

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1647

By: Ferguson

COMMITTEE SUBSTITUTE

An Act relating to public retirement systems; amending 11 O.S. 2001, Sections 49-100.1, as amended by Section 1, Chapter 398, O.S.L. 2002, 49-106, as amended by Section 3, Chapter 398, O.S.L. 2002, 49-106.1, 49-106.2, 49-106.3, 49-117.1, as amended by Section 6, Chapter 398, O.S.L. 2002, 49-117.3, as amended by Section 7, Chapter 398, O.S.L. 2002 and 49-138 (11 O.S. Supp. 2002, Sections 49-100.1, 49-106, 49-117.1 and 49-117.3), which relate to the Oklahoma Firefighters Pension and Retirement System; modifying definitions; providing for treatment of certain in-service distributions; modifying provisions related to investment return for Deferred Retirement Option Plan; modifying references to certain maximum benefit amounts; modifying reference to certain mortality tables; deleting references related to maximum distribution; providing for treatment of certain Eligible Rollover Distributions; modifying definition of Eligible Retirement Plan; modifying certain references to Internal Revenue Code of 1986, as amended; modifying provisions related to certain military service credit; amending 11 O.S. 2001, Sections 50-101, as amended by Section 1, Chapter 340, O.S.L. 2002, 50-103.1, 50-104.1, 50-105.3, 50-105.4, as amended by Section 4, Chapter 391, O.S.L. 2002, 50-106.3, 50-107, 50-111.1, 50-111.3, 50-111.4, 50-112, 50-114, 50-114.1, 50-114.2, 50-128, 50-129 and 50-134, (11 O.S. Supp. 2002, Section 50-101 and 50-105.4), which relate to the Oklahoma Police Pension and Retirement System; modifying definitions; modifying provision related to qualification of members of State Board; modifying provisions related to meeting notice; modifying date of certain required estimate; modifying provision related to certain fiduciary standard; deleting certain requirements with respect to reports; modifying certain report date; imposing requirement with respect to documentation by participating municipalities; providing for disposition of erroneous payments; providing for treatment of members with vested benefits under certain circumstances; providing for treatment of certain lump-sum payments; authorizing in-service distributions under certain conditions; modifying provisions related to investment return for Deferred Retirement Option Plan; authorizing certain trustee-to-trustee transfers; modifying provision related to required participation in System; modifying provision related to reemployment of retired members; providing

for applicability of minimum distribution requirements pursuant to the Internal Revenue Code of 1986, as amended; modifying provisions related to request for benefits; modifying provisions related to beneficiary payments; modifying references; modifying provisions related to use of mortality tables; modifying provisions governing distributions in certain years; modifying provisions related to eligible rollover distributions; modifying definition of Eligible Retirement Plan for certain purposes; modifying provisions related to certain military service credit; requiring purchase of credit by certain persons; modifying venue provisions applicable to certain actions; modifying duties of Executive Director; amending 47 O.S. 2001, Sections 2-300, as amended by Section 1, Chapter 399, O.S.L. 2002, 2-305, as amended by Section 4, Chapter 399, O.S.L. 2002, 2-305.1A, 2-305.2, 2-305.4, 2-307, 2-307.1, 2-307.3, 2-307.4, 2-307.5 and 2-307.7 (47 O.S. Supp. 2002, Sections 2-300 and 2-305), which relate to the Oklahoma Law Enforcement Retirement System; modifying definitions; providing for treatment of certain in-service distributions; modifying provisions related to eligible rollover distributions; modifying provisions related to definition of Eligible Retirement Plan for purposes of Internal Revenue Code of 1986, as amended; modifying provisions related to Oklahoma Law Enforcement Deferred Option Plan; modifying provisions related to investment return for Deferred Retirement Option Plan; modifying reference to maximum benefit; modifying provision related to mortality table; modifying provisions related to distributions; modifying provisions related to certain lump-sum payments; authorizing certain trustee-to-trustee transfers; modifying provisions related to certain lump-sum payments; amending 20 O.S. 2001, Section 1108, as amended by Section 5, Chapter 391, O.S.L. 2002 (20 O.S. Supp. 2002, Section 1108), which relates to the Uniform Retirement System for Justices and Judges; modifying provisions related to reporting of financial condition; providing for additional reporting procedures; amending 74 O.S. 2001, Sections 909.1, as amended by Section 8, Chapter 391, O.S.L. 2002 and 917, as last amended by Section 3, Chapter 376, O.S.L. 2002 (74 O.S. Supp. 2002, Sections 909.1 and 917), which relate to the Oklahoma Public Employees Retirement System; modifying report date; modifying reference to certain beneficiary; repealing 11 O.S. 2001, Sections 50-106.1, 50-106.2 and 50-108, which relate to local pension boards and legal representation; 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. 2001, Section 49-100.1, as amended by Section 1, Chapter 398, O.S.L. 2002 (11 O.S. Supp. 2002, Section 49-100.1), is amended to read as follows:

Section 49-100.1 As used in this article:

1. "System" means the Oklahoma Firefighters Pension and Retirement System and all predecessor municipal firefighters pension and retirement systems;
2. "Article" means Article 49 of this title;
3. "State Board" means the Oklahoma Firefighters Pension and Retirement Board;
4. "Local board" means the local firefighters pension and retirement boards;
5. "Fund" means the Oklahoma Firefighters Pension and Retirement Fund;
6. "Member" means all eligible firefighters of a participating municipality or a fire protection district who perform the essential functions of fire suppression, prevention, and life safety duties in a fire department. The term "member" shall include but not be limited to the person serving as fire chief of any participating municipality, provided that a person serving as fire chief of a participating municipality shall meet the age, agility, physical and other eligibility requirements required by law at the time said person becomes a member of the System. Effective July 1, 1987, a member does not include a "leased employee". The term "leased employee" means any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Section 414(n)(6) of the Internal Revenue Code of 1986, as amended) on a substantially full-time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer. A leased employee

shall not be considered an employee of the recipient if the requirements of the safe harbor provisions of Section 414(n)(5) of the Internal Revenue Code of 1986, as amended, are satisfied. Effective July 1, 1999, any individual who agrees with the participating municipality 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;

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 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 following the date the member terminates employment with more than twenty (20) years of credited service;

8. "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; provided however, "credited service" for members from a fire protection district shall not begin accruing before July 1, 1982;

9. "Participating municipality" means a municipality, county fire department organized pursuant to subsection D of Section 351 of Title 19 of the Oklahoma Statutes, or fire protection district which is making contributions to the System on behalf of its firefighters;

10. "Disability" means the complete inability of the firefighter to perform any and every duty of his regular occupation; provided further, that once benefits have been paid for twenty-four (24) months the provisions of Section 49-110 of this title shall apply to the firefighter;

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

12. "Eligible employer" means any municipality with a municipal fire department or a fire protection district with an organized fire department;

13. "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;

14. "Final average salary" means the average paid gross salary of the firefighter for normally scheduled hours over the highest salaried thirty (30) consecutive months of the last sixty (60) months of credited service. Gross salary shall not include payment for accumulated sick or annual leave upon termination of employment, any uniform allowances or any other compensation for reimbursement of out-of-pocket expenses. Only salary on which the required contributions have been made may be used in computing the final average salary. Effective January 1, 1988, gross salary shall include any amount of elective salary reduction under Section 125 of the Internal Revenue Code of 1986, as amended. 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. Effective July 1, 1998, for purposes of determining a member's compensation, any contribution by the member to reduce his regular cash remuneration under 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be treated as if the member did not make such an election. Only salary on

which required contributions have been made may be used in computing 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~~ 2002, the annual gross salary of each "Noneligible Member" taken into account under the System shall not exceed the ~~Omnibus Budget~~ Economic Growth and Tax Relief Reconciliation Act of 1993 (OBRA '93) 2001 ("EGTRRA") annual salary limit. The ~~OBRA '93 EGTRRA~~ annual salary limit is ~~One Hundred Fifty Thousand Dollars (\$150,000.00)~~ Two Hundred Thousand Dollars (\$200,000.00), 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 EGTRRA~~ 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 subsection, 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~~ 2002, any reference to the annual salary limit under Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, shall mean the ~~OBRA '93 EGTRRA~~ salary limit set forth in this subsection.

~~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) years 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 subsection prior to the application of this limitation;~~

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

16. "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 firefighter for the thirty (30) continuous months preceding the firefighter's death provided a surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for a participating municipality, shall not be subject to the marriage limitation 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 firefighter 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;

17. "Accumulated contributions" means the sum of all contributions made by a member to the System and includes both contributions deducted from the compensation of a member and contributions of a member picked up and paid by the participating municipality of the member. Accumulated contributions shall not include any interest on the contributions of the member, interest on any amount contributed by the municipality or state and any amount contributed by the municipality or state; and

18. "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 2. AMENDATORY 11 O.S. 2001, Section 49-106, as amended by Section 3, Chapter 398, O.S.L. 2002 (11 O.S. Supp. 2002, Section 49-106), is amended to read as follows:

Section 49-106. A. Any firefighter who reaches the firefighter's normal retirement date shall be entitled, upon written request, to retire from such service and be paid from the System a monthly pension equal to the member's accrued retirement benefit; provided, that the pension shall cease during any period of time the member may thereafter serve for compensation in any municipal fire department in the state. If such a member is reemployed by a participating municipality in a position which is not covered by the System, retirement shall also include receipt by such member of in-service distributions from the System.

B. With respect to distributions under the System made for calendar years beginning on or after January 1, 2001, the System

will apply the minimum distribution requirements of Section 401(a) (9) of the Internal Revenue Code of 1986, as amended, in accordance with the regulations under Section 401(a) (9) of the Internal Revenue Code of 1986, as amended, that were proposed in January 2001, notwithstanding any provision of the System to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under Section 401(a) (9) of the Internal Revenue Code of 1986, as amended, or such other date as may be specified in guidance published by the Internal Revenue Service. Furthermore, to the extent applicable, distributions shall be made in accordance with the Proposed Income Tax Regulations under Section 401(a) (9) of the Internal Revenue Code of 1986, as amended, including the minimum distribution incidental benefit requirements of the Proposed Income Tax Regulations. 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:

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

2. The actual retirement date of the member.

SECTION 3. AMENDATORY 11 O.S. 2001, Section 49-106.1, is amended to read as follows:

Section 49-106.1 A. In lieu of terminating employment and accepting a service retirement pension pursuant to Section 49-106 of this title, any member of the Oklahoma Firefighters Pension and Retirement System who has not less than twenty (20) years of creditable service and who is eligible to receive a service retirement pension may elect to participate in the Oklahoma Firefighters Deferred Option Plan and defer the receipts of benefits in accordance with the provisions of this section.

B. For purposes of this section, creditable service shall include service credit reciprocally recognized pursuant to Sections 49-100.1 through 49-100.8 of this title but for eligibility purposes only.

