

## STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 891

By: Newhouse

AS INTRODUCED

An Act relating to public retirement systems; requiring Teachers' Retirement System of Oklahoma to establish defined contribution system for certain persons; specifying persons eligible for participation in system; specifying date service in system begins; requiring Board to create or utilize certain plan; requiring defined contribution system be qualified pursuant to provisions of the Internal Revenue Code of 1986, as amended; prescribing minimum and maximum employee contribution amounts; specifying amount of employer matching contributions; specifying procedures related to employer matching contributions; providing for modifications to matching amounts; prescribing procedures for cost computation; providing for vesting schedule; providing for payment of certain costs related to defined contribution system administration; applying certain provision of Internal Revenue Code to certain employers; requiring Board of Trustees of Teachers' Retirement System contract with certain entities to provide investment options; specifying requirements for investment options; providing for payment of certain revenues to System; providing for deposit of funds to existing defined benefit plan; providing for effect of enactment on certain rights; prohibiting certain collection activity with respect to funds; authorizing offsets; providing for enforcement of qualified domestic orders; defining term; prescribing procedures with respect to alternate payees; prescribing content; imposing restrictions on qualified domestic orders; exempting act from provisions of Employee Retirement Income Security Act of 1974; authorizing Board to promulgate rules; amending 70 O.S. 2011, Sections 17-108.1, as amended by Section 4, Chapter 129, O.S.L. 2016 (70 O.S. Supp.

1 2020, Section 17-108.1) and 17-121, as amended by  
2 Section 607, Chapter 304, O.S.L. 2012 (70 O.S. Supp.  
3 2020, Section 17-121), which relate to employer  
4 contributions and the Teachers' Retirement System  
5 Deferred Savings Incentive Plan; modifying provisions  
6 related to employer contributions; requiring payment  
7 of certain differential amount to the Teachers'  
8 Retirement System of Oklahoma for specified purpose;  
9 providing for codification; and providing an  
10 effective date.

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

12 SECTION 1. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 17-123 of Title 70, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. The Teachers' Retirement System of Oklahoma (System) shall  
16 establish a defined contribution system for those persons who first  
17 become employed on or after November 1, 2022, in a full-time  
18 equivalent position or a position which is less than full-time but  
19 more than half-time position and which qualifies for employee  
20 benefits including, but not limited to, health insurance and leave  
21 time by any participating employer of the System, as defined by  
22 paragraph (5) of Section 17-101 of Title 70 of the Oklahoma  
23 Statutes.

24 B. The provisions of this act shall not be applicable to  
25 nonclassified optional personnel, as defined in paragraph (4) of  
26 Section 17-101 of Title 70 of the Oklahoma Statutes.

1 C. An employee described in subsection A of this section shall  
2 become a participant in the defined contribution system and the  
3 employee shall not accrue any service credit in the defined benefit  
4 system established pursuant to Section 17-102 et seq. of Title 70 of  
5 the Oklahoma Statutes.

6 D. Employees who participate in the defined contribution system  
7 shall be deemed to begin service in the defined contribution system  
8 on the first day of the month following employment.

9 E. An employee who begins participating in the defined benefit  
10 plan on or after November 1, 2022, in one of the positions described  
11 in subsection B of this section, shall continue to participate in  
12 the defined benefit plan only as long as he or she continues to be  
13 employed in a position described in subsection B of this section.

14 SECTION 2. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 17-123.1 of Title 70, unless  
16 there is created a duplication in numbering, reads as follows:

17 The Board of Trustees of the Teachers' Retirement System of  
18 Oklahoma shall take whatever action is reasonable and necessary to  
19 have the defined contribution system authorized by this act to be  
20 recognized as a tax-qualified plan as that term is defined by  
21 Section 401 et seq. of Title 26 of the United States Code, or any  
22 other applicable provisions of federal law. The Board shall  
23 establish a plan or use an existing plan established under Section  
24 457(b) of Title 26 of the United States Code. The Board shall take

1 whatever action is reasonable and necessary to obtain confirmation  
2 from the Internal Revenue Service that such 457(b) plan is  
3 consistent with the requirements of Section 457(b).

