 remain members of the Oklahoma Public Employees Retirement System  
23 pursuant to subsection A of this section shall continue to be  
24 eligible employees for purposes of Sections 901 through 932 of Title

1 74 of the Oklahoma Statutes. The successor organization shall be  
2 considered a participating employer, as defined by paragraph (25) of  
3 Section 902 of Title 74 of the Oklahoma Statutes only for such  
4 employees.

5 D. No person initially employed by the successor organization  
6 after the date of approval by the Commissioner shall be allowed to  
7 participate in the Oklahoma Public Employees Retirement System  
8 during the term of their employment with the successor organization,  
9 regardless of whether that employee was previously employed by a  
10 participating employer in the Oklahoma Public Employees Retirement  
11 System.

12 E. 1. All annual leave and sick leave accumulated prior to the  
13 date of approval by the Commissioner, by an employee who remains a  
14 member of the Oklahoma Public Employees Retirement System pursuant  
15 to subsection A of this section will be recognized by the successor  
16 organization, subject to all accrual limitations in the Oklahoma  
17 Statutes.

18 2. Beginning on the date of approval by the Commissioner,  
19 employees of the successor organization shall not accrue annual  
20 leave and sick leave pursuant to Section 840-2.20 of Title 74 of the  
21 Oklahoma Statutes, but may accrue annual leave and sick leave  
22 according to a policy established by the successor organization at a  
23 rate not to exceed that of state employees under Title 74 of the  
24 Oklahoma Statutes.

1           3. The total participating service credit of a member who  
2 retires or terminates employment and elects a vested benefit shall  
3 include unused sick leave not to exceed the limitation imposed by  
4 paragraph 7 of subsection B of Section 913 of Title 74 of the  
5 Oklahoma Statutes. If unused sick leave entitles a member to an  
6 additional year of service credit, the successor organization shall  
7 reimburse the System for the cost of funding the additional reserve.  
8 The successor organization shall provide the System with adequate  
9 and timely information necessary to determine additional benefits  
10 and its cost under this paragraph.

11           SECTION 25.       NEW LAW       A new section of law to be codified  
12 in the Oklahoma Statutes as Section 5-60.36 of Title 2, unless there  
13 is created a duplication in numbering, reads as follows:

14           All funds, equipment, and all other property shall transfer from  
15 the statutory commodity board to the successor organization  
16 immediately upon approval of the successor organization by the  
17 Commissioner. All funds, equipment, and other property so  
18 transferred shall no longer be considered state funds or state  
19 property and may be transferred or disposed by the successor  
20 organization without regard to state surplus property laws.

21           SECTION 26.       AMENDATORY       2 O.S. 2011, Section 18-50, is  
22 amended to read as follows:

23

24

1 Section 18-50. A. Sections ~~37~~ 18-50 through ~~49~~ 18-62 of this  
 2 ~~act~~ title shall be known and may be cited as the "Oklahoma Peanut  
 3 Act".

4 B. The Oklahoma Peanut Commission shall cease to exist and be  
 5 replaced by a successor organization if approved by the Commissioner  
 6 of the Oklahoma Department of Agriculture, Food, and Forestry to  
 7 receive the assessment contained in the Oklahoma Peanut Act pursuant  
 8 to the procedures outlined in the Oklahoma Agricultural Commodity  
 9 Act.

10 SECTION 27. AMENDATORY 2 O.S. 2011, Section 18-300, is  
 11 amended to read as follows:

12 Section 18-300. A. Sections ~~19~~ 18-300 through ~~36~~ 18-317 of  
 13 this ~~act~~ title shall be known and may be cited as the "Oklahoma  
 14 Wheat Resources Act".

15 B. The Oklahoma Wheat Commission shall cease to exist and be  
 16 replaced by a successor organization if approved by the Commissioner  
 17 of the Oklahoma Department of Agriculture, Food, and Forestry to  
 18 receive the assessment contained in the Oklahoma Wheat Resources Act  
 19 pursuant to the procedures outlined in the Oklahoma Agricultural  
 20 Commodity Act.

