ENROLLED HOUSE
BILL NO. 1814

By: Roberts of the House

and

Morgan of the Senate

An Act relating to public retirement systems; amending 11 O.S. 1991, Sections 50-101, as last amended by Section 1, Chapter 288, O.S.L. 1996, 50-114, as last amended by Section 2, Chapter 419, O.S.L. 1998, 50-114.1, 50-122, 50-124, as last amended by Section 3, Chapter 198, O.S.L. 1998 and 50-128, as amended by Section 2, Chapter 192, O.S.L. 1998 (11 O.S. Supp. 1998, Sections 50-101, 50-114, 50-124 and 50-128), which relate to the Oklahoma Police Pension and Retirement System; modifying definitions; modifying reference to retirement date; modifying applicability of provisions related to receipt of retirement benefits; modifying provisions for certain adjustments; prescribing method for determination of actuarial equivalents; modifying provision related to certain election pursuant to the Internal Revenue Code; authorizing payment of eligible rollover distributions to eligible retirement plan; defining terms; requiring certain notice; authorizing distribution within certain time period; providing for authorized leave pursuant to certain federal law; authorizing offset of retirement benefits; requiring offset according to certain provision of Internal Revenue Code of 1986; providing for credited service based upon certain qualified military service; amending 20 O.S. 1991, Sections 1102A, as amended by Section 1, Chapter 81, O.S.L. 1998, 1102.2, as amended by Section 4, Chapter 419, O.S.L. 1998, 1103, as amended by Section 5, Chapter 419, O.S.L. 1998, 1103A, 1103C, as amended by Section 8, Chapter 322, O.S.L. 1993, 1103G, as amended by Section 6, Chapter 322, O.S.L. 1993, 1108, as last amended by Section 1, Chapter 55, O.S.L. 1996 and 1309, as last amended by Section 4, Chapter 323, O.S.L. 1997 (20 O.S. Supp. 1998, Sections 1102A, 1102.2, 1103, 1103C, 1103G, 1108 and 1309), which relate to the Uniform Retirement System for Justices and Judges; establishing Uniform Retirement System for Justices and Judges as qualified governmental retirement plan; defining term; prescribing plan year; prohibiting use of forfeitures for certain purposes; authorizing forfeitures for certain purposes; modifying provisions related to death benefits for surviving spouses; imposing requirement regarding certain contributions; modifying reference; providing for credited service based upon certain qualified military service; modifying provision governing benefits for surviving spouse; authorizing

waiver of rights by spouse; providing compensation limited for certain purposes; providing for employer contributions; specifying employer contribution rates; imposing requirement for minimum funded ratio; authorizing adjustment of contribution rates; requiring report; prescribing maximum annual additions according to certain standard; imposing requirements regarding additions; authorizing rollovers for purchase of service; providing for reduction or denial of contributions; providing for deduction of employee contributions; requiring employers to pick up contributions for purposes of provision of Internal Revenue Code of 1986; prescribing treatment of picked up contributions; providing for reduction in gross salary to effect contributions; prescribing procedures for survivor benefit provisions; requiring election unless previously made; providing for contributions to provide survivor benefits; authorizing waiver of survivor benefits; prescribing procedures related thereto; authorizing reinstatement of certain service credit after withdrawal from System; authorizing amortization of returned contributions; prescribing method for amortization of cost; providing for disposition of payments based upon the occurrence of certain events; prohibiting payment of benefits under certain circumstances; authorizing rules; providing for maximum benefit pursuant to provisions of Internal Revenue Code of 1986; authorizing qualified governmental excess benefits arrangements; authorizing rules for procedures; authorizing payment of certain benefit from excess benefit arrangement; imposing requirements with respect to qualified governmental excess benefit arrangement; providing for distribution of benefits; prescribing requirements for distribution of benefits; providing for distribution of corpus and income of retirement system assets; prohibiting certain transactions; modifying references to certain employee contributions; modifying provisions related to funded ratio of the Uniform Retirement System for Justices and Judges; amending 47 O.S. 1991, Sections 2-300, as last amended by Section 1, Chapter 60, O.S.L. 1996, 2-303.3, as last amended by Section 7, Chapter 198, O.S.L. 1998, 2-305.4, and 2-307 (47 O.S. Supp. 1998, Sections 2-300 and 2-303.3), which relate to the Oklahoma Law Enforcement Retirement System; modifying definitions; prohibiting distribution of accrued retirement benefits until occurrence of certain events; authorizing offset of retirement benefit under certain circumstances; requiring offset to be made in accordance with certain provision of Internal Revenue Code of 1986; modifying applicability of provisions related to receipt of retirement benefits; modifying provisions for certain adjustments; prescribing method for determination of actuarial equivalents; modifying provision related to certain election pursuant to the Internal Revenue Code; providing for payment of certain distributions to eligible retirement plans; defining terms; requiring

certain notice; authorizing distribution within certain time period; providing for credited service based upon certain qualified military service; amending 70 O.S. 1991, Sections 17-109, as last amended by Section 8, Chapter 198, O.S.L. 1998 and 17-116.2, as last amended by Section 27 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature (70 O.S. Supp. 1998, Section 17-109), which relate to the Teachers' Retirement System of Oklahoma; authorizing offset of retirement benefit under certain circumstances; requiring offset to be made in accordance with certain provision of Internal Revenue Code of 1986; providing for credited service based upon certain qualified military service; amending 74 O.S. 1991, Sections 901, 902, as last amended by Section 39 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature, 909.1, as last amended by Section 7, Chapter 81, O.S.L. 1995, 909.2, 913, as last amended by Section 13, Chapter 419, O.S.L. 1998, Section 1, Chapter 285, O.S.L. 1997, as amended by Section 10, Chapter 256, O.S.L. 1998, 913.4, as last amended by Section 11, Chapter 317, O.S.L. 1998, 913.5, as last amended by Section 4, Chapter 302, O.S.L. 1995, 914, as last amended by Section 2, Chapter 255, O.S.L. 1997, 915, as last amended by Section 40 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature, 915.1, 918, as last amended by Section 1, Chapter 216, O.S.L. 1997, 920, as last amended by Section 37, Chapter 1, O.S.L. 1995, 921, as last amended by Section 3, Chapter 55, O.S.L. 1996 and Section 15, Chapter 384, O.S.L. 1997, as amended by Section 1, Chapter 96, O.S.L. 1998 (74 O.S. Supp. 1998, Sections 909.1, 913, 913c, 913.4, 913.5, 914, 918, 920, 921 and 1707), which relate to the Oklahoma Public Employees Retirement System; establishing System as qualified governmental retirement plan; requiring compliance with Internal Revenue Code; limiting annual compensation for certain purposes; modifying definitions; requiring distribution of corpus and income for certain purpose; prohibiting use of corpus or income for prohibited purposes; prohibiting certain transactions; modifying reference; providing for credited service based upon certain qualified military service; requiring election for participation in System by certain members; providing election irrevocable; providing for effect of failure to make election; requiring certain members to make election within certain period of time; providing for effect of failure to make election; providing for effect of certain election regarding contribution rate; authorizing service credit for certain members; providing for purchase of service credit according to certain requirement; modifying provisions governing receipt of retirement benefits after reemployment; prescribing method for computation of benefits; providing for computation of benefits for persons reemployed for less than certain period of time; prescribing method for computation of benefit after

reemployment; providing certain provision governing rounding inapplicable; modifying provisions related to reemployment after retirement; modifying references; prohibiting retirement benefits from exceeding certain limit pursuant to the Internal Revenue Code of 1986; authorizing establishment of qualified governmental excess benefit arrangement; authorizing rules; authorizing payment of certain benefit from qualified governmental excess benefit arrangement; prescribing purposes of arrangement; prohibiting election to defer compensation for certain purposes; imposing limits on maximum annual additions pursuant to requirements of Internal Revenue Code; prescribing procedures for contributions in excess of applicable limit; authorizing rollovers for purchase of service; authorizing reduction or denial of contributions; providing exception to payment of benefit under certain circumstances; prohibiting selection of certain option based upon distribution requirements; requiring distribution of benefits according to requirement of Internal Revenue Code; prescribing requirements for distribution; specifying eligible events of distribution; prohibiting forfeitures for certain purposes; authorizing forfeitures for certain purposes; modifying authorized expenses to be paid from Oklahoma Public Employees Retirement Fund; requiring certain reimbursement; providing for contributions by certain members contingent upon certain authorized contributions; repealing 20 O.S. 1991, Section 1103B, which relates to survivor benefits; repealing 74 O.S. 1991, Section 910.2, which relates to certain emergency medical service districts; repealing 74 O.S. 1991, Section 913.6, which relates to certain transfer of employees; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 1991, Section 50-101, as last amended by Section 1, Chapter 288, O.S.L. 1996 (11 O.S. Supp. 1998, Section 50-101), is amended to read as follows:

Section 50-101. As used in this article:

1. “System” means the Oklahoma Police Pension and Retirement System and all predecessor municipal Police Pension and Retirement Systems;

2. “Article” means Article 50 of this title;

3. “State Board” means the Oklahoma Police Pension and Retirement Board;

4. “Local board” means the local police pension and retirement boards;

5. “Fund” means the Oklahoma Police Pension and Retirement Fund;

6. “Officer” means any duly appointed and sworn full-time officer of the regular police department of a municipality whose duties are to preserve the public peace, protect life and property, prevent crime, serve warrants, enforce all laws and municipal ordinances of this state, and any political subdivision thereof, and who is authorized to bear arms in the execution of such duties;

7. “Member” means all eligible officers of a participating municipality and any person hired by a participating municipality who is undergoing police training to become a permanent police officer of the municipality. A member does not include a “leased employee” as defined under Section 414(n)(2) of the Internal Revenue Code of 1986. Any individual who agrees with the State Board that the individual’s services are to be performed as a leased employee or an independent contractor shall not be a member regardless of any classification as a common law employee by the Internal Revenue Service or any other governmental agency, or any court of competent jurisdiction;

8. “Normal retirement date” means the date at which the member is eligible to receive the unreduced payments of the member's accrued retirement benefit. Such date shall be the first day of the month coinciding with or following the date the member completes twenty (20) years of credited service. If the member's employment continues past the normal retirement date of the member, the actual retirement date of the member shall be the first day of the month after the member terminates employment with more than twenty (20) years of credited service;

9. “Credited service” means the period of service used to determine the eligibility for and the amount of benefits payable to a member. Credited service shall consist of the period during which the member participated in the System or the predecessor municipal systems as an active employee in an eligible membership classification, plus any service prior to the establishment of the predecessor municipal systems which was credited under the predecessor municipal systems or credited service granted by the State Board;

10. “Participating municipality” means a municipality which is making contributions to the System on behalf of its officers;

11. “Permanent total disability” means incapacity due to accidental injury or occupational disease, to earn any wages in the employment for which the member is physically suited and reasonably fitted through education, training or experience. Further, the member must be declared one hundred percent (100%) impaired as defined by the “American Medical Association's Guides to the Evaluation of Permanent Impairment” on the basis of a physical medical examination by a physician licensed to practice medicine in this state, as selected by the State Board;

12. “Permanent partial disability” means permanent disability which is less than permanent total disability as defined in this

section. The member must be declared no greater than ninety-nine percent (99%) impaired as defined by the "American Medical Association's Guides to the Evaluation of Permanent Impairment" on the basis of a physical medical examination by a physician licensed to practice medicine in this state, as selected by the State Board;

13. "Beneficiary" means a member's surviving spouse or any surviving children, including biological and adopted children, at the time of the member's death. The surviving spouse must have been married to the member for the thirty (30) continuous months immediately preceding the member's death, provided a surviving spouse of a member who died while in, and as a consequence of, the performance of the member's duty for a participating municipality, shall not be subject to the thirty-month marriage requirement for survivor benefits. A surviving child of a member shall be a beneficiary until reaching eighteen (18) years of age or twenty-two (22) years of age if the child is enrolled full time and regularly attending a public or private school or any institution of higher education. Any child adopted by a member after the member's retirement shall be a beneficiary only if the child is adopted by the member for the thirty (30) continuous months preceding the member's death. Any child who is adopted by a member after the member's retirement and such member dies accidentally or as a consequence of the performance of the member's duty as a police officer shall not be subject to the thirty-month adoption requirement. This definition of beneficiary shall be in addition to any other requirement set forth in this article;

14. "Executive Director" means the managing officer of the System employed by the State Board;

15. "Eligible employer" means any municipality with a municipal police department;

16. "Entry date" means the date as of which an eligible employer joins the System. The first entry date pursuant to this article shall be January 1, 1981;

17. "Final average salary" means the average paid gross salary of the member for normally scheduled hours over the highest salaried thirty (30) consecutive months of the last sixty (60) months of credited service.

a. Gross salary shall not include payment for accumulated sick and annual leave upon termination of employment or any uniform allowances. Provided, for purposes of determining the normal disability benefit, final average salary shall be based on the member's total service if less than thirty (30) months. Gross salary shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986, as amended, and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986, as amended. Only salary on which required contributions have been made may be used in computing the final average salary.

b. In addition to other applicable limitations, and notwithstanding any other provision to the contrary, for plan years beginning on or after July 1, 1996, the

annual compensation of each "Noneligible Member" taken into account under the System shall not exceed the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) annual compensation limit. The OBRA '93 annual compensation limit is One Hundred Fifty Thousand Dollars ($150,000.00), as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The annual compensation limit in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which compensation is determined ("determination period") beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the OBRA '93 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12). For purposes of this section, a "Noneligible Member" is any member who first became a member during a plan year commencing on or after July 1, 1996.

c. For plan years beginning on or after July 1, 1996, any reference in the System to the annual compensation limit under Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, shall mean the OBRA '93 annual compensation limit set forth in this provision.

d. If compensation for any prior determination period is taken into account in determining a Noneligible Member's benefits accruing in the current plan year, the compensation for that prior determination period is subject to the OBRA '93 annual compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning on or after July 1, 1996, the OBRA '93 annual compensation limit is One Hundred Fifty Thousand Dollars ($150,000.00).

e. Effective July 1, 1989, through June 30, 1997, in determining the compensation of a member for purposes of this limitation, the rules of Section 414(q)(6) of the Internal Revenue Code of 1986, as amended, shall apply, except in applying such rules, the term "family" shall include only the spouse of the member and any lineal descendants of the member who have not attained age nineteen (19) before the close of the year. If, as a result of the application of such rules, the adjusted annual compensation limitation is exceeded, then the limitation shall be prorated among the affected individuals in proportion to each such individual's compensation as determined under this section prior to the application of this limitation.

f. The family member aggregation rules set forth in the preceding paragraph shall apply only to plan years beginning prior to July 1, 1997;

18. “Accrued retirement benefit” means two and one-half percent (2 1/2%) of the member's final average salary multiplied by the member's years of credited service not to exceed thirty (30) years;

19. “Normal disability benefit” means two and one-half percent (2 1/2%) of the member's final average salary multiplied by twenty (20) years;

20. “Limitation year” means the year used in applying the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, which year shall be the calendar year; and

21. “Paid base salary” means compensation that shall include longevity, educational allowances, and normal compensation paid on a regularly scheduled pay period of which said pay period shall include holidays, annual leave and sick leave. Paid base salary shall not include overtime. This shall exclude any incremental increases due to reimbursement or payment of benefits or other allowances including but not limited to insurance premium reimbursements.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 50-114, as last amended by Section 2, Chapter 419, O.S.L. 1998 (11 O.S. Supp. 1998, Section 50-114), is amended to read as follows:

Section 50-114. A. The State Board is hereby authorized to pay out of funds in the System a monthly service pension to any member eligible as hereinafter provided, not exceeding in any event the amount of money in such funds and not exceeding in any event the accrued retirement benefit for such member, except as provided for herein. In order for a member to be eligible for such service pension the following requirements must be complied with:

1. The member's service with the police department for any participating municipality must have ceased;

2. The member must have reached the member's normal retirement date; and

3. The member must have complied with any agreement as to contributions by the member and other members to any funds of the System where said agreement has been made as provided by this article; provided, that should a retired member receive disability benefits as provided in this and other sections of this article, the time the retired member is receiving said disability benefits shall count as time on active service if the retired member should be recalled by the Chief of Police from said disability retirement. It shall be necessary before said time shall be counted toward retirement that the retired member make the same contribution as the member would have otherwise made if on active service for the time the retired member was disabled.

B. Any member complying with all requirements of this article, who reaches normal retirement date, upon application, shall be retired at the accrued retirement benefit. When a member has served for the necessary number of years and is otherwise eligible, as provided in this article, if such member is discharged without cause by the participating municipality, the member shall be eligible for a pension.

C. In no event shall commencement of distribution of the accrued retirement benefit of a member be delayed beyond April 1 of the calendar year following the later of:

1. The calendar year in which the member reaches seventy and one-half (70 1/2) years of age; or

2. The ~~normal~~ actual retirement date of the member.

D. In the event of the death of any member who has been awarded a retirement benefit or is eligible therefor as provided in this section, such member's beneficiaries shall be paid such retirement benefit. The remaining portion of the member's retirement benefit shall be distributed to the beneficiaries at least as rapidly as under the method of distribution to the member. Effective March 1, 1997, if a member to whom a retirement benefit has been awarded or who is eligible therefor dies prior to the date as of which the total amount of retirement benefit paid equals the total amount of the employee contributions paid by or on behalf of the member and the member does not have a surviving beneficiary, the total benefits paid as of the date of the member's death shall be subtracted from the accumulated employee contribution amount and the balance, if greater than zero (0), shall be paid to the member's estate.

E. A local board and the State Board may review and affirm a member's request for retirement benefits prior to the member's normal retirement date provided that no retirement benefits are paid prior to the normal retirement date.

F. A member retired under the provisions of this article may apply to the State Board to have the member's retirement benefits set aside and may make application for disability benefits. Upon approval of the disability benefits, the member would become subject to all provisions of this article pertaining to disability retirement.

G. Upon the death of a retired member, the benefit payment for the month in which the retired member died, if not previously paid, shall be made to the beneficiary of the member or to the member's estate if there is no beneficiary. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member died.

SECTION 3. AMENDATORY 11 O.S. 1991, Section 50-114.1, is amended to read as follows:

Section 50-114.1 Notwithstanding any other provision contained herein to the contrary, the benefits payable to a member in the System shall be subject to the limitations of Section 415 of the Internal Revenue Code of 1986 in accordance with the provisions of paragraphs 1 and 2 of this section.

1. Except as provided in subparagraphs c through g of this paragraph, any accrued retirement benefit payable to a member shall not exceed the lesser of:

a. Ninety Thousand Dollars ($90,000.00), adjusted for increases in the cost of living, as prescribed by the Secretary of the Treasury or his delegate, effective January 1 of each calendar year and applicable to the

limitation year ending with or within such calendar year.

b. The limitations of this subparagraph shall apply only to limitation years beginning prior to January 1, 1995. One hundred percent (100%) of the average earnings of the member for the three (3) consecutive calendar years, while a member in the System, in which the member's earnings were the highest. For purposes of this subparagraph, earnings for any limitation year shall be the earned income of the member, wages, salaries, and fees for professional services, and other amounts received for personal services actually rendered in the course of employment with a participating municipality, provided such amounts are actually paid or includable in gross income during such year. Earnings shall exclude the following:

(1) contributions by a participating municipality to a plan of deferred compensation which are not included in the gross income of the member for the taxable year in which contributed or any distributions from a funded plan of deferred compensation, and

(2) other amounts which received special tax benefits, or contributions made by a participating municipality, whether or not under a salary reduction agreement, towards the purchase of an annuity described in Section 403(b) of the Internal Revenue Code of 1986, whether or not the amounts are actually excludable from the gross income of the member.

c. Except as provided in subparagraph e of this paragraph, the limitations specified in subparagraphs a and b of this paragraph shall not be applicable with respect to any member whose total annual accrued retirement benefit payable from the System is less than Ten Thousand Dollars ($10,000.00) and who has not at any time participated in any contribution plan, within the meaning of Section 415(k) of the Internal Revenue Code of 1986, maintained by a participating municipality.

d. If a member has less than ten (10) years of participation in the System and all predecessor municipal police pension and retirement systems, the dollar limitation otherwise applicable under subparagraph a of this paragraph shall be reduced by multiplying such limitation by a fraction, the numerator of which is the number of the years of participation in the System of the member, but never less than one (1), and the denominator of which is ten (10). This subparagraph, to the extent required by the Secretary of the Treasury, shall be applied separately to each change in benefit structure hereunder. For limitation years beginning on or after January 1, 1995, this subparagraph shall not apply to a benefit paid under the System as the result of the

member becoming disabled by reason of personal injuries or sickness, or amounts received by the beneficiaries, survivors or estate of the member as the result of the death of the member.

e. The limitations of this subparagraph shall apply only to limitation years beginning prior to January 1, 1995. If a member has been credited with less than ten (10) years of credited service, the percentage-of-average-earnings limitation otherwise applicable under subparagraph b of this paragraph and the dollar amount otherwise applicable under subparagraph c of this paragraph shall be reduced by multiplying each by a fraction, the numerator of which is the number of the years of credited service of the member, but never less than one (1), and the denominator of which is ten (10).

f. The limitations specified in this section shall apply to a straight life annuity with no ancillary benefits and to an annuity that constitutes a qualified joint and survivor annuity~~, provided payment begins between attainment of age sixty-two (62) and age sixty-five (65) by the member~~. If payment is in a different form, the amount thereof shall be adjusted to be the actuarial equivalent of a single life annuity and the limitations shall be applied to such adjusted amount. Such adjustment shall be based on the ~~actuarial~~ mortality tables ~~adopted by the State Board~~ and interest rates described in subdivisions (a) and (b) of division (1) of this subparagraph.

(1) If payment begins before the member reaches age sixty-two (62) years of age, the limitation in subparagraph a of this paragraph shall be reduced on an actuarially equivalent basis ~~determined in accordance with the actuarial tables adopted by the State Board~~; provided however, if such payment begins after the member reaches fifty-five (55) years of age, the reduced limit shall not be less than Seventy-five Thousand Dollars ($75,000.00) and, if payment begins prior to the member reaching fifty-five (55) years of age, the reduced limit shall not be less than the actuarial equivalent of the Seventy-five Thousand Dollar ($75,000.00) limit for age fifty-five (55) ~~based on actuarial tables adopted by the State Board~~; provided~~,~~ further, that in no event shall such amount be reduced below Fifty Thousand Dollars ($50,000.00), adjusted for increases in the cost of living, as prescribed by the Secretary of Treasury, or his delegate.

(a) For limitation years beginning before January 1, 1999, the interest rate to be used to determine such actuarial equivalent amount in this division shall be the rate specified in the actuarial tables adopted by the State Board; however, the interest rate used in determining an actuarially

equivalent pre-age-sixty-two amount shall not be less than five percent (5%).

(b) Effective for limitation years beginning on or after January 1, 1999, the actuarial equivalent adjustments in this division shall be determined using the prevailing commissioner's standard table (described in Code Section 807(d)(5)(A), without regard to any other subparagraph of Code Section 807(d)(5), used to determine reserves for group annuity contracts issued on the date as of which the payment is being determined. (The current table is set forth in Revenue Ruling 95-6 and is based upon a fixed blend of fifty percent (50%) of the male mortality rates and fifty percent (50%) of the female mortality rates from the 1983 Group Annuity Mortality Table.) The interest rate shall be five percent (5%).

(c) For limitation years beginning on or after January 1, 1997, if payment begins before the member reaches age sixty-two (62), the reductions in the limitations in this division shall not apply to a member who is a "qualified participant" as defined in Section 415(b)(2)(H) of the Internal Revenue Code of 1986.