4 SECTION 3. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 17-123.2 of Title 70 unless  
6 there is created a duplication in numbering, reads as follows:

7 A. Employee contributions to the defined contribution  
8 retirement system shall consist of a minimum of four and five-tenths  
9 percent (4.5%) of the employee's pre-tax compensation.

10 B. Employee contributions to the defined contribution  
11 retirement system that are eligible for an employer match shall not  
12 exceed a percentage, based on the employee's compensation, which  
13 would exceed the maximum amount allowed pursuant to Section 415 of  
14 the Internal Revenue Code of 1986, as amended.

15 SECTION 4. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 17-123.3 of Title 70, unless  
17 there is created a duplication in numbering, reads as follows:

18 A. Except as otherwise provided by subsection B of this  
19 section, employers of employees who become participants in the  
20 defined contribution retirement system shall match the employee  
21 contribution paid on a monthly or more frequent basis at the rate of  
22 six percent (6.0%) based on the same compensation amount used to  
23 compute the employee contribution amount.

1 B. If an employee selects a contribution rate of seven percent  
2 (7.0%) or more, but not higher than allowed pursuant to the maximum  
3 annual contribution limit prescribed by Section 415 of the Internal  
4 Revenue Code of 1986, as amended, the employer matching amount shall  
5 be seven percent (7.0%).

6 C. The initial four and five-tenths percent (4.5%) employee  
7 contribution shall be the only mandatory contribution of an employee  
8 participating in the defined contribution retirement system created  
9 by this act. These funds shall be placed by the System in either a  
10 401(a) plan or a 457(b) plan, to be determined by the Board to  
11 maintain the plan consistent with the Internal Revenue Code. Any  
12 employee contributions eligible to be matched under this section  
13 over the four and five-tenths percent (4.5%) initial contribution  
14 shall be considered voluntary deferrals of compensation and placed  
15 in a 457(b) plan. All employer matching funds shall be placed in a  
16 401(a) plan.

17 D. Any contribution rate that is more than the four and five-  
18 tenths percent (4.5%) rate can be chosen by the participating  
19 employee upon the initial participation of the employee, and can  
20 only be changed once per calendar year during an option period as  
21 the Board determines. The employee contribution rate chosen shall  
22 continue until the next option period.

23 E. The employer match as set forth in subsection A of this  
24 section may be increased at any time by the Legislature without  
25

1 affecting the then-existing rights of participating employees and  
2 beneficiaries in order to encourage participating employees to  
3 accumulate deferred income reserves for themselves and their  
4 dependents. The employer match may be decreased at any time by the  
5 Legislature without affecting the then-existing rights of  
6 participating employees and beneficiaries in order to provide  
7 funding as may be needed to reduce the unfunded liabilities of the  
8 defined benefit plan as set forth in Section 17-102 et seq. of Title  
9 70 of the Oklahoma Statutes, but shall not be less than six percent  
10 (6.0%) for any year during which the defined contribution plan is  
11 maintained.

12 SECTION 5. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 17-123.4 of Title 70, unless  
14 there is created a duplication in numbering, reads as follows:

15 A. Except as otherwise provided by this section, employers  
16 shall make payment of the required matching amount as provided by  
17 this section within five (5) business days of the payroll pay date  
18 of the participating employee. The Teachers' Retirement System of  
19 Oklahoma shall ensure the payment is credited to the defined  
20 contribution system account or accounts maintained on behalf of the  
21 participating employee as soon as possible.

22 B. All employee contributions to the defined contribution  
23 system shall be effected by salary deductions from the salary of the  
24 employee and shall be remitted by the participating employer to the

1 System for deposit into the defined contribution system account or  
2 accounts maintained on behalf of the employee.

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

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

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

9 both within five (5) business days of the payroll pay date of the  
10 participating employee. Payroll data shall be remitted by the same  
11 deadline.

12 D. Each employer shall cooperate with the Board of Trustees of  
13 the System to ensure that any necessary programming changes are made  
14 to the employer's payroll system to carry out the requirements of  
15 this act.

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

21 1. The Board shall certify each year to participating employers  
22 the determined amount for the administrative cost of the defined  
23 contribution system which will be required to be paid for each  
24 participant. The Board shall promulgate such rules as necessary to

1 implement the provisions of this subsection and provide the  
2 methodology for the determination.

