STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

SENATE BILL 1107 By: Brecheen

AS INTRODUCED

An Act relating to legislator's retirement; stating legislative purpose; amending 70 O.S. 2011, Sections 17-101, 17-103 and 17-105, which relate to the Teachers' Retirement System of Oklahoma; modifying definitions; adding to the membership of the Teachers' Retirement System of Oklahoma; specifying that certain members can qualify for monthly retirement benefits; amending 74 O.S. 2011, Sections 902 and 913.4, as amended by Section 2, Chapter 109, O.S.L. 2012 (74 O.S. Supp. 2012, Section 913.4), which relate to the Oklahoma Public Employees Retirement System; modifying definition; providing exception; prohibiting certain elected officials from participation in the Oklahoma Public Employees Retirement System; specifying that certain elected officials may participate in the Teachers' Retirement System of Oklahoma; providing for noncodification; providing an effective date; and declaring an emergency.

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

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

In order to ensure the solvency of the Teachers' Retirement System of Oklahoma, it is the purpose of the Legislature that persons elected to the Legislature on or after the effective date of

this act who choose to participate in a retirement system when elected to office be required to join the Teachers' Retirement System of Oklahoma instead of being a member of the Oklahoma Public Employees Retirement System. Being a member of the Teachers' Retirement System of Oklahoma and subject to the same benefit structure as the educators of this state will make legislators more accountable to the Teachers' Retirement System of Oklahoma and as stakeholders in the System, the legislators will be even more aware of the financial status of the System.

SECTION 2. AMENDATORY 70 O.S. 2011, Section 17-101, is amended to read as follows:

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

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

(2) "Public school" shall mean a school district, a state college or university, the State Board of Education, the State Board of Career and Technology Education and any other state educational entity conducted within the state supported wholly or partly by public funds and operating under the authority and supervision of a legally constituted board or agency having authority and responsibility for any function of public education. "Public

school" shall also mean a tuition free, nonprofit alternative school of choice that provides education, therapeutic counseling and outreach programs which is aligned with a school district and which receives grant funds from governmental sources.

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

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

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

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

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

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

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

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

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

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

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

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

(15) "Average salary":

(a) for those members who joined the System prior to July 1, 1992, shall mean the average of the salaries for the three (3) years on which the highest contributions to the Teachers' Retirement System was paid not to

exceed the maximum contribution level specified in Section 17-116.2 of this title or the maximum compensation level specified in subsection (28) of this section. Provided, no member shall retire with an average salary in excess of Twenty-five Thousand Dollars ($25,000.00) unless the member has made the required election and paid the required contributions on such salary in excess of Twenty-five Thousand Dollars ($25,000.00), or unless an eligible member fulfills the requirements of Section 17-116.2C of this title in order to have pre-cap removal service included in the retirement benefit computation of the member using the regular annual compensation of the member for any pre-cap removal year of service so included subject to the maximum average salary amount, and

(b) for those members who join the System after June 30, 1992, shall mean the average of the salaries for five (5) consecutive years on which the highest contribution to the Teachers' Retirement System was paid. Only salary on which required contributions have been made may be used in computing average salary.

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

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

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

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

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

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

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

(23) "Actuarially determined cost" shall mean the single sum which is actuarially equivalent in value to a specified pension amount as determined on the basis of mortality and interest assumptions adopted by the Board of Trustees.

(24) "Normal retirement age" means the earliest date upon which:

(a) a member reaches the age sixty-two (62) with respect to a member whose first creditable service occurs prior to November 1, 2011, unless the member reaches a normal retirement date pursuant to subparagraph c or subparagraph d of this paragraph, or

(b) a member reaches the age of sixty-five (65) with respect to a member whose first creditable service occurs on or after November 1, 2011, or with respect to a member whose first creditable service occurs on or after November 1, 2011, reaches a normal retirement date pursuant to subparagraph (d) of this paragraph having attained a minimum age of sixty (60) years, or

(c) the age at which the sum of a member's age and number of years of creditable service total eighty (80), with respect to a member whose first creditable service occurred prior to July 1, 1992, and who does not reach a normal retirement age pursuant to subparagraph a of this paragraph, or

(d) the age at which the sum of a member's age and number of years of creditable service total ninety (90), with respect to a member whose first creditable service occurred on or after July 1, 1992, but prior to

November 1, 2011, if the member does not reach a normal retirement age pursuant to subparagraph a of this paragraph.

