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**~~ATRS Rule 9~~ ATRS RULE 9**  
**RETIREMENT AND BENEFITS**

~~A.C.A. Arkansas Code §§ 24-7-202, 24-7-205, 24-7-502, 24-7-701 — 24-7-707, 24-7-709, 24-7-710, 24-7-727, 24-4-732, 24-7-734, Act 808 of 1987 and Acts 1987, No. 808~~

**I. Definitions**

- a. ~~A.~~ "Act 808 Employee" means an employee of a state agency who:
1. ~~on~~ On April 8, 1987, was an active member of the Arkansas Teacher Retirement System (ATRS);
  2. ~~and qualified~~ Qualified to retire before January 1, 1988, under the Early Retirement Incentive Law of 1987 (~~Act 187 of 1987~~) (Acts 1987, No. 187); and
  - ~~1.3.~~ could Could elect to become a member of the Arkansas Public Employees Retirement System (APERS) and have their his or her credited service in ATRS transferred to APERS;
- b. ~~B.~~ "Annuity options" means ~~the member's election at retirement of an annuity that shall be paid throughout the retiree's lifetime in accordance with A.C.A. § 24-7-706~~ one (1) or more options that:
1. ~~Concern how an annuity benefit shall be paid, in accordance with Arkansas Code § 24-7-706, to a member for his or her lifetime after the member's retirement; and~~
  2. ~~Are available for a member's election at the time of the member's retirement;~~
- c. ~~"Application" for the purposes of retirement eligibility means an application form and any other documents required by ATRS to establish a member's eligibility to retire;~~
- d. ~~"Covered employer" or "employer" means an employer who participates in ATRS and whose employees are eligible for membership under Arkansas Code §§ 24-7-202, 24-7-501, or other applicable law;~~
- e. ~~"Dependent child" means a child of a member or retiree who:~~
1. ~~Is a minor;~~
  2. ~~Is between eighteen (18) and twenty-three (23) years of age and continuously enrolled as a full-time student at an accredited secondary~~

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school, college, or university; or

3. Has been adjudged physically or mentally incapacitated by a court of competent jurisdiction;

~~a.f.~~ C. "~~Effective Retirement Date~~ Effective retirement date" means, for purposes of ATRS ATRS' retirement benefits, the 1st first day of the month in which the a member requests to receive retirement benefits and for which the member ~~has submitted~~ submits a timely retirement application~~-.i~~;

g. ~~D.~~ "Incapacitated child" means a child who has been adjudged physically or mentally incapacitated by a court of competent jurisdiction;

~~b.h.~~ "Marriage dissolution" means a final decree of divorce, separate maintenance, or annulment ~~duly~~ executed by a court of competent jurisdiction and filed of record in the Office of the Ex Officio Recorder~~-.i~~;

~~e.i.~~ E. "Medical committee" means the committee of three (3) physicians appointed by the Board of Trustees of the Arkansas Teacher Retirement System (Board) under A.C.A. Arkansas Code § 24-7-303 for the purpose of evaluating disability retirement applications~~-.i~~;

i. ~~F.~~ "Option beneficiary" means a ~~person(s) nominated by the member, in writing at retirement, who, if eligible, will receive annuity payments under the annuity option selected by the member after the member's death~~ person who:

1. A member nominates by written designation, before or after the member's retirement, to receive annuity payments after the member's death in accordance with the annuity option selected by the member; and

1-2. If eligible, shall receive annuity payments after the member's death in accordance with the annuity option selected by the member-.i

~~d.k.~~ G. "~~Person~~ for purposes of Rule 9 means an individual, corporation, partnership or other legal entity means an individual, trust, estate, corporation, partnership, or other legal entity-.i

~~H.~~ "Participating employer" means an employer who ~~participates in ATRS whose employees are eligible for membership under A.C.A. § 24-7-501, A.C.A. § 24-7-202, or other applicable law.~~

~~e.l.i.~~ "Residue" means the a member's accumulated contributions, including regular interest standing in the member's credit at the time of his/her his or her retirement~~-.i~~;

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~~f.m.~~ J. "Residue beneficiary" means a person(s) nominated by the member person who a member nominates by written designation to receive the member's residue, if any, under A.C.A. Arkansas Code § 24-7-709.

~~g.n.~~ K. "Receivable" means monies due to ATRS from a member, former member, ~~participating~~ covered employer, contributor, retiree, beneficiary, or alternate payee under a qualified domestic relations order (QDRO) as a result of an overpayment of any payment or benefit by ATRS; and

~~h.o.~~ L. "Retiree" means a retired member who ~~is receiving~~ receives an annuity from ATRS.

## II. Age and Service Retirement Eligibility

- a. ~~A.~~ If eligible, an active or inactive member who attains age sixty (60) and has five (5) or more years of actual and reciprocal service credit may voluntarily retire ~~upon written application filed with ATRS~~ by filing a written application with ATRS.
- b. ~~B.~~ If eligible, an active or inactive member who has not reached age sixty (60) and has twenty-five (25) or more years of actual and reciprocal service credit, including purchased or free credited service, may voluntarily retire ~~upon written application filed with ATRS~~ by filing a written application with ATRS.
- c. ~~C.~~ ~~In order to be eligible~~ To be eligible for retirement, a member ~~must~~ shall ~~comply with the following requirements:~~
  1. Satisfy the credited service requirements under one of ATRS' retirement statutes, A.C.A. Arkansas Code §§ 24-7-701—707;
  2. Be credited with all required covered employer and member contributions in the member's deposit account, with no amounts owed to ATRS;
  3. Pay all amounts owed to ATRS for underpayments or purchase service accounts; and
  4. Terminate employment with all ~~participating employers~~, each of his or her covered employers or ~~have reached age sixty-five or older~~ reach the normal retirement age.

## III. Benefits

- a. ~~A.~~ Benefits Formula

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1. The retirement benefits payable to a retiree shall be the total number of contributory years of credited service, multiplied by a factor between 1.75% and 2.15% one and seventy-five hundredths percent (1.75%) and two and fifteen hundredths percent (2.15%) of the final average salary as set by the board Board, plus the total number of noncontributory years of credited service multiplied by a factor between 0.5% ~~0.5%~~ and 1.39% five-tenths percent (0.5%) and one and thirty-ninth hundredths percent (1.39%) of the final average salary, as set by the board Board.
  2. The board ~~Board~~ shall modify the factor for credited service as necessary to maintain actuarial soundness. ~~(A.C.A. Arkansas Code § 24-7-705).~~ The Board shall modify the standard multipliers for credited service of ten (10) years as necessary to maintain actuarial soundness. (Arkansas Code § 24-7-705).
- b. B. Effective Date of Retirement Benefits ~~(A.C.A. Arkansas Code § 24-7-701)~~
1. If a member meets all eligibility requirements for retirement and is approved for retirement, annuity benefits shall be effective on the month proposed ~~by the member in their application~~ in the member's application.
  2. If the member does not file an application at least one (1) calendar month ~~prior to~~ before the proposed effective retirement date, then that ~~the~~ proposed retirement effective date ~~cannot~~ in the member's application shall not be used, and the member's effective retirement date shall be the following month.
  - ~~2.3.~~ If a member has signed an employment contract for the fiscal year and has been paid in full without providing service for the full period of the employment contract, the member's ~~retirement~~ effective retirement date shall not be prior to before July 1 of the subsequent fiscal year.
  - ~~2.4.~~ If a member has accrued a full year of service credit equal or greater to ~~one hundred and sixty~~ one hundred sixty (160) days in a fiscal year, the member's retirement date shall not begin earlier than July 1 of the subsequent fiscal year. year unless the member:
    - A. Has attained the normal retirement age and is not separating from employment; or
    - B. Is not licensed or otherwise certified as a classroom teacher and vacating a classroom.



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## c. G.—Normal Retirement Age

1. A member who attains the normal retirement age may:
  - A. Apply for retirement benefits without terminating employment; and
  - B. Begin drawing retirement benefits.
2. The retirement benefits of a member who attains the normal retirement age shall not be affected if the member applies for and draws retirement benefits.

## e.d. \_\_\_\_\_ Compound Cost of Living Adjustment (A.C.A. Arkansas Code § 24-7-727)

1. The Board ~~by resolution~~ may, by resolution, reverse a compound cost of living adjustment as needed to maintain the actuarial soundness of ATRS.
2. A reversal may be phased in as the Board determines appropriate.

