

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 468 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: S2/24/09 S3/3/09

A Bill

SENATE BILL 191

5 By: Senator Faris
6
7

8 **For An Act To Be Entitled**

9 AN ACT TO MAKE TECHNICAL CORRECTIONS TO ARKANSAS
10 CODE TITLE 24, CHAPTER 7 CONCERNING THE ARKANSAS
11 TEACHER RETIREMENT SYSTEM; AND FOR OTHER
12 PURPOSES.
13

14 **Subtitle**

15 TO MAKE TECHNICAL CORRECTIONS TO
16 ARKANSAS CODE TITLE 24, CHAPTER 7.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 *SECTION 1. Arkansas Code § 24-7-202(1)-(14), concerning definitions in*
22 *the Arkansas Teacher Retirement System Act are amended to read as follows:*

23 (1) "Accumulated contributions" means the total of all amounts
24 contributed by a member ~~and standing to his or her credit in his or her~~
25 ~~individual account in~~ credited to the members' member's deposit account,
26 together with regular interest ~~credited thereon~~;

27 (2) "Active member" means any member rendering service to an
28 employer that is covered by the Arkansas Teacher Retirement System;

29 (3) "Actual service" means service rendered in a position
30 covered by the Arkansas Teacher Retirement System and does not include
31 purchased or free credited service or reciprocal service;

32 (4) "Actuarial equivalent" means a benefit of equal reserve
33 value;

34 (5) "Annuity" means an ~~annual~~ amount payable to a retirant each
35 fiscal year by the Arkansas Teacher Retirement System in equal monthly



1 ~~installments throughout the life of a person or for a temporary period;~~

2 (6) "Beneficiary" means any person who is receiving or is
3 designated by a member to receive an Arkansas Teacher Retirement System
4 benefit;

5 (7) "Benefit program" means a schedule of benefits or benefit
6 formulas from which the amounts of Arkansas Teacher Retirement System
7 benefits can be determined;

8 (8) "Board" means the Board of Trustees of the Arkansas Teacher
9 Retirement System;

10 (9) "Child of a member" means either a natural child of the
11 member, or a child ~~that~~ who has been made a child of the member by applicable
12 court action before the death of the member, ~~or a child under the permanent~~
13 ~~care of the member at the time of the latter's death, which permanent care~~
14 ~~status shall be determined by evidence satisfactory to the board;~~

15 (10) "Credited service" means service which is creditable as
16 service by the Arkansas Teacher Retirement System;

17 (11) "Deferred member" means an inactive member who is eligible
18 to receive benefits under § 24-7-707;

19 (12) "Employee" means any person employed by an employer covered
20 by the Arkansas Teacher Retirement System;

21 (13) "Employer" means any public school, or other public
22 educational agency, or other eligible employer participating in the Arkansas
23 Teacher Retirement System;

24 (14) "Employment with a school" means, beginning July 1, 1993:

25 (A) Employment with any of the following institutions or
26 agencies:

27 (i) Arkansas School for the Blind;

28 (ii) Arkansas School for the Deaf;

29 (iii) Arkansas Activities Association;

30 ~~(iv) A local school board;~~

31 ~~(v)~~ (iv) State Board of Education;

32 ~~(vi)~~ (v) Regional education service cooperatives; and

33 ~~(vii)~~ (vi) Arkansas Teacher Retirement System;

34 (B) Employment in a position with any of the following
35 organizations:

36 ~~(i) Juvenile training schools;~~

1 ~~regulations~~ adopted by the board that the participation of these employees in
 2 the Arkansas Teacher Retirement System will not in any way impair any legal
 3 status of the Arkansas Teacher Retirement System, including, ~~but not limited~~
 4 ~~to~~ without limitation, its status as a governmental plan pursuant to the
 5 federal Internal Revenue Code and the Employee Retirement Income Security Act
 6 of 1974, or have a substantial adverse impact on the actuarial soundness of
 7 the Arkansas Teacher Retirement System; and

8 (b) The private provider assumes all
 9 responsibility for the required employer contributions and any fees for
 10 obtaining Internal Revenue rulings or Employee Retirement Income Security Act
 11 of 1974 opinions; and

12 (F)(i) Employment in positions with an educational
 13 nonprofit corporation licensed and regulated by the Division of Developmental
 14 Disabilities Services of the Department of Human Services, if:

15 (a) The nonprofit corporation has elected to
 16 participate in the Arkansas Teacher Retirement System; and

17 (b) The board determines pursuant to rules ~~and~~
 18 ~~regulations~~ adopted by the board that the participation of the educational
 19 nonprofit corporation will not in any way impair any legal status of the
 20 Arkansas Teacher Retirement System, including, ~~but not limited to~~ without
 21 limitation, its status as a governmental plan pursuant to the Internal
 22 Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974,
 23 or have a substantial adverse impact on the actuarial soundness of the
 24 Arkansas Teacher Retirement System.

25 (ii) The employment shall be related to:

26 (a) Training public school employees or school
 27 board members;

28 (b) Teaching public school students; or

29 (c) Adult education programs.

30 (iii) The employment shall not be related in any
 31 manner to private schools.

32 (iv) Each educational nonprofit corporation shall
 33 be:

34 (a) Approved according to rules and
 35 regulations established by the board;

36 (b) Considered an employer under subdivision

1 (13) of this section; and

2 (c) Responsible for all required employer
3 contributions and any fees for obtaining Internal Revenue rulings or Employee
4 Retirement Income Security Act of 1974 opinions;

5
6 SECTION 2. Arkansas Code § 24-7-205 is amended to read as follows:

7 24-7-205. Adjustment of payment to correct error or recoup overpayment.

8 (a) Should any change or error in the records result in ~~any person's~~
9 a member, a retirant, an annuitant, a beneficiary or an alternate payee
10 receiving benefits or other distributions from the Arkansas Teacher
11 Retirement System more or less than he or she would have been entitled to
12 receive had the records been correct, the ~~Board of Trustees of the Arkansas~~
13 ~~Teacher Retirement System~~ system or its designee shall correct the error and,
14 as far as practicable, shall adjust the benefit, annuity, or refund payable
15 to the person, his or her beneficiary, or his or her estate in the manner
16 that the actuarial equivalent of the benefit to which the person was
17 correctly entitled shall be paid.

18 (b)(1) If a person who is a member, ~~former member, contributor, former~~
19 ~~contributor,~~ a retirant, an annuitant, a beneficiary, or an alternate payee
20 under a qualified domestic relations order ~~pursuant to~~ under § 9-18-101 et
21 seq. is paid any benefit or ~~payment~~ other distribution by the system to which
22 the person is not entitled, the ~~board~~ system or its designee, ~~pursuant to~~
23 under rules adopted by the ~~board~~ Board of Trustees of the Arkansas Teacher
24 Retirement System, may:

25 (A) Withhold the amount due from any benefit or payment
26 due the person, his or her beneficiary, or his or her estate; or

27 (B) Collect the amount in any other manner provided by
28 law.

29 (2) Withheld amounts shall be used to effect repayment until the
30 total amount withheld equals all amounts payable by the person to the system.

31 (3)(A) ~~Prior to~~ Before making an adjustment of benefits or
32 pursuing any other collection action under this section, the ~~board~~ system or
33 its designee shall provide notice to the person who will receive the
34 adjustment.

35 (B) The notice shall describe the process for disputing an
36 adjustment of benefits.

1 (4) The board or its designee may waive adjustment or repayment
2 if:

3 (A) The overpayment was not the result of the retirant's
4 or the beneficiary's nondisclosure, fraud, misrepresentation, or other fault;
5 and

6 (B) The board or its designee finds in his or her or its
7 sole discretion that recovery of the overpayment could be a manifest
8 injustice.

9
10 SECTION 3. Arkansas Code § 24-7-302 is amended to read as follows:
11 24-7-302. Term of office and vacancies.

12 (a)(1) The term of office of each ~~member and retirant~~ member-elected
13 trustee ~~elected after July 1, 1997,~~ shall be six (6) years.

14 (2)(A)(i) A member trustee shall be ineligible to serve after
15 becoming inactive or upon retiring.

16 (ii) A member trustee who participates in the
17 Teacher Deferred Retirement Option Plan is considered active for purposes of
18 this subsection.

19 (B) A retirant trustee ~~shall be~~ is ineligible to serve
20 after becoming active.

