

**MARK UP**

**ATRS Rule RULE 11**  
**SURVIVORS AND DOMESTIC RELATIONS**  
**ORDERS**

**RECEIVED**  
FEB 28 2022  
BUREAU OF  
LEGISLATIVE RESEARCH

A.C.A. Arkansas Code §§ 9-18-101 — 9-18-103, 24-7-710, 24-7-713, and 24-7-720, 24-7-734, 9-18-101 — 9-18-103

**I. Definitions**

- a. ~~A.~~ "Alternate payee" means a spouse, former spouse, child, or other dependent of a member under Arkansas law~~;~~
- b. ~~B.~~ "Application" for the purposes of retirement eligibility means an application form and any other documents required by the Arkansas Teacher Retirement System (ATRS) to establish a member's eligibility to retire;
- c. "Immediately eligible" for the purpose of survivor annuity benefits means a survivor of an active member who at the time of his or her death attained the normal retirement age and could have retired;
- d. "Lump-sum death beneficiary" means ~~the person(s) or entity(s)~~ one (1) or more persons or entities designated in writing by the member to receive payment of the lump-sum death benefit under A.C.A. Arkansas Code § 24-7-720~~;~~
- ~~C.e.~~ "Lump-sum death benefit" means a monetary amount set by the Board of Trustees of the Arkansas Teacher Retirement System (Board), and paid by ATRS to one (1) or more lump-sum death beneficiaries as provided for under A.C.A. Arkansas Code § 24-7-720; and
- ~~D.f.~~ "QDRO" means a court order that:
  - 1. ~~meets~~ Meets the definition of a ~~"Qualified Domestic Relations Order"~~ qualified domestic relations order under A.C.A. Arkansas Code § 9-18-101; or
  - 2. Assigns a portion of a member's retirement benefit to the member's divorced spouse or an alternate payee upon the member's retirement or a refund of the member's contributions at the request of the member;
- g. "Qualifying member" means:
  - 1. For the purposes of eligibility for a lump-sum death benefit under

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Arkansas Code § 24-7-720, a member or retiree to whom one (1) of the following categories apply:

A. The member:

- i. Is deceased;
- ii. Was an active member of ATRS before July 1, 2007; and
- iii. Has five (5) or more years of actual service, including actual service for the year immediately preceding his or her death;

B. The member:

- i. Is deceased;
- ii. Was an active member of ATRS on or after July 1, 2007; and
- iii. Has ten (10) or more years of actual service; or

C. The retiree:

- i. Dies before July 1, 2007; and
- ii. Has accrued five (5) or more years of actual service, including actual service, for the year immediately preceding his or her death; or

D. The retiree:

- i. Dies on or after July 1, 2007; and
- ii. Has accrued ten (10) or more years of actual service, including actual service for the year immediately preceding his or her death; or

2. For the purpose of an eligible survivor qualifying for survivor annuity benefits under Arkansas Code § 24-7-710, a member who:

- A. Is an active member as defined in Arkansas Code § 24-7-202(2);
- B. Has at least five (5) years of actual service and reciprocal service, including credited service for the year immediately preceding his or her death; and
- C. Is active as provided in Arkansas Code § 24-7-710(f) and this ATRS Rule 11 II.a.

## **II. ~~Survivors General~~ Survivors – Generally**

- ~~a. A. Benefits may be provided to dependents of qualifying members after the death of the member. To qualify, a member must have five (5) years of~~

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~~actual service and be an active member at the time of death.~~ Survivor  
Annuity Benefits – Member Qualification

1. A member shall be considered active for the purpose of an eligible survivor qualifying for survivor annuity benefits under Arkansas Code § 24-7-710 if:

A. The member has at least:

i. Ten (10) days of service credit in each prior quarter of the fiscal year from the time the fiscal year began or the member was employed by a covered employer, whichever occurs last; and

ii. One (1) quarter with ten (10) days of service; or

B. Either of the following apply to the member:

i. The member has earned at least ten (10) days of service credit in the quarter of the member's death and in each quarter before the member's death, collectively; or

ii. Less than ten (10) working days have elapsed in the quarter of the member's death.

2. A member shall also be considered active for an additional fiscal year following the last fiscal year in which the member renders actual service to a covered employer and obtains at least one-fourth (1/4) of a year of service credit.

b. Survivor Annuity Benefit – Applicable Law

1. The law in effect on the date of the qualifying member's death shall determine the:

A. Eligibility of a qualifying member's spouse or child to receive survivor annuity benefits;

B. Amount of the survivor annuity benefits to be received by an eligible survivor; and

C. The time at which an eligible survivor may begin receiving survivor annuity benefit payments.

c. Survivor Annuity Benefit - Eligibility - Generally

1. An eligible survivor of a qualifying member may receive survivor annuity benefits after the death of the qualifying member.