## D.—Last Benefit Payment Upon Death

~~Benefits are payable through the month in which the retiree's death occurs.~~

## d.e. \_\_\_\_\_ Change of Marital Status (Arkansas Code § 24-7-706)

1. If the ~~marriage~~ marital status of the a retiree ~~member legally ends for any reason~~ changes due to the death of the retiree's spouse or a marriage dissolution, the ~~member~~ retiree may choose to ~~cancel the designation of the former spouse as the designated beneficiary.:~~
- A. \_\_\_\_\_ Cancel his or her designation of the former spouse as a beneficiary; or
- B. \_\_\_\_\_ Designate a dependent child as a replacement beneficiary if the:
  - i. Retiree previously designated the former spouse as his or her Option A or Option B beneficiary; and
  - ii. Former spouse predeceases the retiree.
2. If the ~~member so~~ retiree chooses to cancel the designation of his or her former spouse as his or her Option A or Option B beneficiary or chooses to designate a dependent child as a replacement Option A or Option B beneficiary, the ~~member must~~ retiree shall file with ATRS a change of option beneficiary on an ATRS approved form, and any change in the benefit amount shall become effective the month after

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receipt by ATRS of receives the approved form.

f. Alternative Residue Beneficiary Designation

1. If a member designates one (1) or more alternative residual beneficiaries in lieu of his or her spouse, the member shall submit the names of each alternative residue beneficiary on ATRS approved form to ATRS.

2. If a member designates one (1) or more alternative residue beneficiaries in lieu of his or her spouse, each alternative residue beneficiary shall receive an appropriate lump-sum payment of the greater of either:

A. The member's residue from the Teacher Deferred Retirement Option Plan (T-DROP); or

B. The member's contributions.

g. Final Benefit Payments and Lost Payees (Arkansas Code § 24-7-734)

1. Benefits are payable through the month in which the retiree's death occurs.

2. If a final benefit payment is not delivered in the normal course of business, the benefit payment shall be sent in the following order until delivered:

A. To the member's residue beneficiary, if any;

B. To the member's lump-sum death beneficiary, if any;

C. To the member's estate' if any; or

D. To the trust assets of ATRS.

3. The Board shall direct a benefit payment amount forfeited to the trust assets of ATRS if the:

A. Benefit payment cannot be made five (5) years after the benefit payment is due because the location of the member or the identity and location of the member's beneficiary or personal representative cannot be ascertained by mailing the benefit payment to the last known address of the member, beneficiary, or personal representative in ATRS' records; and

A.B. Neither the member, beneficiary, or personal representative submitted paperwork or forms approved by ATRS updating his or her location or last known address to ATRS before the

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expiration of five (5) years from when the benefit payment is due.

## IV.

~~A member age 65 or older may apply for retirement benefits without terminating employment and may begin drawing benefits with no effect on the member's retirement benefit.~~

## V.IV Retirement Application and Other Documents

### a. Generally

1. A copy of the ATRS retirement application may be downloaded from the ATRS website or requested from ATRS.
2. For a member who is inactive, vested, and immediately eligible to retire, retirement benefits shall be payable the month after ATRS receives the member's retirement application.

### b. Time Period for Filing Retirement Application

1. In order for a retirement application to be timely filed, there is a three-month "window" to apply for retirement benefits.
2. An active member who is currently employed by a covered employer shall file his or her retirement application:
  - A. No sooner than four (4) months before the active member's effective retirement date; and
  - B. No later than one (1) month before the active member's effective retirement date.
3. Procedure for Handling Received Retirement Applications
  - A. ATRS' procedure for handling a retirement application received by ATRS shall be as follows:
    - i. If a retirement application is received by ATRS before the three-month window begins for the member's anticipated effective retirement date, ATRS shall:
      - a. Consider the retirement application untimely;
      - b. Reject the retirement application;
      - c. Notify the member of one (1) or more dates on which the member may timely file a retirement application; and
      - d. Notify the member of the procedure to use in order to

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timely file a retirement application.

ii. If a retirement application is received after the three-month window ends for the member's anticipated effective retirement date, ATRS shall:

- a. Consider the retirement application untimely; and
- b. Provide the member with a new effective retirement date that begins on the first day of the month following the member's previously anticipated effective retirement date.

4. This ATRS Rule 9 IV.b. does not apply to a disability retirement application or an application for survivor benefits.

5. The following table shows examples of the windows for filing a retirement application:

<u>EXAMPLE OF RETIREMENT FILING DATES</u>			
<u>Effective Date of Retirement</u>	<u>Retirement Application Must be Filed In:</u>	<u>Last Date of Employment</u>	<u>First Retirement Check</u>
<u>January 1</u>	<u>September, October or November</u>	<u>December 31</u>	<u>End of January</u>
<u>February 1</u>	<u>October, November or December</u>	<u>January 31</u>	<u>End of February</u>
<u>March 1</u>	<u>November, December or January</u>	<u>Feb 28/29 (Leap year)</u>	<u>End of March</u>
<u>April 1</u>	<u>December, January or February</u>	<u>March 31</u>	<u>End of April</u>
<u>May 1</u>	<u>January, February or March</u>	<u>April 30</u>	<u>End of May</u>
<u>June 1</u>	<u>February, March or April</u>	<u>May 31</u>	<u>End of June</u>
<u>July 1</u>	<u>March, April or May</u>	<u>June 30</u>	<u>End of July</u>
<u>August 1</u>	<u>April, May or June</u>	<u>July 31</u>	<u>End of August</u>
<u>September 1</u>	<u>May, June or July</u>	<u>August 31</u>	<u>End of September</u>



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<u>October 1</u>	<u>June, July or August</u>	<u>September 30</u>	<u>End of October</u>
<u>November 1</u>	<u>July, August or September</u>	<u>October 31</u>	<u>End of November</u>
<u>December 1</u>	<u>August, September or October</u>	<u>November 30</u>	<u>End of December</u>

6. The following table is the only "window" for filing a T-DROP application:

<u>Effective Date of Retirement</u>	<u>Retirement Application Must be Filed In:</u>
<u>July 1</u>	<u>March, April, or May</u>

### c. Retirement Application and Other Documents Required by ATRS

1. In addition to a complete retirement application, the following documents ~~are mandatory documents and~~ required by ATRS in order to begin making benefit payments shall be submitted to ATRS within six (6) months of the effective date of retirement unless an extension is granted by ATRS:

A. Member elects a straight life annuity:

- i. ~~4.~~ Proof of member's birthdate from a birth certificate or other authenticating documents-; and
- ii. ~~2.~~ Proof of member's taxpayer identification number from a Social Security card or other authenticating documents.

B. Member elects Option A or Option B benefit with Spouse as the beneficiary:

- i. ~~4.~~ Proof of the member's birthdate from a birth certificate or other authenticating documents-;
- ii. ~~2.~~ Proof of the member's taxpayer identification number from a Social Security card or other authenticating documents-;
- iii. ~~3~~ Proof of the spouse's birthdate from a birth certificate or other authenticating documents-;
- iv. ~~4.~~ Proof of the spouse's taxpayer identification number from a Social Security card or other authenticating documents-; and
- v. ~~5.~~ Proof of the marriage between the member and spouse

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from a marriage license or equivalent, marriage license recording document, or other legally acceptable proof of the existence of the marriage.

C. Member elects Option A or Option B benefit with incompetent a dependent child as the beneficiary:

- i. ~~1.~~ Proof of the member's birthdate from a birth certificate or other authenticating documents~~;~~
- ii. ~~2.~~ Proof of the member's taxpayer identification number from a Social Security card or other authenticating documents~~;~~

iii. ~~3.~~ Proof of Guardianship

A. Adequate proof of the existence of a guardianship due to the incapacity of the member's dependent child that preexists the member's official retirement date.

A.B. Authenticating documents may include the order appointing guardianship of the person, letters of guardianship, or other adequate proof of the existence of the guardianship~~;~~

iv. ~~4.~~ Proof of the dependent child's birthdate from a birth certificate or other authenticating documents; and

iii.v. Proof of the dependent child's taxpayer identification number from a Social Security card or other authenticating documents.

D. Member elects Option C annuity:

- i. ~~1.~~ Proof of the member's birthdate from a birth certificate or other authenticating documents~~;~~ and
- ii. ~~2.~~ Proof of the member's taxpayer identification number from a Social Security card or other authenticating documents.

d. E. Submission Deadlines — Age and Service Retirement and Early Retirement Applications — Additional Documents

1. If a member files an age and service retirement application or early retirement application, all additional documents required by ATRS in order to begin making benefit payments shall be submitted within six (6) calendar months after the member's effective retirement date unless an extension is granted by ATRS.

2. If all additional documents required by ATRS are not submitted by the six-month deadline or any extension granted by ATRS, the retirement

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application shall be void and without effect.