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

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

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

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

(a) Twenty-five Thousand Dollars ($25,000.00) for creditable service authorized and performed prior to

July 1, 1995, for members not electing a higher maximum compensation level,

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

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

(d) Thirty-two Thousand Five Hundred Dollars ($32,500.00) for members employed by a comprehensive university if the member meets the requirements imposed by Section 17-116.2A of this title and the member elects to impose a higher maximum compensation level for service

performed on or after July 1, 1995, but not later than June 30, 1996,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) Sixty-nine Thousand Dollars ($69,000.00) for service authorized and performed on or after July 1, 2001, but not later than June 30, 2002,

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

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

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

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

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

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

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

1. a member of the retirement system not employed by an entity or institution within The Oklahoma State System of Higher Education for all creditable service authorized and performed on or after July 1, 1995,
2. a member of the retirement system first employed on or after July 1, 1995, by an entity or institution within The Oklahoma State System of Higher Education for all creditable service authorized and performed on or after July 1, 1995, but not later than June 30, 1996,
3. a member of the retirement system employed by an entity or institution within The Oklahoma State System of Higher Education, other than a comprehensive university, if the member elects to impose a higher maximum compensation level for service performed on or after July 1, 1995, but not later than June 30, 1996, pursuant to subsection B of Section 17-116.2A of this title,
4. a member of the retirement system who is first employed on or after July 1, 1996, by any entity or institution within The Oklahoma State System of Higher Education, including a comprehensive

university, for creditable service authorized and performed on or after July 1, 1996,

5. a member of the retirement system who, as of July 1, 1996, is subject to a maximum compensation level pursuant to paragraph (g) of this subsection if the member terminates service with a comprehensive university and is subsequently reemployed by a comprehensive university,

6. a member of the retirement system employed by a comprehensive university for all service performed on and after July 1, 2007, or

7. an eligible member of the retirement system who fulfills the requirements of Section ~~2~~ 17-116.2c of this ~~act~~ title with respect to pre-cap removal service included in the retirement benefit computation of the member at the average salary of the member subject to the maximum average salary amount.

(29) "Comprehensive university" shall mean:

(a) the University of Oklahoma and all of its constituent agencies, including the University of Oklahoma Health Sciences Center, the University of Oklahoma Law Center and the Geological Survey, and

(b) Oklahoma State University and all of its constituent agencies, including the Oklahoma State University Agricultural Experiment Station, the Oklahoma State University Agricultural Extension Division, the Oklahoma State University College of Veterinary Medicine, the Oklahoma State University Center for Health Sciences, the Technical Branch at Oklahoma City, the Oklahoma State University Institute of Technology-Okmulgee and Oklahoma State University-Tulsa.

SECTION 3. AMENDATORY 70 O.S. 2011, Section 17-103, is amended to read as follows:

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

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

(2) All full-time nonclassified optional personnel regularly employed for more than one (1) year may join the Teachers' Retirement System subject to the rules and regulations adopted pursuant to this act. Subject to the outcome of the private letter ruling request (2003) submitted by the Board to the Internal Revenue Service (2001), the System shall permit eligible nonclassified optional personnel who have ceased to make otherwise required

employee contributions after having made an election to become a member of the retirement system to resume employee contributions. No service shall be credited to any such member for any period of time during which employee contributions were not made;

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

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

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

(6) Should any member, with less than ten (10) years of teaching service in Oklahoma, in any period of six (6) consecutive years after becoming a member be absent from service more than five (5) years, withdraw his contributions, retire or die, he shall thereupon cease to be a member. The provisions of this paragraph shall not apply to any member of the Teachers' Retirement System who has been a member of such classes of military services as may be

approved by the Board of Trustees, until a period of one and one-half (1 1/2) years from date of termination of such service shall have elapsed; and

(7) Any person first elected to a state office in the legislative branch of state government on or after July 1, 2013, may elect to become a member of the Teachers' Retirement System. The election on participation in the Teachers' Retirement System must be in writing and must be filed with the Teachers' Retirement System within ninety (90) days after the elected official takes office. The election to participate shall be irrevocable. Reelection to the same office will not permit new elections. Failure of a Legislator to file such election form within the ninety-day period shall be deemed an irrevocable election to participate in the Teachers' Retirement System.

