

MARK UP

RECEIVED

FEB 28 2022

BUREAU OF
LEGISLATIVE RESEARCH

ATRS Rule 8

PURCHASES AND REFUNDS- ATRS RULE 8

FREE SERVICE CREDIT, PURCHASABLE SERVICE CREDIT, AND PURCHASE ACCOUNTS

A.C.A. Arkansas Code §§ 24-1-107, 24-7-406, 24-7-601, 24-7-602, 24-7-607, 24-7-711, 24-7-719, and 24-7-735, ~~24-1-107~~

I. Definitions

I. Definitions

- a. "Armed forces reserve" means one (1) of the reserve components of the United States Armed Forces;

~~"Back Contributions" means mandatory contributions payable for service and salary rendered in a covered position within the ATRS look-back period.~~

- b. "Domestic federal service" means service rendered as a teacher or administrator in a school or similar institution located on a military base or installation that is administered by the United States Department of Defense;

- c. "Out-of-state service" means service performed in a state other than Arkansas and in a position that would have been covered by the Arkansas Teacher Retirement System (ATRS) if the service had been actual service performed in Arkansas and covered by ATRS;

- d. "Overseas service" means service in:

1. An American-related overseas school that is sponsored and approved by either the United States Department of State or the United States Department of Defense; or

2. The Peace Corps or AmeriCorps VISTA, Volunteers in Service to America;

- B. ~~e. "Private School Service~~ school service ~~" as defined in A.C.A. § 24-7-607, additionally, employment under the Head Start Programs will also be considered private school service and will have the same requirements for the issuance of teaching licenses by the Arkansas State Department of Education as determined by ATRS staff. means:~~

1. Service rendered in a private school, or agency that would have been covered by ATRS if the:

A. Service had been rendered in a public school; and

B. Private school or agency:

- i. Has positions that would require the issuance of a teaching

MARK UP

license in a public school based on a determination by ATRS;
or

ii. Is recognized as a private education-related entity by
resolution adopted by the Board of Trustees of the Arkansas
Teacher Retirement System (Board); and

f. "Uniformed Services of the United States" means service in the:

1. United States Armed Forces;
2. Army National Guard;
3. Air National Guard when engaged in active duty for training, state
active duty, inactive duty training, or full-time National Guard duty;
4. United States Commissioned Corps of the Public Health Service; and
5. Any other category of persons designated by the President of the
United States in time of war or emergency.

II. Free Service Credit

a. Military Service Credit

1. Generally

- A. A person may establish military service credit with ATRS at any
time after becoming a member.
- B. Military service credit established with ATRS is effective after the
member completes five (5) years of actual service in ATRS,
excluding military service credit.
- C. ATRS shall provide a member with military service credit after the
member:
 - i. Completes and submits Form M-1 to ATRS; and
 - ii. Submits official military documentation listing the entry and
discharge dates of the member's first enlistment or induction
into the United States Armed Forces.
- D. Military service credited to a member before July 1, 1986, shall be
considered contributory service.
- E. Military service credited to a member shall not exceed five (5) years
unless the member is entitled to service credit for service in the
uniformed services of the United States. (Arkansas Code § 24-7-
602(c)).
- F. Military service shall be credited in order of the years that are
chronologically closest to the member's service with a covered
employer.

MARK UP

G. A member shall not receive military service credit for military service years resulting from the member's reenlistment or voluntary extension of his or her initial enlistment.

H. Free military service shall be credited to a member's account on a prorated basis if the member has bot contributory and noncontributory service.

2. Federal Military Draft

A. New Members

i. A member who is first employed after serving in the United States Armed Forces during a period of time in which the military draft was in effect is eligible to receive free military service credit if the member:

ii. Completes five (5) or more years of actual service in ATRS; and

iii. Receives an honorable discharge.

B. Active Members

i. An active member who enters the United States Armed Forces during any period that a federal military draft was in effect and who becomes an active member after an honorable discharge from the United States Armed Forces may receive free military service credit regardless of whether the member has five (5) or more years of credited service at the time of his or her reemployment.

ii. An active member who enters the United States Armed Forces during a period that a federal military draft was in effect and obtains a refund of member contributions from ATRS may receive free military service credit if the member:

a. Receives an honorable discharge from the United States Armed Forces; and

b. Repays the actuarial equivalent of the member's refunded service to ATRS before retiring.

II. Purchase of Service Credit/Repayment of Refunds – General

III. Purchasable Service Credit

a. Military Service Credit

1. Service in the United States Armed Forces

A. A member shall receive service credit for service in the United States Armed Forces that cannot be credited to the member under

MARK UP

Arkansas Code § 24-7-602(a) if the member pays ATRS the actuarial equivalent for the service credit.

2. Service in the Uniformed Services of the United States

A. Effective December 12, 1994, a member shall be treated as not having incurred a break in service with a covered employer if the member:

i. Leaves employment with a school to voluntarily or involuntarily serve in the uniformed services of the United States; and

ii. Returns to employment with a school.

B. A member's absence from his or her employment with a school due to his or her service in the uniformed services of the United States shall not exceed five (5) years.

C. A member described in this ATRS Rule 8 III.a.2.A shall accrue benefits for the time he or she served in the uniformed services of the United States if:

i. The member pays the employee contributions as provided in Arkansas Code § 24-7-406; and

ii. Employer contributions are paid for the time the member served in the uniformed services of the United States.

b. Service in National Guard and Armed Forces

1. A member may purchase up to five (5) years of service for his or her service in the National Guard or armed forces reserve.

2. A member shall receive credit for service in the National Guard or armed forces reserve if the member:

A. Submits an application for National Guard or armed forces reserve service credit to the Board;

B. Provides ATRS with satisfactory proof of his or her service in the National Guard or armed forces reserve;

C. Pays ATRS, in full, the actuarial equivalent of the member's benefits for each year of National Guard or armed forces reserve service credit being purchased; and

D. Has established at least five (5) years of actual service with ATRS, excluding National Guard or armed forces reserve service.

3. ATRS shall not credit a member with more than five (5) years of service for service in the National Guard or armed forces reserve.

c. Domestic Federal Service

MARK UP

1. Beginning January 1, 2003, a member may purchase up to ten (10) years of domestic federal service that shall be credited if:

i. The member:

- i. Has contributions left on deposit with another system and the domestic federal service credit being purchased is limited to service for which another system similar in purpose to ATRS, except for Social Security, could not pay a benefit;
- ii. Pays ATRS, in full, the actuarial equivalent of benefits for each year of domestic federal service credit being purchased; and
- iii. Has established at least five (5) years of actual service, excluding federal domestic service; and

ii. All other requirements set by rules adopted by the Board are met.

2. A member may purchase a fraction of a year of domestic federal service that shall be credited if the:

- A. Member has at least one-fourth (1/4) of a year of domestic federal service in a fiscal year; and
- B. Fraction of a year of domestic federal service can be credited in accordance with Arkansas Code § 24-7-601.

d. Out-of-State Service

1. Out-of-State Service — Purchased Before July 1, 1987

- A. Out-of-state service purchased before July 1, 1987, shall be credited as service in accordance with the law in effect before July 1, 1987.

2. Out-of-State Service — Purchased on and after July 1, 1987

- A. A member may purchase up to fifteen (15) years of out-of-state service.

B. Out-of-state service shall be credited if:

i. The member:

- a. Has contributions left on deposit with another system and the out-of-state service credit being purchased is limited to service for which another system similar in purpose to ATRS, except for Social Security, could not pay a benefit;
- b. Pays ATRS, in full, the actuarial equivalent of benefits for each year of out-of-state service credit being purchased; and

MARK UP

c. Has established at least five (5) years of actual service, excluding out-of-state service; and

ii. All other requirements set by rules adopted by the Board are met.

C. A member may purchase a fraction of a year of out-of-state service that shall be credited if the:

i. Member has at least one-fourth (1/4) of a year of out-of-state service in a fiscal year; and

ii. Fraction of a year of out-of-state service can be credited in accordance with Arkansas Code § 24-7-601.

e. Overseas Service

1. A member may purchase service credit for service in an overseas school if:

A. The member:

i. Has at least five (5) years of service in a position covered by ATRS; and

ii. Performs the minimum days of service at the overseas school required for a fiscal year of service credit;

B. The overseas service credit is limited to service for which another system similar in purpose to ATRS, except Social Security, could not pay a benefit; and

C. The actuarial equivalent of the member's benefits is paid to ATRS

2. ATRS shall not credit a member with more than ten (10) years of overseas service credit.

f. Service in the General Assembly

1. A member of the Senate or House of Representatives of the General Assembly who is a member of ATRS shall receive credited service and salary in ATRS for his or her full contract salary if the:

A. School district requires the member's salary to be reduced during the member's attendance at:

i. Regular or extraordinary sessions of the General Assembly; or

ii. Interim meetings of regular or special committees of the General Assembly;

B. Member submits an application for General Assembly service credit to ATRS;

C. Member pays ATRS the necessary member contributions; and

MARK UP

D. Required employer contributions are paid to ATRS for the amount of the salary reduction during periods of the member's attendance at regular or extraordinary sessions of the General Assembly or sessions of legislative committees.

