SENATE FLOOR VERSION
April 10, 2013

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2077 By: McDaniel (Randy) of the House

and

Brinkley of the Senate

[public retirement systems - creating the Sooner Save Special Act - codification - effective date]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 935.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Sooner Save Special Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 935.2 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 2014, the Oklahoma Public Employees Retirement System ("System") shall establish an optional defined contribution system for those persons who first become employed by any participating employer of the System, as defined by paragraph

(25) of Section 902 of Title 74 of the Oklahoma Statutes, on or after July 1, 2014. Such eligible persons may make the election provided by this section to become participants in the defined contribution system.

B. A member eligible to participate in the defined contribution system authorized by this section shall have a period of ninety (90) days from his or her entry date in order to choose between participation in the defined benefit plan of the System established pursuant to Section 901 et seq. of Title 74 of the Oklahoma Statutes or to participate in the defined contribution retirement system authorized by this act.

C. The election required by subsection B of this section shall be irrevocable and shall govern the participation of the member for all years of service performed for any and all participating employers in the Oklahoma Public Employees Retirement System.

D. If a member fails to make the election required by this section within the time prescribed, the member shall become a participant in the defined contribution system and the member shall not accrue any service credit in the Oklahoma Public Employees Retirement System as established pursuant to Section 901 et seq. of Title 74 of the Oklahoma Statutes.

E. Employees who elect to participate in the defined contribution system within the ninety-day option period after his or her entry date, and those employees who fail to file an election and are automatically enrolled in the defined contribution system, shall be deemed to begin service in the defined contribution system on the entry date of the employee. Employees who elect to participate in the defined benefit plan of the System shall be deemed to begin participation and a member of the System on the first day of the month immediately following employment as provided in Section 911 of Title 74 of the Oklahoma Statutes. The employee and employer shall be responsible for the necessary contributions under either system or plan to cover any such time period.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 935.3 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Board of Trustees of the Oklahoma Public Employees Retirement System ("Board") shall take whatever action is reasonable and necessary to have the defined contribution system authorized by this act to be recognized as a tax-qualified plan as that term is defined by Section 401 et seq. of Title 26 of the United States Code, or any other applicable provisions of federal law. The Board is also authorized to establish a plan or use an existing plan established under Section 457 of Title 26 of the United States Code, if it is necessary to carry out the intent of this act. The Board shall take whatever action is reasonable and necessary to obtain confirmation from the Internal Revenue Service, that any such 457 plan is consistent with the requirements of Section 457.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 935.4 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Employee contributions to the defined contribution retirement system shall consist of a minimum of three percent (3.0%) of compensation.

B. Employee contributions to the defined contribution retirement system that are eligible for an employer match shall consist of a maximum of seven percent (7.0%) of compensation.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 935.5 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Employers of members who select the defined contribution retirement system shall match the employee contribution paid on a monthly basis according to the following schedule based on the same compensation amount used to compute the employee contribution amount:

Employee Contribution Rate	Employer Match
3.0%	3.0%
4.0%	4.0%
5.0%	5.0%
6.0%	6.0%
7.0%	7.0%

B. The initial three-percent employee contribution shall be the only mandatory contribution of an employee who selects the defined contribution retirement system created by this act. These funds shall be placed by the System in either a 401(a) plan or a 457 plan, to be determined by the Board to maintain the plan consistent with the Internal Revenue Code. Any employee contributions eligible to be matched under this section over the three-percent initial contribution shall be considered voluntary deferrals of compensation and placed in a 457 plan. All employer matching funds shall be placed in a 401(a) plan.

C. Any contribution rate that is more than the three-percent rate can be chosen by the member upon the member's initial option to participate, and can only be changed once per calendar year during an option period as the Board determines. The employee contribution rate chosen shall continue until the next option period.

