

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.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

*As Engrossed: S1/31/07*

# A Bill

SENATE BILL 166

5 By: Senator J. Jeffress  
6  
7

## For An Act To Be Entitled

9 AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE  
10 ARKANSAS TEACHER RETIREMENT SYSTEM; AND FOR OTHER  
11 PURPOSES.  
12

## Subtitle

13 AN ACT TO MAKE TECHNICAL CORRECTIONS TO  
14 THE ARKANSAS TEACHER RETIREMENT SYSTEM.  
15  
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17

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

20 SECTION 1. Arkansas Code § 24-7-202 is amended to read as follows:  
21 24-7-202. Definitions.

22 As used in this act:

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 the members' deposit account, together with regular  
26 interest credited thereon;

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

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

31 ~~(3)-(4)~~ (4) "Actuarial equivalent" means a benefit of equal reserve  
32 value;  
33

34 ~~(4)-(5)~~ (5) "Annuity" means an annual amount payable by the Arkansas  
35 Teacher Retirement System in equal monthly installments throughout the life  
36 of a person or for a temporary period;



1           ~~(5)~~(6) "Beneficiary" means any person who is receiving or is  
2 designated by a member to receive a Arkansas Teacher Retirement System  
3 benefit ~~by reason of the Arkansas Teacher Retirement System membership of~~  
4 ~~another person~~;

5           ~~(6)~~(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           ~~(7)~~(8) "Board" means the Board of Trustees of the Arkansas  
9 Teacher Retirement System;

10           ~~(8)~~(9) "Child of a member" means either a natural child of the  
11 member, a child that has been made a child of the member by applicable court  
12 action before the death of the member, or a child under the permanent care of  
13 the member at the time of the latter's death, which permanent care status  
14 shall be determined by evidence satisfactory to the board;

15           ~~(9)~~(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           ~~(10)~~(12) "Employee" means any person employed by ~~a school in a~~  
20 ~~regular or special position~~ an employer covered by the Arkansas Teacher  
21 Retirement System;

22           ~~(11)~~(13) "Employer" means any school or other educational agency  
23 participating in the Arkansas Teacher Retirement System;

24           ~~(12)~~(14) "Employment with a school" means, beginning July 1,  
25 1993:

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

- 28                           (i) Arkansas School for the Blind;
- 29                           (ii) Arkansas School for the Deaf;
- 30                           (iii) Arkansas Activities Association;
- 31                           (iv) A local school board;
- 32                           (v) State Board of Education;
- 33                           (vi) Regional education cooperatives; and
- 34                           (vii) Arkansas Teacher Retirement System;

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

- 1 (i) Juvenile training schools;
- 2 (ii) The Arkansas Educational Television Commission;
- 3 and
- 4 (iii) Area vocational-technical schools, except
- 5 those employees of area vocational schools and the Department of Workforce
- 6 Education who have elected to participate in an alternate retirement plan
- 7 established by §§ 24-7-901 and 24-7-903 - 24-7-908;
- 8 (C) Employment by the Arkansas Rehabilitation Services of
- 9 the Department of Workforce Education or the Division of State Services for
- 10 the Blind of the Department of Health and Human Services, except those
- 11 employees who have elected to participate in the noncontributory plan of the
- 12 Arkansas Public Employees' Retirement System;
- 13 (D)(i) Employment in a position with an educationally
- 14 related agency if the employee is or has been a member of the Arkansas
- 15 Teacher Retirement System for a minimum of five (5) years and elects to
- 16 become or remain a member of the Arkansas Teacher Retirement System. The
- 17 employment shall be related to:
  - 18 (a) Training public school employees or
  - 19 school board members;
  - 20 (b) Teaching public school students; or
  - 21 (c) Adult education programs.
- 22 (ii) The employment shall not be related in any
- 23 manner to private schools.
- 24 (iii) Each educationally related agency shall be:
  - 25 (a) Approved according to rules and
  - 26 regulations established by the board;
  - 27 (b) Considered an employer under
  - 28 subdivision (11) of this section; and
  - 29 (c) Responsible for all required
  - 30 employer contributions;
- 31 (E)(i) Employment in an enterprise privatized by a public
- 32 school district.
- 33 (ii) If a public school district should privatize
- 34 any of its services, any individual who is or was employed by the school
- 35 district in one (1) of those services and who is or has been a member of the
- 36 Arkansas Teacher Retirement System may elect to remain a member if:

1 (a) The board determines pursuant to rules and  
2 regulations adopted by the board that the participation of these employees in  
3 the Arkansas Teacher Retirement System will not in any way impair any legal  
4 status of the Arkansas Teacher Retirement System, including, but not limited  
5 to, its status as a governmental plan pursuant to the federal Internal  
6 Revenue Code and the Employee Retirement Income Security Act of 1974, or have  
7 a substantial adverse impact on the actuarial soundness of the Arkansas  
8 Teacher Retirement System; and

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

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

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

18 (b) The board determines pursuant to rules and  
19 regulations adopted by the board that the participation of the educational  
20 nonprofit corporation will not in any way impair any legal status of the  
21 Arkansas Teacher Retirement System, including, but not limited to, its status  
22 as a governmental plan pursuant to the Internal Revenue Code of 1986 and the  
23 Employee Retirement Income Security Act of 1974, or have a substantial  
24 adverse impact on the actuarial soundness of the Arkansas Teacher Retirement  
25 System.

26 (ii) The employment shall be related to:

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

29 (b) Teaching public school students; or

30 (c) Adult education programs.

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

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

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

1 (b) Considered an employer under subdivision  
2 (11) of this section; and

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

6 ~~(13)~~(15)(A)(i) "Final average salary" means, for a member who  
7 retires after June 30, 1997, the average of the annual salaries paid to him  
8 or her during the period of not less than three (3) years nor more than five  
9 (5) years of credited service producing the highest annual average with the  
10 exact time period to be determined in accordance with the rules and  
11 regulations of the board as is actuarially appropriate for the Arkansas  
12 Teacher Retirement System, subject to the provisions of subdivision  
13 ~~(24)~~(27)(A) of this section.

14 (ii) Prior to reducing the time period used to  
15 determine final average salary, the board shall file relevant information  
16 concerning the actuarial appropriateness of the action with the Joint Interim  
17 Committee on Public Retirement and Social Security Programs, and the action  
18 shall be reviewed by the committee.

19 (B) Should a member have less than the minimum of three  
20 (3) years of credited service, "final average salary" means the annual  
21 average of salaries paid to him or her during his or her total years of  
22 credited service, subject to the provisions of subdivision ~~(24)~~(27)(A) of  
23 this section;

24 ~~(14)~~(16) "Inactive member" means any former active member who  
25 is:

26 (A) No longer rendering service which is covered by the  
27 Arkansas Teacher Retirement System; and

28 (B) Not a retiree;

29 ~~(15)~~(17) "Interest" means the rate or rates per annum,  
30 compounded annually, as the board shall adopt from time to time, that will be  
31 charged for the purchase of service credit or to repay a refund, or repayment  
32 of benefits, but the rate shall equal no less than the Arkansas Teacher  
33 Retirement System's current assumed interest rate assumption;

34 ~~(16)~~(18) "Internal Revenue Code" means the federal Internal  
35 Revenue Code of 1986, as amended, as it existed on January 1, 2005, ~~except as~~  
36 ~~provided in § 24-7-406(e)(1)(A)(ii)~~ 2007;

1           ~~(17)~~(19) "Member" means any person included in the membership of  
2 the Arkansas Teacher Retirement System;

3           ~~(18)~~(20) "Nonteacher" means any ~~employee~~ member except a  
4 teacher;

5           ~~(19)~~(21) "Normal retirement age" means sixty-five (65) years of  
6 age;

7           (22) "Reciprocal service" means credited service rendered under  
8 a reciprocal system as defined by § 24-2-401;

9           ~~(20)~~(23) "Regular interest" means the rate or rates per annum,  
10 compounded annually, which the board shall adopt from time to time, that will  
11 be used to compute interest on members' contributions;

12           ~~(21)~~(24) "Reserve" means the present value of all payments to be  
13 made on account of any Arkansas Teacher Retirement System benefit based upon  
14 such reasonable tables of experience and regular interest as the board shall  
15 adopt from time to time;

16           ~~(22)~~(25) "Retirant" means a former member receiving an Arkansas  
17 Teacher Retirement System annuity ~~by reason of having been a member;~~

18           ~~(23)~~(26) "Retires" means ~~the beginning of annuity payments to a~~  
19 ~~retirant~~ that a member ceases to be active and is eligible to receive  
20 retirement benefits from the Arkansas Teacher Retirement System;

21           ~~(24)~~(27)(A)(i) "Salary" means the remuneration paid to an  
22 employee in a position covered by the Arkansas Teacher Retirement System and  
23 on which the employer withholds federal income tax.