SECTION 4. AMENDATORY 70 O.S. 2011, Section 17-105, is amended to read as follows:

Section 17-105. (1) (a) Any member who has attained age fifty-five (55) or who has completed thirty (30) years of creditable service, as defined in Section 17-101 of this title, or for any person who initially became a member prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992, whose age and number of years of creditable service total eighty (80) may be retired upon filing a written application for such retirement. Such a retirement date will also apply to any

person who became a member of the sending system as defined in ~~this act~~ Section 17-101 et seq. of this title, prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992. Any person who became a member after June 30, 1992, but prior to November 1, 2011, whose age and number of years of creditable service total ninety (90) may be retired upon filing a written application for such retirement. Any person who becomes a member on or after November 1, 2011, who attains the age of sixty-five (65) years or who reaches a normal retirement date pursuant to subparagraph (d) of paragraph (24) of Section 17-101 of this title having attained a minimum age of sixty (60) years may be retired upon filing a written application for such retirement. The application shall be filed on the form provided by the Board of Trustees for this purpose, not less than thirty (30) days nor more than ninety (90) days before the date of retirement.

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

(c) Any member with five (5) or more years of Oklahoma teaching service and whose accumulated contributions during such period have not been withdrawn shall be given an indefinite extension of membership beginning with the sixth year following his or her last contributing membership and shall become eligible to apply for retirement and be retired upon attaining age fifty-five (55).

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

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

Any individual regardless of residence, who has a minimum of ten (10) years of teaching in Oklahoma schools prior to July 1, 1943, or who taught in Oklahoma schools prior to 1934 and thereafter taught a minimum of ten (10) years and who does not qualify under the present

retirement System, or who has a minimum of thirty (30) years of teaching in Oklahoma schools and has reached seventy (70) years of age prior to July 1, 1984, and is not otherwise eligible to receive any benefits from the retirement system shall receive a minimum of One Hundred Fifty Dollars ($150.00) per month in retirement benefits from the Teachers' Retirement System of Oklahoma plus any general increase in benefits for annuitants as may be provided hereafter by the Legislature. Each individual must apply to the Teachers' Retirement System for such benefit and provide evidence to the Teachers' Retirement System that the service was actually rendered. The surviving spouse of any person who made application for the benefit provided for by this paragraph during his or her lifetime but did not receive said benefit may submit an application to the System for payment of said benefit for those months during the lifetime of the deceased person that he or she was eligible for but did not receive the benefit. Upon approval of the application by the Board of Trustees, the benefit shall be paid to the surviving spouse in one lump sum.

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

(5) Upon application of a member who is actively engaged in teaching in Oklahoma or his or her employer, any member who has been a contributing member for ten (10) years may be retired by the Board

of Trustees not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, on a disability retirement allowance, provided that it is found by the Board of Trustees after medical examination of such member by a duly qualified physician that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired. The Board of Trustees shall give due consideration to the conclusions and recommendations in the certified written report of the Medical Board of the Teachers' Retirement System regarding the disability application of such member. If a member is determined to be eligible for disability benefits pursuant to the Social Security System, then such determination shall entitle the member to the authorized disability retirement allowance provided by law. For members who are not eligible for disability benefits pursuant to the Social Security System, the Board of Trustees shall apply the same standard for which provision is made in the first two sentences of this subsection for determining the eligibility of a person for such disability benefits in making a determination of eligibility for disability benefits as authorized by this subsection.

(6) (a) A member who at the time of retirement has been found to be permanently physically or mentally incapacitated to teach school shall receive a minimum monthly retirement payment for life or until such time as the member may be found to be recovered to the

point where he or she may return to teaching. Any member retired before July 1, 1992 shall be eligible to receive the monthly retirement allowance herein provided, but such payment shall not begin until the first payment due him or her after July 1, 1992, and shall not be retroactive. The Board of Trustees is empowered to make such rules and regulations as it considers proper to preserve equity in retirements under this provision, which shall include a provision to protect the rights of the member's spouse.

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

(c) Once each year the Board of Trustees may require any disabled annuitant who has not yet attained the age of sixty (60) years to undergo a medical examination, such examination to be made at the place of residence for said disabled annuitant or other place mutually agreed upon by a physician or physicians designated by the Board of Trustees. Should any disabled annuitant who has not yet attained the age of sixty (60) years refuse to submit to at least one medical examination in any such year by a physician or physicians designated by the Board of Trustees his or her allowance may be discontinued until he or she submits to such examination.