D. The employer match as set forth in subsection A of this section may be increased at any time by the Legislature without affecting the then-existing rights of members and beneficiaries in order to encourage members to accumulate deferred income reserves for themselves and their dependents. The employer match may be decreased at any time by the Legislature without affecting the then-existing rights of members and beneficiaries in order to provide funding as may be needed to reduce the unfunded liabilities of the defined benefit plan as set forth in Section 901 et seq. of Title 74 of the Oklahoma Statutes.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 935.6 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by this section, employers shall make payment of the required matching amount as provided by Section 5 of this act within five (5) business days of the member's payroll pay date. The System shall ensure the payment is credited to the defined contribution system account of the member as soon as possible.

B. All employee contributions to the defined contribution system shall be effected by salary deductions from the salary of the employee and shall be remitted by the participating employer to the System for deposit into the defined contribution system account maintained on behalf of the employee.

C. Participating employers whose salary deductions and employer contributions are not remitted to the System through the Office of Management and Enterprise Services shall either:

1. Send all such remittances by electronic funds transfer; or

2. Place all such remittances in a bank account from which OPERS can debit the amount due,

both within five (5) business days of the payroll pay date of the member. Payroll data shall be remitted by the same deadline.

D. The Office of Management and Enterprise Services shall cooperate with the Board to ensure that any necessary programming changes are made to the state's payroll system to carry out the requirements of this act.

E. Each employer which has employees participating in the optional defined contribution system shall pay to the System in the same manner and at the same time required for contributions under this section an amount to reimburse the cost of administration of the defined contribution system, as determined by the Board.

1. The Board shall certify each year to the Office of Management and Enterprise Services and to participating employers whose salary deductions and employer contributions are not remitted to the System through the Office of Management and Enterprise Services, the determined amount for the administrative cost of the defined contribution system which will be required to be paid for each participant. The Board shall promulgate such rules as necessary to implement the provisions of this subsection and provide the methodology for the determination.

2. Each employer shall pay at least monthly to the System the sum sufficient to satisfy the obligation under this section as certified by the Board.

F. The account of each employee participating in the defined contribution system shall consist of the amount in the account plus credits representing employer and employee contributions, profits, income and other increments attributable to such contributions, and minus debits representing any losses, other decrements, or expenses under the system and any distributions made to the employee under the system.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 935.7 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Members shall at all times be vested at one hundred percent (100%) of the amount of their employee contributions. Members will have retirement discretion over these contributions within the available options offered by the Board.

B. Members shall be vested with respect to the employer matching amounts deposited into their defined contribution system account according to the following schedule based on years of participating service:

Year 1	20%
Year 2	40%
Year 3	60%
Year 4	80%
Year 5 and thereafter	100%

C. Members will have investment discretion over only the employer contributions in which they have become vested. The vesting percentages apply at the end of each full year of service above. The OPERS Board will establish default investment options for the nonvested portion of employer contributions as well as contributions received from members who do not select any investment options. To the extent that participants leave employment and have not vested in all of the employer contributions, the nonvested contributions may be used to offset costs of administering the plan.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 935.8 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Each participating employer shall pick up under the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986, as amended, and pay the contribution which the member is required by law to make to the System for all compensation earned after the date as of which an employee elects to participate in the defined contribution system. Although the contributions so picked up are designated as member contributions, such contributions shall be treated as contributions being paid by the employer in lieu of contributions by the member in determining tax treatment under the Internal Revenue Code of 1986, as amended, and such picked-up contributions shall not be includable in the gross income of the member until such amounts are distributed or made available to the member or the beneficiary of the member. The member, by the terms of this System, shall not have any option to choose to receive the contributions so picked up directly and the picked-up contributions must be paid by the employer to the System.

B. Contributions by the member into a 457 plan may not be picked up by the employer, but shall be a voluntary deferral of the employee's compensation. Participating employers within OPERS that are not eligible to participate in the SoonerSave 457 and 401(a) plans that existed prior to this act, and have established 457 plans for their employees, will have the obligation to ensure that their employees do not exceed the maximum annual contributions to a 457 plan under the Internal Revenue Code.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 935.9 of Title 74, unless there is created a duplication in numbering, reads as follows:

A member who is eligible to participate in the defined benefit plan of the System under paragraph (14) of Section 902 of Title 74 of the Oklahoma Statutes, and as limited by Section 2 of this act, shall be eligible for the matching amounts prescribed by Section 5 of this act.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 935.10 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Board of Trustees shall contract with one or more business entities in order to create a range of choices regarding investment of funds deposited into defined contribution system accounts. The investment options shall be substantially similar to the options provided to members of the Oklahoma Public Employees Retirement