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

6 F. The funds held on behalf of each employee participating in  
7 the defined contribution system shall consist of the amount in the  
8 account or accounts plus credits representing employer and employee  
9 contributions, profits, income and other increments attributable to  
10 such contributions, and minus debits representing any losses, other  
11 decrements, or expenses under the system and any distributions made  
12 to the employee under the system.

13 SECTION 6. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 17-123.5 of Title 70, unless  
15 there is created a duplication in numbering, reads as follows:

16 A. Participating employees shall at all times be vested at one  
17 hundred percent (100%) of their accounts containing solely their  
18 employee contributions, and the gains or losses on these  
19 contributions. Participating employees will have investment  
20 discretion over these accounts within the available options offered  
21 by the Board of Trustees of the Oklahoma Teachers' Retirement  
22 System.

23 B. Participating employees shall be vested with respect to the  
24 employer matching amounts, and the gains or losses on these funds,

1 deposited into their defined contribution system account or accounts  
2 according to the following schedule based on years of participating  
3 service:

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

9 C. Participating employees will have investment discretion over  
10 all employer contributions.

11 D. For purposes of determining a participating employee's right  
12 to withdraw employer matching contributions and any investment gains  
13 upon such employer contribution matching amounts, the vesting  
14 percentages apply at the end of each full year of service as  
15 described in subsection B of this section.

16 E. For participating employees who do not select any investment  
17 options, the Board will establish default investment options for the  
18 contributions received from participating employees and default  
19 investment options for matching employer contributions.

20 F. To the extent that participants leave employment and have  
21 not vested in all of the employer contributions, the nonvested  
22 employer contributions including any gains or losses, shall be  
23 immediately forfeited to the 401(a) plan and may be used to offset  
24 costs of administering the plan. Upon reemployment with an employer

1 and satisfying the eligibility requirements to become a participant,  
2 the reemployed participant shall receive credit for previous service  
3 and be vested at the same percentage the participant was vested when  
4 service was previously terminated. However, under no circumstances  
5 shall the participant be entitled to any previously forfeited  
6 employer contributions.

7 SECTION 7. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 17-123.6 of Title 70, unless  
9 there is created a duplication in numbering, reads as follows:

10 A. Each participating employer shall pick up under the  
11 provisions of Section 414(h)(2) of the Internal Revenue Code of  
12 1986, as amended, and pay the contribution which the participating  
13 employee is required by law to make to the Teachers' Retirement  
14 System of Oklahoma for all compensation earned after the date as of  
15 which an employee begins to participate in the defined contribution  
16 system. Although the contributions so picked up are designated as  
17 participating employee contributions, such contributions shall be  
18 treated as contributions being paid by the employer in lieu of  
19 contributions by the participating employee in determining tax  
20 treatment under the Internal Revenue Code of 1986, as amended, and  
21 such picked-up contributions shall not be includable in the gross  
22 income of the participating employee until such amounts are  
23 distributed or made available to the participating employee or the  
24 beneficiary of the participating employee. The participating

1 employee, by the terms of this System, shall not have any option to  
2 choose to receive the contributions so picked up directly and the  
3 picked-up contributions must be paid by the employer to the System.

4 B. Contributions by the participating employee into a 457(b)  
5 plan may not be picked up by the employer but shall be a voluntary  
6 deferral of the employee's compensation. Participating employers  
7 within the System that are not eligible to participate in the  
8 Oklahoma Teachers' Deferred Savings Incentive Plan under Section 17-  
9 121 of Title 70 of the Oklahoma Statutes and have established 457(b)  
10 plans for their employees, will have the obligation to ensure that  
11 their employees do not exceed the maximum annual contributions to a  
12 457(b) plan under the Internal Revenue Code.