~~B. ATRS considers a member to be active for the purpose of qualifying for~~

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~~survivor benefits under A.C.A. § 24-7-710 if:~~

- ~~1. The member has at least ten (10) days of service credit in each prior quarter of the fiscal year from the time the fiscal year began or the member was employed by an ATRS employer, whichever occurs last, provided however, the member must have at least one quarter with ten (10) days of service; or~~
- ~~2. The member has at least ten (10) days of service in the quarter of the member's death, or, ten (10) working days have not elapsed in the quarter of the member's death.~~

## **III. Spousal Benefits or Alternative Residual Beneficiaries**

### a. A. Eligibility for Surviving Spouse Annuity

- ~~1. Unless the member directs an~~ a qualifying member designates one (1) or more alternative residual beneficiary or beneficiaries ~~residue beneficiaries~~ by written form approved by ATRS, the survivor annuity benefits provided for in A.C.A. Arkansas Code § 24-7-710, shall be paid to the spouse of the qualifying member if the spouse:

~~A. survives the member~~ Survives the qualifying member; and

~~A.B. was married to the member~~ Was married to the qualifying member for at least two (2) years immediately prior to the member's death before the qualifying member's death.

### a.b. B. Waiver of Spousal Surviving Spouse Annuity

- ~~1. If at the time of the member's death there are no dependent children eligible to receive a dependent child annuity, a surviving spouse who qualifies to receive a surviving spouse annuity may file with ATRS a waiver of any rights to the spousal annuity.~~ A surviving spouse who is eligible to receive surviving spouse annuity benefits may file a waiver of his or her right to the surviving spouse annuity benefits with ATRS if, at the time of the qualifying member's death, the qualifying member does not have children who are eligible to receive dependent child survivor annuity benefits.
- ~~2. If the surviving spouse files a waiver of the spousal~~ of his or her right to receive surviving spouse annuity benefits, then the surviving spouse may receive the member's qualifying member's accumulated contributions plus interest, if any, in a lump-sum distribution.

### b.c. C. Spousal Payment of Surviving Spouse Annuity Generally

- ~~1. The~~ Pursuant to Arkansas Code § 24-7-710, spousal surviving spouse



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annuity is benefits are payable for the surviving spouse's lifetime, regardless of the remarriage of the surviving spouse, pursuant to A.C.A. § 24-7-710.

2. The surviving spouse may defer receipt of the surviving spouse annuity benefits, if applicable, under the deferred ~~retirements~~ retirement provisions of A.C.A. Arkansas Code § 24-7-707.
3. A surviving spouse shall submit the following documents to ATRS before a surviving spouse annuity benefit payment is issued to the surviving spouse:
  - A. Proof of the qualifying member's death and date of death from the qualifying member's death certificate or another legally acceptable document;
  - B. Proof of the surviving spouse's taxpayer identification number from a Social Security card or another authenticating document;
  - C. Proof of the surviving spouse's date of birth from a birth certificate or another authenticating document; and
  - D. Proof of the marriage between the qualifying member and surviving spouse from a marriage license or equivalent, marriage license recording document, or other legally acceptable proof of the existence of the marriage.
4. A surviving spouse who is immediately eligible to receive a monthly survivor annuity benefit after the death of the qualifying member shall receive monthly survivor annuity benefits:
  - A. Beginning the month after the death of the qualifying member if the survivor application is filed with ATRS within three (3) months of the qualifying member's death; or
  - B. Beginning the month in which the survivor application is filed with ATRS if at the time of the qualifying member's death the qualifying member:
    - i. Accumulated at least twenty-five (25) years of credited service and was eligible to receive a voluntary retirement or early retirement annuity; or
    - ii. Reached sixty (60) years of age and was eligible to receive a deferred retirement annuity.
5. A surviving spouse who is not immediately eligible to receive a monthly survivor annuity benefit shall receive monthly survivor annuity benefits

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beginning the later of either the:

A. Month following the date on which the qualifying member would have been eligible to receive retirement benefits had the qualifying member survived; or

A-B. Date on which a survivor application is filed with ATRS.

d. ~~D.~~ **Alternative Residual Beneficiaries Generally**

1. Generally

A. A member may change his or her alternative residue beneficiary designation and designate his or her spouse as a residue beneficiary under Arkansas Code § 24-7-710 by documenting the change on a form provided and approved by ATRS.

2. Qualifying Member

~~A. A member may select one or more~~ A qualifying member may designate one (1) or more alternative beneficiaries, also known as alternative residue beneficiaries, to receive a lump-sum lump-sum payment of the member's qualifying member's residue in lieu of the member's qualifying member's surviving spouse (called "alternative residual beneficiary or beneficiaries"), documented on forms by using a beneficiary form provided and approved by ATRS, and no spousal benefit or other monthly benefits shall be paid.

B. A surviving spouse annuity benefit or any other type of monthly benefit shall not be paid to a qualifying member's surviving spouse if the qualifying member designates one (1) or more alternative beneficiaries to receive a lump-sum payment of the qualifying member's residue in lieu of the qualifying member's surviving spouse.

C. A surviving spouse may elect Option A — 100% Survivor Annuity benefits if the qualifying member:

i. Designates only the surviving spouse as the primary residue beneficiary; and

ii. Does not designate an alternative residue beneficiary as the primary residue beneficiary.

~~3. 2. If the member is a participant in T-DROP and chooses an alternative residual beneficiary or beneficiaries in lieu of the surviving spouse, and the member dies before retiring, then the designated alternative residual beneficiary or beneficiaries shall receive the T-~~

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~~DROP deposits as a lump sum and no spousal benefit or other monthly benefit shall be paid.~~ T-DROP Plan Participant

A. A Teacher Deferred Retirement Option Plan (T-DROP) participant (plan participant) may designate one (1) or more alternative residue beneficiaries to receive a lump-sum payment of his or her T-DROP benefits in lieu of his or her surviving spouse.