(2) If payment begins after the member reaches age sixty-five (65) years of age, the limitation in subparagraph a of this paragraph shall be the actuarial equivalent of such amount otherwise applicable at the member reaching sixty-five (65) years of age~~, based on the actuarial tables adopted by the State Board~~. ~~The~~

(a) For limitation years beginning before January 1, 1999, the interest rate to be used ~~in~~ to determine such actuarial equivalent amount in this division shall be the rate specified in the actuarial tables adopted by the State Board; however, the interest rate used in determining an actuarially equivalent ~~single life amount or pre-age-sixty-two (62) amount shall not be less than five percent (5%) and the interest rate used in determining an actuarially equivalent post-age-sixty-five (65)~~ post-age-sixty-five amount shall not be greater than five percent (5%).

(b) Effective for limitation years beginning on or after January 1, 1999, the actuarial equivalent adjustments in this division shall use the mortality and interest rate basis provided in subdivision (b) of division (1) of this subparagraph.

g. In no event shall the maximum annual accrued retirement benefit of a member allowable under this section be less than the annual amount of such accrued retirement benefit, including early pension and qualified joint and survivor annuity amounts, duly accrued by the member as of the last day of the limitation year beginning in 1982, or as of the last day of the limitation year beginning in 1986, whichever is greater, disregarding any plan changes or cost-of-living adjustments occurring after July 1, 1982, as to the 1982 accrued amount, and May 5, 1986, as to the 1986 accrued amount.

2. ~~If~~ For distributions made in limitation years beginning prior to January 1, 2000, if a member also participates, or has participated, in one or more defined contribution plans, within the meaning of Section 415(k) of the Internal Revenue Code of 1986, maintained by a participating municipality, the sum of the defined benefit plan fraction and defined contribution plan fraction, as defined in ~~(1)~~ subparagraphs a and ~~(2) below~~ b of this paragraph, shall not exceed one. If, in any limitation year, the sum of the defined benefit plan fraction and the defined contribution plan fraction for a member would exceed one without adjustment of the amount of the maximum annual accrued retirement benefit that can be paid to such member pursuant to paragraph 1 of this section, the amount of the maximum annual accrued retirement benefit that can be paid to such member pursuant to paragraph 1 of this section shall be reduced to the extent necessary to reduce the sum of the defined benefit plan fraction and the defined contribution plan fraction for the member to one, or the State Board may take such other action as will cause the sum to equal one or less. As used in this paragraph:

a. "Defined benefit fraction" means a fraction:

(1) the numerator of which is the projected annual accrued retirement benefit of the member from the System, determined as of the close of the limitation year, and

(2) the denominator of which is the lesser of one hundred twenty-five percent (125%) of the dollar limitation under Section 415(b)(1)(A) of the Internal Revenue Code of 1986 or one hundred forty percent (140%) of the percentage limitation under Section 415(b)(1)(B) of the Internal Revenue Code of 1986 for the year of determination, taking into account the effect of Section 235(g)(4) of the Tax Equity and Fiscal Responsibility Act of 1982.

b. "Defined contribution fraction" means a fraction:

(1) the numerator of which is the sum of the annual additions, as defined in Section 415(c)(2) of the Internal Revenue Code of 1986, to the accounts of the member under all defined contribution plans maintained by the participating municipalities as of the close of the limitation year, subject to reduction to the extent permitted under the

transition rule in Section 235(g)(3) of the Tax Equity and Fiscal Responsibility Act of 1982, and

(2) the denominator of which is the sum of the lesser of one hundred twenty-five percent (125%) of the dollar limitation under Section 415(c)(1)(A) of the Internal Revenue Code of 1986 or one hundred forty percent (140%) of the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code of 1986, for such limitation year and for all prior limitation years during which the member was employed by an eligible employer. At the option of the State Board, the denominator may be increased by using for limitation years ending prior to January 1, 1983, an amount equal to the denominator in effect for the limitation year ending in 1982, multiplied by the transition fraction provided in Section 415(e)(6)(B) of the Internal Revenue Code of 1986.

The State Board is hereby authorized to make the special election under Internal Revenue Code Section 415(b)(10). If this special election is made, the Section 415 limit for a member who joined the System prior to January 1, 1990 shall be the greater of: (1) the applicable Code Section 415 limit, or (2) the member's benefit under the System without regard to any benefit increases pursuant to a System amendment adopted after October 14, 1987.

~~In the event that the special election is made, subparagraph f of paragraph 1 of this section shall read as follows: f. The limitations specified in this section shall apply to a straight life annuity with no ancillary benefits and to an annuity that constitutes a qualified joint and survivor annuity, provided payment begins at the age at which the member could receive an unreduced primary insurance amount under the federal Social Security laws (i.e., "social security retirement age") determined by disregarding the age increase factor thereunder and as if early retirement were sixty-two (62). If payment is in a different form, the amount thereof shall be adjusted to be the actuarial equivalent of a single life annuity and the limitations shall be applied to such adjusted amount. Such adjustment shall be based on the actuarial tables adopted by the State Board. If payment begins before the member's social security retirement age, the limitation in subparagraph a of this paragraph shall be reduced by applying a reduction factor consistent with social security reduction factors, as prescribed by the Secretary of the Treasury; provided, however, that in no event shall such amount be reduced below Fifty Thousand Dollars ($50,000.00), adjusted for increases in the cost of living, as prescribed by the Secretary of the Treasury, or his delegate. If payment begins after the participant's social security retirement age, the limitation in subparagraph a of this paragraph shall be the actuarial equivalent of such amount otherwise applicable at the member's social security retirement age, based on the actuarial tables adopted by the State Board. The interest rate to be used in determining such actuarial equivalent amount shall be the rate specified in the actuarial tables adopted by the State Board; however, the interest rate used in determining an actuarially equivalent single life amount shall not be less than five percent (5%) and the interest rate used in determining an actuarially~~

~~equivalent post-social-security-retirement-age amount shall not be greater than five percent (5%).~~

The State Board is hereby authorized to revoke the special election previously made on June 19, 1991, under Internal Revenue Code Section 415(b)(10). Under the special election, the Section 415 limit for a member who joined the System prior to January 1, 1990, shall be the greater of: (1) the applicable Code Section 415 limit, or (2) the member's benefit under the System without regard to any benefit increases pursuant to a System amendment adopted after October 14, 1987.

The State Board is hereby authorized to do all acts and things necessary and proper to carry out the purpose of the System and to make the least costly amendments and changes, if any, as may be necessary to qualify the System under the applicable sections of the Internal Revenue Code of 1986, as amended.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 50-114.2 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the System to the contrary that would otherwise limit a Distributee's election hereunder, a Distributee may elect, at the time and in the manner prescribed by the State Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

B. For purposes of this section, the following definitions shall apply:

1. "Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code of 1986; and the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities);

2. "Eligible Retirement Plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1986, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code of 1986, an annuity plan described in Section 403(a) of the Internal Revenue Code of 1986, or a qualified trust described in Section 401(a) of the Internal Revenue Code of 1986, that accepts the Distributee's Eligible Rollover Distribution. However, in the case of an Eligible Rollover Distribution to the surviving spouse, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity;

3. "Distributee" means an employee or former employee. In addition, the employee's or former employee's surviving spouse and

the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code of 1986, are Distributees with regard to the interest of the spouse or the former spouse; and

4. "Direct Rollover" means a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

C. At least thirty (30) days and not less than ninety (90) days before the date of distribution, the Distributee must be provided with a notice of rights which satisfies Code Section 402(f) as to rollover options and tax effects. Such distribution may commence less than thirty (30) days after the notice is given, provided that:

1. The State Board clearly informs the Distributee that the Distributee has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution; and

2. The Distributee, after receiving the notice, affirmatively elects a distribution.

SECTION 5. AMENDATORY 11 O.S. 1991, Section 50-122, is amended to read as follows:

Section 50-122. A. All pensions shall be computed on a monthly basis with a majority of the month counting as a full month.

B. Authorized leaves of absence may be granted by a participating municipality to a member. These authorized leaves of absence shall not constitute a deprivation of pension rights and service accumulations up to the point of the leave. Accrual time may continue when the member returns to work if that absence is not longer than three hundred sixty-five (365) days. In no case shall a member on authorized leave of absence withdraw any funds from the System. Effective August 5, 1993, an authorized leave of absence shall include a period of absence pursuant to the Family and Medical Leave Act of 1993.

C. Nothing in subsection B of this section shall be construed as affecting any provision for military leaves of absence or credits for military service in the Oklahoma Statutes.

SECTION 6. AMENDATORY 11 O.S. 1991, Section 50-124, as last amended by Section 3, Chapter 198, O.S.L. 1998 (11 O.S. Supp. 1998, Section 50-124), is amended to read as follows:

Section 50-124. A. Except as otherwise provided by this section, no portion of any of the funds of the System shall, either before or after any order made by the State Board for payment to any person entitled to a pension or allowance, be held, seized, taken, subjected to, or detained, or levied on by virtue of any garnishment, attachment, execution, injunction, or other order or decree or any process or proceeding whatever, issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demand or judgment against any such person entitled to payment, nor shall said payments or any claim thereto be directly or indirectly assigned, and any attempt to assign or transfer the same shall be void. The said funds shall be

held, invested, secured and distributed for the purposes named in this article, and for no other purpose whatever. Notwithstanding the foregoing, the State Board may approve any offset of a member's benefit to pay a judgment or settlement against the member for a crime involving the System or for a breach of the member's fiduciary duty to the System, provided such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member of the System.

3. For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the State Board and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,

b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,

c. the number of payments or period to which such order applies,

d. the characterization of the benefit as to marital property rights or child support, and

e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,

b. does not require the System to provide increased benefits, and

c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date of the related member.

8. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

10. The Oklahoma Police Pension and Retirement Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the State Board pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 7. AMENDATORY 11 O.S. 1991, Section 50-128, as amended by Section 2, Chapter 192, O.S.L. 1998 (11 O.S. Supp. 1998, Section 50-128), is amended to read as follows:

Section 50-128. A. Any member who has heretofore left the Police Department qualifying under this article to enter the military service of the United States during World War II and who returned to said department on or before July 1, 1947, or the Korean conflict and who returned to said department on or before January 1, 1956, shall receive credit for such time in military service without having made contribution to the System; and any member who has heretofore left, or hereafter may leave said department because of involuntary conscription into the military services of the United States at any time and who returns to said department within ninety (90) days after the member's release from such involuntary service shall receive credit for such time in said military service on the Police Department without having made contribution to the System only for that period that is involuntary; voluntary enlistments and voluntary extensions of military service being herewith specifically excluded for retirement credit.

B. A member who retires on or after July 1, 1998, shall receive maximum benefits available for each year of creditable service, not to exceed five (5) years, for active military service for retirement benefits for service rendered prior to being hired by a Police Department.

For purposes of this subsection, “military service” means service in the Armed Forces of the United States in time of war or

national emergency by honorably discharged persons who served as follows:

1. In the Armed Forces of the United States at any time during the period from April 6, 1917, to November 11, 1918, both dates inclusive;

2. In the Armed Forces of the United States as members of the 45th Division at any time during the period from September 16, 1940, to December 7, 1941, both dates inclusive;

3. In the Armed Forces of the United States at any time during the period from December 7, 1941, to December 31, 1946, both dates inclusive;

4. In the Armed Forces of the United States at any time during the period from June 27, 1950, to January 31, 1955, both dates inclusive;

5. For a period of ninety (90) days or more, unless discharged from active duty for a service-connected disability, in the Armed Forces of the United States during the period of time in which the United States participated in a war, campaign or battle, but excluding any person who shall have served on active duty for training only, unless discharged from active duty for service-connected disability;

6. In the Armed Forces of the United States at any time during the period which began on:

a. February 28, 1961, and ended on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period, and

b. August 5, 1964, and ended on May 7, 1975, in all other cases,

except that such period shall be deemed to have ended on December 31, 1976, when determining eligibility for education and training benefits; or

7. In the Armed Forces of the United States on or after August 1, 1990, and ended on December 31, 1991, excluding any person who shall have served on active duty for training only, unless discharged from active duty for service-connected disability.

C. An eligible member pursuant to subsection B of this section shall include only those persons who shall have served during the times or in the areas prescribed in this section, and those persons who were awarded service medals, as authorized by the United States Department of Defense as reflected in the veteran's Defense Department Form 214, related to the Vietnam Conflict who served prior to August 5, 1964. The provisions of subsection B shall include military retirees, whose retirement was based only on active service, that have been rated as having twenty percent (20%) or greater service-connected disability by the Veterans Administration or the Armed Forces of the United States.

D. Effective December 12, 1994, a leave of absence on account of a period of "qualified military service" in the uniformed

services of the United States (within the meaning of Section 414(u)(5) of the Internal Revenue Code of 1986), followed by a return to the service of the participating municipality within ninety (90) days after the completion of the period of service, shall constitute credited service. Notwithstanding any provision herein to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1101.1 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. The Uniform Retirement System for Justices and Judges is established as a qualified governmental retirement plan under Sections 401(a) and 414(d) of the federal Internal Revenue Code. The Board shall administer the System in order to comply with the applicable provisions of the federal Internal Revenue Code.

B. As used in Section 1101 et seq. of Title 20 of the Oklahoma Statutes, "federal Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as amended and as applicable to a governmental plan as in effect on July 1, 1999.

C. For purposes of compliance with the federal Internal Revenue Code, the plan year for the System is the fiscal year beginning July 1 and the limitation year for purposes of Section 415 of the Internal Revenue Code is the calendar year.

D. Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits any member would otherwise receive under the System's law. However, forfeitures may be used to reduce the employer's contribution.

SECTION 9. AMENDATORY 20 O.S. 1991, Section 1102A, as amended by Section 1, Chapter 81, O.S.L. 1998 (20 O.S. Supp. 1998, Section 1102A), is amended to read as follows:

Section 1102A. A. Any Justice or judge of the Supreme Court, Court of Criminal Appeals, Court of Appeals, Workers' Compensation Court or district court who has reached the age of fifty-five (55) years and has served as Justice or judge of any of the named courts in the State of Oklahoma for a period of fifteen (15) continuous years or longer, next preceding application for disability retirement, may receive as retirement disability compensation a maximum monthly benefit in an amount equal to four percent (4%) of the average monthly salary received by him when he served as a Justice or judge based on the last three (3) years of active service multiplied by the total number of years of service on the named courts. But in no event may such retirement disability exceed seventy percent (70%) of the average monthly salary based on the last three (3) years of active service and found applicable to such Justice or judge at the time of retirement, when such Justice or judge is ordered to retire from office with compensation by the Court on the Judiciary for the reason of physical disability preventing the proper performance of official duty. The decree of the Court on the Judiciary shall set forth the amount of compensation the Justice or judge so retired shall receive, which compensation shall be payable out of the State Judicial Retirement Fund.

B. 1. The surviving spouse of a deceased Justice or judge having at least eight (8) years of service shall be entitled to receive survivor benefits in the amount herein prescribed, if married to the decedent ~~on the day of~~ ninety (90) days prior to the termination of his employment as a Justice or judge and has been so married to him continuously for a period of at least three (3) years immediately preceding his death, provided that the required additional contributions are made.

2. Survivor benefits shall be payable in accordance with Section 1104A of this title if the surviving spouse has then attained the age of sixty (60) years or, if then under such age, immediately upon his attainment of that age or if the surviving spouse is disabled or when the deceased member served for a minimum of ten (10) years and the Workers' Compensation Court determines that the death arose out of and in the course of employment or when the deceased member would have met the requirements for retirement, whichever occurs first.

3. The amount of the benefits the surviving spouse may receive shall be as follows:

a. fifty percent (50%) of the amount of benefits the deceased Justice or judge was receiving immediately prior to his death~~;~~, or

b. fifty percent (50%) of the amount the deceased Justice or judge would have been entitled to receive on the date of his death, the annual rate of such benefits to be determined without regard to whether the deceased Justice or judge had attained minimum retirement age at the time of his death.

4. Remarriage of a surviving spouse, prior to the spouse reaching the age of sixty (60) years, shall disqualify the spouse for the receipt of survivor benefits. The disqualification of survivor benefits, pursuant to this paragraph, shall not apply to remarriages on or after July 1, 1998.

C. Any Justice, judge or surviving spouse meeting the requirements for disability retirement benefits as provided in this section may make application to the Court on the Judiciary for a determination of disability retirement benefits. The Justice, judge or surviving spouse making application shall be required by the Court on the Judiciary to be examined by two recognized physicians selected by the Court to determine the extent of disability of such applicant. The examining physicians shall furnish the Court a detailed written report of the disability of the examined applicant. The Court shall then determine whether the applicant, if he is a Justice or judge, has a disability preventing the proper performance of his official duties. If the applicant is a surviving spouse the court shall determine whether such surviving spouse is disabled. If the Court determines that the applicant is disabled, the Court shall order disability retirement benefits as provided by this section. The Court shall require all persons receiving disability benefits to submit to a physical examination once each year for the three (3) years following the start of disability benefits. The Court shall select two physicians to examine such persons and if they are found no longer disabled by the examining physicians the Court shall terminate such disability benefits. The Justice, judge or surviving

spouse shall then be entitled to receive such other benefits as they may be entitled to by law.

SECTION 10. AMENDATORY 20 O.S. 1991, Section 1102.2, as amended by Section 4, Chapter 419, O.S.L. 1998 (20 O.S. Supp. 1998, Section 1102.2), is amended to read as follows:

Section 1102.2 A. Any active member of the Uniform Retirement System for Justices and Judges who served in the Armed Forces of the United States, as defined in paragraph ~~(22)~~ (23) of Section 902 of Title 74 of the Oklahoma Statutes, prior to membership in the Uniform Retirement System for Justices and Judges shall be granted service credit, not to exceed five (5) years, for those periods of active military service during which the member was a war veteran. Such military service credit shall not apply to any person receiving military retirement benefits other than service-connected disability benefits established by either the military service or the Veterans Administration.

B. Effective December 12, 1994, and thereafter, a leave of absence on account of a period of qualified military service in the uniformed services of the United States within the meaning of Section 414(u)(5) of the federal Internal Revenue Code, followed by a return to service as a Justice or judge within ninety (90) days after completion of the period of service may be eligible for service credit under this System. Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be allowed in accordance with Section 414(u) of the federal Internal Revenue Code.

SECTION 11. AMENDATORY 20 O.S. 1991, Section 1103, as amended by Section 5, Chapter 419, O.S.L. 1998 (20 O.S. Supp. 1998, Section 1103), is amended to read as follows:

Section 1103. A. Each Justice or judge who is a member of The Uniform Retirement System for Justices and Judges shall have five percent (5%) of his or her current monthly salary withheld by the State of Oklahoma and deposited in a fund in the State Treasury which is hereby created and shall be known as the Oklahoma Judicial Retirement Fund. ~~If a~~ Each married Justice or judge shall ~~elect in writing to~~ bring his or her ~~surviving~~ spouse within the provisions of Section 1101 et seq. of this title extending certain benefits to his or her surviving spouse, and he or she shall have eight percent (8%) of his or her current monthly salary withheld by the State of Oklahoma and deposited in said fund, unless the spouse waives such surviving spouse provisions in writing as provided in Section 1103A of this title. If a Justice or judge shall cease to be a Justice or judge of the above-mentioned courts, for any reason, before he or she has accumulated eight (8) years of accredited service, or dies after he or she has accumulated eight (8) years' service and having no survivor benefit, then all the contributions retained from his or her salary shall be paid to him or her or his or her named beneficiary, or his or her estate in case of no named beneficiary, and he or she shall have no further claim against the State of Oklahoma for retirement pay for his or her services to date.

B. Notwithstanding any provision to the contrary, the compensation taken into account for any judge or Justice in determining contributions or benefit accruals for any plan year is

limited to the annual compensation limit under Section 401(a)(17) of the federal Internal Revenue Code.

C. Upon death of a retired judge who has no survivor benefits, there shall be paid to his or her named beneficiary, or his or her estate in case of no named beneficiary, an amount equal to the excess, if any, of his or her accumulated contributions over the sum of all retirement benefit payments made.

D. Upon the death of a retired member, the benefit payment for the month in which the retired member died, if not previously paid, shall be made to the beneficiary of the member or to the member's estate if there is no beneficiary. Such benefit payment shall be made in an amount equal to a full monthly benefit payment regardless of the day of the month in which the retired member died.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1103.1 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. On and after July 1, 1997, the Administrative Director of the Courts, in addition to the members' contributions, shall transfer monthly amounts for deposit in the State Judicial Retirement Fund as set out in Section 1309 of Title 20 of the Oklahoma Statutes and at the rates provided as follows:

1. From July 1, 1997, through June 30, 1998, monthly contributions shall be fourteen and thirteen one-hundredths percent (14.13%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

2. From July 1, 1998, through June 30, 1999, monthly contributions shall be fourteen and fifty-one one-hundredths percent (14.51%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

3. From July 1, 1999, through June 30, 2000, monthly contributions shall be fourteen and eighty-nine one-hundredths percent (14.89%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

4. From July 1, 2000, through June 30, 2001, monthly contributions shall be fifteen and twenty-seven one-hundredths percent (15.27%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

5. From July 1, 2001, through June 30, 2002, monthly contributions shall be fifteen and sixty-four one-hundredths percent (15.64%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

6. From July 1, 2002, through June 30, 2003, monthly contributions shall be sixteen and two one-hundredths percent (16.02%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

7. From July 1, 2003, through June 30, 2004, monthly contributions shall be sixteen and four-tenths percent (16.4%) of

the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

8. From July 1, 2004, through June 30, 2005, monthly contributions shall be sixteen and seventy-eight one-hundredths percent (16.78%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

9. From July 1, 2005, through June 30, 2006, monthly contributions shall be seventeen and sixteen one-hundredths percent (17.16%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

10. From July 1, 2006, through June 30, 2007, monthly contributions shall be seventeen and fifty-four one-hundredths percent (17.54%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

11. From July 1, 2007, through June 30, 2008, monthly contributions shall be seventeen and ninety-two one-hundredths percent (17.92%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

12. From July 1, 2008, through June 30, 2009, monthly contributions shall be eighteen and twenty-nine one-hundredths percent (18.29%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

13. From July 1, 2009, through June 30, 2010, monthly contributions shall be eighteen and sixty-seven one-hundredths percent (18.67%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

14. From July 1, 2010, through June 30, 2011, monthly contributions shall be nineteen and five one-hundredths percent (19.05%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

15. From July 1, 2011, through June 30, 2012, monthly contributions shall be nineteen and forty-three one-hundredths percent (19.43%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

16. From July 1, 2012, through June 30, 2013, monthly contributions shall be nineteen and eighty-one one-hundredths percent (19.81%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

17. From July 1, 2013, through June 30, 2014, monthly contributions shall be twenty and nineteen one-hundredths percent (20.19%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

18. From July 1, 2014, through June 30, 2015, monthly contributions shall be twenty and fifty-six one-hundredths percent (20.56%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

19. From July 1, 2015, through June 30, 2016, monthly contributions shall be twenty and ninety-four one-hundredths percent (20.94%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;

20. From July 1, 2016, through June 30, 2017, monthly contributions shall be twenty-one and thirty-two one-hundredths percent (21.32%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges; and

21. From July 1, 2017, through June 30, 2018, and each year thereafter, the monthly contributions shall be twenty-one and seven-tenths percent (21.7%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges.

