

## STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

COMMITTEE SUBSTITUTE  
FOR

HOUSE BILL NO. 2553

By: McDaniel

COMMITTEE SUBSTITUTE

An Act relating to the Teachers' Retirement System of Oklahoma; amending 70 O.S. 2011, Sections 17-102.3, 17-105, as last amended by Section 1, Chapter 270, O.S.L. 2017 and 17-116.2C (70 O.S. Supp. 2017, Section 17-105), which relate to administration of the System; authorizing termination of certain tax-sheltered annuity program; prescribing procedures related to termination; modifying method for determination of disability retirements; modifying procedures for annual medical examination; and providing an effective date.

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 17-102.3, is amended to read as follows:

Section 17-102.3 The Tax-Sheltered Annuity Program provided by Section 17-101 et seq. of this title shall satisfy the applicable qualification requirements for grandfathered governmental tax-sheltered annuity programs as specified in 26 U.S.C. Section 403(b) and the relevant regulatory provisions and guidance related thereto. In order to satisfy these requirements and guidelines, the Teachers'

1 Retirement Tax-Sheltered Annuity Program shall be subject to the  
2 following provisions, notwithstanding any other provision of the law  
3 governing the Oklahoma Teachers' Retirement System:

4 (1) The Board of Trustees shall administer and distribute the  
5 corpus and income of the Tax-Sheltered Annuity Program to members  
6 and their beneficiaries pursuant to the applicable requirements  
7 under 26 U.S.C. Section 403(b), relevant regulatory provisions and  
8 guidance under 26 U.S.C. Section 403(b), and in accordance with the  
9 law governing the Oklahoma Teachers' Retirement System.

10 (2) All benefits paid from the retirement system shall be  
11 distributed in accordance with the applicable requirements of 26  
12 U.S.C. Sections 403(b)(10) and 401(a)(9) and the regulations  
13 thereto.

14 (3) To the extent required by 26 U.S.C. Sections 403(b)(10) and  
15 401(a)(31), the retirement system shall allow members and qualified  
16 beneficiaries to elect a direct rollover of eligible distributions  
17 to another eligible retirement plan.

18 (4) To the extent required under 26 U.S.C. Section 403(b)(11)  
19 and the regulations thereto, distributions under the Tax-Sheltered  
20 Annuity Program shall only be paid when the member attains the age  
21 of fifty-nine and one-half (59 1/2) years, separates from service,  
22 dies, becomes disabled, or in the case of hardship.

23 (5) The Board of Trustees may terminate the Tax-Sheltered  
24 Annuity Program (the "Program") administered under 26 U.S.C.,

1 Section 403(b). The Board of Trustees shall do so in accordance  
2 with the requirements of federal tax law and in a way that is  
3 designed to minimize financial harm to the participants in the  
4 Program. To assist in minimizing any such harm, an Employer that  
5 sponsors a tax-sheltered annuity program under Section 403(b)  
6 ("Local Program") and that has an active or inactive participant  
7 with an account balance under the Program, shall permit the provider  
8 administering the Program on the effective date of such termination  
9 ("Program Provider") to be a provider in the Local Program and to  
10 offer the same investment options to participants that were  
11 available under the Program. The Employer is required to permit the  
12 Program Provider to remain a provider under the Local Program for a  
13 two-year period beginning with the first day of the Local Program's  
14 plan year following the effective date of such termination;  
15 provided, that this requirement shall apply with respect to an  
16 investment option only so long as the Program Provider continues to  
17 lawfully provide the investment option. Any participant in the  
18 Local Program may choose any other approved provider under the Local  
19 Program. An Employer that sponsors a Local Program that includes  
20 the Program as the only investment option, and that has an active or  
21 inactive participant with an account balance under the Program,  
22 shall permit the Program Provider to be a provider in that Local  
23 Program subject to the above terms, or the Employer's Local Program  
24 shall terminate at such time that the Program is terminated, in

1 which case the Employer shall be prohibited from contributing to any  
2 403(b) program on behalf of any employee for the twelve-month period  
3 required under Treasury Regulation Section 1.403(b)-10.