2. A member of the Senate or House of Representatives who currently serves in the General Assembly or has served in the legislative committees for any year that is within five (5) years of July 6, 1977, shall receive credited service and salary for his or her full contract if the:

A. Member submits an application for General Assembly service credit to ATRS and pays the employee contributions; and

B. Required employer contributions are paid from the Public School Fund to ATRS for the portion of the contractual period in which the member's salary was reduced during the member's legislative service.

3. A member of the Senate or House of Representatives of the General Assembly who is an employee and member of ATRS shall receive credited service and salary for his or her full contract salary if:

A. Either the member or school district decides it is in the best interest of the member to take a leave of absence for up to one (1) full calendar year at a time in order for the member to attend his or her duties as a member of the General Assembly; and

B. Both the required employee and employer contributions are paid to ATRS for the amount of the member's contract salary during periods in which the member attended sessions of the General Assembly or legislative committees.

g. Advanced Degree Service

1. Beginning June 28, 1985, a member who is a public school teacher or administrator and takes a leave of absence from a school in order to obtain an advanced degree at an institution of higher learning or to fulfill the requirements of a scholarship or grant shall receive credited service for the time of the member's actual enrollment in the institution if the member:

A. Submits an application for the advanced degree service credit to ATRS; and

B. Pays the actuarial equivalent of the member's benefits to the system for each year of service credit being purchased.

h. Private School Service

1. Head Start Programs

MARK UP

A. Employment with a Head Start program shall be considered private school service.

2. Certified Private School Service Credit

A. A member may purchase up to fifteen (15) years of private school service to be credited as certified service if:

i. The member:

- a. Has contributions left on deposit with another system and the private school service credit being purchased is limited to service for which another system similar in purpose to ATRS, except for Social Security, could not pay a benefit;
- b. Pays ATRS, in full, the actuarial equivalent of benefits for each year of private school service credit being purchased; and
- c. Has established at least five (5) years of actual service, excluding private school service; and

ii. All other requirements set by rules adopted by the Board are met.

2. Noncertified Private School Service Credit

A. A member may purchase up to five (5) years of noncertified private school service that shall be credited as noncertified service if:

i. The member:

- a. Submits an application to purchase noncertified private school service to ATRS;
- b. Has contributions left on deposit with another system and the noncertified service credit being purchased is limited to service for which another state-supported pension system or system similar in purpose to ATRS could not pay a **benefit**;
- c. Pays ATRS, in full, the actuarial equivalent of benefits for each year of service credit being purchased; **and**
- d. Has established at least five (5) years of actual service; and

ii. All other requirements set by rules adopted by the Board are met.

B. A member may purchase a fraction of a year of private school service that shall be credited if the:

MARK UP

- i. Member has at least one-fourth (1/4) of a year of private school service in a fiscal year; and
- ii. Fraction of a year of private school service can be credited in accordance with Arkansas Code § 24-7-601.

3. Private Education-Related Entity Private School Service

A. A member may purchase up to five (5) years of private education-related entity private school service that shall be credited as noncertified service if:

- i. The member:
 - a. Submits an application to purchase private education-related entity private school service to ATRS;
 - b. Has contributions left on deposit with another system and the private education-related entity private school service credit being purchased is limited to service for which another state-supported pension system or system similar in purpose to ATRS could not pay a benefit;
 - c. Pays ATRS, in full, the actuarial equivalent of benefits for each year of service credit being purchased;
 - d. Has established at least five (5) years of actual service; and
- ii. All other requirements set by rules adopted by the Board are met.

i. Federal Retirement Service

1. An active member may purchase up to ten (10) years of federal retirement service that shall be credited if the:

- A. Federal retirement service being purchased is limited to service for which the federal retirement system could not pay a benefit to the member;
- B. Member submits an application to purchase federal retirement service to ATRS;
- C. Member provides certification of his or her federal retirement service to ATRS on a form approved by ATRS;
- D. Member pays ATRS, in full, the actuarial equivalent of benefits for each year of service credit being purchased; and
- E. Member has established at least five (5) years of actual service, excluding federal retirement service.

2. A member shall complete at least one hundred sixty (160) working

MARK UP

days before the member may establish one (1) year of federal retirement service credit.

3. One (1) month of federal service shall be considered twenty (20) days of service.
4. A member may purchase a fraction of a year of federal retirement service that shall be credited if the:
 - A. Member has at least one-fourth (1/4) of a year of federal retirement service in a fiscal year; and
 - B. Fraction of a year of federal retirement service can be credited in accordance with Arkansas Code § 24-7-601.
5. Federal retirement service credit shall be considered contributory service.
6. Purchased federal retirement service shall be credited to the fiscal year in which the service was rendered.
7. If a member is not an active member before establishing federal retirement service with ATRS, the member's contribution payments and regular interest shall be refunded.
8. Purchase account payments made through employer pick-up are subject to restrictions specified in this ATRS Rule 8, regulations, and the Internal Revenue Code.

IV. Cost of Service and Purchase Accounts

~~A. Arkansas Code § 24-7-601 et seq. allows a member to purchase various types of service and credit that service to the member under certain circumstances.~~

a. Generally

1. A member shall purchase service using ATRS approved forms.
2. A member who purchases service shall receive credit for the purchased service if the actuarial equivalent of both the employee and employer contributions, as calculated by ATRS, are paid to ATRS.
3. The requirement for service to be purchased at the actuarial cost shall not apply to free military service credit established with ATRS.
4. A salary earned for service purchased at the actuarial cost:
 - A. Shall not be used to calculate a member's final average salary; and
 - B. May be used to determine repaid refunds for service that is required to be reported within the refunded service.

b. Contact Buyouts, Settlements, and Court Ordered Payments

MARK UP

1. A member shall only earn service credit for actual, on-site work performed for a covered employer for the period specified in a contract buyout, settlement, or court ordered payment unless the member purchases service or salary that would have been received by the member if the member had been successful in his or her legal claim.
2. A member shall purchase service or salary at the actuarial cost for service and salary that the member would have earned if the member had not been terminated.
3. If a member is on call with a covered employer and not subject to either a contract buyout, settlement, or court ordered payment, the salary paid to the member as a regular employee shall be credited to the member.
4. On call credit shall not be added to a member's salary with another covered employer.
5. ATRS shall not adjust a member's service history until the:
 - A. Member or the member's covered employer provides a copy of the settlement, a file-marked court order, or a certified copy of the contract buyout to ATRS; and
 - B. Actuarial cost to purchase the service has been paid in full to ATRS.

c. Actuarial Cost of Service — Purchase Formula

~~B. Actuarial cost for purchase of service does not include adjustments to salary and service that are made in order to properly reflect the member's mandatory salary and service records. In addition, the actuarial cost of service does not apply to free military service credit that is established with ATRS.~~

1. A member's highest salary shall be used as the base year when calculating the actuarial cost for service being purchased by the member.
2. A member's base year shall be the member's highest salary year unless the highest salary year is more than one hundred fifty percent (150%) greater than the next highest salary year.
3. If a member's highest salary year is more than one hundred fifty percent (150%) greater than the next highest salary year, the highest two (2) salary years shall be added together and divided by two (2) to determine the base year to be used for calculating the actuarial cost for service being purchased.
4. If a member does not have enough full service years to determine a base year for the purchase formula, a full year salary shall be used to

MARK UP

determine the base year.

5. A full year salary shall be calculated by dividing each partial year's service percentage into each partial year's salary.

6. The actuarial cost for service to be purchased shall not include adjustments to salary and service that are made in order to properly reflect the member's mandatory salary and service record.

7. Service purchased at the actuarial cost shall be contributory.

~~C. The actuarial cost for purchase of service shall use the member's highest salary year as the formula's "base year." The base year shall always be the member's highest salary year unless the highest salary year is more than 150% greater than the next highest salary year. In that event, the best two (2) salary years shall be added together and divided by two (2) to establish the base year for the formula.~~

~~D. If a member does not have sufficient full service years to establish the base year for the purchase formula, then each partial year's service percentage shall be divided into each partial year's salary to establish a full year salary from the partial year salary to determine the base year for the formula.~~

~~E. Salaries for actuarially purchased service shall not be used in the calculation of final average salary except for repaid refunds for mandatorily reported service within the refunded service.~~

~~F. All actuarially purchased service shall be purchased as contributory.~~

~~G. Members seeking to purchase service with ATRS shall use forms developed by ATRS staff to establish the service.~~

d. Purchase Accounts

1. Purchase Account Commitment Statement

A. A purchase account established before July 1, 2011, shall have an approved Purchase Account Commitment Statement (PACS) on file with ATRS detailing the member's payment plan.

B. A PACS may be modified with the agreement of the member and ATRS.

C. A modification of a PACS may include changes to the type of payment, the duration of the service purchase agreement, and a decrease of the service purchased policy.

