

1 ENGROSSED SENATE  
2 BILL NO. 1989

By: Brown of the Senate

and

Sullivan of the House

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5  
6 An Act relating to retirement; amending 11 O.S. 2001,  
7 Sections 50-101, as last amended by Section 1,  
8 Chapter 169, O.S.L. 2009, 50-111.3, as last amended  
9 by Section 4, Chapter 177, O.S.L. 2008, 50-114, as  
10 last amended by Section 2, Chapter 169, O.S.L. 2009,  
11 50-114.1, as last amended by Section 3, Chapter 169,  
12 O.S.L. 2009, 50-114.2, as last amended by Section 6,  
13 Chapter 177, O.S.L. 2008, Section 4, Chapter 152,  
14 O.S.L. 2007, as amended by Section 4, Chapter 169,  
15 O.S.L. 2009 and 50-128, as last amended by Section 6,  
16 Chapter 169, O.S.L. 2009 (11 O.S. Supp. 2009,  
17 Sections 50-101, 50-111.3, 50-114, 50-114.1, 50-  
18 114.2, 50-114.3 and 50-128), which relate to the  
19 Oklahoma Police Pension and Retirement System;  
20 modifying definition; providing that a member of the  
21 Oklahoma Police Pension and Retirement System must  
22 make an irrevocable election to participate in  
23 certain plans; specifying when certain distributions  
24 under certain plan shall commence; providing that no  
minimum distribution is required for certain time  
period; specifying how certain limitations are to be  
computed; updating statutory citation; allowing  
successor rulings to be used for certain purposes;  
modifying the computation of certain annuities;  
eliminating certain exception; modifying procedures  
relating to certain distributions; modifying  
definition; specifying how certain distributions are  
to be made; modifying treatment of certain trust;  
specifying definition applicable to certain  
situation; amending 47 O.S. 2001, Sections 2-300, as  
last amended by Section 7, Chapter 169, O.S.L. 2009,  
2-305.1A, as last amended by Section 9, Chapter 177,  
O.S.L. 2008, Section 9, Chapter 152, O.S.L. 2007, as  
amended by Section 10, Chapter 169, O.S.L. 2009, 2-  
305.2, as last amended by Section 20, Chapter 46, 2nd  
Extraordinary Session, O.S.L. 2006, 2-305.4, as last  
amended by Section 11, Chapter 169, O.S.L. 2009 and

1 2-307, as last amended by Section 12, Chapter 169,  
 2 O.S.L. 2009 (47 O.S. Supp. 2009, Sections 2-300, 2-  
 3 305.1A, 2-305.1B, 2-305.2, 2-305.4 and 2-307), which  
 4 relate to the Oklahoma Law Enforcement Retirement  
 5 System; modifying definition; modifying procedures  
 6 relating to certain distributions; modifying  
 7 definition; modifying treatment of certain trust;  
 8 providing that a member of the Oklahoma Law  
 9 Enforcement Retirement System must make an  
 10 irrevocable election to participate in certain plans;  
 11 specifying when certain distributions under certain  
 12 plan shall commence; specifying how certain  
 13 limitations are to be computed; updating statutory  
 14 citation; allowing successor rulings to be used for  
 15 certain purposes; modifying the computation of  
 16 certain annuities; eliminating certain exception;  
 17 specifying definition applicable to certain  
 18 situation; and declaring an emergency.

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

13 SECTION 1. AMENDATORY 11 O.S. 2001, Section 50-101, as  
 14 last amended by Section 1, Chapter 169, O.S.L. 2009 (11 O.S. Supp.  
 15 2009, Section 50-101), is amended to read as follows:

16 Section 50-101. As used in this article:

17 1. "System" means the Oklahoma Police Pension and Retirement  
 18 System and all predecessor municipal Police Pension and Retirement  
 19 Systems;

20 2. "Article" means Article 50 of this title;

21 3. "State Board" means the Oklahoma Police Pension and  
 22 Retirement Board;

23 4. "Fund" means the Oklahoma Police Pension and Retirement  
 24 Fund;