21 SECTION 28. AMENDATORY 74 O.S. 2011, Section 902, is  
 22 amended to read as follows:

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

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.

24

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 firefighter 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) All employees of CompSource Mutual Insurance Company  
4 who retain membership in the Oklahoma Public Employees  
5 Retirement System pursuant to Section 14 of this act  
6 shall continue to be eligible employees for the  
7 purposes of the Oklahoma Public Employees Retirement  
8 System. CompSource Mutual Insurance Company shall be  
9 considered a participating employer only for such  
10 employees.

11 (e) All employees of a successor organization, as defined  
12 by Section 5-60.12 of this title, who retain  
13 membership in the Oklahoma Public Employees Retirement  
14 System pursuant to Section 24 of this act shall  
15 continue to be eligible employees for the purposes of  
16 the Oklahoma Public Employees Retirement System. A  
17 successor organization shall be considered a  
18 participating employer only for such employees.

19 (f) A participating employer of the Teachers' Retirement  
20 System of Oklahoma, who has one or more employees who  
21 have made an election pursuant to enabling legislation  
22 to retain membership in the System as a result of  
23 change in administration, shall be considered a  
24

1 participating employer of the Oklahoma Public

2 Employees Retirement System only for such employees;

3 (14) "Employee" means any officer or employee of a  
4 participating employer, whose employment is not seasonal or  
5 temporary and whose employment requires at least one thousand  
6 (1,000) hours of work per year and whose salary or wage is equal to  
7 the hourly rate of the monthly minimum wage for state employees.  
8 For those eligible employers outlined in Section 910 of this title,  
9 the rate shall be equal to the hourly rate of the monthly minimum  
10 wage for that employer. Each employer, whose minimum wage is less  
11 than the state's minimum wage, shall inform the System of the  
12 minimum wage for that employer. This notification shall be by  
13 resolution of the governing body.

14 (a) Any employee of the county extension agents who is not  
15 currently participating in the Teachers' Retirement  
16 System of Oklahoma shall be a member of this System.

17 (b) Eligibility shall not include any employee who is a  
18 contributing member of the United States Civil Service  
19 Retirement System.

20 (c) It shall be mandatory for an officer, appointee or  
21 employee of the office of district attorney to become  
22 a member of this System if he or she is not currently  
23 participating in a county retirement system. Provided  
24 further, that if an officer, appointee or employee of

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

11 (d) Eligibility shall also not include any officer or  
12 employee of the Oklahoma Employment Security  
13 Commission, except for those officers and employees of  
14 the Commission electing to transfer to this System  
15 pursuant to the provisions of Section 910.1 of this  
16 title or any other class of officers or employees  
17 specifically exempted by the laws of this state,  
18 unless there be a consolidation as provided by Section  
19 912 of this title. Employees of the Oklahoma  
20 Employment Security Commission who are ineligible for  
21 enrollment in the Employment Security Commission  
22 Retirement Plan, that was in effect on January 1,  
23 1964, shall become members of this System.

1 (e) Any employee employed by the Legislative Service  
2 Bureau, State Senate or House of Representatives for  
3 the full duration of a regular legislative session  
4 shall be eligible for membership in the System  
5 regardless of classification as a temporary employee  
6 and may participate in the System during the regular  
7 legislative session at the option of the employee.  
8 For purposes of this subparagraph, the determination  
9 of whether an employee is employed for the full  
10 duration of a regular legislative session shall be  
11 made by the Legislative Service Bureau if such  
12 employee is employed by the Legislative Service  
13 Bureau, the State Senate if such employee is employed  
14 by the State Senate, or by the House of  
15 Representatives if such employee is employed by the  
16 House of Representatives. Each regular legislative  
17 session during which the legislative employee or an  
18 employee of the Legislative Service Bureau  
19 participates full time shall be counted as six (6)  
20 months of full-time participating service.