13 SECTION 8. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 17-123.7 of Title 70, unless  
15 there is created a duplication in numbering, reads as follows:

16 The Board of Trustees of the Teachers' Retirement System of  
17 Oklahoma shall contract with one or more business entities in order  
18 to create a range of choices regarding investment of funds deposited  
19 into defined contribution system accounts. The investment options  
20 shall be substantially similar to the options provided to members of  
21 the System that maintain a Deferred Savings Incentive Plan account  
22 as offered by the System pursuant to the provisions of the Deferred  
23 Savings Incentive Plan. In selecting investment options for  
24 participants in the plan, the Board shall give due consideration to

1 offering investment options provided by business entities that  
2 provide guaranteed lifetime income in retirement such as annuities,  
3 guaranteed investment contracts, or similar products. The Board may  
4 amend any of its existing contracts with its current service  
5 providers to perform substantially the same type of service the  
6 provider is currently performing for the Board, in order to  
7 facilitate the timely introduction of the new defined contribution  
8 system created by this act. Thereafter, the contracting process for  
9 the selection of service providers carrying out duties related to  
10 the administration of the plan shall be the same as the selection  
11 process for other providers selected by the Board under subsection D  
12 of Section 17-106.1 of Title 70 of the Oklahoma Statutes.

13 SECTION 9. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 17-123.8 of Title 70, unless  
15 there is created a duplication in numbering, reads as follows:

16 A. Notwithstanding any other provision of the statutes  
17 governing the System to the contrary, each participating employer  
18 shall remit to the Teachers' Retirement System of Oklahoma the  
19 difference between the amount of money which would be remitted to  
20 the System using the employer contribution rate required by Section  
21 17-108 of Title 70 of the Oklahoma Statutes and the amount of money  
22 required for the participating employer to make the required  
23 matching contribution amount on behalf of a participating employee  
24

1 who participates in the defined contribution system authorized  
2 pursuant to the provisions of Section 5 of this act.

3 B. The System shall deposit the monies remitted to it by  
4 employers having participating employees in the defined contribution  
5 system created by this act, as described by subsection A of this  
6 section, into the existing defined benefit pension plan authorized  
7 pursuant to Section 17-102 et seq. of Title 70 of the Oklahoma  
8 Statutes in order to reduce the liabilities of the defined benefit  
9 pension plan.

10 SECTION 10. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 17-123.9 of Title 70, unless  
12 there is created a duplication in numbering, reads as follows:

13 A. Except as otherwise provided by this section, no alteration,  
14 amendment, or repeal of this act shall affect the then-existing  
15 rights of participating employees and beneficiaries, but shall be  
16 effective only as to rights which would otherwise accrue hereunder  
17 as a result of services rendered by an employee after such  
18 alteration, amendment, or repeal. Any benefits, fund, property or  
19 rights created by or accruing to any person under the provisions of  
20 this act shall not be subject to execution, garnishment or  
21 attachment, or any other process or claim whatsoever, and shall be  
22 unassignable, except as specifically provided by this section.

23 Notwithstanding the foregoing, the Board of Trustees of the  
24 Teachers' Retirement System of Oklahoma may offset any amounts held

1 by a participant in the plan or beneficiary to pay a judgment or  
2 settlement against a participating employee or beneficiary for a  
3 crime involving the Teachers' Retirement System of Oklahoma, for a  
4 fraud or breach of the participating employee's fiduciary duty to  
5 the System, or for funds or monies incorrectly paid to a  
6 participating employee or a beneficiary, provided such offset is in  
7 accordance with the requirements of Section 401(a)(13) or similar  
8 provisions of the Internal Revenue Code. The offset applies to any  
9 assets held in the plan which may otherwise be payable to a  
10 participating employee or beneficiary from the plan administered by  
11 the Board.

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

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

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

7           4. A qualified domestic order is valid and binding on the Board  
8 and the related participating employee only if it meets the  
9 requirements of this subsection.

10          5. A qualified domestic order shall clearly specify:

- 11           a. the name and last-known mailing address (if any) of  
12 the participating employee and the name and mailing  
13 address of the alternate payee covered by the order,  
14           b. the amount or percentage of the participating  
15 employee's funds or assets to be paid by the System to  
16 the alternate payee,  
17           c. the number of payments or period to which such order  
18 applies,  
19           d. the characterization of the benefit as to marital  
20 property rights or child support, and  
21           e. each plan to which such order applies.

22          6. A qualified domestic order meets the requirements of this  
23 subsection only if such order:  
24  
25

- 1           a. does not require the System to provide any type or  
2           form of benefit, or any option not otherwise provided  
3           under state law as relates to the System,  
4           b. does not require the System to provide increased  
5           benefits, and  
6           c. does not require the payment of funds or assets to an  
7           alternate payee which are required to be paid to  
8           another alternate payee pursuant to another order  
9           previously determined to be a qualified domestic order  
10          or an order recognized by the System as a valid order  
11          prior to the effective date of this act.

