

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 752

By: Eason McIntyre of the
Senate

and

Wright of the House

COMMITTEE SUBSTITUTE

An Act relating to public retirement systems; amending 11 O.S. 2001, Sections 49-100.1, as last amended by Section 1, Chapter 128, O.S.L. 2003, 49-100.11, 49-122.1, 49-122.3 and 49-126, as last amended by Section 7, Chapter 546, O.S.L. 2004 (11 O.S. Supp. 2005, Sections 49-100.1 and 49-126), which relate to the Oklahoma Firefighters Pension and Retirement System; modifying definitions; providing exception related to certain contribution amounts; providing for deposit of monies into Oklahoma Firefighters Retiree Health Care Fund; providing for responsibility of certain Board of Trustees; authorizing transfer of certain monies; prescribing procedures for expenditures of funds; stating certain purpose; providing for administration of Oklahoma Firefighters Retiree Health Care Fund in accordance with provision of Internal Revenue Code of 1986, as amended; defining terms; providing for contributions; prescribing picked up treatment of contributions; prescribing contribution amount; prohibiting contributions by certain persons; prescribing contribution amount for volunteer firefighters; prohibiting contributions by retired volunteer firefighters; prescribing procedures related to accounting for contributions; providing for implementation date; authorizing engagement of financial professionals; authorizing certain expenses; providing for distribution from accounts; providing for maintenance of accounts in the event of death; providing for disposition of accounts in the event of termination of employment; providing for certain elections and prescribing procedures related thereto; providing for subordinate status of benefits in relation to retirement benefits; imposing limitation on maximum contribution amounts; defining term; providing for applicability of qualified domestic orders; creating Oklahoma Firefighters Retiree Health Care Fund; conforming references; authorizing retirement benefit increases for certain members of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, the Teachers' Retirement System of

Oklahoma, and the Oklahoma Public Employees Retirement System; providing for computation of increased benefit amount; making legislative findings; amending 47 O.S. 2001, Sections 2-300, as last amended by Section 1, Chapter 142, O.S.L. 2005, 2-305, as last amended by Section 2, Chapter 542, O.S.L. 2004, 2-305.2, as last amended by Section 3, Chapter 542, O.S.L. 2004, 2-305.4, as last amended by Section 3, Chapter 142, O.S.L. 2005, 2-307, as last amended by Section 4, Chapter 142, O.S.L. 2005, 2-307.1, as amended by Section 9, Chapter 406, O.S.L. 2003, 2-307.2, 2-307.3, as amended by Section 10, Chapter 406, O.S.L. 2003, 2-307.4, as last amended by Section 3, Chapter 302, O.S.L. 2004, 2-307.5, as last amended by Section 5, Chapter 142, O.S.L. 2005, 2-307.7, as last amended by Section 7, Chapter 542, O.S.L. 2004 and 2-310.1, as last amended by Section 7, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2005, Sections 2-300, 2-305, 2-305.2, 2-305.4, 2-307, 2-307.1, 2-307.3, 2-307.4, 2-307.5, 2-307.7 and 2-310.1), which relate to the Oklahoma Law Enforcement Retirement System; modifying definitions; modifying reference; prescribing procedures for receipt of certain benefit; authorizing participation in Oklahoma Law Enforcement Deferred Option Plan by certain persons; prescribing procedures related thereto; providing procedures with respect to payment for certain service credit; specifying authorized methods of payment; prescribing procedures with respect to receipt of certain disability benefits; prescribing procedures with respect to accrued leave and service credit; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 49-100.1, as last amended by Section 1, Chapter 128, O.S.L. 2003 (11 O.S. Supp. 2005, 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, 2002, the annual gross salary of each "Noneligible Member" taken into account under the System shall not exceed the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")

annual salary limit. The EGTRRA annual salary limit is 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 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, 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 EGTRRA salary limit set forth in this subsection;

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; and

19. "Retiree Health Care Fund" means the Oklahoma Firefighters Retiree Health Care Fund.

SECTION 2. AMENDATORY 11 O.S. 2001, Section 49-100.11, is amended to read as follows:

Section 49-100.11 A. All employee and employer contributions, other than those contributions made pursuant to Section 3 of this act, and dedicated revenues shall be deposited in the Oklahoma Firefighters Pension and Retirement Fund in the State Treasury. The State Board shall have the responsibility for the management of the Oklahoma Firefighters Pension and Retirement Fund, and may transfer monies used for investment purposes by the Oklahoma Firefighters

Pension and Retirement System from the Oklahoma Firefighters Pension and Retirement Fund in the State Treasury to the custodian bank or trust company of the System.

B. All benefits payable pursuant to the provisions of the Oklahoma Firefighters Pension and Retirement System, refunds of contribution and overpayments, and all administrative expenses in connection with the System, other than those payments made pursuant to Section 3 of this act, shall be paid from the Oklahoma Firefighters Pension and Retirement Fund upon warrants or vouchers signed by two persons designated by the State Board. The State Board may transfer monies from the custodian bank or trust company of the System to the Oklahoma Firefighters Pension and Retirement Fund in the State Treasury for the purposes specified in this subsection.

C. All employee and employer contributions made pursuant to Section 3 of this act and dedicated revenues shall be deposited in the Oklahoma Firefighters Retiree Health Care Fund in the State Treasury. The State Board shall have the responsibility for the management of the Oklahoma Firefighters Retiree Health Care Fund, and may transfer monies used for investment purposes by the Oklahoma Firefighters Pension and Retirement System on behalf of the Oklahoma Firefighters Retiree Health Care Fund from the Oklahoma Firefighters Retiree Health Care Fund in the State Treasury to the custodian bank or trust company of the System.

D. All benefits payable pursuant to the provisions of the Oklahoma Firefighters Retiree Health Care Fund, refunds of mistaken contributions and overpayments, and all administrative expenses in connection with the Oklahoma Firefighters Retiree Health Care Fund shall be paid from the Oklahoma Firefighters Retiree Health Care Fund upon warrants or vouchers signed by two persons designated by the State Board. The State Board may transfer monies from the custodian bank or trust company of the System to the Oklahoma

Firefighters Retiree Health Care Fund in the State Treasury for the purposes specified in this subsection.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 49-117.4 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. The purpose of this section is to create the Oklahoma Firefighters Retiree Health Care Fund to provide retiree health benefits as described in this section to eligible members of the Oklahoma Firefighters Pension and Retirement System. The Oklahoma Firefighters Retiree Health Care Fund is to be administered in accordance with the requirements of Section 401(h) of the Internal Revenue Code of 1986, as amended.