24                           (ii)(a) However, compensation in excess of the  
25 limitations set forth in section 401(a)(17) of the Internal Revenue Code of  
26 1986 shall be disregarded.

27                           (b) The limitation on compensation for  
28 eligible employees shall not be less than the amount which was allowed to be  
29 taken into account under the Arkansas Teacher Retirement System as in effect  
30 on July 1, 1993. For this purpose, an eligible employee is an individual who  
31 was a member of the Arkansas Teacher Retirement System before the first plan  
32 year beginning after December 31, 1995.

33                           (iii) However, in computing retirement benefits, no  
34 salary paid in one (1) of the years which is utilized in the computation of  
35 the member's final average salary shall exceed one hundred ten percent (110%)  
36 of the salary earned in the year preceding that year used in the computation,

1 unless the increase is a direct result of:

- 2 (a) A promotion;
- 3 (b) A change in position;
- 4 (c) An incremental increase provided in the
- 5 school district salary schedule; or
- 6 (d) An increase in school revenues.

7 (B) Should a portion of an employee's remuneration be paid

8 other than in cash, the cash value of the remuneration shall be established

9 by the Arkansas Teacher Retirement System in an amount not to exceed the

10 amount the employee is required to report for federal income tax purposes.

11 (C)(i) In determining salary, employer pick-up

12 contributions, cafeteria plans as defined in § 21-5-901, and employee

13 contributions to tax-sheltered annuities shall be included.

14 (ii) However, a member may establish salary earned

15 under a purchase service contract with a covered employer by paying employee

16 and employer contributions plus interest.

17 (D) Money which is in lieu of remuneration and which is

18 used by an employer to purchase a qualified tax-sheltered annuity or a life

19 insurance policy for an employee shall be considered as salary for Arkansas

20 Teacher Retirement System purposes.

21 (E) An employee who is receiving remuneration under both a

22 regular contract and a purchased contract or under both a regular contract

23 and a contract won through litigation shall have only the greater of the two

24 (2) amounts considered as salary for Arkansas Teacher Retirement System

25 purposes.

26 (F) Should an employee make a charitable donation or

27 return any part of his or her salary to his or her employer, the amount of

28 his or her recurring remuneration otherwise usable as salary shall be reduced

29 by such an amount or amounts to arrive at his or her salary for Arkansas

30 Teacher Retirement System purposes.

31 (G) In case of any dispute concerning an employee's salary

32 for Arkansas Teacher Retirement System purposes, the Arkansas Teacher

33 Retirement System shall have the power to settle the dispute;

34 ~~(25)~~(28) "School" means any public school under the control of

35 school authorities of the state and supported wholly or partially by state

36 moneys;

- 1           ~~(26)~~(29) "Service" means employment rendered as an employee;
- 2           ~~(27)~~(30) "Social security" means the federal social security old  
3 age, survivors, and disability insurance program;
- 4           ~~(28)~~(31) "State" means the State of Arkansas;
- 5           ~~(29)~~(32) "System" means the Arkansas Teacher Retirement System;
- 6           ~~(30)~~(33)(A) "Teacher" means, beginning July 1, 1989, any person  
7 employed by a school for the purpose of giving instructions and whose  
8 employment requires state ~~certification~~ licensure.
- 9                         (B) In any case of a question as to who is a teacher, the  
10 board shall have the final power to decide the question; ~~and~~
- 11           (34) "T-DROP" means the Teacher Deferred Retirement Option Plan  
12 established by the Arkansas Teacher Retirement System;
- 13           (35) "T-DROP plan interest" means the rate per annum which the  
14 board shall adopt from time to time that will be used to compute interest  
15 paid on T-DROP mean balances at the end of each fiscal year; and
- 16           ~~(31)~~(36) "Trustee" means a member of the board.

17

18           SECTION 2. Arkansas Code § 24-7-209(a), concerning the suspension of  
19 benefit payments upon request, is amended to read as follows:

20           (a) ~~Notwithstanding any other provision of the Arkansas Teacher~~  
21 ~~Retirement System~~ Subject to the minimum distribution provisions of § 24-7-  
22 730, a person entitled to receive an annuity may submit a request to the  
23 system in writing, for personal reasons and without disclosure thereof, to  
24 suspend the payment of all the benefit otherwise payable to him by the  
25 system.

26

27           SECTION 3. Arkansas Code § 24-7-301 is amended to read as follows:  
28           24-7-301. Members.

29           The general administration and responsibility for the proper operation  
30 of the system and for making effective the provisions of this act are vested  
31 in a board of trustees of fifteen (15) persons as follows:

32           (1) The Bank Commissioner, the Treasurer of State, the Auditor  
33 of State, and the ~~Director~~ Commissioner of ~~the Department of~~ Education shall  
34 be ex officio trustees;

35           (2)(A) Seven (7) members shall be elected member trustees, each  
36 of whom shall have at least five (5) years of ~~credited~~ actual service in



1 force and be an active member. For the purpose of this section and § 24-7-  
 2 302, participants in the Teacher Deferred Retirement Option Plan shall be  
 3 considered active members.

4 (B) Four (4) member trustees shall be employed in a  
 5 position which requires state ~~certification~~, licensure, but not an  
 6 administrator's ~~certificate~~ license. One (1) member trustee will be elected  
 7 from each of the four (4) congressional districts. The four (4) member  
 8 trustees shall be elected by the members employed in positions which require  
 9 state ~~certification~~, licensure but not an administrator's  
 10 ~~certificate~~ license.

11 (C) Two (2) member trustees shall be employed in a  
 12 position requiring an administrator's ~~certificate~~, license, one (1) of whom  
 13 must be a superintendent. These two (2) member trustees shall be elected by  
 14 members employed in positions requiring administrator ~~certification~~  
 15 licensure.

16 (D) One (1) member trustee shall be employed in a position  
 17 not requiring state ~~certification~~ licensure. This member trustee shall be  
 18 elected by members employed in positions not requiring state  
 19 ~~certification~~ licensure;

20 (3) One (1) trustee shall be a person of a minority racial  
 21 ethnic group who is either an active or retired member of the Arkansas  
 22 Teacher Retirement System and shall be elected from the active and retired  
 23 membership of the system;

24 (4)(A) Three (3) retirants shall be elected retirant trustees by  
 25 the retirees of the system.

26 (B) Each retirant trustee shall be a retirant with an  
 27 annuity being paid by the system at the beginning of his term of office; and

28 (5) The member and retirant trustees shall be elected in  
 29 accordance with ~~such rules and regulations~~ as have been adopted by the board  
 30 to govern the elections.

31  
 32 SECTION 4. Arkansas Code § 24-7-305 is amended to read as follows:

33 24-7-305. Duties and responsibilities.

34 (a)(1) Both the contributory plan provided by this act and the  
 35 noncontributory plan established by §§ 24-7-401 - 24-7-411 and 24-7-701, 24-  
 36 7-702, 24-7-704 - 24-7-713, 24-7-715, and 24-7-716 shall be under the

1 administration and control of the Board of Trustees of the Arkansas Teacher  
2 Retirement System as provided by § 24-7-301.

3 (2) It is the intent of the General Assembly that neither the  
4 composition, responsibilities, or authority of the board be changed as a  
5 result of §§ 24-7-401 - 24-7-411 and 24-7-701, 24-7-702, 24-7-704 - 24-7-713,  
6 24-7-715, and 24-7-716.