~~If the member elects an alternative residual beneficiary or beneficiaries in lieu of their spouse, the member shall submit the names of the alternative residual beneficiary or beneficiaries along with the alternative residual beneficiary's or beneficiaries' birthdate from a birth certificate or other authenticating document approved by ATRS, on a form provided and approved by ATRS. The selection of an alternative residual beneficiary or beneficiaries allows the member's residue from T-DROP and/or the member's contributions to be paid in a lump sum to the alternative residual beneficiary or beneficiaries and a monthly retirement annuity shall not be paid.~~

~~F. The failure to submit a complete retirement application and any mandatory documents within a six-month period from the member's effective retirement date plus any extension granted by ATRS shall result in the retirement application being voided and the application shall have no effect. This rule on required documents applies to all retirement applications including retirement based upon age retirement, service retirement, early retirement, and disability retirement.~~

## **VI.V. State Employee Transfers to APERS (Act 808) Rules**

- a. ~~A.~~ The An Act 808 employee will shall make the election to transfer to APERS on a form furnished by ATRS approved by ATRS.
- b. ~~B.~~ The transfer from ATRS to APERS will become shall be effective on the employee's effective date of retirement.
- c. ~~C.~~ ATRS will shall certify to APERS a record of the Act 808 employee's service credit in ATRS.
- d. ~~D.~~ At the time of retirement, if the Act 808 employee is a non-contributory member of ATRS, he will If an Act 808 employee is a non-contributory member of ATRS at the time of his or her retirement, the Act 808 employee shall retire under the non-contributory provisions of Act 187 of 1987 Acts 1987, No. 187 and shall be entitled to a refund of his or her Act 808 employee contributions made since January 1, 1978, to ATRS.
- e. ~~E.~~ At the time of retirement, if the Act 808 employee was a contributory member of ATRS, he will If an Act 808 employee was a contributory member of ATRS at the time of his or her retirement, the Act 808 employee shall retire under the contributory provisions of Act 187 of 1987 Acts 1987, No. 187.
- f. ~~F.~~ For any Act 808 employee who elects to transfer to APERS, APERS

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~~will pay the monthly benefits.~~ APERS shall pay the monthly benefits of an Act 808 employee who elects to transfer to APERS.

- g. ~~G.~~ APERS will shall certify monthly to ATRS the amount of monthly benefits paid and ATRS will shall transfer its its pro-rata portion to APERS.
- h. ~~H.~~ Upon receipt of a death certificate from APERS for a retiree who chose straight life annuity and has a balance remaining in his or her account, ATRS will shall transfer the remaining balance in the retiree's account to APERS for refunding to ~~the designated beneficiary or beneficiaries~~ the retiree's designated beneficiary.

## VII.VI. Disability Retirement Rules

- a. ~~A.~~ Submission Deadlines and Commencement of Disability Retirement Benefit Payments
    - 1. A member has six (6) calendar months from the date of the member's disability retirement application to submit a completed application and all accompanying documentation required by ATRS.
    - 2. If a member does not submit all accompanying documentation required by ATRS within the six-month deadline, ATRS shall:
      - i. Submit the disability retirement application to the medical committee for review as complete; or
      - ii. Withdraw the application at the request of the member unless an extension is granted by ATRS.
    - 3. If the member is eligible under A.C.A. § 24-7-704 and these Rules, and the Medical Committee medical committee determines a disability exists for the member, then disability retirement benefits shall commence the month the member files a written application with ATRS if at the time the member files the application the member is no longer employed by an ATRS covered employer. Disability retirement benefits shall begin on the first of the month in which a member files a disability retirement application with ATRS if the:
- A. Member is eligible for disability retirement under Arkansas Code § 24-7-704 and the ATRS Rules;
  - B. Member is no longer employed by a covered employer at the time he or she files the disability retirement application; and
  - A.C. Medical committee determines that the member has a disability.



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~~1.4. 2.~~ If the member is still employed by an ATRS ~~a~~ covered employer at the time the member files the ~~disability retirement~~ application for disability retirement, then, once approved ~~by ATRS~~, the disability retirement will ~~shall~~ commence ~~begin on~~ the month following the last day of ~~the member's~~ covered employment. *If the member is still employed a covered employer at the time the member files the disability retirement application, then, once approved by the medical committee and then the Board, the disability retirement shall begin on the first of the month following the last day of the member's covered employment.*

b. B. Effective Retirement Date and Employment After Disability Retirement

1. Effective Retirement Date

a. ~~Termination of active membership for disability retirement benefits shall be the last date of any employer payment to the member due to the end of the employee/employer relationship. A member's disability retirement is effective from the date the member files a disability retirement application with ATRS and terminates employment with each of his or her covered employers.~~

2. Leave

A. ~~The A~~ member is considered active if ~~they are~~ the member is using earned sick leave, Family Medical Leave Act (FMLA) leave, annual leave, and catastrophic leave.

B. Worker's compensation, which may or may not include the use of leave granted by the an employer, is ~~shall~~ not:

i. ~~Be~~ considered leave by which a member is considered active, ~~nor does it;~~ and

ii. ~~extend~~ Extend the date of active membership.

3. Direct or Indirect Employment

A. A member shall not receive disability retirement benefit payments if the member indirectly performs work for an ATRS covered employer as described in Arkansas Code § 24-7-704(a)(4)(B).

B. If a member is approved for disability retirement and continues to work either directly or indirectly for a covered employer, the member shall:

i. Terminate direct or indirect employment with the covered employer by the proposed disability effective retirement date;

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or

ii. If the member is finalizing work for the covered employer, terminate employment no later than two (2) full calendar months after the medical committee's final decision.

C. If the member does not terminate employment under the ATRS Rules and the termination requirement under Arkansas Code § 24-7-502, the member's disability retirement application shall be considered rescinded and the member may reapply if eligible.

## 4. Continued Employment Under Age Sixty (60)

A. A retiree under the age of sixty (60) may be employed by an ATRS covered employer and also receive ATRS disability retirement benefit payments if the retiree performs less than eighty (80) days of actual service during a fiscal year.

## 5. Return to Employment

A. After receiving ATRS approval for disability retirement a retiree may choose to return to covered employment with an ATRS covered employer and relinquish his or her disability retirement.

B. If a retiree chooses to return to covered employment, the member shall:

i. Not receive disability retirement benefit payments;

ii. Be considered an active member; and

iii. Comply with Arkansas Code § 24-7-738 (Acts 2017, No. 549).

C. A retiree shall become an active member and his or her disability retirement shall be immediately terminated if:

i. The retiree notifies ATRS in writing of his or her intent to perform more than eighty (80) days of actual service during a fiscal year; or

ii. ATRS receives written notification of the retiree's intent to perform more than eighty (80) days of actual service during a fiscal year through a termination and status sheet, membership data form, or any other reasonably reliable documentation.

## c. ~~C.~~—Social Security Determination Letter

### 1. Deadlines — Generally

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A. The following criteria and deadlines, applied to the individual member circumstances, affect eligibility for continued disability payments for a member who has been approved by ATRS for disability retirement, based upon the date of the first ATRS disability retirement check. The deadlines may be extended under the provisions of this Rule and A.C.A. A deadline imposed by this ATRS Rule 9 VI may be extended as provided by this ATRS Rule 9 and Arkansas Code § 24-7-704.

## 2. Thirty-Six-Month Deadline

A. a. If the first disability retirement check to the member is dated before July 1, 2015, and the member is under fifty seven (57) years before July 1, 2015, the member shall submit to ATRS a Social Security Administration (SSA) determination letter dated before July 1, 2018, that finds that the member is disabled. In the absence of a SSA determination letter, the member's disability retirement payments will cease on June 30, 2018. A retiree shall submit to ATRS a Social Security Administration (SSA) determination letter that finds the retiree disabled within thirty-six (36) months from:

- i. July 1, 2015, if the retiree's effective retirement date is before July 1, 2015; or
- ii. The retiree's effective retirement date if the effective date of retirement is on or after July 1, 2015.

B. A retiree may apply for an extension of the thirty-six-month deadline to submit the SSA determination letter to ATRS if:

- i. The retiree demonstrates through an administrative or judicial confirmation of an active SSA claim that the claim is:
  - a. Still under review; and
  - b. Part of a continuous claim without voluntary dismissal or withdrawal; and
- ii. The SSA disability claim was filed and remained active for at least twenty-four (24) months before the thirty-six-month deadline.

## 3. Suspension of Disability Retirement Benefit Payments

A. ATRS shall suspend disability retirement benefit payments to a retiree if the retiree does not:

- i. Provide ATRS with a SSA determination letter finding the

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retiree disabled within the thirty-six-month deadline;

- ii. Receive an extension of the thirty-six-month deadline to provide ATRS with a SSA determination letter finding the retiree disabled; or
- iii. Apply to the medical committee for a review within three (3) months of ATRS suspending disability retirement benefit payments to the retiree due to the retiree's failure to provide ATRS with a SSA determination letter finding the retiree disabled.