B. Regardless of the contribution rates as set out in subsection A of this section, the State Judicial Retirement Fund shall not be allowed to have a funded ratio below one hundred percent (100%). The Board of Trustees of the Oklahoma Public Employees Retirement System is authorized to adjust such contribution rates annually, upon the consideration of an actuarial recommendation, to prevent a funded ratio below one hundred percent (100%). The Board of Trustees shall make an annual report concerning its decision to increase the contribution rates. The report shall be distributed to the Governor, the Chief Justice of the Supreme Court, the Legislative Service Bureau, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1103.2 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. Subject to the provisions of this section, employee contributions made to the System shall not exceed the maximum annual additions permissible under Section 415 of the federal Internal Revenue Code. Notwithstanding any other provisions of law to the contrary, the Board may modify a request by a member to make contributions to the System if the amount of the contributions would exceed the limits under Section 415(c) or Section 415(n) of the federal Internal Revenue Code subject to the following:

1. Where the System’s law requires a lump sum payment, for the purchase of service credit, the Board may establish a periodic payment plan in order to avoid a contribution in excess of the limits under Section 415(c) or 415(n) of the federal Internal Revenue Code. The Board may by rule adopt a procedure for the pick-up of contributions for the purchase of service. However, the implementation of the pick-up is subject to a favorable ruling by the Internal Revenue Service; and

2. An eligible member in the System, as defined by Section 1526 of the federal Taxpayer Relief Act of 1997, may purchase service

credit without regard to the limitations of Section 415(c)(1) of the federal Internal Revenue Code as provided by state law in effect on August 5, 1997.

B. Notwithstanding any other provision of law to the contrary, the Board may by rule permit the System to accept rollovers for the purchase of service.

C. If the Board's options under subsection A or B of this section will not avoid a contribution in excess of the limits under Section 415(c) or 415(n) of the federal Internal Revenue Code, the Board shall reduce or deny the contributions.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1103.3 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. Employee contributions shall be deducted by the employer for such benefits as the Board is authorized to administer as provided for by law. Employee and employer contributions shall be remitted monthly, or as the Board may otherwise provide, to the Executive Director for deposit in the State Judicial Retirement Fund.

B. The employer shall pick up under the provisions of Section 414(h)(2) of the federal Internal Revenue Code and pay the contribution which the member is required by law to make to the System for all compensation earned after December 31, 1999. Although the contributions so picked up are designated as member contributions, such contributions shall be treated as contributions being paid by the participating employer in lieu of contributions by the member in determining tax treatment under the federal Internal Revenue Code and such picked up contributions shall not be includable in the gross income of the member until such amounts are distributed or made available to the member or the beneficiary of the member. The member, by the terms of this System, shall not have any option to choose to receive the contributions so picked up directly and the picked up contributions must be paid by the participating employer to the System.

C. Member contributions which are picked up shall be treated in the same manner and to the same extent as member contributions made prior to the date on which member contributions were picked up by the participating employer. Member contributions so picked up shall be included in gross salary for purposes of determining benefits and contributions under the System.

D. The employer shall pay the member contributions from the same source of funds used in paying salary to the member, by effecting an equal cash reduction in gross salary of the member.

SECTION 15. AMENDATORY 20 O.S. 1991, Section 1103A, is amended to read as follows:

Section 1103A. A. Within thirty (30) days ~~after the effective date of this act~~ of becoming a member of the System each married member of the Judicial Retirement System shall file with the ~~director of the Judicial Retirement~~ System a written statement ~~of his election~~ to bring his or her spouse under survivor benefit provisions of this act. Members who are unmarried at the effective date of this act or at the time of their initial employment shall

have thirty (30) days from the date of their marriage to file with the ~~director of the Judicial Retirement~~ System a written statement ~~of election~~ to bring the spouse under the survivor benefit provisions of this act.

B. Effective July 1, 1999, each married member of the System shall bring his or her spouse under the survivor benefit provisions of this act if said election has not previously been made.

C. Contributions to provide the survivor benefits as set forth in Section 1103 of this title shall be paid by the Justice or judge beginning no later than July 1, 1999, or the first day of the month following the date of the marriage thereafter.

D. The provisions for survivor benefits required by this section may be waived by consent of the spouse, if waiver is made in writing within thirty (30) days from July 1, 1999, if said election has not previously been made, or within thirty (30) days following the date of the marriage thereafter. The waiver of the surviving spouse provision is irrevocable.

SECTION 16. AMENDATORY 20 O.S. 1991, Section 1103C, as amended by Section 8, Chapter 322, O.S.L. 1993 (20 O.S. Supp. 1998, Section 1103C), is amended to read as follows:

Section 1103C. A justice or judge whose employment as such has terminated and who has withdrawn his contributions made to the Oklahoma Judicial Retirement Fund may, upon return to service as a Justice or judge with participation in the System, procure reinstatement of service credit for the years during which contributions were made and withdrawn by paying the Oklahoma Judicial Retirement Fund the full amount of contributions previously withdrawn with interest thereon at the annual percentage rate of ten percent (10%) from the date of withdrawal.

SECTION 17. AMENDATORY 20 O.S. 1991, Section 1103G, as amended by Section 6, Chapter 322, O.S.L. 1993 (20 O.S. Supp. 1998, Section 1103G), is amended to read as follows:

Section 1103G. A. The Board of Trustees shall adopt rules for computation of the purchase price for service credit. These rules shall base the purchase price for each year purchased on the actuarial cost of the incremental projected benefits to be purchased. The purchase price shall represent the present value of the incremental projected benefits discounted according to the member's age at the time of purchase. Incremental projected benefits shall be the difference between the projected benefit said member would receive without purchasing the service credit and the projected benefit after purchase of the service credit computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

B. In the event that the member is unable to pay the purchase price provided for in this section by the due date, the Board of Trustees shall permit the members to amortize the purchase price over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the Board of Trustees permits

an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

C. Current contributing members who, as former members, withdrew their accumulated contributions, may amortize the cost of returning the withdrawn contributions over a period of not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the Board of Trustees permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. Any member who ceases to make payments, terminates, retires or dies before completing the payments provided in this subsection shall be refunded all related payments made, and all related credited service and other related benefits shall be canceled unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement. No retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1104.1 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. Benefits payable from the System may not exceed the maximum benefits specified by Section 415(b) of the federal Internal Revenue Code.

B. Subject to approval by the Internal Revenue Service, the Board may establish and maintain a qualified governmental excess benefit arrangement under Section 415(m) of the federal Internal Revenue Code. The Board may establish by rule the necessary and appropriate procedures for the administration of such benefit arrangement under the federal Internal Revenue Code. If the amount of any annual benefit would exceed the limitations imposed by Section 415 of the federal Internal Revenue Code, that excess amount may be paid from this benefit arrangement. The amount of any contribution that would exceed the limitations imposed by Section 415 of the federal Internal Revenue Code would be credited to this benefit arrangement. If established, the qualified excess benefit arrangement must be a separate portion of the retirement plan. The qualified excess benefit arrangement is subject to the following requirements:

1. The benefit arrangement shall be maintained solely for the purpose of providing to members in the retirement plan that part of the member's annual benefit otherwise payable under the terms of the act that exceed the limitation on benefits imposed by Section 415 of the federal Internal Revenue Code; and

2. Members do not have an election, directly or indirectly, to defer compensation to the excess benefit arrangement.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1104.2 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. All benefits paid from the System shall be distributed in accordance with the requirements of Section 401(a)(9) of the federal Internal Revenue Code and the regulations under that section. In order to meet these requirements, the System shall be administered in accordance with the following provisions:

1. Distributions of a member's benefits must begin by the later of the April 1 following the calendar year in which a member attains age seventy and one-half (70 1/2) or the April 1 of the year following the calendar year in which the member retires;

2. The life expectancy of a member or a member's spouse may not be recalculated after the benefits commence;

3. If a member dies before the distribution of the member's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died; and

4. The amount of benefits payable to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the federal Internal Revenue Code.

B. Except as otherwise provided in Section 1102 of Title 20 of the Oklahoma Statutes, distributions from the System may be made only upon retirement, separation from service, disability or death.

SECTION 20. AMENDATORY 20 O.S. 1991, Section 1108, as last amended by Section 1, Chapter 55, O.S.L. 1996 (20 O.S. Supp. 1998, Section 1108), is amended to read as follows:

Section 1108. A. The Board of Trustees of the Oklahoma Public Employees Retirement System shall have the responsibility for management of the State Judicial Retirement Fund. All benefits payable under The Uniform Retirement System for Justices and Judges, refunds of contributions and overpayments, purchases or investments under the law, and all expenses in connection with the System shall be paid from the Oklahoma Judicial Retirement Fund. The State Judicial Retirement Fund shall be invested and managed in the same manner as now or hereinafter provided by law for the investment and management of funds belonging to the Oklahoma Public Employees Retirement System.

<u>1. The Board shall distribute the corpus and income of the System to the members and their beneficiaries in accordance with the System's law. At no time prior to the satisfaction of all liabilities with respect to members and their beneficiaries shall</u>

any part of the corpus and income be used for, or diverted to, purposes other than the exclusive benefit of the members and their beneficiaries.

2. The Board may not engage in a transaction prohibited by Section 503(b) of the federal Internal Revenue Code.

B. The Board of Trustees of the Oklahoma Public Employees Retirement System shall compile a quarterly financial report of all the funds of the State Judicial Retirement Fund on a fiscal year basis. The report shall be compiled pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The Board of Trustees shall include in the quarterly reports all commissions, fees or payments for investment services performed on behalf of the Board of Trustees with respect to the State Judicial Retirement Fund. The report shall be distributed to the Governor, the Oklahoma State Pension Commission, the Legislative Service Bureau, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

C. There is hereby created the Retirement Medical Benefit Fund. The fund shall be maintained as a subaccount of the State Judicial Retirement Fund. The Retirement Medical Benefit Fund is composed of all assets which may be contributed to this subaccount to pay the retirement system's portion of the monthly retiree health insurance premium benefit described by Section 1316.2 of Title 74 of the Oklahoma Statutes. All such allocated assets and any earnings thereon in the Retirement Medical Benefit Fund shall be held for the exclusive purpose of providing retiree medical benefits. The Retirement Medical Benefit Fund is to be administered in accordance with the requirements of Section 401(h) of the Internal Revenue Code of 1986, as amended from time to time. The Board of Trustees may promulgate such rules as are necessary to implement the funding and administration of the fund pursuant to the provisions of this subsection.

SECTION 21. AMENDATORY 20 O.S. 1991, Section 1309, as last amended by Section 4, Chapter 323, O.S.L. 1997 (20 O.S. Supp. 1998, Section 1309), is amended to read as follows:

Section 1309. ~~A.~~ All remittances transmitted to the Supreme Court for deposit to the State Judicial Fund and to the State Judicial Retirement Fund shall be placed by the Administrative Director of the Courts in a clearing account and thence transferred to the proper fund after refunds directed by the State Auditor and Inspector have been effected or thirty (30) days of receipt, whichever is the shorter period of time.

~~B. On and after July 1, 1997, the Administrative Director of the Courts, in addition to the members' contributions, shall transfer monthly amounts for deposit in the State Judicial Retirement Fund as set out in subsection A of this section and at the rates provided as follows:~~

~~1. From July 1, 1997, up to June 30, 1998, monthly contributions shall be fourteen and thirteen one-hundredths percent (14.13%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~2. From July 1, 1998, up to June 30, 1999, monthly contributions shall be fourteen and fifty-one one-hundredths percent (14.51%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~3. From July 1, 1999, up to June 30, 2000, monthly contributions shall be fourteen and eighty-nine one-hundredths percent (14.89%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~4. From July 1, 2000, up to June 30, 2001, monthly contributions shall be fifteen and twenty-seven one-hundredths percent (15.27%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~5. From July 1, 2001, up to June 30, 2002, monthly contributions shall be fifteen and sixty-four one-hundredths percent (15.64%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~6. From July 1, 2002, up to June 30, 2003, monthly contributions shall be sixteen and two one-hundredths percent (16.02%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~7. From July 1, 2003, up to June 30, 2004, monthly contributions shall be sixteen and four-tenths percent (16.4%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~8. From July 1, 2004, up to June 30, 2005, monthly contributions shall be sixteen and seventy-eight one-hundredths percent (16.78%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~9. From July 1, 2005, up to June 30, 2006, monthly contributions shall be seventeen and sixteen one-hundredths percent (17.16%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~10. From July 1, 2006, up to June 30, 2007, monthly contributions shall be seventeen and fifty-four one-hundredths percent (17.54%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~11. From July 1, 2007, up to June 30, 2008, monthly contributions shall be seventeen and ninety-two one-hundredths percent (17.92%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~12. From July 1, 2008, up to June 30, 2009, monthly contributions shall be eighteen and twenty-nine one-hundredths percent (18.29%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~13. From July 1, 2009, up to June 30, 2010, monthly contributions shall be eighteen and sixty-seven one-hundredths percent (18.67%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~14. From July 1, 2010, up to June 30, 2011, monthly contributions shall be nineteen and five one-hundredths percent (19.05%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~15. From July 1, 2011, up to June 30, 2012, monthly contributions shall be nineteen and forty-three one-hundredths percent (19.43%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~16. From July 1, 2012, up to June 30, 2013, monthly contributions shall be nineteen and eighty-one one-hundredths percent (19.81%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~17. From July 1, 2013, up to June 30, 2014, monthly contributions shall be twenty and nineteen one-hundredths percent (20.19%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~18. From July 1, 2014, up to June 30, 2015, monthly contributions shall be twenty and fifty-six one-hundredths percent (20.56%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~19. From July 1, 2015, up to June 30, 2016, monthly contributions shall be twenty and ninety-four one-hundredths percent (20.94%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges;~~

~~20. From July 1, 2016, up to June 30, 2017, monthly contributions shall be twenty-one and thirty-two one-hundredths percent (21.32%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges; and~~

~~21. From July 1, 2017, through June 30, 2018, and each year thereafter, the monthly contributions shall be twenty-one and seven-tenths percent (21.7%) of the monthly total actual paid gross salaries of the members of The Uniform Retirement System for Justices and Judges.~~

~~C. Regardless of the contribution rates as set out in subsection B of this section, the State Judicial Retirement Fund shall not be allowed to have a funded ratio below one hundred percent (100%). The Board of Trustees of the Oklahoma Public~~

~~Employees Retirement System is authorized to adjust such contribution rates annually, upon the consideration of an actuarial recommendation, to prevent a funded ratio below one hundred percent (100%). The Board of Trustees shall make an annual report concerning its decision to increase the contribution rates. The report shall be distributed to the Governor, the Chief Justice of the Supreme Court, the Legislative Service Bureau, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.~~

SECTION 22. AMENDATORY 47 O.S. 1991, Section 2-300, as last amended by Section 1, Chapter 60, O.S.L. 1996 (47 O.S. Supp. 1998, Section 2-300), is amended to read as follows:

Section 2-300. As used in this act:

1. "System" means the Oklahoma Law Enforcement Retirement System;

2. "Act" means Sections 2-300 through 2-313 of this title;

3. "Board" means the Oklahoma Law Enforcement Retirement Board of the System;

4. "Executive Director" means the managing officer of the System employed by the Board;

5. "Fund" means the Oklahoma Law Enforcement Retirement Fund;

6. "Member" means all law enforcement officers of the Oklahoma Highway Patrol and the State Capitol Division of the Department of Public Safety and all commissioned officers in the Gunsmith/Ammunition Reloader Division of the Department of Public Safety who have obtained certification from the Council on Law Enforcement Education and Training, the Oklahoma State Bureau of Investigation, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and the and prevention of crime and the enforcement Oklahoma Alcoholic Beverage Control Board designated to perform duties in the investigation of the criminal laws of this state, and members of the Communications Division to include radio technicians, tower technicians and commissioned officers of the Lake Patrol Division of the Oklahoma Department of Public Safety, park rangers of the Oklahoma Tourism and Recreation Department and inspectors of the Oklahoma State Board of Pharmacy, and any park manager or park supervisor of the Oklahoma Tourism and Recreation Department who was employed in such a position prior to July 1, 1985, and who elects on or before September 1, 1996, to participate in the System. A member does not include a "leased employee" or independent contractor, including a leased employee, as defined under Section 414(n)(2) of the Internal Revenue Code of 1986, as amended. Any individual who contracts with the Board for services to be performed as a leased employee or an independent contractor shall not be a member regardless of any classification as a common-law employee by the Internal Revenue Service or any other governmental agency, or any court of competent jurisdiction, provided that all persons who shall be offered a position of a law enforcement officer shall participate in the System upon the person meeting the requisite post-offer-pre-employment physical examination standards which shall be subject to the following requirements:

a. all such persons shall be of good moral character, free from deformities, mental or physical conditions, or disease and alcohol or drug addiction which would prohibit the person from performing the duties of a law enforcement officer,

b. said physical-medical examination shall pertain to age, sight, hearing, agility and other conditions the requirements of which shall be established by the Board,

c. the person shall be required to meet the conditions of this subsection prior to the beginning of actual employment but after an offer of employment has been tendered by a participating employer,

d. the Board shall have authority to deny or revoke membership of any person submitting false information in such person's membership application,

e. the Board shall have final authority in determining eligibility for membership in the System, pursuant to the provisions of this subsection;

7. "Normal retirement date" means the date at which the member is eligible to receive the unreduced payments of the member's accrued retirement benefit. Such date shall be the first day of the month coinciding with or following the date the member:

a. completes twenty (20) years of vesting service; or

b. attains sixty-two (62) years of age with ten (10) years of vesting service; or

c. attains sixty-two (62) years of age, if:

(1) the member has been transferred to this System from the Oklahoma Public Employees Retirement System on or after July 1, 1981; and

(2) the member would have been vested had the member continued to be a member of the Oklahoma Public Employees Retirement System;

<u>Effective July 1, 1989, notwithstanding any other provision contained herein to the contrary, in no event shall commencement of distribution of the accrued retirement benefit of a member be delayed beyond April 1 of the calendar year following the later of:</u>

<u>1. The calendar year in which the member reaches seventy and one-half (70 1/2) years of age; or</u>

<u>2. The actual retirement date of the member. The preceding sentence does not allow deferral of benefit commencement beyond the age of sixty-five (65).</u>

A member who was required to join the System effective July 1, 1980, because of the transfer of the employing agency from the Oklahoma Public Employees Retirement System to the System, and was not a member of the Oklahoma Public Employees Retirement System on the

date of such transfer shall be allowed to receive credit for prior law enforcement service rendered to this state, if the member is not receiving or eligible to receive retirement credit or benefits for such service in any other public retirement system, upon payment to the System of the employee contribution the member would have been subject to had the member been a member of the System at the time, plus five percent (5%) interest. Service credit received pursuant to this paragraph shall be used in determining the member's retirement benefit, and shall be used in determining years of service for retirement or vesting purposes;

8. "Actual paid base salary" means the salary received by a member, excluding payment for any accumulated leave or uniform allowance. Salary shall include any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986;

9. "Final average salary" means the average of the highest thirty (30) consecutive complete months of actual paid gross salary. Gross salary shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986 and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986. Only salary on which required contributions have been made may be used in computing the final average salary.

In addition to other applicable limitations, and notwithstanding any other provision to the contrary, for plan years beginning on or after July 1, 1996, the annual gross salary of each "Noneligible Member" taken into account under the System shall not exceed the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) annual salary limit. The OBRA '93 annual salary limit is One Hundred Fifty Thousand Dollars ($150,000.00), as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The annual salary limit in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which salary is determined ("determination period") beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the OBRA '93 salary limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12). For purposes of this section, a "Noneligible Member" is any member who first became a member during a plan year commencing on or after July 1, 1996.

For plan years beginning on or after July 1, 1996, any reference in the System to the annual salary limit under Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, shall mean the OBRA '93 salary limit set forth in this provision.

If gross salary for any prior determination period is taken into account in determining a Noneligible Member's benefits accruing in the current plan year, the gross salary for that prior determination period is subject to the OBRA '93 annual salary limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning on or after July 1, 1996, the OBRA '93 annual salary limit is One Hundred Fifty Thousand Dollars ($150,000.00).

Effective July 1, 1989, through June 30, 1997, in determining the gross salary of a member for purposes of this limitation, the rules of Section 414(q)(6) of the Internal Revenue Code of 1986, as amended, shall apply, except in applying such rules, the term "family" shall include only the spouse of the member and any lineal descendants of the member who have not attained age nineteen (19) before the close of the year. If, as a result of the application of such rules, the adjusted annual salary limitation is exceeded, then the limitation shall be prorated among the affected individuals in proportion to each such individual's gross salary as determined under this section prior to the application of this limitation.

The family member aggregation rules set forth in the preceding paragraph shall apply only to plan years beginning prior to July 1, 1997;

10. "Credited service" means the period of service used to determine the amount of benefits payable to a member. Credited service shall consist of the period during which the member participated in the System or the predecessor Plan as an active employee in an eligible membership classification, plus any service prior to the establishment of the predecessor Plan which was credited under the predecessor Plan and for officers of the Oklahoma State Bureau of Investigation and the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control who became members of the System on July 1, 1980, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1980, and for members of the Communications and Lake Patrol Divisions of the Oklahoma Department of Public Safety, who became members of the System on July 1, 1981, any service credited under the predecessor Plan or the Oklahoma Public Employees Retirement System as of June 30, 1981, and for law enforcement officers of the Oklahoma Alcoholic Beverage Control Board who ~~become~~ became members of the System on July 1, 1982, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1982, and for park rangers of the Oklahoma Tourism and Recreation Department who became members of the System on July 1, 1985, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1985, and for inspectors of the Oklahoma State Board of Pharmacy who became members of the System on July 1, 1986, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1986, for law enforcement officers of the State Capitol Division of the Department of Public Safety who became members of the System effective July 1, 1993, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1993, and for all commissioned officers in the Gunsmith/Ammunition Reloader Division of the Department of Public Safety who became members of the System effective July 1, 1994, any service credited under the Oklahoma Public Employees Retirement System as of June 30, 1994, and for the park managers or park supervisors of the Oklahoma Tourism and Recreation Department who were employed in such a position prior to July 1, 1985, and who elect to become members of the System effective September 1, 1996, any service transferred pursuant to subsection C of Section 2-309.6 of this title. Effective August 5, 1993, an authorized leave of absence shall include a period of absence pursuant to the Family and Medical Leave Act of 1993;

11. "Disability" means a physical or mental condition which, in the judgment of the Board, totally and presumably permanently prevents the member from engaging in the usual and customary duties

of the occupation of the member and thereafter prevents the member from performing the duties of any occupation or service for which the member is qualified by reason of training, education or experience. A person is not under a disability when capable of performing a service to the employer, regardless of occupation, providing the salary of the employee is not diminished thereby; and

12. "Limitation year" means the year used in applying the limitations of Section 415 of the Internal Revenue Code of 1986, which year shall be the calendar year.

SECTION 23. AMENDATORY 47 O.S. 1991, Section 2-303.3, as last amended by Section 7, Chapter 198, O.S.L. 1998 (47 O.S. Supp. 1998, Section 2-303.3), is amended to read as follows:

Section 2-303.3 A. Except as otherwise provided by this section, any annuity, benefits, fund, property, or rights created by or accruing to any person pursuant to the provisions of Sections 2-300 through 2-313 of this title shall not be subject to execution, garnishment or attachment, and shall be unassignable, except as specifically provided by Sections 2-300 through 2-313 of this title. Notwithstanding the foregoing, the Board may approve any offset of a member's benefit to pay a judgment or settlement against the member for a crime involving the System or for a breach of the member's fiduciary duty to the System, provided such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986, as amended.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member of the System.

3. For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the Board and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,

b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,

c. the number of payments or period to which such order applies,

d. the characterization of the benefit as to marital property rights or child support, and

e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,

b. does not require the System to provide increased benefits, and

c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date of the related member.

8. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

10. The Oklahoma Law Enforcement Retirement Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 24. AMENDATORY 47 O.S. 1991, Section 2-305.4, is amended to read as follows:

Section 2-305.4 A. Notwithstanding any other provision contained herein to the contrary, the benefits payable to a member in the System shall be subject to the limitations of Section 415 of the Internal Revenue Code of 1986 in accordance with the provisions of ~~paragraphs 1~~ subsections B and ~~2~~ C of this section.