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

7       6. "Member" means all eligible officers of a participating  
8 municipality and any person hired by a participating municipality  
9 who is undergoing police training to become a permanent police  
10 officer of the municipality. Effective July 1, 1987, a member does  
11 not include a "leased employee" as defined under Section 414(n)(2)  
12 of the Internal Revenue Code of 1986, as amended. Effective July 1,  
13 1999, any individual who agrees with the participating municipality  
14 that the individual's services are to be performed as a leased  
15 employee or an independent contractor shall not be a member  
16 regardless of any classification as a common law employee by the  
17 Internal Revenue Service or any other governmental agency, or any  
18 court of competent jurisdiction. A member shall include eligible  
19 commissioned officers of the Oklahoma State Bureau of Narcotics and  
20 Dangerous Drugs Control, the Oklahoma State Bureau of Investigation,  
21 and the Alcoholic Beverage Laws Enforcement Commission who elect to  
22 participate in the System pursuant to Section 50-111.5 of this  
23 title;

24

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

10       8. "Credited service" means the period of service used to  
11 determine the eligibility for and the amount of benefits payable to  
12 a member. Credited service shall consist of the period during which  
13 the member participated in the System or the predecessor municipal  
14 systems as an active employee in an eligible membership  
15 classification, plus any service prior to the establishment of the  
16 predecessor municipal systems which was credited under the  
17 predecessor municipal systems or credited service granted by the  
18 State Board;

19       9. "Participating municipality" means a municipality which is  
20 making contributions to the System on behalf of its officers. The  
21 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the  
22 Oklahoma State Bureau of Investigation, and the Alcoholic Beverage  
23 Laws Enforcement Commission shall be treated in the same manner as a  
24 participating municipality only regarding those members who elect to

1 participate in the System pursuant to Section 50-111.5 of this  
2 title;

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

12 11. "Permanent partial disability" means permanent disability  
13 which is less than permanent total disability as defined in this  
14 section. The member must be declared no greater than ninety-nine  
15 percent (99%) impaired as defined by the "American Medical  
16 Association's Guides to the Evaluation of Permanent Impairment" on  
17 the basis of a physical medical examination by a physician licensed  
18 to practice medicine in this state, as selected by the State Board;

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

23 13. "Beneficiary" means a member's surviving spouse or any  
24 surviving children, including biological and adopted children, at

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

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

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

24

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

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

8           a. Base salary shall not include payment for accumulated  
9 sick and annual leave upon termination of employment,  
10 severance pay or any uniform allowances. Provided,  
11 for purposes of determining the normal disability  
12 benefit, final average salary shall be based on the  
13 member's total service if less than thirty (30)  
14 months. Base salary shall include any amount of  
15 elective salary reduction under Section 457 of the  
16 Internal Revenue Code of 1986, as amended, and any  
17 amount of nonelective salary reduction under Section  
18 414(h) of the Internal Revenue Code of 1986, as  
19 amended. Effective January 1, 1988, base salary shall  
20 include any amount of elective salary reduction under  
21 Section 125 of the Internal Revenue Code of 1986, as  
22 amended. Effective July 1, 1998, gross salary shall  
23 include any amount of elective salary reduction not  
24 includable in the gross income of the member under

1 Section 132(f)(4) of the Internal Revenue Code of  
2 1986, as amended. Only salary on which required  
3 contributions have been made may be used in computing  
4 the final average salary.

- 5 b. In addition to other applicable limitations, and  
6 notwithstanding any other provision to the contrary,  
7 for plan years beginning on or after July 1, 2002, the  
8 annual compensation of each "Noneligible Member" taken  
9 into account under the System shall not exceed the  
10 Economic Growth and Tax Relief Reconciliation Act of  
11 2001 (EGTRRA) annual compensation limit. The EGTRRA  
12 annual compensation limit is Two Hundred Thousand  
13 Dollars (\$200,000.00), as adjusted by the Commissioner  
14 for increases in the cost of living in accordance with  
15 Section 401(a)(17)(B) of the Internal Revenue Code of  
16 1986, as amended. The annual compensation limit in  
17 effect for a calendar year applies to any period, not  
18 exceeding twelve (12) months, over which compensation  
19 is determined ("determination period") beginning in  
20 such calendar year. If a determination period  
21 consists of fewer than twelve (12) months, the EGTRRA  
22 annual compensation limit will be multiplied by a  
23 fraction, the numerator of which is the number of  
24 months in the determination period, and the

1 denominator of which is twelve (12). For purposes of  
2 this section, a "Noneligible Member" is any member who  
3 first became a member during a plan year commencing on  
4 or after July 1, 1996.