7 (b) The board shall promulgate rules as it deems necessary from time  
8 to time in the transaction of its business and in administering the Arkansas  
9 Teacher Retirement System.

10 ~~(b)~~(c) The board shall adopt from time to time such reasonable  
11 mortality and other tables of experience, and a rate or rates of regular  
12 interest, as shall be necessary for the actuarial requirements of the  
13 Arkansas Teacher Retirement System.

14 ~~(e)~~(d) The Executive Director of the Arkansas Teacher Retirement  
15 System shall keep, or cause to be kept, in convenient form such data as shall  
16 be necessary for actuarial investigations of the experiences of the system,  
17 and such data as shall be necessary for annual actuarial valuations of the  
18 system.

19 ~~(d)~~(e)(1) The board shall annually, not later than April 1 of each  
20 year, render a report to each employer showing the financial condition of the  
21 system as of the preceding June 30.

22 (2) The report shall contain, but shall not be limited to:  
23 (A) A financial balance sheet;  
24 (B) A statement of income and disbursements;  
25 (C) A detailed statement of investments acquired and  
26 disposed of during the year, together with a detailed statement of the annual  
27 rates of investment income from all assets and from each type of investment;  
28 (D) An actuarial balance sheet prepared by means of the  
29 last valuation of the system; and  
30 (E) Such other data as the board shall deem necessary to  
31 comply with § 24-2-702.

32 (3) In addition to the distribution of the report provided by  
33 this subsection, it shall also be distributed to the Legislative Council and  
34 to the Governor ~~as provided by § 24-2-702.~~

35 ~~(e)~~(f) All records of the system shall be kept and maintained in the  
36 office of the system.

1           ~~(f)~~(g)(1) The board shall arrange for adequate surety bonds covering  
2 the executive director and any other custodian of the funds or investments of  
3 the board.

4           (2) When approved by the board, the bonds shall be deposited in  
5 the office of the Treasurer of State.

6           ~~(g)~~(h) The records and accounts of the system shall be audited by the  
7 Division of Legislative Audit.

8           ~~(h)~~(i) The headquarters of the system shall be in Little Rock.

9  
10          SECTION 5. Arkansas Code § 24-7-411(a), concerning compelling payment  
11 upon the delinquency of an employer, is amended to read as follows:

12          (a)(1) If any participating employer fails to remit to the Arkansas  
13 Teacher Retirement System those moneys which are required by law or  
14 regulation by the fifteenth day of the month in which the moneys are due,  
15 then the system shall impose a ~~penalty of~~ six percent (6%) interest penalty  
16 on an annual basis on the moneys due.

17          (2) For purposes of this subsection, an employer's remittance  
18 shall not be considered delinquent if received by the system by the fifteenth  
19 day or postmarked no later than the fourteenth day of the month in which the  
20 payment is due.

21          (3) The interest penalty shall be determined by the system on  
22 the date the delinquent funds are received, and a statement of the interest  
23 penalty shall be sent to the participating public employer.

24          (4) If the interest penalty or delinquent moneys are not  
25 received by the system by the last business day of the month in which the  
26 moneys were originally due, then the system shall cause the sums of moneys,  
27 including the interest penalty, to be transferred from any moneys due the  
28 participating employer from the Treasurer of State and the Department of  
29 Education, as provided in § 19-5-106(a)(5).

30          (5) This interest penalty shall be computed on the actual days  
31 of delinquency and shall be paid to the system for the purpose of reimbursing  
32 the trust fund for the money which would have been earned on the moneys had  
33 they been paid when due.

34  
35          SECTION 6. Arkansas Code § 24-7-501 is amended to read as follows:  
36          24-7-501. Generally.

1 (a) The membership of the Arkansas Teacher Retirement System shall  
2 include the following persons:

3 ~~(1) All teachers who last began service before July 1, 1971, in~~  
4 ~~accordance with provisions in force before July 1, 1971;~~

5 ~~(2)(1)~~ All teachers who last began service on or after July 1,  
6 1971, and whose service is not covered by another retirement plan similar in  
7 purpose to the Arkansas Teacher Retirement System, except social security;  
8 and

9 ~~(3)(2)(A)~~ All nonteachers who begin nonteaching service on or  
10 after July 1, 1989, and whose nonteaching service is not covered by another  
11 retirement plan similar in purpose to the Arkansas Teacher Retirement System,  
12 except social security.

13 (B)(i) All nonteachers who began nonteaching service  
14 before July 1, 1989, whose nonteaching service is covered or coverable by the  
15 Arkansas Public Employees' Retirement System shall continue to be covered by  
16 the Arkansas Public Employees' Retirement System for all nonteaching service,  
17 both past and future, ~~except if the nonteacher elects coverage under the~~  
18 ~~Arkansas Teacher Retirement System in accordance with subdivision (a)(4) of~~  
19 ~~this section unless the nonteacher elects to have the nonteaching service~~  
20 ~~after July 1, 2001, covered by the Arkansas Teacher Retirement System under~~  
21 subsection (a)(2)(C) of this section.

22 ~~(C)(ii)~~ These nonteachers who began service before July 1,  
23 1989, shall be considered members of a closed system to be administered by  
24 the Arkansas Public Employees' Retirement System.

25 ~~(D)(iii)~~ The employer contribution rate for this closed  
26 system shall be established at a rate necessary to fund all present and  
27 future liabilities until such time as there are no longer members, retirants,  
28 or deferred annuitants;

29 ~~(4)(A) All nonteachers who began nonteaching service before July~~  
30 ~~1, 1989, whose nonteaching service is covered by the Arkansas Public~~  
31 ~~Employees' Retirement System may elect to have the nonteaching service after~~  
32 ~~July 1, 2001, covered by the Arkansas Teacher Retirement System.~~

33 ~~(B)(C)(i)~~ Beginning July 1, 2001, and each July 1 of each  
34 year thereafter, nonteachers who participate in the Arkansas Public  
35 Employees' Retirement System may elect to become members of the Arkansas  
36 Teacher Retirement System.

1                   ~~(C)~~(ii) Service credit while a member of the Arkansas  
2 Public Employees' Retirement System cannot be established in the Arkansas  
3 Teacher Retirement System.

4                   ~~(D)~~(iii) The election to withdraw from the Arkansas Public  
5 Employees' Retirement System and become a member of the Arkansas Teacher  
6 Retirement System shall be made by May 31, 2001, or by May 31 of each year  
7 thereafter, and notice of the election shall be made in writing and filed  
8 with the Arkansas Teacher Retirement System.

9                   (iv) The election to participate in the Arkansas Teacher  
10 Retirement System shall be irrevocable.

11                   ~~(E)~~(v) Nonteachers who elect coverage in the Arkansas  
12 Teacher Retirement System under the provisions of this section and who  
13 accumulate five (5) or more years of credited service in the Arkansas Teacher  
14 Retirement System will be eligible for benefits as provided in § 24-7-713(b).

15                   ~~(F) The election to participate in the Arkansas Teacher~~  
16 ~~Retirement System shall be irrevocable.~~

17                   (b)(1) A person who has excluded himself or herself from membership  
18 before July 1, 1991, may rescind the exclusion by filing with the system a  
19 membership data form.

20                   (2) The rescission shall be effective July 1 of the fiscal year  
21 in which it is exercised.

22                   (3) At the direction of the person, the membership may be  
23 prospective only, or both prospective and retroactive.

24                   (4) For the membership to be retroactive, the member must pay to  
25 the system both the member contributions and the employer contributions which  
26 would have been paid to the system had there been no exclusion, plus ~~regular~~  
27 interest from the ~~dates the contributions would normally have been received~~  
28 ~~by the system~~ effective date of the excluded service to the date of ~~actual~~  
29 payment in full.

30                   (c) In any case of question as to the system membership status of any  
31 person, the Board of Trustees of the Arkansas Teacher Retirement System shall  
32 have the final power to decide the question.