B. A T-DROP plan benefit, surviving spouse annuity benefit, or any other type of monthly benefit shall not be paid to a plan participant's surviving spouse if the plan participant designates one (1) or more alternative residue beneficiaries to receive a lump-sum payment of his or her T-DROP benefits in lieu of his or her surviving spouse.

C. A surviving spouse may elect Option A — 100% Survivor Annuity benefits if the plan participant:

i. Designates only the surviving spouse as the primary residue beneficiary; and

i-ii. Does not designate an alternative residue beneficiary as the primary residue beneficiary.

~~E. A member may change an alternative residual beneficiary or beneficiaries designation and revert to a spousal annuity designation by documenting the change on a form provided and approved by ATRS.~~

D. A plan participant's T-DROP residue that otherwise would have been paid pursuant to Arkansas Code § 24-7-709 shall be calculated as the greater of either of the following:

i. The accumulated contributions and regular interest credited to the retirement reserve account as of the member's effective retirement date reduced by the total amount of regular annuities paid, further reduced by amounts received from the T-DROP account in the form of a lump-sum or annuity benefit payments; or

i-ii. The T-DROP account as of the member's effective retirement date reduced by amounts received from the T-DROP account in the form of a lump-sum or annuity benefit payments.

## **IV. Dependent Children Benefits**

- a. ~~A. A surviving dependent child of the a qualifying member may receive an~~ is eligible to receive a survivor annuity benefit under A.C.A. Arkansas Code § 24-7-710 if the child qualifies as a dependent child.

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- b. ~~B. "Child of a member" as defined under A.C.A. § 24-7-202, is considered a dependent child for purposes of receiving a survivor annuity under § 24-7-710 from ATRS;~~ A child of a qualifying member qualifies as a dependent child if the child is:

1. ~~The child is younger~~ Is younger than eighteen (18) years of age; or
2. ~~The child is younger than twenty-three (23) years of age and has been a full-time student without interruption since reaching age eighteen (18) consistent with § 24-7-710(c)(2); or~~ Is between eighteen (18) years of age and twenty-three (23) years of age and continuously enrolled as a full-time student at an accredited secondary school, college, or university; or
3. ~~The child is adjudged~~ Has been adjudged physically or mentally incapacitated by a court of competent jurisdiction.

c. ~~C. Dependent Child – Full-time Student~~

1. To be considered a full-time student, the dependent child shall:
  - A. ~~carry~~ Take twelve (12) semester hours or eight (8) trimester hours in college;
  - B. Take four (4) hours per day in a secondary or postsecondary school; or
  - C. ~~engage~~ Engage full-time in a curriculum or field of study based upon verifiable indices from an accredited institution.
2. ~~After the a dependent child reaches eighteen (18) years of age, in the absence of a parent or legal guardian, the dependent child may self-report their his or her Certification of Attendance to ATRS; in the absence of a parent or legal guardian.~~

- D. ~~For a dependent child who is not a full-time student to continue receiving benefits after reaching eighteen (18) years of age, a doctor shall certify that the child is temporarily physically or mentally incapacitated to attend school for the current semester or term. At the beginning of the next semester or term, if the child does not reenter school full-time, the dependent child annuity will terminate.~~

3. Temporary Physical or Mental Incapacitation

- A. A qualifying member's child who is between eighteen (18) years of age and twenty-three (23) years of age and not a full-time student may continue to qualify as a dependent child and receive a survivor annuity benefit if a doctor certifies that the child is temporarily



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physically or mentally incapacitated to attend school for the current semester or term.

A.B. If a doctor does not certify the child as temporarily physically or mentally incapacitated to attend school for the following semester or term and the child does not attend school as a full-time student in the following semester, the child shall no longer qualify as a dependent child and shall be ineligible to receive survivor annuity benefits.

~~E. A child who is adjudged physically or mentally incapacitated by a court of competent jurisdiction and for whom a guardian has been appointed shall continue to be eligible to receive a dependent child annuity as long as the incapacity exists, regardless of age. A.C.A. § 24-7-710.~~

### 4. Active Military Duty or Training

A. A dependent child who qualifies under Arkansas Code § 24-7-710(c)(2)(B)(i) to receive survivor annuity benefit payments may have his or her payments temporarily suspended if he or she:

B. Is called to active military duty or active military training; and

C. Submits a copy of his or her military orders to the ATRS.

D. Survivor annuity benefit payments to the dependent child shall be suspended for the duration of the dependent child's participation in active military duty or active military training.

E. Survivor annuity benefit payments to the dependent child shall resume if the dependent child:

i. Is between eighteen (18) and twenty-three (23) years of age;

ii. Immediately re-enrolls as a full-time student upon his or her return from active military duty or active military training; and

iii. Submits documentation of his or her re-enrollment as a full-time student to ATRS.

### d. Dependent Child — Incapacitated Child

1. A qualifying member's child who qualifies as a dependent child because he or she has been adjudged physically or mentally incapacitated by a court of competent jurisdiction and for whom a guardian has been appointed shall continue to be eligible to receive a dependent child survivor annuity benefit as long as the incapacity exists, regardless of the age of the child. Arkansas Code § 24-7-710.