~~1.~~ B. Except as provided in ~~subparagraphs c~~ paragraphs 3 through ~~9~~ 7 of this ~~paragraph~~ subsection, any accrued retirement benefit payable to a member shall not exceed the lesser of:

~~a.~~ 1. Ninety Thousand Dollars ($90,000.00), adjusted for increases in the cost of living, as prescribed by the Secretary of the Treasury or his delegate, effective January 1 of each calendar year and applicable to the limitation year ending with or within such calendar year~~,~~; or

~~b.~~ 2. For limitation years beginning prior to January 1, 1995, one hundred percent (100%) of the average earnings of the member for the three (3) consecutive calendar years, while a member in the System, in which the member's earnings were the highest. For purposes of this ~~subparagraph~~ paragraph, earnings for any limitation year shall be the earned income of the member, wages, salaries, and fees for professional services, and other amounts received for personal services actually rendered in the course of employment with a participating employer, provided such amounts are actually paid or includable in gross income during such year. Earnings shall exclude the following:

~~(1)~~ a. contributions by a participating employer to a plan of deferred compensation which are not included in the gross income of the member for the taxable year in which contributed or any distributions from a funded plan of deferred compensation, and

~~(2)~~ b. other amounts which received special tax benefits, or contributions made by a participating employer, whether or not under a salary reduction agreement, towards the purchase of an annuity described in Section 403(b) of the Internal Revenue Code of 1986, whether or not the amounts are actually excludable from the gross income of the member~~,~~;

~~c. except~~

3. Except as provided in ~~subparagraph c~~ paragraph 5 of this ~~paragraph~~ subsection, the limitations specified in ~~subparagraphs a~~ paragraphs 1 and ~~b~~ 2 of this ~~paragraph~~ subsection shall not be applicable with respect to any member whose total annual accrued retirement benefit payable from the System is less than Ten Thousand Dollars ($10,000.00) and who has not at any time participated in any contribution plan, within the meaning of Section 415(k) of the Internal Revenue Code of 1986, maintained by a participating employer~~,~~;

~~d. if~~

4. If a member has less than ten (10) years of participation in the System and all predecessor pension and retirement systems, the dollar limitation otherwise applicable under ~~subparagraph a~~ paragraph 1 of this ~~paragraph~~ subsection shall be reduced by multiplying such limitation by a fraction, the numerator of which is the number of the years of participation in the System of the member, but never less than one (1), and the denominator of which is ten (10). This ~~subparagraph~~ paragraph, to the extent required by the Secretary of the Treasury, shall be applied separately to each change in benefit structure hereunder~~,~~. For limitation years beginning on or after January 1, 1995, this paragraph shall not apply to a benefit paid under the System as the result of the member becoming disabled by reason of personal injuries or sickness, or

amounts received by the beneficiaries, survivors or estate of the member as the result of the death of the member;

~~e. if~~

5. The limitations of this paragraph shall apply only to limitation years beginning prior to January 1, 1995. If a member has been credited with less than ten (10) years of credited service, the percentage-of-average-earnings limitation otherwise applicable under ~~subparagraph b~~ paragraph 2 of this ~~paragraph~~ subsection and the dollar amount otherwise applicable under ~~subparagraph c~~ paragraph 3 of this ~~paragraph~~ subsection shall be reduced by multiplying each by a fraction, the numerator of which is the number of the years of credited service of the member, but never less than one (1), and the denominator of which is ten (10)~~,~~;

~~f. the~~

6. The limitations specified in this section shall apply to a straight life annuity with no ancillary benefits and to an annuity that constitutes a qualified joint and survivor annuity~~, provided payment begins between attainment of age sixty-two (62) and age sixty-five (65) by the member~~. If payment is in a different form, the amount thereof shall be adjusted to be the actuarial equivalent of a single life annuity and the limitations shall be applied to such adjusted amount. Such adjustment shall be based on the ~~actuarial~~ mortality tables ~~adopted by the Board~~ and interest rates described in divisions (1) and (2) of subparagraph a of this paragraph.

a. If payment begins before the member reaches sixty-two (62) years of age, the limitation in ~~subparagraph a~~ paragraph 1 of this ~~paragraph~~ subsection shall be reduced on an actuarially equivalent basis ~~determined in accordance with the actuarial tables adopted by the Board~~; provided however, if such payment begins after the member reaches fifty-five (55) years of age, the reduced limit shall not be less than Seventy-five Thousand Dollars ($75,000.00) and, if payment begins prior to the member reaching fifty-five (55) years of age, the reduced limit shall not be less than the actuarial equivalent of the Seventy-five Thousand Dollar ($75,000.00) limit for age fifty-five (55) ~~based on actuarial tables adopted by the Board~~; provided~~,~~ further, that in no event shall such amount be reduced below Fifty Thousand Dollars ($50,000.00), adjusted for increases in the cost of living, as prescribed by the Secretary of Treasury, or his delegate.

(1) For limitation years beginning before January 1, 1999, the interest rate to be used to determine such actuarial equivalent amount in this subparagraph shall be the rate specified in the actuarial tables adopted by the Board; however, the interest rate used in determining an actuarially equivalent pre-age-sixty-two (62) amount shall not be less than five percent (5%).

(2) Effective for limitation years beginning on or after January 1, 1999, the actuarial equivalent adjustments in this subparagraph shall be determined using the prevailing Commissioner's standard table (described in Section 807(d)(5)(A) of the Internal Revenue Code of 1986, as amended), without regard to any other subparagraph of Section 807(d)(5), used to determine reserves for group annuity contracts issued on the date as of which the payment is being determined. (The current table is set forth in Revenue Ruling 95-6 and is based upon a fixed blend of fifty percent (50%) of the male mortality rates and fifty percent (50%) of the female mortality rates from the 1983 Group Annuity Mortality Table.) The interest rate shall be five percent (5%).

(3) For limitation years beginning on or after January 1, 1997, if payment begins before the member reached age sixty-two (62), the reductions in the limitations in this subparagraph shall not apply to a member who is a "qualified participant" as defined in Section 415(b)(2)(H) of the Internal Revenue Code of 1986, as amended.

b. If payment begins after the member reaches sixty-five (65) years of age, the limitation in ~~subparagraph a~~ paragraph 1 of this ~~paragraph~~ subsection shall be the actuarial equivalent of such amount otherwise applicable at the member reaching sixty-five (65) years of age~~, based on the actuarial tables adopted by the State Board~~. ~~The~~

(1) For limitation years beginning before January 1, 1999, the interest rate to be used ~~in~~ to determine such actuarial equivalent amount in this subparagraph shall be the rate specified in the actuarial tables adopted by the Board; however, ~~the interest rate used in determining an actuarially equivalent single life amount or pre-age sixty-two (62) amount shall not be less than five percent (5%) and~~ the interest rate used in determining an actuarially equivalent post-age-sixty-five (65) amount shall not be greater than five percent (5%)~~,~~.

(2) Effective for limitation years beginning on or after January 1, 1999, the actuarial equivalent adjustments in this subparagraph shall use the mortality and interest rate basis provided in division (2) of subparagraph a of this paragraph.

~~g. in~~

7. In no event shall the maximum annual accrued retirement benefit of a member allowable under this section be less than the annual amount of such accrued retirement benefit, including early pension and qualified joint and survivor annuity amounts, duly accrued by the member as of the last day of the limitation year

beginning in 1982, or as of the last day of the limitation year beginning in 1986, whichever is greater, disregarding any plan changes or cost-of-living adjustments occurring after July 1, 1982, as to the 1982 accrued amount, and May 5, 1986, as to the 1986 accrued amount.

~~2. If~~ C. For distributions made in limitation years beginning prior to January 1, 2000, if a member also participates, or has participated, in one or more defined contribution plans, within the meaning of Section 415(k) of the Internal Revenue Code of 1986, maintained by a participating employer, the sum of the defined benefit plan fraction and defined contribution plan fraction, as defined in ~~(1) and (2) below~~ paragraphs 1 and 2 of this subsection, shall not exceed one. If, in any limitation year, the sum of the defined benefit plan fraction and the defined contribution plan fraction for a member would exceed one without adjustment of the amount of the maximum annual accrued retirement benefit that can be paid to such member pursuant to ~~paragraph 1~~ subsection B of this section, the amount of the maximum annual accrued retirement benefit that can be paid to such member pursuant to ~~paragraph 1~~ subsection B of this section shall be reduced to the extent necessary to reduce the sum of the defined benefit plan fraction and the defined contribution plan fraction for the member to one, or the Board may take such other action as will cause the sum to equal one or less. As used in this ~~paragraph~~ subsection:

~~a.~~ 1. "Defined benefit fraction" means a fraction:

~~(1)~~ a. the numerator of which is the projected annual accrued retirement benefit of the member from the System, determined as of the close of the limitation year, and

~~(2)~~ b. the denominator of which is the lesser of one hundred twenty-five percent (125%) of the dollar limitation under Section 415(b)(1)(A) of the Internal Revenue Code of 1986 or one hundred forty percent (140%) of the percentage limitation under Section 415(b)(1)(B) of the Internal Revenue Code of 1986 for the year of determination, taking into account the effect of Section 235(g)(4) of the Tax Equity and Fiscal Responsibility Act of 1982~~,~~;

~~b.~~ 2. "Defined contribution fraction" means a fraction:

~~(1)~~ a. the numerator of which is the sum of the annual additions, as defined in Section 415(c)(2) of the Internal Revenue Code of 1986, to the accounts of the member under all defined contribution plans maintained by the participating municipalities as of the close of the limitation year, subject to reduction to the extent permitted under the transition rule in Section 235(g)(3) of the Tax Equity and Fiscal Responsibility Act of 1982, and

~~(2)~~ b. the denominator of which is the sum of the lesser of one hundred twenty-five percent (125%) of the dollar limitation under Section 415(c)(1)(A) of the Internal Revenue Code of 1986 or one hundred forty percent (140%) of the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code of 1986, for

such limitation year and for all prior limitation years during which the member was employed by an eligible employer. At the option of the Board, the denominator may be increased by using for limitation years ending prior to January 1, 1983, an amount equal to the denominator in effect for the limitation year ending in 1982, multiplied by the transition fraction provided in Section 415(e)(6)(B) of the Internal Revenue Code of 1986.

D. The Board is hereby authorized to ~~make~~ revoke the special election previously made under Internal Revenue Code Section 415(b)(10). ~~If this~~ Under the special election ~~is made~~, the Section 415 limit for a member who joined the System prior to January 1, 1990 shall be the greater of: ~~(1) the~~

1. The applicable Code Section 415 limit~~,~~; or ~~(2) the~~

2. The member's benefit under the System without regard to any benefit increases pursuant to a System amendment adopted after October 14, 1987.

E. In the event that the special election is made, ~~subparagraph f of~~ paragraph ~~1~~ 6 of subsection B of this section shall read as follows: ~~f.~~ "6. The limitations specified in this section shall apply to a straight life annuity with no ancillary benefits and to an annuity that constitutes a qualified joint and survivor annuity, provided payment begins at the age at which the member could receive an unreduced primary insurance amount under the federal Social Security laws (i.e., "social security retirement age") determined by disregarding the age increase factor thereunder and as if early retirement were sixty-two (62). If payment is in a different form, the amount thereof shall be adjusted to be the actuarial equivalent of a single life annuity and the limitations shall be applied to such adjusted amount. Such adjustment shall be based on the actuarial tables adopted by the Board. If payment begins before the member's social security retirement age, the limitation in ~~subparagraph a~~ paragraph 1 of this ~~paragraph~~ subsection shall be reduced by applying a reduction factor consistent with social security reduction factors, as prescribed by the Secretary of the Treasury; provided, however, that in no event shall such amount be reduced below Fifty Thousand Dollars ($50,000.00), adjusted for increases in the cost of living, as prescribed by the Secretary of the Treasury, or his delegate. If payment begins after the participant's social security retirement age, the limitation in ~~subparagraph a~~ paragraph 1 of this ~~paragraph~~ subsection shall be the actuarial equivalent of such amount otherwise applicable at the member's social security retirement age, based on the actuarial tables adopted by the Board. The interest rate to be used in determining such actuarial equivalent amount shall be the rate specified in the actuarial tables adopted by the Board; however, the interest rate used in determining an actuarially equivalent single life amount shall not be less than five percent (5%) and the interest rate used in determining an actuarially equivalent post-social-security-retirement-age amount shall not be greater than five percent (5%)."

F. The Board is hereby authorized to do all acts and things necessary and proper to carry out the purpose of the System and to make the least costly amendments and changes, if any, as may be

necessary to qualify the System under the applicable sections of the Internal Revenue Code of 1986, as amended.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-305.1A of Title 47, unless there is created a duplication in numbering, reads as follows:

A. This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the System to the contrary that would otherwise limit a Distributee's election hereunder, a Distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

B. As used in this section:

1. "Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more, any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended; and the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

2. "Eligible Retirement Plan" means an individual retirement account described in Section 405(a) of the Internal Revenue Code of 1986, as amended, and individual retirement annuity described in Section 405(b) of the Internal Revenue Code of 1986, as amended, an annuity plan described in Section 403(a) of the Internal Revenue Code of 1986, as amended, or a qualified trust described in Section 401(a) of the Internal Revenue Code of 1986, as amended, that accepts the Distributee's Eligible Rollover Distribution. However, in the case of an Eligible Rollover Distribution to the surviving spouse, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity. An Eligible Retirement Plan does not include a Roth IRA under Section 408(a) of the Internal Revenue Code of 1986, as amended.

3. "Distributee" means an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code of 1986, as amended, are Distributees with regard to the interest of the spouse or the former spouse.

4. "Direct Rollover" means a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

C. At least thirty (30) days and not more than ninety (90) days before the date of distribution, the Distributee must be provided with a notice of rights which satisfies Code Section 402(f) as to rollover options and tax effects. Such distribution may commence less than thirty (30) days after the notice is given, provided that:

1. The Board clearly informs the Distributee that the Distributee has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution; and

2. The Distributee, after receiving the notice, affirmatively elects a distribution.

SECTION 26. AMENDATORY 47 O.S. 1991, Section 2-307, is amended to read as follows:

Section 2-307. (a) In the event a member of the System obtains a leave of absence, of not to exceed ninety (90) days at any one time, because of injury or illness or for any personal reason other than the acceptance of other employment, his membership in the System shall not terminate and the period of such leave shall be counted toward retirement for length of service if, during such leave of absence or at the end thereof, he shall pay to the Fund an amount equal to the contributions which would have been deducted from his salary during such period if such leave of absence had not been obtained, but if such contributions are not paid during such leave or made up within thirty (30) days after the end of such leave, or if such leave of absence extends for more than ninety (90) days at any one time, the period of such leave shall not be counted toward length of service for retirement nor in computing the amount of any pension or any retirement pay or any other benefits hereunder.

(b) In the event a member of the System obtains a leave of absence for the purpose of accepting other employment, or if a member resigns and during such resignation accepts other employment, his membership in the System shall terminate as of the date of the beginning of such leave. Provided, that if the membership of a member of the System shall have been terminated either by such leave of absence or by termination of employment, and such former member is reemployed, the Board, upon application therefor made in the same manner as an original application for membership in the System, may reinstate such membership. Such reinstated member shall be allowed full credit toward retirement for all service credit accrued up to the time of termination of membership if, but only if:

1. Such application for reinstatement is made within three (3) years from the date of such termination of such membership; and

2. Such reinstated member remains a member of the System for a period of five (5) consecutive years after reinstatement of membership; and

3. Such reinstated member reimburses the Fund, at the time application for reinstatement is made, with the amount of any portion of his membership contribution which has been refunded to him under the provisions of Section 2-308 of this title.

The provisions of this subsection shall not apply to absences caused by such military service as may be considered as service for retirement for length of service under the provisions of subsection (c) of this section.

(c) In determining the eligibility of a member for retirement based upon length of service, any service in the Armed Forces of the

United States or any component thereof between the 16th day of September, 1940, and the 30th day of June, 1954, and any service in the Armed Forces of the United States or any component thereof upon call of the President of the United States or of the Governor of the State of Oklahoma, together with such prior service, as would have been otherwise considered as service for retirement for length of service, shall be considered as service for length of service, provided that the member returns and files application for reinstatement as a member of the System within ninety (90) days after his release, or opportunity for release, from such Armed Forces or component thereof. If such member shall have been refunded any portion of his membership contributions as provided in Section 2-308 of this title, he shall be required to reimburse the Fund with the same amount at the time of his application for reinstatement in the System, before the reinstated member is given credit for accrued prior service. Provided, that in no event shall a member of the System who has entered such Armed Forces or component thereof prior to retirement be or become eligible for retirement for length of service unless he shall thereafter have been reinstated as a member of the System as provided for herein, and thereafter remained a member for at least one (1) year after such reinstatement.

(d) Time spent on involuntary furlough by members pursuant to the rules of the Office of Personnel Management shall be credited.

(e) Notwithstanding any provisions herein to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986, as amended.

SECTION 27. AMENDATORY 70 O.S. 1991, Section 17-109, as last amended by Section 8, Chapter 198, O.S.L. 1998 (70 O.S. Supp. 1998, Section 17-109), is amended to read as follows:

Section 17-109. A. Except as otherwise provided by this section, the right of a person to an annuity or a retirement allowance, to the return of contributions, annuity, or retirement allowance itself, any optional benefit, or any other right accrued or accruing to any person under the provisions of this act, and the monies in the various funds created by this act, are hereby exempt from levy and sale, garnishment, attachment or any other process whatsoever, and shall be unassignable except as in this act specifically provided. Notwithstanding the foregoing, the Board of Trustees may approve any offset of a member's benefit to pay a judgment or settlement against a member for a crime involving the System, for a breach of the member's fiduciary duty to the System, or for funds or monies incorrectly paid to a member or a beneficiary by mistake, provided such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986.

B. 1. The provisions of subsection A of this section shall not apply to a qualified domestic order as provided pursuant to this subsection.

2. The term "qualified domestic order" means an order issued by a district court of this state pursuant to the domestic relation laws of the State of Oklahoma which relates to the provision of marital property rights to a spouse or former spouse of a member or

provision of support for a minor child or children and which creates or recognizes the existence of the right of an alternate payee, or assigns to an alternate payee the right, to receive a portion of the benefits payable with respect to a member of the Retirement System.

3. For purposes of the payment of marital property, to qualify as an alternate payee, a spouse or former spouse must have been married to the related member for a period of not less than thirty (30) continuous months immediately preceding the commencement of the proceedings from which the qualified domestic order issues.

4. A qualified domestic order is valid and binding on the Board of Trustees and the related member only if it meets the requirements of this subsection.

5. A qualified domestic order shall clearly specify:

a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,

b. the amount or percentage of the member's benefits to be paid by the Retirement System to the alternate payee,

c. the number of payments or period to which such order applies,

d. the characterization of the benefit as to marital property rights or child support, and

e. each plan to which such order applies.

6. A qualified domestic order meets the requirements of this subsection only if such order:

a. does not require the Retirement System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the Retirement System,

b. does not require the Retirement System to provide increased benefits, and

c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the Retirement System as a valid order prior to the effective date of this act.

7. A qualified domestic order shall not require payment of benefits to an alternate payee prior to the actual retirement date or withdrawal of the related member.

8. The obligation of the Retirement System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member.

9. This subsection shall not be subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29

U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

10. The Board of Trustees of the Teachers' Retirement System of Oklahoma shall promulgate such rules as are necessary to implement the provisions of this subsection.

11. An alternate payee who has acquired beneficiary rights pursuant to a valid qualified domestic order must fully comply with all provisions of the rules promulgated by the Board of Trustees pursuant to this subsection in order to continue receiving his or her benefit.

SECTION 28. AMENDATORY 70 O.S. 1991, Section 17-116.2, as last amended by Section 27 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 17-116.2 A. 1. Beginning July 1, 1987, and prior to July 1, 1995, a member who retires on or after the member's normal retirement age or whose retirement is because of disability shall receive an annual allowance for life, payable monthly, in an amount equal to two percent (2%) of the member's highest three-year average salary upon which member contributions were made, multiplied by the number of the member's years of creditable service.

A classified member who retired prior to July 1, 1986, shall have his retirement allowance calculated on a minimum average salary of Eleven Thousand Five Hundred Dollars ($11,500.00) or on his current minimum average salary plus Two Thousand Dollars ($2,000.00), whichever is greater. Beginning July 1, 1994, a classified member who retired prior to July 1, 1993, shall have the member's retirement allowance calculated on the member's current minimum average salary plus Five Hundred Fifty Dollars ($550.00). An unclassified member who retired prior to July 1, 1986, shall have his retirement allowance calculated on a minimum average salary of Nine Thousand Five Hundred Dollars ($9,500.00) or on his current minimum average salary plus One Thousand Dollars ($1,000.00), whichever is greater. Beginning July 1, 1994, an unclassified member who retired prior to July 1, 1993, shall have the member's retirement allowance calculated on the member's current minimum average salary plus Two Hundred Seventy-five Dollars ($275.00). Those individuals receiving benefits pursuant to subsection (3) of Section 17-105 of this title whose benefits commenced prior to July 1, 1993, shall receive an increase in benefits of two and one-half percent (2 1/2%). No retirement benefit payments shall be made retroactively.

Except for those members retiring because of a disability, the retirement allowance shall be subject to adjustment for those members retiring before normal retirement age in accordance with the actuarial equivalent factors adopted by the Board of Trustees.

2. Beginning July 1, 1995, a member, who has no service performed on or after July 1, 1995, for an entity or institution within The Oklahoma State System of Higher Education, who retires on or after the member's normal retirement age or whose retirement is because of disability shall receive an annual allowance for life, payable monthly as follows:

a. if the member becomes a member after June 30, 1995, and was not eligible to become a member prior to July 1, 1995, in an amount equal to two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of creditable service, or

b. if the member became a member or is eligible to become a member prior to July 1, 1995, and elected to have a maximum compensation level in excess of Twenty-five Thousand Dollars ($25,000.00) pursuant to paragraph 1 of subsection C of this section or pursuant to subsection E of this section, or if the member's salary has never exceeded Twenty-five Thousand Dollars ($25,000.00) prior to July 1, 1995, in an amount equal to:

(1) two percent (2%) of the member's average salary upon which member contributions were made not to exceed Forty Thousand Dollars ($40,000.00), multiplied by the number of the member's years of credited service authorized and performed prior to July 1, 1995, plus any years of prior service authorized under this title, plus

(2) two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed after June 30, 1995, or

c. if the member became a member or is eligible to become a member prior to July 1, 1995, and was eligible to elect to have a maximum compensation level in excess of Twenty-five Thousand Dollars ($25,000.00) and did not elect or elected not to have a maximum compensation level of Forty Thousand Dollars ($40,000.00) pursuant to paragraph 1 of subsection C of this section or pursuant to subsection E of this section, in an amount equal to:

(1) two percent (2%) of the member's average salary upon which member contributions were made not to exceed Twenty-five Thousand Dollars ($25,000.00), multiplied by the number of the member's years of credited service authorized and performed prior to July 1, 1995, plus any years of prior service authorized under this title, plus

(2) two percent (2%) of the member's average salary upon which member contributions were made, multiplied by the number of the member's years of credited service authorized and performed after June 30, 1995.