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

1. "Account" means an account established and maintained for each retiree health participating member, the member's spouse and dependents;

2. "Dependent" means dependent as defined in Section 152 of the Internal Revenue Code of 1986, as amended;

3. "Distribution" means a payment to a retired member, the member's spouse and dependents for the reimbursement of qualified medical expenses. Distributions shall be made in accordance with the procedures established by the State Board;

4. "Qualified medical expenses" means medical expenses as defined in Section 213(d) of the Internal Revenue Code of 1986, as amended;

5. "Retiree health participating member" means a member who is participating in the Oklahoma Firefighters Retiree Health Care Fund; and

6. "Spouse" means the spouse to whom the retiree health participating member is married at the time of commencement of

benefits under this section, or if earlier, the spouse to whom such member is married at the date of such member's death.

C. For a paid retiree health participating member, each participating municipality shall pick up, under the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986, as amended, and pay, through a deduction from the salary of the member, the contribution which such member is required by law to make to the System, for all compensation earned after the date set by the State Board which shall be no earlier than the later of December 31, 2006, or upon the issuance for the System of a favorable determination letter from the Internal Revenue Service, provided the underlying request addresses Section 401(h) of the Internal Revenue Code of 1986, as amended. Although the contributions so picked up are designated as retiree health participating member contributions, such contributions shall be treated as contributions being paid by such participating municipality in lieu of contributions by such members in determining tax treatment under the Internal Revenue Code of 1986, as amended, and such picked-up contributions shall not be includable in the gross income of such members. A paid retiree health participating member shall not have the option to choose to receive the contributions so picked up directly and the picked-up contributions shall be made by the participating municipality to the System. For an active paid firefighter who is a retiree health participating member, the contribution to the Oklahoma Firefighters Retiree Health Care Fund is four percent (4%) of the member's actual paid gross salary. Retired paid firefighters are not permitted to contribute to the Oklahoma Firefighters Retiree Health Care Fund.

D. For an active volunteer firefighter who is a retiree health participating member, the contribution to the Oklahoma Firefighters Retiree Health Care Fund is a flat monthly dollar amount equal to Twenty-five Dollars (\$25.00), Fifty Dollars (\$50.00), Seventy-five Dollars (\$75.00), or One Hundred Dollars (\$100.00) per month, as

determined by each fire department in accordance with the vote as set forth in subsection J of this section. Retired volunteer firefighters are not permitted to contribute to the Oklahoma Firefighters Retiree Health Care Fund.

E. Contributions are credited to an account established for each retiree health participating member. The assets of the Oklahoma Firefighters Retiree Health Care Fund are separately invested from the other assets of the Oklahoma Firefighters Pension and Retirement System and shall not be commingled with the other assets of the System. The retiree health participating member's account shall be credited with investment gains and losses based on actual investment gains and losses less expenses incurred as a result of the administration of the Oklahoma Firefighters Retiree Health Care Fund. Investment gains and losses shall be credited to a retiree health participating member's account on an annual basis.

F. The Oklahoma Firefighters Retiree Health Care Fund shall not be implemented until the date set by the State Board which shall be no earlier than the later of January 1, 2007, or upon issuance for the System of a favorable determination letter from the Internal Revenue Service, provided the underlying request addresses Section 401(h) of the Internal Revenue Code of 1986, as amended. The State Board shall thereafter manage the Oklahoma Firefighters Retiree Health Care Fund. The State Board may retain investment advisers, attorneys, consultants, vendors and any other advisers that the State Board deems necessary to provide advice and to administer the Oklahoma Firefighters Retiree Health Care Fund in accordance with the competitive bid or proposal procedures described in Title 74 of the Oklahoma Statutes. The State Board may incur reasonable investment and administrative expenses payable from the assets of the Oklahoma Firefighters Retiree Health Care Fund.

G. A retiree health participating member shall, upon completion of such administrative forms as the State Board shall prescribe,

receive distributions from the member's account upon the commencement of a monthly pension pursuant to the Oklahoma Firefighters Pension and Retirement System due to the member's:

1. Retirement;
2. Disability; or
3. Attainment of age fifty (50) or the date the member would have had twenty (20) years of credited service had the member's employment continued uninterrupted for a member who terminated service before normal retirement date.

H. A deceased retiree health participating member's account shall be maintained for the benefit of the member's surviving spouse and dependents who shall, upon completion of such administrative forms as the State Board shall prescribe, receive distributions from such account upon the commencement of a monthly pension pursuant to the Oklahoma Firefighters Pension and Retirement System due to the surviving spouse's or beneficiary's entitlement to survivorship benefits.

I. Upon the termination of employment of a retiree health participating member who is not entitled to any monthly pension distribution, the entire interest such member had in the member's account shall be forfeited as of the termination date. At such time as a deceased member does not have a surviving spouse or dependents, the entire remaining interest in the member's account shall be forfeited. If a retiree health participating member's account is forfeited, an amount equal to the amount of the forfeiture shall be reallocated annually to the remaining accounts on a per capita basis, in accordance with the procedures established by the State Board.

J. The State Board shall conduct an election of all eligible active members from each fire department for the purpose of determining whether the eligible members from such fire department shall participate in the Oklahoma Firefighters Retiree Health Care

Fund. If a fire department's membership includes both active paid firefighters and active volunteer firefighters, separate elections for each group shall be conducted.

1. If fifty percent (50%) or more of all eligible active paid members from the fire department vote in favor of participating in the Oklahoma Firefighters Retiree Health Care Fund, all eligible active paid members from such fire department shall be required to participate in the Oklahoma Firefighters Retiree Health Care Fund.