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## e. F. Dependent Child – Calculation and Payment of Survivor Annuity

1. A dependent child annuity is established according to the formula set out in A.C.A. §24-7-710. The amount of the survivor annuity benefit payable to a dependent child shall be the amount provided in Arkansas Code § 24-7-710.
2. The highest of the following shall be used to calculate a dependent child's survivor annuity benefit:
  - A. The total salary that the qualifying member would have received in the fiscal year in which the qualifying member died; or
  - B. The qualifying member's highest salary in another fiscal year.
3. The dependent child survivor annuity remains at its shall remain at the initial monthly amount, adjusted by an annual COLA cost-of-living adjustment increase, as may be designated by the board Board.
4. If more than one (1) dependent child in a member's family of a qualifying member receives an survivor annuity benefits, each dependent child's annuity remains at its survivor annuity benefit shall:
  - A. Remain at the initial monthly amount and is not; and
  - B. readjusted when the member's other dependent children's annuities terminate Not be readjusted if the survivor annuity benefit payments to one (1) or more of the dependent children terminates.
5. A dependent child shall receive monthly survivor annuity benefits:
  - A. Beginning the month after the qualifying member's death if the survivor application is filed with ATRS within three (3) months of the qualifying member's death; or
  - B. If a survivor application is not filed with ATRS within three (3) months of the qualifying member's death, beginning the month in which the survivor application is filed with ATRS.
6. A dependent child shall submit the following documents to ATRS before a survivor annuity benefit payment is issued to the dependent child:
  - A. Proof of the qualifying member's death and date of death from the qualifying member's death certificate or another legally acceptable document;
  - B. Proof of the dependent child's taxpayer identification number from a Social Security card or another authenticating documents;

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- C. Proof that the dependent child is a child of the qualifying member from the dependent child's birth certificate or another legally acceptable document;
- D. Proof of the dependent child's date of birth from a birth certificate or another authenticating document;
- E. If applicable, a file-marked court order finding the dependent child physically or mentally incapacitated; and
- F. If applicable, proof of enrollment as a full-time student from an accredited secondary school, college, or university.

~~G.~~

7. A deposit account designated to receive a survivor annuity **benefit** payment for the benefit of a **dependent** child **who is** under age eighteen (18) **years of age** shall conform with:

A. ~~the Arkansas Uniform Transfers to Minors Act~~ **The Arkansas Uniform Transfers to Minors Act, Arkansas Code § 9-26-201 et seq.;** or

B. ~~with a A~~ court order in a guardianship proceeding for the benefit of the ward **dependent child**.

8. Each survivor annuity **benefit** payment is **shall**:

A. ~~made~~ **Be made** as a separate payment to the eligible **dependent** child in the appropriate deposit account; and

A.B. ~~shall not~~ **Not** be co-mingled with payments to other family members.

~~H. The total salary that the member would have received in the fiscal year in which the member died, or the member's highest member salary in another fiscal year, whichever is higher, will be used to calculate a dependent child survivor benefit.~~

### **V. General Rules Regarding Survivor Annuities Annuity Benefits**

- a. ~~A. Survivors are required to produce sufficient proof of eligibility under these provisions prior to receiving benefit payments.~~ **Survivor annuity benefits shall not be paid to the survivor of a qualifying member until the survivor provides ATRS with sufficient proof of his or her eligibility to receive survivor annuity benefit payments.**
- b. ~~B. ATRS will notify survivors~~ **shall send each survivor who is identified by the qualifying member to ATRS and** who may be eligible for a survivor's

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survivor annuity benefit written notice of his or her potential eligibility at the survivor's last address on file at with ATRS.<sup>1</sup> (See also ATRS Rule 11.VIII below).

c. ~~C.~~ ~~If the member dies before receipt of the first disability retirement check but after receiving final approval for disability retirement, the benefits will be paid under the disability retirement option, alternative residual beneficiary designation, or to the beneficiaries as selected by the member. If a member receives final approval for disability retirement and dies before receiving the first disability retirement benefit payment, the member's disability retirement benefits shall be paid to one (1) or more option, alternative residual, or other beneficiaries designated by the member.~~

d. ~~D.~~ ~~If the member dies after the disability application is received by ATRS but before disability retirement is approved, then ATRS shall consider the member to have died in "active" service and survivor benefits under A.C.A. § 24-7-710 may be paid if no alternative residual beneficiary or beneficiaries designation has been made by the member. If a member's disability retirement application is received by ATRS and the member dies before his or her disability application is approved, the member shall be considered to have died in active service and survivor annuity benefits under Arkansas Code § 24-7-710 may be paid if the member has not designated an alternative residual beneficiary.~~

e. E. Payments After Death of Member

1. ~~Salary payments made after the death of a member that were earned prior to death are subject to ATRS deductions and shall be reported in total salary and days of service in the employer's quarterly report. A salary earned by a member before the member's death and paid after the member's death is subject to ATRS deductions and the member's covered employer shall report the member's total salary and days of service in the covered employer's quarterly report.~~

2. ~~Payments made by an employer after the death of an active member that are made as a mere gratuity and were not earned by the member shall not be included in the member's salary reported to ATRS and are not subject to contributions. Gratuitous payments made by a covered employer to a member after the death of the member shall not be:~~

A. Considered the salary of the member;

B. Subject to contribution requirements; and

<sup>1</sup> (See also ATRS Rule 11.VIII below).