System that maintain a Deferred Savings Incentive Plan account as offered by the System pursuant to the provisions of the Deferred Savings Incentive Plan. The Board may amend any of its existing contracts with its current service providers to perform substantially the same type of service the provider is currently performing for the Board, in order to facilitate the timely introduction of the new defined contribution system created by this act. Thereafter, the contracting process for the selection of service providers carrying out duties related to the administration of the plan shall be the same as the selection process for other providers selected by the Board under subsection D of Section 909.1 of Title 74 of the Oklahoma Statutes.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 935.11 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Notwithstanding any other provision of the statutes governing the System to the contrary, each participating employer shall remit to the System the difference between the amount of money which would be remitted to the System using the employer contribution rate required by either Section 920 or Section 920A of Title 74 of the Oklahoma Statutes and the amount of money required for the participating employer to make the required matching contribution amount on behalf of a member making the irrevocable election to participate in the defined contribution system authorized pursuant to the provisions of Section 5 of this act.

B. The System shall deposit the monies remitted to it by employers having members that participate in the defined contribution system created by this act, as described by subsection A of this section, into the existing defined benefit pension plan authorized pursuant to Section 901 et seq. of Title 74 of the Oklahoma Statutes in order to reduce the liabilities of the defined benefit pension plan.

SECTION 12. AMENDATORY 74 O.S. 2011, Section 913.4, as last amended by Section 113 of Enrolled Senate Bill No. 977 of the 1st Session of the 54th Oklahoma Legislature, 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 paragraph 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.

8. A statewide elected official or legislator whose first service as an elected official occurs on or after July 1, 2014, shall become a participant in the defined contribution system created by Sections 1 through 11 of this act and such elected official shall not accrue any service credit in the defined benefit plan of the Oklahoma Public Employees Retirement System created pursuant to Section 901 et seq. 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, 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. For members who joined the System on or after November 1, 2011, the number of years of credited service shall be based on actual years and months of credited service without rounding up or down.

SECTION 13. AMENDATORY 74 O.S. 2011, Section 920, as amended by Section 929, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012, Section 920), is amended to read as follows:

Section 920. (1) Effective July 1, 1994, every state agency which is a participating employer shall contribute to the System an amount equal to eleven and one-half percent (11 1/2%) of the monthly compensation of each member, but not in excess of Forty Thousand Dollars ($40,000.00).

(2) Effective July 1, 1995, every state agency which is a participating employer shall contribute to the System an amount equal to eleven and one-half percent (11 1/2%) of the monthly compensation of each member, not to exceed the allowable annual compensation as defined in paragraph (9) of Section 902 of this title.

(3) Effective July 1, 1996, every state agency which is a participating employer shall contribute to the System an amount equal to twelve percent (12%) of the monthly compensation of each member, not to exceed the allowable annual compensation defined in paragraph (9) of Section 902 of this title.

(4) Effective July 1, 1999, and through the fiscal year ending June 30, 2005, every state agency which is a participating employer shall contribute to the System an amount equal to ten percent (10%) of the monthly compensation of each member, not to exceed the allowable annual compensation defined in paragraph (9) of Section 902 of this title.

(5) Effective July 1, 2005 <u>Except as otherwise provided by subsection (11) of this section</u>, every state agency which is a

participating employer shall contribute an amount to the System equal to a percentage of monthly compensation of each member, not to exceed the allowable annual compensation defined in paragraph (9) of Section 902 of this title as follows:

July 1, 2005 - June 30, 2006 11 1/2%

July 1, 2006 - June 30, 2007 12 1/2%

July 1, 2007 - June 30, 2008 13 1/2%

July 1, 2008 - June 30, 2009 14 1/2%

July 1, 2009 - June 30, 2011 15 1/2%

July 1, 2011 - June 30, 2012 and each year thereafter 16 1/2%

(6) The Board shall certify, on or before November 1 of each year, to the Office of Management and Enterprise Services an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the System, to be paid by each participating employer to pay all liabilities which shall exist or accrue under the System, including amortization of the past service cost over a period of not to exceed forty (40) years from June 30, 1987, and the cost of administration of the System, as determined by the Board, upon recommendation of the actuary.