4 SECTION 2. AMENDATORY 70 O.S. 2011, Section 17-105, as  
5 last amended by Section 1, Chapter 270, O.S.L. 2017 (70 O.S. Supp.  
6 2017, Section 17-105), is amended to read as follows:

7 Section 17-105. (1) (a) Any member who has attained age  
8 fifty-five (55) or who has completed thirty (30) years of creditable  
9 service, as defined in Section 17-101 of this title, or for any  
10 person who initially became a member prior to July 1, 1992,  
11 regardless of whether there were breaks in service after July 1,  
12 1992, whose age and number of years of creditable service total  
13 eighty (80) may be retired upon proper application for retirement on  
14 forms established by the System and executing a retirement contract.  
15 Such a retirement date will also apply to any person who became a  
16 member of the sending system as defined in Section 17-101 et seq. of  
17 this title, prior to July 1, 1992, regardless of whether there were  
18 breaks in service after July 1, 1992. Any person who became a  
19 member after June 30, 1992, but prior to November 1, 2011, whose age  
20 and number of years of creditable service total ninety (90) may be  
21 retired upon proper application for retirement and executing a  
22 retirement contract. Any person who becomes a member on or after  
23 November 1, 2011, who attains the age of sixty-five (65) years or  
24 who reaches a normal retirement date pursuant to subparagraph (d) of

1 paragraph (24) of Section 17-101 of this title having attained a  
2 minimum age of sixty (60) years may be retired upon proper  
3 application for retirement and executing a retirement contract. The  
4 application shall be filed on the form provided by the Board of  
5 Trustees for this purpose, not less than sixty (60) days before the  
6 date of retirement, provided that the Executive Director may waive  
7 the sixty-day deadline for good cause shown as defined by the Board.

8           1. The employer shall provide the System with the  
9           following information for a retiring member, no later  
10          than the fifteenth day of the month of retirement:  
11          last day physically on the job; last day on payroll;  
12          any regular compensation not already reported to the  
13          System; and final unused sick leave balance.

14          2. Failure to submit this information by the deadline, or  
15          errors in submitted information that result in a  
16          disqualification of retirement eligibility shall be  
17          the responsibility of the employer. In cases where  
18          the error results in disqualification of retirement  
19          eligibility, it is the employer's responsibility to  
20          reemploy the member, or retain the member on the  
21          payroll, for the time period required to reach  
22          eligibility, not exceeding two (2) months.

23          (b) An individual who becomes a member of the Teachers'  
24 Retirement System after July 1, 1967, shall be employed by the

1 public schools, state colleges or universities of Oklahoma for a  
2 minimum of five (5) years and be a contributing member of the  
3 Teachers' Retirement System of Oklahoma for a minimum of five (5)  
4 years to qualify for monthly retirement benefits from the Teachers'  
5 Retirement System of Oklahoma.

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

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

19 (3) No member shall receive a lesser retirement benefit than he  
20 or she would have received under the law in effect at the time he or  
21 she retired. Any individual under the Teachers' Retirement System,  
22 who through error in stating the title of the position which he or  
23 she held, may, at the discretion of the Board of Trustees, be  
24

1 changed from the nonclassified optional group to the classified  
2 group for the purpose of calculating retirement benefits.

3 Any individual regardless of residence, who has a minimum of ten  
4 (10) years of teaching in Oklahoma schools prior to July 1, 1943, or  
5 who taught in Oklahoma schools prior to 1934 and thereafter taught a  
6 minimum of ten (10) years and who does not qualify under the present  
7 retirement System, or who has a minimum of thirty (30) years of  
8 teaching in Oklahoma schools and has reached seventy (70) years of  
9 age prior to July 1, 1984, and is not otherwise eligible to receive  
10 any benefits from the retirement system shall receive a minimum of  
11 One Hundred Fifty Dollars (\$150.00) per month in retirement benefits  
12 from the Teachers' Retirement System of Oklahoma plus any general  
13 increase in benefits for annuitants as may be provided hereafter by  
14 the Legislature. Each individual must apply to the Teachers'  
15 Retirement System for such benefit and provide evidence to the  
16 Teachers' Retirement System that the service was actually rendered.  
17 The surviving spouse of any person who made application for the  
18 benefit provided for by this paragraph during his or her lifetime  
19 but did not receive said benefit may submit an application to the  
20 System for payment of said benefit for those months during the  
21 lifetime of the deceased person that he or she was eligible for but  
22 did not receive the benefit. Upon approval of the application by  
23 the Board of Trustees, the benefit shall be paid to the surviving  
24 spouse in one lump sum.

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

4       (5) Upon application of a member who is actively engaged in  
5 teaching in Oklahoma or his or her employer, any member who has been  
6 a contributing member for ten (10) years may be retired by the ~~Board~~  
7 ~~of Trustees~~ System subsequent to the execution and filing thereof,  
8 on a disability retirement allowance, provided that it is found by  
9 the ~~Board of Trustees~~ Medical Board after medical examination of  
10 such member by a duly qualified physician that such member is  
11 mentally or physically incapacitated for further performance of  
12 duty, that such incapacity is likely to be permanent, and that such  
13 member should be retired. The ~~Board of Trustees~~ System shall rely  
14 on and give due full consideration to the conclusions and  
15 recommendations in the certified written report of the Medical Board  
16 of the Teachers' Retirement System regarding the disability  
17 application of such member. If the Medical Board does not find that  
18 a member applying for disability retirement is mentally or  
19 physically incapacitated for performance of duty or otherwise  
20 eligible for a disability retirement, the application shall then be  
21 considered by the Board of Trustees. If a member is determined to  
22 be eligible for disability benefits pursuant to the Social Security  
23 System, then such determination shall entitle the member to the  
24 authorized disability retirement allowance provided by law. For