33                   (d)(1) Membership in the system shall be a condition of employment in  
34 accordance with subsections ~~(a)-(e)~~ (a) and (b) of this section ~~and shall not~~  
35 ~~be subject to election by individual employees.~~

36                   (2) Provided, however, individual ~~employees~~ members who

1 ~~accumulate~~ are employed for less than thirty (30) days of credited service  
 2 within a fiscal year shall not be eligible for membership any credit or  
 3 benefit in the system, and any employee contributions made by the member  
 4 during that period shall be refunded by the system.

5  
 6 SECTION 7. Arkansas Code § 24-7-502 is amended to read as follows:

7 24-7-502. Termination of active membership.

8 (a)(1) A member of the Arkansas Teacher Retirement System must  
 9 terminate covered employment to be eligible for retirement.

10 (2) A member shall not be terminated from employment for  
 11 retirement purposes if within thirty (30) days of the person's effective date  
 12 of retirement the person returns to a position that would otherwise be  
 13 covered by the system.

14 (3) A person failing to meet the termination requirement of this  
 15 subsection shall forfeit the person's benefits until the requirement is met.

16 (b)(1)~~(A)~~ When a member is no longer employed by an employer in a  
 17 position covered by the system, the person shall ~~thereupon~~ cease to be an  
 18 active member of the system.

19 ~~(B) Unless the member becomes a retirant or an inactive~~  
 20 ~~member as provided in this act, his or her credited service shall be~~  
 21 ~~forfeited by the member upon termination of active membership.~~

22 (2) If a former active an inactive member has not ~~become a~~  
 23 ~~retirant~~ retired and later becomes reemployed by an employer in a position  
 24 covered by the system, the person shall ~~again~~ become an active member ~~upon~~  
 25 ~~reemployment~~ and is eligible to accrue additional service credit.

26 (3) ~~If the member becomes reemployed from inactive member~~  
 27 ~~status, the person shall immediately begin adding to his or her previous~~  
 28 ~~credited service. However, if~~ If the member's service during ~~the person's~~  
 29 ~~last such~~ reemployment is for less than thirty (30) days, he or she shall be  
 30 considered to be an inactive member at the termination of the reemployed  
 31 service, and the only monthly benefits payable shall be those provided by §  
 32 24-7-707.

33 ~~(4) If the member becomes reemployed from neither retirant nor~~  
 34 ~~inactive member status, after completing thirty (30) days of service during~~  
 35 ~~the person's last such reemployment, the active member shall receive the~~  
 36 ~~indicated credited service for the credited service forfeited by him or her~~

1 ~~if the member returns to the system the indicated amount, as follows:~~

2 ~~(A) The member shall receive his or her total forfeited~~  
3 ~~credited service if the member returns the amount he or she received~~  
4 ~~therefrom, together with regular interest from the date of withdrawal to the~~  
5 ~~date of repayment; or~~

6 ~~(B) If a portion of the member's forfeited credited~~  
7 ~~service has been credited the person under the provisions of a publicly~~  
8 ~~supported teacher retirement system of another state, the member shall~~  
9 ~~receive the portion of his or her forfeited credited service not so credited~~  
10 ~~by the other system if the member returns the amount received from this~~  
11 ~~system for that portion of the member's credited service not so credited by~~  
12 ~~the other system, together with regular interest from the date of withdrawal~~  
13 ~~to the date of repayment.~~

14 ~~(5)(4)(A)(i)~~ In addition to the forfeited credited service, the  
15 An active member shall receive credit for his or her other previous any  
16 previous unreported service after July 1, 1937, upon paying to the system the  
17 member contributions in effect during the previous service, together with  
18 ~~regular~~ interest from the dates of the service to the date of payment in  
19 full.

20 ~~(ii)(B)~~ For previous service rendered before July 1,  
21 1971, service credit shall be permitted for service in a fiscal school year  
22 only if at least one hundred twenty (120) days of service were rendered in  
23 the fiscal school year.

24 ~~(B) To establish credit for previous service, a member~~  
25 ~~must pay to the system both member and employer contributions, plus regular~~  
26 ~~interest from the dates the contributions would normally have been received~~  
27 ~~by the system to the date of actual payment.~~

28 (c)~~(1)~~ Upon a member's retirement, the person shall cease to be a an  
29 active member and, except as otherwise provided in this act, he or she shall  
30 not ~~again become a member of~~ accrue additional service credit or make  
31 contributions to the system.

32 ~~(2) During any period of employment in a position covered by the~~  
33 ~~system, a retirant shall not accrue additional credited service nor shall he~~  
34 ~~or she contribute to the system.~~

35  
36 SECTION 8. Arkansas Code § 24-7-601 is amended to read as follows:

1 § 24-7-601. Generally.

2 (a) By ~~rules and regulations~~ rule, the Board of Trustees of the  
3 Arkansas Teacher Retirement System shall fix and determine the number of  
4 years, and fraction thereof, of service to be credited each member for his  
5 employment as an employee.

6 (b) In no case, other than specifically provided otherwise in this  
7 subchapter, shall fewer than one hundred twenty (120) days of teaching  
8 service rendered in any fiscal school year be credited as one (1) year of  
9 service, nor shall more than one (1) year of service be credited any member  
10 for all teaching service rendered by him in any one (1) fiscal school year.

11 (c)(1) Days of absence from service because of sickness shall be  
12 considered as service if the days are paid sick leave.

13 (2) Days of paid sick leave shall not be considered service if  
14 the payment is for unused sick leave.

15 (d) No credited service may be granted by the board for service  
16 rendered before July 1, 1937.

17 (e)(1) The system is a reciprocal system under the provisions of §§  
18 24-2-401 - 24-2-405.

19 (2) In establishing eligibility for a benefit from the Arkansas  
20 Teacher Retirement System, the credited service under all reciprocal systems  
21 shall be totaled and the total credited service shall be used in determining  
22 eligibility for a system benefit.

23 (3) In determining the amount of a benefit from this system,  
24 there shall be used only the ~~credited~~ actual service under this system and  
25 the benefit formula of this system.

26 (4) The final average compensation used shall be that of the  
27 reciprocal system which furnishes the highest final salary at the time of  
28 retirement.

29 (5) Wherever this system provides a benefit amount which is not  
30 dependent on length of credited service, the benefit amount shall be reduced  
31 to the proportion that ~~system-credited~~ actual system service bears to total  
32 reciprocal system-credited service.

33 (f) In any case of question as to the service credit of any person,  
34 the board shall have the final power to decide the question.

35  
36 SECTION 9. Arkansas Code § 24-7-607(a), concerning private school



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

3 (a) As used in this section, "private school service" means service  
4 rendered in any private school or agency which is recognized by the  
5 Department of Education for the issuance of teaching ~~certificates~~ licenses.  
6

7 SECTION 10. Arkansas Code § 24-7-701 is amended to read as follows:  
8 24-7-701. Voluntary retirement.

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

15 (2)(A) A member shall terminate covered employment to be  
16 eligible for retirement except if the member has attained normal retirement  
17 age.

18 (B) A member shall not be terminated from employment for  
19 retirement purposes if the person returns to a position that would otherwise  
20 be covered by the Arkansas Teacher Retirement System within thirty (30) days  
21 of the person's effective date of retirement.

22 (C) A person failing to meet the termination of employment  
23 requirements of this subsection shall forfeit retirement benefits until the  
24 requirements are met.

25 (b) Upon his or her retirement, he or she shall receive an annuity as  
26 provided for in § 24-7-705.

27 (c) The annuity shall begin the first day of the calendar month next  
28 following the latest of:

29 (1) One (1) month after the date the written application is  
30 filed with the board;

31 (2) The member's termination of active membership;

32 (3) The member's attainment of the minimum age; or

33 (4) The member's completion of the minimum years of credited  
34 service.