21 (b)(1)(A) ~~In the event~~ If any member trustee fails to attend three (3)
22 consecutive regular meetings of the Board of Trustees of the Arkansas Teacher
23 Retirement System, unless in each case excused for cause by the remaining
24 trustees attending the meetings, the member trustee shall be considered to
25 have resigned from the board, and the board shall by resolution declare his
26 or her office of trustee vacated.

27 (B) A regular meeting of the board shall include one (1)
28 or more days of official business to be considered by the board.

29 (2)(A) If a vacancy occurs in the office of ~~member or retirant~~
30 an elected trustee, the vacancy shall may be filled during the next annual
31 system election for board members in a special election held in accordance
32 with the rules adopted by the board for special elections.

33 (B) If the board does not hold a special election, a
34 vacancy shall be filled in the next system election held upon the expiration
35 of a trustee's term, utilizing approved election procedures and requirements
36 for the position.

1 (c) The board shall adopt its own rules and regulations pertaining to
2 attendance and vacancies as provided in subsection (b) of this section.

3
4 SECTION 4. Arkansas Code § 27-7-303 is amended to read as follows:

5 24-7-303. Board of Trustees – Officers – Committees ~~Professional and~~
6 ~~clerical services.~~

7 (a) The Board of Trustees of the Arkansas Teacher Retirement System
8 shall select from its own number a ~~chairman~~ chair and a vice ~~chairman~~ chair.

9 (b) The trustees shall serve as trustees without compensation for
10 their services as such, except that each trustee may receive expense
11 reimbursement in accordance with § 25-16-901 et seq.

12 (c) The board shall appoint the executive director of the system, and
13 he or she shall serve as its chief executive officer. He or she shall
14 perform, or cause to be performed, such duties as are required of him or her
15 under this act and as the board shall delegate to him or her.

16 (d) The board shall appoint an actuary or a firm of actuaries to be
17 technical advisor to the board on matters regarding the operation of the
18 system on an actuarial basis. The actuary shall perform such duties as are
19 required of him or her under this act and as are required of him or her by
20 the board from time to time.

21 (e) (1) The board shall appoint a professional investment counsel to
22 be investment advisor to the board.

23 (2)(A) No investment shall be made by the board until it has
24 received the advice of its investment advisor.

25 (B) ~~Provided, however,~~ However, if the contemplated
26 investment involves anything other than financial assets, as defined in § 4-
27 8-102(a)(9), then in lieu of seeking advice from its investment advisor, the
28 board shall seek and receive advice from a person having recognized expertise
29 with respect to the type of investment contemplated.

30 (f) The board shall appoint a medical committee consisting of three
31 (3) physicians to review applications for disability retirement.

32 (g) The executive director ~~shall have the authority to~~ may employ such
33 other professional and clerical services and to purchase such equipment and
34 supplies as are required for the proper operation of the system, subject to
35 the approval of the board.

36 (h)(1) The compensation of the persons engaged by the board shall be

1 consistent with the pay plan of the state.

2 (2)(A) All other expenses of the board necessary for the
3 operation of the system shall be paid at such rates and in such amounts as
4 the board shall approve.

5 (B) The board may create additional committees as
6 necessary and appropriate to fulfill the duties and responsibilities of the
7 board under this chapter.

8
9 SECTION 5. Arkansas Code § 24-7-401 is amended to read as follows:

10 24-7-401. ~~Effectuation of financial objective~~ Fund contributions – Fund
11 rates.

12 (a)(1) The financial objective of the Arkansas Teacher Retirement
13 System is to establish and receive contributions that expressed as
14 percentages of active member payroll will remain approximately level from
15 generation to generation of Arkansas citizens.

16 (2) Contributions received each year shall be sufficient:

17 (A) To fully cover the costs of benefit commitments being
18 made to members for their service being rendered in that year; and

19 (B) To make a level payment that if paid annually over a
20 reasonable period of future years will fully cover the unfunded costs of
21 benefit commitments for service previously rendered.

22 (3) If the costs of benefit commitments for service previously
23 rendered are overfunded, the plan may deduct a level payment that if deducted
24 annually over a reasonable period of future years will fully liquidate the
25 overfunded portion of the costs.

26 (b) An actuarial valuation of the entire system shall be made at least
27 annually by the Board of Trustees of the Arkansas Teacher Retirement System's
28 actuary.

29 (c)(1) ~~For the each fiscal years ending June 30, 2008, and June 30,~~
30 ~~2009 year,~~ the Board of Trustees of the Arkansas Teacher Retirement System
31 shall establish employer contribution rates for the system prospectively ~~each~~
32 year and for each fiscal year thereafter.

33 (2) The employer contribution rates shall be based on the
34 actuary's determination of the rate required to fund the plan in accordance
35 with the objectives stated in subsection (a) of this section.

36 (3) The employer contribution rates shall be the rates

1 determined by the board based on the annual actuarial valuation.

2 (4) For the fiscal years ending June 30, 2008, and June 30,
3 2009, and in each fiscal year thereafter, the employer contribution rate
4 shall not exceed fourteen percent (14%).

5 (d) The employer contribution rate shall be such that the amortization
6 period for all unfunded liability shall not exceed thirty (30) years, however
7 under no circumstance shall the required employer contribution rate exceed
8 the maximum percentage rate under subdivision (c)(4) of this section.

9 (e)(1) The board shall annually notify the ~~local school districts, the~~
10 ~~Department of Education, and other participating~~ employers of the employer
11 contribution rate established by the board for the upcoming fiscal year.

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

15 (3) The Department of Education shall pay from the Public School
16 Fund the teacher retirement employer contributions for eligible employees of
17 participating employers as required by the department's biennial
18 appropriations act and in accordance with rules established by the board.

19 (4) The annual employer contributions to be paid in each year
20 for all other employees by each participating employer shall be the current
21 state contribution percent multiplied by the total covered salaries of the
22 employer's members in the fiscal year.

23 (5) The employers' contributions shall be remitted to the system
24 in such manner and form and in such frequency and shall be accompanied by
25 such supporting data as the board shall prescribe from time to time.

26 (6) Timely payment of the contributions shall be a condition of
27 continuance of participation in the system.

28
29 SECTION 6. Arkansas Code § 24-7-402(b), concerning the custodian of
30 Arkansas Teacher Retirement System assets, is amended to read as follows:

31 (b)(1) The custodian of system assets shall be the Treasurer of State
32 or other financial institutions or depositories as allowed under this
33 subchapter.

34 (2) ~~who~~ When acting as custodian of system assets, the Treasurer
35 of State shall act in accordance with the instructions of the board.

36

1 SECTION 7. Arkansas Code § 24-7-406(a)(1), concerning members' deposit
2 accounts in the Arkansas Teacher Retirement System is amended to read as
3 follows:

4 (a)(1) The members' deposit account ~~shall be~~ is the account: ~~in~~

5 (A) In which member contributions shall be ~~are~~ accumulated
6 ~~at with~~ regular interest ~~the members' contributions to the Arkansas Teacher~~
7 ~~Retirement System and;~~

8 (B) ~~from~~ From which ~~shall be paid~~ member refunds of
9 ~~accumulated~~ contributions are paid; and

10 (C) From which transfers are made as provided in this act.

11 (2) ~~However, employer~~ Employer contributions that are paid by an
12 employee instead of an employer shall be:

13 (A) ~~credited~~ Credited to the members' deposit account;
14 and

15 (B) ~~Those contributions shall be subject~~ Subject to refund
16 under the same conditions that regular member contributions are ~~refundable~~
17 refunded.

18
19 SECTION 8. Arkansas Code § 24-7-406(c) and (d), concerning members'
20 contributions to the Arkansas Teacher Retirement System generally, are
21 amended to read as follows:

22 (c)(1)(A)(i) Each employer shall deduct the member contributions
23 provided for in this section from the salary of each member on every payroll,
24 for every payroll period, from the date of his or her entrance into the
25 system until ~~he or she~~ the member retires or terminates, and the employer
26 shall remit the contributions to the system.

27 (C)(i) Should the employer fail at any time to report the
28 salary of a member and remit the contributions to the system, the system
29 shall have the right to collect from the employee and the employer the
30 contributions due, if any, from each, together with interest beginning with
31 the subsequent fiscal year.

32 (ii) ~~In no case shall a~~ A member shall not be given
33 credit for service rendered until ~~any~~ all contributions and interest due from
34 each are paid in full.

35 (2) The member's contributions provided for in this section
36 shall be made notwithstanding that the minimum salary provided by law for any

1 member shall be thereby changed.