1 members who are not eligible for disability benefits pursuant to the  
2 Social Security System, the Board of Trustees and Medical Board  
3 shall apply the same standard for which provision is made in the  
4 first two sentences of this subsection for determining the  
5 eligibility of a person for such disability benefits in making a  
6 determination of eligibility for disability benefits as authorized  
7 by this subsection.

8       (6)   (a)   A member who at the time of retirement has been found  
9 to be permanently physically or mentally incapacitated to perform  
10 the necessary duties to continue in his or her current position  
11 shall receive a minimum monthly retirement payment for life or until  
12 such time as the member may be found to be recovered to the point  
13 where he or she may return to teaching. Any member retired before  
14 July 1, 1992, shall be eligible to receive the monthly retirement  
15 allowance herein provided, but such payment shall not begin until  
16 the first payment due him or her after July 1, 1992, and shall not  
17 be retroactive. The Board of Trustees is empowered to make such  
18 rules and regulations as it considers proper to preserve equity in  
19 retirements under this provision, which shall include a provision to  
20 protect the rights of the member's spouse.

21       (b)   A member who has qualified for retirement benefits under  
22 disability retirement shall have the total monthly payment deducted  
23 from his or her accumulated contributions plus interest earned and  
24 any money remaining in the member's account after the above

1 deductions at the death of the member shall be paid in a lump sum to  
2 the beneficiary or to the estate of the member. Provided, if the  
3 deceased disabled member had thirty (30) years or more of creditable  
4 service and the death occurred after June 30, 1981, and death  
5 occurred prior to the disabled member receiving twelve monthly  
6 retirement payments, a surviving spouse may elect to receive the  
7 retirement benefit to which the deceased member would have been  
8 entitled at the time of death under the Option 2 Plan of Retirement  
9 provided for in subsection (8) of this section in lieu of the death  
10 benefit provided for in this subsection and in subsection (12) of  
11 this section.

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

23 (d) Should the Medical Board report and certify to the Board of  
24 Trustees that such disabled annuitant is engaged in or is able to

1 engage in a gainful occupation paying more than the difference  
2 between his or her retirement allowance and the average final  
3 compensation, and should the Board of Trustees concur in such report  
4 then the amount of his or her pension shall be reduced to an amount  
5 which, together with his or her retirement allowance and that amount  
6 earnable by him or her, shall equal the amount of his or her average  
7 final compensation. Should his or her earning capacity be later  
8 increased, the amount of his or her pension may be further modified,  
9 provided the new pension shall not exceed that amount of the pension  
10 originally granted nor an amount, which when added to the amount  
11 earnable by the member, together with his or her annuity, equals the  
12 amount of his or her average final compensation.

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

22 (7) Should a member before retirement under Section 1-101 et  
23 seq. of this title make application for withdrawal duly filed with  
24 the System, not earlier than four (4) months after the date of

1 termination of such service as a teacher, the contribution standing  
2 to the credit of his or her individual account in the Teachers'  
3 Savings Fund shall be paid to him or her or, in the event of his or  
4 her death before retirement, shall be paid to such person or persons  
5 as he or she shall have nominated by written designation, duly  
6 executed and filed with the System; provided, however, if there be  
7 no designated beneficiary surviving upon such death, such  
8 contributions shall be paid to his or her administrators, executors,  
9 or assigns, together with interest as hereinafter provided. In lieu  
10 of a lump-sum settlement at the death of the member, the amount of  
11 money the member has on deposit in the Teachers' Savings Fund and  
12 the money the member has on deposit in the Teachers' Deposit Fund  
13 may be paid in monthly payments to a designated beneficiary, who  
14 must be the spouse, under the Maximum or Option 1 Plan of Retirement  
15 providing the monthly payment shall be not less than Twenty-five  
16 Dollars (\$25.00) per month. The monthly payment shall be the  
17 actuarial equivalent of the amount becoming due at the member's  
18 death based on the sex of the spouse and the age the spouse has  
19 attained at the last birthday prior to the member's death. Provided  
20 further, if there be no designated beneficiary surviving upon such  
21 death, and the contributions standing to the credit of such member  
22 do not exceed Two Hundred Dollars (\$200.00), no part of such  
23 contributions shall be subject to the payment of any expense of the  
24 last illness or funeral of the deceased member or any expense of