35 ~~(d) If a member is retiring with an effective date other than July 1,~~  
36 ~~the member may retire effective the first day of a calendar quarter within~~

1 ~~that fiscal year, subject to the following limitations:~~

2 ~~(1) No salary for service within that fiscal year shall be~~  
3 ~~considered in determining final average salary; and~~

4 ~~(2) Credited service for service within that fiscal year shall~~  
5 ~~not exceed one-quarter (1/4) year for each full calendar quarter elapsed~~  
6 ~~since the beginning of that fiscal year.~~

7 ~~(e)(d)~~ If a member is retiring with an effective date other than July  
8 1 or the first day of a calendar quarter within the fiscal year, the  
9 following limitations shall apply:

10 (1) No salary for service within the fiscal year shall be  
11 considered in determining final average salary;

12 (2) Credited service for service within the fiscal year shall  
13 not exceed one-quarter (1/4) year for each full calendar quarter elapsed  
14 since the beginning of the fiscal year; and

15 (3) Service credit to be used in the computation of benefits  
16 shall be computed only on the full calendar quarter completed and shall not  
17 include service credit for a partial calendar quarter worked.

18 ~~(f)(e)~~(1) If a member has signed an employment contract for a fiscal  
19 school year and been paid in full for that fiscal school year, in no event  
20 shall the annuity begin earlier than the July 1 next following that fiscal  
21 school year.

22 (2) If a member has signed an employment contract for a fiscal  
23 school year and if that contract is not completed, the member shall receive  
24 credit for service within the current fiscal year as provided in this  
25 section.

26 ~~(g) The benefits provided by this section shall also be available to~~  
27 ~~an inactive member with twenty-eight (28) or more years of credited service.~~

28  
29 SECTION 11. Arkansas Code § 24-7-702 is amended to read as follows:

30 24-7-702. Early voluntary retirement.

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

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

4 (B) A member shall not be terminated from employment for  
5 retirement purposes if the person returns to a position that would otherwise  
6 be covered by the Arkansas Teacher Retirement System within thirty (30) days  
7 of the person's effective date of retirement.

8 (C) A person failing to meet the termination of employment  
9 requirements of this subsection shall forfeit retirement benefits until the  
10 requirements are met.

11 (b)(1) Upon an active or inactive member's retirement as provided in  
12 this section, the member shall receive, in lieu of any other system benefit,  
13 an early annuity which shall be a certain percent of an annuity provided for  
14 in § 24-7-705.

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

20 (3)(A) Effective July 1, 1997, the annuities of those members  
21 who chose early retirement when the years of service required for an  
22 unreduced annuity was thirty-five (35) or more years shall be adjusted to  
23 reflect the amount for which they would have been entitled had the number of  
24 years to retire with an unreduced annuity been thirty (30) years on the  
25 effective date of their retirement.

26 (B) The annuities of those members who chose early  
27 retirement from July 1, 1995, through June 30, 1999, who received an early  
28 annuity as provided in § 24-7-702 which was in effect at the time of their  
29 retirement, shall be adjusted effective July 1, 1999, to reflect a percent of  
30 the annuity as provided in subdivision (b)(2) of this section.

31 (C) Effective July 1, 2001, the annuities of those members  
32 who chose early retirement when the years of service required for an  
33 unreduced annuity was thirty (30) or more years shall be adjusted to reflect  
34 the amount for which they would have been entitled had the number of years to  
35 retire with an unreduced annuity been twenty-eight (28) years on the  
36 effective date of their retirement, and the annuities of those members shall

1 be adjusted effective July 1, 2001, to reflect a percent of the annuity as  
2 provided in subdivision (b)(2) of this section which was in effect July 1,  
3 1999.

4 (4) The adjustments described in subdivision (b)(3) of this  
5 section shall not be retroactive to the effective date of the member's  
6 retirement.

7 (c) ~~Except for an inactive member~~ For an active member, the annuity  
8 shall begin the first day of the calendar month next following the latest of:

9 (1) One (1) month after the date the written application is  
10 filed with the board;

11 (2) The member's termination of active membership; or

12 (3) The member's completion of the required credited service.

13 (d) For an inactive member, the annuity shall begin the first day of  
14 the calendar month after the date his or her written application is received  
15 by the board.

16 ~~(e) If a member is retiring with an effective date other than July 1,~~  
17 ~~the member may retire effective the first day of a calendar quarter within~~  
18 ~~that fiscal year, subject to the following limitations:~~

19 ~~(1) No salary for service within that fiscal year shall be~~  
20 ~~considered in determining final average salary; and~~

21 ~~(2) Credited service for service within that fiscal year shall~~  
22 ~~not exceed one-quarter (1/4) year for each full calendar quarter elapsed~~  
23 ~~since the beginning of that fiscal year.~~

24 ~~(f)~~(e) If a member is retiring with an effective date other than July  
25 1 or the first day of a calendar quarter within the fiscal year, the  
26 following limitations shall apply:

27 (1) No salary for service within the fiscal year shall be  
28 considered in determining final average salary;

29 (2) Credited service for service within the fiscal year shall  
30 not exceed one-quarter (1/4) year for each full calendar quarter elapsed  
31 since the beginning of the fiscal year; and

32 (3) Service credit to be used in the computation of benefits  
33 shall be computed only on the full calendar quarter completed and shall not  
34 include service credit for a partial calendar quarter worked.

35 ~~(g)~~(f)(1) If a member has signed an employment contract for a fiscal  
36 school year and been paid in full for that fiscal year, in no event shall the

1 annuity begin earlier than the July 1 next following that fiscal school year.

2 (2) If a member has signed an employment contract for a fiscal  
3 school year and that contract is not completed, the member shall receive  
4 credit for service within the current fiscal year as provided in subsection  
5 (e) of this section.

6 ~~(h) The benefits provided by this section shall also be available to~~  
7 ~~an inactive member with twenty-eight (28) or more years of credited service.~~

8  
9 SECTION 12. Arkansas Code § 24-7-706 is amended to read as follows:

10 24-7-706. Annuity options.

11 (a)(1) Before the date the first payment of his or her annuity becomes  
12 due, but not thereafter, a member may elect to receive his or her annuity as  
13 a straight life annuity, or he or she may elect to receive the actuarial  
14 equivalent, at that time, of his or her straight life annuity in a reduced  
15 annuity payable throughout his or her life.

16 (2) The member may nominate a beneficiary, in accordance with  
17 the provisions of one (1) of the following options:

18 (A) Option A - 100% Survivor Annuity.

19 (i) Under Option A, upon the death of a retirant,  
20 his or her reduced annuity shall be continued throughout the life of and paid  
21 to such person as he or she shall have nominated by written designation duly  
22 executed and filed with the board before the date the first payment of his or  
23 her annuity becomes due.

24 (ii)(a) The person must be either his or her spouse  
25 for not less than one (1) year immediately preceding the first payment due  
26 date, or another person forty (40) years of age or older receiving more than  
27 one-half (1/2) support from the retirant for not less than one (1) year  
28 immediately preceding the first payment due date.

29 (b) However, the age-forty requirement shall  
30 not exclude the designation as beneficiary of a dependent child who has been  
31 ~~ruled~~ adjudged physically or mentally incapacitated ~~either by an Arkansas a~~  
32 ~~court of competent jurisdiction or by the Board of Trustees of the Arkansas~~  
33 ~~Teacher Retirement System;~~

34 (B) Option B - 50% Survivor Annuity.

35 (i) Under Option B, upon the death of a retirant,  
36 one-half (1/2) of his or her reduced annuity shall be continued throughout

1 the life of and paid to such person as he or she shall have nominated by  
2 written designation duly executed and filed with the board before the date  
3 the first payment of his or her annuity becomes due.

4 (ii)(a) The person must be either his or her spouse  
5 for not less than one (1) year immediately preceding the first payment due  
6 date, or another person forty (40) years of age or older receiving more than  
7 one-half (1/2) support from the retirant for not less than one (1) year  
8 immediately preceding the first payment due date.

9 (b) However, the age-forty requirement shall  
10 not exclude the designation as beneficiary of a dependent child who has been  
11 ~~ruled~~ adjudged physically or mentally incapacitated ~~either by an Arkansas a~~  
12 court of competent jurisdiction ~~or by the board~~;

13 (C) Option C - Annuity for Ten (10) Years Certain and Life  
14 Thereafter.