2 (3)(A) Each member shall be deemed to consent and agree to the
3 deductions made and provided for in this section.

4 (B) Payment of his or her salary less the deductions shall
5 be a full and complete discharge and acquittance of all claims and demands
6 whatsoever for the services rendered by the member during the period covered
7 by the payment, except as to benefits provided by the system.

8 (4) The members' contributions, so deducted from their salaries,
9 shall be remitted to the system in such manner and form and ~~in~~ into such
10 frequency and shall be accompanied by such supporting data as the board shall
11 prescribe from time to time.

12 (d)(1) In addition to the contributions deducted from the salaries of
13 a member, as provided in this section, a member may deposit ~~in~~ into the
14 system, by a single contribution or by an increased rate of contributions as
15 approved by the board, the amounts ~~he or she~~ the member ~~may have received in~~
16 a refund of contributions therefrom and not repaid ~~thereto~~, together with
17 interest from the date of withdrawal to the date of repayment to reestablish
18 credit for refunded service.

19 (2) ~~In no case shall a~~ A member shall not be given credit for
20 service rendered ~~prior to~~ before the date ~~he or she~~ the member received a
21 refund of contributions ~~payments~~ until ~~he or she~~ the member returns to the
22 system all amounts due from ~~him or her~~ the member.

23
24 SECTION 9. Arkansas Code § 24-7-406(g)(1)(B), concerning employers'
25 payment of members' contributions to the Arkansas Teacher Retirement System,
26 is amended to read as follows:

27 (B) If a member elects to purchase past service credits
28 under the system's purchase of service credit provisions § 24-7-501(b), § 24-
29 7-502(b)(5), § 24-7-610, § 24-7-611, or §§ 24-7-602—24-7-607 through
30 payroll deductions, the employer shall pay the amount required to purchase
31 such past service credits from the employee's salary earned after the
32 employee signs an irrevocable payroll authorization prescribed by the board,
33 and those purchases shall then be treated as employer contributions in
34 determining tax treatment under the ~~provisions of the~~ Internal Revenue Code
35 and the Income Tax Act of 1929, § 26-51-101 et seq.

36

1 SECTION 10. Arkansas Code § 24-7-602(a)-(c), concerning credit in the
2 Arkansas Teacher Retirement System for military service, is amended to read
3 as follows:

4 (a)(1) ~~In the event~~ If an active member of the Arkansas Teacher
5 Retirement System enters the armed forces of the United States during any
6 period of compulsory military service, after receiving a refund of member
7 contributions from the system, the armed compulsory military service actually
8 required of him the member shall may be established as credited him as
9 service under this subchapter, but only if after discharge from the armed
10 forces and before retirement he returns to the member repays to the Arkansas
11 Teacher Retirement System system the amount, if any, he may have received
12 therefrom the member was refunded at the time of termination he entered or
13 while in the armed service, together with interest from the date of
14 withdrawal the refund to the date of repayment.

15 (2) In addition, an active member who entered the armed forces
16 of the United States during any period of compulsory military service and who
17 ~~returns as an employee becomes an active member~~ within one (1) year ~~upon~~ of
18 his or her return discharge from the armed service shall be forces is
19 eligible to receive military service credit for the time of his armed
20 service, even if he does not complete a total of ten (10) years of credited
21 service in Arkansas under this section, whether or not the member has five
22 (5) or more years of credited service at the time of the reemployment.

23 (b) ~~During the period of armed service and until his return as an~~
24 ~~employee, his contributions to the system shall be suspended, and any balance~~
25 ~~remaining to his credit in the members' deposit account shall be accumulated~~
26 ~~at regular interest.~~

27 (c) ~~A person~~ An inactive member who entered the armed forces ~~and who~~
28 ~~was not an active member at the time of entry shall have the period of armed~~
29 forces service actually required of him credited as service under this
30 subchapter if he in the system without cost to the member if the member
31 satisfies all of the following conditions:

32 (1) He or she completes five (5) or more years of actual service
33 ~~for service in Arkansas in the system; and~~

34 (2)(A) The armed forces service is not credited as service under
35 any other retirement plan except social security.

36 (B) Receipt of a ~~disability~~ pension from the federal

1 *military retirement system paid solely for disability shall not be considered*
2 *as having service credit with another retirement plan.*

3
4 *SECTION 11. Arkansas Code § 24-7-603 is amended to read as follows:*

5 *24-7-603. Out-of-state service.*

6 *(a) As used in this section, "out-of-state service" means service*
7 *rendered in any state except Arkansas in a position ~~which~~ that would have*
8 *been covered by the Arkansas Teacher Retirement System had the service been*
9 *~~rendered in the State of Arkansas~~ actual service covered by the system if*
10 *rendered in the state.*

11 *(b) Out-of-state service purchased before July 1, 1987, shall be*
12 *credited as service under this section in accordance with provisions in force*
13 *before July 1, 1987.*

14 *(c) From and after July 1, 1987, an active member shall be eligible,*
15 *~~upon application,~~ to purchase out-of-state service to be credited as service*
16 *under this subchapter in accordance with the following conditions:*

17 *(1)(A) The out-of-state service credit to be granted shall be*
18 *limited to service for which no benefit could be paid by another system*
19 *similar in purpose to this system, except social security, if the member had*
20 *left on deposit his or her contributions to the other system.*

21 *(B) The credit under subdivision (c)(1)(A) of this section*
22 *~~shall be~~ is limited to fifteen (15) years;*

23 *(2)(A)(i) The member shall pay to the system for each year of*
24 *service credit being granted:*

25 *(a) The product of the sum of the employee and*
26 *employer contribution rates in effect at the time of purchase multiplied by*
27 *the greater of:*

28 *(1) The annual salary received by the*
29 *member for his or her first full year of credited service that precedes the*
30 *fiscal year in which the service is purchased; or*

31 *(2) The average of the three (3) highest*
32 *salaries earned at the time of purchase; plus*

33 *(b) Interest from the end of that year of*
34 *credited service to the date of payment in full.*

35 *(ii) If the payment is not made in a single sum at*
36 *the time of purchase, interest shall be added from the date of the initial*

1 *payment to the date of payment in full.*

2 *(B) The payment shall be credited to the member's account*
3 *in the members' deposit account and shall be in addition to regular member*
4 *contributions thereto;*

5 *(3) The out-of-state service shall not become credited service*
6 *under this system until:*

7 *(A) The member payments specified in subdivision (c)(2) of*
8 *this section have been paid in full; and*

9 *(B)(i) The member has established five (5) or more years*
10 *of actual service.*

11 *(ii) Should a member cease to be an active member*
12 *before the out-of-state service has been established as system-credited*
13 *service, the member payments contributed as specified in subdivision (c)(2)*
14 *of this section shall be refundable, ~~together with regular interest thereon;~~*

15 *(4) The benefit program to be applied to each year of service*
16 *credit being granted shall be the benefit program in effect at the time of*
17 *retirement; and*

18 *(5) Such other rules and regulations consistent with this*
19 *subchapter as the Board of Trustees of the Arkansas Teacher Retirement System*
20 *may from time to time adopt.*

21 *(d) An active member may purchase a fraction of a year of out-of-state*
22 *service to be credited as service under this subchapter in the same manner as*
23 *provided for out-of-state service under subsection (c) of this section if the*
24 *service meets the following requirements:*

25 *(1) The member has not less than thirty (30) days of out-of-*
26 *state credited service in the fiscal year; and*

27 *(2) The fraction of a year of out-of-state service may be*
28 *credited in keeping with policies of the board as provided by § 24-7-601.*

29 *(e) An active member shall be eligible, upon application, to purchase*
30 *service rendered outside the state during a period of employment with an*
31 *education coordinating council to be credited as out-of-state service under*
32 *the provisions of this section, provided that the conditions of subsection*
33 *(c) of this section are met.*

34
35 *SECTION 12. Arkansas Code § 24-7-607(b)(3)(B)(ii), concerning the*
36 *refund of member payments under the Arkansas Teacher Retirement System, is*

1 amended to read as follows:

2 (ii) Should a member cease to be an active member
3 before the private school service has been established as system-credited
4 service, the member payments contributed as specified in subdivision (b)(2)
5 of this section shall be refundable, ~~together with regular interest thereon;~~

6
7 SECTION 13. Arkansas Code § 24-7-610(d), concerning the refund of
8 member contributions for National Guard Service Credit, is amended to read as
9 follows:

10 (d) If a member ceases to be an active member before the Arkansas
11 National Guard service has been established as system-credited service, the
12 member payments contributed as specified in subdivision (a)(1)(C) of this
13 section shall be refundable, ~~together with regular interest.~~

14
15 SECTION 14. Arkansas Code § 24-7-611(b)(3)(B)(ii), concerning the
16 refund of member payments under the Arkansas Teacher Retirement System for
17 domestic federal service, is amended to read as follows:

18 (ii) Should a member cease to be an active member
19 before the domestic federal service has been established as system-credited
20 service, the member payments contributed as specified in subdivision (b)(2)
21 of this section shall be refundable, ~~together with regular interest thereon;~~

22
23
24 SECTION 15. Arkansas Code § 24-7-701(a) and (b), concerning voluntary
25 retirement under the Arkansas Teacher Retirement System, are amended to read
26 as follows:

27 (a)(1) Except as provided under subdivision (a)(2) of this section, an
28 active member who either attains ~~age~~ sixty (60) years of age and has five (5)
29 or more years of actual and reciprocal service or who has twenty-eight (28)
30 or more years of credited service regardless of age may voluntarily retire
31 upon written application filed with the ~~Board of Trustees of the~~ Arkansas
32 Teacher Retirement System.

33 (2)(A) A member shall terminate covered employment to be
34 eligible for retirement ~~except if~~ unless the member has attained normal
35 retirement age.

36 (B) A member shall not be terminated from employment for

1 retirement purposes if the ~~person~~ member returns to employment in a position
 2 ~~that would otherwise be~~ covered by the Arkansas Teacher Retirement System
 3 within thirty (30) days of the ~~person's~~ member's effective date of
 4 retirement.

5 (C) A ~~person failing~~ member who fails to meet the
 6 termination of employment requirements of this subsection shall have his or
 7 her retirement benefits cancelled and forfeit ~~forfeits~~ any retirement
 8 benefits until the termination requirements are met.

9 (D)(i) A member who fails to meet the termination
 10 requirements of this section and has received retirement benefits from the
 11 system shall repay the benefits to the system before becoming eligible again
 12 for voluntary retirement.

13 (ii) The system may adjust and collect any benefits
 14 that have been overpaid to a member under § 24-7-205.

15 (E) A member who fails to meet the termination
 16 requirements of this section upon employment by a covered employer shall
 17 return to active member status under § 24-7-502.

18 (b) Upon ~~his or her~~ a member's retirement, he or she shall receive ~~an~~
 19 a life annuity as provided for in § 24-7-705.

20
 21 SECTION 16. Arkansas Code § 24-7-702(a), concerning early voluntary
 22 retirement under the Arkansas Teacher Retirement System, is amended to read
 23 as follows:

24 (a)(1) Except as provided under subdivision (a)(2) of this section, an
 25 active or inactive member who has twenty-five (25) or more years of credited
 26 service but has not attained ~~age~~ sixty (60) years of age and is not eligible
 27 for retirement under ~~the provisions of~~ § 24-7-701 may voluntarily retire
 28 early upon written application filed with the Board of Trustees of the
 29 Arkansas Teacher Retirement System.

30 (2)(A) A member shall terminate covered employment to be
 31 eligible for retirement except if the member has attained normal retirement
 32 age.

33 (B) A member shall not be terminated from employment for
 34 retirement purposes if the ~~person returns to a position that would otherwise~~
 35 be member returns to employment in a position covered by the Arkansas Teacher
 36 Retirement System within thirty (30) days of the ~~person's~~ member's effective

1 date of retirement.

2 (C) ~~A person failing~~ member who fails to meet the
3 termination of employment requirements of this subsection shall have his or
4 her retirement benefits cancelled and forfeit ~~forfeits any~~ retirement
5 benefits until the termination requirements are met.

6 (D)(i) A member who fails to meet the termination
7 requirements of this section and has received retirement benefits from the
8 system shall repay the benefits to the system before becoming eligible again
9 for voluntary retirement.

10 (ii) The system may adjust and collect any benefits
11 that have been overpaid to a member under § 24-7-205.

12 (E) A member who fails to meet the termination
13 requirements of this section upon employment by a covered employer shall
14 return to active member status under § 24-7-502.

15
16 SECTION 17. Arkansas Code § 24-7-704 is amended to read as follows:
17 24-7-704. Disability retirement.

18 (a)(1)(A) Except as provided under subdivision (a)(1)(B) of this
19 section, ~~any~~ an active member in employer service with five (5) or more years
20 of actual and reciprocal service who becomes totally and permanently
21 physically or mentally incapacitated for his or her job duties as the result
22 of a personal injury or disease may be retired by the Board of Trustees of
23 the Arkansas Teacher Retirement System upon approval of a written application
24 filed with the ~~board by or on behalf of the member~~ Arkansas Teacher
25 Retirement System.

26 (B)(i) An active member who has met the eligibility
27 requirement of subdivision (a)(1)(A) of this section shall terminate covered
28 employment to be eligible for disability retirement benefits.

29 (ii) If a member returns to work in a position
30 covered by the ~~Arkansas Teacher Retirement System~~ system within thirty (30)
31 days of the person's effective date of disability retirement, then the member
32 shall not be considered terminated from employment for retirement purposes
33 and shall forfeit disability retirement benefits until the termination
34 requirements are met.

35 (C) The member may be retired ~~only~~ if after a medical
36 examination review of the ~~member made by or under the direction of~~ member's

1 application and accompanying documentation is conducted by the medical
 2 committee and the medical committee reports to the board by majority opinion
 3 in writing that:

4 (i) The member is physically or mentally
 5 incapacitated;

6 (ii) The member is unable to perform his or her
 7 current work duties;

8 (iii) The incapacity will most likely be permanent;
 9 and

10 (iv) The member should be retired.

11 (2) The disability retirement shall be effective ~~the first day~~
 12 ~~of the calendar month next following the later of:~~

13 ~~(A) The the member's termination of active membership; or~~

14 ~~(B) Six (6) months before the date the written application~~
 15 ~~is filed with the board.~~

16 (b) Upon disability retirement as provided in subsection (a) of this
 17 section, a member shall receive an annuity provided for in § 24-7-705 and
 18 shall have the right to elect an option provided for in § 24-7-706. His or
 19 her disability retirement shall be subject to the provisions of subsections
 20 (c) and (d) of this section and to the provisions of § 24-7-708.

21 (c)(1) At least one (1) time each year during the first five (5) years
 22 following a member's retirement on account of disability, and at least one
 23 (1) time in each three-year period thereafter, the board may require any
 24 disability retirant who has not attained sixty (60) years of age to undergo a
 25 medical examination to be made by or under the direction of the medical
 26 committee.

27 (2) If the retirant refuses to submit to the medical examination
 28 in any period, his or her disability annuity may be suspended by the board
 29 until his or her withdrawal of his or her refusal.

30 (3) If his or her refusal continues for one (1) year, all his or
 31 her rights in and to a disability annuity may be revoked by the board.

32 (4) If upon the medical examination of the retirant the medical
 33 committee reports to the board that the retirant is physically and mentally
 34 able and capable of resuming his or her duty in the position held by him or
 35 her at the time of disability retirement, then his or her disability
 36 retirement shall terminate.

1 (5)(A) ~~If a disability retirant returns to full-time service as~~
 2 ~~defined by rules determined by the board~~ covered employment prior to before
 3 ~~attaining sixty (60) years of age, his or her disability retirement shall~~
 4 ~~terminate.~~

5 (B) ~~If a disability retirant returns to full-time service~~
 6 ~~as defined by rules promulgated by the board~~ covered employment after
 7 ~~attaining sixty (60) years of age and is otherwise eligible for retirement~~
 8 under § 24-7-707, the retirant shall be treated as if he or she retired under
 9 § 24-7-701 and is subject to the limitations applicable to age and service
 10 retirants.