21 (i) Except as otherwise provided by this  
22 subparagraph, once a temporary session employee  
23 makes a choice to participate or not, the choice  
24

1 shall be binding for all future legislative  
2 sessions during which the employee is employed.

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

12 (iii) Notwithstanding the provisions of division (i) of  
13 this subparagraph, a temporary legislative  
14 session employee who elected to become a member  
15 of the System may withdraw from the System  
16 effective the day said employee elected to  
17 participate in the System upon written request to  
18 the Board. Any such request must be received by  
19 the Board prior to October 1, 1990. All employee  
20 contributions made by the temporary legislative  
21 session employee shall be returned to the  
22 employee without interest within four (4) months  
23 of receipt of the written request.  
24

1 (iv) A member of the System who did not initially  
2 elect to participate as a member of the System  
3 pursuant to this subparagraph shall be able to  
4 acquire service performed as a temporary  
5 legislative session employee for periods of  
6 service performed prior to the date upon which  
7 the person became a member of the System if:

8 a. the member files an election with the System not later  
9 than December 31, 2000, to purchase the prior service;  
10 and

11 b. the member makes payment to the System of the  
12 actuarial cost of the service credit pursuant to  
13 subsection A of Section 913.5 of this title. The  
14 provisions of Section 913.5 of this title shall be  
15 applicable to the purchase of the service credit,  
16 including the provisions for determining service  
17 credit in the event of incomplete payment due to  
18 cessation of payments, death, termination of  
19 employment or retirement, but the payment may extend  
20 for a period not to exceed ninety-six (96) months;

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

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

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

7 (18) "Final average compensation" means the average annual  
8 compensation, including amounts deferred under deferred compensation  
9 agreements entered into between a member and a participating  
10 employer, up to, but not exceeding the maximum compensation levels  
11 as provided in paragraph (9) of this section received during the  
12 highest three (3) of the last ten (10) years of participating  
13 service immediately preceding retirement or termination of  
14 employment and with respect to members whose first participating  
15 service occurs on or after July 1, 2013, the compensation received  
16 during the highest five (5) of the last ten (10) years of  
17 participating service immediately preceding retirement or  
18 termination of employment. Provided, no member shall retire with a  
19 final average compensation unless the member has made the required  
20 contributions on such compensation, as defined by the Board of  
21 Trustees;

22 (19) "Fiscal year" means the period commencing July 1 of any  
23 year and ending June 30 of the next year. The fiscal year is the  
24 plan year for purposes of the federal Internal Revenue Code;

1 however, the calendar year is the limitation year for purposes of  
2 Section 415 of the federal Internal Revenue Code;

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

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

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

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

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

22 (i) April 6, 1917, to November 11, 1918, commonly  
23 referred to as World War I,  
24

1 (ii) September 16, 1940, to December 7, 1941, as a  
2 member of the 45th Division,

3 (iii) December 7, 1941, to December 31, 1946, commonly  
4 referred to as World War II,

5 (iv) June 27, 1950, to January 31, 1955, commonly  
6 referred to as the Korean Conflict or the Korean  
7 War,

8 (v) February 28, 1961, to May 7, 1975, commonly  
9 referred to as the Vietnam era, except that:

10 a. for the period from February 28, 1961, to August 4,  
11 1964, military service shall only include service in  
12 the Republic of Vietnam during that period, and

13 b. for purposes of determining eligibility for education  
14 and training benefits, such period shall end on  
15 December 31, 1976, or

16 (vi) August 1, 1990, to December 31, 1991, commonly  
17 referred to as the Gulf War, the Persian Gulf  
18 War, or Operation Desert Storm, but excluding any  
19 person who served on active duty for training  
20 only, unless discharged from such active duty for  
21 a service-connected disability;

22 (b) during a period of war or combat military operation  
23 other than a conflict, war or era listed in  
24 subparagraph (a) of this paragraph, beginning on the

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

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

1 Defense as reflected in the veteran's Defense Department Form 214,  
2 related to the Vietnam Conflict for service prior to August 5, 1964;