15 (i) Under Option C, a retirant shall receive a  
16 reduced annuity payable throughout his or her life with the provision that if  
17 he or she dies before he or she has received one hundred twenty (120) monthly  
18 annuity payments, the payments will be continued for the remainder of the  
19 period of one hundred twenty (120) months and paid to such persons in equal  
20 shares as the retirant shall have nominated by written designation duly  
21 executed and filed with the board.

22 (ii) If the designated beneficiaries predecease the  
23 retirant, the retirant may nominate successor beneficiaries or may elect to  
24 return to his or her single lifetime benefit equivalent by written  
25 designation duly executed and filed with the board to be effective the month  
26 following receipt of his or her election by the Arkansas Teacher Retirement  
27 System.

28 (iii) If no designated beneficiary survives him or  
29 her, the annuity reserve for the remainder of the annuity payments shall be  
30 paid to the retirant's estate.

31 (iv) If the last designated beneficiary receiving  
32 annuity payments dies before all annuity payments are made, the annuity  
33 reserve for the remainder of the annuity payments shall be paid to the  
34 beneficiary's estate.

35 (v) Effective the month following completion of the  
36 one-hundred-twenty-month period, the retirant's annuity shall return to his

1 or her single lifetime benefit equivalent.

2 (b)(1) At the written election of the retirant, the death of the  
3 beneficiary or divorce or other marriage dissolution after retirement from a  
4 spouse designated as beneficiary shall cancel any optional plan elected at  
5 retirement and shall return the retirant to his or her single lifetime  
6 benefit equivalent, to be effective the month following receipt of his or her  
7 election by the system.

8 (2)(A) A retirant who is receiving a single lifetime benefit and  
9 who marries after retirement may elect to cancel his or her single lifetime  
10 benefit and may elect Option B - 50% Survivor Annuity providing continuing  
11 lifetime benefits to his or her spouse, but only if the election is on a form  
12 approved by the system and is received by the system ~~not earlier than the~~  
13 ~~date of the marriage and not later than six (6) months thereafter~~ within six  
14 (6) months after the date of marriage.

15 (B) The election shall be effective the first day of the  
16 month following its receipt.

17 (c) If a member fails to elect an option, his or her annuity shall be  
18 paid to him or her as a straight life annuity.

19 (d)(1) Notwithstanding anything contained in this section to the  
20 contrary, the residue beneficiary under § 24-7-709 may elect to cancel the  
21 form of annuity in effect and elect Option A - 100% Survivor Annuity upon the  
22 death of a retirant on or after July 1, 1989, if:

23 (A) The retirant died within one (1) year following the  
24 effective date of retirement; ~~and~~

25 (B) The retirant was receiving a straight life annuity;  
26 and

27 (C) The residue beneficiary otherwise qualifies for an  
28 Option A - 100% Survivor Annuity.

29 (2) The election to change may be made only one (1) time and  
30 shall be on a form approved by the system.

31 (3) The election form must be received by the system within  
32 ~~thirty (30) days after February 7, 1991, or within ninety (90) days~~ one  
33 hundred twenty (120) days of the death of the retiree, ~~whichever is later.~~

34 (e)(1) Notwithstanding anything in this section to the contrary, a  
35 retirant who retired on or after July 1, 1994, may elect to cancel his or her  
36 election made at retirement for receiving an annuity and elect another

1 option, provided that he or she:

2 (A) Does so within one (1) year after July 1, 1995, or  
3 within one (1) year of retirement;

4 (B) Files with the system a new election form approved by  
5 the system; and

6 (C)(i) Repays to the system the difference between the  
7 amount of the annuity received when he or she retired and the new annuity due  
8 as a result of the election change, plus ~~regular~~ interest from July 1, 1994,  
9 or his or her retirement date, whichever is later, to the date of payment in  
10 full.

11 (ii) The difference shall be calculated  
12 retroactively to July 1, 1994, or his or her retirement date, whichever is  
13 later.

14 (2) The election to change shall be made only one (1) time.

15 (3) The election change shall be effective retroactively to the  
16 effective date of his or her annuity.

17

18 SECTION 13. Arkansas Code § 24-7-707 is amended to read as follows:  
19 24-7-707. Deferred annuity.

20 (a)(1) Should an active member cease to be an active member before  
21 attaining age sixty (60), other than by death or retirement, but after  
22 completing five (5) years of actual and reciprocal service, ~~he the member~~  
23 shall become an inactive member and shall be entitled to a deferred annuity  
24 as provided for in this section, but only if ~~he the member~~ does not withdraw  
25 his accumulated contributions from the members' deposit account and is not  
26 employed in a position covered by another retirement plan which is supported  
27 wholly or in part by state contributions.

28 (2) The Following approval by the Arkansas Teacher Retirement  
29 System of an application for deferred retirement, the deferred annuity shall  
30 commence as of the first day of the calendar month next following the later  
31 of:

32 (A) ~~His deferred annuity age~~ The month following the  
33 member's sixtieth birthday; or

34 (B) The date ~~his~~ the written application is received by  
35 the ~~Board of Trustees of the Arkansas Teacher Retirement System~~ system.

36 ~~(3) Deferred annuity age is age sixty (60) for all members~~



1 ~~eligible for a deferred annuity and who do not have twenty five (25) or more~~  
2 ~~years of credited service.~~

3 ~~(4)~~(3) A member shall have the right to elect an option provided  
4 for in § 24-7-706 at the time of filing the written application.

5 (b) An inactive member's deferred annuity shall be a life annuity as  
6 provided for in § 24-7-705 ~~if his annuity deferment age is sixty (60) or~~  
7 ~~over, or as provided for in § 24-7-702 if his annuity deferment age is under~~  
8 ~~age sixty (60).~~

9 (c)~~(1)~~ ~~An inactive member otherwise entitled to a deferred annuity~~  
10 ~~shall be entitled to a deferred annuity only if he lives to his annuity~~  
11 ~~deferment age and if written application for a deferred annuity is received~~  
12 ~~from him by the board.~~

13 ~~(2)~~ In the event the inactive member ~~does not so live, or in the~~  
14 ~~event the written application is not received by the board~~ dies before  
15 qualifying for deferred retirement, no benefits whatsoever shall be paid  
16 except under the provisions of § 24-7-711.

17  
18 SECTION 14. Arkansas Code § 24-7-708(f)(5), concerning waivers of the  
19 Arkansas Teacher Retirement System earnings limitation, is amended to read as  
20 follows:

21 (5) Beginning July 1, 2005, for any retired member employed in a  
22 position covered by the system pursuant to a waiver, an amount equal to the  
23 combined employer and employee contribution rate or rates to the system on  
24 behalf of the member shall recommence at the rate in effect at the time of  
25 the employment and shall be remitted by the employer.

26  
27 SECTION 15. Arkansas Code § 24-7-709 is amended to read as follows:

28 24-7-709. Disposition of residue.

29 (a)(1) If a retirant ~~and his or her eligible beneficiary, if any, both~~  
30 dies dies before ~~they have received~~ receiving in annuity payments a total  
31 amount equal to the accumulated contributions standing to the retirant's  
32 credit in the members' deposit account at the time of his or her retirement,  
33 and no option annuity becomes payable upon the retirant's death, the  
34 difference between the accumulated contributions and the total amount of  
35 annuities received by ~~them~~ the retirant shall be paid to such ~~person~~ persons  
36 as the retirant shall have nominated by written designation duly executed and

1 filed with the ~~Board of Trustees of the~~ Arkansas Teacher Retirement System.

2 (2) If a retirant dies and has failed to designate a beneficiary  
3 or if all designated beneficiaries have predeceased the retirant, the  
4 difference between the accumulated contributions and the total amount of  
5 annuities received by the retirant shall be paid to the retirant's estate.

6 (b)(1) If a retirant dies and an option annuity becomes payable at the  
7 retirant's death but the last eligible option beneficiary dies before the  
8 retirant and the option beneficiary and the retirant have received in annuity  
9 payments a total amount equal to the accumulated contributions standing to  
10 the retirant's credit in the member's deposit account at the time of the  
11 member's retirement, the remaining difference, if any, shall be paid to the  
12 beneficiary's estate beneficiary nominated by the member.