1 administration of the estate of such deceased and the System, upon  
2 satisfactory proof of the death of such member and of the name or  
3 names of the person or persons who would be entitled to receive such  
4 contributions under the laws of descent and distribution of the  
5 state, may authorize the payment of accumulated contributions to  
6 such person or persons. A member terminating his or her membership  
7 by withdrawal after June 30, 2003, shall have the interest computed  
8 at a rate of interest determined by the System and paid to him or  
9 her subject to the following schedule:

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

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

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

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

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

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

6       (b)   A member may select the option under which he or she  
7 desires to retire at the end of the school year in which he or she  
8 attains age seventy (70) and the option shall be binding and cannot  
9 be changed. Provided further that if a member retires before age  
10 seventy (70), no election of an option shall be effective in case an  
11 annuitant dies before the first payment due under such option has  
12 been received.

13       (c)   The first payment of any benefit selected shall be made on  
14 the first day of the month following approval of the retirement by  
15 the System. If the named designated beneficiary under Option 2 or 3  
16 dies at any time after the member's retirement date, but before the  
17 death of the member, the member shall return to the retirement  
18 benefit, including any postretirement benefit increases the member  
19 would have received had the member not selected Option 2 or 3 of  
20 this subsection. The benefit shall be determined at the date of  
21 death of the designated beneficiary or July 1, 1994, whichever is  
22 later. This increase shall become effective the first day of the  
23 month following the date of death of the designated beneficiary or  
24 July 1, 1994, whichever is later, and shall be payable for the

1 member's remaining lifetime. The member shall notify the Teachers'  
2 Retirement System of Oklahoma of the death of the designated  
3 beneficiary in writing. In the absence of the written notice being  
4 filed by the member notifying the Teachers' Retirement System of  
5 Oklahoma of the death of the designated beneficiary within six (6)  
6 months of the date of death, nothing in this subsection shall  
7 require the Teachers' Retirement System of Oklahoma to pay more than  
8 six (6) months of retrospective benefits increase.

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

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

22       Option 3. A member receives a reduced retirement allowance for  
23 life. Upon the death of the member one-half (1/2) of the retirement  
24 allowance paid the member shall be continued throughout the life of

1 the designated beneficiary. A written designation of a beneficiary  
2 must be duly acknowledged and filed with the System at the time of  
3 the member's retirement and, except as provided in paragraph (e) of  
4 this subsection, cannot be changed after the effective date of the  
5 member's retirement; or

6 Option 4. Some other benefit or benefits shall be paid either  
7 to the member or to such person or persons as he or she shall  
8 nominate, provided such other benefit or benefits, together with the  
9 reduced retirement allowance, shall be certified by the actuary to  
10 be of equivalent actuarial value to his or her retirement allowance  
11 and shall be approved by the System.

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

16 (e) A member who chose the maximum retirement benefit plan at  
17 the time of retirement may make a one-time election to choose either  
18 Option 2 or 3 and name the member's spouse as designated beneficiary  
19 if the member marries after making the initial election. Such an  
20 election shall be made by July 1, 2011, or within one (1) year of  
21 the date of marriage, whichever is later. The member shall provide  
22 proof of a member's good health before the Board of Trustees will  
23 permit a change to either Option 2 or 3 and the naming of a  
24 designated beneficiary. A medical examination conducted by a

1 licensed physician is required for purposes of determining good  
2 health. Such examination must be approved by the Medical Board.  
3 The member shall be required to provide proof of age for the new  
4 beneficiary. The Board of Trustees shall adjust the monthly benefit  
5 to the actuarially equivalent amount based on the new designated  
6 beneficiary's age. The Board of Trustees shall promulgate rules to  
7 implement the provisions of this subsection.

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

16 (g) Any individual who is eligible to be a beneficiary of a  
17 member under this subsection, and who is also a beneficiary of a  
18 trust created under the Oklahoma Discretionary and Special Needs  
19 Trust Act, Section 175.81 et seq. of Title 60 of the Oklahoma  
20 Statutes, or a comparable Trust Act created under the laws of  
21 another state, hereinafter collectively referred to as "Trust Acts",  
22 may be a beneficiary under this subsection by having the trustee of  
23 the trust established for the benefit of that individual named as  
24 the legal beneficiary under this subsection. The age of that

beneficiary shall be used for calculating any benefit payable to the trust under this subsection. The beneficiary of such a trust shall be treated as the beneficiary under this subsection except that payments of any benefits due under this subsection shall be payable to the lawfully appointed trustee of the trust. The obligation of the System to pay the beneficiary under this subsection shall be satisfied by payment to the trustee whom the System, in good faith, believes to be the lawfully appointed trustee. Any conflict between the statutes creating and governing the Teachers' Retirement System in Section 17-101 et seq. of this title and the provisions of any Trust Act referred to above shall be resolved in favor of the statutes governing the System. If an eligible beneficiary is named at the time of retirement, and becomes a beneficiary of a trust under one of the Trust Acts described herein after that time, the System will acknowledge the trust as the beneficiary upon the submission of adequate documentation of the existence of the trust. All other provisions of this subsection shall apply to these subsequently created trusts.