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A.C. Included in the covered employer's quarterly report to ATRS

f. F. Survivor Annuity Benefits Payable by One (1) or More Reciprocal Systems

1. If survivor annuity benefits are payable by more than one (1) reciprocal system to ~~eligible survivors~~ one (1) or more eligible survivors of a deceased qualifying member, the survivors shall not receive ~~more (as a percentage of the deceased member's final pay or as a minimum dollar amount)~~ as a percentage of the qualifying member's final pay or as a minimum dollar amount, more than the largest amount payable by a single, reciprocal system.

2. ATRS will shall prorate minimum benefits payable with any other reciprocal ~~systems that have~~ system that has a minimum benefit provision.

3. ~~Each reciprocal system shall pay only its proportionate share of the minimum amount based on the ratio of service in its system to the total service in all reciprocal systems.~~ A reciprocal system shall pay the reciprocal system's proportionate share of the minimum benefit amount.

4.4. A reciprocal system's proportionate share of the minimum benefit amount shall be based on the ratio of the qualifying member's service in the reciprocal system to the qualifying member's total service in all other reciprocal systems.

e.g. ~~G.~~ When the a member elects to transfer from ATRS to APERS under the provisions of ~~Act 793 of 1977,~~ Acts 1977, No. 793, APERS' law ~~governs~~ shall govern the survivors' eligibility for a payment of residue or survivor annuity benefits upon the member's death.

## **VI. Lump-Sum Lump-Sum Death Benefit Rules**

a. Lump-Sum Death Benefits – Member Qualification

1. A member who is active or retired and accrues the required amount of actual service at the time of his or her death may qualify for a lump-sum death benefit.

2. For the purposes of eligibility for a lump-sum death benefit under Arkansas Code § 24-7-720, a member shall be considered active for an additional fiscal year following the last fiscal year in which the member renders actual service to a covered employer and obtains at least a quarter (1/4) of a year of service credit.

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## b. Lump-Sum Death Benefit – Amount

1. The amount of the lump-sum death benefit may be set pursuant to rules adopted by the ~~board~~ Board in an amount of up to ten thousand dollars (\$10,000) per member.
- 4.2. The ~~board~~ Board may adjust the amount of the lump-sum death benefit each year and, as actuarially appropriate, prorate the amount of the lump-sum benefit based on the ratio of the member's contributory and noncontributory service credit.
- 4.3. The A lump-sum death benefit will shall be paid as a single amount to the beneficiary designated by the eligible qualifying member.
4. If the eligible member failed qualifying member fails to designate a beneficiary or a designated beneficiary did not does not survive the qualifying member, the lump-sum death benefit will shall be paid to the qualifying member's estate.
2. ~~Under Act 1323 of 2009, all lump-sum death benefit distributions made after June 30, 2009, shall be tax exempt, and no federal or state income tax shall be withheld by ATRS. After June 30, 2009, the lump-sum death benefit shall not be eligible for a direct rollover.~~

## c. Lump-Sum Death Benefit – Tax Exemption

1. Pursuant to Acts 2009, No. 1323, a lump-sum death benefit distribution made after June 30, 2009, shall be tax exempt, and no federal or state income tax shall be withheld by ATRS.
- 4.2. After June 30, 2009, a lump-sum death benefit shall not be eligible for a direct rollover.

~~B. Only members who are active or retired at the time of their death qualify for the lump-sum death benefit. Inactive members shall not be entitled to a lump-sum death benefit. A member is considered active for an additional fiscal year following the last fiscal year that the member renders at least one-fourth (1/4) year of actual service to a covered employer, credited as the total days of service.~~

~~C. A member must have accrued the required amount of actual service at the time of his or her death to qualify for the lump-sum death benefit.~~

## D.d. Lump-Sum Death Benefit – Beneficiary Designations and Authorized Agents

1. A member may designate any natural person(s) or one (1) or more natural persons, a duly formed legal entity, including a corporation,

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trust, partnership, or other legal entity, as his or her lump-sum death benefit beneficiary, including a corporation, trust, partnership, or other recognized legal entity.

2. A completed lump-sum death benefit beneficiary form shall not be considered effective if the form is received by ATRS after the member's death.
3. A member's most recently completed, executed, and filed lump-sum death benefit beneficiary form shall supersede all previous lump-sum death benefit beneficiary forms completed, executed, and filed by the member.

#### 4. Authorized Agent and Guardian – Authority to Designate Beneficiary

##### A. Attorney-in-Fact and Power of Attorney

- i. A lump-sum death benefit beneficiary form that is signed by a member's authorized agent, including an attorney-in-fact, agent under a power of attorney, or any other legally recognized agent, shall not be processed until the document appointing the member's authorized agent is filed with and accepted by ATRS.
- ii. Only a document that appoints and authorizes the member's authorized agent to transact retirement plan business on behalf of the member shall be effective for ATRS purposes.
- iii. Only a document that specifically authorizes a member's authorized agent to change the member's beneficiary designations shall be effective to allow the authorized agent to change a beneficiary designation on the member's behalf with ATRS.

##### B. Guardians and Court-Appointed Conservators

- i. A lump-sum death benefit beneficiary form signed by a guardian of the member's estate or another court-appointed conservator shall not be effective to allow the guardian or court-appointed conservator to change a beneficiary designation on the member's behalf with ATRS unless there is an accompanying court order specifically authorizing the guardian or court-appointed conservator to change a beneficiary designation on the member's behalf.