2. If fifty percent (50%) or more of all eligible active volunteer members from a fire department vote in favor of participating in the Oklahoma Firefighters Retiree Health Care Fund, all eligible active volunteer members from such fire department shall be required to participate in the Oklahoma Firefighters Retiree Health Care Fund at such contribution level which received the most votes from those active volunteer members who voted in favor of participation in the Oklahoma Firefighters Retiree Health Care Fund. If two or more contribution levels received the same number of most votes, the lowest of such contribution levels shall be deemed as the contribution level that received the most votes. Active volunteer firefighters shall vote on a flat monthly dollar contribution level equal to Twenty-five Dollars (\$25.00), Fifty Dollars (\$50.00), Seventy-five Dollars (\$75.00), or One Hundred Dollars (\$100.00) per month.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this subsection, if the total number of participating active paid members is less than five hundred (500) upon the completion of such elections, the Oklahoma Firefighters Retiree Health Care Fund shall not be established.

K. Benefits provided by the Oklahoma Firefighters Retiree Health Care Fund are subordinate to the benefits provided by the Oklahoma Firefighters Pension and Retirement System. At any time prior to the satisfaction of all liabilities under the Oklahoma

Firefighters Retiree Health Care Fund, none of the corpus or income of such separate account shall be used for, or diverted to, any purposes other than the providing of such benefits. Any amounts which are contributed to fund qualified medical expenses which remain in the Oklahoma Firefighters Retiree Health Care Fund upon satisfaction of all liability arising out of the operation of the Oklahoma Firefighters Retiree Health Care Fund shall be returned to the participating municipalities, as determined by the State Board.

L. Notwithstanding anything contained in this section to the contrary, the aggregate of contributions to provide qualified medical expenses and life insurance, if any, shall not exceed twenty-five percent (25%) of the aggregate contributions made to fund all benefits under the System, other than contributions to fund past service costs. For this purpose, "life insurance" means, as to any member, the in-service death benefit that would be payable upon the member's death, but only to the extent that the lump-sum value of such death benefit would exceed the lump-sum value of the member's accrued benefit at the date of the member's death.

M. The provisions of this section shall be subject to qualified domestic orders as provided in subsection B of Section 49-126 of Title 11 of the Oklahoma Statutes.

SECTION 4. AMENDATORY 11 O.S. 2001, Section 49-122.1, is amended to read as follows:

Section 49-122.1 A. There is hereby established a fund to be designated as the Oklahoma Firefighters Pension and Retirement Fund. All employee and employer contributions, other than those contributions made pursuant to Section 3 of this act, shall be deposited in the Fund and may be invested as provided in this article.

B. There is hereby established, subject to receipt of a favorable determination letter from the Internal Revenue Service as provided in Section 3 of this act, a fund to be designated as the

Oklahoma Firefighters Retiree Health Care Fund. All employee and employer contributions pursuant to Section 3 of this act shall be deposited in the Oklahoma Firefighters Retiree Health Care Fund and may be invested as provided in this article; however, the provisions of Section 3 of this act shall control if the other provisions in this article conflict with the provisions of Section 3 of this act.

SECTION 5. AMENDATORY 11 O.S. 2001, Section 49-122.3, is amended to read as follows:

Section 49-122.3 The assets of the Fund and the Oklahoma Firefighters Retiree Health Care Fund shall consist of such assets and the income therefrom, including monthly contributions made to the State Board by each municipality, or property for which any of the same shall be exchanged or into which any of the same shall be converted, together with any other assets held from time to time hereunder by the State Board. All legal right, title and interest in and to the assets of the Fund and the Oklahoma Firefighters Retiree Health Care Fund shall at all times be held in trust and vested exclusively in the State Board or its nominee and no municipality shall be deemed to have severable ownership of any asset of the Fund and the Oklahoma Firefighters Retiree Health Care Fund or any right of partition or possession.

The State Board shall appraise and place valuation upon the assets of the Fund and the Oklahoma Firefighters Retiree Health Care Fund held by it as of the last business day of each month. Any assets not held by the State Board shall be appraised and valued by the Executive Director on said date.

The valuation of all assets of the Fund and the Oklahoma Firefighters Retiree Health Care Fund shall be both at cost and at the fair market value thereof, as determined by reference to the best available source or sources, in the opinion of the Executive Director and the State Board and both the Executive Director and State Board may rely on figures, or statements appearing in any

reputable publication purporting to state sales prices, market quotations, values, bid and asking prices or any facts affecting values and upon the opinion of one or more persons familiar with the reasonable market value of any assets to be valued and shall incur no liability for error in any such valuation made in good faith. The reasonable and equitable decision of the Executive Director and State Board regarding the method used in determining values shall be conclusive and binding upon all persons, natural or legal, having interest, direct or indirect, in the Fund's and the Oklahoma Firefighters Retiree Health Care Fund's assets.

SECTION 6. AMENDATORY 11 O.S. 2001, Section 49-126, as last amended by Section 7, Chapter 546, O.S.L. 2004 (11 O.S. Supp. 2005, Section 49-126), is amended to read as follows:

Section 49-126. A. Except as otherwise provided by this section, no portion of said pension shall, either before or after its order of distribution by the State Board to such disabled members of said fire department, or the surviving spouse, alternate payee as defined in subsection B of this section, or guardian of such minor child or children, to the deceased or retired member of such department, be held, seized, taken, subjected to or detained or levied on by virtue of any attachment, execution, injunction, writ interlocutory or other order or decree, or any process or proceeding whatever, issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damages, claim, demand or judgment against such member, or his or her surviving spouse, alternate payee, or the guardian of said minor child or children of any deceased member, nor shall said fund or any claim thereto be directly or indirectly assigned and any attempt to assign or transfer the same shall be void; but the funds shall be held, kept, secured and distributed for the purpose of pensioning the persons named in this article, and for no other purpose whatever. Notwithstanding the foregoing, effective August 5, 1997,

the State Board may approve any offset of a member's benefit to pay a judgment or settlement against a member for a crime involving the System, for a breach of the member's fiduciary duty to the System, or for funds or monies incorrectly paid to a member or beneficiary by mistake, provided such offset is in accordance with the requirements of Section 401(a)(13) of the Internal Revenue Code of 1986, as amended.

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

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

3. The term "alternate payee" means any spouse, former spouse, minor or disabled child or children, or other dependent of the member who is recognized by a domestic relations order as having a right to receive benefits payable with respect to a member of the System.