5 c. For plan years beginning on or after July 1, 2002, any  
6 reference in the System to the annual compensation  
7 limit under Section 401(a)(17) of the Internal Revenue  
8 Code of 1986, as amended, shall mean the EGTRRA annual  
9 compensation limit set forth in this provision.

10 d. Effective January 1, 2008, base salary shall also  
11 include base salary, as described above for services,  
12 but paid by the later of two and one-half (2 1/2)  
13 months after a member's severance from employment or  
14 the end of the ~~plan~~ calendar year that includes the  
15 date the member terminated employment, if it is a  
16 payment that, absent a severance from employment,  
17 would have been paid to the member while the member  
18 continued in employment with the participating  
19 municipality.

20 e. Effective January 1, 2008, any payments not described  
21 above shall not be considered base salary if paid  
22 after severance from employment, even if they are paid  
23 by the later of two and one-half (2 1/2) months after  
24 the date of severance from employment or the end of

1 the ~~plan~~ calendar year that includes the date of  
2 severance from employment, except payments to an  
3 individual who does not currently perform services for  
4 the participating municipality by reason of qualified  
5 military service within the meaning of Section  
6 414(u)(5) of the Internal Revenue Code of 1986, as  
7 amended, to the extent these payments do not exceed  
8 the amounts the individual would have received if the  
9 individual had continued to perform services for the  
10 participating municipality rather than entering  
11 qualified military service.

12 f. Effective January 1, 2008, back pay, within the  
13 meaning of Section 1.415(c)-2(g)(8) of the Income Tax  
14 Regulations, shall be treated as base salary for the  
15 ~~plan~~ limitation year to which the back pay relates to  
16 the extent the back pay represents wages and  
17 compensation that would otherwise be included in this  
18 definition.

19 g. Effective for years beginning after December 31, 2008,  
20 base salary shall also include differential wage  
21 payments under Section 414(u)(12) of the Internal  
22 Revenue Code of 1986, as amended;

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

4 19. "Normal disability benefit" means two and one-half percent  
5 (2 1/2%) of the member's final average salary multiplied by twenty  
6 (20) years;

7 20. "Limitation year" means the year used in applying the  
8 limitations of Section 415 of the Internal Revenue Code of 1986, as  
9 amended, which year shall be the calendar year;

10 21. "Paid base salary" means, effective May 1, 2002, all  
11 compensation that shall include longevity, educational allowances,  
12 and normal compensation paid on a regularly scheduled pay period of  
13 which said pay period shall include holidays, annual leave and sick  
14 leave. Paid base salary shall not include overtime, shall not  
15 include payment for accumulated sick and annual leave upon  
16 termination of employment, and shall not include any uniform  
17 allowance or any other compensation for reimbursement of out-of-  
18 pocket expenses; and

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

1 SECTION 2. AMENDATORY 11 O.S. 2001, Section 50-111.3, as  
2 last amended by Section 4, Chapter 177, O.S.L. 2008 (11 O.S. Supp.  
3 2009, Section 50-111.3), is amended to read as follows:

4 Section 50-111.3 A. In lieu of terminating employment and  
5 accepting a service retirement pension pursuant to Section 50-114 of  
6 this title, any member of the Oklahoma Police Pension and Retirement  
7 System who has not less than twenty (20) years of creditable service  
8 and who is eligible to receive a service retirement pension may  
9 ~~elect~~ make an irrevocable election to participate in the Oklahoma  
10 Police Deferred Option Plan and defer the receipts of benefits in  
11 accordance with the provisions of this section.

12 B. For purposes of this section, creditable service shall  
13 include service credit reciprocally recognized pursuant to Section  
14 50-101 et seq. of this title but for eligibility purposes only.

15 C. The duration of participation in the Oklahoma Police  
16 Deferred Option Plan for a member shall not exceed five (5) years.  
17 Participation in the Oklahoma Police Deferred Option Plan must begin  
18 the first day of a month and end on the last day of a month. At the  
19 conclusion of a member's participation in the Oklahoma Police  
20 Deferred Option Plan, the member shall terminate employment with all  
21 participating municipalities as an officer, and shall start  
22 receiving the member's accrued monthly retirement benefit from the  
23 System. Such a member may receive in-service distributions of such  
24 member's accrued monthly retirement benefit from the System if such

1 member is reemployed by a participating municipality only if such  
2 reemployment is as a police chief or in a position not covered under  
3 the System.