(h) The Board of Trustees of the System may recognize other trusts set up for the benefit of individuals otherwise eligible to be named as a beneficiary under this subsection by administrative rule if it can be done without undue additional administrative expense of the System.

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

19       The governing board of any such public school may adopt rules  
20 and regulations of general application outlining the terms and  
21 conditions under which such additional retirement benefits shall be  
22 paid, and all decisions of such board shall be final.  
23  
24

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

4       (11) Upon the death of an in-service member, the System shall  
5 pay to the designated beneficiary of the member or, if there is no  
6 designated beneficiary or if the designated beneficiary predeceases  
7 the member, to the estate of the member, the sum of Eighteen  
8 Thousand Dollars (\$18,000.00) as a death benefit. Provided, if the  
9 deceased member had ten (10) years or more of creditable service and  
10 the death occurred after February 1, 1985, the member's designated  
11 beneficiary may elect to receive the retirement benefit to which the  
12 deceased member would have been entitled at the time of death under  
13 the Option 2 plan of retirement in lieu of the death benefit  
14 provided for in this subsection. Provided further, the option  
15 provided in this subsection is only available when the member has  
16 designated one individual as the designated beneficiary. The  
17 beneficiary or beneficiaries of death benefits in the amount not to  
18 exceed Eighteen Thousand Dollars (\$18,000.00), but exclusive of any  
19 retirement benefit received by an electing beneficiary based upon  
20 creditable service performed by the deceased member, which are  
21 provided pursuant to this subsection may elect to disclaim such  
22 death benefits in which case such benefits will be transferred to a  
23 person licensed as a funeral director or to a lawfully recognized  
24 business entity licensed as required by law to provide funeral

1 services for the deceased member. The qualified disclaimer must be  
2 in writing and will be an irrevocable and an unqualified refusal to  
3 accept all or a portion of the death benefit. It must be received  
4 by the transferor no more than nine (9) months after the later of  
5 the day the transfer creating the interest in the disclaiming person  
6 is made or the day the disclaiming person attains age twenty-one  
7 (21). The interest in the death benefits must pass without  
8 direction by the disclaiming person to another person.

9 (12) Upon the death of an annuitant who has contributed to the  
10 System, the retirement system shall pay to the designated  
11 beneficiary of the annuitant or, if there is no designated  
12 beneficiary or if the designated beneficiary predeceases the  
13 annuitant, to the estate of the annuitant, the sum of Five Thousand  
14 Dollars (\$5,000.00) as a death benefit. The beneficiary or  
15 beneficiaries of benefits provided pursuant to this subsection may  
16 elect to disclaim such death benefits in which case such benefits  
17 will be transferred to a person licensed as a funeral director or to  
18 a lawfully recognized business entity licensed as required by law to  
19 provide funeral services for the deceased member. The qualified  
20 disclaimer must be in writing and will be an irrevocable and an  
21 unqualified refusal to accept all or a portion of the death benefit.  
22 It must be received by the transferor no more than nine (9) months  
23 after the later of the day the transfer creating the interest in the  
24 disclaiming person is made or the day the disclaiming person attains

1 age twenty-one (21). The interest in the death benefits must pass  
2 without direction by the disclaiming person to another person. The  
3 benefit payable pursuant to this subsection shall be deemed, for  
4 purposes of federal income taxation, as life insurance proceeds and  
5 not as a death benefit if the Internal Revenue Service approves this  
6 provision pursuant to a private letter ruling request which shall be  
7 submitted by the board of trustees of the System for that purpose.

8 (13) Upon the death of a member who dies leaving no living  
9 beneficiary or having designated his or her estate as beneficiary,  
10 the System may pay any applicable death benefit, unpaid  
11 contributions, or unpaid benefit which may be subject to probate, in  
12 an amount of Twenty-five Thousand Dollars (\$25,000.00) or less,  
13 without the intervention of the probate court or probate procedure  
14 pursuant to Section 1 et seq. of Title 58 of the Oklahoma Statutes.