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

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

6. A qualified domestic order shall clearly specify:

- a. the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,
- b. the amount or percentage of the member's benefits to be paid by the System to the alternate payee,
- c. the number of payments or period to which such order applies,
- d. the characterization of the benefit as to marital property rights or child support, and
- e. each plan to which such order applies.

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

- a. does not require the System to provide any type or form of benefit, or any option not otherwise provided under state law as relates to the System,
- b. does not require the System to provide increased benefits, and
- c. does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the System as a valid order prior to the effective date of this act.

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

9. The obligation of the System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the earlier of the death of the related member or the death of the alternate payee. Upon the death of the alternate payee, the assignment to the alternate payee of the right to receive a portion of the benefits

payable with respect to the member shall cease and the payments of benefits to the member shall be reinstated.

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

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

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

13. The provisions of Section 3 of this act shall be subject to the qualified domestic orders of this section.

C. The provisions of subsection A of this section shall not apply to a Child Support Enforcement Division order for a support arrearage pursuant to Section 240.23 of Title 56 of the Oklahoma Statutes and current child support payments made pursuant to a valid court order.

D. The provisions of subsection A of this section shall not apply to a federal tax levy made pursuant to Section 6331 of the Internal Revenue Code of 1986, as amended, and the collection by the United States on a judgment resulting from an unpaid tax assessment.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 49-143.5 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 2006, any retired member of the Oklahoma Firefighters Pension and Retirement System who retired from the System prior to July 1, 2005, shall receive a retirement benefit

increase equal to the percentage increase included in the actuarial assumption for the System for the actuarial valuation as of June 30, 2005.

B. Any increase in benefits a person is eligible to receive pursuant to repealed Section 49-136 of Title 11 of the Oklahoma Statutes after June 30, 2004, shall be used to offset the increase in benefits provided in subsection A of this section.

C. Effective July 1, 2006, any persons receiving benefits pursuant to Section 49-101 of Title 11 of the Oklahoma Statutes shall each receive a monthly benefit equal to the percentage or dollar amount per year of service included in the actuarial assumption for the System for the actuarial valuation as of June 30, 2005.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 50-136.7 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 2006, any retired member of the Oklahoma Police Pension and Retirement System who retired from the System prior to July 1, 2005, shall receive a retirement benefit increase equal to the percentage increase included in the actuarial assumption for the System for the actuarial valuation as of June 30, 2005.

B. Any increase in benefits a person is eligible to receive pursuant to repealed Section 50-120 of Title 11 of the Oklahoma Statutes, after June 30, 2004, shall be offset by the increase in benefits, if any, provided by this section.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1104I of Title 20, unless there is created a duplication in numbering, reads as follows:

Effective July 1, 2006, any retired member of the Uniform Retirement System for Justices and Judges who retired from the System prior to July 1, 2005, shall receive a retirement benefit

increase equal to the percentage increase included in the actuarial assumption for the System for the actuarial valuation as of June 30, 2005.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-305.10 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 2006, any retired member of the Oklahoma Law Enforcement Retirement System who retired from the System prior to July 1, 2005, shall receive a retirement benefit increase equal to the percentage increase included in the actuarial assumption for the System for the actuarial valuation as of June 30, 2005.

B. Any increase in benefits a person is eligible to receive pursuant to subsection B, C or D of Section 2-305 of Title 47 of the Oklahoma Statutes, after June 30, 2006, shall be offset by the increase in benefits, if any, provided by this section.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 17-116.20 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. The Legislature finds that cost-of-living adjustments for the public retirement systems, and specifically those provided to retired members of the Teachers' Retirement System of Oklahoma, should be based upon a methodology that does not exceed the cost-of-living adjustment which is included in the actuarial assumptions used by the retirement system. The Legislature finds that the retirement benefit adjustment prescribed by subsection B of this section is based upon a methodology designed to ensure that the cost-of-living adjustment for the retired members does not exceed a value which has already been taken into account and which does not add any additional unfunded accrued actuarial liability to the retirement system in excess of the amount included in the actuarial assumption.

B. Effective July 1, 2006, any retired member of the Teachers' Retirement System of Oklahoma who retired from the System prior to July 1, 2005, shall receive a retirement benefit increase computed as follows:

1. Two (2) points shall be assigned for each year that the member has been retired from the retirement system;

2. One (1) point shall be assigned for each year of service included in the original retirement benefit computation for the member based on years for which employee contributions were made;

3. The sum of the point values specified in paragraphs 1 and 2 of this subsection shall be multiplied by Three Dollars and thirty-six cents (\$3.36); and

4. The result of the computation specified in paragraph 3 of this subsection shall be added to the annual retirement benefit of the member.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 930.9 of Title 74, unless there is created a duplication in numbering, reads as follows:

Effective July 1, 2006, any retired member of the Oklahoma Public Employees Retirement System who retired from the System prior to July 1, 2005, shall receive a retirement benefit increase equal to the percentage increase included in the actuarial assumption for the System for the actuarial valuation as of June 30, 2005.

SECTION 13. AMENDATORY 47 O.S. 2001, Section 2-300, as last amended by Section 1, Chapter 142, O.S.L. 2005 (47 O.S. Supp. 2005, Section 2-300), is amended to read as follows:

Section 2-300. As used in Section 2-300 et seq. of this title:

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

2. "Act" means Section 2-300 et seq. 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, law enforcement officers and criminalists of the Oklahoma State Bureau of Investigation, law enforcement officers of 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.

With respect to distributions under the System made for calendar years beginning on or after January 1, 2005, the System shall apply the minimum distribution incidental benefit requirements, incidental benefit requirements, and minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, in accordance with the final regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, which were issued in April 2002 and June 2004, notwithstanding any provision of the System to the contrary. With respect to distributions under the System made for calendar years beginning on or after January 1, 2001, through December 31, 2004, the System shall apply the minimum distribution requirements and incidental benefit 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, which were proposed in January 2001, notwithstanding any provision of the System to the contrary.