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

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

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

22 F. A participant in the Oklahoma Police Deferred Option Plan  
23 shall receive, at the option of the participant:  
24

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

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

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

8        Notwithstanding any other provision contained herein to the  
9 contrary, commencement of distributions under the Oklahoma Police  
10 Deferred Option Plan shall be no later than the time as set forth in  
11 subsection C of Section 50-114 of this title.

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

16        H. In lieu of participating in the Oklahoma Police Deferred  
17 Option Plan pursuant to subsections A, B, C, D, E and F of this  
18 section, a member may ~~elect~~ make an irrevocable election to  
19 participate in the Oklahoma Police Deferred Option Plan pursuant to  
20 this subsection as follows:

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

23            a. "back drop date" means the date selected by the  
24            member, which is up to five (5) years before the

1 member elects to participate in the Oklahoma Police  
2 Deferred Option Plan, but not before the date at which  
3 the member completes twenty (20) years of credited  
4 service,

5 b. "termination date" means the date the member elects to  
6 participate in the Oklahoma Police Deferred Option  
7 Plan pursuant to this subsection, and the date the  
8 member terminates employment with all participating  
9 municipalities as an active police officer, such  
10 termination has at all times included reemployment of  
11 a member by a participating municipality only if such  
12 reemployment is as a police chief or in a position not  
13 covered under the System,

14 c. "earlier attained credited service" means the credited  
15 service earned by a member as of the back drop date,  
16 and earlier attained credited service cannot be  
17 reduced to less than twenty (20) years of credited  
18 service, and

19 d. "deferred benefit balance" means all monthly  
20 retirement benefits that would have been payable had  
21 the member elected to cease employment on the back  
22 drop date and receive a service retirement from the  
23 back drop date to the termination date, all of the  
24 member's contributions and one-half (1/2) of the

1 employer contributions from the back drop date to the  
2 termination date, with interest based on how the  
3 benefit would have accumulated as if the member had  
4 participated in the Oklahoma Police Deferred Option  
5 Plan pursuant to subsections A, B, C, D and E of this  
6 section from the back drop date to the termination  
7 date;

8 2. At the termination date, the monthly pension benefit shall  
9 be determined based on earlier attained credited service and on the  
10 final average salary as of the back drop date. The member's  
11 individual deferred option account shall be credited with an amount  
12 equal to the deferred benefit balance; the member shall terminate  
13 employment with all participating municipalities as a police officer  
14 and shall start receiving the member's accrued monthly retirement  
15 benefit from the System. The provisions of subsections B, C, E, F  
16 and G of this section shall apply to this subsection. A member  
17 shall not participate in the Oklahoma Police Deferred Option Plan  
18 pursuant to this subsection if the member has elected to participate  
19 in the Oklahoma Police Deferred Option Plan pursuant to subsections  
20 A, B, C, D, E and F of this section; and

21 3. If a member who has not less than twenty (20) years of  
22 creditable service and who is eligible to receive a service  
23 retirement pension dies prior to terminating employment, the  
24 surviving spouse shall be eligible to elect to receive a benefit

1 determined as if the member had elected to participate in the  
2 Oklahoma Police Deferred Option Plan in accordance with this  
3 subsection on the day immediately preceding the death. The  
4 surviving spouse must have been married to the member for the thirty  
5 (30) continuous months preceding the member's death; provided, the  
6 surviving spouse of a member who died while in, and as a consequence  
7 of, the performance of the member's duty for a participating  
8 municipality shall not be subject to the thirty-month marriage  
9 requirement for this election.

10 SECTION 3. AMENDATORY 11 O.S. 2001, Section 50-114, as  
11 last amended by Section 2, Chapter 169, O.S.L. 2009 (11 O.S. Supp.  
12 2009, Section 50-114), is amended to read as follows:

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

20 1. The member's service with the police department for any  
21 participating municipality must have ceased; however, a member may  
22 be subsequently reemployed in the position of police chief pursuant  
23 to subsection C of Section 50-112 of this title;

24

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

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

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

22       C. Effective July 1, 1989, in no event shall commencement of  
23 distribution of the accrued retirement benefit of a member be  
24 delayed beyond April 1 of the calendar year following the later of:

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

3 2. The actual retirement date of the member.