(7) The Office of Management and Enterprise Services and the Governor shall include in the budget and in the budget request for appropriations the sum required to satisfy the state's obligation

under this section as certified by the Board and shall present the same to the Legislature for allowance and appropriation.

(8) Each other participating employer shall appropriate and pay to the System a sum sufficient to satisfy the obligation under this section as certified by the Board.

(9) Each participating employer is hereby authorized to pay the employer's contribution from the same fund that the compensation for which said contribution is paid from or from any other funds available to it for such purpose.

(10) Forfeitures arising from severance of employment, death or for any other reason may not be applied to increase the benefits any member would otherwise receive under the System's law. However, forfeitures may be used to reduce an employer's contribution.

(11) Effective July 1, 2014, an employer shall be required to make payment to the Oklahoma Public Employees Retirement System of the amount described by subsection A of Section 11 of this act with respect to any employee who is a participant in the defined contribution system created pursuant to the provisions of Sections 1 through 11 of this act. The employer shall be required to make the required matching contribution amount for all employees that participate in the defined contribution system and to remit the difference between such amount and the amount the employer would otherwise have paid pursuant to the provisions of this section to the Oklahoma Public Employees Retirement System.

SECTION 14. AMENDATORY 74 O.S. 2011, Section 920A, is amended to read as follows:

Section 920A. A. Any county, county hospital, city or town, conservation district, circuit engineering district or any public or private trust in which a county, city or town participates and is the primary beneficiary, which is a participating employer and any eligible employee shall contribute to the System. The total employer and employee contributions shall be based on the allowable annual compensation as defined in paragraph (9) of Section 902 of this title. Except as provided for in this section, the employer shall not pay for the employee any of the employee contribution to the System.

B. For the fiscal year ending June 30, 2005, the total employer and employee contributions shall equal thirteen and one-half percent (13 1/2%) of the allowable monthly compensation of each member; provided, however, each participating employer listed in this section may set the amount of the employer and employee contribution to equal thirteen and one-half percent (13 1/2%) of the allowable monthly compensation of each member for compensation as provided in paragraph (9) of Section 902 of this title; provided, the employer contribution shall not exceed ten percent (10%) and the employee contribution shall not exceed eight and one-half percent (8 1/2%).

C. ~~The~~ Except as otherwise provided by subsection H of this section, the total employer and employee contributions for fiscal years following the fiscal year ending June 30, 2005, shall be as follows:

July 1, 2005 - June 30, 2006	15%
July 1, 2006 - June 30, 2007	16%
July 1, 2007 - June 30, 2008	17%
July 1, 2008 - June 30, 2009	18%
July 1, 2009 - June 30, 2010	19%
July 1, 2010 - June 30, 2011 and each fiscal year thereafter	20%

Such employee and employer contributions shall be based upon the allowable monthly compensation of each member for compensation as provided in paragraph (9) of Section 902 of this title. The maximum employer contribution of ten percent (10%) in subsection B of this section shall increase by one and one-half percent (1.5%) beginning in the fiscal year ending June 30, 2006, and one percent (1%) for each fiscal year thereafter until it reaches sixteen and one-half percent (16.5%). For such years, the employee contribution shall not exceed eight and one-half percent (8 1/2%).

D. For members who make the election pursuant to paragraph (2) of subsection A of Section 915 of this title, the employee contribution shall increase by two and ninety-one one-hundredths percent (2.91%). Such employee contribution increase shall be paid by the employee.

E. Each participating employer pursuant to the provisions of this section may pick up under the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986 and pay the contribution which the member is required by law to make to the System for all compensation earned after December 31, 1989. Although the contributions so picked up are designated as member contributions, such contributions shall be treated as contributions being paid by the participating employer in lieu of contributions by the member in determining tax treatment under the Internal Revenue Code of 1986 and such picked up contributions shall not be includable in the gross income of the member until such amounts are distributed or made available to the member or the beneficiary of the member. The member, by the terms of this System, shall not have any option to choose to receive the contributions so picked up directly and the picked up contributions must be paid by the participating employer to the System.