13 (2) If upon the termination of the option annuity, no surviving  
14 beneficiary designated by the member survives, the difference between the  
15 accumulated contributions and the total amount of annuities received by the  
16 retirant and option annuitant shall be paid to the last eligible option  
17 beneficiary's estate.

18 ~~(c) If no eligible beneficiary or designated person survives the~~  
19 ~~retirant, the difference, if any, between the total amount of annuity~~  
20 ~~payments received by the retirant and the retirant and the accumulated~~  
21 ~~contributions standing to the retirant's credit in the member's deposit~~  
22 ~~account at the time of his or her retirement shall be paid to the retirant's~~  
23 ~~estate.~~

24  
25 SECTION 16. Arkansas Code § 24-7-710 is amended to read as follows:

26 24-7-710. Survivor benefits.

27 (a) If an active member with five (5) or more years of ~~credited~~ actual  
28 and reciprocal service, including credited service for the year immediately  
29 preceding his or her death, dies in employer service before retirement, then  
30 the applicable benefits provided in this section shall be paid.

31 (b)(1) The member's surviving spouse, who was married to the member  
32 for at least the two (2) years immediately preceding ~~his or her~~ the member's  
33 death, shall receive an annuity computed in the same manner in all respects  
34 as if the member had:

35 (A) Retired the date of his or her death with entitlement  
36 to an annuity provided for in § 24-7-705, notwithstanding that he or she

1 might not have attained age sixty (60) or acquired five (5) years of actual  
2 service;

3 (B) Elected Option A - One hundred percent (100%) survivor  
4 annuity, as provided for in § 24-7-706; and

5 (C) Nominated his or her spouse as ~~joint~~ an option  
6 beneficiary.

7 ~~(2) If at the time of the member's death there are no dependent~~  
8 ~~children and the surviving spouse who would otherwise receive the annuity~~  
9 ~~under this subsection has filed with the Arkansas Teacher Retirement System a~~  
10 ~~signed written waiver of his or her right to the annuity and that waiver was~~  
11 ~~in effect at the time of the member's death, a lump sum distribution of the~~  
12 ~~deceased member's accumulated contributions plus regular interest may be made~~  
13 ~~to any beneficiary or beneficiaries so designated by the member before death.~~

14 ~~(3)(A) The spouse annuity shall commence at the later of age~~  
15 ~~sixty two (62) or the spouse's age at his or her death and be payable until~~  
16 ~~the earlier of the spouse's remarriage or death.~~

17 ~~(B) However, if the member had:~~

18 ~~(i) Satisfied the age and service requirements~~  
19 ~~provided for in § 24-7-701 or had acquired twenty (20) years of credited~~  
20 ~~service, the spouse annuity shall commence immediately and be payable for the~~  
21 ~~spouse's life; or~~

22 ~~(ii) Acquired fifteen (15) years of credited service~~  
23 ~~but had not attained age sixty (60), then the spouse annuity shall commence~~  
24 ~~at the later of age fifty (50) or the spouse's age at his or her death and be~~  
25 ~~payable until the earlier of the spouse's remarriage or death.~~

26 ~~(4)(3) The spouse annuity shall not be less than the greater of~~  
27 ~~ten percent (10%) of the deceased member's covered salary at the time of~~  
28 ~~death or fifty dollars (\$50.00) monthly, plus the benefits applicable under §~~  
29 ~~24-7-713. These amounts shall apply if the member had no member~~  
30 ~~noncontributory service of the type specified in § 24-7-705 However, if the~~  
31 ~~spouse annuity payable under subsection (b)(1) is less than the amount~~  
32 ~~payable to a dependent child under subsection (c)(1)(A) of this section, the~~  
33 ~~spouse annuity shall be the amount payable under subsection (c)(1)(A).~~

34 ~~(5) If the member had:~~

35 ~~(A) Only the noncontributory credited service, then the~~  
36 ~~amounts shall be six percent (6%), instead of ten percent (10%), and thirty-~~

1 ~~one dollars (\$31.00), plus the benefits applicable under § 24-7-713, instead~~  
2 ~~of fifty dollars (\$50.00); or~~

3 ~~(B) A mixture of credited service, the minimum amount~~  
4 ~~shall be prorated between the all-contributory minimum amount and the all-~~  
5 ~~nonecontributory minimum amount according to the relationship between his or~~  
6 ~~her nonecontributory credited service and his or her total credited service,~~  
7 ~~plus the benefits applicable under § 24-7-713.~~

8 (4)(A) The spouse annuity shall begin when the surviving spouse  
9 reaches age sixty-two (62) and is payable until the spouse remarries or dies.

10 (B) However, if the member had:

11 (i) Satisfied the age and service requirements provided for  
12 in § 24-7-701 or had acquired twenty (20) years of credited service, the  
13 spouse annuity shall begin immediately and be payable for the spouse's life;  
14 or

15 (ii) Acquired fifteen (15) years of credited service but  
16 had not attained age sixty (60), then the spouse annuity shall begin when the  
17 surviving spouse reaches age fifty (50) and is payable until the spouse  
18 remarries or dies.

19 (5) If at the time of the member's death there are no dependent  
20 children and the surviving spouse who is eligible to receive the annuity  
21 under this subsection files with the Arkansas Teacher Retirement System a  
22 written waiver of his or her right to the spouse annuity, a lump sum  
23 distribution of the deceased member's accumulated contributions plus regular  
24 interest may be made to the beneficiary or beneficiaries by the member before  
25 death.

26 (6)(A) In any event, as long as ~~If~~ the surviving spouse ~~is not~~  
27 eligible to receive a spouse annuity under subsection (b) of this section but  
28 has in his or her ~~care any of the deceased~~ custody a member's dependent  
29 ~~children~~ child receiving a benefit as provided for in subsection (c) of this  
30 section, ~~there shall be payable to the spouse~~ a spouse annuity shall be paid  
31 to the spouse of not less than the minimum ~~in an amount equal to the~~ amount  
32 payable to the dependent children ~~determined according to~~ under subdivision  
33 ~~(b)(4)~~ (c)(1) of this section.

34 (B) The surviving spouse is eligible to receive the  
35 annuity until all dependent child annuities terminate or the spouse no longer  
36 maintains custody of any of the dependent children.

1 (c)(1)(A) The member's dependent children shall each receive an  
2 annuity ~~of the greater of~~ in an amount equal to the following:

3 (i) If the member had only contributory service, the  
4 greater of ten percent (10%) of the member's ~~covered~~ salary for the fiscal  
5 year at the time of death or fifty dollars (\$50.00) monthly, plus the  
6 benefits applicable under § 24-7-713;

7 (ii) If the member had noncontributory credited service,  
8 the greater of six percent (6%) of the member's salary for the fiscal year at  
9 the time of death or thirty-one dollars (\$31.00) monthly, plus the benefits  
10 applicable under § 24-7-713; or

11 (iii) If the member had a combination of both contributory  
12 and noncontributory credited service, the greater of the prorated amount  
13 between the member's noncontributory credited service and total credited  
14 service, or the prorated minimum amount, plus the benefits applicable under §  
15 24-7-713.

16 (B) However, if there are three (3) or more dependent  
17 children, each dependent child shall receive ~~an~~ a dependent child annuity of  
18 an equal share ~~of the greater of~~ of the total amount payable according to the  
19 following:

20 (i) If the member had only contributory credited  
21 service, the greater of twenty-five percent (25%) of the member's ~~covered~~  
22 salary for the fiscal year at the time of death or one hundred twenty-five  
23 dollars (\$125) monthly, plus the benefits applicable under § 24-7-713;

24 (ii) If the member had a combination of both  
25 contributory and noncontributory credited service, the greater of sixteen  
26 percent (16%) of the member's salary for the fiscal year at the time of death  
27 or seventy-nine dollars (\$79.00) monthly, plus the benefits applicable under  
28 § 24-7-713; or

29 (iii) If the member had a combination of both  
30 contributory and noncontributory credited service, the greater of the  
31 prorated amount between the member's noncontributory credited service and  
32 total credited service, or the prorated minimum amount, plus the benefits  
33 applicable under § 24-7-713.