B. Except as otherwise provided for in this section, the amount contributed by each member to the retirement system shall be:

1. Beginning July 1, 1992, through June 30, 1996, six percent (6%) of the regular annual compensation of such member not in excess of Twenty-five Thousand Dollars ($25,000.00) and beginning July 1,

1995, through June 30, 1996, six percent (6%) of the maximum compensation level; and

2. Beginning July 1, 1996, through June 30, 1997, six and one-half percent (6 1/2%) of the regular annual compensation of members, who are not employed by an entity or institution within The Oklahoma State System of Higher Education not in excess of Twenty-five Thousand Dollars ($25,000.00) and beginning July 1, 1996, through June 30, 1997, six and one-half percent (6 1/2%) of the regular annual compensation of members, who are employed by an entity or institution within The Oklahoma State System of Higher Education, not in excess of Twenty-five Thousand Dollars ($25,000.00);

3. Beginning July 1, 1997, seven percent (7%) of the regular annual compensation of the member not in excess of any applicable maximum compensation level of the member; and

4. All public schools in this state shall treat the employee contributions as being picked-up under the provisions of Section 414 (h) (2) of the Internal Revenue Code of 1986 in determining tax treatment.

C. 1. Prior to July 1, 1995, an active member of the System may elect to have a maximum compensation level of Forty Thousand Dollars ($40,000.00). Such an election shall be made in writing and filed with the System. Members whose salaries are in excess of Twenty-five Thousand Dollars ($25,000.00) on the effective date of this act shall file the election with the System prior to January 1, 1988. Members whose salaries exceed Twenty-five Thousand Dollars ($25,000.00) after the effective date of this act shall file the election when the salary exceeds Twenty-five Thousand Dollars ($25,000.00). If a member makes such an election, the member shall contribute the following amounts:

a. beginning July 1, 1992, through June 30, 1993, eleven percent (11%) of the regular annual compensation of such member that is in excess of Twenty-five Thousand Dollars ($25,000.00) and is not in excess of Forty Thousand Dollars ($40,000.00),

b. beginning July 1, 1993, through June 30, 1994, nine percent (9%) of the regular annual compensation of such member that is in excess of Twenty-five Thousand Dollars ($25,000.00) and is not in excess of Forty Thousand Dollars ($40,000.00), and

c. beginning July 1, 1994, through June 30, 1995, eight percent (8%) of the regular annual compensation of such member that is in excess of Twenty-five Thousand Dollars ($25,000.00) and is not in excess of Forty Thousand Dollars ($40,000.00). Except as provided in subsection E of this section, any such election shall be irrevocable.

2. After June 30, 1995, in addition to the amount contributed by each member to the retirement system pursuant to subsection B of this section, the total amount contributed by each member to the retirement system shall include, beginning July 1, 1995, through June 30, 1997, seven percent (7%) of the regular annual compensation of each member, who is not employed by an entity or institution

within The Oklahoma State System of Higher Education, that is in excess of Twenty-five Thousand Dollars ($25,000.00) and beginning July 1, 1996, through June 30, 1997, seven percent (7%) of the regular annual compensation of each member who is employed by an entity or institution within The Oklahoma State System of Higher Education in excess of Twenty-five Thousand Dollars ($25,000.00), but not in excess of any applicable maximum compensation level of the member.

D. For purposes of Section 17-101 et seq. of this title, regular annual compensation shall include:

1. Normal periodic payments of money for service the right to which accrues on a regular basis in proportion to the service performed, such periodic payments shall include payments for staff development or other periodic payments to qualifying employees of the employer;

2. Amounts that would otherwise qualify as salary under paragraph 1 of this subsection but are not received directly by the member pursuant to a good faith, voluntary written salary reduction agreement in order to finance payments to a deferred compensation or tax-sheltered annuity program or to finance benefit options under a cafeteria plan qualifying under the United States Internal Revenue Code, 26 U.S.C., Section 101 et seq.; and

3. Group health and disability insurance, group term life insurance, annuities and pension plans, provided on a periodic basis to all qualified employees of the employer, which qualify as fringe benefits under the United States Internal Revenue Code.

Excluded from regular annual compensation are expense payments, allowances, payment for unused vacation and sick leave, any payment made for reason of termination or retirement not specifically provided for in paragraphs 1 through 3 of this subsection, maintenance or other nonmonetary compensation, payment received as an independent contractor or consultant, pursuant to a lawful contract which complies with the requirements of subsection B of Section 6-101.2 of this title, any benefit payments not made pursuant to a valid employment agreement, or any compensation not described in paragraphs 1 through 3 of this subsection.

E. 1. Any member who was a contributing member of the Retirement System between July 1, 1987, and June 30, 1995, who at the time the member was eligible to make an election to increase the maximum compensation level of the member, failed to make an election or chose not to increase the maximum compensation level of the member to Forty Thousand Dollars ($40,000.00), may elect to make back contributions to the Retirement System. The member shall complete a new election form and file with the Board of Trustees, the form and a payment equaling the difference between the amount contributed at the twenty-five-thousand-dollar level and the appropriate contribution on compensation in excess of Twenty-five Thousand Dollars ($25,000.00) up to a maximum of Forty Thousand Dollars ($40,000.00) shall be made prior to the official retirement date of the member. The required payment shall include any contribution required by the employing school district, and shall include interest compounded annually at ten percent (10%) per annum of both employer and employee contributions.

2. Any changes made pursuant to this subsection shall be irrevocable.

F. 1. An individual who withdrew from the Teachers' Retirement System and whose salary was in excess of Seven Thousand Eight Hundred Dollars ($7,800.00) and had elected to contribute only on Seven Thousand Eight Hundred Dollars ($7,800.00) before his or her withdrawal shall contribute on the earning ceiling as provided for in this section on his or her reentry into membership in the Teachers' Retirement System.

2. An individual who elected to contribute on a maximum of Seven Thousand Eight Hundred Dollars ($7,800.00) per annum shall, beginning July 1, 1979, contribute on his or her earning ceiling as provided for in this section.

3. Any member who elected to contribute on Seven Thousand Eight Hundred Dollars ($7,800.00) prior to January 1, 1978, and whose salary was more than Seven Thousand Eight Hundred Dollars ($7,800.00) during the school years 1974-75 through 1978-79 may elect to make back contributions to the retirement system by paying the five percent (5%) contributions on the difference between Seven Thousand Eight Hundred Dollars ($7,800.00) and the actual salary of the member, not to exceed Ten Thousand Dollars ($10,000.00) for each applicable school year, plus interest compounded annually at ten percent (10%) per annum. Such payment shall be made prior to the official retirement date of the member.

G. Each employer shall cause to be deducted from the salary of each member on each and every payroll of such employer for each and every payroll period, the proper percentage of his or her earnable compensation as provided for in subsection B or subsection C of this section.

1. Deductions shall begin with the first payroll period of the school year. In determining the amount earnable by a member in a payroll period, the Board of Trustees shall consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth of one percent (1/10 of 1%) of the annual compensation upon the basis of which such deduction is to be made. Prior to January 1, 1991, any active contributing member who joined the System subsequent to July 1, 1943, may pay the normal cost, which shall mean the single sum which would have been paid under existing statutes at the time the service was performed, plus interest, for years of teaching service in Oklahoma from the date of establishment of the System in 1943 to date of membership, in a lump sum, or in installments equal to establishing one (1) year of creditable service. Effective January 1, 1991, any active contributing member who joined the System subsequent to July 1, 1943, may pay the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title for years of teaching service in Oklahoma from the date of establishment of the System in 1943 to date of membership, in a lump sum, or in installments equal to establishing one (1) year of creditable service. For purposes of this option, teaching service in Oklahoma shall include the teaching of vocational agricultural courses within Oklahoma for the federal

government. Years for which contributions are paid shall count as membership service under this plan. A member may receive credit for not more than five (5) years of teaching service rendered while in the Peace Corps or in the public schools of a territory of the United States or the public schools, American Military Dependent Schools or state colleges or state universities outside this state by paying his or her contributions, plus interest, and membership fees to the retirement system, subject to the regulations of the Board of Trustees, providing he or she is not receiving and is not eligible to receive retirement credit or benefits from said service in any other public retirement system of this state, or any other state or territory of the United States subject to the following provisions:

a. the member is required to have two (2) years of employed service teaching earned in Oklahoma for each year of Peace Corps, territorial, out-of-state, noncovered in-state or military membership credit granted.

b. prior to January 1, 1991, the out-of-state or noncovered in-state payment shall be the normal cost, which means the single sum which would have been paid under existing law at the time the service was performed, plus interest, on the basis of what his or her annual salary would have been in Oklahoma or out of state, whichever is greater, had he or she been employed as a teacher. Effective January 1, 1991, the Peace Corps, territorial, out-of-state or noncovered in-state payment shall be the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title.

2. In addition to the deductions hereinabove provided for, any member who becomes a member of the Armed Forces of the United States of America during any period of national emergency, including World War II, the Korean conflict, the Vietnam conflict or others as may be determined by the Board of Trustees, or whose entrance into or training for the teaching profession was interrupted by his or her entrance into the Armed Forces, and who was or shall have become a member of the Teachers' Retirement System shall be granted the privilege of making up his or her five percent (5%) contributions as provided for in this section until January 1, 1991, for not to exceed five (5) years of service in the Armed Forces by electing to pay said contributions on the basis of the rate of pay in his or her contract as a teacher at the time his or her service in the Armed Forces commenced or in the case of a teacher who was not teaching prior to entering the Armed Forces, on the basis of the salary of the first year of teaching after being honorably discharged from the Armed Forces. Effective January 1, 1991, the member will receive such service upon payment of the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title. Such contributions shall be credited in the regular manner, and the period for which said contributions were paid shall be counted as creditable years of service and allocated to the period during which the military service was rendered, except that the period for which contributions were paid must have been continuous and shall be credited in the aggregate, regardless of fiscal year limitations. Notwithstanding any provision herein to the contrary, contributions, benefits and service credit with respect to qualified military

service as defined by Section 414(u) of the Internal Revenue Code of 1986, shall be provided in accordance with Section 414(u) of the Internal Revenue Code.

3. Retirement benefits for all service credits purchased pursuant to this subsection shall be determined in accordance with the provisions of paragraph 2 of this subsection.

H. For those members who joined the System prior to July 1, 1992, the total creditable service of a member who retires or terminates employment and elects a vested benefit shall include not to exceed one hundred twenty (120) days of unused sick leave accumulated subsequent to August 1, 1959. Twenty (20) days of unused sick leave shall equal one (1) month for purposes of creditable service credit. If the member becomes a member or was eligible to become a member prior to July 1, 1995, the year of credit received in this section shall be treated as service earned prior to July 1, 1995. This paragraph shall apply to members retiring or vesting on or after the effective date of this act and shall not be retroactive.

I. Any member who shall be absent from the teaching service because of election to the State Legislature or appointment to the executive branch in an education-related capacity shall be allowed to retain his or her membership in the Teachers' Retirement System upon payment of the contribution required of other members and employers of said members as provided for in this section and his or her service credits shall continue to be accumulated during such absence, provided he or she is not receiving and is not eligible to receive retirement credits or benefits from said service beginning after July 1, 1992, in other public retirement systems.

J. Any member who shall be absent from the teaching service because of election or appointment as a local, state or national education association officer shall be allowed to retain his or her membership in the Teachers' Retirement System upon payment of the contribution required of other members and employers of said members as provided for in this section and his or her service credits shall continue to be accumulated during such absence. Provided, however, any one such absence shall not exceed eight (8) continuous years. No member who has less than ten (10) years of contributory service on July 1, 1994, may make this election after June 30, 1994. Members contributing to the System on July 1, 1994, may continue to contribute under this subsection until they have completed eight (8) years allowed by this subsection.

K. A member may receive credit for those years of service accumulated by the member while employed by an entity which is a participating employer in the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, or the Oklahoma Public Employees Retirement System, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. A member also may receive credit for those years of service with the Department of Wildlife Conservation or with an employer that is a participating employer within one of the state retirement systems specifically referred to in this section when at the time of such service by the member the employer was not such a participating employer, if the member is not

receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. To receive the service credit provided in this subsection, the member shall pay the amount determined by the Board of Trustees pursuant to Section 17-116.8 of this title. For purposes of this subsection, creditable service transferred from the Oklahoma Public Employees Retirement System shall include service authorized under paragraph (f) of subsection (2) of Section 913 of Title 74 of the Oklahoma Statutes as amended from time to time. Members who retire prior to July 1, 1993, shall have their monthly benefit adjusted to include all services accrued under paragraph (f) of subsection (2) of Section 913 of Title 74 of the Oklahoma Statutes. Provided however, any adjustment of existing retirement benefits caused by reason of inclusion of such service authorized under paragraph (f) of subsection (2) of Section 913 of Title 74 of the Oklahoma Statutes shall not affect any retirement benefit paid prior to July 1, 1993.

L. 1. An active member of the Teachers' Retirement System of Oklahoma may receive credit for those years of service accumulated by the member while a member of the Oklahoma Public Employees Retirement System if:

a. the member is an active member of the Teachers' Retirement System of Oklahoma, and

b. the member provides notice to the Oklahoma Public Employees Retirement System and the Teachers' Retirement System of Oklahoma of the member's election to transfer said service credit. The notice shall include a list of the years to be transferred, and

c. the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system, notwithstanding the years of service sought to be transferred under this subsection.

Members electing to take advantage of the transfer authorized by this subsection who are receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system shall have all service credit with the Oklahoma Public Employees Retirement System canceled which is not transferred to the Teachers' Retirement System of Oklahoma or used as a cash offset in such a transfer pursuant to subparagraph d of paragraph 2 of this subsection. Service credit transferred to the Teachers' Retirement System of Oklahoma under this subsection shall also be canceled with the Oklahoma Public Employees Retirement System.

2. For purposes of this subsection, the “sending system” shall mean the Oklahoma Public Employees Retirement System. The “receiving system” shall mean the Teachers' Retirement System of Oklahoma.

a. Within thirty (30) days notification of an intent to transfer is received by the sending system, the sending system shall, according to its own rules and regulations:
   (1) for members who have accrued at least eight (8) years of credited service with the sending system, determine the present value of the

member's earned benefits attributable to the years of service sought to be transferred, discounted according to the member's age at the time of transfer and computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation, but shall not make any projections regarding future salary. For employees who have accrued at least eight (8) years of credited service, the sending system shall use the product of this calculation for purposes of determining the transfer fee to be paid by the employee under subparagraph c of this paragraph so long as it is greater than the product of the calculation in division (2) of this subparagraph, and

(2) determine the sum of the employee and employer contributions applicable to the years of service sought to be transferred plus interest consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation. For all non-vested members, and for members who have accrued at least eight (8) years of credited service, if the product of this calculation is greater than the product of the calculation in division (1) of this subparagraph, the sending system shall use the product of this calculation for purposes of determining the amount to be transferred by the sending system under subparagraph c of this paragraph and any transfer fee to be paid by the member under subparagraph d of this paragraph.

b. Within thirty (30) days notification of an intent to transfer is received by the receiving system, the receiving system shall determine, according to the system's own rules and regulations, the present value of the member's incremental projected benefits discounted according to the member's age at the time of the transfer. Incremental projected benefits shall be the difference between the projected benefit said member would receive without transferring the service credit and the projected benefit after transfer of service credit computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest, salary projections and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

c. The sending system shall, within sixty (60) days from the date notification of an intent to transfer is received by the sending system, transfer to the receiving system the amount determined in subparagraph

a of this paragraph. Except if the cost as calculated under subparagraph a of this paragraph is greater than the actuarial value of the incremental benefit in the receiving system, as established in subparagraph b of this paragraph, the sending system shall send the receiving system an amount equal to the actuarial value of the incremental projected benefit in the receiving system.

d. In order to receive the credit provided for in paragraph 1 of this subsection, if the cost of the actuarial value of the incremental benefit to the receiving system is greater than the cost as calculated under subparagraph a of this paragraph for the same years of service to the sending system as established in subparagraphs a and b of this paragraph, the employee shall elect to:

(1) pay any difference to receive full credit for the years sought to be transferred, or

(2) receive prorated service credit for only the amount received from the Oklahoma Public Employees Retirement System pursuant to this subsection.

Such an election shall be made in writing, filed with the System prior to receiving the credit provided for in paragraph 1 of this subsection, and shall be irrevocable.

3. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the sending system shall pay the receiving system any amount due under this subsection. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the member shall pay the receiving system any amount due under this subsection. In the event that the member is unable to pay the transfer fee provided for in this subsection by the due date, the Board of Trustees of the receiving system shall permit the member to amortize the transfer fee over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the Board of Trustees permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance.

4. Years of service transferred pursuant to this subsection shall be used both in determining the member's retirement benefit and in determining the years of service for retirement and/or vesting purposes. Years of service rendered as a member of the Oklahoma Public Employees Retirement System prior to July 1, 1992,

if any, shall be deemed to be years of service rendered as a member of the Teachers' Retirement System of Oklahoma prior to July 1, 1992, and shall qualify such person as a member of the Teachers' Retirement System of Oklahoma before July 1, 1992.

5. Notwithstanding the requirements of subsection (5) of Section 917 of Title 74 of the Oklahoma Statutes, members electing to take advantage of the transfer authorized by this subsection who have withdrawn their contributions from the sending system shall remit to the sending system the amount of the accumulated contributions the member has withdrawn plus simple interest of ten percent (10%) per annum prior to making said election or the election shall be deemed invalid and the transfer shall be canceled. If such an election is deemed invalid and the transfer is canceled, the accumulated contribution remitted to the sending system by the member who originally withdrew their contributions shall be returned to the member. The member's rights and obligations regarding any service credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending system in accordance with Section 901 et seq. of Title 74 of the Oklahoma Statutes.

6. If any member fails for any reason to satisfy the requirements of this subsection, the election to transfer service credit shall be void and of no effect, and any service credited as a result of this transfer shall be canceled. If such service is canceled, the years of canceled service credit which were unsuccessfully transferred to the receiving system from the sending system shall be reestablished in the sending system. The member's rights and obligations regarding any service credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending system in accordance with Section 901 et seq. of Title 74 of the Oklahoma Statutes.

7. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

M. Any member whose regular annual compensation was not determined as provided for by law may pay the member contribution required pursuant to subsection B of this section on such amount not included in the member's regular annual compensation and receive credit for such amount in the calculation of the member's benefit. The employees must pay the employer contributions required pursuant to Section 17-108.1 of this title. Interest at the rate of ten percent (10%) per annum shall be charged to both employee and employer contributions.

N. Any active member who elected during the 1978-79 school year to pay the difference between five percent (5%) on actual salary not exceeding Ten Thousand Dollars ($10,000.00) and six percent (6%) on actual salary not exceeding Fifteen Thousand Dollars ($15,000.00) shall receive credit for one (1) year of credited service upon receipt and approval of a proper request by the Board of Trustees.

O. Effective July 1, 1988, any member who is employed by the Governor, the State Senate, the House of Representatives or the Legislative Service Bureau shall be allowed to elect to retain membership in the Retirement System upon payment of the accrued and current member contributions and employer contributions as provided

in subsection B of this section and Section 17-108.1 of this title. Such contributions may be paid on behalf of the member by the employing entity. Upon payment of such contributions, service credits shall continue to be accumulated during such employment. Accrued contributions shall be paid to the Retirement System by August 1, 1989. Current contributions shall be paid to the Retirement System by the tenth of the following month beginning with the month of July 1989.

P. Notwithstanding any requirements of this title to restrict the payment of service purchases, the Board of Trustees shall promulgate such rules as necessary to allow active members of the System to make installment payments for the redeposit of withdrawn accounts or other payments due under the provisions of this title. The rules shall permit the member to amortize the balance due over a period not to exceed sixty (60) months, and shall include interest consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation. Further, the rules shall provide that all payments must be completed prior to the effective retirement date of the member.

SECTION 29. AMENDATORY 74 O.S. 1991, Section 901, is amended to read as follows:

Section 901. A. The purpose of this act is to provide an orderly means whereby employees of the participating employers who qualify by reason of age, or condition, and service, as herein set forth, may be transferred to inactive service without prejudice and without inflicting undue hardship upon the employees transferred, and to enable such employees to accumulate deferred income reserves for themselves and their dependents to provide for old age, death, and inactive service, and for the purpose of effecting economy and efficiency in the administration of governmental affairs.

B. The System is established as a qualified governmental retirement plan under Sections 401(a) and 414(d) of the federal Internal Revenue Code. The Board shall administer the System in order to comply with the applicable provisions of the federal Internal Revenue Code.

SECTION 30. AMENDATORY 74 O.S. 1991, Section 902, as last amended by Section 39 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 902. As used in Section 901 et seq. of this title:

(1) "System" means the Oklahoma Public Employees Retirement System as established by this act and as it may hereafter be amended;

(2) "Accumulated contributions" means the sum of all contributions by a member to the System which shall be credited to the member's account;

(3) "Act" means Sections 901 to 932, inclusive, of this title;

(4) "Actuarial equivalent" means a deferred income benefit of equal value to the accumulated deposits or benefits when computed upon the basis of the actuarial tables in use by the System;

(5) "Actuarial tables" means the actuarial tables approved and in use by the Board at any given time;

(6) "Actuary" means the actuary or firm of actuaries employed by the Board at any given time;

(7) "Beneficiary" means any person named by a member to receive any benefits as provided for by Section 901 et seq. of this title. If there is no beneficiary living at time of member employee's death, the member's estate shall be the beneficiary;

(8) "Board" means the Oklahoma Public Employees Retirement System Board of Trustees;

(9) "Compensation" means all salary and wages, including amounts deferred under deferred compensation agreements entered into between a member and a participating employer, but exclusive of payment for overtime, payable to a member of the System for personal services performed for a participating employer, including maintenance, or any allowance in lieu thereof provided a member as a part of compensation but shall not include compensation or reimbursement for traveling, or moving expenses, or any compensation in excess of the maximum compensation level, provided:

(a) For compensation for service prior to January 1, 1988, the maximum compensation level shall be Twenty-five Thousand Dollars ($25,000.00) per annum.

For compensation for service on or after January 1, 1988, through June 30, 1994, the maximum compensation level shall be Forty Thousand Dollars ($40,000.00) per annum.

For compensation for service on or after July 1, 1994, through June 30, 1995, the maximum compensation level shall be Fifty Thousand Dollars ($50,000.00) per annum; for compensation for service on or after July 1, 1995, through June 30, 1996, the maximum compensation level shall be Sixty Thousand Dollars ($60,000.00) per annum; for compensation for service on or after July 1, 1996, through June 30, 1997, the maximum compensation level shall be Seventy Thousand Dollars ($70,000.00) per annum; and for compensation for service on or after July 1, 1997, through June 30, 1998, the maximum compensation level shall be Eighty Thousand Dollars ($80,000.00) per annum. For compensation for services on or after July 1, 1998, there shall be no maximum compensation level for retirement purposes.

(b) Compensation for retirement purposes shall include any amount of elective salary reduction under Section 457 of the Internal Revenue Code of 1986 and any amount of non-elective salary reduction under Section 414(h) of the Internal Revenue Code of 1986.

(c) Notwithstanding any provision to the contrary, the compensation taken into account for any employee in determining the contribution or benefit accruals for any plan year is limited to the annual compensation

limit under Section 401(a)(17) of the federal Internal Revenue Code;

(10) "Credited service" means the sum of participating service, prior service and elected service;

(11) "Dependent" means a parent, child, or spouse of a member who is dependent upon the member for at least one-half (1/2) of the member's support;

(12) "Effective date" means the date upon which the System becomes effective by operation of law;

(13) "Eligible employer" means the state and any county, county hospital, city or town, conservation districts, and any public or private trust in which a county, city or town participates and is the primary beneficiary is to be an eligible employer for the purpose of this act only, whose employees are covered by Social Security and are not covered by or eligible for another retirement plan authorized under the laws of this state which is in operation on the initial entry date. Emergency medical service districts may join the System upon proper application to the Board. Provided affiliation by a county hospital shall be in the form of a resolution adopted by the board of control.

