ENGROSSED HOUSE
BILL NO. 2247

By: McDaniel (Randy) and Cockroft of the House

and

Smalley of the Senate

An Act relating to the Teachers' Retirement System of Oklahoma; enacting the Experienced Teacher Support Act; amending 70 O.S. 2011, Sections 17-108.1 and 17-116.10, as amended by Section 4, Chapter 101, O.S.L. 2013 (70 O.S. Supp. 2015, Section 17-116.10), which relate to employer contribution requirements and postretirement earnings limitations; modifying employer contribution requirement for certain employers with respect to compensation earned by certain retired members; modifying postretirement earnings limitations provisions with respect to certain retired members of the System; providing for noncodification; and providing an effective date.

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

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

This act shall be known and may be cited as the "Experienced Teacher Support Act".

SECTION 2. AMENDATORY 70 O.S. 2011, Section 17-108.1, is amended to read as follows:

Section 17-108.1 A. 1. Except as provided in paragraph 2 or paragraph 4 of this subsection, the employer of any member of the Teachers' Retirement System of Oklahoma shall make the following contributions to the System:

a. beginning July 1, 1998, through June 30, 1999, eleven and one-half percent (11 1/2%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

b. beginning July 1, 1999, through June 30, 2000, four and eight-tenths percent (4.8%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

c. beginning July 1, 2000, through June 30, 2001, five and eight-tenths percent (5.8%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

d. beginning July 1, 2001, through June 30, 2002, six and eight-tenths percent (6.8%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

e. beginning July 1, 2002, through December 31, 2006, seven and five-hundredths percent (7.05%) of the regular annual compensation of the member not in

excess of any applicable maximum compensation level of the member,

f. beginning January 1, 2007, through June 30, 2007, seven and six-tenths percent (7.6%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

g. beginning July 1, 2007, through December 31, 2007, seven and eighty-five hundredths percent (7.85%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

h. beginning January 1, 2008, through June 30, 2008, eight and thirty-five hundredths percent (8.35%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

i. beginning July 1, 2008, through December 31, 2008, eight and five-tenths percent (8.5%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

j. beginning January 1, 2009, through December 31, 2009, nine percent (9%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member,

k. beginning January 1, 2010, through June 30, 2010, nine and five-tenths percent (9.5%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member, and

l. beginning July 1, 2010, through June 30, 2011, and for each fiscal year thereafter, nine and five-tenths percent (9.5%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member.

The employer contribution rate increase that would otherwise be effective, as provided by subparagraphs f, g, h, i, j, k and l of this paragraph, shall not become effective as law unless funding levels to each of the affected participating employers within the System are increased so that the additional employer contribution obligation is funded through an appropriation or transfer of monies instead of requiring the additional employer contribution to be paid for from existing budgetary resources of such participating employers. The participating employers shall use any monies specifically made available for purposes of making employer contributions for such purpose and to the extent of the funds made available for that purpose.

2. a. Beginning January 1, 2007, through December 31, 2007, a participating employer that employs an employee of a

comprehensive university or a regional institution offering a four-year degree program as designated or authorized by the Oklahoma State Regents for Higher Education shall make contributions to the System with respect to such employees at the rate of seven and five-hundredths percent (7.05%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level.

b. Beginning January 1, 2008, through December 31, 2008, a participating employer that employs an employee of a comprehensive university or a regional institution offering a four-year degree program as designated or authorized by the Oklahoma State Regents for Higher Education shall make contributions to the System with respect to such employees at the rate of seven and fifty-five hundredths percent (7.55%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member.

c. Beginning January 1, 2009, through December 31, 2009, a participating employer that employs an employee of a comprehensive university or a regional institution offering a four-year degree program as designated or authorized by the Oklahoma State Regents for Higher Education shall make contributions to the System with

respect to such employees at the rate of eight and five hundredths percent (8.05%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member.

d. Beginning January 1, 2010, through June 30, 2010, a participating employer that employs an employee of a comprehensive university or a regional institution offering a four-year degree program as designated or authorized by the Oklahoma State Regents for Higher Education shall make contributions to the System with respect to such employees at the rate of eight and fifty-five hundredths percent (8.55%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member.

e. Beginning July 1, 2010, through June 30, 2011, and for each fiscal year thereafter, a participating employer that employs an employee of a comprehensive university or a regional institution offering a four-year degree program as designated or authorized by the Oklahoma State Regents for Higher Education shall make contributions to the System with respect to such employees at the rate of eight and fifty-five hundredths percent (8.55%) of the regular annual

compensation of the member not in excess of any applicable maximum compensation level of the member. The employer contribution rate increase that would otherwise be effective as provided by subparagraphs b, c, d and e of this paragraph shall not become effective as law unless funding levels are increased so that the additional employer contribution obligation is funded through such an appropriation or transfer of monies instead of requiring the additional employer contribution to be paid for from existing budgetary resources of such participating employers. The participating employers shall use any monies specifically made available for purposes of making employer contributions for such purpose and to the extent of the funds made available for that purpose.