11 (6)(A) ~~If a disability retirant under sixty (60) years of age~~
 12 ~~returns to full-time service~~ covered employment, he or she shall immediately
 13 ~~again become an active member of the system, and his or her credited service~~
 14 ~~at the time of his or her disability retirement shall be restored to his or~~
 15 ~~her credit in the members' deposit account.~~

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

19 (7) ~~In no event shall a~~ A disability retirant shall not be given
 20 ~~service credit for the period he or she was receiving a disability retirement~~
 21 ~~annuity.~~

22
 23 SECTION 18. Arkansas Code § 24-7-707(a), concerning deferred
 24 ~~retirement under the Arkansas Teacher Retirement System, is amended to read~~
 25 ~~as follows:~~

26 (a)(1)(A) ~~Should~~ If an active member cease to be an active member
 27 ~~before attaining age sixty (60) other than by death or retirement but after~~
 28 ~~completing, becomes inactive before the member reaches sixty (60) years of~~
 29 age, upon completion of five (5) years of actual and reciprocal service, the
 30 ~~member shall become an inactive member and shall be~~ is entitled to a deferred
 31 ~~annuity when the member becomes sixty (60) years of age as provided for in~~
 32 ~~this section.~~

33 (B) ~~but only~~ The member is eligible for deferred
 34 retirement if the member does has not withdraw withdrawn his or her
 35 ~~accumulated contributions from the members' deposit account and is not~~
 36 ~~employed in a position covered by another retirement plan that is supported~~

1 wholly or in part by state contributions if the member's being vested is
 2 based on the other system service.

3 (2) ~~Following~~ Upon approval by the Arkansas Teacher Retirement
 4 System ~~of an application for deferred retirement,~~ the deferred annuity shall
 5 commence as of the first day of the calendar month ~~next~~ following the ~~later~~
 6 ~~of~~ date the written application is received by the system.

7 ~~(A) The month following the member's sixtieth birthday; or~~

8 ~~(B) The date the written application is received by the~~
 9 ~~system.~~

10 (3) A member shall ~~have the right to~~ elect an option provided
 11 for in § 24-7-706 at the time of filing the written application.

12
 13 SECTION 19. Arkansas Code § 24-7-709 is amended to read as follows:
 14 24-7-709. Disposition of residue.

15 (a)(1)(A) If a retirant and his or her option annuitants, if any, dies
 16 die before receiving in annuity payments a total amount equal to the member's
 17 residue amount, then the residue amount accumulated contributions standing to
 18 the retirant's credit in the members' deposit account at the time of his or
 19 her retirement and no option annuity becomes payable upon the retirant's
 20 death, the difference between the accumulated contributions and the total
 21 amount of annuities received by the retirant shall be paid to such persons as
 22 the retirant shall have nominated by written designation duly executed and
 23 filed with the Arkansas Teacher Retirement System.

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

28 (2) If a retirant and his or her option annuitants dies die and
 29 the member has failed to designate a beneficiary or if all designated
 30 beneficiaries have predeceased the retirant, the difference between the
 31 accumulated contributions and the total amount of annuities received by the
 32 retirant the residue shall be paid to the retirant's estate.

33 (b)(1) ~~If a retirant dies and an option annuity becomes payable at the~~
 34 ~~retirant's death but the last eligible option beneficiary dies before the~~
 35 ~~retirant and the option beneficiary have received in annuity payments a total~~
 36 ~~amount equal to the accumulated contributions standing to the retirant's~~

~~credit in the member's deposit account at the time of the member's retirement, the remaining difference, if any, shall be paid to the beneficiary nominated by the member.~~

~~(2) If upon the termination of the option annuity, no surviving beneficiary designated by the member survives, and it is impracticable to make payment to the member's estate, the residue shall be forfeited to the trust assets of the system subject to any valid claim of the member's estate under § 24-7-734 the difference between the accumulated contributions and the total amount of annuities received by the retirant and option annuitant shall be paid to the last eligible option beneficiary's estate.~~

SECTION 20. Arkansas Code § 24-7-711 is amended to read as follows:

24-7-711. Disposition of accumulated contributions upon membership termination.

(a)(1) ~~In the event a member ceases to be a member other than by death or retirement prior to satisfying the age and service requirements of either § 24-7-701 or § 24-7-702, he or she shall be paid, within six (6) months following the date his or her written application is filed with the Board of Trustees of the Arkansas Teacher Retirement System, his or her accumulated contributions standing to his or her credit in the members' deposit account.~~ If a member discontinues covered employment, the member may elect to be paid a refund of his or her contributions and regular interest credited to the member's deposit account within six (6) months following the date the member's written application is filed with the system.

(2) Any contributions remaining on deposit shall accrue regular interest at the end of each fiscal year as provided by § 24-7-410(d).

(b)(1) ~~In the event a~~ If an active member dies and no a survivor annuity becomes, or can become, is not payable under § 24-7-710 by the Arkansas Teacher Retirement System on account of the member's death, the member's accumulated contributions standing to his or her credit in the member's deposit account at the time of the member's death, together with and regular interest thereon from the time of death to the time of payment, shall be paid to such persons as the member shall have nominated by a written designation ~~duly~~ that is executed by the member and filed with the board system.

~~(2)(A) If there are no designated persons surviving the member,~~

1 ~~the accumulated contributions shall be paid in the following statutory~~
2 ~~succession:~~

3 ~~(i) Spouse; then~~

4 ~~(ii) Children; then~~

5 ~~(iii) Parents; then~~

6 ~~(iv) Estate.~~

7 ~~(B)(2) Effective for all members dying after June 30,~~
8 ~~2006, if~~ If there are no designated persons surviving the member, the
9 accumulated contributions ~~shall be~~ are payable to the member's estate.

10 (3) If no annuity ~~can become~~ is payable to a dependent child on
11 account of the member's death and if the sole beneficiary who ~~could~~ can
12 receive the annuity is the member's surviving spouse, then the member's
13 surviving spouse may elect to receive a refund of accumulated contributions
14 ~~in place of any benefits being and regular interest paid under the provisions~~
15 ~~of § 24-7-710~~ this subchapter.

16
17 SECTION 21. Arkansas Code § 24-7-713 is amended to read as follows:

18 24-7-713. ~~Monthly benefits—Redetermination Retirement annuity —~~
19 Simple cost of living adjustment and monthly benefit stipend.

20 (a)(1) ~~Beginning with the July 1 which is at least twelve (12) full~~
21 ~~months after the effective date of a monthly benefit, the amount of the~~
22 ~~benefit shall be redetermined effective each July 1, and the redetermined~~
23 ~~amount shall be payable for the ensuing year July 1 of each year, retirants,~~
24 survivors, and annuity beneficiaries who have been receiving monthly benefits
25 for the previous twelve (12) months shall receive a simple cost of living
26 adjustment.

27 (2) ~~The redetermined amount shall be the base amount multiplied~~
28 ~~by the following percent: One hundred percent (100%) plus three percent (3%)~~
29 ~~for each full year, but excluding any fraction of a year, in the period from~~
30 ~~the effective date of the base amount to the current July 1~~ The cost of
31 living adjustment under this section is calculated by multiplying one hundred
32 percent (100%) of the member's base retirement annuity times three percent
33 (3%).

34 (3) ~~In no event shall the~~ The redetermined amount shall not be
35 less than the base amount.

36 (4) As used in this section,

1 ~~(A) "The amount of the benefit otherwise payable" means~~
2 ~~the monthly amount of the benefit that would be payable disregarding the~~
3 ~~provisions of this section redetermining benefit amounts after retirement;~~
4 ~~and~~

5 ~~(B)(i) "Base base amount" means the monthly amount of the~~
6 ~~benefit upon which benefit redeterminations after retirement are based, as~~
7 ~~provided in this section.~~

8 ~~(ii) "Base amount" includes the amount of the~~
9 ~~benefit otherwise payable at retirement plus any one-time ~~increase or~~~~
10 ~~increases granted by legislative change after the member's effective date of~~
11 ~~retirement benefits, excluding the simple cost of living adjustment under~~
12 ~~this section.~~

13 ~~(iii) The effective date of the base amount shall be~~
14 ~~the effective date of the benefit or, if any, the effective date of the last~~
15 ~~increase in base amount, whichever is later.~~

16 (5) The redetermined amount under this subsection is not
17 considered a benefit enhancement under the limitations under § 24-1-106.

18 (b)(1)(A) Effective July 1, 1999, subject to the minimum financial
19 conditions set forth in § 24-7-718, retirees, survivors, and beneficiaries
20 shall receive an increase in benefits of not less than fifty dollars (\$50.00)
21 per month.

22 (B) However, the Board of Trustees of the Arkansas Teacher
23 Retirement System may elect and is granted authority to increase the benefit
24 to retirees in an amount determined by the board, except that the benefit
25 increase shall not exceed seventy-five dollars (\$75.00) per month.