(a) If a class or several classes of employees of any above-defined employers are covered by Social Security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of this state, which is in operation on the effective date, such employer shall be deemed an eligible employer, but only with respect to that class or those classes of employees as defined in this section.

(b) A class or several classes of employees who are covered by Social Security and are not covered by or eligible for and will not become eligible for another retirement plan authorized under the laws of this state, which is in operation on the effective date, and when the qualifications for employment in such class or classes are set by state law; and when such class or classes of employees are employed by a county or municipal government pursuant to such qualifications; and when the services provided by such employees are of such nature that they qualify for matching by or contributions from state or federal funds administered by an agency of state government which qualifies as a participating employer, then the agency of state government administering the state or federal funds shall be deemed an eligible employer, but only with respect to that class or those classes of employees as defined in this subsection; provided, that the required contributions to the retirement plan may be withheld from the contributions of state or federal funds administered by the state agency and transmitted to the System on the same basis as the employee and employer contributions are transmitted for the direct employees of the state agency. The retirement or eligibility for retirement under the

provisions of law providing pensions for service as a volunteer fire fighter shall not render any person ineligible for participation in the benefits provided for in Section 901 et seq. of this title. An employee of any public or private trust in which a county, city or town participates and is the primary beneficiary shall be deemed to be an eligible employee for the purpose of this act only;

(14) "Employee" means any officer or employee of a participating employer, whose employment is not seasonal or temporary and whose employment requires at least one thousand (1,000) hours of work per year and whose salary or wage is equal to the hourly rate of the monthly minimum wage for state employees. For those eligible employers outlined in Section 910 of this title, the rate shall be equal to the hourly rate of the monthly minimum wage for that employer. Each employer, whose minimum wage is less than the state's minimum wage, shall inform the System of the minimum wage for that employer. This notification shall be by resolution of the governing body.

(a) Any employee of the county extension agents who is not currently participating in the Teachers' Retirement System of Oklahoma shall be a member of this System.

(b) Eligibility shall not include any employee who is a contributing member of the United States Civil Service Retirement System.

(c) It shall be mandatory for an officer, appointee or employee of the office of district attorney to become a member of this System if he or she is not currently participating in a county retirement system. Provided further, that if an officer, appointee or employee of the office of district attorney is currently participating in such county retirement system, he or she is ineligible for this System as long as he or she is eligible for such county retirement system. Any eligible officer, appointee or employee of the office of district attorney shall be given credit for prior service as defined in this section. The provisions outlined in Section 917 of this title shall apply to those employees who have previously withdrawn their contributions.

(d) Eligibility shall also not include any officer or employee of the Oklahoma Employment Security Commission, except for those officers and employees of the Commission electing to transfer to this System pursuant to the provisions of Section 910.1 of this title or any other class of officers or employees specifically exempted by the laws of this state, unless there be a consolidation as provided by Section 912 of this title. Employees of the Oklahoma Employment Security Commission who are ineligible for enrollment in the Employment Security Commission Retirement Plan, that was in effect on January 1, 1964, shall become members of this System.

(e) Any employee employed by the Legislative Service Bureau, State Senate or House of Representatives for the full duration of a regular legislative session shall be eligible for membership in the System regardless of classification as a temporary employee and may participate in the System during the regular legislative session at the option of the employee. For purposes of this ~~paragraph~~ subparagraph, the determination of whether an employee is employed for the full duration of a regular legislative session shall be made by the Legislative Service Bureau if such employee is employed by the Legislative Service Bureau, the State Senate if such employee is employed by the State Senate, or by the House of Representatives if such employee is employed by the House of Representatives. Each regular legislative session during which the legislative employee or an employee of the Legislative Service Bureau participates full time shall be counted as six (6) months of full-time participating service.

(i) Except as otherwise provided by this ~~paragraph~~ subparagraph, once a temporary session employee makes a choice to participate or not, the choice shall be binding for all future legislative sessions during which the employee is employed.

(ii) Notwithstanding the provisions of ~~subparagraph~~ division (i) of this ~~paragraph~~ subparagraph, any employee, who is eligible for membership in the System because of the provisions of this ~~paragraph~~ subparagraph and who was employed by the State Senate or House of Representatives after January 1, 1989, may file an election, in a manner specified by the Board, to participate as a member of the System prior to September 1, 1989.

(iii) Notwithstanding the provisions of ~~subparagraph~~ division (i) of this ~~paragraph~~ subparagraph, a temporary legislative session employee who elected to become a member of the System may withdraw from the System effective the day said employee elected to participate in the System upon written request to the Board. Any such request must be received by the Board prior to October 1, 1990. All employee contributions made by the temporary legislative session employee shall be returned to the employee without interest within four (4) months of receipt of the written request;

(iv) A temporary legislative session employee who did not initially elect to participate as a member of the System pursuant to subparagraph (e) of this paragraph and who has not elected to participate as a member of the System pursuant to any other provision of this ~~paragraph~~ subparagraph shall be able to elect to become a member of the System and to acquire service performed as a temporary

legislative session employee for periods of service performed prior to the election if:

a. the employee files an election with the System not later than December 31, 1998, to become a member of the System and, subject to the requirements of this ~~subparagraph~~ division, to purchase the prior service; and

b. the employee makes payment to the System of the actuarial cost of the service credit pursuant to subsection A of Section 913.5 of this title. The provisions of Section 913.5 of this title shall be applicable to the purchase of the service credit, including the provisions for determining service credit in the event of incomplete payment due to cessation of payments, death, termination of employment or retirement, but the payment may extend for a period not to exceed ninety-six (96) months;

(15) "Entry date" means the date on which an eligible employer joins the System. The first entry date pursuant to Section 901 et seq. of this title shall be January 1, 1964;

(16) "Executive Director" means the managing officer of the System employed by the Board under Section 901 et seq. of this title;

(17) "Federal Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as amended and as applicable to a governmental plan as in effect on July 1, 1999;

(18) "Final average compensation" means the average annual salary, including amounts deferred under deferred compensation agreements entered into between a member and a participating employer, up to, but not exceeding the maximum compensation levels as provided in ~~subsection~~ paragraph (9) of this section received during the highest three (3) of the last ten (10) years of participating service immediately preceding retirement or termination of employment. Provided, no member shall retire with a final average compensation unless the member has made the required contributions on such compensation;

~~(18)~~ (19) "Fiscal year" means the period commencing July 1 of any year and ending June 30 of the next year. The fiscal year is the plan year for purposes of the federal Internal Revenue Code; however, the calendar year is the limitation year for purposes of Section 415 of the federal Internal Revenue Code;

~~(19)~~ (20) "Fund" means the Oklahoma Public Employees Retirement Fund as created by Section 901 et seq. of this title;

~~(20)~~ (21) "Leave of absence" means a period of absence from employment without pay, authorized and approved by the employer and acknowledged to the Board, and which after the effective date does not exceed two (2) years;

~~(21)~~ (22) "Member" means an eligible employee or elected official who is in the System and is making the required employee or elected official contributions, or any former employee or elected official who shall have made the required contributions to the System and shall have not received a refund or withdrawal;

~~(22)~~ (23) "Military service" means service in the Armed Forces of the United States in time of war or national emergency by honorably discharged, not to exceed five (5) years for combined participating and/or prior service, for persons who served as follows:

~~1.~~ (a) in the Armed Forces of the United States at any time during the period from April 6, 1917, to November 11, 1918, both dates inclusive,

~~2.~~ (b) in the Armed Forces of the United States as members of the 45th Division at any time during the period from September 16, 1940, to December 7, 1941, both dates inclusive,

~~3.~~ (c) in the Armed Forces of the United States at any time during the period from December 7, 1941, to December 31, 1946, both dates inclusive,

~~4.~~ (d) in the Armed Forces of the United States at any time during the period from June 27, 1950, to January 31, 1955, both dates inclusive,

~~5.~~ (e) for a period of ninety (90) days or more, unless discharged from active duty for a service-connected disability, in the Armed Forces of the United States during the period of time in which the United States participated in a war, campaign or battle, but excluding any person who shall have served on active duty for training only, unless discharged from active duty for service-connected disability,

~~6.~~ (f) in the Armed Forces of the United States at any time during the period which began on:

~~a.~~ (i) February 28, 1961, and ended on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period, and

~~b.~~ (ii) August 5, 1964, and ended on May 7, 1975, in all other cases,

except that such period shall be deemed to have ended on December 31, 1976, when determining eligibility for education and training benefits~~;~~, or

~~7.~~ (g) in the Armed Forces of the United States on or after August 1, 1990, and ended on December 31, 1991, excluding any person who shall have served on active duty for training only, unless discharged from active duty for service-connected disability~~,~~.

~~(b) an~~

An eligible member under this paragraph shall include only those persons who shall have served during the times or in the areas prescribed in this paragraph, and those persons who were awarded service medals, as authorized by the United States Department of Defense as reflected in the veteran's Defense Department Form 214, related to the Vietnam Conflict who served prior to August 5, 1964;

~~(23)~~ (24) "Normal retirement date" means the date on which a member may retire with full retirement benefits as provided in Section 901 et seq. of this title, such date being whichever occurs first:

(a) the first day of the month coinciding with or following a member's sixty-second birthday,

(b) for any person who initially became a member prior to July 1, 1992, the first day of the month coinciding with or following the date at which the sum of a member's age and number of years of credited service total eighty (80); such a normal retirement date will also apply to any person who became a member of the sending system as defined in Section 901 et seq. of this title, prior to July 1, 1992, regardless of whether there were breaks in service after July 1, 1992,

(c) for any person who became a member after June 30, 1992, the first day of the month coinciding with or following the date at which the sum of a member's age and number of years of credited service total ninety (90),

(d) in addition to subparagraphs (a), (b) and (c) of this paragraph, the first day of the month coinciding with or following a member's fiftieth birthday if the member has at least twenty (20) years of full-time-equivalent employment as a correctional or probation and parole officer with the Department of Corrections and at the time of retirement, the member was a correctional or probation and parole officer with the Department of Corrections, or

(e) for any member who was continuously employed by an entity or institution within The Oklahoma State System of Higher Education and whose initial employment with such entity or institution was prior to July 1, 1992, and who without a break in service of more than thirty (30) days became employed by an employer participating in the Oklahoma Public Employees Retirement System, the first day of the month coinciding with or following the date at which the sum of the member's age and number of years of credited service total eighty (80);

~~(24)~~ (25) "Participating employer" means an eligible employer who has agreed to make contributions to the System on behalf of its employees;

~~(25)~~ (26) "Participating service" means the period of employment after the entry date for which credit is granted a member;

~~(26)~~ (27) "Prior service" means the period of employment of a member by an eligible employer prior to the member's entry date for which credit is granted a member under Section 901 et seq. of this title;

~~(27)~~ (28) "Retirant" means a member who has retired under the System;

~~(28)~~ (29) "Retirement benefit" means a monthly income with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in which death occurs or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to Section 901 et seq. of this title or as otherwise allowed to be paid at the discretion of the Board;

~~(29)~~ (30) "Retirement coordinator" means the individual designated by each participating employer through whom System transactions and communication shall be directed;

~~(30)~~ (31) "Social Security" means the old-age survivors and disability section of the Federal Social Security Act;

~~(31)~~ (32) "Total disability" means a physical or mental disability accepted for disability benefits by the Federal Social Security System;

~~(32)~~ (33) "Service-connected disability benefits" means military service benefits which are for a service-connected disability rated at twenty percent (20%) or more by the Veterans Administration or the Armed Forces of the United States;

~~(33)~~ (34) "Elected official" means a person elected to a state office in the legislative or executive branch of state government or a person elected to a county office for a definite number of years and shall include an individual who is appointed to fill the unexpired term of an elected state official;

~~(34)~~ (35) "Elected service" means the period of service as an elected official; and

~~(35)~~ (36) "Limitation year" means the year used in applying the limitations of Section 415 of the Internal Revenue Code of 1986, which year shall be the calendar year.

SECTION 31. AMENDATORY 74 O.S. 1991, Section 909.1, as last amended by Section 7, Chapter 81, O.S.L. 1995 (74 O.S. Supp. 1998, Section 909.1), is amended to read as follows:

Section 909.1 A. The Oklahoma Public Employees Retirement System Board of Trustees shall discharge their duties with respect to the System solely in the interest of the participants and beneficiaries and:

1. For the exclusive purpose of:

a. providing benefits to participants and their beneficiaries, and

b. defraying reasonable expenses of administering the System;

2. With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

3. By diversifying the investments of the System so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

4. In accordance with the laws, documents and instruments governing the System.

B. The Board of Trustees may procure insurance indemnifying the members of the Board of Trustees from personal loss or accountability from liability resulting from a member's action or inaction as a member of the Board of Trustees.

C. The Board of Trustees may establish an investment committee. The investment committee shall be composed of not more than five (5) members of the Board of Trustees appointed by the chairman of the Board of Trustees. The committee shall make recommendations to the full Board of Trustees on all matters related to the choice of custodians and managers of the assets of the System, on the establishment of investment and fund management guidelines, and in planning future investment policy. The committee shall have no authority to act on behalf of the Board of Trustees in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the Board of Trustees nor take effect without the approval of the Board of Trustees as provided by law.

D. The Board of Trustees shall retain qualified investment managers to provide for the investment of the monies of the System. The investment managers shall be chosen by a solicitation of proposals on a competitive bid basis pursuant to standards set by the Board of Trustees. Subject to the overall investment guidelines set by the Board of Trustees, the investment managers shall have full discretion in the management of those monies of the System allocated to the investment managers. The Board of Trustees shall manage those monies not specifically allocated to the investment managers. The monies of the System allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization. Because of the total return objective, no distinction shall be made for management and performance evaluation purposes between realized and unrealized capital gains and losses.

E. Funds and revenues for investment by the investment managers or the Board of Trustees shall be placed with a custodian selected by the Board of Trustees. The custodian shall be a bank or trust company offering pension fund master trustee and master custodial services. The custodian shall be chosen by a solicitation of proposals on a competitive basis pursuant to standards set by the Board of Trustees. In compliance with the investment policy

guidelines of the Board of Trustees, the custodian bank or trust company shall be contractually responsible for ensuring that all monies of the System are invested in income-producing investment vehicles at all times. If a custodian bank or trust company has not received direction from the investment managers of the System as to the investment of the monies of the System in specific investment vehicles, the custodian bank or trust company shall be contractually responsible to the Board of Trustees for investing the monies in appropriately collateralized short-term interest-bearing investment vehicles.

F. By November 1, 1988, and prior to August 1 of each year thereafter, the Board of Trustees shall develop a written investment plan for the System.

G. The Board of Trustees shall compile a quarterly financial report of all the funds of the System on a fiscal year basis. The report shall be compiled pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall include several relevant measures of investment value, including acquisition cost and current fair market value with appropriate summaries of total holdings and returns. The report shall contain combined and individual rate of returns of the investment managers by category of investment, over periods of time. The Board of Trustees shall include in the quarterly reports all commissions, fees or payments for investment services performed on behalf of the Board. The report shall be distributed to the Governor, the Oklahoma State Pension Commission, the Legislative Service Bureau, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

H. After July 1 and before October 1 of each year, the Board of Trustees shall publish widely an annual report presented in simple and easily understood language pursuant to uniform reporting standards prescribed by the Oklahoma State Pension Commission for all state retirement systems. The report shall be submitted to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Oklahoma State Pension Commission and the members of the System. The annual report shall cover the operation of the System during the past fiscal year, including income, disbursements, and the financial condition of the System at the end of the fiscal year. The annual report shall also contain the information issued in the quarterly reports required pursuant to subsection G of this section as well as a summary of the results of the most recent actuarial valuation to include total assets, total liabilities, unfunded liability or over funded status, contributions and any other information deemed relevant by the Board of Trustees. The annual report shall be written in such a manner as to permit a readily understandable means for analyzing the financial condition and performance of the System for the fiscal year.

<u>I. The Board shall distribute the corpus and income of the System to the members and their beneficiaries in accordance with the System's laws and rules and regulations. At no time prior to the satisfaction of all liabilities with respect to members and their beneficiaries shall any part of the corpus and income be used for, or diverted to, purposes other than the exclusive benefit of the members and their beneficiaries.</u>

SECTION 32. AMENDATORY 74 O.S. 1991, Section 909.2, is amended to read as follows:

Section 909.2 A. A fiduciary with respect to the Oklahoma Public Employees Retirement System shall not cause the System to engage in a transaction if the fiduciary knows or should know that such transaction constitutes a direct or indirect:

1. Sale or exchange, or leasing of any property from the System to a party in interest for less than adequate consideration or from a party in interest to the System for more than adequate consideration;

2. Lending of money or other extension of credit from the System to a party in interest without the receipt of adequate security and a reasonable rate of interest, or from a party in interest to the System with provision of excessive security or an unreasonably high rate of interest;

3. Furnishing of goods, services or facilities from the System to a party in interest for less than adequate consideration, or from a party in interest to the System for more than adequate consideration; or

4. Transfer to, or use by or for the benefit of, a party in interest of any assets of the System for less than adequate consideration.

B. A fiduciary with respect to the Oklahoma Public Employees Retirement System shall not:

1. Deal with the assets of the System in the fiduciary's own interest or for the fiduciary's own account;

2. In the fiduciary's individual or any other capacity act in any transaction involving the System on behalf of a party whose interests are adverse to the interests of the System or the interests of its participants or beneficiaries; or

3. Receive any consideration for the fiduciary's own personal account from any party dealing with the System in connection with a transaction involving the assets of the System.

C. A fiduciary with respect to the Oklahoma Public Employees Retirement System may:

1. Invest all or part of the assets of the System in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan; or

2. Provide any ancillary service by a bank or similar financial institution supervised by the United States or a state, if such bank or other institution is a fiduciary of such plan.

D. A person or a financial institution is a fiduciary with respect to the Oklahoma Public Employees Retirement System to the extent that the person or the financial institution:

1. Exercises any discretionary authority or discretionary control respecting management of the Oklahoma Public Employees Retirement System or exercises any authority or control respecting management or disposition of the assets of the System;

2. Renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the System, or has any authority or responsibility to do so; or

3. Has any discretionary authority or discretionary responsibility in the administration of the System.

E. In addition to any other prohibitions contained in this section, the Board may not engage in a transaction prohibited by Section 503(b) of the federal Internal Revenue Code.

SECTION 33. AMENDATORY 74 O.S. 1991, Section 913, as last amended by Section 13, Chapter 419, O.S.L. 1998 (74 O.S. Supp. 1998, Section 913), is amended to read as follows:

Section 913. A. Prior service shall be credited as follows:

1. A member shall receive full credit for employment with any participating employer prior to the entry date of his or her employer whether or not continuous and whether or not he or she was employed with a participating employer on such entry date, provided that any member who has retired before the passage of Section 901 et seq. of ~~Title 74 of the Oklahoma Statutes~~ this title, shall not receive retirement benefits retroactively for such prior service. Provided, that at such time that an employer becomes a participating employer on or after January 1, 1965, and before January 1, 1975, each member and each retirant, upon making proper written application therefor, shall receive prior service credit for service with such employer in the same manner as if such participating employer had been a participating employer on the date first eligible to become a participating employer; and increased benefits attributable to such increased prior service credit shall commence with the next monthly benefit payment due following receipt and approval of such application by the Board of Trustees. No prior service shall be granted, however, for periods of service in which the employee made contributions which he or she subsequently withdrew, unless he or she has complied with the provisions of subsection (5) of Section 917 of this title. The burden of proof regarding prior service shall be with the member and shall be documented in such manner as the Board may direct;

2. Any member who was employed in an institution of higher learning by a State Board of Regents or who was employed by an Oklahoma school district prior to July 1, 1943, may receive prior service credit under this act for the period of time they were so employed;

3. Any member who served in the Armed Forces of the United States, as defined in paragraph ~~22~~ (23) of Section 902 of this title, prior to membership in the Oklahoma Public Employees Retirement System shall be granted prior service credit, not to exceed five (5) years, for those periods of active military service during which he or she was a war veteran. Such prior military service credit shall not apply to any person receiving military retirement benefits other than service-connected disability benefits

established by either the military service or the Veterans Administration;

4. An elective state, county, city or town official who is ineligible for membership as a result of any applicable state law or constitutional provision making him or her ineligible solely because of his or her being such an official at the time of his or her eligibility for membership at the time his or her employer becomes a participating employer shall nevertheless not forfeit the prior service credit to which he or she would be entitled except for such ineligibility, provided that he or she either:

a. becomes an employee of a participating employer within four (4) calendar months of the expiration of his or her term of office current at the time of his or her eligibility except for his or her being an elective state or county official, or

b. within a period of four (4) years after the expiration of his or her term of office current at the time of his or her eligibility except for his or her being an elective state or county official, is elected as a state or county official and thereupon becomes a member of the System, or

c. has completed ten (10) years of credited service as of the date of his or her eligibility for membership except for his or her being an elective state or county official;

5. Beginning July 1, 1965, all employees of the Department of Human Services shall participate in the Oklahoma Public Employees Retirement System to the same extent as other employees of participating employers in such System. Provided, that any employee performing teaching services in the Oklahoma School for the Deaf or the Oklahoma School for the Blind may elect to participate in the Teachers' Retirement System of Oklahoma in lieu of the Oklahoma Public Employees Retirement System; and any other employee at each such institution or any other institution under the jurisdiction of the Oklahoma Department of Human Services, participating in the Teachers' Retirement System of Oklahoma, may elect to continue to participate in such system in lieu of the Oklahoma Public Employees Retirement System. All employees who shall have participated in the Teachers' Retirement System of Oklahoma and not continuing therein shall have the right to withdraw their membership from the Teachers' Retirement System of Oklahoma on the same terms as other members withdrawing from such System before retirement. Provided, all persons employed at the Oklahoma School for the Blind and Oklahoma School for the Deaf on June 30, 1965, who became subject to the Oklahoma Public Employees Retirement System, on July 1, 1965, shall receive credit for prior service and be eligible for participation, regardless of age;

6. A member employed as a temporary employee by the Legislative Service Bureau or its predecessors, the State Senate or the House of Representatives for the full duration of a regular legislative session prior to the member's eligibility for membership in the System shall receive six (6) months of prior service credit for each such full regular legislative session if the employee is employed by the Legislative Service Bureau or its predecessors, the State Senate

or the House of Representatives as either a full-time or temporary employee for a minimum of six (6) full regular legislative sessions beginning January 1, 1983. For purposes of this subsection, the determination of whether an employee is employed for the full duration of a regular legislative session shall be made by the Legislative Service Bureau if such employee is employed by the Legislative Service Bureau, the State Senate if such employee is employed by the State Senate, or by the House of Representatives if such employee is employed by the House of Representatives;

7. A member of the System shall receive prior service credit for any years of service after January 1, 1975, the member had with a participating employer if the member is not receiving or eligible to receive such prior service credit for the same time in any other state or county retirement system authorized by law. To receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

8. Any member who is a state employee and receives temporary total disability benefits during the period of absence with a participating employer due to a work-related injury or illness incurred while engaged in a governmental function for said participating employer pursuant to the Workers' Compensation Act shall receive credit for participating service during said period of absence subject to the following requirements:

a. the member was employed by the participating employer immediately prior to and during the period of absence,

b. the member must notify the System in writing not later than four (4) months after the member's return to his or her job duties with the participating employer, or termination of employment with the participating employer, or termination of the temporary total disability benefits, whichever is earlier, of the member's desire to receive participating service credit for the period of absence,

c. the participating employer must certify to the System in writing the dates during which temporary total disability benefits payments were paid to the member, and

d. the member and the participating employer shall each pay their respective contributions required for the period of absence without interest within sixty (60) days of invoicing by the System, or with interest of seven and one-half percent (7 1/2%) compounded annually if paid after said sixty (60) days.