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

19 1. The member's valid last will and testament, trust  
20 documents or affidavit that a will does not exist;

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

23 a. the names and signatures of all claiming heirs to  
24 the deceased member's estate including the

1                   claiming heirs' names, relationship to the  
2                   deceased, current addresses, tax I.D. numbers if  
3                   known and current telephone numbers,

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

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

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

19          3.    A written agreement or agreements signed by all  
20                  claiming heirs of the deceased member which provides  
21                  that the claiming heirs release, discharge and hold  
22                  harmless the System from any and all liability,  
23                  obligations and costs which it may incur as a result  
24

1 of making a payment to any of the deceased member's  
2 heirs;

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

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

10 (b) The Executive Director of the System shall retain complete  
11 discretion in determining which requests for probate waiver may be  
12 granted or denied, for any reason. Should the System have any  
13 question as to the validity of any document presented by the  
14 claiming heirs, or as to any statement or assertion contained  
15 therein, the probate requirement provided for in Section 1 et seq.  
16 of Title 58 of the Oklahoma Statutes, shall not be waived.

17 (c) After paying any death benefits or unpaid contributions to  
18 any claiming heirs as provided pursuant to this subsection, the  
19 System is discharged and released from any and all liability,  
20 obligation and costs to the same extent as if the System had dealt  
21 with a personal representative of the deceased member. The System  
22 is not required to inquire into the truth of any matter specified in  
23 this subsection or into the payment of any estate tax liability.  
24

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

7       SECTION 3.       AMENDATORY       70 O.S. 2011, Section 17-116.2C,  
8 is amended to read as follows:

9       Section 17-116.2C A. As used in this section:

10      1. "Contribution deficit" means the amount of money computed  
11 for an eligible employee by multiplying the employee contribution  
12 rate in effect for any period of service performed on or after July  
13 1, 1987, through June 30, 1995, multiplied by the amount of salary  
14 earned by the member in excess of the applicable maximum  
15 compensation level of the member for such period with interest at  
16 the rate of ten percent (10%) per year compounded annually;  
17 provided, that for the designated fiscal years prescribed by  
18 subparagraphs a and b of this paragraph, the contribution deficit  
19 payment shall be adjusted to:

- 20           a.   fifty percent (50%) of the total amount of the  
21               computation otherwise prescribed by this paragraph for  
22               the fiscal year ending June 30, 2007,

1           b.    seventy-five percent (75%) of the total amount of the  
2                   computation otherwise prescribed by this paragraph for  
3                   the fiscal year ending June 30, 2008, and

4           c.    one hundred percent (100%) of the total amount of the  
5                   computation otherwise prescribed by this paragraph for  
6                   the fiscal year ending June 30, 2009, and for each  
7                   fiscal year thereafter;

8           2.    "Eligible employee" means a member of the System who has not  
9           retired prior to the effective date of this act and who has  
10          performed service at any time prior to June 30, 1995, and who  
11          fulfills the requirements of this act with respect to inclusion of  
12          pre-cap removal years of service in a retirement benefit computation  
13          and:

14           a.    who has already reached a normal retirement age prior  
15                   to the effective date of this act and has not retired  
16                   prior to the effective date of this act,

17           b.    who reaches a normal retirement age on or after the  
18                   effective date of this act, and

19           c.    who is employed by an institution within The Oklahoma  
20                   State System of Higher Education that is not a  
21                   comprehensive university or a regional institution  
22                   offering a four-year degree program as designated or  
23                   authorized by the Oklahoma State Regents for Higher  
24                   Education;

1        3. "Maximum average salary amount", subject to the requirements  
2 of this paragraph related to the funding level for employer  
3 contribution rates, means:

4            a.     Sixty Thousand Dollars (\$60,000.00) regardless of any  
5                   otherwise applicable maximum compensation level for  
6                   the fiscal year ending June 30, 2007,

7            b.     Eighty Thousand Dollars (\$80,000.00) regardless of any  
8                   otherwise applicable maximum compensation level for  
9                   the fiscal year ending June 30, 2008, and

10          c.     the full amount of the average salary without any  
11                   limitation for the fiscal year ending June 30, 2009,  
12                   and or each fiscal year thereafter.

13 The maximum final average salary amount otherwise authorized  
14 pursuant to subparagraph b or subparagraph c of this paragraph shall  
15 be contingent upon the participating employer in whose employment  
16 the member is active upon the date the member retires receiving, for  
17 the fiscal year during which the member's retirement will begin, the  
18 amount of funds required pursuant to paragraph 8 of Section 17-108.1  
19 of this title in order to allow the employer contribution rates  
20 prescribed by paragraphs 6, 7 and 8 of Section 17-108.1 of this  
21 title to be effective as law. If a member is employed by an  
22 employer that does not receive the funding required by paragraph 8  
23 of Section 17-108.1 of this title for the fiscal year during which  
24 the member's retirement will begin, the member shall not be