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

(e) Should a disabled annuitant be restored to active service, his or her disability retirement allowance shall cease and he or she shall again become a member of the Teachers' Retirement System and shall make regular contributions as required under this article. The unused portion of his or her accumulated contributions shall be reestablished to his or her credit in the Teachers' Savings Fund. Any such prior service certificates on the basis of which his or her service was computed at the time of his or her retirement shall be restored to full force and effect.

(7) Should a member before retirement under Section 1-101 et seq. of this title make application for withdrawal duly filed with the Board of Trustees and approved by it, not earlier than four (4) months after the date of termination of such service as a teacher, the contribution standing to the credit of his or her individual account in the Teachers' Savings Fund shall be paid to him or her or, in the event of his or her death before retirement, shall be paid to such person or persons as he or she shall have nominated by written designation, duly executed and filed with the Board of Trustees; provided, however, if there be no designated beneficiary surviving upon such death, such contributions shall be paid to his or her administrators, executors, or assigns, together with interest as hereinafter provided. In lieu of a lump-sum settlement at the death of the member, the amount of money the member has on deposit in the Teachers' Savings Fund and the money the member has on

deposit in the Teachers' Deposit Fund may be paid in monthly payments to a designated beneficiary, who must be the spouse, under the Maximum or Option 1 Plan of Retirement providing the monthly payment shall be not less than Twenty-five Dollars ($25.00) per month. The monthly payment shall be the actuarial equivalent of the amount becoming due at the member's death based on the sex of the spouse and the age the spouse has attained at the last birthday prior to the member's death. Provided further, if there be no designated beneficiary surviving upon such death, and the contributions standing to the credit of such member do not exceed Two Hundred Dollars ($200.00), no part of such contributions shall be subject to the payment of any expense of the last illness or funeral of the deceased member or any expense of administration of the estate of such deceased and the Board of Trustees, upon satisfactory proof of the death of such member and of the name or names of the person or persons who would be entitled to receive such contributions under the laws of descent and distribution of the state, may authorize the payment of accumulated contributions to such person or persons. A member terminating his or her membership by withdrawal after June 30, 2003, shall have the interest computed at a rate of interest determined by the Board of Trustees and paid to him or her subject to the following schedule:

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

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

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

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

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

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

(b) A member may select the option under which he or she desires to retire at the end of the school year in which he or she attains age seventy (70) and said option shall be binding and cannot be changed. Provided further that if a member retires before age seventy (70), no election of an option shall be effective in case an

annuitant dies before the first payment due under such option has been received.

(c) The first payment of any benefit selected shall be made on the first day of the month following approval of the retirement by the Board of Trustees. If the named designated beneficiary under Option 2 or 3 dies at any time after the member's retirement date, but before the death of the member, the member shall return to the retirement benefit, including any post retirement benefit increases the member would have received had the member not selected Option 2 or 3 of this subsection. The benefit shall be determined at the date of death of the designated beneficiary or July 1, 1994, whichever is later. This increase shall become effective the first day of the month following the date of death of the designated beneficiary or July 1, 1994, whichever is later, and shall be payable for the member's remaining lifetime. The member shall notify the Teachers' Retirement System of Oklahoma of the death of the designated beneficiary in writing. In the absence of said written notice being filed by the member notifying the Teachers' Retirement System of Oklahoma of the death of the designated beneficiary within six (6) months of the date of death, nothing in this subsection shall require the Teachers' Retirement System of Oklahoma to pay more than six (6) months of retrospective benefits increase.

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

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

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

Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he or she shall

nominate, provided such other benefit or benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his or her retirement allowance and shall be approved by the Board of Trustees.

(d) Provided that Option 2 and Option 3 shall not be available if the member's expected benefit is less than fifty percent (50%) of the lump-sum actuarial equivalent and the designated beneficiary is not the spouse of the member.

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

(f) A member who retires after ~~the effective date of this act~~ July 1, 2010, and has selected a retirement allowance for a reduced amount payable under one of the options provided for in this subsection may make a one-time irrevocable election to select a different option within sixty (60) days of the member's retirement date. The beneficiary designated by the member at the time of retirement shall not be changed if the member makes the election provided for in this paragraph.