#### e. Lump-Sum Death Benefit – Distribution, Waiver, and Assignment

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1. A designated beneficiary shall submit the following forms and documents to ATRS before a lump-sum death benefit payment is issued to the designated beneficiary:
  - A. A written application on a form approved by ATRS; and
  - B. The qualifying member's death certificate or other acceptable proof of the qualifying member's death.
2. A lump-sum death benefit payment shall be made within a reasonable time to a qualifying member's designated beneficiary after the death of the qualifying member.
3. A designated beneficiary of a lump-sum death benefit may waive his or her right to receiving a payment of the lump-sum death benefit by submitting a waiver of his or her right to the lump-sum death benefit on a form that is acceptable to ATRS.
4. If a designated beneficiary waives his or her right to the payment of a lump-sum death benefit, ATRS shall pay all or the balance of the lump-sum death benefit, whichever is applicable, to any other remaining designated beneficiaries.
- 4.5. A designated beneficiary shall not assign his or her right to a payment of a lump-sum death benefit to another person or entity.
- ~~E. The completed lump-sum death beneficiary form must be received by ATRS prior to the member's death to be effective.~~
- ~~F. The member's most recently executed and filed lump-sum death beneficiary form supersedes all prior lump-sum death beneficiary forms that may have been filed by the member.~~
- ~~G. If the member is eligible for the lump-sum death benefit at their death, the lump-sum death benefit payment shall be made within a reasonable amount of time to the member's proper beneficiary upon receipt of a written application, acceptable proof of the beneficiary's identification, and proof of the member's death.~~
- ~~H. Lump-sum death beneficiary forms signed by a member's agent (such as an attorney-in-fact under a power of attorney) will not be processed until the document appointing the agent is filed with and accepted by ATRS. The document must authorize the agent to transact retirement plan business on behalf of the member, and specifically authorize the agent to change beneficiary designations.~~
- ~~I. ATRS will not accept a lump-sum death beneficiary form signed by a~~



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~~guardian of the member's estate or other court-appointed conservator without an accompanying court order authorizing the guardian's designation of beneficiary(s).~~

~~J. A lump-sum death beneficiary may waive his or her rights to payment of the lump-sum death benefit by submitting a waiver and relinquishment form acceptable to ATRS. Upon receipt of a valid waiver, ATRS will pay the remaining eligible beneficiary(s).~~

~~K. A lump-sum death beneficiary may not assign payment of a lump-sum death benefit to another person or entity.~~

~~L. ATRS reserves the right to deduct from the lump-sum death benefit any amounts owed to ATRS by the member under A.C.A. § 24-7-205.~~

~~M. ATRS reserves the right to collect any overpayments or other amounts owed to ATRS by the lump-sum death beneficiary(s).~~

### f. Lump-Sum Death Benefit – Overpayments

1. ATRS reserves the right to deduct from a qualifying member's lump-sum death benefit any amount owed to ATRS by the qualifying member under Arkansas Code § 24-7-205.

1.2. ATRS reserves the right to collect any overpayment or other amount owed to ATRS by a designated beneficiary.

### N.g. Lump-Sum Death Benefit – Compliance

ATRS shall comply with all applicable laws relating to the distribution of the a lump-sum death benefit including ~~federal and state tax laws and the Uniform Transfer to Minors Act~~ the Arkansas Uniform Transfers to Minors Act, Arkansas Code § 9-26-201 et seq.

## **VII. Qualified Domestic Relations Orders (QDRO) for ATRS Members**

~~A. A QDRO is a court order that assigns a portion of a member's retirement benefit to be paid to an alternate payee (the divorced spouse) upon the member's retirement or upon a refund of the member's contributions.~~

~~B. Under A.C.A. § 9-18-103(b), ATRS adopted a model QDRO to be utilized by its members when dividing an ATRS retirement benefit. A QDRO issued by a court must substantially follow the form and content of the ATRS model QDRO.~~

### a. QDRO — Adopted by ATRS

1. The model QDRO adopted by ATRS pursuant to Arkansas Code § 9-18-103(b) shall be used by a member **if a court intends to divide the**

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member's retirement benefits or contributions between the member and an alternate payee.

### b. QDRO Issued by Court

1. ~~C.~~ ATRS shall accept a QDRO issued by a circuit court of the State of Arkansas or other court of competent jurisdiction regarding a member and an alternate payee, subject to the following:

~~A. 1. Benefits to the alternate payee shall begin when the member~~  
The alternate payee is eligible to receive benefit payments if the member:

~~i. retires~~ Retires; or

~~ii. when the member ceases~~ Terminates employment with a covered employer and receives a refund of contributions.

~~A.B. 2.~~ ATRS shall:

a. ~~i.~~ Promptly notify the member and the alternate payee upon receipt of receiving a QDRO; ~~ii.~~ and

~~b. ii. Within a reasonable time after receipt of the QDRO, determine whether the QDRO complies with ATRS's model QDRO and ATRS laws and regulations.~~ Determine within a reasonable time after receiving the QDRO whether the QDRO complies with the Arkansas Code, ATRS Rules, ATRS' model QDRO, and other applicable laws.

~~B.C. 3. A~~ The member or the alternate payee may file a QDRO with ATRS prior to before the member's retirement or termination of covered employment, ~~but the alternate payee's portion is held in the member's account until payable under paragraph VII.C.1 above.~~

~~C.D. 4.~~ A QDRO shall not require ATRS to:

- i. ~~a.~~ Provide ~~an the~~ alternate payee with any type or form of benefit or option not otherwise available to the member;
- ii. ~~b.~~ Provide the alternate payee actuarial benefits not available to the member; or
- iii. ~~c.~~ Pay any benefits to ~~an the~~ alternate payee that are required to be paid to another alternate payee under an existing QDRO.