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. Effective July 1, 1998, for purposes of determining a member's compensation, any contribution by the member to reduce his or her regular cash remuneration under Section 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 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, 2002, the annual gross salary of each "Noneligible Member" taken into account under the System shall not exceed the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") annual salary limit. The EGTRRA annual salary limit is 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 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, 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 EGTRRA salary limit set forth in this provision;

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 law enforcement officers and criminalists 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 Alcoholic Beverage Laws Enforcement Commission 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 Oklahoma Capitol Patrol 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 and any service purchased pursuant to subsection B of Section 2-307.2 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;

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; and

17. "Beneficiary" means the individual designated by the member on a beneficiary designation form supplied by the Oklahoma Law Enforcement Retirement System, or if there is no designated beneficiary or if the designated beneficiary predeceases the member, the estate of the member. If the member's spouse is not designated as the sole primary beneficiary, the member's spouse must sign a consent.

SECTION 14. AMENDATORY 47 O.S. 2001, Section 2-305, as last amended by Section 2, Chapter 542, O.S.L. 2004 (47 O.S. Supp. 2005, 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 Oklahoma Law Enforcement Retirement System upon application 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 the employer, the Board shall by resolution order his or her 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. Members of the System whose salary is set by statute who have retired after completion of the mandatory twenty (20) years of service, and those members with statutory salaries who retire after reaching the mandatory twenty-year retirement, shall receive an annual retirement pay, payable in equal monthly installments, based upon the greater of either:

1. The top base pay currently paid to an active member, at the time each such monthly retirement payment is made, multiplied by two and one-half percent (2 1/2%) multiplied by the number of years of credited service and fraction thereof for the following positions:

- a. Oklahoma Highway Patrolman,
- b. Communications Dispatcher,
- c. Capitol Patrolman,
- d. Lake Patrolman,
- e. Oklahoma State Bureau of Investigation—Special Agent;
or

2. The member's final average salary as set forth in paragraph 9 of Section 2-300 of this title, multiplied by two and one-half percent (2 1/2%), and multiplied by the number of years of credited service and fraction thereof.

No member of the System retired prior to July 1, 2002, shall receive a benefit less than the amount the member is receiving as of June 30, 2002.

D. Other members of the System whose retirement benefit is not otherwise prescribed by this section who have retired after completion of the mandatory twenty (20) years of service, and those members who retire after reaching the mandatory twenty-year retirement, shall receive an annual retirement pay, payable in equal monthly payments, based upon the greater of either:

1. The actual average salary currently paid to the highest nonsupervisory position in the participating agency, at the time each such monthly payment is made, multiplied by two and one-half percent (2 1/2%), multiplied by the number of years of credited service and fraction thereof for the following positions:

- a. Alcoholic Beverage Laws Enforcement Commission—ABLE
Commission Agent III,
- b. Oklahoma State Bureau of Narcotics and Dangerous Drugs
Control—Narcotics Agent III,
- c. Oklahoma Tourism and Recreation Department—Park Ranger
II,
- d. Oklahoma State Board of Pharmacy—Pharmacy Inspector,
- e. University of Oklahoma—Police Officer,

f. Oklahoma State University—Police Officer; or

2. The other member's final average salary as set forth in paragraph 9 of Section 2-300 of this title, multiplied by two and one-half percent (2 1/2%), multiplied by the number of years of credited service and fraction thereof.

No member of the System retired prior to July 1, 2002, shall receive a benefit less than the amount the member is receiving as of June 30, 2002. The participating employer must certify to the System in writing the actual average gross salary currently paid to the highest nonsupervisory position. The Board of Trustees shall promulgate such rules as are necessary to implement the provisions of this section.

E. A member who meets the definition of disability as defined in paragraph 11 of Section 2-300 of this title 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. If such member participates in the Oklahoma Law Enforcement Deferred Option Plan pursuant to Section 2-305.2 of this title, then such member's disability pension provided pursuant to this subsection shall be reduced to account for such member's participation in the Oklahoma Law Enforcement Deferred Option Plan.

F. A member who meets the definition of disability as defined in paragraph 11 of Section 2-300 of this title 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.

If such member participates in the Oklahoma Law Enforcement Deferred Option Plan pursuant to Section 2-305.2 of this title, such

member's disability pension provided pursuant to this subsection shall be adjusted as provided in Section 2-305.2 of this title to account for such member's participation in the Oklahoma Law Enforcement Deferred Option Plan.

G. 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.

H. 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.

I. For the purpose of determining the member's disability under subsection E, F or G 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 or her 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 or her rights and claims under this act.

J. 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 I 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.

K. 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 E or subsection G 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 E or subsection G 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.

L. In addition to the pension provided for under subsection F 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.

M. Notwithstanding any other provisions in Sections 2-300 through 2-315 of this title, in order to be eligible to receive disability benefits, a member who meets the definition of disability as defined in paragraph 11 of Section 2-300 of this title shall file the member's completed application for disability benefits with the System before such member's date of termination from service and provide such additional information that the System's rules require within six (6) months of the System's receipt of such application. If the member's completed application for disability benefits is not filed with the System before the member's date of termination from service or such additional information as is required under the System's rules is not provided within six (6) months of the System's receipt of such application, such member shall be eligible only for such other benefits as are available to members of the System and shall not be eligible to receive any disability benefits.

SECTION 15. AMENDATORY 47 O.S. 2001, Section 2-305.2, as last amended by Section 3, Chapter 542, O.S.L. 2004 (47 O.S. Supp. 2005, 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

this title, any member of the Oklahoma Law Enforcement Retirement System who has not less than twenty (20) years of participating 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, participating service shall include service credit recognized pursuant to paragraphs (c) and (d) of Section 2-307, subsection B of Section 2-307.2, and Sections 2-309.1, 2-309.2, 2-309.3, 2-309.4, 2-309.5, 2-309.6 and 2-309.7 of this title 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. Participation in the Oklahoma Law Enforcement Deferred Option Plan must begin the first day of a month and end on the last day of the month. At the conclusion of a member's participation in the Oklahoma Law Enforcement Deferred Option Plan, the member shall terminate employment as a member of the Oklahoma Law Enforcement Retirement System, 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 member shall cease. The employer contributions shall continue to be paid in accordance with Section 2-304 of this title. Employer contributions for members who elect the Oklahoma Law Enforcement Deferred Option Plan shall be credited equally to the Oklahoma Law Enforcement Retirement System and to the member's Oklahoma Law Enforcement Deferred Option Plan account. 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 member's 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 member in the Oklahoma Law Enforcement Deferred Option Plan shall receive, at the option of the member:

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

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

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

If a member meets the definition of disability as defined in paragraph 11 of Section 2-300 of this title by direct reason of the performance of the member's duties, the payment from the account shall be an in-line-of-duty disability payment.