~~b. If the first disability retirement check to the member is dated July 1, 2015, or after, and the member is under fifty seven (57) years on the date of the first disability retirement check, member shall submit to ATRS a Social Security Administration (SSA) determination letter dated within thirty six (36) months from the date of the first disability retirement check that finds that the member is disabled. In the absence of a SSA determination letter, the member's disability retirement payments will cease thirty six (36) months from the date of the first disability retirement check. For example:~~

- ~~— Date of 1st ATRS disability retirement check: January 2017, then~~
- ~~— Social Security Administration determination letter finding dated by: December 2019; or~~
- ~~— Date of last disability retirement check if no SSA determination letter: December 2019~~

~~2. ATRS will grant an extension to the above deadlines if the member can provide documentation to ATRS that:~~

- ~~a. The SSA disability claim was properly filed and remained active for at least twenty four (24) months prior to the deadline above; and~~
- ~~b. An active SSA disability claim is still under review by the SSA with no voluntary dismissal or withdrawal.~~

## 3.4. Inability to Obtain SSA Determination Letter — Medical Committee Review

A. A retiree who attempts and is unable to receive a SSA determination letter finding the retiree disabled may apply for a review by the medical committee.

B. A retiree may apply for a review by the medical committee:



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- i. No earlier than three (3) months before the date on which the retiree's disability retirement benefit payment would otherwise be suspended; and
- ii. No later than three (3) months after disability retirement benefit payments to the retiree is suspended.

C. A review performed by the medical committee shall follow the standards and procedures in Arkansas Code § 24-7-704(a)(1)(E).

D. A member's option to request a second review as provided by Arkansas Code § 24-7-704(a)(1)(H) shall not apply to a retiree who seeks disability review under Arkansas Code § 24-7-704(b)(3)(D).

## 5. Denial of Disability Review

1. After a disability review is held due to the SSA finding that a member is not disabled, the medical committee's recommendations shall be submitted to the Board for a final order.
2. If a member is denied further disability benefits after a disability review by the medical committee, the member may:
  - i. Offer additional medical information within thirty (30) days of the date of the disability review; and
  - ii. Request that the Board return the matter to the medical committee for reconsideration.

## 6. SSA Determination Letter No Longer Required

- A. Once the member who is receiving disability retirement benefit payments reaches sixty (60) years of age, the member thereafter will receive shall begin receiving regular retirement benefits as if the member voluntarily retired under A.C.A. Arkansas Code § 24-7-701 and no Social Security Administration a SSA determination letter is shall not be required. A retiree shall begin receiving regular retirement benefits as if the retiree voluntarily retired and a SSA determination letter shall not be required if the retiree
- i. Attains fifty-seven (57) years of age in the month the retiree's disability retirement benefits become effective; or
  - i.ii. Attains sixty (60) years of age.
4. A member may apply for an additional review of a disability claim within three (3) months of disability benefits ceasing due to a denial letter and finding by the Social Security Administration that the

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~~member is not disabled. The member's disability claim review will follow the procedure set forth in A.C.A. § 24-7-704.~~

## d. Denial of Disability Retirement

1. If a member's *initial* application for disability retirement is denied and the member elects and qualifies for voluntary retirement, the member's effective retirement date shall be determined by the date the member's *initial* disability retirement application is filed.
2. A member may request a second review if the member's initial disability retirement application is denied and the member submits additional medical documentation for the medical committee's consideration.
3. A member may only request a second review one (1) time.
4. If a member requests a second review, unless an extension is granted by ATRS, the member has six (6) calendar months from the date of the letter notifying the member of the denial of his or her initial disability retirement application to submit additional medical documentation.
5. If a member's *initial* disability retirement application is denied after the second review, the member may file *another subsequent* disability retirement application and submit additional information for consideration *if the member is active and eligible for disability retirement under Arkansas Code § 24-7-704.*
6. If a member's initial disability retirement application is denied and the member is ineligible to apply for disability retirement benefits under Arkansas Code § 24-7-704 or is inactive, the member may apply for age and service retirement or early voluntary retirement if the member meets the requirements for age and service retirement or early voluntary retirement.

## D.

- ~~1. A member under the age of sixty (60) may be employed by an ATRS covered employer and also receive ATRS disability retirement if the member performs less than eighty (80) days of actual service during a fiscal year.~~
- ~~2. A member shall not receive disability retirement if the member indirectly performs work for an ATRS covered employer as described in A.C.A. § 24-7-704(a)(4)(B).~~
- ~~3. If a member is approved for disability retirement but continues to work~~

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~~either directly or indirectly for the covered employer, the member shall terminate employment with the covered employer or indirect employer by the proposed disability retirement effective date, or, if the member is finalizing work for the employer, then the employee may terminate employment up to two (2) full calendar months after the Medical Committee meets.~~

~~4. If the member does not terminate employment under these Rules and the termination requirement under A.C.A. § 24-7-502, the application is rescinded and the member can reapply.~~

~~5. After receiving an ATRS disability retirement a member may choose to return to regular employment with an ATRS covered employer and relinquish their disability retirement. In this instance, the member would no longer receive disability retirement and would be an active member and shall comply with A.C.A. § 24-7-738 (Act 549 of 2017).~~

~~E. If the application for disability retirement benefits is denied and the member elects and otherwise qualifies for voluntary retirement, the effective date for retirement shall be determined by the date the disability retirement application is filed.~~

### e. F. Member Death Before Determination on Disability Retirement Application

1. If the member dies after the disability application is received by ATRS, but before his or her disability retirement application is approved, then the:

A. ~~ATRS shall consider the member to have~~ Member shall be considered as having died in ~~"active"~~active service; and

A.B. ~~survivor~~ Survivor benefits under A.C.A. Arkansas Code § 24-7-710 shall be paid, unless the member has designated an one (1) or more alternative residual beneficiary or beneficiaries.

### f. G. Disability Retirement Benefit Formula

1. The annuity formula for computing disability retirement benefits is shall be the same as for annuity formula used to compute voluntary age and service retirement benefits.

### g. H. Beneficiary Designation After Approval of Disability Retirement

1. ~~For all disability retirement applications~~ If a disability retirement application is approved by the Medical Committee medical committee after May 31, 2011, the Board shall allow ~~a disability retiree at the time~~

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of retirement ~~the member~~ to designate an Option A or Option B beneficiary at the time of retirement.

~~2. Option C beneficiaries shall not be available to disability retirees~~ An Option C beneficiary shall not be designated by a member who applies for disability retirement or a disability retiree. A.C.A. § 24-7-706(a)(3), (Arkansas Code § 24-7-706(a)(3))

~~2.3. If a disability retiree designates an Option A or Option B spouse beneficiary, and the disability retiree dies before reaching age sixty (60), then the same rules that apply to active member option beneficiaries shall apply to the disability Option A and Option B beneficiaries under A.C.A. § 24-7-710(b).~~ The same rules that apply to an active member's surviving spouse under Arkansas Code § 24-7-710(b) shall apply to a disability retiree's surviving spouse if the disability retiree:

A. Designates his or her spouse as Option A or Option B beneficiary at the time of retirement; and

B. Dies before reaching sixty (60) years of age.

4. The same rules that apply to a surviving spouse of an active member under Arkansas Code § 24-7-710(b) shall apply to the surviving spouse of a disability retiree if the disability retiree:

A. Dies after disability retirement benefit payments to the disability retiree begin;

B. Does not designate his or her spouse as an Option A or Option B beneficiary; and

C. Does not designate a residue beneficiary.

5. The same rules that apply to a surviving spouse of an active member under Arkansas Code § 24-7-710(b)(1)(B) shall apply to the surviving spouse of a disability retiree if the disability retiree:

A. Dies after disability retirement benefit payments to the disability retiree began;

B. Does not designate his or her spouse as an Option A or Option B beneficiary; and

A.C. Designates his or her spouse as a residue beneficiary.

~~3.6. If a disability retiree designates his or her dependent child as an Option A or Option B incapacitated child beneficiary, and the disability~~



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retiree dies before reaching age sixty (60), then:

A. the ~~The~~ same rules that apply under Arkansas Code § 24-7-710(c) to an ~~active member~~ active member's surviving child shall apply to the disability retiree's Option A or Option B dependent child beneficiary under ~~A.C.A. § 24-7-710(c)~~ until the date on which the disability retiree would have turned age sixty (60) years of age; and

B. On the date on which the disability retiree would have turned sixty (60) years of age, then the Option A or Option B incapacitated dependent child beneficiary shall receive the greater of the surviving child annuity under ~~A.C.A. § 24-7-710(c)~~ Arkansas Code § 24-7-710(c) or the Option A spouse annuity under ~~A.C.A. § 24-7-710(a)~~ Arkansas Code § 24-7-710(b).