34 ~~(C) These amounts shall apply if the member had no member~~  
35 ~~noncontributory credited service of the type specified in § 24-7-705.~~

36 ~~(2) If the member had:~~

1                   ~~(A) Only the noncontributory credited service, then the~~  
2 ~~amounts shall be six percent (6%) instead of ten percent (10%), and thirty-~~  
3 ~~one dollars (\$31.00) instead of fifty dollars (\$50.00), and sixteen percent~~  
4 ~~(16%) instead of twenty five percent (25%), and seventy nine dollars (\$79.00)~~  
5 ~~instead of one hundred twenty five dollars (\$125), plus the benefits~~  
6 ~~applicable under § 24-7-713; or~~

7                   ~~(B) A mixture of credited service, the amounts payable~~  
8 ~~shall be prorated between the all-contributory amounts and the all-~~  
9 ~~noncontributory amounts according to the relationship between his or her~~  
10 ~~noncontributory credited service and his or her total credited service, plus~~  
11 ~~the benefits applicable under § 24-7-713.~~

12                   (3)(A) A child shall be considered a dependent child until his  
13 ~~or her death, his or her marriage, he or she marries or reaches his or her~~  
14 ~~attainment of eighteen (18) years of age, whichever comes first.~~

15                   (B)(i) However, the eligibility for the dependent child  
16 annuity shall continue after the child reaches age eighteen (18) if maximum  
17 ~~shall be extended as long as the child continues uninterruptedly~~  
18 consecutively being a as a full-time student at an accredited secondary  
19 school, college, or university, but in no any event, not beyond his or her  
20 attainment of the age of twenty-three (23) years of age.

21                   (ii) ~~The age eighteen (18) maximum shall also be~~  
22 ~~extended for any Any child who has been deemed physically or mentally~~  
23 ~~incapacitated either by an Arkansas a court of competent jurisdiction or by~~  
24 ~~the Board of Trustees of the Arkansas Teacher Retirement System, is eligible~~  
25 to receive a dependent child annuity for as long as the incapacity exists,  
26 regardless of age.

27                   (4) ~~Upon a child's ceasing~~ When a dependent child ceases to be a  
28 ~~dependent child or dies,~~ his or her annuity shall terminate, and there shall  
29 be a redetermination of the amounts payable to any remaining dependent  
30 children.

31                   (d)(1)(A) If at the time of the member's death there is neither a  
32 spouse nor a dependent child, each dependent parent shall receive ~~an~~  
33 ~~allowance of the greater of ten percent (10%) of the member's covered salary~~  
34 ~~or fifty dollars (\$50.00) monthly, plus the benefits applicable under § 24-7-~~  
35 ~~713, a dependent parent annuity equal to the amount provided for dependent~~  
36 children under subsection (c) of this section.

1                   (B) To qualify as a dependent parent, but only if the  
 2 board finds that the parent shall be the natural or adoptive parent of the  
 3 member and have been receiving was dependent for at least fifty percent (50%)  
 4 of his or her financial support from upon the member at the time of the  
 5 member's death.

6                   ~~(B) These amounts shall apply if the member had no member~~  
 7 ~~nonecontributory service of the type specified in § 24-7-705.~~

8                   ~~(2) If the member had:~~

9                   ~~(A) Only the nonecontributory credited service, then the~~  
 10 ~~amounts shall be six percent (6%) instead of ten percent (10%), and thirty-~~  
 11 ~~one dollars (\$31.00), plus the benefits applicable under § 24-7-713, instead~~  
 12 ~~of fifty dollars (\$50.00); or~~

13                   ~~(B) A mixture of credited service, the amount shall be~~  
 14 ~~prorated between the all-contributory amount and the all-nonecontributory~~  
 15 ~~amount according to the relationship between his or her nonecontributory~~  
 16 ~~credited service and his or her total credited service, plus the benefits~~  
 17 ~~applicable under § 24-7-713.~~

18                   (e)(1) If a member dies in employer service before retirement, the  
 19 member's accumulated contributions standing to his or her credit in the  
 20 member's deposit account at the time of the member's death, together with  
 21 regular interest until the date of death, shall be paid as if the member  
 22 retired as of the date of his or her death in accordance with the provisions  
 23 applicable to the disposition of residue under § 24-7-709.

24                   (2) For the purposes of § 24-7-709 related to the disposition of  
 25 residue, In the event all the annuities provided for in this section payable  
 26 on account of the death of a member terminate, any amounts received from the  
 27 member's deposit account in the form of a survivor annuity under this section  
 28 shall be considered annuity payments received by the member or his or her  
 29 designated beneficiary and shall offset any disposition of residue payable  
 30 the provisions of under § 24-7-709 shall apply.

31                   ~~(2)(A) If there are no designated persons surviving at~~  
 32 ~~termination, the difference shall be payable in the following statutory~~  
 33 ~~succession:~~

34                   ~~(i) Spouse; then~~

35                   ~~(ii) Children; then~~

36                   ~~(iii) Parents; then~~

1                                   ~~(iv) Estate.~~

2                                   ~~(B) Effective for all members dying after June 30, 2006,~~  
 3 ~~if there are no designated persons surviving the member at termination, the~~  
 4 ~~difference shall be payable to the member's estate.~~

5           (f) Annuities payable under the provisions of this section shall  
 6 commence the first day of the calendar month ~~next~~ following ~~the later of the~~  
 7 ~~date of the member's death or a later date specified for commencement of the~~  
 8 date the survivor annuity payments is payable as provided in this section.

9           (g) In the event the member had previously received benefits from the  
 10 system and has not repaid in full all amounts payable by him or her to the  
 11 system, the annuity amounts otherwise provided by this section shall be  
 12 withheld and used to effect repayment until the total of the withholdings  
 13 repays in full all amounts payable by him or her to the system.

14

15           SECTION 17. Arkansas Code § 24-7-711(a)(2), concerning disposition of  
 16 accumulated contributions upon retirement termination, is amended to read as  
 17 follows:

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

20

21           SECTION 18. Arkansas Code § 24-7-719 is amended to read as follows:

22                                   24-7-719. Rollover of distributions.

23                                   (a) As used in this section:

24                                   (1) "Direct rollover" means the payment of an eligible  
 25 distribution to an individual retirement arrangement or another employer  
 26 benefit plan;

27                                   (2) "Eligible rollover distribution" means that portion of a  
 28 distribution which may be rolled over to an individual retirement arrangement  
 29 or to another employer benefit plan; and

30                                   (3) "Eligible retirement plan" means an individual retirement  
 31 account or individual retirement annuity or individual retirement arrangement  
 32 or another employer benefit plan which accepts direct rollovers.

33           (b) Beginning January 1, 1993, should a member, or spouse, if the  
 34 member is deceased, elect to make a direct rollover of a distribution from  
 35 the Arkansas Teacher Retirement System to an eligible retirement plan of ~~all~~  
 36 ~~or part of~~ his eligible rollover distribution, the amount shall be paid to



1 the trustee of the eligible retirement plan.

2 (c) Subsection (b) of this section shall apply to distributions made  
3 under §§ 24-7-709 - 24-7-711, ~~and 24-7-716, 24-7-720, and 24-7-1308.~~

4  
5 SECTION 19. EMERGENCY CLAUSE. It is found and determined by the General  
6 Assembly of the State of Arkansas that the current laws applicable to the  
7 Arkansas Teacher Retirement System require technical revisions; that  
8 revisions are necessary to ensure the effective and efficient operation of  
9 the system; and that the most effective time to make changes to the  
10 retirement system is at the beginning of the state's fiscal year. Therefore,  
11 an emergency is declared to exist and this act being immediately necessary  
12 for the preservation of the public peace, health, and safety shall become  
13 effective on July 1, 2007.

14  
15 /s/ J. Jeffress  
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