G. If the member 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 member shall be paid to the designated beneficiary as defined in paragraph 17 of Section 2-300 of this title, or if there is no designated beneficiary or the designated beneficiary predeceases the member, to the estate of the member. If such member was receiving, or eligible to receive, an in-line-of-duty disability pension pursuant to subsection E or F of

Section 2-305 of this title at the time of death, payment of the account balance shall be an in-line-of-duty disability payment.

H. In lieu of participating in the Oklahoma Law Enforcement Deferred Option Plan pursuant to subsections A, B, C, D, E and F of this section, a member may elect to participate in the Oklahoma Law Enforcement Deferred Option Plan pursuant to this subsection as follows:

1. For purposes of this subsection, the following definitions shall apply:

- a. "back drop date" means the date selected by the member which is up to five (5) years before the member elects to participate in the Oklahoma Law Enforcement Deferred Option Plan, but not before the date at which the member completes twenty (20) years of participating service,
- b. "termination date" means the date the member elects to participate in the Oklahoma Law Enforcement Deferred Option Plan pursuant to this subsection and the date the member terminates employment and starts receiving the member's accrued monthly retirement benefit from the System. Such termination has at all times included reemployment of a member by a state agency, but only in a position not covered under the System,
- c. "earlier attained participating service" means the participating service earned by a member as of the back drop date. Earlier attained participating service cannot be reduced to less than twenty (20) years of participating service, and
- d. "deferred benefit balance" means all retirement benefits that would have been paid from the back drop date to the termination date, and one half (1/2) of the employer contributions from the back drop date to

the termination date, with interest based on how the benefit would have accumulated on a compound annual basis as if the member had participated in the Oklahoma Law Enforcement Deferred Option Plan pursuant to subsections A, B, C, D and E of this section from the back drop date to the termination date;

2. At the termination date, a member's monthly pension benefit shall be determined based on the earlier attained participating service and on the final average salary as of the back drop date. The member's individual deferred option account shall be credited with an amount equal to the deferred benefit balance; the member shall terminate employment and shall start receiving the member's accrued monthly retirement benefit from the System. The member shall, upon application filed with the Board, be refunded from the fund an amount equal to the accumulated contributions the member made to the fund from the back drop date to the termination date, but excluding any interest. Such termination has at all times included reemployment of a member by a state agency, but only in a position not covered under the System. The provisions of subsections B, C, E, F and G of this section shall apply to this subsection; ~~and~~

3. A member may participate in the Oklahoma Law Enforcement Deferred Option Plan pursuant to this subsection even if the member has elected to participate in the Oklahoma Law Enforcement Deferred Option Plan pursuant to subsections A, B, C, D, E and F of this section. Such a member may select a back drop date which is up to five (5) years prior to the termination date, but not before the date at which the member completes twenty (20) years of participating service. Such a member's participation in the Oklahoma Law Enforcement Deferred Option Plan may not exceed five (5) years when combined with such a member's prior period of participation in the Oklahoma Law Enforcement Deferred Option Plan.

The provisions of subsections B, C, E, F and G of this section shall apply to this subsection; and

4. Effective July 1, 2006, if a member who has not less than twenty (20) years of participating service dies prior to terminating employment, the surviving spouse shall be eligible to elect to receive a benefit determined as if the member had elected to participate in the Oklahoma Law Enforcement Deferred Option Plan in accordance with this subsection on the day immediately preceding the member's death if such election is made prior to the payment of any monthly survivor retirement benefit. The surviving spouse may elect a back drop date which is up to five (5) years prior to the last day of the month coinciding with or following the month of the member's death, but not before the date at which the member completes twenty (20) years of participating service. Participation in the Oklahoma Law Enforcement Deferred Option Plan shall begin the first day of a month and end the last day of the month. The surviving spouse shall have been married to the member immediately preceding the member's death, and continuously for the thirty (30) months immediately preceding the member's death. A surviving spouse of a member who died while in, or as a consequence of, the performance of the member's duty for the employer, shall not be subject to the thirty-month marriage requirement for the survivor benefits requirement for this election.

SECTION 16. AMENDATORY 47 O.S. 2001, Section 2-305.4, as last amended by Section 3, Chapter 142, O.S.L. 2005 (47 O.S. Supp. 2005, 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 Oklahoma Law Enforcement Retirement 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. 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~~ the Secretary's 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), (2) and (3) of subparagraph a and subparagraph c 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~~ the Secretary's 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 as described in subparagraph c of this paragraph; 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. 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 as described in subparagraph c of this paragraph;

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.

c. The actuarial tables adopted by the Board for limitation years beginning before January 1, 1999, for purposes of adjusting any benefit under Sections 415(b)(2)(B), (C) or (D) shall be based on an interest rate of seven percent (7%) and the 1983 Group Annuity Mortality Table.

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~~ the member's 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 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 Board is hereby authorized to revoke the special election previously made under Internal Revenue Code Section 415(b)(10).

SECTION 17. AMENDATORY 47 O.S. 2001, Section 2-307, as last amended by Section 4, Chapter 142, O.S.L. 2005 (47 O.S. Supp. 2005, 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~~ the member's 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~~ the member shall pay to the Fund an amount equal to the contributions which would have been deducted from ~~his~~ the member's 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~~ the member's 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~~ the membership contribution which has been refunded to ~~him~~ the member 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:

- a. a cash lump-sum payment,
- b. a trustee-to-trustee ~~transfers~~ transfer from a Code Section-403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) ~~plan~~ which is maintained by an eligible employer described in Code Section 457(e) (1) (A), and/or a Code Section 401(a) qualified plan,
- c. a direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA). Roth IRA's, Coverdell Education Savings Accounts and after-tax contributions shall not be used to purchase such service credit, or
- d. any combination of the above methods of payment.