F. Member contributions which are picked up shall be treated in the same manner and to the same extent as member contributions made prior to the date on which member contributions were picked up by the participating employer. Member contributions so picked up shall be included in gross salary for purposes of determining benefits and contributions under the System.

G. The participating employer shall pay the member contributions from the same source of funds used in paying salary to the member, by effecting an equal cash reduction in gross salary of the member.

H. Effective July 1, 2014, an employer shall be required to make payment to the Oklahoma Public Employees Retirement System of the amount described by subsection A of Section 11 of this act with respect to any employee who is a participant in the defined contribution system created pursuant to the provisions of Sections 1 through 11 of this act. The employer shall be required to make the required matching contribution amount for all employees that participate in the defined contribution system and to remit the difference between such amount and the amount the employer would otherwise have paid pursuant to the provisions of this section to the Oklahoma Public Employees Retirement System.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 935.12 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by this section or in subsection D of Section 5 of this act, no alteration, amendment, or repeal of this act shall affect the then-existing rights of members and beneficiaries, but shall be effective only as to rights which would otherwise accrue hereunder as a result of services rendered by an employee after such alteration, amendment, or repeal. Any benefits, fund, property, or rights created by or accruing to any person under the provisions of this act shall not be subject to execution, garnishment or attachment, or any other process or claim whatsoever, and shall be unassignable, except as specifically provided by this section. Notwithstanding the foregoing, the Board may offset any amounts held by a participant in the plan or beneficiary to pay a judgment or settlement against a member or beneficiary for a crime involving the System, for a fraud or breach of the member's fiduciary duty to the System, or for funds or monies incorrectly paid to a member or a beneficiary, provided such offset is in accordance with the requirements of Section 401(a)(13) or similar provisions of the Internal Revenue Code. The offset applies to any assets held in the plan which may otherwise be payable to a member or beneficiary from the plan administered by the Board.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the funds payable with respect to a participant in the plan.

3. For purposes of the payment of marital property, to qualify as an alternate payee a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the Board and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,

b. the amount or percentage of the member's funds or assets to be paid by the System to the alternate payee,

c. the number of payments or period to which such order applies,

d. the characterization of the benefit as to marital property rights or child support, and

e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,

b. does not require the System to provide increased benefits, and

c. does not require the payment of funds or assets to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

7. A qualified domestic order shall not require payment of funds or assets to an alternate payee prior to the actual permitted distribution date or withdrawal of the related member.

8. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001 et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

10. The Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 16. AMENDATORY 74 O.S. 2011, Section 1316.2, as amended by Section 962, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012, Section 1316.2), is amended to read as follows:

Section 1316.2 A. Any employee, other than an education employee, who retires pursuant to the provisions of the Oklahoma Public Employees Retirement System or who has a vested benefit pursuant to the provisions of the Oklahoma Public Employees Retirement System may continue in force the health and dental insurance benefits authorized by the provisions of the Oklahoma Employees Insurance and Benefits Act, or other employer insurance benefits if the employer does not participate in the plans offered by the Office of Management and Enterprise Services, if such election to continue in force is made within thirty (30) days from the date of termination of service. Except as otherwise provided for in Section 840-2.27I of this title and subsection H of this section, health and dental insurance coverage may not be reinstated at a later time if the election to continue in force is declined. Vested employees other than education employees who have terminated service and are not receiving benefits and effective July 1, 1996, nonvested persons who have terminated service with more than eight

(8) years of participating service with a participating employer, who within thirty (30) days from the date of termination of service elect to continue such coverage, shall pay the full cost of said insurance premium at the rate and pursuant to the terms and conditions established by the Office. Provided also, any employee other than an education employee who commences employment with a participating employer on or after September 1, 1991, who terminates service with such employer on or after July 1, 1996, but who otherwise has insufficient years of service to retire or terminate service with a vested benefit pursuant to the provisions of the Oklahoma Public Employees Retirement System or to elect to continue coverage as a nonvested employee as provided in this section, but who, immediately prior to employment with the participating employer was covered as a dependent on the health and dental insurance policy of a spouse who was an active employee other than an education employee, may count as part of his or her credited service for the purpose of determining eligibility to elect to continue coverage under this section, the time during which said terminating employee was covered as such a dependent.