3. Any employer contribution paid to the System pursuant to this subsection shall not be considered as salary, fringe benefit, or total compensation due to members for the purpose of meeting any legislative or contractual obligation of the employer.

4. A public school that hires a retired member of the Teachers' Retirement System of Oklahoma on or after the effective date of this act shall make a contribution equal to eleven percent (11%) of the regular annual compensation of the member.

B. For entities or institutions within The Oklahoma State System of Higher Education, the contributions to the System shall be made on regular annual compensation of a member who is an employee

of such entity or institution not to exceed the maximum compensation level in effect for the member as prescribed by law.

C. Employers paying contributions to the System pursuant to subsection A or B of this section shall receive credit for that portion of the gross production tax on natural gas and/or casinghead gas apportioned to the System pursuant to subsection 2 of Section 1004 of Title 68 of the Oklahoma Statutes in meeting the total required employer contribution. On an annual basis, the Board of Trustees of the Teachers' Retirement System of Oklahoma shall estimate the net additional cost required to be paid by the contributing employers in order to meet the total employer contribution as provided in subsection A or B of this section. The Board of Trustees shall approve the amount of the additional contribution required to be paid by contributing employers as a percentage of total member salaries and fringe benefits for each fiscal year ending June 30, no later than April 1 of the previous fiscal year. In no event shall the additional contribution required to be paid by the contributing employer under this subsection be less than the contribution required under this subsection in the prior year. In the event actual contributions do not equal the required total contribution as provided in subsection A or B of this section, the net difference between the actual contributions and the required total contributions shall be determined and shall be included in the amount of the additional contribution required to be

paid by contributing employers for the next fiscal year. All contributing employers shall pay the same percentage of total member salaries and fringe benefits during each fiscal year. The provisions of this subsection shall terminate June 30, 1999.

D. Any school district, state college or university, State Board of Education, State Board of Career and Technology Education, or other state agency may, for and on behalf of any member of the System, pay all or any portion of the contribution required by Section 17-108 of this title. Provided, the contribution so paid by any school district, state college or university, State Board of Education, State Board of Career and Technology Education, or other state agency shall be and remain subject to the withdrawal provisions set forth under the System. Wherever the term "contribution" is used, it shall be deemed to include contributions paid for and on behalf of a member by a school district, state college or university, State Board of Education, State Board of Career and Technology Education, or other state agency.

E. All participating employers shall provide a complete record of the total compensation paid to each employee, including any person who is a retired member of the System, whether or not employer and employee contributions are made with respect to such compensation. The employer shall provide the report required by this subsection on a monthly basis on a form or using such method as the Teachers' Retirement System of Oklahoma may require.

SECTION 3. AMENDATORY 70 O.S. 2011, Section 17-116.10, as amended by Section 4, Chapter 101, O.S.L. 2013 (70 O.S. Supp. 2015, Section 17-116.10), is amended to read as follows:

Section 17-116.10 A. Subject to the requirements of Section 6-101.2 of this title and any other applicable requirements of law, a member may enter into ~~post-retirement~~ postretirement employment with a public school of Oklahoma and still receive monthly retirement benefits subject to the following limitations:

1. A retired member is not eligible to be employed by the public schools of Oklahoma, in any capacity, for sixty (60) calendar days between the retiree's last day of ~~pre-retirement~~ preretirement public-education employment and any ~~post-retirement~~ postretirement public-education employment. For purposes of this section, the term "last day of ~~pre-retirement~~ preretirement employment" shall mean the last day the employee is required to be physically present on the job to complete the terms of the employment contract or agreement. Employment under any conditions during this time, volunteer services for the purpose of obtaining a paid position at a later date, or payment at a later time for services performed during this time period shall cause the forfeiture of all retirement benefits received during the period;