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

been retired in accordance with the provisions of Section 1-101 et seq. of this title.

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

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

(11) Upon the death of an in-service member, the System shall pay to the designated beneficiary of the member or, if there is no designated beneficiary or if the designated beneficiary predeceases the member, to the estate of the member, the sum of Eighteen Thousand Dollars ($18,000.00) as a death benefit. Provided, if the deceased member had ten (10) years or more of creditable service and the death occurred after February 1, 1985, the member's designated beneficiary may elect to receive the retirement benefit to which the deceased member would have been entitled at the time of death under the Option 2 plan of retirement in lieu of the death benefit provided for in this subsection. Provided further, the option provided in this subsection is only available when the member has designated one individual as the designated beneficiary. The beneficiary or beneficiaries of death benefits in the amount not to exceed Eighteen Thousand Dollars ($18,000.00), but exclusive of any

retirement benefit received by an electing beneficiary based upon creditable service performed by the deceased member, which are provided pursuant to this subsection may elect to disclaim such death benefits in which case such benefits will be transferred to a person licensed as a funeral director or to a lawfully recognized business entity licensed as required by law to provide funeral services for the deceased member. The qualified disclaimer must be in writing and will be an irrevocable and an unqualified refusal to accept all or a portion of the death benefit. It must be received by the transferor no more than nine (9) months after the later of the day the transfer creating the interest in the disclaiming person is made or the day the disclaiming person attains age twenty-one (21). The interest in the death benefits must pass without direction by the disclaiming person to another person.

(12) Upon the death of an annuitant who has contributed to the System, the retirement system shall pay to the designated beneficiary of the annuitant or, if there is no designated beneficiary or if the designated beneficiary predeceases the annuitant, to the estate of the annuitant, the sum of Five Thousand Dollars ($5,000.00) as a death benefit. The beneficiary or beneficiaries of benefits provided pursuant to this subsection may elect to disclaim such death benefits in which case such benefits will be transferred to a person licensed as a funeral director or to a lawfully recognized business entity licensed as required by law to

provide funeral services for the deceased member. The qualified disclaimer must be in writing and will be an irrevocable and an unqualified refusal to accept all or a portion of the death benefit. It must be received by the transferor no more than nine (9) months after the later of the day the transfer creating the interest in the disclaiming person is made or the day the disclaiming person attains age twenty-one (21). The interest in the death benefits must pass without direction by the disclaiming person to another person. The benefit payable pursuant to this subsection shall be deemed, for purposes of federal income taxation, as life insurance proceeds and not as a death benefit if the Internal Revenue Service approves this provision pursuant to a private letter ruling request which shall be submitted by the board of trustees of the System for that purpose.

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

(a) Before any applicable probate procedure may be waived, the System must be in receipt of the member's proof of death and the following documents from those persons claiming to be the legal heirs of the deceased member:

1. The member's valid last will and testament;

2. An affidavit or affidavits of heirship which must state:

   a. the names and signatures of all claiming heirs to the deceased member's estate including the claiming heirs' names, relationship to the deceased, current addresses and current telephone numbers,

   b. a statement or statements by the claiming heirs that no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction,

   c. a statement that the value of the deceased member's entire estate is subject to probate, and that the estate wherever located, less liens and encumbrances, does not exceed Five Thousand Dollars ($5,000.00), including the payment of benefits or unpaid contributions from the System as authorized by this subsection,

   d. a description of the personal property claimed, (i.e., death benefit or unpaid contributions or both) together with a statement that such personal property is subject to probate,

e. a statement by each individual claiming heir identifying the amount of personal property that the heir is claiming from the System, and that the heir has been notified of, is aware of and consents to the identified claims of all the other claiming heirs of the deceased member pending with the System;

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

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

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

(b) The Executive Director of the System shall retain complete discretion in determining which requests for probate waiver may be granted or denied, for any reason. Should the System have any

question as to the validity of any document presented by the claiming heirs, or as to any statement or assertion contained therein, the probate requirement provided for in Section 1 et seq. of Title 58 of the Oklahoma Statutes, shall not be waived.

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

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

SECTION 5. AMENDATORY 74 O.S. 2011, Section 902, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

reimbursement for traveling, or moving expenses, or any compensation in excess of the maximum compensation level, provided:

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

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

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

there shall be no maximum compensation level for retirement purposes.