C. The duration of participation in the Oklahoma Firefighters Deferred Option Plan for active fire fighters shall not exceed five (5) years. At the conclusion of a member's participation in the Oklahoma Firefighters Deferred Option Plan, the member shall terminate employment with all participating municipalities as a fire fighter, and shall start receiving the member's accrued monthly retirement benefit from the System. Such a member may be reemployed by a participating municipality but only in a position not covered under the System, and receive in-service distributions of such member's accrued monthly retirement benefit from the System.

D. When a member begins participation in the Oklahoma Firefighters Deferred Option Plan, the contribution of the employee shall cease. The employer contributions shall continue to be paid in accordance with subsection B of Section 49-122 of this title. Municipal contributions for employees who elect the Oklahoma Firefighters Deferred Option Plan shall be credited equally to the Oklahoma Firefighters Pension and Retirement System and to the Oklahoma Firefighters Deferred Option Plan. The monthly retirement benefits that would have been payable had the member elected to cease employment and receive a service retirement shall be paid into the Oklahoma Firefighters Deferred Option Plan account.

E. 1. A member who participates in this plan shall be eligible to receive cost of living increases.

2. A member who participates in this plan shall earn interest at a rate of two percentage points below the rate of return of the investment portfolio of the System, ~~but no less than the actuarial assumed interest rate as certified by the actuary in the yearly~~

~~evaluation report of the actuary.~~ The interest shall be credited to the individual account balance of the member on an annual basis.

F. A participant in the plan shall receive at the option of the participant, a lump sum payment from the account equal to the payments to the account, or an annuity based upon the account of the participant or may elect any other method of payment if approved by the Board of Trustees.

G. If a member dies while maintaining an account balance in the plan the System shall pay to the designated recipient or recipients of the member, or if there is no designated recipient or if the designated recipient predeceases the member, to the estate of the member a lump sum payment equal to the account balance of the member. If a designated recipient is the surviving spouse of the member, the surviving spouse shall receive his or her portion of the account balance of the member pursuant to subsection F of this section.

SECTION 4. AMENDATORY 11 O.S. 2001, Section 49-106.2, is amended to read as follows:

Section 49-106.2 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 subsections B and C of this section.

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

1. ~~Ninety Thousand Dollars (\$90,000.00)~~ One Hundred Sixty Thousand Dollars (\$160,000.00), 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

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 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 municipality, provided such amounts are actually paid or includable in gross income during such year. Earnings shall exclude the following:

- a. 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
- b. 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;

3. Except as provided in paragraph 5 of this subsection, the limitations specified in paragraphs 1 and 2 of this 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 municipality;

4. If a member has less than ten (10) years of participation in the System and all predecessor municipal firefighter pension and retirement systems, the dollar limitation otherwise applicable under paragraph 1 of this 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 paragraph, to the extent required by the Secretary of the Treasury, shall be applied separately to each change in benefit structure hereunder;

5. Effective for limitation years beginning on or after January 1, 1995, if a member has been credited with less than ten (10) years of credited service, the dollar amount otherwise applicable under paragraph 3 of this subsection shall be reduced by multiplying such dollar amount 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);

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. 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 mortality tables and interest rates described in divisions (1) ~~and~~, (2) and (3) of subparagraph a of this paragraph.

a. If payment begins before the member reaches sixty-two (62) years of age, the limitation in paragraph 1 of this subsection shall be reduced on an actuarially equivalent basis; ~~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); 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 State 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), without regard to any other subparagraph of Section 807(d)(5) of the Internal Revenue Code of 1986, 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%). Notwithstanding any other System provisions to the contrary, for distributions with annuity starting dates on or after December 31, 2002, the applicable mortality table used for purposes of adjusting any benefit or limitation under Sections 415(b)(2)(B), (C) or (D) of the Internal Revenue Code of 1986, as amended, is the table described in Rev. Rul. 2001-62.

(3) 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 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.

b. If payment begins after the member reaches sixty-five (65) years of age, the limitation in paragraph 1 of this subsection shall be the actuarial equivalent of such amount otherwise applicable at the member reaching sixty-five (65) years of age.

(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 State Board; however, 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.

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.

8. For limitation years beginning on or after January 1, 1995, paragraphs 4, 5 and 6 of this subsection shall not apply to a benefit paid under the System as a 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 a result of the death of the member.

9. Effective for years beginning after December 31, 1997, if a member purchases service under Sections 49-117.2 and 49-117.3 of this title, which qualifies as "permissive service credit" pursuant to Section 415(n) of the Internal Revenue Code of 1986, as amended, the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, may be met by either:

- a. treating the accrued benefit derived from such contributions as an annual benefit under paragraph 1 of this subsection, or

- b. treating all such contributions as annual additions for purposes of Section 415(c) of the Internal Revenue Code of 1986, as amended.

10. Effective for years beginning after December 31, 1997, if a member repays to the System any amounts received because of the member's prior termination pursuant to Section 49-117.1 of this title, such repayment shall not be taken into account for purposes of Section 415 of the Internal Revenue Code of 1986, as amended, pursuant to Section 415(k)(3) of the Internal Revenue Code of 1986, as amended.

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 municipality, the sum of the defined benefit plan fraction and defined contribution plan fraction, as defined in 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 subsection B of this section, the amount of the maximum annual accrued retirement benefit that can be paid to such member pursuant to 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 State Board may take such other action as will cause the sum to equal one or less. As used in this subsection:~~

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

- ~~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~~

~~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;~~

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

- ~~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~~
- ~~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 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)~~  
on or after January 1, 2000, the combined limit of  
repealed Section 415(e) of the Internal Revenue Code  
of 1986, as amended, shall not apply.

D. The State Board is hereby authorized to revoke the special election previously made on June 21, 1991, under Internal Revenue Code Section 415(b)(10).

SECTION 5. AMENDATORY 11 O.S. 2001, Section 49-106.3, is amended to read as follows:

Section 49-106.3 A. For distributions made on or after January 1, 1993, and 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; provided, however, that effective January 1, 2002, a portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax member

contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, or to a qualified defined contribution plan described in Section 401(a) or 403(b) of the Internal Revenue Code of 1986, as amended, that agrees to separately account for amounts so transferred, including separate accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible;

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~~ Effective January 1, 2002, 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) shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, and an eligible plan under Section 457(b) of the Internal Revenue Code of 1986, as amended, which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the System. Effective January 1, 2002, the definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee to a qualified domestic order as defined in subsection B of Section 49-126 of this title. 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 a member whether or not said member is an active firefighter. In addition, effective June 7, 1993, the member's surviving spouse and the member's spouse or former spouse who is an alternate payee under a qualified domestic order, as provided in subsection B of Section 49-126 of this title, are Distributees with regard to the interest of the spouse or former spouse; and

4. "Direct Rollover" means a payment by the ~~Plan~~ System 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 Section 402(f) of the Internal Revenue Code of 1986, as amended, 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 6. AMENDATORY 11 O.S. 2001, Section 49-117.1, as amended by Section 6, Chapter 398, O.S.L. 2002 (11 O.S. Supp. 2002, Section 49-117.1), is amended to read as follows:

Section 49-117.1 A member who terminates service before normal retirement date, other than by death or disability shall, upon application filed with the State Board, be refunded from the Fund an amount equal to the accumulated contributions the member has made to the Fund, but excluding any interest or any amount contributed by the municipality or state. If a member has completed ten (10) years

of credited service at the date of termination, the member may elect a vested benefit in lieu of receiving the member's accumulated contributions.

If the member who has completed ten (10) or more years of credited service elects the vested benefit, the member shall be entitled to a monthly retirement annuity commencing on the date the member reaches fifty (50) years of age or the date the member would have had twenty (20) years of credited service had the member's employment continued uninterrupted, whichever is later. The annual amount of such retirement annuity shall be equal to two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of credited service. The death benefits provided for in this article shall not apply to any member retiring under the provisions of this section.

If a member who terminates employment and elects a vested benefit dies prior to being eligible to receive benefits, the member's beneficiary shall be entitled to the member's normal monthly retirement benefit on the date the deceased member would have been eligible to receive the benefit.

If a member terminates employment and withdraws the member's accumulated contributions and then subsequently rejoins the System, he may pay to the System the sum of the accumulated contributions he has withdrawn plus five percent (5%) annual interest from the date of withdrawal and shall receive the same benefits as if he had never withdrawn his contributions; however, effective January 1, 1991, the rate of interest provided herein shall be ten percent (10%) per annum.

Effective January 1, 2002, lump-sum payments for repayment of any amounts received because of a member's prior termination with interest, may be repaid by a trustee-to-trustee transfer from a ~~governmental~~ Code Section 403(b) annuity ~~or~~, a governmental Code Section 457 plan, and/or a Code Section 401(a) qualified plan.

A fire fighter shall not be permitted to withdraw from the System while employed as a fire fighter in a participating municipality.

SECTION 7. AMENDATORY 11 O.S. 2001, Section 49-117.3, as amended by Section 7, Chapter 398, O.S.L. 2002 (11 O.S. Supp. 2002, Section 49-117.3), is amended to read as follows:

Section 49-117.3 A. The State Board shall adopt rules for computation of the purchase price for transferred credited service. 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 transferred credited service and the projected benefit after purchase of the transferred credited service 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 State Board 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 State Board 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 State Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

C. Effective January 1, 2002, payment of the purchase price may be made by a trustee-to-trustee transfer from a ~~governmental~~ Code Section 403(b) annuity ~~or~~, a governmental Code Section 457 plan, and/or a Code Section 401(a) qualified plan. Members amortizing the purchase price and making payments by payroll deduction on or after January 1, 2002, shall have the option of making a lump-sum payment for the balance of the remaining payments by a trustee-to-trustee transfer from a ~~governmental~~ Code Section 403(b) annuity ~~or~~, a governmental Code Section 457 plan, and/or a Code Section 401(a) qualified plan.

SECTION 8. AMENDATORY 11 O.S. 2001, Section 49-138, is amended to read as follows:

Section 49-138. A. Any member of a regularly constituted fire department of any municipality who is now serving or may hereafter serve in the land or naval forces of the United States under the Act of Congress of September 16, 1940 (50 U.S.C.A. Sections 301-318), known as the Selective Training and Service Act of 1940, and/or Public Law No. 759, 80th Congress, known as the Selective Service Act of 1948, and amendments thereto, whether such service is voluntary or involuntary, who shall have been a member of such fire department at the time of entering such service, shall be entitled to have the whole of the time of such service applied under the provisions of Section 49-106 of this title, so far as the same applies to a service pension; provided further, that the

municipality shall continue its payment into said pension fund, to the same force and effect as though the member were in the actual service of such fire department; provided, that any person who is eligible for such service under said Acts of Congress but who shall have volunteered for military or naval service for a greater period than is provided by said Acts shall likewise be entitled to all of the benefits of Sections 49-138 through 49-142 of this title for the full period of such service or enlistment; provided further, that only one such period of voluntary service shall be considered hereunder. If such person shall reenlist, unless he is required to do so by law, he shall not thereafter be entitled to the provisions of this act. The provisions of this act shall not apply where any such person dies during the period of said service or enlistment, and shall not entitle the surviving spouse or children to any benefits.