~~I. Disability retirees who are disapproved for further disability annuities due to a medical examination reviewed by the Medical Committee shall be removed from ATRS' retiree payroll the earlier of six months following the review date or the first of the month following the return to covered employment.~~

~~J. If a member applies for disability retirement and is disapproved, he/she has the right to file a new disability application submitting additional information for review as long as the member remains active.~~

## **VIII.VII. Annuity Options and Disposition of Residue After Retirement Rules**

### **a. Option Annuity Election**

1. Before the date the first benefit payment of an annuity becomes due, a member retiring with age or service may elect ~~an option to receive an annuity payable as provided in one of the following.~~ (Disability retirement option rights are set forth in Rule 9.VII.H. above) one (1) of the following annuity options:

#### **A. Option 1: — Straight Life Annuity**

i. A straight life annuity payable monthly for the life of the retiree. Upon the retiree's death, if the retiree has not received payments equal to the residue amount, the residue remaining, if any, shall be paid to the residue beneficiary. If no residue beneficiaries survive the retiree, the residue will be paid to the retiree's estate.

#### **B. Option 2 — Reduced Straight Life Annuity with Option Beneficiaries**

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- i. A retiree shall receive the actuarial equivalent of the retiree's straight life annuity in a reduced annuity payable throughout the retiree's life.
- ii. A member may designate a beneficiary to receive one (1) of the following annuity options:
  - a. Option A — One hundred percent (100%) Survivor Annuity
    - 1. Upon the death of the retiree, the retiree's reduced annuity shall be continued and paid throughout the life of the retiree's designated beneficiary.
    - 2. A member may designate one (1) beneficiary under Option A.
  - b. Option B — 50% Survivor Annuity
    - 1. Upon the death of the retiree, one-half (1/2) of the retiree's reduced annuity shall be continued and paid throughout the life of the retiree's designated beneficiary.
    - 2. A member may designate one (1) beneficiary under Option B.
  - c. Option C — Annuity for Ten (10) Years Certain and Life Thereafter
    - 1. The retiree shall receive a reduced annuity payable throughout the retiree's life.
    - 2. If the retiree dies before receiving one hundred twenty (120) monthly annuity payments, the payments shall be continued for the remainder of the period of one hundred twenty (120) months and paid to one (1) or more of the retiree's designated beneficiaries in equal shares.
    - 4.3. A member may designate one (1) or more beneficiaries under Option C.

b. ~~B.~~ **Effect of Option 1 Retiree's Death within the First Year of Retirement**

- 1. If an Option 1 retiree dies within one (1) year of retirement, and his or her spouse qualifies for Option A benefits, the spouse may elect to

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cancel the Option 1 annuity in effect and elect Option A, ~~(100% survivor annuity)~~ one hundred percent (100%) survivor annuity, at that time.

2. The election ~~shall become~~ shall be effective the first day of the month following receipt of the election form by ATRS.

2.3. If the spouse elects Option A, the residue, if any, will shall not be paid until the Option A beneficiary's death.

c. ~~C.~~ **Persons Eligible as Option A or Option B Beneficiaries at the Time of Retirement**

1. ~~In order to be nominated as an Option A or B beneficiary, the person must be one of the following:~~ The following persons are eligible to be nominated by written designation as an Option A or Option B beneficiary:

A. ~~4.~~ The retiree's spouse ~~(if the retiree has been married to the spouse for at least one (1) year prior to the first annuity payment being paid to the retiree)~~ if the retiree and his or her spouse have been married to each other for at least one (1) year before the first annuity benefit payment to the retiree;

B. ~~2.~~ A retiree's dependent child ~~(regardless of age)~~ who has been ruled adjudged physically or mentally incapacitated by a court of competent jurisdiction, regardless of the age of the dependent child.

~~a.d.~~ D. **Eligibility of a Spouse to Become an Option A or Option B Beneficiary after a Member's Retirement**

1. ~~If a member was married to his or her spouse for less than one (1) year upon his or her effective retirement date or the member marries after his or her effective retirement date, then the member may elect to cover the spouse after being married for one (1) year.~~ After his or her retirement, a retiree may designate his or her spouse as an Option A or Option B beneficiary if the retiree:

A. Has been married to his or her spouse for one (1) year; and

B. Either:

i. Was married to his or her spouse for less than one (1) year upon his or her effective retirement date; or

ii. Marries his or her spouse after his or her effective retirement date.

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2. Upon meeting the ~~one (1) year~~ one-year marriage requirement, the ~~member-retiree~~ shall have six (6) months to ~~file an election to cover his or her~~ file a written nomination designating his or her spouse under ~~as~~ either an Option A or Option B beneficiary.
3. The ~~written election must~~ designation shall be filed on a form approved by ATRS.

### e. E. Eligibility of a Dependent Child to Become an Option A or Option B Beneficiary after a Member's Retirement

1. After a retiree's effective retirement date, the retiree may designate an Option A or Option B dependent child beneficiary if the:
  - A. Retiree previously designated his or her spouse as the Option A or Option B beneficiary;
  - B. Spouse designated as the retiree's Option A or Option B beneficiary predeceases the retiree; and
  - C. Dependent child has been adjudged physically or mentally incapacitated by a court of competent jurisdiction.

### b.f. Emancipation of Incapacitated Child Option Beneficiary

~~If an incapacitated child, who has been adjudged physically or mentally incapacitated by a court of competent jurisdiction, is nominated as an Option A or Option B beneficiary, and a court has determined that the incapacity issue no longer indicates incapacitation, or the incapacitated person is emancipated through marriage or dies, then the member may request ATRS to remove the incapacitated child from the member's account. Proof of the court's decision shall be by a copy of the court order, proof of emancipation shall be by a copy of the child's marriage license, or proof of death shall be by the death certificate.~~

1. A member may request that ATRS remove an incapacitated child as his or her Option A or Option B beneficiary if:
  - A. The member designated the incapacitated child as his or her Option A or Option B dependent child beneficiary; and
  - B. One (1) of the following applies:
    - i. A court finds that the incapacitated child is no longer incapacitated;
    - ii. The incapacitated child is emancipated through marriage; or
    - iii. The incapacitated child dies.



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2. The following forms of proof shall be submitted, as appropriate, with the member's request to remove an incapacitated child as his or her Option A or Option B:
  - A. A file-marked copy of the court's order finding that the incapacitated child is no longer incapacitated;
  - B. A copy of the incapacitated child's marriage license or equivalent, marriage license recording document, or other legally acceptable proof of the existence of the marriage; or
  - A.C. A copy of the incapacitated child's death certificate.
3. ~~Once proof is provided, the member may elect to return to Option 1 at that time, or if the member is married, the member shall have six months to designate the member's spouse as the member's option beneficiary. The election shall become effective the first day of the month following receipt of the election form by ATRS.~~ Once the proof required to remove an incapacitated child as the member's Option A or Option B beneficiary is submitted to ATRS, the member may:
  - A. Elect to return to an Option 1; or
  - B. If the member is married, designate his or her spouse as the Option A or Option B beneficiary within six (6) months of the date on which ATRS receives the proof required under this ATRS Rule 9 VII.f.2.
  - A.C. The member's election shall be effective on the first day of the month following the date on which ATRS receives the election form.

### ~~e.g.~~ F. **Residue Paid Upon Death of Option Annuitant**

1. A member may designate any person as a residue beneficiary.
2. ~~If after a retiree dies, an option annuity becomes payable, but the option beneficiary dies prior to the retiree and the option beneficiary receiving annuity payments equal to the residue amount, the residue, if any, shall be paid to member's residue beneficiary.~~ A retiree's residue, if any, shall be paid to the retiree's residue beneficiary if the:
  - A. Retiree dies before receiving annuity benefit payments equal to the residue amount; and
  - B. Option beneficiary dies before receiving annuity benefit payments equal to the residue amount.
- 4-3. ~~If no residue~~ a residue ~~beneficiary is not nominated or survives~~

## MARK UP

upon does not survive the death of the option beneficiary, the residue remaining, if any, shall be paid to the ~~last surviving option beneficiary's~~ retiree's estate.

### ~~d.h.~~ G. **Final Benefit Check**

1. Benefits are payable through the month in which the last option beneficiary's death occurs.
2. If the option beneficiary dies prior to before receiving the last check, ATRS will shall pay the final check in the normal manner paid prior to before death.
- ~~4.3.~~ If payment of the final check in the normal course becomes impossible, the final option beneficiary's annuity check will shall be returned to ATRS.

### ~~H.~~ **Eligible Residue Beneficiaries**

~~Any "person" as defined in this policy is eligible to be designated by the member to receive the residue, if any, payable upon the member's death including individuals, trusts, estates, corporations, and other legally recognized entities.~~

## **IX.VIII. Error Corrections and Collection of Overpayments Rules**

### a. Payment Errors

1. If a change or error in ATRS' records discovered during the ATRS look back look-back period results in either an overpayment or underpayment to ATRS, the Board ~~authorizes~~ shall authorize ATRS to:
  - ~~A. correct~~ Correct the error in the records;
  - ~~B. and to adjust any~~ Adjust a benefit or adjust any other amount payable to the corrected amount; and Adjust a benefit or any other amount payable to the corrected amount as far as practicable; and
  - ~~C. take~~ Take all necessary and appropriate action as the circumstances may require, including the options allowed under A.C.A. Arkansas Code § 24-7-205(b).
- ~~4.2.~~ The Board or its designee may adjust the records of ATRS, a covered employer, and a member beyond the look-back period if the Board determines that the time limitation imposed by the look-back period will result in a manifest injustice in a specific case.<sup>1</sup>

<sup>1</sup> See ATRS Rule 17 – Manifest Injustice.