B. Participating service shall be credited as follows:

1. A member shall receive credit for participating service with a participating employer in accordance with the rules and regulations established by the Board; provided, however, that a member who is not a full-time employee shall receive prorated credit for actual hours worked;

2. Leaves of absence shall not count as a break in continuous employment provided the member leaves his or her accumulated

contribution on deposit with the fund; however, the leaves of absence shall not be credited except that involuntary furloughs established by Office of Personnel Management rules shall be credited;

3. Any member who has served in the Armed Forces of the United States, as defined in paragraph ~~22~~ (23) of Section 902 of this title, shall be granted participating service for those periods of active military service during which he or she was a war veteran provided this service is immediately preceded by a period of employment with a participating employer and is followed by return to employment as an employee with the same or another participating employer within ninety (90) days immediately following discharge from such military service provided the member leaves his or her accumulated contributions on deposit with the fund~~,~~; provided~~,~~ further, such military service credit shall not apply to any person receiving military retirement benefits other than service-connected disability benefits established by either the military service or the Veterans Administration;

4. A period of total disability under the System immediately followed by employment with a participating employer, shall not count as a break in continuous employment; provided, that such periods while not employed shall not be credited except that involuntary furloughs established by Office of Personnel Management Rule 6.13, shall be credited;

5. Termination of employment with a participating employer followed by employment with the same or another participating employer within four (4) calendar months shall not constitute a break in continuous employment; provided, that such period while not employed shall not be credited as participating service;

6. Provided, however, that all employee contributions required by this act made by employees prior to June 30, 1977, will entitle the employee to additional years of participating service in accordance with the following schedule.

Employee accumulated contributions:

More than $1.00 up to $500 = 1 year participating service

More than $500 up to $1,000 = 2 years participating service

More than $1,000 up to $1,500 = 3 years participating service

More than $1,500 up to $2,000 = 4 years participating service

More than $2,000 = 5 years participating service

In no event shall the employee be entitled to more than five (5) additional years of participating service as provided hereunder.

Provided further, that upon termination of employment prior to retirement, the accumulated contributions will be credited as above indicated to establish a vested benefit if so elected by any such employee; and

7. The total participating service credit of a member who retires or terminates employment and elects a vested benefit shall

include not to exceed one hundred thirty (130) days of unused sick leave accumulated subsequent to August 1, 1959, during the member's employment with any participating employer. Such credit shall be added in terms of whole months. Twenty (20) days of unused sick leave shall equal one (1) month for purposes of participating service credit. If unused sick leave entitles a member to an additional year of service credit, the member's employer shall reimburse the System for the cost of funding the additional reserve. Each participating employer shall provide the System with adequate and timely information necessary to determine additional benefits and its cost under this paragraph. This paragraph shall apply to members retiring or vesting on or after July 1, 1984.

C. In determining the number of years of credited service, a fractional year of six (6) months or more shall be considered as one (1) year, and less than six (6) months shall be disregarded.

D. A member may receive credit for those years of credited service accumulated by the member while a member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, or the Teachers' Retirement System of Oklahoma, if the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system. To receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

E. A member may receive credit for those years of service accumulated by the member as an elected official if the member is not receiving or eligible to receive retirement credit or benefits from said service in any public retirement system. Prior to January 1, 1991, to receive the service credit, the member shall pay to the Board for each year of service purchased pursuant to this subsection a sum equal to the employee and employer contribution rate that would have been applicable to the member as determined by the Board and interest of not to exceed five percent (5%), and effective January 1, 1991, to receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

F. Effective December 12, 1994, and thereafter, a leave of absence on account of a period of qualified military service in the uniformed services of the United States within the meaning of Section 414(u)(5) of the federal Internal Revenue Code, followed by a return to employment with the participating employer within ninety (90) days after completion of the period of service may be eligible for credited service under this System. Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be allowed in accordance with Section 414(u) of the federal Internal Revenue Code.

G. 1. An active member of the Oklahoma Public Employees Retirement System may receive credit for those years of service accumulated by the member while a member of the Teachers' Retirement System of Oklahoma if:

a. the member is an active member of the Oklahoma Public Employees Retirement System, and

b. the member provides notice to the Teachers' Retirement System of Oklahoma and the Oklahoma Public Employees Retirement System of the member's election to transfer said retirement credit. The notice shall include a list of the years to be transferred, and

c. the member is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system, notwithstanding the years of service sought to be transferred under this subsection.

Members electing to take advantage of the transfer authorized by this subsection who are receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system shall have all service credit with the Teachers' Retirement System of Oklahoma canceled which is not transferred to the Oklahoma Public Employees Retirement System or used as a cash offset in such a transfer pursuant to subparagraph d of paragraph 2 of this subsection. Service credit transferred to the Teachers' Retirement System of Oklahoma under this subsection shall also be canceled with the Oklahoma Public Employees Retirement System.

2. For purposes of this subsection, the "sending system" shall mean the Teachers' Retirement System of Oklahoma. The "receiving system" shall mean the Oklahoma Public Employees Retirement System.

a. Within thirty (30) days notification of an intent to transfer is received by the sending system, the sending system shall, according to its own rules and regulations:

(1) for members who have vested with the sending system, determine the present value of the member's earned benefits attributable to the years of service sought to be transferred, discounted according to the member's age at the time of transfer and computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation but shall not make any projections regarding future salary. For vested employees the sending system shall use the product of this calculation for purposes of determining the transfer fee to be paid by the employee under subparagraph c of this paragraph so long as it is greater than the product of the calculation in this division ~~(1) of this subparagraph~~, and

(2) determine the sum of the employee and employer contributions applicable to the years of service sought to be transferred plus interest consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation. For all ~~non-vested~~

nonvested members, and for vested members if the product of this calculation is greater than the product of the calculation in division (1) of this subparagraph, the sending system shall use the product of this calculation for purposes of determining the amount to be transferred by the sending system under subparagraph c of this paragraph and any transfer fee to be paid by the members under subparagraph d of this paragraph.

b. Within thirty (30) days notification of an intent to transfer is received by the receiving system, the receiving system shall determine, according to the system's own rules and regulations, the present value of the member's incremental projected benefits discounted according to the member's age at the time of the transfer. Incremental projected benefits shall be the difference between the projected benefit said member would receive without transferring the service credit and the projected benefit after transfer of service credit computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest, salary projections and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

c. The sending system shall, within sixty (60) days from the date notification of an intent to transfer is received by the sending system, transfer to the receiving system the amount determined in subparagraph a of this paragraph. Except, if the cost under subparagraph a of this paragraph for the same years of service to the sending system is greater than the actuarial value of the incremental benefit in the receiving system, as established in subparagraph b of this paragraph, the sending system shall send the receiving system an amount equal to the actuarial value of the incremental projected benefit in the receiving system.

d. In order to receive the credit provided for in paragraph 1 of this subsection, if the cost of the actuarial value of the incremental benefit to the receiving system is greater than the cost as calculated under subparagraph a of this paragraph for the same years of service to the sending system as established in subparagraphs a and b of this paragraph, the employee shall elect to:

(1) pay any difference to receive full credit for the years sought to be transferred, or

(2) receive prorated service credit for only the amount received from the Teachers' Retirement System of Oklahoma pursuant to this subsection.

Such an election shall be made in writing, filed with the System prior to receiving the credit provided for

in paragraph 1 of this subsection, and shall be irrevocable.

3. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the sending system shall pay the receiving system any amount due under this subsection. Within sixty (60) days of successfully completing all of the requirements for transfer under this subsection, the member shall pay the receiving system any amount due under this subsection. In the event that the member is unable to pay the transfer fee provided for in this subsection by the due date, the Board of Trustees of the receiving system shall permit the member to amortize the transfer fee over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the Board of Trustees permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance.

4. Years of service transferred pursuant to this subsection shall be used both in determining the member's retirement benefit and in determining the years of service for retirement and/or vesting purposes. Years of service rendered as a member of the Teachers' Retirement System of Oklahoma prior to July 1, 1992, if any, shall be deemed to be years of service rendered as a member of the Oklahoma Public Employees Retirement System prior to July 1, 1992, and shall qualify such person as a member of the Oklahoma Public Employees Retirement System before July 1, 1992.

5. Notwithstanding the requirements of Section 17-104 of Title 70 of the Oklahoma Statutes, members electing to take advantage of the transfer authorized by this subsection who have withdrawn their contributions from the sending system shall remit to the sending system the amount of the accumulated contributions the member has withdrawn plus simple interest of ten percent (10%) per annum prior to making said election or the election shall be deemed invalid and the transfer shall be canceled. If such an election is deemed invalid and the transfer is canceled, the accumulated contribution remitted to the sending system by the member who originally withdrew their contributions shall be returned to the member. The member's rights and obligations regarding any service credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending system in accordance with Section 17-101 et seq. of Title 70 of the Oklahoma Statutes.

6. If any member fails for any reason to satisfy the requirements of this subsection, the election to transfer retirement credit shall be void and of no effect, and any retirement credited as a result of this transfer shall be canceled. If such retirement credit is canceled, the years of canceled retirement credit which were unsuccessfully transferred to the receiving system from the

sending system shall be reestablished in the sending system. The member's rights and obligations regarding any retirement credit reestablished in the sending system due to a failure to satisfy the requirements of this subsection shall be determined by the sending in accordance with Section 17-101 et seq. of Title 70 of the Oklahoma Statutes.

7. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

SECTION 34. AMENDATORY Section 1, Chapter 285, O.S.L. 1997, as amended by Section 10, Chapter 256, O.S.L. 1998 (74 O.S. Supp. 1998, Section 913c), is amended to read as follows:

Section 913c. A. A member of the Oklahoma Public Employees Retirement System who has six (6) or more years of full-time-equivalent employment with a participating employer, and who is terminated by a state agency or other state governmental entity because the member's position is eliminated through a reduction-in-force after July 1, 1998, and:

1. Is within three (3) years of a normal retirement date as defined in ~~paragraph~~ subparagraph (a) of ~~subsection (23)~~ paragraph (24) of Section 902 of this title; or

2. Is within six (6) years of a normal retirement date as defined in ~~paragraph~~ subparagraph (b) of ~~subsection (23)~~ paragraph (24) of Section 902 of this title or in ~~paragraph~~ subparagraph (c) of ~~subsection (23)~~ paragraph (24) of Section 902 of this title,

may purchase termination credit of a period not to exceed the lesser of three (3) years or the number of years or months or both years and months required in order for the member to reach normal retirement date in the same period of time and with the same service credit which would have otherwise accrued if the termination had not occurred.

B. In order to receive the termination credit authorized by this section, the member shall be required to file an election with the System indicating an intent to purchase the credit. The member shall have a period of six (6) months from the date the member is terminated as described in subsection A of this section within which to file the election.

C. To purchase the termination credit, the member shall be required to make payment to the System of an amount equal to both the employer and employee contributions which would have been paid to the System based upon the compensation as defined in ~~subsection~~ paragraph (9) of Section 902 of this title, which was received by the member in the last full month that the member was employed by the state agency or other state governmental entity multiplied by the number of months required in order for the combination of the participating service and member's age to equal the amount required for the member to reach normal retirement date with an unreduced benefit as if the member had not been terminated.

D. The member must make full payment to the System of all required contribution amounts within sixty (60) days of filing the election to purchase the credit. The member must vest his or her benefits with a declared future retirement date as of the first

month the member is eligible for normal retirement. Failure to make the full payment to the System of the required contribution amounts, for any reason, within the time prescribed, shall result in cancellation of the election provided pursuant to this section, and return of the purchase amount tendered, without interest.

E. Purchased termination credit may only be used as service credit to qualify the member for normal retirement. Eligible members may purchase termination credit or the incentive credit authorized pursuant to Section 913b of this title, but may not purchase both termination credit and incentive credit. This purchase will not be used in the calculation for final average compensation.

F. If the member chooses to retire at any time prior to the member's normal retirement date or returns to employment with a participating employer of the System at any time prior to retirement, the purchase of termination credit pursuant to this section shall be void and the System will return the purchase amount tendered, without interest.

G. In the event of the death of the member prior to retirement, the member's spouse, if otherwise eligible for benefits pursuant to paragraph (5) of Section 918 of this title, may elect to receive benefits which include the termination credit on the member's declared future retirement date, or may elect to receive a return of the purchase amount tendered, without interest.

SECTION 35. AMENDATORY 74 O.S. 1991, Section 913.4, as last amended by Section 11, Chapter 317, O.S.L. 1998 (74 O.S. Supp. 1998, Section 913.4), is amended to read as follows:

Section 913.4 A. An elected official may elect to participate in the System and if he elects to do so shall have the option of contributing at any one of the below listed percentage factors and will receive retirement benefits in accordance with the percentage factor chosen. <u>The election on participation in the System must be in writing, must specify the percent of contributions chosen, and must be filed with the System within ninety (90) days after the elected official takes office. The election is irrevocable. Reelection to the same office will not permit a new election. Failure of an elected official to file such election form within the ninety-day period shall be deemed an irrevocable election to participate in the System at the maximum contribution percentage. Any currently serving elected official who has not previously elected to participate in the System on the effective date of this act, must make an election on participation in writing, specifying the contributions percent no later than December 1, 1999. Failure of a currently serving elected official to file such election form shall be deemed an irrevocable election to participate in the System at the maximum contribution percentage.</u> Contributions and benefits will be based upon his annual compensation as defined in Section 902 of this title. Employer and employee contributions shall be remitted monthly, or as the Board may otherwise provide, to the Executive Director for deposit in the Oklahoma Public Employees Retirement Fund. Effective July 1, 1994, and thereafter, the participating employer shall contribute as provided in Section 920 of this title.

Effective July 1, 1994, and thereafter, the member contributions and the computation factor selected shall be based on the entire compensation as an elected official subject to the definition and maximum compensation levels as set forth in ~~subsection~~ paragraph (9) of Section 902 of this title and shall be as follows:

Percent of Contribution	Computation Factor	Alternate Formula
4 1/2%	.019	$12.50
6%	.025	$20.00
7 1/2%	.030	$25.00
8 1/2%	.034	$27.50
9%	.036	$30.00
10%	.040	$40.00

B. The normal retirement date for an elected official shall be the first day of the month coinciding with or following the official's sixtieth birthday or the first day of the month coinciding with or following the date at which the sum of the elected official's age and number of years of credited service total eighty (80). Provided further, that any elective official who has a minimum of ten (10) years' participating service may retire under the early retirement provisions of this act, including those electing a vested benefit and shall receive an adjustment of annual benefits in accordance with the following percentage schedule:

Age	Percentage of Normal Retirement Benefits
60	100%
59	94%
58	88%
57	82%
56	76%
55	70%

C. Any elected official shall receive annual benefits computed based upon the computation factor selected multiplied by the member's highest annual compensation received as an elected official prior to retirement or termination of employment; provided, no elected official shall retire using such highest annual compensation unless the elected official has made the required election and has paid the required contributions on such salary, multiplied by the number of years of credited service, that has been credited to the member in accordance with the provisions of this section.

The retirement benefit may be computed pursuant to the provisions of Section 915 of this title if the benefit would be higher. Elected officials who have a vested benefit prior to July

1, 1980, may elect to receive annual benefits based on the alternate formula provided above. Such annual benefits shall be paid in equal monthly installments.

D. Any elected official making ~~one of the above elections~~ an election to participate at a contribution percent less than the maximum and later selecting a higher rate shall contribute to the System a sum equal to the amount which he would have contributed if he had made such election at the time he first became eligible, plus interest as determined by the Board, in order to receive the additional benefits for all service as an elected official; otherwise, the additional benefits shall be applicable only to service for which the elected official pays the appropriate percent of contributions to the System. Any elected official who did not elect to participate and later elects to participate prior to December 1, 1999, may receive credit for those years of service accumulated by the member as an elected official if the member is not receiving or eligible to receive retirement credit or benefits from said service in any public retirement system. To receive this service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

E. An elected official who has a vested benefit on July 1, 1982, may elect to receive benefits based upon a higher contribution rate than the official previously contributed by paying to the System the contributions, plus interest as determined by the Board, due at the higher rate as if that rate had been in effect at the time the official accepted a vested benefit.

F. The surviving spouse of a deceased elected official having at least six (6) years of participating service shall be entitled to receive survivor benefits in the amount herein prescribed, if married to the decedent continuously for a period of at least three (3) years immediately preceding the elected official's death. Provided the elected official had met the service requirements, survivor benefits shall be payable when the deceased member would have met the requirements for normal or early retirement. The amount of the benefits the surviving spouse may receive shall be fifty percent (50%) of the amount of benefits the deceased elected official was receiving or will be eligible to receive. Remarriage of a surviving spouse shall disqualify the spouse for the receipt of survivor benefits. Elected officials may elect a retirement option as provided in Section 918 of this title in lieu of the survivors benefit provided above.

G. Any elected official who served in the Armed Forces of the United States, as defined in paragraph ~~(22)~~ (23) of Section 902 of this title, prior to membership in the Oklahoma Public Employees Retirement System shall be granted credited service of not to exceed five (5) years for those periods of active military service during which the elected official was a war veteran.

H. Any one appointed or elected to an elected position after July 1, 1990, shall not be eligible to receive benefits as provided in this section until such person has participated as an elected official for six (6) years.

I. Elected officials who terminate participation in the System and who have a minimum of six (6) years of participating service shall be entitled to elect a vested benefit and shall be entitled to

the retirement options as provided in Section 918 of this title in lieu of the survivors benefit provided above.

SECTION 36. AMENDATORY 74 O.S. 1991, Section 913.5, as last amended by Section 4, Chapter 302, O.S.L. 1995 (74 O.S. Supp. 1998, Section 913.5), is amended to read as follows:

Section 913.5 A. The Board of Trustees shall adopt rules for computation of the purchase price for service credit. These rules shall base the purchase price for each year purchased on the actuarial cost of the incremental projected benefits to be purchased. The purchase price shall represent the present value of the incremental projected benefits discounted according to the member's age at the time of purchase. Incremental projected benefits shall be the difference between the projected benefit said member would receive without purchasing the service credit and the projected benefit after purchase of the service credit computed as of the earliest age at which the member would be able to retire. Said computation shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation.

B. In the event that the member is unable to pay the purchase price provided for in this section by the due date, the Board of Trustees shall permit the members to amortize the purchase price over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the State Board permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. Any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this section shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

C. Current contributing members who, as former members, withdrew their accumulated contributions, contributing elected members who at the time of initial eligibility to participate as a member of the System elected not to participate, and/or contributing elected members who at the time of eligibility to participate as a member of the System elected to participate but did not elect to participate at the maximum contribution rate may amortize the cost of returning the withdrawn contributions ~~or~~, unremitted contributions or required actuarial cost over a period of not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the Board of Trustees permits an alternate payment source. The amortization shall include interest in an amount not to exceed the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. Any member who ceases to make payments, terminates, retires or dies before completing the payments provided in this subsection shall be refunded all related payments made, and all related credited service and other related

benefits shall be canceled unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement. No retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this subsection.

SECTION 37. AMENDATORY 74 O.S. 1991, Section 914, as last amended by Section 2, Chapter 255, O.S.L. 1997 (74 O.S. Supp. 1998, Section 914), is amended to read as follows:

Section 914. ~~(1)~~ A. The normal retirement date for a member of the System shall be as defined in Section 902 of this title, provided members employed on or after January 1, 1983, shall have six (6) or more years of full-time-equivalent employment with a participating employer before receiving any retirement benefits or if the member is a legislative session employee of the Legislature, shall have three (3) or more years of full-time-equivalent employment with a participating employer before receiving any retirement benefits. In no event shall a normal retirement date for a member be before six (6) months after the entry date of the participating employer by whom he or she is employed.

B. A member may be employed beyond the normal retirement date by the appointing authority of the participating employer. However, the member may not receive retirement pay so long as he continues employment under this act. Any member who has terminated employment with a participating employer prior to the month immediately preceding said member's normal retirement date must elect a vested benefit pursuant to Section 917 of this title before receiving any retirement benefits.

~~(2)~~ C. Notice for retirement shall be filed through the retirement coordinator for the participating employer in such form and manner as the Board shall prescribe; provided, that such notice for retirement shall be filed with the office of the retirement system at least sixty (60) days prior to the date selected for the member's retirement; provided further, that the Board may waive the aforesaid sixty-day notice at its discretion.

~~(3)~~ D. No retirement benefits shall be payable to any member until the first day of the month following the termination of the member's employment with any participating employer. The type of retirement benefit selected by a member may not be changed on or after the effective date of the member's retirement. Receipt of workers' compensation benefits shall in no respect disqualify retirant for benefits.

~~(4)~~ E. If a retirant should be elected or appointed to any position or office for which compensation for service is paid from levies or taxes imposed by the state or any political subdivision thereof, the retirant shall not receive any retirement benefit for any month for which the retirant serves in such position or office after the retirant has received compensation in a sum equal to the amount allowable as wages or earnings by the Social Security Administration in any calendar year; provided, this subsection shall not apply to service rendered by a retirant as a juror, as a witness

in any legal proceeding or action, as an election board judge or clerk, or in any other office or position of a similar nature, or to an employer that is not a participating employer. Provided, further, that any participating employer who is employing such a retirant shall make proper written notification to the System informing it of the beginning date of such retirant's employment and the date such retirant reaches the maximum compensation allowed by this section in the calendar year; and provided, also, that any retirant returning to work for a participating employer shall make contributions to the System and the employer shall do likewise. ~~After reemployment for a minimum period of thirty-six (36) months of full-time-equivalent service, all~~ All retirants who have returned to employment and participation in the System following retirement shall have post-retirement benefits calculated on one of the following methods:

1. All service accumulated from date of reemployment shall be computed based on the benefit formula applicable at that time and the additional benefits shall be added to the previous benefits. ~~However, any~~ Such additional benefits shall be calculated each year based upon additional service accrued from July 1 to June 30 of the previous year and the additional benefit, if any, will be added to the retirant’s monthly benefit beginning January 1, 2000, and each January 1 thereafter; however, the post-retirement service credit shall be cumulative, beginning with service credit accrued after the date of retirement, provided that the retirant has not received a distribution of the post-retirement contributions.

2. Any retirant who returns to employment with a participating employer may elect not to receive any retirement benefits while so reemployed. If such an election is made and reemployment is for a minimum period of thirty-six (36) consecutive months, all service accumulated from date of reemployment shall be participating service. For purposes of determining the retirement benefits of such a member upon the termination of such reemployment all creditable service of the member shall be computed based on the benefit formula applicable at the time of termination of such reemployment. Provided, a retirant who became reemployed prior to July 1, 1982, and who is reemployed for a minimum of thirty-six (36) consecutive months shall have all the creditable service of such retirant computed based on the benefit formula applicable at the time of termination of such reemployment if the retirant elects not to receive retirement benefits prior to such termination of reemployment. A retirant who has waived receipt of the monthly benefit, but is not reemployed for the full thirty-six (36) consecutive months, shall upon termination of such reemployment have only the additional amount added to his or her benefit as if they had not waived the benefit as provided in paragraph 1 of this subsection.

3. All post-retirement additional benefits shall be calculated using actual hours worked as well as the actual compensation received and upon which contributions are paid. Post-retirement service is not subject to the partial year round-up provisions of subsection C of Section 913 of this title.