B. Effective February 1, 1997, credited service received pursuant to this section or credited service for wartime military service received as otherwise provided by law shall be used in determining the member's retirement benefit but shall not be used in determining years of service for retirement, vesting purposes or eligibility for participation in the Oklahoma Firefighters Deferred Option Plan. For a member of the System hired on or after July 1, 2003, if the military service credit authorized by this section is used to compute the retirement benefit of the member and the member retires from the System, such military service credit shall not be used to compute the retirement benefit in any other retirement system created pursuant to the Oklahoma Statutes and the member may receive credit for such service only in the retirement system from which the member first retires.

C. A member who retires or elects to participate in the Oklahoma Firefighters Deferred Option Plan 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 regularly constituted fire 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.

D. An eligible member pursuant to subsection C 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 C of this section 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. The provisions of subsection C of this section shall not apply to any person who shall have served on active duty for training purposes only unless discharged from active duty for a service-connected disability.

E. 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.

F. Members or beneficiaries shall make application to the System for credited service related to wartime military service. Interest on additional benefits related to wartime military service owed by the System to a retired member or beneficiary as provided by

law shall cease accruing one (1) year after the effective date the additional benefits are payable by the System or July 1, 2000, whichever is later, if the member has not applied to the System for credited service related to such wartime military service.

G. For members of the System hired on or after July 1, 2003, the military service credit authorized by this section for military service performed prior to the member's entry into the System shall be paid for by the member at actuarial cost according to the requirements of Section 49-117.3 of this title.

SECTION 9. AMENDATORY 11 O.S. 2001, Section 50-101, as amended by Section 1, Chapter 340, O.S.L. 2002 (11 O.S. Supp. 2002, 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;~~

~~5.~~ 5. "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;

~~6.~~ 6. "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. Effective July 1, 1987, a member does not include a "leased employee" as defined under Section 414(n) (2) of the Internal Revenue Code of 1986, as amended. Effective July 1, 1999, any individual who agrees with the participating municipality 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. A member shall include eligible commissioned officers of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, and the Alcoholic Beverage Laws Enforcement Commission who elect to participate in the System pursuant to Section 50-111.5 of ~~Title 11 of the Oklahoma Statutes~~ this title;

~~8.~~ 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 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.~~ 8. "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.~~ 9. "Participating municipality" means a municipality which is making contributions to the System on behalf of its officers. The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, and the Alcoholic Beverage Laws Enforcement Commission shall be treated in the same manner as a participating municipality only regarding those members who elect to participate in the System pursuant to Section 50-111.5 of ~~Title 11 of the Oklahoma Statutes~~ this title;

~~11.~~ 10. "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.~~ 11. "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.~~ 12. "Permanent in-line disability" means incapacity to earn any wages as a certified, commissioned police officer due to accidental injury or occupational disease, incurred while in, and in consequence of, the performance of duty as an officer;

~~14.~~ 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;

~~15.~~ 14. "Executive Director" means the managing officer of the System employed by the State Board;

~~16.~~ 15. "Eligible employer" means any municipality with a municipal police department;

~~17.~~ 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;

~~18.~~ 17. "Final average salary" means the average paid ~~gross~~ base 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~~ Base 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~~ Base 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.

Effective January 1, 1988, ~~gross~~ base salary shall include any amount of elective salary reduction under Section 125 of the Internal Revenue Code of 1986, as amended. Effective July 1, 1998, base salary shall include any amount of elective salary reduction not includable in the gross income of the member under Section 132(f)(4) 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~~ 2002, 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)~~ Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") annual compensation limit. The ~~OBRA '93~~ EGTRRA annual compensation limit is ~~One Hundred Fifty Thousand Dollars (\$150,000.00)~~ Two Hundred Thousand Dollars (\$200,000.00), 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~~ EGTRRA 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~~ 2002, 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~~ EGTRRA 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(g)(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;~~

~~19.~~ 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;

~~20.~~ 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;

~~21.~~ 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;

~~22.~~ 21. "Paid base salary" means, effective May 1, 2002, all 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, shall not include payment for accumulated sick and annual leave upon termination of employment, and shall not

include any uniform allowance or any other compensation for reimbursement of out-of-pocket expenses; and

~~23.~~ 22. "Actuarial equivalent" means equality in value of the aggregate amounts expected to be received based on interest rate and mortality assumptions set by the State Board, in a manner that precludes employer discretion, and based upon recommendations from independent professional advisors, and which shall be published annually in the actuarial report.

SECTION 10. AMENDATORY 11 O.S. 2001, Section 50-103.1, is amended to read as follows:

Section 50-103.1 A. There shall be an Oklahoma Police Pension and Retirement Board which shall be composed of thirteen (13) members as follows:

1. Seven members shall be elected as follows:

- a. One member shall be elected to represent State Board District 1. State Board District 1 shall include that area of the state, except for any area comprising Oklahoma City, that is north of Interstate Highway 40 and west of Interstate Highway 35;
- b. One member shall be elected to represent State Board District 2. State Board District 2 shall include that area of the state, except for any area comprising Oklahoma City, that is south of Interstate Highway 40 and west of Interstate Highway 35;
- c. One member shall be elected to represent State Board District 3. State Board District 3 shall include that area of the state, except for any area comprising Oklahoma City or Tulsa, that is north of Interstate Highway 40 and east of Interstate Highway 35;
- d. One member shall be elected to represent State Board District 4. State Board District 4 shall include that area of the state, except for any area comprising

Oklahoma City, that is south of Interstate Highway 40 and east of Interstate Highway 35;

- e. One member shall be elected to represent State Board District 5. State Board District 5 shall include that area of the state comprising the City of Tulsa;
- f. One member shall be elected to represent State Board District 6. State Board District 6 shall include that area of the state comprising the City of Oklahoma City; and
- g. One member shall be elected to represent State Board District 7. State Board District 7 shall include the entire area of the state.

The members elected to represent State Board Districts 1 through 6 shall be active members of the System and work for a participating municipality whose police department is physically located within the State Board District. The member elected to represent State Board District 7 shall be a retired member of the System. Elections for the State Board Districts shall be held within six (6) months of the date of the expiration of the term of office of a member or of the date a vacancy occurs on such dates that are set by the State Board. The initial term of office for State Board Districts 2, 5 and 7 shall begin on July 1, 1989. The initial term of office for State Board Districts 3 and 6 shall begin on July 1, 1990. The initial term of office for State Board Districts 1 and 4 shall begin on July 1, 1991. The term of office of the elected members shall be three (3) years. ~~No more than one elected member of the State Board shall be from the same participating municipality.~~ Only members of the System working for a participating municipality whose police department is physically located within the respective State Board Districts may participate in the election process for State Board Districts 1 through 6. Only retired members of the System may participate in the election process for State Board District 7. The

members of the State Board representing appointments from ~~Congressional Districts~~ congressional districts who are serving on the State Board on the operative date of this act shall continue to serve on the State Board through June 30, 1989, or until the term of office of the member expires, whichever occurs later. The member of the State Board serving on the State Board on the operative date of this act who represents the retired members of the System shall continue to serve on the State Board through June 30, 1989-;

2. One member shall be appointed by the Speaker of the House of Representatives;

3. One member shall be appointed by the President Pro Tempore of the Senate;

4. One member shall be appointed by the Governor;

5. One member shall be appointed by the President of the Oklahoma Municipal League;

6. One member shall be the State Insurance Commissioner or his designee; and

7. One member shall be the Director of State Finance or his designee.

B. 1. The term of office of the member appointed to the State Board by the Speaker of the House of Representatives and the term of office of the member appointed to the State Board by the President Pro Tempore of the Senate who are members of the State Board on the operative date of this act, shall expire on January 3, 1989. The members thereafter appointed by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate shall serve terms of office of four (4) years.

2. The term of office of the member appointed by the Governor who is a member of the State Board on the operative date of this act shall expire on January 14, 1991. The members thereafter appointed by the Governor shall serve a term of office of four (4) years which

is coterminous with the term of office of the office of the appointing authority.

3. The initial term of office of the member appointed by the President of the Oklahoma Municipal League shall expire on July 1, 1990. The members thereafter appointed by the President of the Oklahoma Municipal League shall serve terms of office of four (4) years.

4. Any vacancy that occurs shall be filled for the unexpired term in the same manner as the office was previously filled.

C. The members appointed to the State Board by the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Governor and the President of the Oklahoma Municipal League or who are designees of an ex officio member of the State Board shall:

1. Have demonstrated professional experience in investment or funds management, public funds management, public or private pension fund management or retirement system management; ~~or~~

2. Have demonstrated experience in the banking profession and have demonstrated professional experience in investment or funds management; ~~or~~

3. Be licensed to practice law in this state and have demonstrated professional experience in commercial matters; or

4. Be licensed by the Oklahoma State Board of Public Accountancy to practice in this state as a public accountant or a certified public accountant.

The appointing authorities, in making appointments that conform to the requirements of this subsection, shall give due consideration to balancing the appointments among the criteria specified in paragraphs 1 through 4 of this subsection.

D. No member of the State Board shall be a lobbyist registered in this state as provided by law.

E. Notwithstanding any of the provisions of this section to the contrary, any person serving as an appointed member of the State Board on the operative date of this act shall be eligible for reappointment when the term of office of the member expires.

F. The State Board shall elect one of its members as Chairman at its annual meeting. The Chairman shall preside over meetings of the State Board and perform such other duties as may be required by the State Board. The State Board shall also elect another member to serve as Vice Chairman, and the Vice Chairman shall perform duties of Chairman in the absence of the latter or upon the Chairman's inability or refusal to act.

SECTION 11. AMENDATORY 11 O.S. 2001, Section 50-104.1, is amended to read as follows:

Section 50-104.1 A. The State Board shall hold regular meetings in Oklahoma City at least once each quarter, the dates, time, and place thereof to be fixed by the State Board. The State Board shall hold a regular meeting in July of each year which meeting shall be the annual meeting at which it shall elect its Chairman. Special meetings may be called upon written call of the Chairman or by agreement of any eight ~~(8)~~ members of the State Board. Notice of a special meeting shall be ~~delivered~~ mailed to all State Board members ~~in person or by registered or certified United States mail~~ not less than seven (7) days prior to the date fixed for the meeting; provided, however, that notice of such meeting may be waived by any member either before or after such meeting and attendance at such meeting shall constitute a waiver of notice of such meeting, unless a member participates therein solely to object to the transaction of any business because the meeting has not been legally called or convened.