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## b. B. Benefit Participant Under QDRO

1. If a benefit participant under a ~~qualified domestic relations order~~ QDRO pursuant to ~~A.C.A.~~ Arkansas Code §§ 9-18-101—103, is paid any benefit or payment by ATRS to which the benefit participant is not entitled, and it is discovered during the ~~ATRS look-back~~ look-back period, then a receivable is created and the Board or its ~~designee(s)~~ designee, may collect the amount due to ATRS as ~~set forth in A.C.A.~~ provided by Arkansas Code § 24-7-205.

## c. C. Notice of Benefit Adjustment

1. ~~Before making an adjustment of benefits or pursuing any other collection action, a notice shall be provided~~ ATRS shall provide notice to the person who is the subject of the adjustment. Before making an adjustment of benefits that causes a reduction of the benefits or pursuing any other collection action, ATRS shall provide notice to the person who is the subject of the adjustment.

### 2. The notice will shall:

A. state State the amount determined to be a receivable;

B. and State the reasons underlying the determination;

C. Describe the process for disputing an adjustment of benefits; and

A.D. The notice shall also suggest Suggest alternate methods for payment of the receivable.

## d. D. Dispute and Appeal of Collections

1. Appeals to dispute collections shall be made according to the procedures and requirements of ATRS Rule 13.
- ~~1.2.~~ During the appeal process, retirement benefits may continue to be paid.

## e. E. Correction and Adjustment Limitations

1. Actions that affect ~~rights on benefits cannot~~ benefit rights shall not be corrected or adjusted further than a ~~5-year "look-back"~~ five-year look-back period unless a manifest injustice has occurred or an exception exists under ~~A.C.A. § 24-7-205~~ Arkansas Code § 24-7-205(c).
- ~~1.2.~~ A determination by ATRS of a manifest injustice in a particular instance due to a technical error or error in judgment is discretionary and governed by Arkansas Code § 24-7-205.

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~~F. The board or its designee may also make adjustments to the employer, member, and ATRS records beyond the look-back period if the board determines that the time limitation imposed by the lookback period will result in a manifest injustice in a specific case. See Rule 17 — Manifest Injustice.~~

### f. ~~G.~~ Waiver of Interest on Contributions

1. The Board authorizes the Executive Director of ATRS (~~executive director~~) to waive interest on required contributions in an amount not to exceed \$5,000.

2. Any ~~A~~ request to excuse an interest amount exceeding \$5,000 shall be submitted to the ATRS Board for review.

~~4.3.~~ The Executive Director ~~executive director~~ shall report to the Board any amounts excused under this section to the Board.

### g. ~~H.~~ Uncollectible or Waived Receivables

1. If required, a receivable under this section this ATRS Rule 9 VIII that is found by the Board or its designee to be uncollectible or for which adjustment or payment has been waived ~~will~~ shall be submitted to the Chief Fiscal Officer of the state State for abatement pursuant to A.C.A. §§ ~~19-2-301—307~~ Arkansas Code §§ 19-2-301 — 19-2-307.

~~I. A determination by ATRS of a manifest injustice in a particular instance due to a technical error or error in judgment is always discretionary and governed by the provisions in A.C.A. § 24-7-205.~~

## **~~X. Retirement Application Rules~~**

~~A. A copy of the ATRS retirement application can be downloaded from the ATRS website or requested from ATRS.~~

~~B. In order for a retirement application to be timely filed, there is a three (3) month "window" to apply for retirement benefits. For active members currently employed, the window for filing your retirement application is:~~

~~1. No sooner than four (4) months prior to your Effective Retirement Date; and,~~

~~2. No later than one (1) month before your Effective Retirement Date.~~

~~C. For an inactive, vested, immediately eligible to retire member, retirement benefits are payable the month after the retirement application is received.~~

~~D. The procedure for handling received retirement applications is as follows:~~



## **MARK UP**

- ~~1. If a retirement application is received by ATRS before the three (3) month window begins for the member's anticipated Effective Retirement Date, the application is not timely filed, and ATRS will reject the application and notify the member of the dates that their retirement application can be filed timely and the procedure to do so.~~
  - ~~2. If a retirement application is received after the three (3) month window ends for the member's anticipated Effective Retirement Date, the retirement application is not timely filed and the member will receive a new Effective Retirement Date beginning on the 1st day of the next month.~~
- ~~E. This Rule does not apply to an application for disability retirement or survivor benefits.~~

## **MARK UP**

The following table shows examples of the "windows" for filing a retirement application:

<b>EXAMPLE OF RETIREMENT FILING DATES</b>			
<b>Effective Date of Retirement</b>	<b>Retirement Application Must be Filed In:</b>	<b>Last Date of Employment</b>	<b>First Retirement Check</b>
January 1	September, October or November	December 31	End of January
February 1	October, November or December	January 31	End of February
March 1	November, December or January	Feb 28/29 (Leap year)	End of March
April 1	December, January or February	March 31	End of April
May 1	January, February or March	April 30	End of May
June 1	February, March or April	May 31	End of June
July 1	March, April or May	June 30	End of July
August 1	April, May or June	July 31	End of August
September 1	May, June or July	August 31	End of September
October 1	June, July or August	September 30	End of October
November 1	July, August or September	October 31	End of November
December 1	August, September or October	November 30	End of December

# **MARK UP**

The following table is the only "window" for filing a T-DROP application:

<del>Effective Date of Retirement</del>	<del>Retirement Application Must be Filed In:</del>
<del>July 1</del>	<del>March, April or May</del>

## **HISTORY**

Effective:	July 2, 2002	9-3
Amended:	June 15, 2004	9-2, 9-4, 9-7
Amended:	July 18, 2005	9-4, 9-8
Amended:	February 7, 2006	9-2, 9-7
Amended:	April 26, 2007	9-2, 9-7
Amended:	June 19, 2007	9-4
Amended:	June 16, 2009	(Emergency) 9-2
Amended:	October 5, 2009	(Permanent) 9-2
Adopted:	December 18, 2009	9-1, 9-4, 9-8
Amended:	July 1, 2011	(Emergency) 9-1, (Emergency) 9-2, 9-4, (Emergency) 9-7, (Emergency) 9-8
Adopted:	August 8, 2011	9-1, 9-2, 9-4, 9-7, 9-8
Effective:	November 11, 2011	9-1, 9-2, 9-4, 9-7, 9-8
Approved by Board:	February 6, 2012	9-4, 9-7
Amended:	April 18, 2012	9-4, 9-7
Effective:	May 29, 2012	9-4, 9-7
Approved by Board:	July 26, 2013	9-2, 9-4, 9-8
Amended:	October 9, 2013	9-2, 9-4, 9-8
Effective:	November 8, 2013	9-2, 9-4, 9-8
Approved by Board:	October 5, 2015	9-2, 9-4
Amended:	February 1, 2016	9-2, 9-4
Effective:	February 10, 2016	9-2, 9-4
Approved by Board:	February 5, 2018	9-2, 9-4, 9-8, 9-9
Effective:	February 16, 2018	9-2, 9-4, 9-8, 9-9
Effective:	May 28, 2020	Rule 9

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

# A Bill

HOUSE BILL 1340

5 By: Representative Evans  
6 By: Senator L. Eads  
7

## For An Act To Be Entitled

8  
9 AN ACT TO AMEND THE LAW CONCERNING MEMBER  
10 CONTRIBUTIONS, SERVICE CREDIT, CORRECTION OF ERRORS,  
11 AND TERMINATION OF MEMBERSHIP UNDER THE ARKANSAS  
12 TEACHER RETIREMENT SYSTEM; TO DECLARE AN EMERGENCY;  
13 AND FOR OTHER PURPOSES.  
14

## Subtitle

15  
16  
17 TO AMEND THE LAW CONCERNING MEMBER  
18 CONTRIBUTIONS, SERVICE CREDIT, CORRECTION  
19 OF ERRORS, AND TERMINATION OF MEMBERSHIP  
20 UNDER THE ARKANSAS TEACHER RETIREMENT  
21 SYSTEM; AND TO DECLARE AN EMERGENCY.  
22  
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
25

26 SECTION 1. Arkansas Code § 24-7-205(b)(1)(C), concerning the  
27 correction of errors and the cancellation of contributory service credit when  
28 a member owes a balance due to the Arkansas Teacher Retirement System, is  
29 amended to read as follows:

30 (C)(i) ~~Canceled~~ Convert contributory service credit to  
31 noncontributory service credit for the fiscal year for which there is a  
32 member contribution balance due to the system, if the member that owes the  
33 member contribution balance elects to have the system ~~canceled~~ convert the  
34 contributory service credit rather than pay the balance due.