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

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

19          9. An alternate payee who has acquired beneficiary rights  
20 pursuant to a valid qualified domestic order must fully comply with  
21 all provisions of the rules promulgated by the Board pursuant to  
22 this subsection in order to continue receiving his or her benefit.  
23  
24  
25

1 SECTION 11. AMENDATORY 70 O.S. 2011, Section 17-108.1,  
2 as amended by Section 4, Chapter 129, O.S.L. 2016 (70 O.S. Supp.  
3 2020, Section 17-108.1), is amended to read as follows:

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

- 8 a. beginning July 1, 1998, through June 30, 1999, eleven  
9 and one-half percent (11 1/2%) of the regular annual  
10 compensation of the member not in excess of any  
11 applicable maximum compensation level of the member,  
12 b. beginning July 1, 1999, through June 30, 2000, four  
13 and eight-tenths percent (4.8%) of the regular annual  
14 compensation of the member not in excess of any  
15 applicable maximum compensation level of the member,  
16 c. beginning July 1, 2000, through June 30, 2001, five  
17 and eight-tenths percent (5.8%) of the regular annual  
18 compensation of the member not in excess of any  
19 applicable maximum compensation level of the member,  
20 d. beginning July 1, 2001, through June 30, 2002, six and  
21 eight-tenths percent (6.8%) of the regular annual  
22 compensation of the member not in excess of any  
23 applicable maximum compensation level of the member,  
24

- 1 e. beginning July 1, 2002, through December 31, 2006,  
2 seven and five-hundredths percent (7.05%) of the  
3 regular annual compensation of the member not in  
4 excess of any applicable maximum compensation level of  
5 the member,
- 6 f. beginning January 1, 2007, through June 30, 2007,  
7 seven and six-tenths percent (7.6%) of the regular  
8 annual compensation of the member not in excess of any  
9 applicable maximum compensation level of the member,
- 10 g. beginning July 1, 2007, through December 31, 2007,  
11 seven and eighty-five hundredths percent (7.85%) of  
12 the regular annual compensation of the member not in  
13 excess of any applicable maximum compensation level of  
14 the member,
- 15 h. beginning January 1, 2008, through June 30, 2008,  
16 eight and thirty-five hundredths percent (8.35%) of  
17 the regular annual compensation of the member not in  
18 excess of any applicable maximum compensation level of  
19 the member,
- 20 i. beginning July 1, 2008, through December 31, 2008,  
21 eight and five-tenths percent (8.5%) of the regular  
22 annual compensation of the member not in excess of any  
23 applicable maximum compensation level of the member,  
24

- 1           j.   beginning January 1, 2009, through December 31, 2009,  
2           nine percent (9%) of the regular annual compensation  
3           of the member not in excess of any applicable maximum  
4           compensation level of the member,
- 5           k.   beginning January 1, 2010, through June 30, 2010, nine  
6           and five-tenths percent (9.5%) of the regular annual  
7           compensation of the member not in excess of any  
8           applicable maximum compensation level of the member,  
9           and
- 10          l.   beginning July 1, 2010, through June 30, 2011, and for  
11          each fiscal year thereafter, except as otherwise  
12          provided by paragraph 4 of this section, nine and  
13          five-tenths percent (9.5%) of the regular annual  
14          compensation of the member not in excess of any  
15          applicable maximum compensation level of the member.

16           The employer contribution rate increase that would otherwise be  
17   effective, as provided by subparagraphs f, g, h, i, j, k and l of  
18   this paragraph, shall not become effective as law unless funding  
19   levels to each of the affected participating employers within the  
20   System are increased so that the additional employer contribution  
21   obligation is funded through an appropriation or transfer of monies  
22   instead of requiring the additional employer contribution to be paid  
23   for from existing budgetary resources of such participating  
24   employers. The participating employers shall use any monies

1 specifically made available for purposes of making employer  
2 contributions for such purpose and to the extent of the funds made  
3 available for that purpose.