B. Seven ~~(7)~~ State Board members shall constitute a quorum for the transaction of business, but any official action of the State Board shall be based upon a favorable vote by at least seven ~~(7)~~

State Board members at a regular ~~or~~, special, or emergency meeting of the State Board.

C. State Board members shall be reimbursed for necessary travel expenses pursuant to the State Travel Reimbursement Act.

SECTION 12. AMENDATORY 11 O.S. 2001, Section 50-105.3, is amended to read as follows:

Section 50-105.3 The State Board shall certify to the Director of State Finance, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate, on or before ~~July 15~~ November 1 of each year, 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 pay by level-dollar payments all liabilities which shall exist or accrue pursuant to the provisions of the System, including amortization of the unfunded accrued liability over a period of not to exceed thirty (30) years beginning July 1, 1988.

SECTION 13. AMENDATORY 11 O.S. 2001, Section 50-105.4, as amended by Section 4, Chapter 391, O.S.L. 2002 (11 O.S. Supp. 2002, Section 50-105.4), is amended to read as follows:

Section 50-105.4 A. The Oklahoma Police Pension and Retirement Board 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 State Board may procure insurance indemnifying the members of the State Board from personal loss or accountability from liability resulting from a member's action or inaction as a member of the State Board.

C. The State Board may establish an investment committee. The investment committee shall be composed of not more than five (5) members of the State Board appointed by the chairman of the State Board. The committee shall make recommendations to the full State Board 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 State Board in any circumstances whatsoever. No recommendation of the committee shall have effect as an action of the State Board nor take effect without the approval of the State Board as provided by law.

D. The State Board 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 State Board unless the State Board deems it necessary and prudent to do otherwise to fulfill its fiduciary responsibility ~~for the preservation of the fund's assets or to avoid financial loss.~~ Subject to the overall investment guidelines set by the State Board, the investment managers shall have full discretion in the management of those monies of the System allocated to the investment managers. The State Board 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 State Board shall be placed with a custodian selected by the State Board. 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 State Board. In compliance with the investment policy guidelines of the State Board, 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 State Board 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 State Board shall develop a written investment plan for the System.

~~G. The State Board 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 State Board shall include in the quarterly reports all commissions, fees or payments for investment services performed on behalf of the State 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~~ November 1 of each year, the State Board 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 C 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 State Board. The annual report shall be written in such a manner as to permit a readily understandable means for analyzing the financial condition and performances of the System for the fiscal year. In order to standardize the information and analysis of the financial condition of the System, the Board shall provide information regarding the financial and actuarial condition of the System using assumptions or requirements as hereinafter required for the report stating the

condition of the System as of July 1, 2002, and for each subsequent reporting date, which information shall be contained in an appendix or addendum to the annual report. For purposes other than the reporting requirements contained in the appendix or addendum, all actuarial and economic assumptions shall be those assumptions adopted by the System in its annual actuarial valuation. The appendix or addendum shall contain a statement of the financial condition of the System:

1. Using an assumed rate of return of seven and one-half percent (7.5%), net of investment expenses, per annum, compounded annually;

2. Using an actuarial assumption regarding cost-of-living adjustments for the System of two percent (2%) annually;

3. That relies upon the use of appropriate preretirement, postretirement and disability retirement information using generational projections taken from the RP-2000 Mortality Tables, published by the Society of Actuaries;

4. Which accurately and completely summarizes all sources of system assets, other than employee contributions, which shall include, but not be limited to, the total of all employer contributions, any dedicated tax or fee revenue of whatever kind or however denominated, and the total amount of any other source of revenue which accrues to the System, other than return on investments, such as federal monies used for the purpose of making employer contributions; and

5. Using an assumption that the unfunded actuarial accrued liabilities of the System are amortized over a period of thirty (30) years, in a manner consistent with the Governmental Accounting Standards Board Statement Number 25.

SECTION 14. AMENDATORY 11 O.S. 2001, Section 50-106.3, is amended to read as follows:

Section 50-106.3 A. An eligible employer may join the System on the first day of any month. Application for affiliation shall be in the form of a resolution approved by the governing body of the eligible employer or by any other body or officer authorized by law or recognized by the State Board to approve such resolution or action. Upon the filing of a certified copy of such resolution with the State Board, such election shall be irrevocable and the eligible municipality shall become a participating municipality on the first day of the month immediately following the filing of such election with the State Board. Participating municipalities shall be required to provide all documentation requested by the System relating to the administration of the System.

B. The State Board shall have final authority in determining eligibility for membership in the System, pursuant to the provisions of this article. A member claiming credit for prior municipal police service in Oklahoma shall file an application with the State Board. The date of filing such application shall be not more than ninety (90) days after the municipality's entry date. Any credit for such prior service shall not exceed five (5) years. Upon a favorable determination of the eligibility for and the amount of service credit under this section, the member shall pay the amount determined by the State Board pursuant to Section 50-111.4 of this title.

C. Any municipality that has a municipal police pension and retirement system prior to July 1, 1980, shall consolidate its system with the state System and become a participating municipality on the first entry date as provided in this article.

D. Any eligible employer of a municipality which is a participating employer in the Oklahoma Public Employees Retirement System on July 1, 1996, may become a participating municipality of the Oklahoma Police Pension and Retirement System if and only if a certified copy of a resolution approved by the governing body of the

eligible employer or by any other body or officer authorized by law or recognized by the Board to approve such a resolution, is filed with the Board. Such election shall be irrevocable.

1. All eligible officers who are initially employed in such a position on or after the date when the municipality becomes a participating municipality shall be members of the Oklahoma Police Pension and Retirement System and shall have no right to participate in the Oklahoma Public Employees Retirement System.

2. All eligible officers who were employed in such a position prior to the date when the municipality becomes a participating municipality shall have the right to make a one-time election on or before six (6) months following the date that the municipality became a participating municipality to participate in the Oklahoma Police Pension and Retirement System. Any such employee who fails to make the election provided in this paragraph shall remain in the Oklahoma Public Employees Retirement System.

a. Eligible officers electing to participate in the Oklahoma Police Pension and Retirement System shall be allowed to withdraw their accumulated contributions or elect a vested benefit in the Oklahoma Public Employees Retirement System as provided in Section 917 of Title 74 of the Oklahoma Statutes.

b. Eligible officers electing to participate in the Oklahoma Police Pension and Retirement System may file a claim for prior municipal police service in Oklahoma with the State Board and may receive the prior service credit, not to exceed five (5) years, upon payment for the service at the actuarial cost as determined by the State Board. In no event, however, shall any eligible officer electing to participate in the Oklahoma Police Pension and Retirement System be allowed to receive credit or benefits in the Oklahoma Police Pension and

Retirement System for years of service for which the officer is already receiving or eligible to receive retirement credit or benefits in the Oklahoma Public Employees Retirement System.

SECTION 15. AMENDATORY 11 O.S. 2001, Section 50-107, is amended to read as follows:

Section 50-107. All monies provided for the Fund of the System by this article, or by appropriation by any municipality, or by contribution from members, shall be paid over to and received by the State Board for the use and benefit of the System to be disbursed and handled as provided in this article. Should any error in any records of the Oklahoma Police Pension and Retirement System result in any payee receiving more or less than the payee would have been entitled had the records been correct, the State Board shall correct such error and shall pay any underpayments or recover any overpayments.

SECTION 16. AMENDATORY 11 O.S. 2001, Section 50-111.1, is amended to read as follows:

Section 50-111.1 A. A member who terminates his service before normal retirement date, other than by death or disability shall, upon application filed with the State Board, be refunded from the Fund an amount equal to the accumulated contributions the member has made to the Fund, but excluding any interest or any amount contributed by the municipality or state. If a member withdraws his accumulated contributions, such member shall not have any recourse against the System for any type of additional benefits including, but not limited to, disability benefits. If a member has completed ten (10) years of credited service at the date of termination, the member may elect a vested benefit in lieu of receiving the member's accumulated contributions.

If the member who has completed ten (10) or more years of credited service elects the vested benefit, the member shall be

entitled to a monthly retirement annuity commencing on the date the member reaches fifty (50) years of age or the date the member would have had twenty (20) years of credited service had the member's employment continued uninterrupted, whichever is later. The annual amount of such retirement annuity shall be equal to two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of credited service. If a terminated member has elected a vested benefit and subsequently returns to work as a police officer of a participating municipality, their vested benefit will be set aside and prior credited service will be reinstated.

B. If a member who terminates employment and elects a vested benefit dies prior to being eligible to receive benefits, the member's beneficiary shall be entitled to the member's normal monthly accrued retirement benefits on the date the deceased member would have been eligible to receive the benefit.

C. Whenever a member has terminated or hereafter terminates covered employment and has withdrawn or hereafter withdraws the member's accumulated contributions and has rejoined or hereafter rejoins the System, the member, upon proper application and approval by the Board, may pay to the System the sum of the accumulated contributions the member has withdrawn or hereafter withdraws plus ten percent (10%) annual interest from the date of withdrawal and shall receive the same benefits as if the member had never withdrawn the contributions. Effective July 1, 2003, a lump-sum payment for repayment of any amounts received because of a member's prior termination may be repaid by trustee-to-trustee transfers from a Section 403(b) annuity, an eligible Section 457(b) plan, and/or a Section 401(a) qualified plan. Those members who at the time of termination of employment could not withdraw any of their accumulated contributions shall receive credited service for the time employed as an officer prior to any such termination upon proper application and approval by the Board. To receive credit for

such service, all required contributions and interest shall be paid within ninety (90) days of Board approval of the application. The provisions of this subsection shall not apply to any member who is receiving benefits from the System as of July 1, 1987.

D. If an active member dies and does not leave a beneficiary, the accumulated contributions made to the System by the member shall be paid to the estate of the member.

SECTION 17. AMENDATORY 11 O.S. 2001, Section 50-111.3, is amended to read as follows:

Section 50-111.3 A. In lieu of terminating employment and accepting a service retirement pension pursuant to Section 50-111.1 of this title, any member of the Oklahoma Police Pension and Retirement System who has not less than twenty (20) years of creditable service and who is eligible to receive a service retirement pension may elect to participate in the Oklahoma Police Deferred Option Plan and defer the receipts of benefits in accordance with the provisions of this section.

B. For purposes of this section, creditable service shall include service credit reciprocally recognized pursuant to Sections 50-101 through 50-105.3 of this title but for eligibility purposes only.

C. The duration of participation in the Oklahoma Police Deferred Option Plan for a member shall not exceed five (5) years. At the conclusion of a member's participation in the Oklahoma Police Deferred Option Plan, the member shall terminate employment with all participating municipalities as an officer, and shall start receiving the member's accrued monthly retirement benefit from the System. Such a member may receive in-service distributions of such member's accrued monthly retirement benefit from the System if such member is reemployed by a participating municipality only if such reemployment is as a police chief or in a position not covered under the System.