35 (ii) If contributory service credit is ~~canceled~~  
36 converted to noncontributory service credit under subdivision (b)(1)(C)(i) of





1 this section, the system shall return any member contributions for the  
2 affected portion of that fiscal year without interest.

3  
4 SECTION 2. Arkansas Code § 24-7-205(c), concerning the correction of  
5 errors and the time period in which a correction of errors may be extended  
6 under the Arkansas Teacher Retirement System, is amended to read as follows:

7 (c) A determination, review, administrative action, cause of action,  
8 request to enforce, change, or modify an obligation, duty, benefit  
9 calculation, designation, refund, contribution, service credit, or other  
10 right arising under this subchapter shall not be valid unless commenced  
11 within the look-back period unless the system determines that the  
12 justification to commence the process is due to intentional nondisclosure,  
13 fraud, misrepresentation, criminal act, or an obvious or documented error by  
14 an employer or the system that understated the service credit or salary of a  
15 member ~~upon which all required contributions have been paid.~~

16  
17 SECTION 3. Arkansas Code § 24-7-406(c)(1)(B), concerning the failure  
18 of an employer to report service and remit contributions to the Arkansas  
19 Teacher Retirement System, is amended to read as follows:

20 (B)(i) ~~Before July 1, 2011, if~~ If the employer fails to  
21 report the required service or salary of a member and remit the contributions  
22 to the system, the system shall have the right to collect from the ~~employee~~  
23 member and the employer the contributions due, if any, from each, together  
24 with interest beginning with the subsequent fiscal year after the  
25 contributions are due if the unreported service is within the look-back  
26 period under § 24-7-205.

27 ~~(ii) If the unreported service is not within the~~  
28 ~~look-back period, the unreported required service shall be considered an~~  
29 ~~optional purchase of service and the actuarial equivalent of the member's~~  
30 ~~benefits due to the system shall be required by the member.~~

31 ~~(iii)~~ (ii) A member shall not be given credit for  
32 service rendered until all member contributions and interest on the  
33 unreported service is are paid in full or the service is converted to  
34 noncontributory service credit under § 24-7-205(b)(1)(C).

35  
36 SECTION 4. Arkansas Code § 24-7-502(b)(4), concerning termination of

1 active membership under the Arkansas Teacher Retirement System, is amended to  
2 read as follows:

3 ~~(4)(A)(i) Before July 1, 2011, an active member shall receive~~  
4 ~~credit for any previous unreported service after July 1, 1937, by paying the~~  
5 ~~system the employee and employer contributions in effect during the previous~~  
6 ~~service, together with interest from the dates of the service to the date of~~  
7 ~~payment in full.~~

8 ~~(ii) On or after July 1, 2011, previous unreported~~  
9 ~~service rendered after July 1, 1937, may be established by paying the~~  
10 ~~actuarial equivalent of the member's benefits to the system.~~

11 ~~(B) For previous service rendered before July 1, 1971,~~  
12 ~~service credit shall be permitted for service in a fiscal year only if the~~  
13 ~~minimum days of service rendered is sufficient for one (1) year of service~~  
14 ~~credit under § 24-7-601 in a fiscal year.~~

15  
16 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the  
17 General Assembly of the State of Arkansas that the operations of a state  
18 public retirement system are complex; that the Arkansas Teacher Retirement  
19 System must be able to meet the needs of its members as anticipated by the  
20 General Assembly; that certain provisions of the Arkansas Teacher Retirement  
21 System Act, § 24-7-201 et seq., are in urgent need of revision and updating  
22 to bring them into conformance with sound public pension policy and actuarial  
23 requirements; that such revision and updating is of great importance to  
24 members of the Arkansas Teacher Retirement System and to other citizens of  
25 the State of Arkansas; that the Arkansas Teacher Retirement System needs to  
26 have the ability to make changes to maintain and improve its actuarial  
27 status; that reporting errors have resulted in harm to the members of the  
28 system; that the reporting errors caused members to not receive service  
29 credit that the members had earned; that the members are not at fault for the  
30 harm caused by the reporting errors; that the option of purchasing earned  
31 service credit at actuarial cost would be an excessive burden for the  
32 members; that this act is necessary to establish a fairer remedy for the harm  
33 caused to the members than the current law provides; that a July 1, 2021  
34 effective date is necessary to allow the provisions within this act to begin  
35 on the first day of the fiscal year to provide proper administration of the  
36 procedures referenced in this act; and that this act is necessary in order to

1 maintain an orderly system of benefits for the members of the Arkansas  
2 Teacher Retirement System. Therefore, an emergency is declared to exist, and  
3 this act being necessary for the preservation of the public peace, health,  
4 and safety shall become effective on July 1, 2021.

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7 **APPROVED: 3/1/21**  
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State of Arkansas  
93rd General Assembly  
Regular Session, 2021

# A Bill

HOUSE BILL 1279

By: Representative S. Smith

## For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING DISABILITY  
RETIREMENT UNDER THE ARKANSAS TEACHER RETIREMENT  
SYSTEM; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND THE LAW CONCERNING DISABILITY  
RETIREMENT UNDER THE ARKANSAS TEACHER  
RETIREMENT SYSTEM.

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

SECTION 1. Arkansas Code § 24-7-704 is amended to read as follows:

24-7-704. Disability retirement.

(a)(1)(A) An active member in employer service with five (5) or more years of actual and reciprocal service who becomes totally and permanently physically or mentally incapacitated for his or her job duties as a result of a personal injury or disease may be retired by the Board of Trustees of the Arkansas Teacher Retirement System upon a determination of disability consistent with this section and approval of a written application filed with the Arkansas Teacher Retirement System.

(B) An active member who is eligible for retirement under § 24-7-701 is not eligible for disability retirement.

(C)(i) An active member who has met the eligibility requirement of subdivision (a)(1)(A) of this section shall meet the termination of covered employment requirements under § 24-7-502 to be eligible for disability retirement benefits.

(ii) For eligibility under this section, a member is





1 considered active for an additional fiscal year following the last fiscal  
 2 year that the member renders actual service to a covered employer and obtains  
 3 at least one-fourth ( $\frac{1}{4}$ ) year of service credit.

4 (iii) Service credit used in calculating any  
 5 benefits paid under this section means days of service, including paid sick  
 6 leave covered by the employer.

7 (D)(i) A member has six (6) calendar months from the date  
 8 of his or her application for disability retirement to submit a completed  
 9 application and accompanying documentation.

10 (ii) If a member does not provide all accompanying  
 11 documentation requested by the system within the six (6) calendar months, the  
 12 system shall:

13 (a) Submit the application to the medical  
 14 committee for review as complete; or

15 (b) Withdraw the application at the request of  
 16 the member unless an extension is granted by the system.

17 (E) The member is qualified to receive disability  
 18 retirement benefits if, by majority opinion, the medical committee reports to  
 19 the board in writing that ~~its~~ upon review of the member's application and  
 20 accompanying documentation the medical committee finds:

21 (i) The member is physically or mentally  
 22 incapacitated;

23 (ii) The member exhibits symptoms of physical or  
 24 mental incapacitation while the member is employed by a system employer as an  
 25 active member;

26 (iii) The member is unable to perform his or her  
 27 current work duties;

28 (iv) The incapacity will most likely be permanent;  
 29 and

30 (v) The member should be retired.

31 (F) A favorable determination letter from the Social  
 32 Security Administration finding that the member is unable to perform his or  
 33 her current work duties shall create a rebuttable presumption that the member  
 34 qualifies to receive disability retirement benefits.

35 (G) If the medical committee requests additional  
 36 documentation upon initial review, a member has six (6) calendar months from

1 the date of a medical committee requests to submit any additional  
 2 accompanying documentation unless an extension is granted by the system.

3 (H)(i) If the medical committee finds that a member is not  
 4 qualified to receive disability benefits, the member may request a second  
 5 review provided the member submits additional medical documentation.

6 (ii) A second review may be requested one (1) time.

7 (iii) The member has six (6) calendar months to  
 8 submit additional medical documentation unless an extension is granted by the  
 9 system.

10 (2) The disability retirement is effective from the date the  
 11 written application is filed with the system and the member is no longer  
 12 employed by an employer.

13 (3)(A) Upon finding a member qualified to receive disability  
 14 retirement benefits, the member shall submit all documents and election forms  
 15 required to begin annuity payments including without limitation tax  
 16 withholdings, direct deposit, and choice of option, if any.