4       2.    a.    Beginning January 1, 2007, through December 31, 2007,  
5               a participating employer that employs an employee of a  
6               comprehensive university or a regional institution  
7               offering a four-year degree program as designated or  
8               authorized by the Oklahoma State Regents for Higher  
9               Education shall make contributions to the System with  
10              respect to such employees at the rate of seven and  
11              five-hundredths percent (7.05%) of the regular annual  
12              compensation of the member not in excess of any  
13              applicable maximum compensation level.

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

1 c. Beginning January 1, 2009, through December 31, 2009,  
2 a participating employer that employs an employee of a  
3 comprehensive university or a regional institution  
4 offering a four-year degree program as designated or  
5 authorized by the Oklahoma State Regents for Higher  
6 Education shall make contributions to the System with  
7 respect to such employees at the rate of eight and  
8 five hundredths percent (8.05%) of the regular annual  
9 compensation of the member not in excess of any  
10 applicable maximum compensation level of the member.

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

21 e. Beginning July 1, 2010, through June 30, 2011, and for  
22 each fiscal year thereafter, a participating employer  
23 that employs an employee of a comprehensive university  
24 or a regional institution offering a four-year degree  
25

1 program as designated or authorized by the Oklahoma  
2 State Regents for Higher Education shall make  
3 contributions to the System with respect to such  
4 employees at the rate of eight and fifty-five  
5 hundredths percent (8.55%) of the regular annual  
6 compensation of the member not in excess of any  
7 applicable maximum compensation level of the member.

8 The employer contribution rate increase that would otherwise be  
9 effective as provided by subparagraphs b, c, d and e of this  
10 paragraph shall not become effective as law unless funding levels  
11 are increased so that the additional employer contribution  
12 obligation is funded through such an appropriation or transfer of  
13 monies instead of requiring the additional employer contribution to  
14 be paid for from existing budgetary resources of such participating  
15 employers. The participating employers shall use any monies  
16 specifically made available for purposes of making employer  
17 contributions for such purpose and to the extent of the funds made  
18 available for that purpose.

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

23 4. Effective November 1, 2022, an employer shall be required to  
24 make payment to the Teachers' Retirement System of Oklahoma in the

1 amount described by subsection A of Section 9 of this act with  
2 respect to any employee who is a participant in the defined  
3 contribution system created pursuant to the provisions of Sections 1  
4 through 10 of this act. The employer shall be required to make the  
5 required matching contribution amount for all employees that  
6 participate in the defined contribution system and to remit the  
7 difference between such amount and the amount the employer would  
8 otherwise have paid pursuant to the provisions of this section to  
9 the System.

10 B. For entities or institutions within The Oklahoma State  
11 System of Higher Education, the contributions to the System shall be  
12 made on regular annual compensation of a member who is an employee  
13 of such entity or institution not to exceed the maximum compensation  
14 level in effect for the member as prescribed by law.

15 C. Employers paying contributions to the System pursuant to  
16 subsection A or B of this section shall receive credit for that  
17 portion of the gross production tax on natural gas and/or casinghead  
18 gas apportioned to the System pursuant to subsection 2 of Section  
19 1004 of Title 68 of the Oklahoma Statutes in meeting the total  
20 required employer contribution. On an annual basis, the Board of  
21 Trustees of the Teachers' Retirement System of Oklahoma shall  
22 estimate the net additional cost required to be paid by the  
23 contributing employers in order to meet the total employer  
24 contribution as provided in subsection A or B of this section. The

1 Board of Trustees shall approve the amount of the additional  
2 contribution required to be paid by contributing employers as a  
3 percentage of total member salaries and fringe benefits for each  
4 fiscal year ending June 30, no later than April 1 of the previous  
5 fiscal year. In no event shall the additional contribution required  
6 to be paid by the contributing employer under this subsection be  
7 less than the contribution required under this subsection in the  
8 prior year. In the event actual contributions do not equal the  
9 required total contribution as provided in subsection A or B of this  
10 section, the net difference between the actual contributions and the  
11 required total contributions shall be determined and shall be  
12 included in the amount of the additional contribution required to be  
13 paid by contributing employers for the next fiscal year. All  
14 contributing employers shall pay the same percentage of total member  
15 salaries and fringe benefits during each fiscal year. The  
16 provisions of this subsection shall terminate June 30, 1999.