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

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

(d) Current appointed members of the Oklahoma Tax Commission whose salary is constitutionally limited and is less than the highest salary allowed by law for his or her position shall be allowed, within ninety (90) days from ~~the effective date of this act~~ March 21, 2001, to make an election to use the highest salary allowed by law for the position to which the member was appointed for the purposes of making contributions and determination of retirement benefits. Such election shall be irrevocable and be in writing. Reappointment to the same office shall

not permit a new election. Members appointed to the Oklahoma Tax Commission after ~~the effective date of this act~~ March 21, 2001, shall make such election, pursuant to this subparagraph, within ninety (90) days of taking office;

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

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

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

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

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

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

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

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

shall be considered a participating employer only for such employees.

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

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

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

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

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

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

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

(e) Any employee employed by the Legislative Service Bureau, State Senate or House of Representatives for the full duration of a regular legislative session shall be eligible for membership in the System regardless of classification as a temporary employee and may participate in the System during the regular legislative session at the option of the employee. For purposes of this subparagraph, the determination of whether an employee is employed for the full duration of a regular legislative session shall be made by the Legislative Service Bureau if such employee is employed by the Legislative Service Bureau, the State Senate if such employee is employed by the State Senate, or by the House of Representatives if such employee is employed by the House of Representatives. Each regular legislative session during which the legislative employee or an

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

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

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

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

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

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

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

b. the member makes payment to the System of the actuarial cost of the service credit pursuant to subsection A of Section 913.5 of this title. The provisions of Section 913.5 of this title shall be applicable to the purchase of the service credit, including the provisions for determining service credit in the event of incomplete payment

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) for any person who initially became a member prior to July 1, 1992, and who does not reach a normal retirement date pursuant to division (1) of subparagraph (a) of this paragraph, the first day of

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

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

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

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

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

(iii) a firefighter with the Oklahoma Military Department either employed for the first time on or after July 1, 2002, or who was employed prior to July 1, 2002, in such position and who makes the election authorized by division (2) of subparagraph b of paragraph (8) of subsection A of Section 915 of this title and at the time of retirement, the member was a firefighter with the Oklahoma Military Department, and such member has

at least twenty (20) years of credited service upon which the two and one-half percent (2 1/2%) multiplier will be used in calculating the retirement benefit,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 6. AMENDATORY 74 O.S. 2011, Section 913.4, as amended by Section 2, Chapter 109, O.S.L. 2012 (74 O.S. Supp. 2012, Section 913.4), is amended to read as follows:

Section 913.4. A. 1. Except as otherwise provided in this subsection, an elected official may elect to participate in the System and if he or she elects to do so shall have the option of participating at any one of the computation factors set forth in

paragraphs 3 or 4 of this subsection and will receive retirement benefits in accordance with the computation factor chosen. The election on participation in the System must be in writing, must specify the computation factor chosen, and must be filed with the System within ninety (90) days after the elected official takes office. The election to participate and the election of a computation factor shall be irrevocable. Reelection to the same office will not permit new elections. Failure of an elected official to file such election form within the ninety-day period shall be deemed an irrevocable election to participate in the System at the maximum computation factor.

2. Contributions and benefits will be based upon the elected official's annual compensation as defined in Section 902 of this title. Employer and elected official contributions shall be remitted at least monthly, or as the Board may otherwise provide, to the System for deposit in the Oklahoma Public Employees Retirement Fund. Effective July 1, 1994, and thereafter, the participating employer shall contribute as provided in Section 920 of this title.

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

Elected official Contribution Rate	Computation Factor	Alternate Formula

4.5%	1.9%	$12.50
6%	2.5%	$20.00
7.5%	3.0%	$25.00
8.5%	3.4%	$27.50
9%	3.6%	$30.00
10%	4.0%	$40.00

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

5. The contribution rate for elected officials who are first elected or appointed to an elected office on or after November 1, 2011, shall be in the amount specified in paragraph (a) of subsection (1) of Section 919.1 of this title. The amount of the retirement benefit for elected officials who are first elected or appointed to an elected office on or after November 1, 2011, shall be based on the provisions of paragraph (1) of subsection A of Section 915 of this title.