D. The service purchased under a PACS shall not be increased.

E. ATRS shall cancel a service purchase agreement with a member if the member fails to comply with the terms of the agreement.

MARK UP

F. Purchase account payments shall be applied to the member's account on the date the payment is received by ATRS.

2. Rollover Payments

- A. ATRS shall accept participant rollover contributions and direct rollovers for the purchase of service credit from a qualified retirement plan.
- B. A depository trustee from a qualified retirement plan shall certify to ATRS that the rollover deposit account is qualified and eligible to receive rollover distributions before a distribution of a member's account monies.
- C. If the depository trustee is unable to certify the rollover deposit account as qualified and eligible to receive rollover distributions, ATRS shall accept a certification from a public accountant who has an active certified public accountant's license.
- D. A public accountant shall not certify a rollover deposit account as qualified and eligible to receive rollover distributions if the public accountant has an interest in the rollover deposit account as a member, spouse, or designated beneficiary.

3. Deceased Member

- A. If a member with an active purchase account dies, the member's spouse, beneficiary, or legal representative shall have up to six (6) months from the member's date of death to pay the balance of the purchase account unless the deadline is extended by ATRS for good cause.
- B. If the member's purchase account is not paid in full within six (6) months of the member's date of death, the purchase account shall be closed and payments made towards the purchase account shall be considered as part of the member's residual account balance.

4. Cancellation of Purchase Accounts

- A. A purchase account that is paid in full after a final payment has been tendered shall not be cancelled.
- B. A member's purchase account may be cancelled if:
 - i. The member submits a written cancellation request to ATRS;
 - and
 - ii. ATRS approves the cancellation request.
- C. ATRS may approve a cancellation request and refund a member's purchase account if the purchase account:
 - i. Is an account that has been paid only with after-tax

MARK UP

contributions;

ii. Is an account that has been paid only with employer pick-up contributions and one (1) of the following applies:

a. All payments on the irrevocable payroll authorization have been completed;

b. The member terminates employment with the employer;
or

c. The member retires; or

iii. Is an account that has been paid only with rollover or transfer contributions and the rollover or transfer contributions may be rolled over or transferred to another qualified plan or refunded to the member after the deduction and payment of federal taxes.

D. If a member's cancellation request is approved by ATRS, ATRS shall refund the balance of the member's purchase account without interest to the member.

E. ATRS shall refund interest to a member if a refund of interest is statutorily mandated under Arkansas Code § 24-7-612 or another applicable provision of the Arkansas Code.

~~H. If an active member with an active purchase account dies, the member's spouse, ATRS beneficiary, or legal representative shall have up to six (6) months to pay the balance of the purchase account. If the purchase account is not paid in full within six (6) months of the date of death, the purchase account is cancelled and any payments shall be treated as part of the member's residual account balance. ATRS may extend the six (6) month period for good cause shown.~~

III. Special Provisions for the Repayment of Refunded Member Contributions

V. Refunds

a. Purchase of Refunded Service

~~A. To be eligible to repay a refund, a person must be an active member of ATRS by completing forty (40) days or more after reemployment by an ATRS covered employer.~~

1. B. A member must purchase the total credited service forfeited by the refund in order to purchase the refunded service. A member shall not purchase refunded service unless he or she purchases the total credited service forfeited by a refund.

2. C. If a member has received more than one refund, repayment must

MARK UP

~~be made in inverse order.~~ A repayment of refunded contributions shall be made in inverse order if the member has received more than one (1) refund of contributions.

3. The most recent refund account ~~must~~ shall be paid in full before a member may purchase a previous refund account ~~can be purchased.~~

b. Refund of Member and Employer Contributions

1. Overpayments

A. ATRS shall send written notification to a member or covered employer, as appropriate, of a contribution overpayment that is less than the de minimis amount that may be refunded.

B. ATRS shall not refund an overpayment of the member's contributions that is equal to or less than the de minimis amount unless the member submits a written request for a refund to ATRS within fourteen (14) days of receiving the written notice of the contribution overpayment from ATRS.

C. ATRS shall not refund an overpayment of employee contributions and employer contributions paid by the covered employer that is equal to or less than the de minimis amount unless the covered employer submits a written request for a refund to ATRS within fourteen (14) days of receiving the written notice of the contribution overpayment from ATRS.

D. If the member or covered employer does not submit a written request for a refund within fourteen (14) days of receiving the written notice of the contribution overpayment from ATRS, the amount of the contribution overpayment shall be forfeited to the trust assets of ATRS.

2. The total amount reported by the covered employer shall be credited to contributions.
3. The de minimis amount shall be periodically set by the Board, by board resolution, and shall remain the same amount until adjusted by the Board.
4. For refunded contributions, the rate of regular interest compounded annually after the first year of contributions shall be credited as follows:

<u>Service</u>	<u>Regular Interest Rate</u>
<u>Before July 1, 1984</u>	<u>3%</u>
<u>For July 1, 1984 through June 30, 2009</u>	<u>6%</u>
<u>For July 1, 2010, through June 30, 2011</u>	<u>2%</u>
<u>For July 1, 2012, through June 30, 2017</u>	<u>1%</u>

MARK UP

For July 1, 2017 and after

0.08%

5. Payable regular interest shall be computed:
 - A. On each member's individual account on June 30; and
 - B. By multiplying the balance in the member's individual account as of July 1, including contributions and regular interest credit from previous years, plus one-half (1/2) of the contributions for the year ending June 30 by the annual applicable regular interest percentage rate.
6. The Board, by board resolution, may change the regular interest rate on refunded contributions for subsequent years by stating the new regular interest rate, the date that the new regular interest rate is effective, and any other features necessary for implementing the regular interest rate.
7. Regular interest shall not be paid on contributions made in the year in which a refund of contributions is paid to a member.
8. ATRS shall issue a refund for a member's contributions that are closed on ATRS' books after receiving the member's properly completed refund application.
9. If a second refund payment is required to complete the refund of contributions, the second payment shall be made when all quarters of service the member works are closed on ATRS' books.
10. A rollover payment shall be made in one (1) payment when all quarters of service the member works are closed on ATRS' books.
11. A refund is effective on the date on which ATRS first issues a payment of the refund.

IV. Refunds of Member Contributions

~~A. ATRS will not refund an overpayment of a member's or employer's contribution that is equal or less than the de minimus amount remitted to ATRS, except upon the written request from the member. The total amount reported by the employing authority shall be credited to contributions. The board shall periodically set the de minimus amount by board resolution, which shall remain until adjusted by the board.~~

~~B. On refunded contributions, the rate of interest compounded annually after the first year of contributions is credited as follows:~~

Service	Interest Rate
Before July 1, 1984	3%
For July 1, 1984 through June 30, 2009	6%

MARK UP

For July 1, 2010, through June 30, 2011	2%
For July 1, 2012, through June 30, 2017	4%
For July 1, 2017 and after	0.08%

~~C. Payable interest shall be computed on each member's individual account on June 30 each year by multiplying the balance in the member's individual account as of July 1 (including all contributions and interest credit from previous years) plus one-half (1/2) of the contributions for the year ending on June 30 by the annual applicable interest percentage rate.~~

~~D. The Board may by board resolution change the interest rate on refunded contributions for future years by stating the new interest rate, the date that the new interest rate will become effective, and any other features of the interest rate's implementation.~~

~~E. Regular interest is not paid on contributions made in the year in which a refund is paid.~~

~~F. ATRS will issue a refund for any member contributions that have been closed on the books of ATRS upon receipt of a properly completed refund application. If a second payment is required to complete the refund, the payment will be made when all quarters of service the member worked are closed on the books of ATRS. Rollovers will be made in one payment when all quarters of service worked have been closed on the books of ATRS.~~

~~G. The effective date of a refund is the date that ATRS first issues payment of a refund.~~

~~V. Rollover Acceptance and Distribution~~

~~A. Accepting Rollovers for Payment on ATRS Purchase Accounts~~

~~ATRS will accept participant rollover contributions and/or direct rollovers for the purchase of service credit from qualified retirement plans as set forth in the Arkansas Code.~~

~~B. Rollover Eligibility of ATRS Distributions~~

~~The depository trustee from the qualified retirement plan shall certify to ATRS that the rollover deposit account is "qualified" and eligible to receive rollover distributions prior to a distribution of a member's account monies. If the depository trustee cannot certify the eligibility status, ATRS will accept a certification from a currently licensed certified public accountant who has an active certified public accountant's license. The certification may not be made by a certified public accountant if the certified public accountant has an interest in the account as a member, spouse, or designated beneficiary.~~

~~VI. Purchase Payment Rules~~

~~A. A purchase account established prior to July 1, 2011 must have an approved~~

MARK UP

~~Purchase Account Commitment Statement on file with ATRS that details the member's payment plan. The Purchase Account Commitment Statement may be modified by agreement of ATRS and the member. A member who fails to complete the terms of the service purchase agreement authorizes ATRS to cancel the agreement. Modifications of the Purchase Account Commitment Statement may include types of payment, duration, and a decrease of the service purchased policy. The service purchased under a Purchase Account Commitment Statement cannot be increased.~~

