

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

As Engrossed: H2/22/21  
**A Bill**

HOUSE BILL 1326

By: Representative Warren

### **For An Act To Be Entitled**

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

### **Subtitle**

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

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

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

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

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

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



- (a) Training public school employees or school board members;
  - (b) Teaching public school students; or
  - (c) Adult education programs.
- (ii) The employment shall not be related in any manner to private schools.
- (iii) Each ~~educationally related~~ education-related agency or organization shall be:
- (a) Approved according to rules established by the board;
  - (b) Considered an employer under subdivision (17) of this section; and
  - (c) Responsible for all required employer contributions;

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

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

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

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

SECTION 5. Arkansas Code § 24-7-208 is amended to read as follows:  
24-7-208. Benefit enhancements – Restrictions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) As used in this section:

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

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

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

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

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

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

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

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

(B) "Terminate" does not mean:

(i) Taking a leave of absence; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 22. Arkansas Code § 24-7-708 is amended to read as follows:  
24-7-708. Employment of retired members by covered employers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a)(1) If a member discontinues covered employment and does not plan to be rehired by a covered employer, 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 Arkansas Teacher Retirement System.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

It is the intent of the General Assembly that:

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

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

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

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

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

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

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

*/s/Warren*