D. When a member begins participation in the Oklahoma Police Deferred Option Plan, the contribution of the employee shall cease. The employer contributions shall continue to be paid in accordance with Section 50-109 of this title. Municipal contributions for employees who elect the Oklahoma Police Deferred Option Plan shall be credited equally to the Oklahoma Police Pension and Retirement System and to the Oklahoma Police Deferred Option Plan. The monthly retirement benefits that would have been payable had the member elected to cease employment and receive a service retirement shall be paid into the Oklahoma Police Deferred Option Plan account.

E. 1. A member who participates in this plan shall be eligible to receive cost of living increases.

2. A member who participates in this plan shall earn interest at a rate of two percentage points below the rate of return of the investment portfolio of the System, ~~but no less than the actuarial assumed interest rate as certified by the actuary in the yearly evaluation report of the actuary.~~ The interest shall be credited to the individual account balance of the member on an annual basis.

F. A participant in the Oklahoma Police Deferred Option Plan shall receive, at the option of the participant:

1. A lump sum payment from the account equal to the option account balance of the participant, payable to the participant;

2. A lump sum payment from the account equal to the option account balance of the participant, payable to the annuity provider which shall be selected by the participant as a result of the research and investigation of the participant; or

3. Any other method of payment if approved by the State Board.

G. If the participant dies during the period of participation in the Oklahoma Police Deferred Option Plan, a lump sum payment equal to the account balance of the participant shall be paid in accordance with Section 50-115.2 of this title.

H. The Oklahoma Police Deferred Option Plan shall not be implemented until October 1, 1990, or when the State Board obtains a ruling from the Internal Revenue Service which affirmatively states that said plan shall be treated as a qualified plan for federal income tax purposes, whichever comes last.

SECTION 18. AMENDATORY 11 O.S. 2001, Section 50-111.4, is amended to read as follows:

Section 50-111.4 A. The State Board shall adopt rules for computation of the purchase price for transferred credited service. 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 transferred credited service and the projected benefit after purchase of the transferred credited service 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 State Board 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 State Board 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. Notwithstanding anything herein to the contrary, effective July 1, 2003, lump-sum payments for a transferred credited service purchase may be made by trustee-to-trustee transfers from a Section 403(b) annuity, an eligible Section 457(b) plan, and/or a Section 401(a) qualified plan. A member making installment payments on or after July 1, 2003, shall have the option of making lump-sum payments for all or part of the balance of the remaining payments by trustee-to-trustee transfers from a Section 403(b) annuity, an eligible Section 457(b) plan, and/or a Section 401(a) qualified plan. The State Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

SECTION 19. AMENDATORY 11 O.S. 2001, Section 50-112, is amended to read as follows:

Section 50-112. A. All persons employed as full-time duly appointed or elected officers who are paid for working more than twenty-five (25) hours per week or any person hired by a participating municipality who is undergoing police training to become a permanent police officer of the municipality shall participate in the System upon initial employment with a police department of a participating municipality. All such persons shall submit to a physical-medical examination pertaining to sight, hearing, agility and other conditions the requirements of which shall be established by the State Board. The person shall be required to complete this physical-medical examination prior to the beginning of actual employment. This examination shall identify any

preexisting conditions. Except as otherwise provided in this section, a police officer shall be not less than twenty-one (21) nor more than forty-five (45) years of age when accepted for membership in the System. However, if a municipality should be found to be in noncompliance with the provisions of Article 50 of this title, as determined by the State Board, then any current full-time active police officer employed by a municipality as of July 1, 2001, shall not be denied eligibility to participate in the Oklahoma Police Pension and Retirement System solely due to age. The State Board shall have authority to deny or revoke membership of any person submitting false information in such person's membership application. The State Board shall have final authority in determining eligibility for membership in the System, pursuant to the provisions of this article.

B. The police chief of any participating municipality may be exempt from membership in the System or may become a member provided the member is not a retired member and the requirements of this section are met at the time of employment.

C. A member of the System who has attained his or her normal retirement date may, if the member so elects, agree to terminate employment and retire as a member of the System, and make an election to receive distributions from the System, and then return to employment. If a retired member is reemployed by a participating municipality in the position of police chief, but in the position of police chief, such member shall be a retired member of the System, receiving or in a position which is not covered by the System, retirement shall include receipt by such retired member of in-service distributions from the System while employed as police chief.

D. A former member of the System who terminates from covered employment and who has neither retired from the System nor entered the Oklahoma Police Deferred Option Plan and is later employed in a

covered position with a participating municipality shall not be denied eligibility to become a member of the System because he or she is forty-five (45) years of age or older. If such member has withdrawn his or her contributions prior to re-entering the System and the member desires to receive credit for such prior service, then the member shall pay back such contributions and interest pursuant to Section 50-111.1 of this title.

SECTION 20. AMENDATORY 11 O.S. 2001, 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; however, a member may be subsequently reemployed in the position of police chief pursuant to subsection C of Section 50-112 of this title;

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. Effective July 1, 1989, 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 actual retirement date of the member.

For distributions made for calendar years beginning on or after January 1, 2001, the System will apply the minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, in accordance with the regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, that were proposed on January 17, 2001, notwithstanding any provision of the System to the contrary.

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~~ 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 or a beneficiary, the benefit payment for the month in which the retired member or beneficiary died, if not previously paid, shall be made to the beneficiary of the member or to the member's or beneficiary'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 or beneficiary died.

SECTION 21. AMENDATORY 11 O.S. 2001, 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)~~ One Hundred Sixty Thousand Dollars (\$160,000.00), effective January 1, 2002, 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, as amended, 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.
- e. Effective for limitation years beginning on or after January 1, 1995, if a member has been credited with less than ten (10) years of credited service, the dollar amount otherwise applicable under subparagraph c of this paragraph shall be reduced by multiplying such dollar amount 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. 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 mortality tables and interest rates described in subdivisions (a) ~~and~~, (b) and (c) 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; provided however, prior to January 1, 2002, 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); 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.)~~ Notwithstanding any other System provisions to the contrary, for distributions with annuity starting dates on or after December 31, 2002, the applicable mortality table used for purposes of adjusting any benefit or limitation under Sections 415(b)(2)(B), (C), or (D) of the Internal Revenue Code of 1986, as amended,

is the table described in Rev. Rul. 2001-62.

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.
- (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 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.
- h. Effective for years beginning after December 31, 1997, if a member purchases service pursuant to Section 50-111.2 and Section 50-111.4 of this title, which qualifies as "permissive service credit" pursuant to Section 415(n) of the Internal Revenue Code of 1986, as amended, the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, may be met by either:
- (1) treating the accrued benefit derived from such contributions as an annual benefit under paragraph 1 of this section, or
  - (2) treating all such contributions as annual additions for purposes of Section 415(c) of the Internal Revenue Code of 1986, as amended.
- i. Effective for years beginning after December 31, 1997, if a member repays to the System any amounts received because of his prior termination pursuant to subsection C of Section 50-111.1 of this title, such repayment shall not be taken into account for purposes of Section 415 of the Internal Revenue Code of 1986,

as amended, pursuant to Section 415(k)(3) of the Internal Revenue Code of 1986, as amended.

For limitation years beginning on or after January 1, 1995, subparagraphs d, e and f of 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.

2. 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) on or after January 1, 2000, the combined limit of repealed Section 415(e) of the Internal Revenue Code of 1986, as amended, maintained by a participating municipality, the sum of the defined benefit plan fraction and defined contribution plan fraction, as defined in subparagraphs a and 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, as amended, or one hundred forty percent (140%) of the percentage limitation under Section 415(b)(1)(B) of the Internal Revenue Code of 1986, as amended, 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, as amended, 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, as amended, or one hundred forty percent (140%) of the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code of 1986, as amended, 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, as amended shall not apply.~~

3. 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).

SECTION 22. AMENDATORY 11 O.S. 2001, Section 50-114.2, is amended to read as follows:

Section 50-114.2 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; provided, however, that effective January 1, 2002, a portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax member contributions which are not includable in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code of 1986, as amended, that agrees to separately account for amounts so transferred, including separate accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable;

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~~ Effective January 1, 2002, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, and an eligible plan under Section 457(b) of the Internal Revenue Code of 1986, as amended, which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the System. Effective January 1, 2002, the definition of Eligible Retirement

Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee pursuant to a qualified domestic order as defined in subsection B of Section 50-124 of this title. 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, effective June 7, 1993, 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 order, as defined in subsection B of Section 50-124 of this title, are Distributees with regard to the interest of the spouse or the former spouse; and

4. "Direct Rollover" means a payment by the ~~Plan~~ System 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) of the Internal Revenue Code of 1986, as amended, 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 23. AMENDATORY 11 O.S. 2001, 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 began participation in the System prior to July 1, 2003, and 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. All members who initially begin participation with the System after June 30, 2003, may acquire prior military service credit for a maximum of five (5) years of such service credit upon payment of the actuarial cost of such service in the manner prescribed by and subject to all of the requirements of Section 50-111.4 of this title.

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 24. AMENDATORY 11 O.S. 2001, Section 50-129, is amended to read as follows:

Section 50-129. ~~Any~~ Notwithstanding any other provision of law, any aggrieved party may appeal the decision of the State Board in granting, denying or adjusting a pension or retirement benefit, ~~to~~ and said appeal shall be made in the district court in District Court of Oklahoma County. The appeal shall be commenced within thirty (30) days after the date of the State Board's decision. Notice of the intent to appeal shall be given by the aggrieved party to the State Board within ten (10) days after the date of the State Board's decision. The proceedings, practice, and standards of review in the district court shall be governed by the Administrative Procedures Act except as otherwise provided in this section. The

district court may affirm, reverse or modify the decision of the State Board. The court may also remand the cause with specific instructions to the State Board. The court costs and expense of preparation of any transcript shall be paid by the losing party. All other legal actions or proceedings against the Oklahoma Police Pension and Retirement Board, the Oklahoma Police Pension and Retirement System or its employees or agents shall be brought in the District Court of Oklahoma County.

SECTION 25. AMENDATORY 11 O.S. 2001, Section 50-134, is amended to read as follows:

Section 50-134. The State Board shall be responsible for the operation, administration and management of the System.

In order to carry out the responsibilities imposed upon them by law, the State Board shall appoint such advisors, consultants, agents and employees, each of whom may be such individual, firm or corporation as shall be deemed necessary or advisable and approved by the State Board. Such individuals, firms or corporations may be retained or employed in such manner and upon such terms as shall seem appropriate and proper to the State Board, either by contract or retainer, by regular full- or part-time employment or by such other arrangements as shall be satisfactory to the State Board and shall be subject to such bonding requirements as shall be established by the State Board. The fees, commissions, salaries or other compensation of such advisors, consultants, agents or employees shall be paid by the State Board from the Fund.