1 authorized to use the maximum final average salary otherwise  
2 authorized by this paragraph to compute retirement benefits. ~~A~~  
3 ~~member shall be required to have been employed by a participating~~  
4 ~~employer for a period of at least twelve (12) months prior to~~  
5 ~~retirement in order to compute a retirement benefit using the~~  
6 ~~maximum final average salary authorized by this paragraph;~~

7 4. "Maximum compensation level" means either:

- 8 a. Twenty-five Thousand Dollars (\$25,000.00) if a member  
9 did not elect to make employee contributions on a  
10 higher salary amount for any pre-cap removal years of  
11 service, or  
12 b. Forty Thousand Dollars (\$40,000.00) if a member did  
13 elect to make employee contributions upon actual  
14 salary not in excess of such amount for any pre-cap  
15 removal years of service;

16 5. "Pre-cap removal service" means any service performed by an  
17 active member prior to June 30, 1995; and

18 6. "System" means the Teachers' Retirement System of Oklahoma;

19 B. Unless otherwise expressly provided by this section, any  
20 definition contained in Section 17-101 of this title otherwise  
21 applicable to computation of benefits for retired members of the  
22 Teachers' Retirement System of Oklahoma shall have the same meaning  
23 for purposes of this section.  
24

1 C. Effective July 1, 2006, any eligible member of the Teachers'  
2 Retirement System of Oklahoma, who, as of July 1, 2006, has already  
3 reached a normal retirement age or who on or after July 1, 2006,  
4 reaches a normal retirement age as defined by paragraph 24 of  
5 Section 17-101 of this title, shall be eligible to have a retirement  
6 benefit computed as provided by this section. If a member is  
7 eligible for the benefit computation authorized by this section, the  
8 average salary used to compute the retirement benefit of the member  
9 shall be governed by the provisions of this section and such  
10 provisions shall govern in the event of conflict between this  
11 section and the provisions of Section 17-116.2 of this title.

12 D. An eligible employee who performs service in the manner  
13 prescribed by subsection E of this section and who makes payment of  
14 the applicable contribution deficit amount may have a retirement  
15 benefit computed as otherwise authorized by Section 17-105 of this  
16 title, but shall have such benefit computed without regard to any  
17 maximum compensation level that would otherwise be applicable to the  
18 compensation of the member for any period of pre-cap removal  
19 service.

20 E. In order to have retirement benefits computed as authorized  
21 by subsection C of this section, and in addition to the payment of  
22 the contribution deficit amount required by this section, in order  
23 to have any pre-cap removal service included in the retirement  
24 benefit computation of the member using the average salary earned

1 during such period of participating service subject to the maximum  
2 average salary amount, the member shall be required to perform one  
3 (1) year of participating service on or after the date as of which  
4 the member reaches a normal retirement age, for each two (2) years  
5 of service performed prior to July 1, 1995. For purposes of this  
6 section, any year of service performed prior to the effective date  
7 of this act after a member reached a normal retirement age shall  
8 qualify for purposes of the retirement benefit computation  
9 authorized by this section.

10 F. One (1) year of participating service performed by an  
11 eligible member who, prior to the effective date of this act has  
12 reached a normal retirement age or, who on or after July 1, 2006,  
13 reaches a normal retirement age, shall result in the inclusion of  
14 the two (2) years of participating service immediately preceding  
15 July 1, 1995, in a retirement benefit computation using the average  
16 salary of the member, subject to the maximum average salary amount.  
17 For each additional year of participating service performed by the  
18 eligible member thereafter, whether such service has been performed  
19 prior to the effective date of this act or whether such service is  
20 performed on or after the effective date of this act, the two (2)  
21 next succeeding years of pre-cap removal service performed prior to  
22 the end of the preceding two-year period may be included in the  
23 benefit computation without regard to the maximum compensation level  
24

1 of the member that would otherwise be applicable to such pre-cap  
2 removal service.

3 G. The eligible member shall be required to make payment to the  
4 Teachers' Retirement System of Oklahoma of the contribution deficit  
5 amount for any year of service performed on or after July 1, 1987,  
6 but not later than June 30, 1995, as prescribed by subsections H  
7 through K of this section in order to have any years of pre-cap  
8 removal service included in the retirement benefit computation using  
9 the average salary of the member subject to the maximum average  
10 salary amount.