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

6 (a) the first day of the month coinciding with or  
7 following a member's:

8 (1) sixty-second birthday with respect to members  
9 whose first participating service occurs prior to  
10 November 1, 2011, or

11 (2) sixty-fifth birthday with respect to members  
12 whose first participating service occurs on or  
13 after November 1, 2011, or with respect to  
14 members whose first participating service occurs  
15 on or after November 1, 2011, reaches a minimum  
16 age of sixty (60) years and who also reaches a  
17 normal retirement date pursuant to subparagraph c  
18 of this paragraph,

19 (b) for any person who initially became a member prior to  
20 July 1, 1992, and who does not reach a normal  
21 retirement date pursuant to division (1) of  
22 subparagraph (a) of this paragraph, the first day of  
23 the month coinciding with or following the date at  
24 which the sum of a member's age and number of years of

1 credited service total eighty (80); such a normal  
2 retirement date will also apply to any person who  
3 became a member of the sending system as defined in  
4 Section 901 et seq. of this title, prior to July 1,  
5 1992, regardless of whether there were breaks in  
6 service after July 1, 1992,

7 (c) for any person who became a member after June 30,  
8 1992, but prior to November 1, 2011, and who does not  
9 reach a normal retirement date pursuant to division  
10 (1) of subparagraph (a) of this paragraph, the first  
11 day of the month coinciding with or following the date  
12 at which the sum of a member's age and number of years  
13 of credited service total ninety (90),

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

18 (i) a correctional or probation and parole officer  
19 with the Department of Corrections and at the  
20 time of retirement, the member was a correctional  
21 or probation and parole officer with the  
22 Department of Corrections, or

23 (ii) a correctional officer, probation and parole  
24 officer or fugitive apprehension agent with the

1 Department of Corrections who is in such position  
2 on June 30, 2004, or who is hired after June 30,  
3 2004, and who receives a promotion or change in  
4 job classification after June 30, 2004, to  
5 another position in the Department of  
6 Corrections, so long as such officer or agent has  
7 at least five (5) years of service as a  
8 correctional officer, probation and parole  
9 officer or fugitive apprehension agent with the  
10 Department, has twenty (20) years of full-time-  
11 equivalent employment with the Department and was  
12 employed by the Department at the time of  
13 retirement, or

14 (iii) a firefighter with the Oklahoma Military  
15 Department either employed for the first time on  
16 or after July 1, 2002, or who was employed prior  
17 to July 1, 2002, in such position and who makes  
18 the election authorized by division (2) of  
19 subparagraph b of paragraph (9) of subsection A  
20 of Section 915 of this title and at the time of  
21 retirement, the member was a firefighter with the  
22 Oklahoma Military Department, and such member has  
23 at least twenty (20) years of credited service  
24 upon which the two and one-half percent (2 1/2%)

1 multiplier will be used in calculating the  
2 retirement benefit,

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

11 (f) for any member who was continuously employed by an  
12 entity or institution within The Oklahoma State System  
13 of Higher Education and whose initial employment with  
14 such entity or institution was prior to July 1, 1992,  
15 and who without a break in service of more than thirty  
16 (30) days became employed by an employer participating  
17 in the Oklahoma Public Employees Retirement System,  
18 the first day of the month coinciding with or  
19 following the date at which the sum of the member's  
20 age and number of years of credited service total  
21 eighty (80);

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

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

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

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

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

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

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

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

23 (33) "Service-connected disability benefits" means military  
24 service benefits which are for a service-connected disability rated

1 at twenty percent (20%) or more by the Veterans Administration or  
 2 the Armed Forces of the United States;

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

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

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

13 SECTION 29. This act shall become effective July 1, 2014.

14 SECTION 30. It being immediately necessary for the preservation  
 15 of the public peace, health and safety, an emergency is hereby  
 16 declared to exist, by reason whereof this act shall take effect and  
 17 be in full force from and after its passage and approval.

18 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT  
 19 March 17, 2014 - DO PASS

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