The Executive Director shall perform the duties and services indicated below and such other duties and services as may, from time to time, be requested or directed by the State Board, and who shall be responsible to the State Board and shall attend all regular meetings of the State Board.

The Executive Director shall be responsible to the State Board for the day-to-day operation of the System, and shall on behalf of the State Board:

~~1. Be responsible for the transmittal of communications from the State Board to the local board;~~

~~2.~~ Receive payroll and employment reports from participating municipalities and maintain current employment, earnings and contribution data on each covered member of each participating municipality;

~~3.~~ 2. Coordinate the activities of all other advisors, consultants, agents or employees appointed by the State Board;

~~4.~~ 3. Maintain all necessary records reflecting the operation and administration of the System and submit detailed reports thereof to the State Board at each regular meeting of the State Board and at such other time or times as requested by the State Board;

~~5.~~ 4. Process all claims for payment of benefits or expenses for approval by the State Board; and

~~6.~~ 5. File on behalf of the State Board such reports or other information as shall be required by any state or federal law or regulations.

SECTION 26. AMENDATORY 47 O.S. 2001, Section 2-300, as amended by Section 1, Chapter 399, O.S.L. 2002 (47 O.S. Supp. 2002, 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 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 Oklahoma Alcoholic Beverage Laws Enforcement Commission designated to perform duties in the investigation and prevention of crime and the enforcement 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. Effective July 1, 1987, a member does not include a "leased employee" as defined under Section 414(n)(2) of the Internal Revenue Code of 1986, as amended. Effective July 1, 1999, any individual who agrees with the participating employer 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, 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, and
- 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;

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:

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

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).

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, as amended, and any amount of nonelective salary reduction under Section 414(h) of the Internal Revenue Code of 1986, as amended. Effective July 1, 1992, gross salary shall include any amount of elective salary

reduction under Section 125 of the Internal Revenue Code of 1986, as amended. Effective July 1, 1998, gross salary shall include any amount of elective salary reduction not includable in the gross income of the member under Section 132(f)(4) 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.

In addition to other applicable limitations, and notwithstanding any other provision to the contrary, for plan years beginning on or after July 1, ~~1996~~ 2002, 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)~~ Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") annual salary limit. The ~~OBRA '93~~ EGTRRA annual salary limit is ~~One Hundred Fifty Thousand Dollars (\$150,000.00)~~ Two Hundred Thousand Dollars (\$200,000.00), 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~~ EGTRRA 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~~ 2002, 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~~ EGTRRA 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;~~

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 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;

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;

13. "Line of duty" means any action which a member whose primary function is crime control or reduction or enforcement of the criminal law is obligated or authorized by rule, regulations, condition of employment or service, or law to perform, including those social, ceremonial, or athletic functions to which the member is assigned, or for which the member is compensated, by the agency the member serves;

14. "Personal injury" or "injury" means any traumatic injury as well as diseases which are caused by or result from such an injury, but not occupational diseases;

15. "Catastrophic nature" means consequences of an injury that permanently prevent an individual from performing any gainful work; and

16. "Traumatic injury" means a wound or a condition of the body caused by external force, including injuries inflicted by bullets, explosives, sharp instruments, blunt objects or other physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation, and bacteria, but excluding stress and strain.

SECTION 27. AMENDATORY 47 O.S. 2001, Section 2-305, as amended by Section 4, Chapter 399, O.S.L. 2002 (47 O.S. Supp. 2002, Section 2-305), is amended to read as follows:

Section 2-305. A. Except as otherwise provided in this title, at any time after attaining normal retirement date, any member of the System upon application ~~therefor~~ for unreduced retirement benefits made and approved, may retire, and, during the remainder of

the member's lifetime, receive annual retirement pay, payable in equal monthly payments, equal to two and one-half percent (2 1/2%) of the final average salary times years of credited service. If such retired member is reemployed by a state agency in a position which is not covered by the System, such retired member shall continue to receive in-service distributions from the System. Prior to September 19, 2002, if such retired member was reemployed by a state agency in a position which is covered by the System, such member shall continue to receive in-service distributions from the System and shall not accrue any further credited service. If such a member is reemployed by a state agency in a position which is covered by the System on or after September 19, 2002, such member's monthly retirement payments shall be suspended until such member retires and is not reemployed by a state agency in a position which is covered by the System. No member shall be required to retire for length of service unless and until the member shall have reached the age of sixty (60) years, but any member of the System who shall have reached the age of sixty (60) years and who shall also have completed twenty (20) years or more of credited service shall be retired by the Board unless, after application to the Board and such examination and showing as the Board may deem proper, the Board shall determine that such member of the System is physically and mentally able to continue to perform duties or service as required of a member. Unless such application be made by a member of the System within thirty (30) days after reaching the age of sixty (60) years and completing twenty (20) years or more of credited service or if, after such application and examination, the Board shall determine that such member of the System is not physically or mentally able to continue to perform services as required ~~of~~ by the employer, the Board shall by resolution order his retirement with retirement pay for length of service as provided herein.

B. Beginning July 1, 1994, members who retired or were eligible to retire prior to July 1, 1980 or their surviving spouses shall receive annual retirement pay, payable in equal monthly payments, equal to the greater of their current retirement pay, or two and one-half percent (2 1/2%) of the actual paid gross salary being currently paid to a highway patrol officer, at the time each such monthly retirement payment is made, multiplied by the retired member's years of credited service.

C. A member who meets the definition of disability as defined in Section 2-300 of this title and whose disability occurred prior to the member's normal retirement date and by direct reason of the performance of the member's duties as an officer shall receive a monthly benefit equal to the greater of fifty percent (50%) of final average salary or two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of the member's credited service.

D. A member who meets the definition of disability and such determination is made by Board action on or subsequent to July 1, 2000, as defined in Section 2-300 of this title and whose disability occurred prior to the member's normal retirement date and whose disability is by means of personal and traumatic injury of a catastrophic nature and in the line of duty shall receive a monthly benefit equal to:

1. Two and one-half percent (2 1/2%);
2. Multiplied by:
  - a. twenty (20) years of service, regardless of the actual number of years of credited service performed by the member prior to the date of disability, if the member had performed less than twenty (20) years of service, or

b. the actual number of years of service performed by the member if the member had performed twenty (20) or more years of service;

3. Multiplied by a final average salary equal to:

- a. the salary which the member would have received pursuant to statutory salary schedules in effect upon the date of the disability for twenty (20) years of service prior to disability. The final average salary for a member who performed less than twenty (20) years of service prior to disability shall be computed assuming that the member was paid the highest salary allowable pursuant to the law in effect at the time of the member's disability based upon twenty (20) years of service and with an assumption that the member was eligible for any and all increases in pay based upon rank during the entire period. If the salary of a member is not prescribed by a specific salary schedule upon the date of the member's disability, the final average salary for the member shall be computed by the member's actual final average salary or the highest median salary amount for a member whose salary was prescribed by a specific salary schedule upon the date of the member's disability, whichever final average salary amount would be greater, or
- b. the actual final average salary of the member if the member had performed twenty (20) or more years of service prior to disability;

E. A member who meets the definition of disability as defined in Section 2-300 of this title and whose disability occurred prior to the member's normal retirement date but after completing three (3) years of vesting service and not by reason of the performance of the member's duties as an officer or as a result of the member's

willful negligence shall receive a monthly benefit equal to two and one-half percent (2 1/2%) of final average salary multiplied by the number of years of the member's credited service.

F. Payment of a disability pension shall commence as of the first day of the month coinciding or next following the date of retirement and shall continue as long as the member meets the definition of total and permanent disability provided in this section.

G. For the purpose of determining the member's disability under subsection C, D or E of this section, the member shall be required by the Board to be examined by a minimum of two recognized physicians selected by the Board to determine the extent of the member's injury or illness. The examining physicians shall furnish the Board a detailed written report of the injury or illness of the examined member establishing the extent of disability and the possibilities of the disabled member being returned to his regular duties or an alternate occupation or service covered by the System after a normal recuperation period. The Board shall require all retired disabled members who have not attained their normal retirement date to submit to a physical examination once each year for a minimum of three (3) years following retirement. The Board shall select a minimum of two physicians to examine the retired members and pay for their services from the fund. Any retired disabled member found no longer disabled by the examining physicians to perform the occupation of the member or an alternate occupation or service covered by the System shall be required to return to duty and complete twenty (20) years of service as provided in subsection A of this section, or forfeit all his rights and claims under this act.

H. The disability benefit under this section shall be for the lifetime of the member unless such member is found no longer disabled pursuant to subsection F of this section. Such member

shall not be entitled to the retirement benefit pursuant to subsection A of this section unless such member returns to active duty and is eligible for a retirement benefit as provided in subsection A of this section.

I. At the postoffer, preemployment physical examination required under paragraph 6 of Section 2-300 of this title, the physician selected by the Board shall determine the extent to which a new member is disabled. If a member is determined to be partially disabled, the physician shall assign a percentage of disability to such partial disability. If such member then becomes entitled to a disability benefit under either subsection C or subsection E of this section, the benefit payable shall be reduced by the percentage which such member was determined to be disabled at the postoffer, preemployment physical unless the Board makes a determination that the initially determined percentage of disability at the preemployment physical examination is unrelated to the reason for the disability currently sought pursuant to subsection C or subsection E of this section. Upon employment, the member shall disclose to the Board any disability payments received from any source. The amount of disability to be paid to any member cannot exceed one hundred percent (100%) disability from all sources. The provisions of this subsection shall apply only to members whose effective date of membership is on or after July 1, 2000.

J. In addition to the pension provided for under subsection D of this section, if said member has one or more children under the age of eighteen (18) years or under the age of twenty-two (22) years if the child is enrolled full time in and is regularly attending a public or private school or any institution of higher education, Four Hundred Dollars (\$400.00) a month shall be paid from said Fund for the support of each surviving child to the member or person having the care and custody of such children until each child reaches the age of eighteen (18) years or reaches the age of twenty-

two (22) years if the child is enrolled full time in and is regularly attending a public or private school or any institution of higher education.

SECTION 28. AMENDATORY 47 O.S. 2001, Section 2-305.1A, is amended to read as follows:

Section 2-305.1A 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; provided, however, that effective January 1, 2002, a portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax member contributions which are not includable in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code of 1986, as amended, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue

Code of 1986, as amended, that agrees to separately account for amounts so transferred, including separate accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable.

2. "Eligible Retirement Plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code of 1986, as amended, and individual retirement annuity described in Section 408(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~~ Effective January 1, 2002, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, and an eligible plan under Section 457(b) of the Internal Revenue Code of 1986, as amended which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the System. Effective January 1, 2002, the definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee pursuant to a qualified domestic order as defined in subsection B of Section 2-303.3 of this title. 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, effective June 7, 1993, 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 order, as defined in subsection B of Section 2-303.3 of this title, are Distributees with regard to the interest of the spouse or the former spouse.