~~B. An agreement to complete payment of purchase account shall exist upon tender of the initial payment to ATRS.~~

~~VII. Cancellation of Purchase Service Accounts~~

~~A. An established purchase account may be cancelled if the request is submitted in writing by the member and approved by ATRS. The amount of payments to date will be returned to the member without interest unless the payment of interest is statutorily mandated.~~

~~B. The cancelled purchase account may be refunded under certain conditions:~~

- ~~1. Accounts paid only with after-tax contributions can be returned to the member.~~
- ~~2. Accounts paid only with employer pick-up contributions cannot be returned to the member unless the member terminates employment or retires.~~
- ~~3. Accounts paid only with rollover/transfer contributions may be rolled to another qualified plan or refunded to the member after deduction and payment of federal taxes.~~

~~C. Purchase account payments made through employer pick-up (Irrevocable Payroll Authorization) cannot be canceled until:~~

- ~~1. The number of payments on the Irrevocable Payroll Authorization is completed; or~~
- ~~2. The member terminates employment; or~~
- ~~3. The member retires.~~

~~D. A purchase account that has been paid in full upon the tender of a final payment cannot be canceled.~~

~~VIII. Free Military Service~~

~~A member of ATRS who entered the Armed Forces of the United States between July 1, 1937, and June 30, 1973, or during a period that a federal military draft is in effect, may establish that military active duty service as service in ATRS without cost, provided the following conditions are met:~~

~~A. Established active duty service must be based upon the service required for the initial enlistment. Reenlistment or voluntary extension of the initial enlistment is not considered compulsory and shall not be allowed as service credit.~~

MARK UP

~~B. Military service credit shall not exceed five (5) years, and the years to be credited shall be those chronologically closest to the ATRS-covered employer service.~~

~~C. ATRS will credit military service upon the completion of Form M-1, provided by ATRS, and official military documents listing the entry and discharge dates of the first enlistment or induction.~~

~~D. The member must have received an honorable discharge.~~

~~E. All military service credited prior to July 1, 1986, is contributory service.~~

~~F. Military service credit may be established at any time after becoming a member of ATRS but official crediting shall be effective upon completion of five (5) years of actual service in ATRS, excluding military service credit.~~

IX. Purchase of Federal Retirement Service

~~A. An active member shall be eligible to purchase federal retirement service credit under the following conditions:~~

~~1. Federal retirement service eligible for credit purchase is limited to service for which no benefit is payable from the federal retirement system in which he or she had previously been a member.~~

~~2. Federal retirement service credit purchased shall be limited to ten (10) years.~~

~~B. The cost to purchase federal retirement service credit is actuarial cost determined by ATRS.~~

~~C. The federal retirement service will become credited service in ATRS when:~~

~~1. The member payments have been paid in full; and~~

~~2. The member has established five (5) or more years of actual service in ATRS exclusive of federal retirement service.~~

~~D. To be eligible to establish one (1) year of federal retirement service credit, a minimum of one hundred sixty (160) days must have been worked by the member. Fractional years of federal service may be purchased in accordance with A.C.A. §§ 24-7-601 and 24-1-107. A month of federal service shall be considered as twenty (20) days.~~

~~E. Certification of federal retirement service must be submitted to ATRS on a form provided by ATRS.~~

~~F. All federal retirement service credit shall be counted as contributory service.~~

~~G. Purchased federal retirement service shall be credited to the fiscal year in which it was rendered.~~

X. Contract Buyouts, Settlements, and Court Ordered Payments

~~A. Unless service or salary is purchased for service the member would have~~

MARK UP

~~received if the member had not been terminated, a member may only accrue service credit for actual, on-site work for a covered employer for any period of time represented in a contract buyout, settlement, or court ordered payment. Such purchased service or salary will be purchased at actuarial cost for service and salary the member would have earned had the member not been terminated. However, if the member is not subject to either a contract buyout, settlement, or court ordered payment, salary paid to the member as a regular employee be credited to the member if the member is on call to the employer. On call credit may not be stacked with salary at another ATRS employer.~~

~~B. ATRS shall not adjust a member's service history until the covered employer or member provides a copy of the court order or settlement, or a certified copy of the contract buyout, to ATRS, and the full cost to purchase has been received.~~

HISTORY

Adopted:	February 3, 2004	8-4
Adopted:	June 15, 2004	8-1, 8-4, 8-5, 8-6
Amended:	July 18, 2005	8-2
Amended:	April 26, 2007	8-1, 8-4, 8-7
Adopted:	February 11, 2008	8-19
	October 6, 2008	8-7
	February 1, 2010	8-2 under emergency rules.
	June 7, 2010	8-2 Permanent
	July 1, 2011	8-1, 8-2, 8-4, 8-7, 8-19, 8-20 (Emergency)
Adopted:	August 8, 2011	8-1, 8-2, 8-4, 8-7, 8-19, 8-20
Effective:	November 11, 2011	8-1, 8-2, 8-4, 8-7, 8-19, 8-20
Approved by Board:	February 6, 2012	8-1, 8-2, 8-5, 8-6
Amended:	April 2, 2012	8-2 (Emergency)
Amended:	April 18, 2012	8-1, 8-5, 8-6
Effective:	May 29, 2012	8-1, 8-2, 8-5, 8-6
Approved by Board:	July 26, 2013	8-20
Amended:	October 9, 2013	8-20
Effective:	November 8, 2013	8-20
Approved by Board:	October 5, 2015	8-1, 8-7
Amended:	February 1, 2016	8-1, 8-7
Effective:	February 10, 2016	8-1, 8-7
Effective:	August 5, 2019	Rule 8
Effective:	May 28, 2020	

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: H2/22/21

A Bill

HOUSE BILL 1326

By: Representative Warren

For An Act To Be Entitled

AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 24 OF
THE ARKANSAS CODE CONCERNING THE ARKANSAS TEACHER
RETIREMENT SYSTEM; TO DECLARE AN EMERGENCY; AND FOR
OTHER PURPOSES.

Subtitle

TO MAKE TECHNICAL CORRECTIONS TO TITLE 24
OF THE ARKANSAS CODE CONCERNING THE
ARKANSAS TEACHER RETIREMENT SYSTEM; AND
TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 24-7-202(5)(B)(i), concerning the
definition of "administrator" as applicable to the Arkansas Teacher
Retirement System, is amended to read as follows:

(i) Employed by a ~~participating~~ an employer of the
Arkansas Teacher Retirement System; and

SECTION 2. Arkansas Code § 24-7-202(18)(D), concerning the definition
of "employment with a school" as applicable to the Arkansas Teacher
Retirement System, is amended to read as follows:

(D)(i) Employment in a position with an ~~educationally~~
~~related~~ education-related agency or organization if the employee is or has
been a member of the Arkansas Teacher Retirement System for a minimum of five
(5) years and elects to become or remain a member of the Arkansas Teacher
Retirement System. The employment shall be related to:



1 (a) Training public school employees or school
2 board members;

3 (b) Teaching public school students; or

4 (c) Adult education programs.

5 (ii) The employment shall not be related in any
6 manner to private schools.

7 (iii) Each ~~educationally related~~ education-related
8 agency or organization shall be:

9 (a) Approved according to rules established by
10 the board;

11 (b) Considered an employer under subdivision
12 (17) of this section; and

13 (c) Responsible for all required employer
14 contributions;

15
16 SECTION 3. Arkansas Code § 24-7-202(26), concerning the definition of
17 "nonteacher" as applicable to the Arkansas Teacher Retirement System, is
18 amended to read as follows:

19 (26) "Nonteacher" means a member who is not a teacher or an
20 administrator;

21
22 SECTION 4. Arkansas Code § 24-7-202(41), concerning the definition of
23 "T-DROP plan interest" as applicable to the Arkansas Teacher Retirement
24 System, is amended to read as follows:

25 (41) "T-DROP plan interest" means the rate or rates per annum
26 that the board shall adopt from time to time that will be used to compute
27 interest paid on T-DROP mean balances at the end of each fiscal year;

28
29 SECTION 5. Arkansas Code § 24-7-208 is amended to read as follows:

30 24-7-208. Benefit enhancements – Restrictions.

31 (a) No benefit enhancement provided for by this ~~act~~ chapter shall be
32 implemented if it would cause the ~~publicly supported retirement system's~~
33 Arkansas Teacher Retirement System's unfunded actuarial accrued liabilities
34 to exceed an eighteen-year amortization.

35 (b) No benefit enhancement provided for by this ~~act~~ chapter shall be
36 implemented by ~~any publicly supported system which~~ the system if the system

1 has unfunded actuarial accrued liabilities being amortized over a period
2 exceeding eighteen (18) years until the unfunded actuarial accrued liability
3 is reduced to a level less than the standards prescribed by § 24-1-101 et
4 seq.