4 For distributions made for calendar years beginning on or after  
5 January 1, 2001 through December 31, 2004, the System shall apply  
6 the minimum distribution requirements and incidental benefit  
7 requirements of Section 401(a)(9) of the Internal Revenue Code of  
8 1986, as amended, in accordance with the regulations under Section  
9 401(a)(9) of the Internal Revenue Code of 1986, as amended, which  
10 were proposed on January 17, 2001, notwithstanding any provision of  
11 the System to the contrary. For distributions made for calendar  
12 years beginning on or after January 1, 2005, the System shall apply  
13 the minimum distribution incidental benefit requirements, incidental  
14 benefit requirements, and minimum distribution requirements of  
15 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,  
16 in accordance with the final regulations under Section 401(a)(9) of  
17 the Internal Revenue Code of 1986, as amended, which were issued in  
18 April 2002 and June 2004, notwithstanding any provision of the  
19 System to the contrary. Effective January 1, 2009, with respect to  
20 the Oklahoma Police Deferred Option Plan, to the extent applicable,  
21 no minimum distribution is required for 2009 in accordance with  
22 Section 401(a)(9)(H) of the Internal Revenue Code of 1986, as  
23 amended.

1       D. In the event of the death of any member who has been awarded  
2 a retirement benefit or is eligible therefor as provided in this  
3 section, such member's beneficiaries shall be paid such retirement  
4 benefit. The remaining portion of the member's retirement benefit  
5 shall be distributed to the beneficiaries at least as rapidly as  
6 under the method of distribution to the member. Effective March 1,  
7 1997, if a member to whom a retirement benefit has been awarded or  
8 who is eligible therefor dies prior to the date as of which the  
9 total amount of retirement benefit paid equals the total amount of  
10 the employee contributions paid by or on behalf of the member and  
11 the member does not have a surviving beneficiary, the total benefits  
12 paid as of the date of the member's death shall be subtracted from  
13 the accumulated employee contribution amount and the balance, if  
14 greater than zero (0), shall be paid to the member's estate.

15       E. The State Board may review and affirm a member's request for  
16 retirement benefits prior to the member's normal retirement date  
17 provided that no retirement benefits are paid prior to the normal  
18 retirement date.

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

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

8 H. If the requirements of Section 50-114.4 of this title are  
9 satisfied, a member who, by reason of attainment of normal  
10 retirement date or age, is separated from service as a public safety  
11 officer with the member's participating municipality, may elect to  
12 have payment made directly to the provider for qualified health  
13 insurance premiums by deduction from his or her monthly pension  
14 payment, after December 31, 2006, in accordance with Section 402(1)  
15 of the Internal Revenue Code of 1986, as amended.

16 SECTION 4. AMENDATORY 11 O.S. 2001, Section 50-114.1, as  
17 last amended by Section 3, Chapter 169, O.S.L. 2009 (11 O.S. Supp.  
18 2009, Section 50-114.1), is amended to read as follows:

19 Section 50-114.1 A. For limitation years prior to July 1,  
20 2007, the limitations of Section 415 of the Internal Revenue Code of  
21 1986, as amended, shall be computed in accordance with the  
22 applicable provisions of the System in effect at that time and, to  
23 the extent applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-  
24 51, except as provided below. Notwithstanding any other provision

1 contained herein to the contrary, the benefits payable to a member  
2 from the System provided by employer contributions (including  
3 contributions picked up by the employer under Section 414(h) of the  
4 Internal Revenue Code of 1986, as amended) shall be subject to the  
5 limitations of Section 415 of the Internal Revenue Code of 1986, as  
6 amended, in accordance with the provisions of this section. The  
7 limitations of this section shall apply in limitation years  
8 beginning on or after July 1, 2007, except as otherwise provided  
9 below.

10 B. Except as provided below, effective for limitation years  
11 ending after December 31, 2001, any accrued retirement benefit  
12 payable to a member as an annual benefit as described below shall  
13 not exceed One Hundred Sixty Thousand Dollars (\$160,000.00),  
14 automatically adjusted under Section 415(d) of the Internal Revenue  
15 Code of 1986, as amended, for increases in the cost of living, as  
16 prescribed by the Secretary of the Treasury or the Secretary's  
17 delegate, effective January 1 of each calendar year and applicable  
18 to the limitation year ending with or within such calendar year.  
19 The automatic annual adjustment of the dollar limitation in this  
20 subsection under Section 415(d) of the Internal Revenue Code of  
21 1986, as amended, shall apply to a member who has had a separation  
22 from employment.