B. 1. Health insurance benefit plans offered pursuant to this section shall include:

a. indemnity plans offered through the Office,

b. managed care plans offered as alternatives to the indemnity plans offered through the Office,

c. Medicare supplements offered pursuant to the Oklahoma Employees Insurance and Benefits Act,

d. Medicare risk-sharing contracts offered as alternatives to the Medicare supplements offered through the Office. All Medicare risk-sharing contracts shall be subject to a risk adjustment factor, based on generally accepted actuarial principles for adverse selection which may occur, and

e. for the Oklahoma Public Employee Retirement System, other employer-provided health insurance benefit plans if the employer does not participate in the plans offered pursuant to the Oklahoma Employees Insurance and Benefits Act.

2. Health insurance benefit plans offered pursuant to this section shall provide prescription drug benefits, except for plans designed pursuant to the Medicare Prescription Drug Improvement and Modernization Act of 2003, for which provision of prescription drug benefits is optional, and except for plans offered pursuant to subparagraph e of paragraph 1 of this subsection.

C. 1. Designated public retirement systems shall contribute a monthly amount towards the health insurance premium of certain individuals receiving benefits from the public retirement system as follows:

a. a retired employee, other than an education employee, or an employee who elects to participate in the defined contribution system administered by the Oklahoma Public Employees Retirement System on or after July 1, 2014, who is receiving benefits from the Oklahoma Public Employees Retirement System after September 30, 1988, shall have One Hundred Five Dollars ($105.00), or the premium rate of the health insurance benefit plan, whichever is less, paid by the Oklahoma Public Employees Retirement System to the Board or other insurance carrier of the employer if the employer does not participate in the plans offered by the Office in the manner specified in subsection G of this section,

b. a retired employee or surviving spouse other than an education employee who is receiving benefits from the Oklahoma Law Enforcement Retirement System after September 30, 1988, is under sixty-five (65) years of age and is not otherwise eligible for Medicare shall have the premium rate for the health insurance benefit plan or One Hundred Five Dollars ($105.00), whichever is less, paid by the Oklahoma Law Enforcement Retirement System to the Office in the manner specified in subsection G of this section,

c. a retired employee other than an education employee who is receiving benefits from the Oklahoma Law Enforcement Retirement System after September 30, 1988, is sixty-five (65) years of age or older or who is under sixty-five (65) years of age and is eligible for Medicare shall have One Hundred Five Dollars ($105.00), or the premium rate of the health insurance benefit plan, whichever is less, paid by the Oklahoma Law Enforcement Retirement System to the Office in the manner specified in subsection G of this section, and

d. a retired employee other than an education employee who is receiving benefits from the Uniform Retirement System for Justices and Judges after September 30, 1988, shall have One Hundred Five Dollars ($105.00), or the premium rate of the health insurance plan, whichever is less, paid by the Uniform Retirement System for Justices and Judges to the Office in the manner specified in subsection G of this section.

2. Premium payments made pursuant to this section shall be made subject to the following conditions:

a. the health plan shall be authorized by the provisions of the Oklahoma Employees Insurance and Benefits Act, except that if an employer from which an employee retired or with a vested benefit pursuant to the provisions of the Oklahoma Public Employees Retirement System does not participate in the plans authorized by the provisions of the Oklahoma Employees Insurance and Benefits Act, the health plan will be the health insurance benefits of the employer from which the individual retired or vested,

b. for plans offered by the Oklahoma Employees Insurance and Benefits Act, the amount to be paid shall be determined pursuant to the provisions of this subsection and shall first be applied in whole or in part to the prescription drug coverage premium. Any remaining amount shall be applied toward the medical coverage premium,

c. for all plans, if the amount paid by the public retirement system does not cover the full cost of the elected coverage, the individual shall pay the remaining premium amount, and

d. payment shall be made by the retirement systems in the manner specified under subsection G of this section.