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~~ the member's release, or opportunity for release, from such Armed Forces or component thereof. If such member shall have been refunded any portion of ~~his~~ the membership contributions as provided in Section 2-308 of this title, ~~he~~ the member shall be required to reimburse the Fund with the same amount at the time of ~~his~~ the member's 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~~ the member 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, which is in accordance with the Uniformed Service Employment and Reemployment Rights Act of 1994, as amended (USERRA). The employer's contributions to the System for a member covered by USERRA are due when such a member makes up his or her contributions that were missed due to his or her qualified military service.

SECTION 18. AMENDATORY 47 O.S. 2001, Section 2-307.1, as amended by Section 9, Chapter 406, O.S.L. 2003 (47 O.S. Supp. 2005, 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~~ Such service credit may be paid ~~for through~~ by:

1. A cash lump-sum payment;

2. A trustee-to-trustee ~~transfers~~ transfer from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Section 457(b) ~~plan~~ which is

maintained by any eligible employer described in Code Section 457(e) (1) (A), and/or a Code Section 401(a) qualified plan;

3. A direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(3) (1) (A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA). Roth IRAs, Coverdell Education Savings Accounts and after-tax contributions shall not be used to purchase such service credit; or

4. Any combination of the above methods of payment.

SECTION 19. AMENDATORY 47 O.S. 2001, Section 2-307.2, is amended to read as follows:

Section 2-307.2 A. The total service credit of a member who retires or terminates employment and elects a vested benefit shall include not to exceed one hundred thirty (130) days of unused sick leave accumulated while a member of the System. Such credit shall be added in terms of whole months. Twenty (20) days of unused sick leave shall equal one (1) month for purposes of service credit. If unused sick leave entitles a member to an additional year or fraction thereof of service credit, the member's employer shall reimburse the System for the cost of funding the additional reserve by paying the amount determined by the Board pursuant to Section ~~25~~ 2-307.5 of this ~~act~~ title. Each employer shall provide the System with adequate and timely information necessary to determine additional benefits and its cost under this section. This section shall apply to members retiring or vesting on or after July 1, 1985, and shall not be retroactive.

B. Whenever any member is unable to perform the member's duties because of sickness or temporary disability caused or sustained while in the discharge of the member's duty as a member, is

receiving a temporary total disability benefit under Section 1 et seq. of Title 85 of the Oklahoma Statutes, and does not purchase service credit as described below, such member shall only receive prorated service credit based on the contributions made by the member and the member's employer while the member is receiving a temporary total disability benefit under Section 1 et seq. of Title 85 of the Oklahoma Statutes. Whenever any member is unable to perform the member's duties because of sickness or temporary disability caused or sustained while in the discharge of the member's duty as a member and is receiving a temporary disability benefit under Section 1 et seq. of Title 85 of the Oklahoma Statutes, such member shall have the option to purchase service credit for the time related to such leave of absence for such sickness or temporary disability.

1. The payment for such purchase must be completed no later than three (3) years from the date the member commenced receipt of a temporary total disability benefit.

2. The purchase price shall be:

- a. the actual paid base salary that the member was entitled to immediately prior to the member's sickness or temporary disability minus any vacation or sick leave payments received by the member during such sickness or temporary disability, multiplied by,
- b. the following percent:
 - (1) eighteen percent (18%) for members who are suspended without pay, or
 - (2) eight percent (8%) for members who are not suspended without pay.

If such member has not been suspended without pay, the employer shall contribute, within three (3) months of the completion of the member's purchase of service credit, ten percent (10%) of the actual paid base salary that the member was entitled to immediately prior

to the member's sickness or temporary disability minus any vacation or sick leave payments received by the member during such sickness or temporary disability.

3. The member may purchase such service credit through:

- a. a cash lump-sum payment,
- b. a trustee-to-trustee transfer from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), and/or a Code Section 401(a) qualified plan,
- c. a direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA). Roth IRAs, Coverdell Education Savings Accounts and after-tax contributions shall not be used to purchase such service credit, or
- d. any combination of the above methods of payment.

SECTION 20. AMENDATORY 47 O.S. 2001, Section 2-307.3, as amended by Section 10, Chapter 406, O.S.L. 2003 (47 O.S. Supp. 2005, 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~~ 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 2-307.5 of this 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~~ 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~~ 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~~ 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~~ 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 2-307.5 of this title, any member of the ~~system~~ 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~~ 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~~ 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~~ System.

C. ~~Effective January 1, 2002, such~~ Such service credit may be paid ~~for through~~ by:

1. A cash lump-sum payment;

2. A trustee-to-trustee ~~transfers~~ transfer from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) plan, which is maintained by an eligible employer described in Code Section 457(e) (1) (A), and/or a Code Section 401(a) qualified plan;

3. A direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA). Roth IRAs, Coverdell Education Savings Accounts and after-tax contributions shall not be used to purchase such service credit; or

4. Any combination of the above methods of payment.

SECTION 21. AMENDATORY 47 O.S. 2001, Section 2-307.4, as last amended by Section 3, Chapter 302, O.S.L. 2004 (47 O.S. Supp. 2005, Section 2-307.4), is amended to read as follows:

Section 2-307.4 A. Any member of the Oklahoma Law Enforcement Retirement System shall be entitled to prior service credit, not to exceed five (5) years, for those periods of military service on active duty prior to membership in the Oklahoma Law Enforcement Retirement System. 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. For members of the System hired on or after July 1, 2003, if the military service credit authorized by this subsection 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.