4. "Direct Rollover" means a payment by the ~~Plan~~ System 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) of the Internal Revenue Code of 1986, as amended, 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 29. AMENDATORY 47 O.S. 2001, Section 2-305.2, is amended to read as follows:

Section 2-305.2 A. In lieu of terminating employment and accepting a service retirement pension pursuant to Section 2-305 of Title 47 of the Oklahoma Statutes, any member of the Oklahoma Law Enforcement Retirement System who has not less than twenty (20) years of creditable service and who is eligible to receive a service retirement pension may elect to participate in the Oklahoma Law Enforcement Deferred Option Plan and defer the receipts of benefits in accordance with the provisions of this section.

B. For purposes of this section, creditable service shall include service credit reciprocally recognized pursuant to Sections 2-300 through 2-305.1 of Title 47 of the Oklahoma Statutes but for eligibility purposes only.

C. The duration of participation in the Oklahoma Law Enforcement Deferred Option Plan for a member shall not exceed five (5) years. At the conclusion of a member's participation in the Oklahoma Law Enforcement Deferred Option Plan, the member shall terminate employment ~~with all state law enforcement agencies as an officer,~~ and shall start receiving the member's accrued monthly retirement benefit from the System. Such a member may continue to receive in-service distributions of such member's accrued monthly retirement benefit from the System if the member is reemployed by a state agency only if such reemployment is in a position not covered under the System.

D. When a member begins participation in the Oklahoma Law Enforcement Deferred Option Plan, the contribution of the employee shall cease. The employer contributions shall continue to be paid in accordance with Section 2-304 of Title 47 of the Oklahoma Statutes. Employer contributions for employees who elect the Oklahoma Law Enforcement Deferred Option Plan shall be credited equally to the Oklahoma Law Enforcement Retirement System and to the Oklahoma Law Enforcement Deferred Option Plan. The monthly retirement benefits that would have been payable had the member elected to cease employment and receive a service retirement shall be paid into the Oklahoma Law Enforcement Deferred Option Plan account.

E. 1. A member who participates in this plan shall be eligible to receive cost of living increases.

2. A member who participates in this plan shall earn interest at a rate of two percentage points below the rate of return of the investment portfolio of the System, ~~but no less than the actuarial assumed interest rate as certified by the actuary in the yearly evaluation report of the actuary.~~ The interest shall be credited to the individual account balance of the member on an annual basis.

F. A participant in the Oklahoma Law Enforcement Deferred Option Plan shall receive, at the option of the participant:

1. A lump sum payment from the account equal to the option account balance of the participant, payable to the participant;

2. A lump sum payment from the account equal to the option account balance of the participant, payable to the annuity provider which shall be selected by the participant as a result of the research and investigation of the participant; or

3. Any other method of payment if approved by the Board.

G. If the participant dies during the period of participation in the Oklahoma Law Enforcement Deferred Option Plan, a lump sum payment equal to the account balance of the participant shall be paid in accordance with Section 2-306.3 of Title 47 of the Oklahoma Statutes.

H. The Oklahoma Law Enforcement Deferred Option Plan shall not be implemented until October 1, 1990, or when the Board obtains a ruling from the Internal Revenue Service which affirmatively states that said plan shall be treated as a qualified plan for federal income tax purposes, whichever comes last.

SECTION 30. AMENDATORY 47 O.S. 2001, 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, as amended, in accordance with the provisions of subsections B and C of this section.

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

1. ~~Ninety Thousand Dollars (\$90,000.00)~~ One Hundred Sixty Thousand Dollars (\$160,000.00), effective January 1, 2002, 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

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 paragraph, earnings for any limitation year shall be the earned income of the member, wages, salaries, 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:

- 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
- 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;

3. Except as provided in paragraph 5 of this subsection, the limitations specified in paragraphs 1 and 2 of this 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, as amended, maintained by a participating employer;

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 paragraph 1 of this 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 paragraph, to the extent required by the Secretary of the Treasury, shall be applied separately to each change in benefit structure hereunder;

5. Effective for limitation years beginning on or after January 1, 1995, if a member has been credited with less than ten (10) years of credited service, the dollar amount otherwise applicable under paragraph 3 of this subsection shall be reduced by multiplying such dollar amount 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);

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. 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 mortality tables and interest rates described in divisions (1) ~~and~~, (2) and (3) of subparagraph a of this paragraph.

a. If payment begins before the member reaches sixty-two (62) years of age, the limitation in paragraph 1 of this subsection shall be reduced on an actuarially equivalent basis; provided however, prior to January 1, 2002, 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); 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.)~~ Notwithstanding any other System provisions to the contrary, for distributions with annuity starting dates on or after December 31, 2002, the applicable mortality table used for purposes of adjusting any benefit or limitation under Sections 415(b) (2) (B), (C) or (D) of the Internal Revenue Code of 1986, as amended, is the table described in Rev. Rul. 2001-62. 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 paragraph 1 of this subsection shall be the actuarial equivalent of such amount otherwise applicable at the member reaching sixty-five (65) years of age.

(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 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.

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.

8. Effective for years beginning after December 31, 1997, if a member purchases service under Section 2-307.5 and/or Section 2-307.7 of this title, which qualifies as "permissive service credit" pursuant to Section 415(n) of the Internal Revenue Code of 1986, as amended, the limitations of Section 415 of the Internal Revenue Code of 1986, as amended, may be met by either:

- a. treating the accrued benefit derived from such contributions as an annual benefit under this section, or
- b. treating all such contributions as annual additions for purposes of Section 415(c) of the Internal Revenue Code of 1986, as amended.

9. Effective for years beginning after December 31, 1997, if a member repays to the System any amounts received because of his prior termination pursuant to paragraph 3 of subsection (b) of

Section 2-307 of this title, such repayment shall not be taken into account for purposes of Section 415 of the Internal Revenue Code of 1986, as amended, pursuant to Section 415(k)(3) of the Internal Revenue Code of 1986, as amended.

For limitation years beginning on or after January 1, 1995, paragraphs 4, 5 and 6 of this subsection shall not apply to a benefit paid under the System as a 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.

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) on or after January 1, 2000, the combined limit of repealed Section 415(e) 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 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 subsection B of this section, the amount of the maximum annual accrued retirement benefit that can be paid to such member pursuant to 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 subsection:~~

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

- 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~~
- 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, as amended, or one hundred forty percent (140%) of the percentage limitation under Section 415(b)(1)(B) of the Internal Revenue Code of 1986, as amended, 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;~~

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

- 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, as amended, 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~~
- 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, as amended, or one hundred forty percent (140%) of the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code of 1986, as amended, 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, as amended, shall not apply.~~

D. The Board is hereby authorized to revoke the special election previously made under Internal Revenue Code Section 415(b)(10).

SECTION 31. AMENDATORY 47 O.S. 2001, 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; and

4. Effective January 1, 2002, a lump-sum payment for repayment of any amount received because of a member's prior termination may be repaid by trustee-to-trustee transfers from a Section 403(b) annuity, an eligible Section 457(b) plan, and/or a Section 401(a) qualified plan.

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 32. AMENDATORY 47 O.S. 2001, Section 2-307.1, is amended to read as follows:

Section 2-307.1 A. A member may receive service credit for not to exceed five (5) years of participating service accumulated by the member while an employee of a state agency if the member is not receiving or eligible to receive retirement benefits or credit for said service from the Oklahoma Public Employees Retirement System. To receive credit for said service prior to January 1, 1991, the employee and employer contributions for those years of service and

interest of not to exceed five percent (5%) as determined by the Board shall be paid to the Board. Effective January 1, 1991, to receive credit for said service, the member shall pay the amount determined by the Board of Trustees pursuant to Section 19 of Enrolled Senate Bill No. 810 of the 2nd Session of the 42nd Oklahoma Legislature. Such service credit shall not be used in determining the eligibility of the member for retirement based upon length of service.

B. To receive credit for such service:

1. A member who became a member of the system prior to July 1, 1988, shall make application to the Board for such service prior to January 1, 1989; and

2. A member who becomes a member of the system after June 30, 1988, shall make application to the Board for such service within two (2) years of the date the member became a member of the system.

C. Effective January 1, 2002, such service credit may be paid for through trustee-to-trustee transfers from a Section 403(b) annuity, an eligible Section 457(b) plan, and/or a Section 401(a) qualified plan.

SECTION 33. AMENDATORY 47 O.S. 2001, Section 2-307.3, is amended to read as follows:

Section 2-307.3 A. Prior to January 1, 1991, upon payment to the Oklahoma Law Enforcement Retirement 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, any member of the System shall receive credit for not to exceed five (5) years of prior law enforcement service rendered in 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. Effective January 1, 1991, to receive credit for not to exceed five (5) years of prior law enforcement service rendered in 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, the member shall pay the amount determined by the Board pursuant to Section ~~25~~ 2-307.5 of this ~~act~~ title. Service credit received pursuant to this section shall be used in determining the member's retirement benefit but shall not be used in determining years of service for retirement or vesting purposes.

To receive credit for such service:

1. A member who became a member of the system prior to July 1, 1988, shall make application to the Board for such service prior to January 1, 1989; and

2. A member who becomes a member of the system after June 30, 1988, shall make application to the Board for such service within two (2) years of the date the member became a member of the system.

B. Upon payment to the Oklahoma Law Enforcement Retirement System of a sum equal to 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 prior to January 1, 1991, or effective January 1, 1991, upon payment to the System of the amount determined by the Board pursuant to Section ~~25~~ 2-307.5 of this ~~act~~ title, any member of the system shall receive credit for not to exceed five (5) years of prior law enforcement service rendered in another state or with a federal law enforcement agency, either as a commissioned law enforcement officer or in a scientific or technical field, if the member is not receiving or eligible to receive retirement credit or benefits for such service in any other public retirement system. Service credit received pursuant to this section shall be used in determining the member's retirement benefit but shall not be used in determining years of service for retirement or vesting purposes.

To receive credit for such service:

1. A member who became a member of the system prior to July 1, 1990, shall make application to the Board for such service prior to January 1, 1991; and

2. A member who became a member of the system after June 30, 1990, shall make application to the Board for such services within two (2) years of the date the member became a member of the system.

C. Effective January 1, 2002, such service credit may be paid for through trustee-to-trustee transfers from a Section 403(b) annuity, an eligible Section 457(b) plan, and/or a Section 401(a) qualified plan.

SECTION 34. AMENDATORY 47 O.S. 2001, Section 2-307.4, is amended to read as follows:

Section 2-307.4 A. Any member of the Oklahoma Law Enforcement Retirement System with military service prior to membership in the Oklahoma Law Enforcement Retirement System 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. Any active member of the Oklahoma Law Enforcement Retirement System whose initial membership in the System began on or after July 1, 2000, may receive up to five (5) years of prior military service credit as otherwise provided in this section, only upon payment of the amount determined by the Board in the manner as provided in Section 2-307.5 of this title.