~~D.E. 5.~~ If Any benefit that would be due to the alternate payee under the QDRO shall revert back to the member if the alternate payee dies prior to the receipt of before receiving the benefit

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~~benefits under the QDRO, any amount or benefit that would be due to the alternate payee reverts to the member.~~

~~F. 6. If the member dies prior to~~ before retirement, the alternate payee shall receive the same portion of the member's contributions, if any, as was assigned by the QDRO.

~~E.G. In no case shall the alternate payee~~ The alternate payee shall not receive monthly retirement annuity benefits from ATRS if the member has not received his/her his or her retirement annuity at the time of his/her his or her death.

~~F.H. 7. ATRS computes~~ shall compute the alternate payee's monthly retirement annuity benefit under a QDRO ~~on~~ using the benefit formula in effect at the time of the member's retirement and ~~includes~~ shall include only service credit earned by the member during the marriage.

~~G.I. 8. If the QDRO assigns a marital portion or other part of a member's interest in his/her T-DROP plan deposits and interest, the benefits in the T-DROP account shall be computed as a separate calculation under the provisions in the model order. If the QDRO issued by the circuit court assigns a marital portion or other part of the member's interest in his or her T-DROP plan deposits and interest, the benefits in the member's T-DROP account shall be computed as a separate calculation as provided by ATRS' model QDRO.~~

~~J. 9. ATRS shall have the right to:~~

~~i. make~~ Make any necessary correction to the monthly retirement benefit amount paid under a the QDRO; and

~~i.ii. to recover from either the member or the alternate payee~~ Recover any overpayments due owed to ATRS from either the member or the alternate payee.

~~K. 10. If the alternate payee fails at any time to notify ATRS of a change of mailing address, ATRS shall not be required to make restitution for payments not made prior to receipt of a change of address.~~ The alternate payee shall:

i. Notify ATRS of a change of the alternate payee's mailing address; and

ii. Verify annually his or her address with ATRS beginning one (1) year from the date of the letter notifying the alternate payee

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**of ATRS' acceptance of the QDRO.**

**L. The alternate payee's portion of the member's retirement benefits or contributions shall be held in the member's account until the alternate payee is eligible to receive benefit payments under this ATRS Rule 11 VII b.1.A.**

**M. If the alternate payee is eligible to receive benefit payments, ATRS shall:**

**i. Not hold the alternate payee's portion of the member's retirement benefits or contributions in the member's account;**

**ii. Pay the alternate payee's portion of the member's retirement benefits or contributions when payment is due to the:**

**a. Alternate payee if the alternate payee has completed and submitted to ATRS an enrollment form and all other documents required by ATRS in order to issue the payment; or**

**b. Member to be held by the member as constructive trustee.**

**N. If the alternate payee is eligible to receive benefit payments and has not completed and submitted an enrollment form or all other required documents to ATRS, the following shall apply:**

**i. ATRS shall notify the member in writing that the alternate payee has not completed and submitted an enrollment form or all other documents required in order for ATRS to issue a payment to the alternate payee;**

**ii. ATRS shall pay the alternate payee's portion of the member's retirement benefits or contributions to the member;**

**iii. The member shall hold as constructive trustee the alternate payee's portion of the member's retirement benefits or contributions upon receiving the alternate payee's portion of the member's retirement benefits or contributions; and**

**iv. The member shall be responsible for verifying with ATRS the amount of the alternate payee's portion of the member's retirement benefits or contributions to be held by the member as constructive trustee.**

**O. If an amount that should not have been distributed to the member or alternate payee under the QDRO is received by the member or**



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alternate payee, the member or alternate payee shall:

- i. Be responsible for holding the amount as a constructive trustee; and
- ii. Notify ATRS immediately that he or she received the amount.

P. ATRS shall not make restitution for:

- i. A payment that is issued to the alternate payee before ATRS receives notice of the alternate payee's change of address;
- ii. A distributed amount that:
  - a. The alternate payee is entitled to receive under the terms of a QDRO; and
  - b. Is received by the member as constructive trustee; or
- iii. A distributed amount that:
  - a. The member is entitled to receive under the terms of a QDRO; and
  - b. Is received by the alternate payee as constructive trustee.

~~O. 11. Any benefit enhancements enacted by the Legislature or the Board of Trustees after entry of a QDRO shall not be assigned to the alternate payee but shall inure to the sole benefit of the member. A benefit enhancement enacted by the General Assembly or the Board after entry of the QDRO shall inure to the benefit of the member and shall not be assigned to the alternate payee.~~

~~P. 12. ATRS shall not accept a QDRO for a member who does not have five (5) years of actual service with ATRS at the time the QDRO is issued by a court.~~

~~Q. 13. If ATRS determines that the alternate payee's monthly benefits are less than twenty dollars (\$20.00), ATRS shall pay the member the total benefit due and the member shall be responsible for paying the alternate payee their portion under the QDRO. ATRS shall pay the member the total retirement benefit if ATRS determines that the alternate payee's monthly retirement benefit is less than twenty dollars (\$20.00).~~

~~R. The member shall be responsible for paying the alternate payee his or her portion under the QDRO if ATRS determines that the alternate payee's monthly retirement benefit is less than twenty~~

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dollars (\$20.00).