11 H. In order to have years of service included in the benefit  
12 computation using average salary subject to the maximum average  
13 salary amount, the member shall be required to make payment of the  
14 contribution deficit for the following years of service and in the  
15 sequence prescribed by subsection I of this section according to the  
16 adjustments required by subparagraphs a and b of paragraph 1 of  
17 subsection A of this section:

- 18 1. July 1, 1987, through June 30, 1988;
- 19 2. July 1, 1988, through June 30, 1989;
- 20 3. July 1, 1989, through June 30, 1990;
- 21 4. July 1, 1990, through June 30, 1991;
- 22 5. July 1, 1991, through June 30, 1992;
- 23 6. July 1, 1992, through June 30, 1993;
- 24 7. July 1, 1993, through June 30, 1994; and

1        8. July 1, 1994, through June 30, 1995.

2        I. For each year of service performed by the eligible member  
3 prior to the effective date of this act and after having reached a  
4 normal retirement age, or for each year of service performed by the  
5 member after reaching a normal retirement age on or after the  
6 effective date of this act, the member shall be required to make  
7 payment of the contribution deficit amount for each year of service  
8 beginning with the years described in paragraphs 7 and 8 of  
9 subsection H of this section. For each additional year of service  
10 performed by the eligible member after the normal retirement age of  
11 the member, the member shall make payment of the contribution  
12 deficit amount for each of the next two (2) years of service as  
13 described in:

- 14        1. Paragraphs 5 and 6 of subsection H of this section;  
15        2. Paragraphs 3 and 4 of subsection H of this section; and  
16        3. Paragraphs 1 and 2 of subsection H of this section.

17        J. After making payment of all required contribution deficit  
18 amounts for all periods of service described in paragraphs 1 through  
19 8 of subsection H of this section, an eligible member who has  
20 performed any additional years of service after having reached a  
21 normal retirement age, or for each year of service performed by the  
22 member after reaching a normal retirement age on or after the  
23 effective date of this act, the member may then include any  
24 additional two-year period of service performed prior to July 1,

1 1987, using the average salary of the member, subject to the maximum  
2 average salary amount, in the retirement benefit computation for  
3 such years of service by performing one (1) additional year of  
4 service.

5 K. No contribution deficit payments shall be required of the  
6 eligible member with respect to years of service performed prior to  
7 July 1, 1987, if such years of service are included in the  
8 retirement benefit computation of the member using average salary as  
9 otherwise authorized by this section, subject to the maximum average  
10 salary amount.

11 L. An eligible member may make the payment of the contribution  
12 deficit amount required by this section at any time prior to the  
13 retirement of the member from the System; however, no years of pre-  
14 cap removal service for which full payment of the required  
15 contribution deficit has not been made pursuant to the requirements  
16 of this section may be included in the retirement benefit  
17 computation of the otherwise eligible member using the average  
18 salary of the member for such period, subject to the maximum average  
19 salary amount.

20 M. Any pre-cap removal years of service for which the required  
21 contribution deficit payment has not been made to the System shall  
22 only be included in a retirement benefit computation using the  
23 maximum compensation level in effect for the member at the time such  
24 years of service were performed.

1 N. All payments to the System for pre-cap removal service shall  
2 be made prior to the date as of which a member retires. No payments  
3 to the System for pre-cap removal service otherwise authorized by  
4 this section shall be made after a member retires from the System  
5 and begins to receive benefits.

6 O. Any eligible member who, prior to the effective date of this  
7 act, has not previously made an election for payment of employee  
8 contributions on a maximum compensation level of Twenty-five  
9 Thousand Dollars (\$25,000.00) for pre-cap removal service may file  
10 an election with the System to make payment of the required  
11 contribution deficit amount pursuant to this section. Such an  
12 election shall be irrevocable.

13 P. No participating employer of the System shall make payment  
14 of any required contribution deficit amount on behalf of any  
15 otherwise eligible member, whether directly or indirectly, in order  
16 for the member to have retirement benefits computed according to the  
17 provisions of this section.

18 Q. No member of the System who has retired prior to July 1,  
19 2006, shall be eligible to make any payments of the contribution  
20 deficit amount and no such member shall have the ability to have a  
21 retirement benefit recomputed as a result of the provisions of this  
22 section.

23 R. The additional retirement benefit attributable to the  
24 provisions of this section may be computed for members who retire on

1 or after July 1, 2006, but prior to January 1, 2007, but the  
2 additional retirement benefit attributable to the provisions of this  
3 section shall not be payable until January 1, 2007. On and after  
4 January 1, 2007, the additional retirement benefit attributable to  
5 the provisions of this section shall be added to the retirement  
6 benefit amount of any member who retires on or after July 1, 2006,  
7 and prior to January 1, 2007, and such increased benefit amount  
8 shall be payable to the member or any beneficiary of the member as  
9 otherwise provided pursuant to the provisions of Section 17-101 of  
10 this title in the same manner as other retirement benefits are  
11 payable.

12 SECTION 4. This act shall become effective November 1, 2018.

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14 56-2-9743 MAH 02/14/18  
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