2. Unless otherwise provided in paragraph 3 of this subsection, earnings from the public schools may not exceed one-half (1/2) of the member's final average salary used in computing retirement

benefits, or the Earnings Limitation for employees allowed by the Social Security Administration, whichever is less. For retired members under the age of sixty-two (62) years, the limit on allowed earnings from the public schools of Oklahoma for employment for the performance of duties ordinarily performed by classified or nonclassified personnel shall be the lesser of Fifteen Thousand Dollars ($15,000.00) or one-half (1/2) of the member's final average salary used in computing retirement benefits unless the earnings limitation allowed by the Social Security Administration would be greater than Fifteen Thousand Dollars ($15,000.00). For retired members sixty-two (62) years of age or older the limit on allowed earnings from the public schools of Oklahoma for the performance of duties ordinarily performed by classified or nonclassified personnel shall be the lesser of Thirty Thousand Dollars ($30,000.00) or one-half (1/2) of the member's final average salary used in computing retirement benefits. For purposes of this paragraph, the following shall apply:

a. earnings shall mean "regular annual compensation" as defined in paragraph (25) of Section 17-101 of this title, and shall include any payment by a public school for services rendered by a retired member who is employed for any purpose whatsoever. Supplemental retirement payments paid by a former public school employer pursuant to subsection 9 of Section 17-105 of

this title or other state law shall not be considered as earnings,

b. the Earnings Limitation for employees allowed by the Social Security Administration to workers between the age of sixty-two (62) years and sixty-five (65) years shall apply to retired members below the age of sixty-two (62) years,

c. the limit on allowed earnings from the public schools shall be automatically adjusted effective the first day of January of each year to reflect the current Earnings Limitation for employees as determined from time to time by the Social Security Administration,

d. the earnings limit for the calendar year in which a member retires shall be one-twelfth (1/12) of the annual limit multiplied by the number of months the member is eligible to work and receive payments from the public schools of Oklahoma,

e. earnings in excess of the maximum limit on allowed earnings from public schools of Oklahoma shall result in a loss of future retirement benefits for the year the ~~post-retirement~~ postretirement employment was performed of One Dollar ($1.00) for each One Dollar ($1.00) earned over the maximum allowed earnings amount,

f. for those members age seventy (70) years and over, the earnings in excess of the maximum limit allowed earnings from public schools of Oklahoma shall be one-half (1/2) the member's final average salary used in computing retirement benefits. However, any retired member receiving benefits from the Retirement System who reached age seventy (70) years prior to July 1, 1991, shall not be restricted by the earnings limits pursuant to this subparagraph until January 1, 1994. To qualify for the provisions of this subparagraph, the member must be employed less than one-half (1/2) time compared to other full-time employees in similar positions;

3. Notwithstanding paragraph 2 of this subsection, a retired classified or nonclassified member who has been retired for thirty-six (36) or more months and who is employed by a public school to perform duties ordinarily performed by classified or nonclassified personnel shall be able to receive annualized earnings from the public school with no reduction in retirement benefits regardless of the amount of annualized earnings; and

4. A member shall be considered to be employed by a school district to perform the duties ordinarily performed by classified or nonclassified personnel if the member is hired by the school district in the member's individual capacity to perform the duties

or if the member performs the duties through employment with a proprietorship, partnership, corporation, limited liability company or partnership, or any other business structure that has agreed or contracted to provide the services to the school district.

5. Notwithstanding any other provisions of this section, a retired member of the Teachers' Retirement System of Oklahoma who is employed by a public school on or after the effective date of this act, but prior to the expiration of thirty-six (36) months from the date of the member's retirement may receive earnings from that employment not in excess of Eighteen Thousand Dollars ($18,000.00) per year without any reduction in the member's retirement benefit. If earnings from such employment exceed Eighteen Thousand Dollars ($18,000.00) per year, the provisions of subparagraph e of paragraph 2 of this subsection shall be applicable to reduce the retirement benefit to which the retired member would otherwise be entitled. If a retired member is employed by a public school for a period in excess of thirty-six (36) months after the member retires, there shall be no limit on allowed earnings of the member for the period of time the member is employed by a public school after the expiration of the thirty-six-month period and there shall be no reduction of the retirement benefit.

B. A public school district that employs a retired member shall be required to make contributions to the System for the retired

member in an amount as required in Section 17-108.1 and in paragraph 3 of subsection B of Section 17-116.2 of this title.

C. For purposes of this section, ~~post-retirement~~ postretirement employment of less than one thousand (1,000) hours per year with the Governor, the State Senate, the House of Representatives or the Legislative Service Bureau shall not be considered as ~~post-retirement~~ postretirement employment with a public school of Oklahoma.

D. The Board of Trustees of the Teachers' Retirement System of Oklahoma shall promulgate such rules as are necessary to implement the provisions of this section.

E. A member who has entered into ~~post-retirement~~ postretirement employment with a participating employer of the Teachers' Retirement System of Oklahoma must fully comply with all the provisions of the rules promulgated by the Board of Trustees pursuant to this section in order to continue receiving his or her monthly retirement benefit.

SECTION 4. This act shall become effective November 1, 2016.

Passed the House of Representatives the 10th day of February, 2016.

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Presiding Officer of the House
of Representatives

Passed the Senate the ___ day of _____, 2016.

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Presiding Officer of the Senate