B. For purposes of this section, "military service" means service in the Armed Forces of the United States by honorably discharged persons during the following time periods, as reflected on such person's Defense Department Form 214, as follows:

1. During the following periods, including the beginning and ending dates, and only for the periods served, from:
 - a. April 6, 1917, to November 11, 1918, commonly referred to as World War I,
 - b. September 16, 1940, to December 7, 1941, as a member of the 45th Division,
 - c. December 7, 1941, to December 31, 1946, commonly referred to as World War II,
 - d. June 27, 1950, to January 31, 1955, commonly referred to as the Korean Conflict or the Korean War,

- e. February 28, 1961, to May 7, 1975, commonly referred to as the Vietnam era, except that:
 - (1) for the period from February 28, 1961, to August 4, 1964, military service shall only include service in the Republic of Vietnam during that period, and
 - (2) for purposes of determining eligibility for education and training benefits, such period shall end on December 31, 1976, or
- f. August 1, 1990, to December 31, 1991, commonly referred to as the Gulf War, the Persian Gulf War, or Operation Desert Storm, but excluding any person who served on active duty for training only, unless discharged from such active duty for a service-connected disability;

2. During a period of war or combat military operation other than a conflict, war or era listed in paragraph 1 of this subsection, beginning on the date of Congressional authorization, Congressional resolution, or Executive Order of the President of the United States, for the use of the Armed Forces of the United States in a war or combat military operation, if such war or combat military operation lasted for a period of ninety (90) days or more, for a person who served, and only for the period served, in the area of responsibility of the war or combat military operation, but excluding a person who served on active duty for training only, unless discharged from such active duty for a service-connected disability, and provided that the burden of proof of military service during this period shall be with the member, who must present appropriate documentation establishing such service.

C. An eligible member under subsection B of this section shall include only those persons who shall have served during the times or in the areas prescribed in subsection B of this section, and only if

such person provides appropriate documentation in such time and manner as required by the System to establish such military service prescribed in this section, or for service pursuant to division (1) of subparagraph e of paragraph 1 of subsection B of this section, 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 for service 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~~ Such service credit may be paid ~~for through~~ by:

1. A cash lump-sum payment;
2. A trustee-to-trustee ~~transfers~~ transfer from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) ~~plan~~ which is maintained by an eligible employer described in Code Section 457(e) (1) (A), and/or a Code Section 401(a) qualified plan;
3. A direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA). Roth IRAs, Coverdell Education Savings Accounts and after-tax contributions shall not be used to purchase such service credit; or
4. Any combination of the above methods of payment.

SECTION 22. AMENDATORY 47 O.S. 2001, Section 2-307.5, as last amended by Section 5, Chapter 142, O.S.L. 2005 (47 O.S. Supp. 2005, 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, lump-sum payments for a transferred credited service purchase may be made by a cash lump-sum payment; a trustee-to-trustee transfer from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), and/or a Code Section 401(a) qualified plan; ~~or~~ a direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA); or a combination of the foregoing methods. Roth IRAs ~~and~~, Coverdell Education Savings Accounts and after-tax contributions shall not be used to purchase transferred credited service.

A member making installment payments shall have the option of making a ~~cash~~ lump-sum payment for the balance of the actuarial purchase price with interest due through the date of payment by a cash lump-sum payment; a trustee-to-trustee transfer from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), and/or a Code Section 401(a) qualified plan; ~~or~~ a direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b)

traditional or conduit Individual Retirement Account or Annuity (IRA); or a combination of the foregoing methods. Roth IRAs ~~and,~~ Coverdell Education Savings Accounts and after-tax contributions shall not be used to purchase transferred credited service. The Board shall promulgate such rules as are necessary to implement the provisions of this subsection.

SECTION 23. AMENDATORY 47 O.S. 2001, Section 2-307.7, as last amended by Section 7, Chapter 542, O.S.L. 2004 (47 O.S. Supp. 2005, 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 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 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:

1. A cash lump-sum payment;

2. A trustee-to-trustee ~~transfers from a Section 403(b) annuity, an eligible Section 457(b) plan, and/or a~~ transfer from a Code Section 401(a) qualified plan;

3. A direct rollover of tax-deferred funds from a Code Section 403(b) annuity or custodial account, an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e) (1) (A), a Code Section 401(a) qualified plan, and/or a Code Section 408(a) or 408(b) traditional or conduit Individual Retirement Account or Annuity (IRA). Roth IRAs, Coverdell Education Savings Accounts and after-tax contributions shall not be used to purchase such service credit; or

4. Any combination of the above methods of payment.

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 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 24. AMENDATORY 47 O.S. 2001, Section 2-310.1, as last amended by Section 7, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2005, Section 2-310.1), is amended to read as follows:

Section 2-310.1 A. Whenever any member currently working in a position identified by subsection 6 of Section 2-300 of this title or Section 2-314 of this title and enrolled in the Oklahoma Law Enforcement Retirement System is injured in the line of duty, an Injury Review Board consisting of one member to be appointed by the member's employer, one member to be appointed by the Administrator of the Office of Personnel Management and one member to be appointed by the Governor shall convene to determine if the injured member was actually injured in the line of duty and whether the injured member should be granted leave because of the injury. The Injury Review Board may, in its discretion, grant the injured member leave when necessary, not to exceed one hundred sixty-five (165) working days for the illness or injury.

B. For the purpose of this section, "illness or injury" shall include any serious illness or serious injury caused by or contracted during the performance of the member's duty. Every state agency which employs persons eligible for membership in the Oklahoma Law Enforcement Retirement System shall participate in the joint promulgation of a rule which shall set out mutually agreeable guidelines for the categorization of an illness or injury as serious. Upon promulgation of the rule, each of the state agencies shall individually adopt the rule. The wording of the rule, as adopted and as amended by the agencies from time to time, shall remain in conformity for each of the state agencies.

C. The three-member Injury Review Board shall be convened following a written request submitted by the injured member to the injured member's employer. The employer shall forward the request to the Administrator of the Office of Personnel Management. The employer may submit the request on behalf of an injured member. The Administrator's appointee shall then convene and chair the Injury Review Board. The Injury Review Board may request the injured member to submit to an examination by a physician selected by the Board at the employer's expense to assist the Board in making a decision. A decision to grant or deny such paid leave shall be determined by concurrence in writing of not less than two Injury Review Board members. If granted, said leave shall be paid by the employing agency.

D. While such leave is being paid, the employee shall continue to accrue leave and service credit at the same rate as before the illness or injury. The employee's portion of health, dental, life and disability insurance premiums and the employee's contribution to the Oklahoma Law Enforcement Retirement System shall be deducted by the employing agency from the paid leave and remitted to the appropriate agencies, in the same manner as before the illness or injury.

SECTION 25. This act shall become effective July 1, 2006.

SECTION 26. 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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