5
6 SECTION 6. Arkansas Code § 24-7-301(2)(C)(i), concerning the
7 membership of the Board of Trustees of the Arkansas Teacher Retirement
8 System, is amended to read as follows:

9 (C)(i) Two (2) active member trustees shall be employed in
10 a position requiring an administrator's license, one (1) of whom shall be an
11 ~~administrator~~ a superintendent or an educational cooperative director.

12
13 SECTION 7. Arkansas Code § 24-7-401(e)(1)-(4), concerning retirement
14 fund assets accounts, member deposit accounts, and contributions under the
15 Arkansas Teacher Retirement System, are amended to read as follows:

16 (e)(1) The board shall annually notify the ~~participating~~ employers of
17 the employer contribution rate established by the board for the upcoming
18 fiscal year.

19 (2) Local school districts shall pay the teacher retirement
20 employment contribution for any eligible employee in accordance with rules
21 established by the board.

22 (3) The Department of Education shall pay from the Public School
23 Fund the teacher retirement employer contributions for eligible employees of
24 ~~participating~~ employers as required by the department's appropriations act
25 and in accordance with rules established by the board.

26 (4) The annual employer contributions to be paid in each year
27 for all other employees by each ~~participating~~ employer shall be the current
28 state contribution percent multiplied by the total covered salaries of the
29 employer's members in the fiscal year.

30
31 SECTION 8. Arkansas Code § 24-7-406(e)(1)(B)(iv), concerning
32 retirement fund assets accounts, member deposit accounts, and contributions
33 under the Arkansas Teacher Retirement System, is amended to read as follows:

34 (iv) An active member who ~~previously elected to~~
35 ~~become a~~ has previous noncontributory member of the system credited service
36 may change credited service on which a member contribution has not been paid

1 to contributory credited service by paying the system the actuarial
2 equivalent of the member benefits.

3
4 SECTION 9. Arkansas Code § 24-7-502(d), concerning definitions
5 applicable to the termination of active membership under the Arkansas Teacher
6 Retirement System, is amended to read as follows:

7 (d) As used in this section:

8 ~~(1) "System-covered employer" means all employers as defined in~~
9 ~~§ 24-7-202 and also includes all employers offering the Arkansas Teacher~~
10 ~~Retirement System as an optional retirement plan on or before January 1,~~
11 ~~2011, to any employee;~~

12 ~~(2)(A)(1)(A)~~ "Terminate" means:

13 (i) The member's covered employment has ended at all
14 ~~system-covered~~ covered employers;

15 (ii) A complete severance of the employer-employee
16 relationship has occurred at all ~~system-covered~~ covered employers that the
17 member was employed with before the member retired from the Arkansas Teacher
18 Retirement System;

19 (iii) The member has ceased performing any
20 employment services for any ~~system-covered~~ covered employer, except for
21 uncompensated functions related to the transfer of the duties or the transfer
22 of the position of the member;

23 (iv) The member has not formed any express or
24 implied employment agreement or taken action that would obligate the member
25 to render compensable services to a ~~system-covered~~ covered employer or
26 entitle a ~~system-covered~~ covered employer to the services of the member after
27 the termination separation period;

28 (v) The member has followed normal retirement
29 procedures for resigning from the ~~system-covered~~ covered employer unless
30 involuntarily terminated before the member's effective date of retirement;
31 and

32 (vi) All ~~system-covered~~ covered employers have paid
33 or have initiated the process to pay all accumulated benefits such as annual
34 leave and sick leave to the member by the effective date of retirement.

35 (B) "Terminate" does not mean:

36 (i) Taking a leave of absence; or

1 (ii) Performing any job duties or services without
2 remuneration, except for the functions related to the transfer of duties or
3 the transfer of the position itself.

4 (C) Providing volunteer activities at a ~~system-covered~~
5 covered employer that does not have the effect of holding a position open for
6 the member during a termination separation period does not mean that the
7 member is not terminated; and

8 ~~(3)~~(2) "Termination separation period" means the time from a
9 member's effective date of retirement until the date that the member is no
10 longer prohibited by state law from returning to work at a ~~system-covered~~
11 covered employer.

12
13 SECTION 10. Arkansas Code § 24-7-601(b)(3), concerning credited
14 service generally and concurrent service credit under the Arkansas Teacher
15 Retirement System, is amended to read as follows:

16 (3) A member shall not receive more than one (1) year of service
17 credit for the member's employment with a covered employer and reciprocal
18 system employer in any one (1) fiscal year.

19
20 SECTION 11. Arkansas Code § 24-7-603(c)-(e), concerning out-of-state
21 service under the Arkansas Teacher Retirement System, are amended to read as
22 follows:

23 (c) ~~From and after July 1, 1987, an active A~~ member shall be eligible
24 to establish out-of-state service to be credited as service under this
25 subchapter under the following conditions:

26 (1)(A) The out-of-state service credit to be granted shall be
27 limited to service for which no benefit could be paid by another system
28 similar in purpose to this system, except Social Security, if the member had
29 left on deposit his or her contributions to the other system.

30 (B) The credit under subdivision (c)(1)(A) of this section
31 is limited to fifteen (15) years;

32 (2)(A) The member shall pay to the system for each year of
33 service credit granted the actuarial equivalent of the member's benefits.

34 (B) The payment shall be credited to the member's account
35 in the members' deposit account and shall be in addition to regular member
36 contributions ~~thereto~~ credited to the member's deposit account;

1 (3)(A) The out-of-state service shall not become credited
2 service under this system until the member has established five (5) or more
3 years of actual service.

4 (B) If a member ceases to be an active member before the
5 out-of-state service has been established as system-credited service, the
6 member payments made under this section shall be refundable;

7 (4) The benefit program to be applied to each year of service
8 credit being granted shall be the benefit program in effect at the time of
9 retirement; and

10 (5) ~~Such~~ Any other rules consistent with this subchapter as the
11 Board of Trustees of the Arkansas Teacher Retirement System may ~~from time to~~
12 ~~time~~ adopt.

13 (d) ~~An active~~ A member may purchase a fraction of a year of out-of-
14 state service to be credited as service under this subchapter in the same
15 manner as provided for out-of-state service under subsection (c) of this
16 section if the service meets the following requirements:

17 (1) The member has not less than one-fourth ($\frac{1}{4}$) year of out-of-
18 state credited service in the fiscal year; and

19 (2) The fraction of a year of out-of-state service may be
20 credited in keeping with policies of the board under § 24-7-601.

21 (e) ~~An active~~ A member shall be eligible, upon application, to
22 purchase service rendered outside the state during a period of employment
23 with an education coordinating council to be credited as out-of-state service
24 under the provisions of this section, provided that the conditions of
25 subsection (c) of this section are met.

26
27 SECTION 12. Arkansas Code § 24-7-607(b)-(d), concerning private school
28 service under the Arkansas Teacher Retirement System, are amended to read as
29 follows:

30 (b) ~~An active~~ A member purchasing certified private school service
31 shall be eligible, upon application, to purchase private school service for a
32 period not to exceed fifteen (15) years, to be credited as certified service
33 under this subchapter under the following conditions:

34 (1) The private school service credit to be purchased shall be
35 limited to service for which no benefit could be paid by another system
36 similar in purpose to the Arkansas Teacher Retirement System, except Social

1 Security, if the member left on deposit his or her contributions to the other
2 system;

3 (2)(A) The member shall pay the actuarial equivalent of benefits
4 as set forth under § 24-7-202 to the Arkansas Teacher Retirement System for
5 each year of private school service credit being purchased.

6 (B) The payment shall be credited to the member's account
7 in the members' deposit account and shall be in addition to regular member
8 contributions ~~thereto~~ credited to the member's deposit account;

9 (3) The private school service shall not become credited service
10 under the Arkansas Teacher Retirement System until:

11 (A) The member payment under this section has been paid in
12 full; and

13 (B)(i) The member has established five (5) or more years
14 of actual service, exclusive of private school service.

15 (ii) If a member ceases to be an active member
16 before the private school service has been established as system-credited
17 service, the member payments contributed under this section shall be refunded
18 to the member upon request;

19 (4) The benefit program to be applied to each year of private
20 school service credit and private educationally related entity service credit
21 being purchased shall be the benefit program in effect at the time of
22 retirement; and

23 (5) ~~Such~~ Any other rules consistent with this subchapter as the
24 Board of Trustees of the Arkansas Teacher Retirement System may from time to
25 time adopt.

26 (c)(1) ~~An active~~ A member is eligible to purchase noncertified private
27 school service or private ~~educationally related~~ education-related entity
28 private school service for a period of five (5) years or less that will be
29 credited as noncertified service under this subchapter when:

30 (A) The member properly submits an application to purchase
31 noncertified private school service or private ~~educationally related~~
32 education-related entity private school service;

33 (B) The noncertified service credit to be purchased is
34 limited to service for which no benefit could be paid by another state-
35 supported pension system or a system with a similar purpose when the
36 contributions of the member were left on deposit with the other system; and

1 (C)(i) The member pays the actuarial equivalent of
2 benefits as set forth under § 24-7-202 to the Arkansas Teacher Retirement
3 System for each year of service credit being purchased.