17 D. Any school district, state college or university, State  
18 Board of Education, State Board of Career and Technology Education,  
19 or other state agency may, for and on behalf of any member of the  
20 System, pay all or any portion of the contribution required by  
21 Section 17-108 of this title. Provided, the contribution so paid by  
22 any school district, state college or university, State Board of  
23 Education, State Board of Career and Technology Education, or other  
24 state agency shall be and remain subject to the withdrawal

1 provisions set forth under the System. Wherever the term  
2 "contribution" is used, it shall be deemed to include contributions  
3 paid for and on behalf of a member by a school district, state  
4 college or university, State Board of Education, State Board of  
5 Career and Technology Education, or other state agency.

6 E. All participating employers shall provide a complete record  
7 of the total compensation paid to each employee, including any  
8 person who is a retired member of the System, whether or not  
9 employer and employee contributions are made with respect to such  
10 compensation. The employer shall provide the report required by  
11 this subsection on a monthly basis on a form or using such method as  
12 the Teachers' Retirement System of Oklahoma may require and shall  
13 provide a comprehensive annual report showing the correct  
14 compensation, service credit and contributions for the prior fiscal  
15 year. Each participating employer shall provide reasonable access  
16 to its payroll records, records of contribution payments to the  
17 System and all other records relevant to the participation of its  
18 employees in the System, to the System, its employees or authorized  
19 agents. A participating employer shall cooperate with auditors  
20 retained by the System to audit its financial statements or  
21 otherwise audit the financial operations of the System.

22 SECTION 12. AMENDATORY 70 O.S. 2011, Section 17-121, as  
23 amended by Section 607, Chapter 304, O.S.L. 2012 (70 O.S. Supp.  
24 2020, Section 17-121), is amended to read as follows:

1 Section 17-121. A. Effective July 1, 1999, for each active  
2 contributing member of the Teachers' Retirement System of Oklahoma,  
3 except as otherwise provided by subsection E of this section, who is  
4 making contributions of at least Twenty-five Dollars (\$25.00) per  
5 month to a plan account maintained by the Teachers' Retirement  
6 System of Oklahoma pursuant to Section 403(b) of Title 26 of the  
7 United States Code, 26 U.S.C. Section 403(b), the Teachers'  
8 Retirement System shall pay each month from funds appropriated to  
9 the Oklahoma Teachers' Deferred Savings Incentive Plan Fund created  
10 pursuant to this section the sum of Twenty-five Dollars (\$25.00) to  
11 a plan established pursuant to the Internal Revenue Code, Section  
12 401(a), for the benefit of the participant.

13 B. If monies in the Oklahoma Teachers' Deferred Savings  
14 Incentive Plan Fund are insufficient to fully fund the contributions  
15 in any month, payments shall be suspended until such time as  
16 sufficient monies are available.

17 C. The Teachers' Retirement System shall be responsible for  
18 establishing rules and plan documents for administration of the  
19 contributions authorized by this section. Funds so credited shall  
20 be held and invested in the same manner as funds managed in accounts  
21 of members contributing to an account established pursuant to  
22 Section 403(b) of the Internal Revenue Code of 1986, as amended.

23 D. There is hereby created in the State Treasury a revolving  
24 fund to be designated the "Oklahoma Teachers' Deferred Savings  
25

1 Incentive Plan Fund". The fund shall be a continuing fund, not  
2 subject to fiscal year limitations, and shall consist of any monies  
3 the Legislature may appropriate or transfer to the fund and any  
4 monies contributed for the fund from any other sources, public or  
5 private. All monies accruing to the credit of said fund are hereby  
6 appropriated and may be budgeted and expended by the Teachers'  
7 Retirement System of Oklahoma for the matching of deferred  
8 compensation contributions pursuant to this section and in  
9 accordance with rules promulgated by the Teachers' Retirement System  
10 of Oklahoma. Expenditures from the fund shall be made by warrants  
11 issued by the State Treasurer against claims filed as prescribed by  
12 law with the Director of the Office of Management and Enterprise  
13 Services for approval and payment.

14 E. The provisions of this section shall not apply to an  
15 employee who participates in the defined contribution system  
16 administered by the Teachers' Retirement System of Oklahoma on or  
17 after November 1, 2022.

58-1-1173

CB

1/21/2021 4:24:15 PM