26 (2)(A) Members retiring after July 1, 1999, but before July 1,
27 2008, with five (5) or more years of actual service in the Arkansas Teacher
28 Retirement System and their survivors and beneficiaries shall receive an
29 additional benefit of not less than fifty dollars (\$50.00) per month over and
30 above their regular annuity.

31 (B) Members retiring on or after July 1, 2008, with ten
32 (10) or more years of actual service in the Arkansas Teacher Retirement
33 System and their survivors and beneficiaries shall receive an additional
34 benefit of not less than fifty dollars (\$50.00) per month over and above
35 their regular annuity.

36 (C) However, the ~~Board of Trustees~~ board may elect and is

1 granted authority to increase the additional benefit to members retiring in
2 an amount determined by the board, except that the additional benefit shall
3 not exceed seventy-five dollars (\$75.00) per month.

4 (3) ~~In its discretion, the~~ The board may prorate the benefits
5 provided under this subsection for all individuals retiring after June 30,
6 1999, if the individual is also eligible for an additional monthly benefit as
7 a result of credited service under one (1) or more of the other reciprocal
8 systems, as such systems are enumerated in § 24-2-401.

9 ~~(4)(A) For the purpose of determining eligibility for the~~
10 ~~increase in benefits provided under this subsection, "actual service" means~~
11 ~~service rendered in a position covered by the Arkansas Teacher Retirement~~
12 ~~System.~~

13 ~~(B) "Actual service" does not include purchased or free credited~~
14 ~~service or reciprocal service.~~

15 (c) Nothing contained in this section shall require the Arkansas
16 Public Employees' Retirement System to pay any portion of the benefits
17 provided for in this section.

18
19 SECTION 22. Arkansas Code § 24-7-718(a), concerning minimum financial
20 conditions for benefit increases under the Arkansas Teacher Retirement
21 System, is amended to read as follows:

22 (a) For an increase in benefit formulas to be effective, the regular
23 annual actuarial valuation for the calendar year immediately preceding the
24 effective date of the increase shall be based upon an investment rate
25 assumption of no more than eight percent (8%) and shall indicate that up to
26 and including a ~~twelve percent (12%)~~ fourteen percent (14%) of pay employer
27 contribution rate is sufficient to amortize all unfunded actuarial accrued
28 liabilities for members over a period of thirty (30) years or less unless the
29 required contribution rate would exceed fourteen percent (14%).

30
31 SECTION 23. Arkansas Code § 24-7-719 is amended to read as follows:
32 24-7-719. Rollover of distributions.

33 (a) As used in this section:

34 (1) "Direct rollover" means the payment of ~~an eligible a~~
35 distribution from the Arkansas Teacher Retirement System directly to an
36 individual retirement arrangement or another employer eligible benefit plan;

1 (2) "Eligible retirement plan" means an individual retirement
2 account, ~~or individual retirement annuity, or individual retirement~~
3 arrangement, or another employer benefit plan that accepts direct rollovers;
4 and

5 (3) "Eligible rollover distribution" means that portion of a
6 distribution that may be rolled over to an individual retirement arrangement
7 or to another employer benefit plan.

8 (b)(1) Beginning January 1, 1993, ~~should a member, or spouse if the~~
9 ~~member is deceased, elect to make a direct rollover~~ other eligible
10 beneficiary receiving a distribution from the Arkansas Teacher Retirement
11 System to an eligible retirement plan of his or her system may elect a direct
12 rollover of the distribution if the funds consist of an eligible rollover
13 distribution, the.

14 (2) The amount under subdivision (b)(1) of this section shall be
15 paid to the trustee of the eligible retirement plan.

16 (c) Subsection (b) of this section ~~shall apply~~ applies to
17 distributions made under §§ 24-7-709 – 24-7-711, 24-7-716, 24-7-720, and 24-
18 7-1308.

19 (d) This section does not require the system to authorize a direct
20 rollover of a distribution if:

21 (1) The distribution is not eligible to be treated as a direct
22 rollover under the Internal Revenue Code; or

23 (2) The depository institution receiving the distribution is not
24 eligible to receive a direct rollover under the Internal Revenue Code.

25
26 SECTION 24. Arkansas Code §§ 24-7-721 through 724, are repealed
27 because those sections are obsolete.

28 ~~24-7-721. Increase in monthly benefits Acts 1997, No. 442.~~

29 ~~On July 1, 1996, and thereafter, the monthly benefit payable to the~~
30 ~~retirants and the beneficiaries of retirants of the Arkansas Teacher~~
31 ~~Retirement System who retired before July 1, 1991, shall be increased by an~~
32 ~~amount equal to one percent (1%) of the benefit payable on June 30, 1996, for~~
33 ~~each year or portion of a year of retirement prior to July 1, 1991, up to a~~
34 ~~maximum benefit increase of fifteen percent (15%). Furthermore, the monthly~~
35 ~~benefit payable to retirants and beneficiaries of retirants who retired~~
36 ~~between June 30, 1996, and July 1, 1991, shall be increased an amount equal~~

1 ~~to one percent (1%) of the benefit payable on June 30, 1996. This benefit~~
2 ~~increase shall be a one-time adjustment and shall also be used to figure any~~
3 ~~additional benefit increases in the future.~~

4
5 ~~24-7-722. Limitation on benefit enhancement of Acts 1997, No. 442.~~
6 ~~No benefit enhancement provided for by § 24-7-721 shall be implemented if it~~
7 ~~would cause the publicly supported retirement system's unfunded actuarial~~
8 ~~accrued liabilities to exceed a thirty-year amortization. No benefit~~
9 ~~enhancement provided for by § 24-7-721 shall be implemented by any publicly~~
10 ~~supported system which has unfunded actuarial accrued liabilities being~~
11 ~~amortized over a period exceeding thirty (30) years until the unfunded~~
12 ~~actuarial accrued liability is reduced to a level less than the standards~~
13 ~~prescribed by § 24-1-101 et seq.~~

14
15 ~~24-7-723. Increase in monthly benefits—Acts 1997, No. 992.~~
16 ~~On and after April 1, 1997, the monthly benefit payable to the retirants and~~
17 ~~the beneficiaries of retirants of the Arkansas Teacher Retirement System who~~
18 ~~retired July 1, 1990, or later shall be increased by an amount equal to~~
19 ~~seven-tenths percent (0.7%) of the benefit payable on March 31, 1997. This~~
20 ~~increase shall be a one-time adjustment and shall also be used to calculate~~
21 ~~any additional benefit increases in the future. The benefit payable on July~~
22 ~~1, 1997, shall become the base amount.~~

23
24 ~~24-7-724. Limitation on benefit enhancement of Acts 1997, No. 992.~~
25 ~~No benefit enhancement provided for by this act shall be implemented if it~~
26 ~~would cause the publicly supported retirement system's unfunded actuarial~~
27 ~~accrued liabilities to exceed a thirty-year amortization. No benefit~~
28 ~~enhancement provided for by this act shall be implemented by any publicly~~
29 ~~supported system which has unfunded actuarial accrued liabilities being~~
30 ~~amortized over a period exceeding thirty (30) years until the unfunded~~
31 ~~actuarial accrued liability is reduced to a level less than the standards~~
32 ~~prescribed by § 24-1-101 et seq.~~

33
34 SECTION 25. Arkansas Code § 24-7-727 is amended to read as follows:

35 24-7-727. Compounded cost of living adjustments.

36 (a)(1) ~~After July 1, 1999, beginning with the July 1 which is at least~~

1 ~~twelve (12) months after the effective date of a monthly benefit, the Board~~
 2 ~~of Trustees of the Arkansas Teacher Retirement System may compound the cost~~
 3 ~~of living adjustment for all retirants who have received a monthly retirement~~
 4 ~~benefit for the prior twelve-month period.~~

5 (2) The amount of the benefit under this section shall be
 6 redetermined effective each July 1, and the redetermined amount shall be
 7 payable for the ensuing year.

8 (3) The simple cost of living adjustment is not payable in the
 9 year or years that the board implements the compounded cost of living
 10 adjustment.

11 (b)(1) The redetermined amount shall be the amount of the benefit
 12 payable as of the immediately preceding June 30 increased by three percent
 13 (3%).

14 (2) The redetermined amount shall become the base amount for
 15 determining all future cost of living adjustments.

16 (c) The benefit provisions provided in subsections (a) and (b) of this
 17 section shall be implemented according to rules and regulations of the Board
 18 of Trustees of the Arkansas Teacher Retirement System board as is actuarially
 19 appropriate for the Arkansas Teacher Retirement System.