D. For any member of the Oklahoma Law Enforcement Retirement System killed in the line of duty, whether the member was killed in the line of duty prior to ~~the effective date of this act~~ May 18, 2005, or on or after ~~the effective date of this act~~ May 18, 2005, or if the member was on a disability leave status at the time of death, the surviving spouse or dependents of such deceased member of the Oklahoma Law Enforcement Retirement System may elect to continue or commence health and dental insurance benefits provided said dependents pay the full cost of such insurance and for deaths occurring on or after July 1, 2002, such election is made within thirty (30) days of the date of death. The eligibility for said benefits shall terminate for the surviving children when said children cease to qualify as dependents.

E. Effective July 1, 2004, a retired member of the Oklahoma Law Enforcement Retirement System who retired from the System by means of a personal and traumatic injury of a catastrophic nature and in the line of duty and any surviving spouse of such retired member and any surviving spouse of a member who was killed in the line of duty shall have one hundred percent (100%) of the retired member's or surviving spouse's health care premium cost, whether the member or surviving spouse elects coverage under the Medicare supplement or Medicare risk-sharing contract, paid by the Oklahoma Law Enforcement Retirement System to the Office in the manner specified in subsection H of this section. For plans offered by the Office, such contributions will first be applied in whole or in part to the prescription drug coverage premium, if any.

F. Dependents of a deceased employee who was on active work status or on a disability leave at the time of death or of a participating retardant or of any person who has elected to receive a vested benefit under the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges or the Oklahoma Law Enforcement Retirement System may continue the health and dental insurance benefits in force provided said dependents pay the full cost of such insurance and they were covered as eligible dependents at the time of such death and such election is made within thirty (30) days of date of death. The eligibility for said benefits shall terminate for the surviving children when said children cease to qualify as dependents.

G. The amounts required to be paid by the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges and the Oklahoma Law Enforcement Retirement System pursuant to this section shall be forwarded no later than the tenth day of each month following the month for which payment is due by the Oklahoma Public Employees Retirement System Board of Trustees or the Oklahoma Law Enforcement Retirement Board to the Office for deposit in the Health, Dental and Life Insurance Reserve Fund or to another insurance carrier as provided for in subsection H of Section 1315 of this title.

H. Upon retirement from employment of the Board of Regents of the University of Oklahoma, any person who was or is employed at the George Nigh Rehabilitation Institute and who transferred employment pursuant to Section 3427 of Title 70 of the Oklahoma Statutes, any person who was employed at the Medical Technology and Research

Authority and who transferred employment pursuant to Section 7068 of this title, and any person who is a member of the Oklahoma Law Enforcement Retirement System pursuant to the authority of Section 2-314 of Title 47 of the Oklahoma Statutes may participate in the benefits authorized by the provisions of the Oklahoma Employees Insurance and Benefits Act for retired participants, including health, dental and life insurance benefits, if such election to participate is made within thirty (30) days from the date of termination of service. Life insurance benefits for any such person who transferred employment shall not exceed the coverage the person had at the time of such transfer. Retirees who transferred employment and who participate pursuant to this paragraph shall pay the premium for elected benefits less any amounts paid by a state retirement system pursuant to this section.

SECTION 17. AMENDATORY 74 O.S. 2011, Section 1707, as amended by Section 986, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012, Section 1707), is amended to read as follows:

Section 1707. A. Effective January 1, 1998, for each qualified participant as defined in this section who is a state employee as defined in this section, the Oklahoma Public Employees Retirement System shall pay each month from funds appropriated or deposited to the Oklahoma State Employees Deferred Savings Incentive Plan Fund created pursuant to this section the sum of Twenty-five Dollars ($25.00) to a plan established pursuant to the Internal Revenue

Code, Section 401(a), for the benefit of the employee; provided, if monies in the fund are insufficient to fully fund the contributions in any month, payments shall be suspended until such time as sufficient monies are available. Employees receiving payroll other than monthly shall have an amount contributed which is equivalent to Twenty-five Dollars ($25.00) per month.