~~(5) All reemployed retirants, pursuant to subsection (4) of this section, who terminate employment on or after July 1, 1994, who terminate employment prior to working thirty-six (36) months, shall be entitled to receive their employee contributions contributed~~

~~during their reemployment as established by the Board. The provisions of this subsection shall not be considered a withdrawal of contributions for purposes of subsection (5) of Section 917 of this title.~~

~~(6)~~ F. Any member may elect to retire before his or her normal retirement date on the first day of any month coinciding with or following the attainment of age fifty-five (55), provided such member has completed ten (10) years of participating service, but in no event before six (6) months after the entry date. Any member who shall retire before the normal retirement date shall receive an annual retirement benefit adjusted in accordance with the following percentage schedule:

Age	Percentage of Normal Retirement Benefit
62	100.00%
61	93.33%
60	86.67%
59	80.00%
58	73.33%
57	66.67%
56	63.33%
55	60.00%

SECTION 38. AMENDATORY 74 O.S. 1991, Section 915, as last amended by Section 40 of Enrolled House Bill No. 1845 of the 1st Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 915. A. (1) Except as provided in paragraph (2) of this subsection and as provided for elected officials in Section 913.4 of this title, any member who shall retire on or after his normal retirement date shall be entitled to receive an annual retirement benefit equal to two percent (2%) of the member's final average compensation as determined pursuant to ~~subsection (17)~~ paragraph (18) of Section 902 of this title, multiplied by the number of years of credited service that has been credited to the member in accordance with the provisions of Section 913 of this title, and provided, the minimum final average compensation for any person who becomes a member of the System on or after July 1, 1995:

a. and who had twenty (20) or more years of credited service within the System as of the member's retirement date shall be no less than Thirteen Thousand Eight Hundred Dollars ($13,800.00) per annum,

b. and who had at least fifteen (15) but not more than nineteen (19) years of credited service within the System as of the member's retirement date shall be no less than Six Thousand Nine Hundred Dollars ($6,900.00) per annum,

c. and who had less than fifteen (15) years of credited service within the System as of the member's retirement date shall not be eligible for any minimum amount of final average compensation and the member's final average compensation shall be the final average compensation as defined by ~~subsection (17)~~ paragraph (18) of Section 902 of this title,

Provided, further, any member who has elected a vested benefit pursuant to Section 917 of this title shall be entitled to receive benefits as outlined in this section except the percent factor and the member's maximum compensation level in effect the date his employment was terminated with a participating employer shall be applicable.

(2) Any member who is a correctional officer or a probation and parole officer employed by the Department of Corrections at the time of retirement shall be entitled to receive an annual retirement benefit equal to two and one-half percent (2 1/2%) of the final average compensation of the member not to exceed Twenty-five Thousand Dollars ($25,000.00) and two percent (2%) of the final average salary in excess of Twenty-five Thousand Dollars ($25,000.00) but not exceeding the maximum compensation level as provided in ~~subsection~~ paragraph (9) of Section 902 of this title, multiplied by the number of years of service as a correctional officer or a probation and parole officer, provided, any years accrued prior to July 1, 1990, as a correctional officer or a probation and parole officer by a member who is employed as a correctional officer or a probation and parole officer on July 1, 1990, shall be calculated for retirement purposes at two and one-quarter percent (2 1/4%) of the final average compensation of the member not to exceed Twenty-five Thousand Dollars ($25,000.00) and two percent (2%) of the final average salary in excess of Twenty-five Thousand Dollars ($25,000.00) but not exceeding the maximum compensation level as provided in ~~subsection~~ paragraph (9) of Section 902 of this title, multiplied by the number of years of such service and any years in excess of twenty (20) years as such an officer or years credited to the member in accordance with the provisions of Section 913 of this title shall be calculated for retirement purposes at two percent (2%) of the final average compensation of the member multiplied by the number of years of such service. Any person who contributes to the System as a correctional officer or a probation and parole officer as provided in paragraph (c) of subsection (1) of Section 919.1 of this title, and who does not qualify for normal retirement under subparagraph (c) of paragraph ~~(23)~~ (24) of Section 902 of this title shall have retirement benefits for each year of full-time-equivalent participating service as a correctional or a probation and parole officer after July 1, 1990 computed on two and one-half percent (2 1/2%) of the final average compensation based upon those years as a correctional officer or a probation and parole officer.

(3) Upon death of a retirant, there shall be paid to his beneficiary an amount equal to the excess, if any, of his accumulated contributions over the sum of all retirement benefit payments made.

(4) Such annual retirement benefits shall be paid in equal monthly installments, except that the Board may provide for the payment of retirement benefits which total less than Two Hundred Forty Dollars ($240.00) a year on other than a monthly basis.

(5) Pursuant to the rules established by the Board, a retiree receiving monthly benefits from the System may authorize warrant deductions for any products currently offered to active state employees through the Employees Benefits Council, provided that product is offered to state retirees as a group and has a minimum participation of five hundred state retirees. The System has no responsibility for the marketing, enrolling or administration of such products, but shall retain a processing fee of two percent (2%) of the gross deductions for the products. Retirement benefit deductions shall be made for membership dues for any statewide association for which payroll deductions are authorized pursuant to subsection B of Section 7.10 of Title 62 of the Oklahoma Statutes for retired members of any state-supported retirement system, upon proper authorization given by the member to the board from which the member or beneficiary is currently receiving retirement benefits.

B. A member shall be considered disabled if such member qualifies for the payment of Social Security disability benefits, or the payment of benefits pursuant to the Railroad Retirement Act of 1974, Section 231 et seq. of Title 45 of the United States Code, and shall be eligible for benefits hereunder upon proof of such disability, provided such member is an active regularly scheduled employee with a participating employer at the time of injury or inception of illness or disease resulting in subsequent certification of eligibility for Social Security disability benefits by reason of such injury, illness or disease, providing such disability is certified by the Social Security Administration within one (1) year after the last date physically on the job and after completion of at least eight (8) years of participating service or combined prior and participating service or resulting in subsequent certification of eligibility of disability by the Railroad Retirement Board providing such certification is made by the Railroad Retirement Board within one (1) year after the last date physically on the job and after completion of at least eight (8) years of participating service or combined prior and participating service. The member shall submit to the Retirement System the Social Security Award Notice or the Railroad Retirement Award Notice certifying the date of entitlement for disability benefits, as issued by the Social Security Administration, Department of Health and Human Services or the Railroad Retirement Board. Disability benefits shall become effective on the date of entitlement as established by the Social Security Administration or the Railroad Retirement Board, but not before the first day of the month following removal from the payroll, whichever is later, and final approval by the Retirement System. Benefits shall be based upon length of service and compensation as of the date of disability, without actuarial reduction because of commencement prior to the normal retirement date. The only optional form of benefit payment available for disability benefits is Option A as provided for in Section 918 of this title. Option A must be elected in accordance with the provisions of Section 918 of this title. Benefit payments shall cease upon the member's recovery from disability prior to the normal retirement date. Future benefits, if any, shall be paid based upon length of service and compensation as of the date of disability. In the event that disability ceases and the member returns to employment within the System credited service to the date of disability shall be restored, and future benefits shall be determined accordingly.

C. Any actively participating member of the System on or after July 1, 1998, except for those employees provided in subparagraph (e) of ~~subsection~~ paragraph (14) of Section 902 of this title, whose employment is less than full-time, shall have his or her final average compensation calculated on an annualized basis using his or her hourly wage subject to the maximum compensation limits; provided, however, any such member who has at least three (3) years of full-time employment during the last ten (10) years immediately preceding termination or retirement shall not be eligible for the annualization provisions contained herein. The Board of Trustees shall promulgate such administrative rules as are necessary to implement the provisions of this subsection.

SECTION 39. AMENDATORY 74 O.S. 1991, Section 915.1, is amended to read as follows:

Section 915.1 A. ~~Notwithstanding any other law to the contrary, for all members of the Oklahoma Public Employees Retirement System who join the System on or after January 1, 1990, the benefits~~ Benefits payable ~~to that member shall be subject to the limitations set forth in~~ from the System may not exceed the maximum benefits specified by Section 415(b) of the federal Internal Revenue Code.

B. ~~Notwithstanding any other law to the contrary, for all members of the Oklahoma Public Employees Retirement System who joined prior to January 1, 1990, the benefits payable shall be subject to the greater of the following limitations as provided in paragraph 10 of subdivision (b) of~~ Subject to approval by the Internal Revenue Service, the Board may establish and maintain a qualified governmental excess benefit arrangement under Section 415(m) of the federal Internal Revenue Code. The Board may establish by rule the necessary and appropriate procedures for the administration of such benefit arrangement under the federal Internal Revenue Code. If the amount of any annual benefit would exceed the limitations imposed by Section 415 of the federal Internal Revenue Code, that excess amount may be paid from this benefit arrangement. The amount of any contribution that would exceed the limitations imposed by Section 415 of the federal Internal Revenue Code would be credited to this benefit arrangement. If established, the qualified excess benefit arrangement must be a separate portion of the retirement plan. The qualified excess benefit arrangement is subject to the following requirements:

1. The ~~limitations set forth in~~ benefit arrangement shall be maintained solely for the purpose of providing to members in the retirement plan that part of the member's annual benefit otherwise payable under the terms of the act that exceed the limitation on benefits imposed by Section 415 of the federal Internal Revenue Code; ~~or~~ and

2. ~~The accrued benefit of the member without regard to any benefit increases due to plan amendments adopted after October 14, 1987~~ Members do not have an election, directly or indirectly, to defer compensation to the excess benefit arrangement.

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 915.2 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Subject to the provisions of this section, employee contributions made to the System shall not exceed the maximum annual additions permissible under Section 415 of the federal Internal Revenue Code. Notwithstanding any other provisions of law to the contrary, the Board may modify a request by a member to make a contribution to the System if the amount of the contribution would exceed the limits under Section 415(c) or Section 415(n) of the federal Internal Revenue Code subject to the following:

1. Where the System's law requires a lump-sum payment, for the purchase of service credit, the Board may establish a periodic payment plan in order to avoid a contribution in excess of the limits under Section 415(c) or Section 415(n) of the federal Internal Revenue Code. The Board may by rule adopt a procedure for the pick-up of contributions for the purchase of service. However, the implementation of the pick-up is subject to a favorable ruling by the Internal Revenue Service; and

2. An eligible member in the System, as defined by Section 1526 of the federal Taxpayer Relief Act of 1997, may purchase service credit without regard to the limitations of Section 415(c)(1) of the federal Internal Revenue Code as provided by state law in effect on August 5, 1997.

B. Notwithstanding any other provision of law to the contrary, the Board may by rule permit the System to accept rollovers for the purchase of service.

C. If the Board's options under subsection A or B of this section will not avoid a contribution in excess of the limits under Section 415(c) or Section 415(n) of the federal Internal Revenue Code, the Board shall reduce or deny the contributions.

SECTION 41. AMENDATORY 74 O.S. 1991, Section 918, as last amended by Section 1, Chapter 216, O.S.L. 1997 (74 O.S. Supp. 1998, Section 918), is amended to read as follows:

Section 918. (1) Except as otherwise provided for in this section <u>and Section 42 of this act</u>, a member may elect to have the retirement benefit paid under one of the options provided in this section in lieu of having it paid in the form stated in Section 915 of this title. The election of an option must be made at any time prior to retirement or prior to termination of service with a vested benefit. A specific person must be designated as joint annuitant at the time of election of Option A or B. Election of an option is available with respect to the vested benefit. All retirement benefits of a married member shall be paid pursuant to the Option A plan as provided for in this section unless the spouse of a member consents in writing for the benefits to be paid as provided for in Section 915 of this title or pursuant to Option B or Option C as provided for in this section.

(2) The amount of retirement benefit payable under an option shall be based on the age and sex of the member and the age and sex of the joint annuitant, and shall be such amount as to be the actuarial equivalent of the retirement benefit otherwise payable under Section 915 of this title.

(3) The retirement options are:

Option A. Joint and one-half to joint annuitant survivor. A reduced retirement benefit is payable to the retirant during his or her lifetime with one-half of that amount continued to the joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. If the named joint annuitant dies at any time after the member's retirement date, but before the death of the retirant, the retirant shall return to the retirement benefit, including any post retirement benefit increases the member would have received had the member not selected Option A. The benefit shall be determined at the date of death of the named joint annuitant or July 1, 1994, whichever is later. This increase shall become effective the first day of the month following the date of death of the named joint annuitant or July 1, 1994, whichever is later, and shall be payable for the retirant's remaining lifetime. The retirant shall notify the Oklahoma Public Employees Retirement System of the death of the named joint annuitant in writing. In the absence of the written notice being filed by the member notifying the Oklahoma Public Employees Retirement System of the death of the named joint annuitant within six (6) months of the date of death, nothing in this subsection shall require the Oklahoma Public Employees Retirement System to pay more than six (6) months of retrospective benefits increase.

Option B. Joint and survivor. A reduced retirement benefit is payable to the retirant during his or her lifetime with that amount continued to the joint annuitant during the joint annuitant's remaining lifetime, if any, after the death of the retirant. If the named joint annuitant dies at any time after the member's retirement date, but before the death of the retirant, the retirant shall return to the retirement benefit, including any post retirement benefit increases the member would have received had the member not selected Option B. The benefit shall be determined at the date of death of the named joint annuitant or July 1, 1994, whichever is later. This increase shall become effective the first day of the month following the date of death of the named joint annuitant or July 1, 1994, whichever is later, and shall be payable for the retirant's remaining lifetime. The retirant shall notify the Oklahoma Public Employees Retirement System of the death of the named joint annuitant in writing. In the absence of such written notice being filed by the member notifying the Oklahoma Public Employees Retirement System of the death of the named joint annuitant within six (6) months of the date of death, nothing in this subsection shall require the Oklahoma Public Employees Retirement System to pay more than six (6) months of retrospective benefits increase.

Option C. Life with ten (10) years certain. A reduced retirement benefit is payable to the retirant during his or her lifetime and if the retirant dies within the ten-year certain period, measured from the commencement of retirement benefits payments, such payments will be continued to the beneficiary during the balance of the ten-year certain period.

(4) ~~Provided that Option A and Option B shall not be available if the retirant's expected benefit is less than fifty percent (50%) of the lump-sum actuarial equivalent and the~~ If the selection of a joint annuitant ~~is not the spouse of the retirant~~ would violate the distribution requirements contained in Section 42 of this act, such selection will not be permitted.

(5) If a member who is eligible to retire in accordance with the provisions of Section 914 of this title but is not actually retired or is eligible to vest or has elected a vested benefit dies, the member's spouse, if the spouse is beneficiary for the member's accumulated contributions, may elect to receive benefits as a joint annuitant under Option B calculated as if the member retired on the date of death, in lieu of receiving the member's accumulated contributions. However, no benefits shall be payable before the date the deceased member would have met the requirements for a normal or early retirement. Provided further, that if an active member has elected an option under this section prior to the member's death, the member's spouse, if the spouse is the member's beneficiary, may elect to receive benefits as a joint annuitant under the elected option.

(6) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of Option A and Option B, shall end on the last day of the month in which the joint annuitant dies.

SECTION 42. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 918.1 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. All benefits paid from the System shall be distributed in accordance with the requirements of Section 401(a)(9) of the federal Internal Revenue Code and the regulations under that section. In order to meet these requirements, the System shall be administered in accordance with the following provisions:

1. Distributions of a member’s benefit must begin by the later of the April 1 following the calendar year in which a member attains age seventy and one-half (70 1/2) or the April 1 of the year following the calendar year in which the member retires;

2. The life expectancy of a member or a member’s spouse may not be recalculated after the benefits commence;

3. If a member dies before the distribution of the member’s benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died; and

4. The amount of benefits payable to a member’s joint annuitant or beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the federal Internal Revenue Code.

B. Distributions from the System may be made only upon retirement, separation from service, disability or death.

SECTION 43. AMENDATORY 74 O.S. 1991, Section 920, as last amended by Section 37, Chapter 1, O.S.L. 1995 (74 O.S. Supp. 1998, Section 920), is amended to read as follows:

Section 920. (1) Effective July 1, 1994, every state agency which is a participating employer shall contribute to the System an amount equal to eleven and one-half percent (11 1/2%) of the monthly compensation of each member, but not in excess of Forty Thousand Dollars ($40,000.00).

(2) Effective July 1, 1995, every state agency which is a participating employer shall contribute to the System an amount equal to eleven and one-half percent (11 1/2%) of the monthly compensation of each member, not to exceed the allowable annual compensation as defined in ~~subsection~~ paragraph (9) of Section 902 of this title.

(3) Effective July 1, 1996, every state agency which is a participating employer shall contribute to the System an amount equal to twelve percent (12%) of the monthly compensation of each member, not to exceed the allowable annual compensation defined in ~~subsection~~ paragraph (9) of Section 902 of this title.

(4) Effective July 1, 1997, and thereafter, every state agency which is a participating employer shall contribute to the System an amount equal to twelve and one-half percent (12 1/2%) of the monthly compensation of each member, not to exceed the allowable annual compensation defined in ~~subsection~~ paragraph (9) of Section 902 of this title.

(5) The Board shall certify, on or before July 15 of each year, to the Office of State Finance in the case of the state and to the retirement coordinator for each participating employer an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the System, to be paid by each such participating employer to pay all liabilities which shall exist or accrue under the System, including amortization of the past service cost over a period of not to exceed forty (40) years from June 30, 1987, and the cost of administration of the System, as determined by the Board, upon recommendation of the actuary.

(6) The Office of State Finance and the Governor shall include in the budget and in the budget request for appropriations the sum required to satisfy the state's obligation under this section as certified by the Board and shall present the same to the Legislature for allowance and appropriation.

(7) Each other participating employer shall appropriate and pay to the System a sum sufficient to satisfy the obligation under this section as certified by the Board.

(8) Each participating employer is hereby authorized to pay the employer's contribution from the same fund that the compensation for which said contribution is paid from or from any other funds available to it for such purpose.

(9) Forfeitures arising from severance of employment, death or for any other reason may not be applied to increase the benefits any member would otherwise receive under the System's law. However, forfeitures may be used to reduce an employer's contribution.

SECTION 44. AMENDATORY 74 O.S. 1991, Section 921, as last amended by Section 3, Chapter 55, O.S.L. 1996 (74 O.S. Supp. 1998, Section 921), is amended to read as follows:

Section 921. A. All employee and employer contributions and dedicated revenues shall be deposited in a fund in the State Treasury which is hereby created and shall be known as the Oklahoma Public Employees Retirement Fund. The Board of Trustees shall have

the responsibility for the management of the Oklahoma Public Employees Retirement Fund, and may transfer monies used for investment purposes by the Oklahoma Public Employees Retirement System from the Oklahoma Public Employees Retirement Fund in the State Treasury to the custodian bank or trust company of the System.

B. All benefits payable pursuant to the provisions of the Oklahoma Public Employees Retirement System, refunds of contribution and overpayments, and all administrative expenses in connection with the System shall be paid from the Oklahoma Public Employees Retirement Fund upon warrants or vouchers signed by two persons designated by the Board of Trustees. All salaries and expenses of the administration of the State Employees Deferred Compensation Plan and the Deferred Savings Incentive Plan, including marketing and participant education, shall be paid from the Oklahoma Public Employees Retirement Fund. The Oklahoma Public Employees Retirement Fund shall be reimbursed for such expenses, on at least an annual basis, in accordance with the procedure established by the Board. The Board of Trustees may transfer monies from the custodian bank or trust company of the System to the Oklahoma Public Employees Retirement Fund in the State Treasury for the purposes specified in this subsection.

C. There is hereby created the Retirement Medical Benefit Fund. The fund shall be maintained as a subaccount of the Oklahoma Public Employees Retirement Fund. The Retirement Medical Benefit Fund is composed of all assets which may be contributed to this subaccount to pay the retirement system's portion of the monthly retiree health insurance premium benefit described by Section 1316.2 of this title. All such allocated assets and any earnings thereon in the Retirement Medical Benefit Fund shall be held for the exclusive purpose of providing retiree medical benefits. The Retirement Medical Benefit Fund is to be administered in accordance with the requirements of Section 401(h) of the Internal Revenue Code of 1986, as amended from time to time. The Board of Trustees may promulgate such rules as are necessary to implement the funding and administration of the fund pursuant to the provisions of this subsection.

SECTION 45. AMENDATORY Section 15, Chapter 384, O.S.L. 1997, as amended by Section 1, Chapter 96, O.S.L. 1998 (74 O.S. Supp. 1998, Section 1707), is amended to read as follows:

Section 1707. A. Effective January 1, 1998, for each qualified participant as defined in this section who is a state employee as defined in this section, the Oklahoma Public Employees Retirement System shall pay each month from funds appropriated to the Oklahoma State Employees Deferred Savings Incentive Plan Fund created pursuant to this section the sum of Twenty-five Dollars ($25.00) to a plan established pursuant to the Internal Revenue Code, Section 401(a), for the benefit of the employee; provided, if monies in the fund are insufficient to fully fund the contributions in any month, payments shall be suspended until such time as sufficient monies are available. Employees receiving payroll other than monthly shall have an amount contributed which is equivalent to Twenty-five Dollars ($25.00) per month.

B. For the purposes of this section, "qualified participant" means a state employee as defined in this section who is an active participant in the Oklahoma State Employees Deferred Compensation Plan making deferrals of at least Twenty-five Dollars ($25.00) per

month. The Administrator of the Office of Personnel Management and the Director of State Finance shall be responsible for the provision of such information and assistance as may be necessary to determine which employees are qualified participants. The Oklahoma Public Employees Retirement System shall be responsible for establishing rules and plan documents for administration of such contributions. Funds so credited shall be held and invested in the same manner as the Oklahoma State Employees Deferred Compensation Plan, as provided in Section 1701 of ~~Title 74 of the Oklahoma Statutes~~ this title.

C. For the purposes of this section, "state employee" means any officer or employee of the executive, legislative, or judicial branches of the government of this state who is an active member of a public retirement system of this state, but does not include:

1. Employees of the public elementary, secondary, or area vocational school districts;

2. Employees of The Oklahoma State System of Higher Education except employees of the Oklahoma State Regents of Higher Education and employees of the governing boards;

3. Persons on temporary, student, internship, or other limited-term appointments except for Executive Fellows in the Carl Albert Public Internship Program created in Section 840-3.4 of ~~Title 74 of the Oklahoma Statutes~~ this title; or

4. Persons employed pursuant to Section 1.6a of Title 53 of the Oklahoma Statutes or Section 1806.1 of ~~Title 74 of the Oklahoma Statutes~~ this title.

D. No public official shall be able to make contributions to the Section 401(a) plan described by this section during a term of office which commenced prior to the effective date of this act. A public official may make contributions to the Section 401(a) plan described by this section during a term of office which commences after the effective date of this act. No legislator shall be eligible to make contributions to the Section 401(a) plan described by this section until such contributions have been approved by the Board on Legislative Compensation. The provisions of this subsection shall be applicable only in the event that the Plan permits employee contributions.

E. There is hereby created in the State Treasury a revolving fund to be designated the "Oklahoma State Employees Deferred Savings Incentive Plan Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies the Legislature may appropriate or transfer to the fund and any monies contributed for the fund from any other sources, public or private. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Public Employees Retirement System for the matching of deferred compensation contributions pursuant to this section and in accordance with rules promulgated by the Oklahoma Public Employees Retirement System and for reimbursement of expenses of administration of the Deferred Savings Incentive Plan and the Deferred Compensation Plan. Expenditures from the fund shall be made by warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 46. REPEALER 20 O.S. 1991, Section 1103B, is hereby repealed.

SECTION 47. REPEALER 74 O.S. 1991, Section 910.2, is hereby repealed.

SECTION 48. REPEALER 74 O.S. 1991, Section 913.6, is hereby repealed.

SECTION 49. This act shall become effective July 1, 1999.

SECTION 50. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 20th day of May, 1999.

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Speaker of the House of Representatives

Passed the Senate the 21st day of May, 1999.

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President of the Senate