20 (d) Prior to Before increasing a benefit as provided in under this
 21 section, the board shall file relevant information concerning the actuarial
 22 appropriateness of the action with the Joint Interim Committee on Public
 23 Retirement and Social Security Programs.

24
 25 SECTION 26. Arkansas Code Title 24, Chapter 7, Subchapter 12, that is
 26 inconsistent with the legislative mandate of the Arkansas Teacher Retirement
 27 System and has not been implemented, is repealed.

28 ~~24-7-1201. Legislative intent.~~

29 ~~It is the intent of the General Assembly to make available to the~~
 30 ~~members of the Arkansas Teacher Retirement System a school employees'~~
 31 ~~individual retirement account plan and any other tax deferral plan permitted~~
 32 ~~by federal law, and to enable the members to conveniently and economically~~
 33 ~~receive the fullest benefits offered by federal tax law as it relates to tax-~~
 34 ~~deferred savings plans for school employees covered by a mandatory public~~
 35 ~~retirement plan.~~

36

1 ~~24-7-1202. School Employees' Individual Retirement Account Fund.~~

2 ~~(a)(1) There is hereby created a fund or funds which shall be known~~
3 ~~collectively as the School Employees' Individual Retirement Account Fund.~~

4 ~~(2) The fund shall be administered by the Board of Trustees of~~
5 ~~the Arkansas Teacher Retirement System.~~

6 ~~(b)(1) The board is hereby empowered and authorized to promulgate all~~
7 ~~necessary rules and regulations to implement the provisions of this~~
8 ~~subchapter and to define terms, words, and phrases to be used in implementing~~
9 ~~investment plans and accounts for the school employees, provided that the~~
10 ~~rules and regulations shall conform to the requirements of the Internal~~
11 ~~Revenue Code.~~

12 ~~(2) The board may, in its discretion, adopt one (1) or more tax-~~
13 ~~deferred savings plans authorized by the federal government if it finds that~~
14 ~~doing so will offer substantial tax benefits to school employees covered~~
15 ~~under the provisions of this subchapter.~~

16
17 ~~24-7-1203. Participation in the fund.~~

18 ~~(a)(1) The School Employees' Individual Retirement Account Fund~~
19 ~~program shall be available to all employees in the State of Arkansas who are~~
20 ~~members of the Arkansas Teacher Retirement System.~~

21 ~~(2) Participation in this fund shall be on a strictly voluntary~~
22 ~~basis under the rules and regulations which shall be adopted by the Board of~~
23 ~~Trustees of the Arkansas Teacher Retirement System and in accordance with the~~
24 ~~provisions contained in the Internal Revenue Code as it relates to individual~~
25 ~~retirement accounts for public employees.~~

26 ~~(b)(1) Any person who shall become ineligible for participation in the~~
27 ~~fund due to the termination of his employment with an eligible employer may~~
28 ~~leave his contributions on account with the fund.~~

29 ~~(2) However, no further contributions may be accepted on his or~~
30 ~~her account unless the person shall become reemployed by an eligible~~
31 ~~employer.~~

32
33 ~~24-7-1204. Contributions to the fund.~~

34 ~~Contributions to the School Employees' Individual Retirement Account~~
35 ~~Fund may be deducted from each participating employee's compensation and~~
36 ~~transmitted to the fund in accordance with any limitations imposed by federal~~

1 ~~tax law for any tax-deferred savings plan offered pursuant to the provisions~~
2 ~~of this subchapter and pursuant to the rules and regulations as shall be~~
3 ~~promulgated by the Board of Trustees of the Arkansas Teacher Retirement~~
4 ~~System.~~

5
6 ~~24-7-1205. Investments.~~

7 ~~All investments under the School Employees' Individual Retirement~~
8 ~~Account Fund program shall be made pursuant to the same authority and same~~
9 ~~restrictions that govern the investment of funds of the Arkansas Teacher~~
10 ~~Retirement System.~~

11
12 ~~24-7-1206. Administrative costs.~~

13 ~~(a) The administrative cost for the operation of the School Employees'~~
14 ~~Individual Retirement Account Fund shall be provided through investment~~
15 ~~earnings on contributions to the fund.~~

16 ~~(b) No state funds shall be used to administer the provisions of this~~
17 ~~subchapter.~~

18
19 ~~SECTION 27. Arkansas Code Title 24, Chapter 7, Subchapter 14 is~~
20 ~~repealed.~~

21 ~~24-7-1401. Short title.~~

22 ~~This subchapter may be known and shall be cited as the "Arkansas~~
23 ~~Teacher Retirement System Affordable Housing Investment Act".~~

24
25 ~~24-7-1402. Legislative purpose.~~

26 ~~The General Assembly of the State of Arkansas finds, determines, and~~
27 ~~declares that:~~

28 ~~(1) There is an existing and immediate need to assure members~~
29 ~~that they will have adequate and affordable housing and living facilities and~~
30 ~~other basic needs available to them upon retirement from active service;~~

31 ~~(2) Among these needs is the need for decent, safe, and~~
32 ~~affordable housing together with skilled and semiskilled medical personnel to~~
33 ~~assist with health problems not requiring acute care hospitalization for~~
34 ~~qualified occupants;~~

35 ~~(3) While the power and authority of the Arkansas Teacher~~
36 ~~Retirement System to use the assets of the system to provide for such needs~~

1 ~~is probably implied, the statutes governing the system are not sufficiently~~
 2 ~~clear so as to give administrators, financial institutions, governmental~~
 3 ~~agencies, and others guidance needed to proceed with measures to make~~
 4 ~~provisions for such needs; and~~

5 ~~(4) The purpose and intent of this subchapter is to make clear~~
 6 ~~that the system has the statutory authority to utilize assets of the system~~
 7 ~~and other resources available to it so as to provide or assist in the~~
 8 ~~provision for the housing and medical assistance alluded to in subdivisions~~
 9 ~~(1) and (2) of this section, all as provided for, but subject to the~~
 10 ~~limitations set forth in this subchapter.~~

11
 12 ~~24-7-1403. Definitions.~~

13 ~~As used in this subchapter, unless the context otherwise requires:~~

14 ~~(1) "Assisted living facility" means retirement housing at which~~
 15 ~~minimal food, security, and medical assistance services are available for~~
 16 ~~occupants;~~

17 ~~(2) "Board" means the Board of Trustees of the Arkansas Teacher~~
 18 ~~Retirement System;~~

19 ~~(3) "Facilities" when used without elaboration means and refers~~
 20 ~~to any or all the facilities referred to in this subchapter, including, but~~
 21 ~~not limited to, retirement housing, assisted living facility, skilled nursing~~
 22 ~~facility, nursing facility, or any combination thereof, built, owned, and~~
 23 ~~operated for the exclusive use and benefit of qualified occupants;~~

24 ~~(4) "Members" means any individual who is a member of the~~
 25 ~~system;~~

26 ~~(5) "Nursing facility" means a nursing home or a distinct part~~
 27 ~~of another retirement housing facility not meeting the skilled nursing~~
 28 ~~facility licensure regulations, but which provides on a more limited basis~~
 29 ~~skilled nursing and supportive care;~~

30 ~~(6) "Qualified occupant" means any member or the dependent of~~
 31 ~~any member who is receiving or is designated by a member to receive any plan~~
 32 ~~benefit from the system or any other person deemed by the board, by~~
 33 ~~regulation promulgated by the board or otherwise, to be a suitable occupant~~
 34 ~~of the facility;~~

35 ~~(7) "Retirement housing" means residential housing facilities;~~

36 ~~(8) "Skilled nursing facility" means a nursing home or a~~

1 ~~distinct part of a retirement housing facility, which home or distinct part~~
2 ~~is licensed by the Office of Long Term Care of the Department of Human~~
3 ~~Services, or any similar successor agency, as meeting the skilled nursing~~
4 ~~facility licensure regulations and which provides skilled nursing care and~~
5 ~~supportive care on a twenty-four hour basis to residents whose primary need~~
6 ~~is for availability of skilled nursing care on an extended basis; and~~
7 ~~(9) "System" means the Arkansas Teacher Retirement System as~~
8 ~~established by § 24-7-201 et seq.~~