4 (ii) The payment shall be credited to the member's
5 account in the members' deposit account and shall be in addition to regular
6 member contributions ~~thereto~~ credited to the member's deposit account.

7 (2) The noncertified service shall not become credited service
8 under the Arkansas Teacher Retirement System until:

9 (A) The member payment under this section has been paid in
10 full; and

11 (B)(i) The member has established five (5) or more years
12 of actual service in the Arkansas Teacher Retirement System.

13 (ii) If a member ceases to be an active member
14 before the noncertified service has been established as system-credited
15 service, the member payments contributed under this section shall be refunded
16 to the member upon request.

17 (3) The benefit program applied to each year of private school
18 service or private ~~educationally-related~~ education-related entity private
19 school service credit being purchased shall be the benefit program in effect
20 at the time of retirement.

21 (4) The purchase and application of the noncertified service
22 credit shall be subject to the rules consistent with this subchapter ~~as that~~
23 the Arkansas Teacher Retirement System may ~~from time to time~~ adopt.

24 (d) ~~An active~~ A member may purchase a fraction of a year of private
25 school service to be credited as service under this subchapter in the same
26 manner as provided for private school service under subsection (b) of this
27 section if the service meets the following requirements:

28 (1) The member has not less than one-fourth ($\frac{1}{4}$) of a year of
29 private school service in a fiscal year under § 24-7-601; and

30 (2) The fraction of a year of private school service may be
31 credited in keeping with policies as provided by § 24-7-601.

32
33 SECTION 13. Arkansas Code § 24-7-610(c), concerning credit for service
34 in the National Guard and armed forces reserve under the Arkansas Teacher
35 Retirement System, is amended to read as follows:

36 (c) A member may, ~~one (1) time each fiscal year,~~ purchase up to one

1 (1) year of service credit for each one (1) year of service in the National
2 Guard or armed forces reserve.

3
4 SECTION 14. Arkansas Code § 24-7-610(e) and (f), concerning credit for
5 service in the National Guard and armed forces reserve under the Arkansas
6 Teacher Retirement System, are amended to read as follows:

7 (e) Service in the National Guard or armed forces reserve service
8 shall be credited to the year in which it was rendered even if the member has
9 concurrent service with a covered employer.

10 (f) If a member ceases to be an active member before the service in
11 the National Guard or the armed forces reserve has been established as
12 system-credited service, the member payments contributed as specified in
13 subdivision (b)(1)(C) of this section shall be refundable.

14 ~~(f)(1)~~(g)(1) This section is supplemental to § 24-7-602, and this
15 section does not diminish the right of any a member of the system to obtain
16 credited service in the system for active duty military service within the
17 limits permitted by § 24-7-602.

18 (2) However, a member shall not be entitled to or receive in
19 excess of five (5) years of credited service rendered by the member under
20 this section.

21
22 SECTION 15. Arkansas Code § 24-7-611(b) and (c), concerning domestic
23 federal service under the Arkansas Teacher Retirement System, are amended to
24 read as follows:

25 (b) ~~From~~ On and after January 1, 2003, ~~an active~~ a member shall be
26 eligible upon application to purchase domestic federal service to be credited
27 as service under this section under the following conditions:

28 (1) The domestic federal service credit to be granted shall be
29 limited to service for which no benefit could be paid by a retirement system
30 similar in purpose to the Arkansas Teacher Retirement System except Social
31 Security if the member left on deposit his or her contributions to the other
32 system, and it shall be limited to ten (10) years;

33 (2)(A) For each year of domestic federal service credit granted,
34 the member shall pay to the system the employee and employer contributions
35 based on the actuarial equivalent of the member's benefits.

36 (B) The payment is credited to the member's account in the

1 members' deposit account and is in addition to regular member contributions;

2 (3) The domestic federal service shall not become credited
3 service under this system until:

4 (A) The member payment under this section has been paid in
5 full; and

6 (B)(i) The member has established five (5) or more years
7 of actual service exclusive of domestic federal service.

8 (ii) If a member ceases to be an active member
9 before the domestic federal service has been established as system-credited
10 service, the member payments contributed under this section shall be refunded
11 to the member upon request;

12 (4) The benefit program to be applied to each year of service
13 credit being granted shall be the benefit program in effect at the time of
14 retirement; and

15 (5) ~~The~~ Any other rules consistent with this section ~~as that~~ the
16 Board of Trustees of the Arkansas Teacher Retirement System may ~~from time to~~
17 ~~time~~ adopt.

18 (c) ~~An active~~ A member may purchase a fraction of a year of domestic
19 federal service to be credited as service under this subchapter in the manner
20 as provided for domestic federal service under subsection (b) of this section
21 if the service meets the following requirements:

22 (1) The member has not less than one-fourth ($\frac{1}{4}$) year of domestic
23 federal service in a fiscal year under § 24-7-601; and

24 (2) The fraction of a year of domestic federal service may be
25 credited in keeping with policies as provided by § 24-7-601.

26
27 SECTION 16. Arkansas Code § 24-7-612, concerning the purchase of
28 service credit under the Arkansas Teacher Retirement System, is amended to
29 add an additional subsection to read as follows:

30 (e) All payments for service credit purchases shall be received by the
31 system before the member's first annuity installment or T-DROP deposit
32 occurs.
33

34 SECTION 17. Arkansas Code § 24-7-701(c)(2), concerning the beginning
35 date of an annuity upon voluntary retirement under the Arkansas Teacher
36 Retirement System, is amended to read as follows:

1 (2) The member's termination of ~~active membership~~ covered
2 employment;

3
4 SECTION 18. Arkansas Code § 24-7-701(d), concerning limitations on the
5 beginning date of an annuity following voluntary retirement under the
6 Arkansas Teacher Retirement System, is amended to read as follows:

7 (d) If a member has accrued a full year of service credit for a fiscal
8 year, the annuity shall not begin earlier than on ~~the~~ July 1 after the fiscal
9 year ends unless the board adopts by rule or resolution an earlier beginning
10 date for all members whose retirement will not result in a reduction of
11 classroom teachers.

12
13 SECTION 19. Arkansas Code § 24-7-702(b)(2)(A), concerning the
14 percentage decrease of an annuity following voluntary early retirement under
15 the Arkansas Teacher Retirement System, is amended to read as follows:

16 (2)(A) The percent shall be one hundred percent (100%) reduced
17 by between five-twelfths percent (5/12%) and fifteen-twelfths percent
18 (15/12%) multiplied by the number of months by which the time of early
19 retirement precedes the earlier of either completion of twenty-eight (28)
20 years of credited service or attainment of sixty (60) years of age.

21
22 SECTION 20. Arkansas Code § 24-7-702(c)(2), concerning early voluntary
23 retirement under the Arkansas Teacher Retirement System, is amended to read
24 as follows:

25 (2) The member's termination of ~~active membership~~ covered
26 employment; or

27
28 SECTION 21. Arkansas Code § 24-7-702(e), concerning early voluntary
29 retirement under the Arkansas Teacher Retirement System, is amended to read
30 as follows:

31 (e) If a member has accrued a full year of service credit for a fiscal
32 year, the annuity shall not begin earlier than on ~~the~~ July 1 after the fiscal
33 year ends unless the board adopts by rule or resolution an earlier beginning
34 date for members whose retirement will not result in a reduction of classroom
35 teachers.

1 SECTION 22. Arkansas Code § 24-7-708 is amended to read as follows:

2 24-7-708. Employment of retired members by covered employers.

3 (a) Effective July 1, 2009, after terminating employment under § 24-7-
4 502 or reaching the ~~age of~~ normal retirement age, a ~~retirant~~ retiree may:

5 (1) Accept employment with an employer covered by the Arkansas
6 Teacher Retirement System without a limitation of his or her retirement
7 annuity; and

8 (2) Continue to receive his or her monthly retirement annuity.

9 (b) Employers covered by the system that hire an employee who meets
10 the conditions under subsection (a) of this section shall report the hiring
11 of the ~~retirant~~ retiree to the system in a time and a manner that the system
12 may reasonably require.

13 (c) A ~~retirant~~ retiree who receives monthly benefits and is employed
14 by a covered employer shall not accrue additional service credit.

15 (d)(1) For a retired member employed in a position covered by the
16 system, the covered employer shall remit the contributions on all salary paid
17 to the ~~retirant~~ retiree in an amount equal to the employer contribution rate
18 applicable to active members.

19 (2) Contributions shall be paid by the employer and are not the
20 responsibility of the ~~retirant~~ retiree.

21 (e)(1) The Board of Trustees of the Arkansas Teacher Retirement System
22 shall adopt rules to carry out the provisions of this section.

23 (2) A covered employer that employs ~~retirants~~ retirees is
24 subject to the rules adopted by the board.