17 (B) A If a member shall does not submit a complete  
 18 disability application with the supporting documentation required by the  
 19 system application within six (6) calendar months of the effective date of  
 20 benefits the required documents within six (6) calendar months after the date  
 21 on which the medical committee finds that the member qualifies to receive  
 22 disability benefits, the member's application shall be void unless an  
 23 extension has been granted by the system.

24 ~~(B) An application is void when a complete application and~~  
 25 ~~supporting documentation are not submitted to the system within six (6)~~  
 26 ~~calendar months of the effective date of benefits, unless an extension has~~  
 27 ~~been granted by the system.~~

28 (4) To begin receiving disability retirement, a member shall  
 29 not:

30 (A) Be employed by a system-covered employer; or

31 (B) Be indirectly employed by or through an independent  
 32 contractor, limited liability company, partnership, corporation, or legal  
 33 entity that is employed by a system-covered employer if the member has  
 34 substantial control of the employer-employee relationship, including without  
 35 limitation the ability to negotiate rates of pay with the system-covered  
 36 employer or assign work and work hours to the member.

(b)(1) Upon disability retirement as provided in subsection (a) of this section, a ~~retirant~~ retiree shall receive an annuity provided for in § 24-7-705 and shall have the right to elect an option provided for in § 24-7-706.

(2) In addition to the requirements of this subsection, the member's disability retirement is subject to the provisions of ~~subsections (c) and (d)~~ subsection (c) of this section.

(3)(A) A ~~member or retirant~~ disability retiree may continue to receive a disability retirement benefit under this section when the ~~member or retirant~~ disability retiree provides the system with a Social Security Administration determination letter finding the ~~member or retirant~~ disability retiree is ~~disabled~~ unable to perform his or her work duties as described in subdivision (a)(1)(E)(iii) of this section within thirty-six (36) months from:

(i) July 1, 2015, when the ~~member's or retirant's~~ disability retiree's disability retirement effective date is before July 1, 2015; or

(ii) The effective date of disability retirement when the ~~member's or retirant's~~ disability retiree's disability retirement effective date is on or after July 1, 2015.

(B) The ~~member or retirant~~ disability retiree may apply for an extension of the thirty-six-month deadline when:

(i) The ~~member or retirant~~ disability retiree can demonstrate through an administrative or judicial confirmation of an active Social Security Administration disability claim that the claim is still under review and is a part of a continuous claim without voluntary dismissal or withdrawal; and

(ii) The Social Security Administration disability claim was filed and remained active for at least twenty-four (24) months prior to the thirty-six-month deadline under ~~subdivision (a)(3)(B)~~ subdivision (b)(3)(A) of this section.

(C) The system shall terminate disability retirement benefits to a ~~member or retirant~~ disability retiree when the ~~member or retirant~~ disability retiree fails to:

(i) Provide a Social Security Administration determination letter finding that the ~~member or retirant~~ disability retiree

1 is ~~disabled~~ unable to perform his or her former work duties as described in  
 2 subdivision (a)(1)(E)(iii) of this section to the system within the thirty-  
 3 six-month period under ~~subdivision (a)(3)(A)~~ subdivision (b)(3)(A) of this  
 4 section;

5 (ii) Receive an extension of time under ~~subdivision~~  
 6 ~~(a)(3)(B)~~ subdivision (b)(3)(B) of this section to provide the system with a  
 7 letter from the Social Security Administration finding that the ~~member or~~  
 8 ~~retirant~~ disability retiree is ~~disabled~~ unable to perform his or her former  
 9 work duties as described in subdivision (a)(1)(E)(iii) of this section; or

10 (iii) Apply for a review by the system's medical  
 11 committee within three (3) months of disability benefits ceasing due to the  
 12 lack of a Social Security Administration determination letter finding that  
 13 the ~~member or retirant~~ disability retiree is ~~disabled~~ unable to perform his  
 14 or her former work duties as described in subdivision (a)(1)(E)(iii) of this  
 15 section.

16 (D)(i) A ~~member or retirant~~ disability retiree who seeks  
 17 and fails to receive a determination letter finding the ~~member or retirant~~  
 18 ~~disabled~~ disability retiree is unable to perform his or her former work  
 19 duties as described in subdivision (a)(1)(E)(iii) of this section by the  
 20 Social Security Administration may seek a review permitted under subdivision  
 21 (b)(3)(C)(iii) of this section no earlier than three (3) months before the  
 22 date on which the member's disability retirement would otherwise end and no  
 23 later than three (3) months after termination of disability retirement.

24 (ii) The system's medical committee shall hear all  
 25 applications for review permitted under subdivision (b)(3)(C)(iii) of this  
 26 section and render decisions consistent with the definition of disability  
 27 under ~~subdivision (a)(1)(D)~~ subdivision (a)(1)(E) of this section.

28 (iii) The medical committee's recommendation after  
 29 its review of an application permitted under subdivision (b)(3)(C)(iii) of  
 30 this section shall be presented to the board for a final order.

31 (iv) After receiving the medical committee's  
 32 recommendation under subdivision (b)(3)(D)(iii) of this section, the board  
 33 shall issue a final order consistent with the provisions of this chapter and  
 34 the system's rules for initial disability retirement.

35 (v) The board's approval of the medical committee's  
 36 recommendation shall be a final disposition of the matter by the system under



the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(c)(1)(A) If a disability retiree returns to covered employment before attaining sixty (60) years of age, his or her disability retirement shall terminate unless the retiree meets the requirements to return to covered employment under ~~subsection (e)~~ subsection (d) of this section.

(B) If a disability ~~retirant~~ retiree returns to covered employment after attaining sixty (60) years of age and is otherwise eligible for retirement under § 24-7-707, the ~~retirant~~ retiree shall be treated as if he or she retired under § 24-7-701.

(2)(A) If Except as provided in subsection (d) of this section, ~~if~~ a disability ~~retirant~~ retiree under sixty (60) years of age returns to covered employment, he or she shall become an active member of the system immediately, and his or her credited service at the time of his or her disability retirement shall be restored to his or her credit in the members' deposit account.

(B) The ~~retirant's~~ retiree's disability retirement and his or her accumulated contributions shall be treated as if he or she returned to service on the date of the full-time employment.

(3) Except as provided under subdivision (c)(2) of this section, a disability ~~retirant~~ retiree shall not earn or be given service credit for the period he or she was receiving a disability retirement annuity.

~~(d)(1) A member has six (6) calendar months from the date of application for disability retirement to submit a completed application and accompanying documentation.~~

~~(2) If a member does not provide all the accompanying documentation requested by the system within the six (6) calendar months, the system will submit the application to the medical committee for review as complete or withdraw the application at the request of the member unless an extension is granted by the system.~~

~~(e)(1)~~ (d)(1) A disability retiree may be employed by a covered employer and also receive a monthly disability retirement if the disability retiree provides the covered employer with less than eighty (80) days of actual service during a fiscal year.

(2)(A) A disability retiree who meets the requirements of this subsection shall continue to receive his or her monthly disability retirement annuity from the system and shall not accrue additional service credit.

1                   (B) A covered employer who employs a disability retiree  
2 under this subsection shall remit contributions on all salary paid to the  
3 disability retiree in an amount equal to the employer contribution rate  
4 applicable to an active member.  
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7                   **APPROVED: 3/2/21**  
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1 State of Arkansas

As Engrossed: H2/22/21

2 93rd General Assembly

# A Bill

3 Regular Session, 2021

HOUSE BILL 1326

4  
5 By: Representative Warren

## For An Act To Be Entitled

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

## Subtitle

12  
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15 TO MAKE TECHNICAL CORRECTIONS TO TITLE 24  
16 OF THE ARKANSAS CODE CONCERNING THE  
17 ARKANSAS TEACHER RETIREMENT SYSTEM; AND  
18 TO DECLARE AN EMERGENCY.

19  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22  
23 SECTION 1. Arkansas Code § 24-7-202(5)(B)(i), concerning the  
24 definition of "administrator" as applicable to the Arkansas Teacher  
25 Retirement System, is amended to read as follows:

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

28  
29 SECTION 2. Arkansas Code § 24-7-202(18)(D), concerning the definition  
30 of "employment with a school" as applicable to the Arkansas Teacher  
31 Retirement System, is amended to read as follows:

32 (D)(i) Employment in a position with an ~~educationally~~  
33 ~~related~~ education-related agency or organization if the employee is or has  
34 been a member of the Arkansas Teacher Retirement System for a minimum of five  
35 (5) years and elects to become or remain a member of the Arkansas Teacher  
36 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

22 (ii) If the spouse dies before payments begin,  
23 subsequent distributions shall be made as if the spouse had been the member.  
24

25 SECTION 30. Arkansas Code § 24-7-735 is amended to read as follows:

26 24-7-735. Contract buyout agreement – Settlements – Judgments –  
27 Calculation of benefits.

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

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

(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)~~ (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 ~~(e)(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

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32 APPROVED: 3/8/21