9
10 ~~24-7-1404. Authority—Responsibility.~~

11 ~~(a) Authorization. In addition to all of the other powers and~~
12 ~~authorities previously granted to the Arkansas Teacher Retirement System~~
13 ~~along with the other Arkansas retirement systems and specifically in addition~~
14 ~~to those powers set forth in § 24-3-410 [repealed], the system is authorized~~
15 ~~to construct, acquire by purchase, gift, or otherwise, and to own and operate~~
16 ~~facilities.~~

17 ~~(b) Additional Authority. In furtherance of the authority granted in~~
18 ~~subsection (a) of this section and for the other purposes set forth in this~~
19 ~~subsection, the system, either directly or indirectly through a wholly owned~~
20 ~~subsidiary, is authorized and empowered to:~~

21 ~~(1) Investigate and obtain information concerning members'~~
22 ~~present and projected needs for services such as those offered by the~~
23 ~~facilities;~~

24 ~~(2) Construct and equip facilities or acquire by gift or~~
25 ~~purchase existing buildings and the sites upon which they are situated for~~
26 ~~use as or to be converted to facilities and held as investments of the system~~
27 ~~while providing additional benefits to members;~~

28 ~~(3) Provide for the operation and management of the facilities~~
29 ~~so constructed or acquired and arrange for providing of benefits to members~~
30 ~~through the use of such facilities at a rent or charge to qualified occupants~~
31 ~~upon such terms and conditions as the respective board may determine;~~

32 ~~(4) Execute contracts, including by way of example, but not~~
33 ~~limited to, leases (as lessor or lessee), purchase agreements, construction~~
34 ~~contracts, and management agreements, necessary to accomplish the purposes of~~
35 ~~this subchapter;~~

36 ~~(5) Incur debt as necessary to accomplish the purposes of this~~

1 ~~subchapter;~~

2 ~~(6) Apply for, receive, accept, and use any moneys and~~
3 ~~properties from the United States or any state or any department or agency~~
4 ~~thereof; from any public or private corporation of any nature; and from any~~
5 ~~individual or group;~~

6 ~~(7) Establish and enforce minimum standards and criteria for the~~
7 ~~management, maintenance, and operation of all facilities authorized by this~~
8 ~~subchapter;~~

9 ~~(8) Provide for the management, maintenance, and operation of~~
10 ~~the facilities as may be required by this subchapter or otherwise by law to~~
11 ~~be managed, maintained, or operated by the Board of Trustees of the Arkansas~~
12 ~~Teacher Retirement System;~~

13 ~~(9) Cooperate with the Arkansas Development Finance Authority~~
14 ~~for the issuance of bonds pursuant to the Arkansas Development Finance~~
15 ~~Authority Act, § 15-5-101 et seq., to finance the acquisition, construction,~~
16 ~~leasing or equipping, or purchase of the facilities authorized by this~~
17 ~~subchapter;~~

18 ~~(10) Take such other action, not inconsistent with law, as may~~
19 ~~be necessary or desirable to carry out the powers, purposes, and authorities~~
20 ~~set forth in this subchapter and to carry out the intent of this chapter;~~

21 ~~(11) To enter into lease purchase agreements, as lessee or~~
22 ~~lessor, to obtain the facilities;~~

23 ~~(12) Create wholly owned subsidiary corporations, limited~~
24 ~~liability companies, and other legal entities to facilitate the financing of~~
25 ~~facilities and to own or operate facilities. Such subsidiary corporations or~~
26 ~~other legal entities may be a venture in a joint venture, a general or~~
27 ~~limited partner in a partnership, a member of a limited liability company,~~
28 ~~and may have such status in other legal entities composed of governmental~~
29 ~~agencies (federal or state), private individuals, partnerships, corporations,~~
30 ~~or other entities, as might be necessary or desirable to accomplish the~~
31 ~~purposes of this subchapter; and~~

32 ~~(13)(A)(i) Guarantee, wholly or partially, debt obligations of~~
33 ~~any subsidiary corporation or other owned entity; enter into agreements to~~
34 ~~purchase or repurchase debt obligations of any subsidiary corporation or~~
35 ~~other owned entity; and to take such other measures as might be appropriate~~
36 ~~to enhance the credit and the ability of any of its subsidiary corporations~~

1 ~~or other owned entities to borrow money.~~

2 ~~(ii) Provided, however, any instrument or agreement~~
3 ~~containing a guaranty of the system must prominently state that the guaranty~~
4 ~~is limited to the assets of the system and does not constitute a pledge of~~
5 ~~the full faith and credit of the system or of the State of Arkansas.~~

6 ~~(iii) In addition to the limitations set forth in~~
7 ~~subdivision (b)(13)(A)(ii) of this section, the system shall not be~~
8 ~~authorized to enter into any kind of guaranty or credit enhancement~~
9 ~~arrangement if the amount of debt guaranteed or credit enhanced when added to~~
10 ~~all previous guaranty or enhancement arrangements still in effect would~~
11 ~~exceed three percent (3%) of the total assets of the system as reflected on~~
12 ~~its most recent balance sheet.~~

13 ~~(B) If the system should enter into any guaranty or other~~
14 ~~credit enhancement arrangement for any subsidiary corporation or other owned~~
15 ~~entity, it shall be entitled to charge such subsidiary or other entity a fee~~
16 ~~for providing the credit enhancement. Such fee is not to exceed one percent~~
17 ~~(1%) of the principal amount of the credit enhanced, unless the board, with~~
18 ~~the advice of counsel, finds that the charging of such a fee could adversely~~
19 ~~affect the credit being enhanced by adversely affecting the availability or~~
20 ~~the cost of the credit or have any other adverse effect on such credit.~~

21
22 ~~24-7-1405. Trust assets.~~

23 ~~When investing and managing trust assets as a prudent investor, the~~
24 ~~Board of Trustees of the Arkansas Teacher Retirement System may consider the~~
25 ~~benefits members may obtain from investments which return more than a return~~
26 ~~on principal but also provide other benefits to the members, such as health~~
27 ~~care, housing, and entertainment, including, but not limited to, investment~~
28 ~~in the ownership or operation of facilities for the use and benefit of~~
29 ~~qualified occupants.~~

30
31 ~~24-7-1406. Facilities.~~

32 ~~The Board of Trustees of the Arkansas Teacher Retirement System shall~~
33 ~~make the final determination regarding the location, design, purpose,~~
34 ~~construction, and operation of the facilities. All agreements and other~~
35 ~~matters concerning the buying, trading, selling, renting, renovating, or~~
36 ~~acquiring of any facility as authorized by this subchapter shall be matters~~

1 ~~of public record and available for public inspection.~~

2
3 ~~24-7-1407. Scope.~~

4 ~~Nothing in this subchapter shall be construed as to in any way limit or~~
5 ~~alleviate the obligation of the Board of Trustees of the Arkansas Teacher~~
6 ~~Retirement System to provide retirement benefits to the members of the~~
7 ~~Arkansas Teacher Retirement System.~~

8
9 ~~24-7-1408. Appropriate investment of funds.~~

10 ~~If made in compliance with the requirements and limitations of this~~
11 ~~subchapter and in compliance with the prudent investor rule set forth in §§~~
12 ~~24-3-417—24-3-426, investments made by the Arkansas Teacher Retirement~~
13 ~~System in facilities are hereby declared by the General Assembly to be an~~
14 ~~appropriate investment for funds of the system.~~

15
16 ~~24-7-1409. Permit of approval.~~

17 ~~Nothing in this subchapter exempts the Arkansas Teacher Retirement~~
18 ~~System, its subsidiaries, corporations, or other related legal entities from~~
19 ~~the requirement to acquire a permit of approval, as set forth in § 20-8-101~~
20 ~~et seq., or any Office of Long Term Care licensure or certification~~
21 ~~requirement to own, operate, or manage a long term care facility.~~

22
23 SECTION 28. EMERGENCY CLAUSE. It is found and determined by the
24 General Assembly of the State of Arkansas that certain provisions of the
25 Arkansas Teacher Retirement System Act are in dire need of technical
26 correction to bring them into conformance with the current public pension
27 policy; that such technical correction is of great importance to members of
28 the Arkansas Teacher Retirement System and to other citizens of the State of
29 Arkansas; and that this act is immediately necessary in order to maintain an
30 orderly system of benefits for the members of the Arkansas Teacher Retirement
31 System. Therefore, an emergency is declared to exist and this act being
32 necessary for the preservation of the public peace, health, and safety shall
33 become effective on July 1, 2009.

34 /s/ Faris

35
36 **APPROVED: 3/18/2009**