B. As used in this section, "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 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.

D. Service credit received pursuant to this section shall be used in determining the member's retirement benefit but shall not be used in determining years of service for retirement or vesting purposes.

E. Effective January 1, 2002, such service credit may be paid for through trustee-to-trustee transfers from a Section 403(b) annuity, an eligible Section 457(b) plan and/or a Section 401(a) qualified plan.

SECTION 35. AMENDATORY 47 O.S. 2001, Section 2-307.5, is amended to read as follows:

Section 2-307.5 A. The Board shall adopt rules for computation of the purchase price for transferred credited service. 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 transferred credited service and the projected benefit after purchase of the transferred credited service 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 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 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 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 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. Notwithstanding anything herein to the contrary, effective January 1, 2002, lump-sum payments for transferred credited service purchases may be made by trustee-to-trustee transfers from a Section 403(b) annuity, an eligible Section 457(b) plan, and/or a Section 401(a) qualified plan. Members making installment payments on or after January 1, 2002, shall have the option of making lump-sum payments for the balance of the remaining payments by trustee-to-trustee transfers from a Section 403(b) annuity, an eligible Section 457(b) plan, and/or a Section 401(a) qualified plan. The Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

SECTION 36. AMENDATORY 47 O.S. 2001, Section 2-307.7, is amended to read as follows:

Section 2-307.7 A. A member of the Oklahoma Law Enforcement Retirement System who has ten (10) 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 is within three (3) years of a normal retirement date as defined in paragraph 7 of Section 2-300 of ~~Title 47 of the Oklahoma Statutes~~ 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 actual paid base salary as defined in paragraph 8 of Section 2-300 of ~~Title 47 of the Oklahoma Statutes~~ 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.

Notwithstanding anything herein to the contrary, effective January 1, 2002, lump-sum payments for termination credit purchases may be made by trustee-to-trustee transfers from a Section 403(b) annuity, an eligible Section 457(b) plan, and/or a Section 401(a) qualified plan. Members making installment payments on or after January 1, 2002, shall have the option of making lump-sum payments for all or part of the balance of the remaining payments by trustee-to-trustee transfers from a Section 403(b) annuity, an eligible Section 457(b) plan, and/or a Section 401(a) qualified plan.

E. Purchased termination credit may only be used as service credit to qualify the member for normal retirement.

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 Section 2-306 of ~~Title 47 of the Oklahoma Statutes~~ 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 37. AMENDATORY 20 O.S. 2001, Section 1108, as amended by Section 5, Chapter 391, O.S.L. 2002 (20 O.S. Supp. 2002, 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.

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 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. ~~In order to standardize the information and analysis of the financial~~

~~condition of the System, the Board shall provide information regarding the financial and actuarial condition of the System using assumptions or requirements as hereinafter required for the report stating the condition of the System as of July 1, 2002, and for each subsequent reporting date, which information shall be contained in an appendix or addendum to the annual report. For purposes other than the reporting requirements contained in the appendix or addendum, all actuarial and economic assumptions shall be those assumptions adopted by the System in its annual actuarial valuation. The appendix or addendum shall contain a statement of the financial condition of the System:~~

~~1. Using an assumed rate of return of seven and one-half percent (7.5%), net of investment expenses, per annum, compounded annually;~~

~~2. Using an actuarial assumption regarding cost-of-living adjustments for the System of two percent (2%) annually;~~

~~3. That relies upon the use of appropriate preretirement, postretirement and disability retirement information using generational projections taken from the RP-2000 Mortality Tables, published by the Society of Actuaries;~~

~~4. Which accurately and completely summarizes all sources of system assets, other than employee contributions, which shall include, but not be limited to, the total of all employer contributions, any dedicated tax or fee revenue of whatever kind or however denominated, and the total amount of any other source of revenue which accrues to the System, other than return on investments, such as federal monies used for the purpose of making employer contributions; and~~

~~5. Using an assumption that the unfunded actuarial accrued liabilities of the System are amortized over a period of thirty (30) years, in a manner consistent with the Governmental Accounting Standards Board Statement Number 25.~~

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.

D. After July 1 and before December 1 of each year, the Board of Trustees of the Oklahoma Public Employees Retirement System 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 B 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 overfunded 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. In order to standardize the information and analysis, of the financial condition of the System, the Board shall provide information regarding the financial and actuarial condition of the System using assumptions or requirements as hereinafter required for the report stating the condition of the System as of July 1, 2002, and for each subsequent reporting date, which information shall be contained in an appendix or addendum to the annual report. For purposes other than the reporting requirements contained in the appendix or addendum, all actuarial and economic assumptions shall be those assumptions adopted by the System in its annual actuarial valuation. The appendix or addendum shall contain a statement of the financial condition of the System:

1. Using an assumed rate of return of seven and one-half percent (7.5%), net of investment expenses, per annum, compounded annually;

2. Using an actuarial assumption regarding cost-of-living adjustments for the System of two percent (2%) annually;

3. That relies upon the use of appropriate preretirement, postretirement and disability retirement information using generational projections taken from the RP-2000 Mortality Tables, published by the Society of Actuaries;

4. Which accurately and completely summarizes all sources of system assets, other than employee contributions, which shall include, but not be limited to, the total of all employer contributions, any dedicated tax or fee revenue of whatever kind or however denominated, and the total amount of any other source of revenue which accrues to the System, other than return on investments, such as federal monies used for the purpose of making employer contributions; and

5. Using an assumption that the unfunded actuarial accrued liabilities of the System are amortized over a period of thirty (30) years, in a manner consistent with the Governmental Accounting Standards Board Statement Number 25.

SECTION 38. AMENDATORY 74 O.S. 2001, Section 909.1, as amended by Section 8, Chapter 391, O.S.L. 2002 (74 O.S. Supp. 2002, 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~~ December 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 overfunded 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. In order to standardize the information and analysis of the financial condition of the System, the Board shall provide information regarding the financial and actuarial condition of the System using assumptions or requirements as hereinafter required for the report stating the condition of the System as of July 1, 2002, and for each subsequent reporting date, which information shall be contained in an appendix or addendum to the annual report. For purposes other than the reporting requirements contained in the appendix or addendum, all actuarial and economic assumptions shall be those assumptions adopted by the System in its annual actuarial valuation. The appendix or addendum shall contain a statement of the financial condition of the System:

1. Using an assumed rate of return of seven and one-half percent (7.5%), net of investment expenses, per annum, compounded annually;

2. Using an actuarial assumption regarding cost-of-living adjustments for the System of two percent (2%) annually;

3. That relies upon the use of appropriate preretirement, postretirement and disability retirement information using generational projections taken from the RP-2000 Mortality Tables, published by the Society of Actuaries;

4. Which accurately and completely summarizes all sources of system assets, other than employee contributions, which shall include, but not be limited to, the total of all employer contributions, any dedicated tax or fee revenue of whatever kind or however denominated, and the total amount of any other source of revenue which accrues to the System, other than return on investments, such as federal monies used for the purpose of making employer contributions; and

5. Using an assumption that the unfunded actuarial accrued liabilities of the System are amortized over a period of thirty (30) years, in a manner consistent with the Governmental Accounting Standards Board Statement Number 25.

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.

SECTION 39. AMENDATORY 74 O.S. 2001, Section 917, as last amended by Section 3, Chapter 376, O.S.L. 2002 (74 O.S. Supp. 2002, Section 917), is amended to read as follows:

Section 917. (1) Upon termination of employment with a participating employer, not followed by employment with such participating employer, or another participating employer, within four (4) calendar months, the member shall be paid an amount equal to the amount of money he or she has paid into the System upon the filing of the proper application with the System. Payment of these

accumulated contributions may be made in less than four (4) calendar months only in the event that a member is not eligible to elect a vested benefit pursuant to this section and said member is terminally ill, as evidenced by a physician's certification that the member is not expected to live beyond four (4) months.

(2) If such member has completed eight (8) years of credited service at date of termination or if the member is a legislative session employee of the Legislature or if the employee is a session employee employed by the Legislative Service Bureau, four (4) years of credited service at date of termination, he may elect a vested benefit in lieu of receiving his accumulated contributions. The amount of the vested benefit shall commence at the normal retirement date and shall be paid monthly during the lifetime of the retirant with the last payment made on the last day of the month in which death occurs.

(3) Upon death before the normal or early retirement date of a member who has elected a vested benefit, his accumulated contributions shall be paid to his beneficiary unless the spouse of the deceased member ~~is the beneficiary and~~ elects monthly benefits as provided for in Section 918 of this title.

(4) Upon death after the normal or early retirement date of a retirant who elected a vested benefit without an option, the excess, if any, of his accumulated contributions over the sum of all payments of the vested benefit made to date of death shall be paid to his beneficiary.

(5) If a former employee, who meets the eligibility requirements for membership, returns to employment after the expiration of four (4) calendar months following the termination of his employment and the employee has withdrawn his accumulated contributions, he may pay to the System the sum of the accumulated contributions he has withdrawn plus interest of not to exceed ten percent (10%), as determined by the Board, and shall receive the

same benefits as if he had never withdrawn his contributions. No member shall be permitted to take advantage of the payback for restoration of creditable service more than one time. If a member, who has elected a vested benefit, or a reemployed member, who has not withdrawn the member's contributions, again becomes an employee of a participating employer, the period of absence shall not be counted as a break in service; however, the period of absence shall not be credited.

(6) Prior to January 1, 1991, members, who at the time of employment were ineligible for membership into the System due to their age, shall receive benefits for the period of ineligibility if the employer and employee contributions are paid the System for that ineligible period. No interest shall be paid on a payback of this type. However, effective January 1, 1991, to receive benefits, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

(7) When any error in calculation or participation coverage to a prior or current employee exists, it shall be the responsibility of the participating employer which made the error to pay the amount determined by the Board pursuant to Section 913.5 of this title. This obligation of the participating employer to pay the amount due pursuant to this section shall be considered a current obligation of the employer until the amount is paid in full, regardless of the dates of the periods of service.

(8) Upon application to the Board and payment as determined by the Board, a member of the System may receive service credit for those years of service that the member was eligible to receive service credit from the Teachers' Retirement System of Oklahoma. To receive the service credit, the member shall pay the amount determined by the Board pursuant to Section 913.5 of this title.

(9) 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 40. REPEALER 11 O.S. 2001, Section 50-106.1, is hereby repealed.

SECTION 41. REPEALER 11 O.S. 2001, Section 50-106.2, is hereby repealed.

SECTION 42. REPEALER 11 O.S. 2001, Section 50-108, is hereby repealed.

SECTION 43. This act shall become effective July 1, 2003.

SECTION 44. 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.

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