B. For the purposes of this section, "qualified participant" means a state employee as defined in this section who is an active participant in the Oklahoma State Employees Deferred Compensation Plan making deferrals of at least Twenty-five Dollars ($25.00) per month. <u>A qualified participant shall not include an employee who elected to participate in the defined contribution system administered by the Oklahoma Public Employees Retirement System on or after July 1, 2014.</u> Effective July 1, 2000, each qualified participant shall be eligible for a contribution of Twenty-five Dollars ($25.00) to the Oklahoma State Employees Deferred Savings Incentive Plan beginning with the first employee deferral into the Oklahoma State Employees Deferred Compensation Plan. The Director of the Office of Management and Enterprise Services shall be responsible for the provision of such information and assistance as may be necessary to determine which employees are qualified participants and shall provide for appropriate payroll transactions to accomplish contributions to the Oklahoma State Employees Deferred Savings Incentive Plan and the Oklahoma State Employees Deferred

Compensation Plan. The Oklahoma Public Employees Retirement System shall be responsible for establishing rules and plan documents for administration of such contributions. Funds so credited shall be held and invested in the same manner as the Oklahoma State Employees Deferred Compensation Plan, as provided in Section 1701 of this title.

C. For the purposes of this section, "state employee" means any officer or employee of the executive, legislative, or judicial branches of the government of this state who is an active member of a public retirement system of this state, but does not include:

1. Employees of the public elementary, secondary, or area vocational school districts;

2. Employees of The Oklahoma State System of Higher Education except employees of the Oklahoma State Regents of Higher Education, employees of the governing boards and employees of the Board of Regents of the University of Oklahoma who are participating members of the Oklahoma Public Employees Retirement System;

3. Persons on temporary, student, internship, or other limited-term appointments except for Executive Fellows in the Carl Albert Public Internship Program created in Section 840-3.4 of this title; or

4. Persons employed pursuant to Section 1.6a of Title 53 of the Oklahoma Statutes.

D. No public official shall be able to make contributions to the Section 401(a) plan described by this section during a term of office which commenced prior to July 1, 1997. A public official may make contributions to the Section 401(a) plan described by this section during a term of office which commences after July 1, 1997. No legislator shall be eligible to make contributions to the Section 401(a) plan described by this section until such contributions have been approved by the Board on Legislative Compensation. The provisions of this subsection shall be applicable only in the event that the Plan permits employee contributions.

E. There is hereby created in the State Treasury a revolving fund to be designated the "Oklahoma State Employees Deferred Savings Incentive Plan Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies the Legislature may appropriate or transfer to the fund and any monies contributed for the fund from any other sources, public or private. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Public Employees Retirement System for the matching of deferred compensation contributions pursuant to this section and in accordance with rules promulgated by the Oklahoma Public Employees Retirement System and for reimbursement of expenses for administration of the Deferred Savings Incentive Plan and the Oklahoma State Employees Deferred Compensation Plan. Expenditures from the fund shall be made by warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

F. Effective July 1, 2000, every employer which has state employees participating in the Oklahoma State Employees Deferred Savings Incentive Plan shall pay to the Fund an amount equal to Twenty-five Dollars ($25.00) each month for each qualified participant as defined in this section, along with an amount to reimburse the cost of administration of the Oklahoma State Employees Deferred Savings Incentive Plan and the Oklahoma State Employees Deferred Compensation Plan for each qualified participant, as determined by the Board.

1. The Board shall certify each year to the Office of Management and Enterprise Services the determined amount for the administrative cost of the Oklahoma State Deferred Savings Incentive Plan and the Oklahoma State Employees Deferred Compensation Plan which will be required to be paid for each qualified participant. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection and provide the methodology for the determination.

2. Each employer shall pay at least monthly to the Fund the sum sufficient to satisfy the obligation under this section as certified by the Board.

3. Each employer is hereby authorized to pay the employer's contribution from the same fund that the compensation for which said contribution is paid from or from any other funds available to it for such purpose.

SECTION 18. This act shall become effective November 1, 2013.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
April 10, 2013 - DO PASS AS AMENDED