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

7. Elected officials who are first elected or appointed on or after November 1, 2011, shall also be eligible to make the election of an alternate multiplier and contribution rate pursuant to paragraph 2 of subsection A of Section 915 of this title.

B. The normal retirement date for an elected official shall be the first day of the month coinciding with or following the official's sixtieth birthday or the first day of the month coinciding with or following the date at which the sum of the elected official's age and number of years of credited service total eighty (80). The normal retirement date for an elected official first elected or appointed to an elected office on or after November 1, 2011, shall be the first day of the month coinciding with or following the official's sixty-fifth birthday or the date upon which the elected or appointed official attains the age of sixty-two (62) and who has at least ten (10) years of elected or appointed service. Any elected official first elected or appointed to an elected office before November 1, 2011, who has a minimum of ten (10) years' participating service may retire under the early retirement provisions of ~~this act~~ Section 901 et seq. of this title, including

those electing a vested benefit and shall receive an adjustment of annual benefits in accordance with the following percentage schedule:

Age	Percentage of Normal Retirement Benefits
60	100%
59	94%
58	88%
57	82%
56	76%
55	70%

Any elected official first elected or appointed to an elected office on or after November 1, 2011, who has a minimum of ten (10) years' participating service may retire under the early retirement provisions of this act, including those electing a vested benefit and shall receive an adjustment of annual benefits in accordance with the following percentage schedule:

Age	Percentage of Normal Retirement Benefits
62	100%
61	93.33%
60	86.67%

C. 1. Any elected official shall receive annual benefits computed based upon the computation factor selected multiplied by

the member's highest annual compensation received as an elected official prior to retirement or termination of employment multiplied by the number of years of credited service. No elected official shall retire using such highest annual compensation unless the elected official has made the required election and has paid the required contributions on such salary.

2. The retirement benefit may be computed pursuant to the provisions of paragraph (1) of subsection A of Section 915 of this title if the benefit would be higher. Elected officials who have a vested benefit prior to July 1, 1980, may elect to receive annual benefits based on the alternate formula provided above. Such annual benefits shall be paid in equal monthly installments.

3. Elected officials who become members of the Oklahoma Public Employees Retirement System on or after August 22, 2008, will receive retirement benefits in accordance with the computation factor selected pursuant to subsection A of this section multiplied by the member's highest annual compensation received as an elected official and only for those years of credited service the member served as an elected official. If such elected official has participating service as a nonelected member, then such nonelected service shall be computed separately pursuant to the provisions of paragraph (1) of subsection A of Section 915 of this title with the final benefit result added to the final benefit result for elected service. In no event shall the elected official be entitled to

apply the computation factor selected pursuant to subsection A of this section or the compensation received as an elected official to the computation of nonelected service.

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

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

E. The surviving spouse of a deceased elected official who was first elected or appointed to an elected office before November 1, 2011, and who has at least six (6) years of participating service and the surviving spouse of a deceased elected official who was first elected or appointed to an elected office on or after November 1, 2011, and who has at least eight (8) years of participating

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

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

G. Anyone appointed or elected to an elected position after July 1, 1990, shall not be eligible to receive benefits as provided in this section until such person has participated as an elected official for six (6) years. Anyone appointed or elected to an elected position on or after November 1, 2011, shall not be eligible

to receive benefits as provided in this section until such person has participated as an elected official for eight (8) years.

H. Elected officials who terminate participation in the System and who have a minimum of six (6) years of participating service shall be entitled to elect a vested benefit and shall be entitled to the retirement options as provided in Section 918 of this title in lieu of the survivors benefit provided in subsection E of this section. Elected officials, first elected or appointed to an elected office on or after November 1, 2011, who terminate participation in the System and who have a minimum of eight (8) years of participating service shall be entitled to elect a vested benefit and shall be entitled to retirement options as provided in Section 918 of this title in lieu of the survivors benefits provided in subsection E of this section.

I. In determining the number of years of credited service, a fractional year of six (6) months or more shall be considered as one (1) year, and less than six (6) months or more shall be disregarded.

J. Any person first elected to a state office in the legislative branch of state government on or after July 1, 2013, shall not be eligible to participate in the System; however, the person shall be eligible to participate in the Teachers' Retirement System of Oklahoma pursuant to the provisions of Section 17-103 of Title 70 of the Oklahoma Statutes.

SECTION 7. This act shall become effective July 1, 2013.

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

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