25
26 SECTION 23. Arkansas Code § 24-7-709(a), concerning the disposition
27 and residue of member contributions, is amended to read as follows:

28 (a)(1)(A) If a ~~retirant~~ retiree and his or her option annuitants, if
29 any, die before receiving annuity payments equal to the member's residue
30 amount, then the residue amount shall be paid to such persons as the ~~retirant~~
31 retiree shall have nominated by written designation duly executed and filed
32 with the Arkansas Teacher Retirement System.

33 (B) As used in this ~~section~~ subchapter, "residue" means
34 the difference between the accumulated contributions and regular interest
35 credited to the retirement reserve account as of the member's retirement
36 effective date and the total amount of retirement annuities paid.

1 (2) If a ~~retirant~~ retiree and his or her option annuitants die
2 and the member has failed to designate a beneficiary or if all designated
3 beneficiaries have predeceased the ~~retirant~~ retiree, the residue shall be
4 paid to the ~~retirant's~~ retiree's estate.

5
6 SECTION 24. Arkansas Code § 24-7-711(a)(1), concerning the refund of
7 member contributions upon termination of employment under the Arkansas
8 Teacher Retirement System, is amended to read as follows:

9 (a)(1) If a member discontinues covered employment and does not plan
10 to be rehired by a covered employer, the member may elect to be paid a refund
11 of his or her contributions and regular interest credited to the member's
12 deposit account within six (6) months following the date the member's written
13 application is filed with the Arkansas Teacher Retirement System.

14
15 SECTION 25. Arkansas Code § 24-7-711(b)(5), concerning the refund of
16 member contributions upon termination of employment under the Arkansas
17 Teacher Retirement System, is amended to read as follows:

18 (5) ~~Interest~~ Regular interest on a deceased member's accumulated
19 contributions under this subsection shall cease to accrue on the July 1 after
20 the member's death.

21
22 SECTION 26. Arkansas Code § 24-7-720(c), concerning lump-sum benefits
23 under the Arkansas Teacher Retirement System, is amended to read as follows:

24 (c) The amount of the lump-sum payments under this section shall be
25 set periodically and not more often than annually by rules and resolutions of
26 the board as ~~it~~ the board determines is actuarially appropriate for the
27 system.

28
29 SECTION 27. Arkansas Code § 24-7-720(j)(1)(A), concerning lump-sum
30 benefits under the Arkansas Teacher Retirement System, is amended to read as
31 follows:

32 (j)(1)(A) If a member accrues a minimum of ~~fifteen (15)~~ ten (10) years
33 of actual, contributory service, regardless of noncontributory service
34 accrued in combination with the contributory service, the member shall
35 receive the maximum lump-sum death benefit as determined by the board under
36 this section.

1
2 SECTION 28. Arkansas Code § 24-7-730(a)(1), concerning required
3 distributions under the Arkansas Teacher Retirement System, is amended to
4 read as follows:

5 (a)(1) Notwithstanding the provisions of this subchapter regarding the
6 required dates of distribution of benefits under the Arkansas Teacher
7 Retirement System to former members, the distribution of a former member's
8 benefits under the system shall in any event be made or begun by April 1 of
9 the calendar year following the later of the calendar year in which the
10 member attains age ~~seventy and one-half (70½)~~ seventy-two (72) or the
11 calendar year in which the member retires.
12

13 SECTION 29. Arkansas Code § 24-7-730(b)(2)(C), concerning required
14 distributions to a spouse who is the beneficiary under the Arkansas Teacher
15 Retirement System, is amended to read as follows:

16 (C)(i) If the designated beneficiary is the member's
17 surviving spouse, the date distributions required to begin in accordance with
18 subdivision (b)(2)(A) of this section shall not be earlier than the date on
19 which the member would have attained age ~~seventy and one-half (70½)~~ seventy-
20 two (72).

21 (ii) If the spouse dies before payments begin,
22 subsequent distributions shall be made as if the spouse had been the member.
23

24 SECTION 30. Arkansas Code § 24-7-735 is amended to read as follows:
25 24-7-735. Contract buyout agreement – Settlements – Judgments –
26 Calculation of benefits.

27 (a) A member shall not accumulate service credit in the Arkansas
28 Teacher Retirement System during the time that payments under a contract
29 buyout agreement, settlement, claim, judgment, arbitration award, decree, or
30 court-ordered payment are paid to the member by the employer unless the
31 member continues to work on-site for the employer, or the service credit or
32 additional salary is purchased as provided under subsection (c) of this
33 section.

34 (b)(1) The employer shall provide a copy of a settlement agreement or
35 court order under this section to the system so that the system can:

36 (A) prevent ~~Prevent~~ the accumulation of service credit for

1 any payments that are not for on-site work for the employer; and

2 (B) Calculate the cost to purchase service credit,
3 additional salary, or both service credit and additional salary as provided
4 under this section.

5 (2) A member shall not receive service credit or additional
6 salary from the system under a settlement agreement or court order unless
7 permitted under this section.

8 (c)(1) The system shall allow a member or employer to purchase service
9 credit, ~~or~~ additional salary, or both for the member for service credit the
10 member would have earned but for termination, or salary that ~~should~~ would
11 have been paid under a settlement agreement or court order but for employment
12 discrimination to resolve a claim of wrongful termination or the underpayment
13 of salary that should have been paid if the service credit is: employment
14 discrimination that results in a settlement agreement or court order.

15 ~~(1)(A)(i) Purchased as additional salary by an employer or~~
16 ~~member to be added to the final average salary of the member calculated at~~
17 ~~the time of the purchase.~~

18 ~~(ii)(2)~~ The member's official salary record shall be
19 adjusted to include the purchased additional salary years which may be used
20 to compute the final average salary at the time of retirement if the
21 purchased salary in any of the additional purchased salary years qualifies
22 for the final average salary calculation.

23 ~~(B) Service credit earned by the member from an employer~~
24 ~~from the date of termination by an employer to the date of the settlement~~
25 ~~agreement or court order shall be subtracted from the amount of service~~
26 ~~credit allowed for purchase under subdivision (c)(1)(A) of this section; and~~

27 ~~(2)(3) Paid using the actuarial equivalent, as calculated by the~~
28 ~~system, of the member's benefits to the system~~ Service credit earned by a
29 member from an employer from the date of termination by an employer to the
30 date of the settlement agreement or court order shall be subtracted from the
31 amount of service credit allowed for purchase under subdivision (c)(1) of
32 this section.

33 (d)(1) The cost to purchase service credit, additional salary, or both
34 shall be established using the actuarial equivalent as calculated by the
35 system using the member's service history at the time of the purchase.

36 (2) The system shall use the same factors ~~as used~~ to determine

1 the cost of the additional salary purchase as used to calculate an additional
2 monthly benefit in the annuitization of a Teacher Deferred Retirement Option
3 Plan distribution.

4 ~~(2)~~(3) The calculation shall be made with the assumption that
5 the member would have immediately retired at the time of the additional
6 salary purchase.

7
8 SECTION 31. Arkansas Code § 24-7-736(c)-(f), concerning the
9 calculation of final average salary under the Arkansas Teacher Retirement
10 System, is amended to read as follows:

11 (c)(1)(A) The Board of Trustees of the Arkansas Teacher Retirement
12 System shall set ~~annually~~ the applicable number of years to be used in
13 computing final average salary for retirement benefits at not less than three
14 (3) years and not more than five (5) years.

15 (B) Before reducing the applicable number of years to be
16 used in computing the final average salary, the board shall file relevant
17 information concerning the actuarial appropriateness of the action with the
18 Joint Interim Committee on Public Retirement and Social Security Programs for
19 review by the Joint Interim Committee on Public Retirement and Social
20 Security Programs.

21 (2)(A) Full and partial service years that are recorded as
22 service credit shall be used in the calculation of the final average salary.

23 (B) If the member does not have full service years for the
24 total years of service used in the calculation of final average salary, then
25 the board may establish by rule a fair base ~~year~~ salary for a member's final
26 average salary for purposes of comparison under ~~subdivision (c)(3)~~
27 subdivision (c)(4) of this section.

28 ~~(C)~~(3) If a member has less than the minimum number of
29 years of credited service required for the final average salary formula, the
30 final average salary of the member shall be the total salary paid to the
31 member for his or her years of credited service divided by the member's total
32 credited years of service.

33 ~~(D) Before reducing the number of years that is used to~~
34 ~~determine the final average salary, the board shall file relevant information~~
35 ~~concerning the actuarial appropriateness of the action with the Joint Interim~~
36 ~~Committee on Public Retirement and Social Security Programs for review by the~~

~~Joint Interim Committee on Public Retirement and Social Security Programs.~~

~~(3)(A)(4)(A)~~ The If a member has at least the minimum number of years of credited service required for the final average salary formula, the applicable number of highest salary years service year salaries shall be ranked from lowest to highest remuneration.

~~(B)~~ The lowest remuneration service year salary in the ranking shall be the base year salary.

~~(C)~~ The next-highest-ranked remuneration service year salary shall be compared to the base year salary.