- S. 44. The QDRO issued by the circuit court shall not require ATRS to provide any benefit that is an actuarial cost to ATRS and is not otherwise contemplated in ATRS' the law and rules applicable to ATRS.
- T. 45. No provision in this rule ATRS Rule 11 or in a QDRO accepted by ATRS shall require ATRS to violate any plan qualification requirement in IRS the Internal Revenue Code, 26 U.S.C. § 401(a), or otherwise affect the ATRS ATRS' requirement to operate as a governmental plan under IRS the Internal Revenue Code, 26 U.S.C. § 414(d).

## VIII. Lost Payees Rules

- a. ~~A. Each member of ATRS, as well as each beneficiary of a deceased member, is responsible for filing with ATRS in writing a current post office address and each change of post office address of the member or beneficiary.~~ A member or beneficiary of a deceased member, whichever is appropriate, is responsible for filing a current post office address and any subsequent change of address with ATRS.
- b. ~~B. Any communication~~ Communication addressed to a member or beneficiary at the last filed post office address last filed with ATRS, or, if no post office address has been filed with ATRS, the last post office address indicated on the records of the employer of the member or the beneficiary shall be:
1. ~~be the~~ The official post office address for ATRS ~~communications~~ communication to the member or beneficiary; and
  2. ~~and shall be binding~~ Binding on the member or beneficiary for all ~~purposes of ATRS~~ purposes.
  3. ~~Under A.C.A. § 24-7-734, ATRS has~~ shall have no obligation to determine the current post office address or any other address for any a member or beneficiary. (Arkansas Code § 24-7-734)
- c. ~~C. Unclaimed Property Act~~
1. Member payments in the possession of ATRS are shall be excluded from the definition of property under ~~the Arkansas~~ as provided in the Unclaimed Property Act, ~~(A.C.A. Arkansas Code § 18-28-201 et seq.)~~.
  2. ~~A.C.A. Arkansas Code § 24-7-734~~ Arkansas Code § 24-7-734 supersedes any conflict with the ~~Arkansas~~ Arkansas Unclaimed Property Act, Arkansas Code § 18-28-201 et seq.

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## HISTORY

Adopted:	August 10, 1993	11-3
Amended:	March 6, 1996	11-3
Amended:	February 10, 1998	11-3
Amended:	May 5, 1998	11-3
Amended:	October 7, 2003	11-3
Amended:	June 15, 2004	11-1, 11-2
Adopted:	July 18, 2005	11-5
Amended:	February 7, 2006	11-1, 11-2
Amended:	April 26, 2007	11-1, 11-2
Amended:	October 6, 2008	11-3
Amended:	June 16, 2009	(Emergency) 11-2
Amended:	October 5, 2009	(Permanent) 11-2
Amended:	December 18, 2009	11-1
Amended:	July 1, 2011	(Emergency) 11-1, (Emergency) 11-2
Adopted:	August 8, 2011	11-1, 11-2
Effective:	November 11, 2011	11-1, 11-2
Approved by Board:	August 6, 2012	11-1
Amended:	October 13, 2012	11-1
Effective:	March 6, 2013	11-1
Approved by Board:	July 26, 2013	11-1, 11-2, 11-5
Amended:	October 9, 2013	11-1, 11-2, 11-5
Effective:	November 8, 2013	11-1, 11-2, 11-5
Approved by Board:	December 1, 2014	11-1
Amended:	May 18, 2015	11-1
Effective:	June 16, 2015	11-1
Approved by Board:	February 5, 2018	11-1
Effective:	February 16, 2018	11-1
Effective:	May 28, 2020	Rule 11

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

As Engrossed: H2/22/21

# A Bill

HOUSE BILL 1326

By: Representative Warren

## For An Act To Be Entitled

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

## Subtitle

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

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

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

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

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

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





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

3 (b) Teaching public school students; or

4 (c) Adult education programs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (d) As used in this section:

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

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

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

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

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

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

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

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

35 (B) "Terminate" does not mean:

36 (i) Taking a leave of absence; or

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           (2) If a ~~retirant~~ retiree and his or her option annuitants die  
2 and the member has failed to designate a beneficiary or if all designated  
3 beneficiaries have predeceased the ~~retirant~~ retiree, the residue shall be  
4 paid to the ~~retirant's~~ retiree's estate.  
5

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

9           (a)(1) If a member discontinues covered employment and does not plan  
10 to be rehired by a covered employer, the member may elect to be paid a refund  
11 of his or her contributions and regular interest credited to the member's  
12 deposit account within six (6) months following the date the member's written  
13 application is filed with the Arkansas Teacher Retirement System.  
14

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

18           (5) ~~Interest~~ Regular interest on a deceased member's accumulated  
19 contributions under this subsection shall cease to accrue on the July 1 after  
20 the member's death.  
21

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

24           (c) The amount of the lump-sum payments under this section shall be  
25 set periodically and not more often than annually by rules and resolutions of  
26 the board as ~~it~~ the board determines is actuarially appropriate for the  
27 system.  
28

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

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



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

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

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

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

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

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

25 24-7-735. Contract buyout agreement – Settlements – Judgments –  
26 Calculation of benefits.

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

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

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

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

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

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

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

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

18 ~~(ii)(2)~~ (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)~~ (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)~~ (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.

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.

29 /s/Warren

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