~~(D)~~ The next-highest year's value service year salary in the calculation of final average salary that is less than eight (8) years from the base salary year, shall not exceed the percentage increase of the base year, unless the difference in value between the next highest year and the base year is within the amount of the salary differential base salary value plus the salary differential unless the next-highest year's value is less than or equal to the percentage increase of the base salary.

~~(4)(E)~~ After comparison of the base year salary to the next-highest service year salary to meet the requirements of subdivision (c)(4)(D) of this section, any required reduction to the next-highest service year salary shall be made.

~~(5)(F)~~ The next-highest service year salary, with any required reduction, becomes the new base year salary to compare to the next succeeding highest remuneration service year salary in the ranking until all years service year salaries in the ranking have been compared to its base and reduced as necessary under subdivision (c)(3) of this section.

~~(6)(G)~~ The total value of the base years salaries shall then be averaged to determine final average salary divided by the applicable number of years to be used in computing final average salary.

~~(d)~~ If a member has a break in covered employment for eight (8) years or more between any of the member's highest salary years used in the calculation of final average salary, then subdivision (c)(3)(D) of this section shall not apply to the next highest salary year in the formula.

~~(e)(d)~~ The system may settle any dispute concerning an employee's salary for purposes of the system.

~~(f)(1)(e)~~ The board may adjust the final average salary calculated in accordance with subsection (c) of this section by board resolution provided

1 that:

2 ~~(A)(1)~~ The percentage increase under ~~subdivision (c)(3)(D)~~
3 subdivision (c)(4)(D) of this section is adjusted set no lower than one
4 hundred five percent (105%) per year and no higher than one hundred twenty
5 percent (120%) per year; and

6 ~~(B)(2)~~ The salary differential permitted under ~~subdivision~~
7 ~~(c)(3)(D)~~ subdivision (c)(4)(D) of this section is set no lower than one
8 thousand two hundred fifty dollars (\$1,250) per year and no higher than five
9 thousand dollars (\$5,000) per year.

10 ~~(2) A partial service year is excluded from the calculation of~~
11 ~~the final average salary under this subsection.~~

12
13 SECTION 32. Arkansas Code § 24-7-1307(c)(1), concerning accounts and
14 credit under the Teacher Deferred Retirement Option Plan, is amended to read
15 as follows:

16 (c)(1) The board shall determine the plan interest rate to members'
17 plan accounts based on:

18 (A) A fixed interest rate that is adopted by board
19 resolution ~~prior to the beginning~~ by the end of the first quarter of the
20 fiscal year in which the interest rate shall apply and ~~which that~~ applies to
21 subsequent fiscal years unless modified by the board; or

22 (B)~~(i)~~ A variable interest rate formula that is based on
23 investment returns and other factors adopted by board resolution ~~prior to the~~
24 ~~beginning~~ by the end of the first quarter of the fiscal year in which the
25 interest rate shall apply and that applies to subsequent fiscal years unless
26 modified by the board.

27 ~~(ii) If the board uses a variable interest rate~~
28 ~~formula, the board shall adopt by board resolution the plan interest rate~~
29 ~~prior to the beginning of the fiscal year in which the plan interest rate~~
30 ~~applies.~~

31
32 SECTION 33. Arkansas Code § 24-7-1307(e), concerning the calculation
33 of the interest rate to a member's Teacher Deferred Retirement Option Plan,
34 is amended to read as follows:

35 (e) For the purposes of this section, the ten (10) year plus plan
36 interest rate shall be the rate determined to be appropriate by the board and

1 adopted by board resolution prior to the beginning by the end of the first
2 quarter of the fiscal year in which the interest rate shall apply and that
3 applies to subsequent fiscal years unless modified by the board.
4

5 SECTION 34. Arkansas Code § 24-7-1308(b)(2) and (3), concerning the
6 termination of participation in and distribution options under the Teacher
7 Deferred Retirement Option Plan, is amended to read as follows:

8 ~~(2) A member who selects the option under subdivision (b)(1)(C)~~
9 ~~of this section may receive his or her account distribution as follows:~~

10 ~~(A) Seventy-five percent (75%) in a lump-sum payment and~~
11 ~~twenty-five percent (25%) annuitized;~~

12 ~~(B) Fifty percent (50%) in a lump-sum payment and the~~
13 ~~remaining fifty percent (50%) annuitized; or~~

14 ~~(C) Twenty-five percent (25%) in a lump-sum payment and~~
15 ~~seventy-five percent (75%) annuitized.~~

16 ~~(3)(2)~~ The Board of Trustees of the Arkansas Teacher Retirement
17 System shall:

18 (A) Determine factors to be used for the conversion of
19 plan balances to monthly amounts;

20 (B) Set requirements for the member's election under this
21 subsection; and

22 (C) Modify the options under subdivision (b)(1) of this
23 section by rule as necessary.
24

25 SECTION 35. Arkansas Code § 24-7-1310(c), concerning the death of a
26 participant of the Teacher Deferred Retirement Option Plan, is amended to
27 read as follows:

28 (c) ~~For the purposes of § 24-7-709, any amounts received from the~~
29 ~~Teacher Deferred Retirement Option Plan account in the form of lump-sum or~~
30 ~~annuity payments shall be considered to be annuity payments received by the~~
31 ~~member or his or her designated beneficiary and shall reduce or eliminate the~~
32 ~~disposition of residue that, except for the provisions of this subsection,~~
33 ~~would have been paid under § 24-7-709~~ The Teacher Deferred Retirement Option
34 Plan participant's residue as used in § 24-7-701 et seq. that, except for the
35 provisions of this subsection, would have been paid under § 24-7-709 shall be
36 calculated as the greater of the following:

1 (1) The accumulated contributions and regular interest credited
2 to the retirement reserve account as of the member's retirement effective
3 date reduced by the total amount of regular annuities paid, further reduced
4 by amounts received from the Teacher Deferred Retirement Option Plan account
5 in the form of lump-sum or annuity payments; or

6 (2) The Teacher Deferred Retirement Option Plan account as of
7 the member's retirement effective date reduced by amounts received from the
8 Teacher Deferred Retirement Option Plan account in the form of lump-sum or
9 annuity payments.

10
11 SECTION 36. Arkansas Code § 24-7-1604(b), concerning coverage for
12 employees enrolled in the Arkansas Teacher Retirement System before July 1,
13 2011, is amended to read as follows:

14 (b) The nonmandatory employer shall remit employer contributions under
15 § 24-7-401 et seq. for an employee under this section and shall be subject to
16 the rights and obligations of an employer under the Arkansas Teacher
17 Retirement System Act for the employees of the nonmandatory employer
18 participating in the system.

19
20 SECTION 37. Arkansas Code § 24-7-1605(e)(1), concerning optional
21 participation in the Arkansas Teacher Retirement System by an institution of
22 higher education employers on or after July 1, 2011, is amended to read as
23 follows:

24 (e)(1) The PSHE employer shall remit employer contributions under §
25 24-7-401 et seq. and be subject to the rights and obligations of an employer
26 under the Arkansas Teacher Retirement System Act once a benefits-eligible
27 employee elects to participate in the system for the employees of the PSHE
28 employer participating in the system.

29
30 SECTION 38. EMERGENCY CLAUSE. It is found and determined by the
31 General Assembly of the State of Arkansas that the operations of a state
32 public retirement system are complex; that the Arkansas Teacher Retirement
33 System must be able to meet the needs of its members as anticipated by the
34 General Assembly; that certain provisions of the Arkansas Teacher Retirement
35 System Act, § 24-7-201 et seq., are imminently in need of revision and
36 updating to bring them into conformance with sound public pension policy and

1 actuarial requirements; that such revision and updating is of great
2 importance to members of the Arkansas Teacher Retirement System and to other
3 citizens of the State of Arkansas; that the Arkansas Teacher Retirement
4 System needs to have the ability to make changes to maintain and improve its
5 actuarial status; and that this act is necessary in order to maintain an
6 orderly system of benefits for the members of the Arkansas Teacher Retirement
7 System. Therefore, an emergency is declared to exist, and this act being
8 necessary for the preservation of the public peace, health, and safety shall
9 become effective on July 1, 2021.

10
11 SECTION 39. DO NOT CODIFY. Construction and legislative intent.

12 It is the intent of the General Assembly that:

13 (1) The enactment and adoption of this act shall not expressly or
14 impliedly repeal an act passed during the regular session of the Ninety-Third
15 General Assembly;

16 (2) To the extent that a conflict exists between an act of the
17 regular session of the Ninety- Third General Assembly and this act:

18 (A) The act of the regular session of the Ninety- Third
19 General Assembly shall be treated as a subsequent act passed by the General
20 Assembly for the purposes of:

21 (i) Giving the act of the regular session of the
22 Ninety- Third General Assembly its full force and effect; and

23 (ii) Amending or repealing the appropriate parts of the
24 Arkansas Code of 1987; and

25 (B) Section 1-2-107 shall not apply; and

26 (3) This act shall make only technical, not substantive, changes
27 to the Arkansas Code of 1987.

28
29 /s/Warren

30
31
32 **APPROVED: 3/8/21**