23 1. The member's annual benefit is a benefit that is payable  
24 annually in the form of a straight life annuity. Except as provided

1 below, where a benefit is payable in a form other than a straight  
2 life annuity, the benefit shall be adjusted to an actuarially  
3 equivalent straight life annuity that begins at the same time as  
4 such other form of benefit and is payable on the first day of each  
5 month, before applying the limitations of this section. For a  
6 member who has or will have distributions commencing at more than  
7 one annuity starting date, the annual benefit shall be determined as  
8 of each such annuity starting date (and shall satisfy the  
9 limitations of this section as of each such date), actuarially  
10 adjusting for past and future distributions of benefits commencing  
11 at the other annuity starting dates. For this purpose, the  
12 determination of whether a new starting date has occurred shall be  
13 made without regard to Section 1.401(a)-20, Q&A 10(d), and with  
14 regard to Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Income Tax  
15 Regulations.

- 16 2. No actuarial adjustment to the benefit shall be made for:
- 17 a. survivor benefits payable to a surviving spouse under  
18 a qualified joint and survivor annuity to the extent  
19 such benefits would not be payable if the member's  
20 benefit were paid in another form,
  - 21 b. benefits that are not directly related to retirement  
22 benefits (such as a qualified disability benefit,  
23 preretirement incidental death benefits, and  
24 postretirement medical benefits), or

1           c.    the inclusion in the form of benefit of an automatic  
2                benefit increase feature, provided the form of benefit  
3                is not subject to Section 417(e)(3) of the Internal  
4                Revenue Code of 1986, as amended, and would otherwise  
5                satisfy the limitations of this section, and the  
6                System provides that the amount payable under the form  
7                of benefit in any limitation year shall not exceed the  
8                limits of this section applicable at the annuity  
9                starting date, as increased in subsequent years  
10              pursuant to Section 415(d) of the Internal Revenue  
11              Code of 1986, as amended. For this purpose, an  
12              automatic benefit increase feature is included in a  
13              form of benefit if the form of benefit provides for  
14              automatic, periodic increases to the benefits paid in  
15              that form.

16           3.   The determination of the annual benefit shall take into  
17   account Social Security supplements described in Section 411(a)(9)  
18   of the Internal Revenue Code of 1986, as amended, and benefits  
19   transferred from another defined benefit plan, other than transfers  
20   of distributable benefits pursuant to Section 1.411(d)-4, Q&A-3(c),  
21   of the Income Tax Regulations, but shall disregard benefits  
22   attributable to employee contributions or rollover contributions.

23           4.   Effective for distributions in plan years beginning after  
24   December 31, 2003, the determination of actuarial equivalence of

1 forms of benefit other than a straight life annuity shall be made in  
2 accordance with paragraph 5 or paragraph 6 of this subsection.

3 5. Benefit Forms Not Subject to Section 417(e)(3) of the  
4 Internal Revenue Code of 1986, as amended: The straight life  
5 annuity that is actuarially equivalent to the member's form of  
6 benefit shall be determined under this paragraph 5 if the form of  
7 the member's benefit is either:

8 a. a nondecreasing annuity (other than a straight life  
9 annuity) payable for a period of not less than the  
10 life of the member (or, in the case of a qualified  
11 preretirement survivor annuity, the life of the  
12 surviving spouse), or

13 b. an annuity that decreases during the life of the  
14 member merely because of:

15 (1) the death of the survivor annuitant (but only if  
16 the reduction is not below fifty percent (50%) of  
17 the benefit payable before the death of the  
18 survivor annuitant), or

19 (2) the cessation or reduction of Social Security  
20 supplements or qualified disability payments (as  
21 defined in Section ~~401(a)(11)~~ 411(a)(9) of the  
22 Internal Revenue Code of 1986, as amended).

23 c. Limitation Years Beginning Before July 1, 2007. For  
24 limitation years beginning before July 1, 2007, the

1 actuarially equivalent straight life annuity is equal  
2 to the annual amount of the straight life annuity  
3 commencing at the same annuity starting date that has  
4 the same actuarial present value as the member's form  
5 of benefit computed using whichever of the following  
6 produces the greater annual amount:

- 7 (1) the interest rate and the mortality table (or  
8 other tabular factor), each as set forth in  
9 subsection G of Section 50-105.4 of this title  
10 for adjusting benefits in the same form; and  
11 (2) a five percent (5%) interest rate assumption and  
12 the applicable mortality table described in Rev.  
13 Rul. 2001-62 (or its successor for these  
14 purposes, if applicable) for that annuity  
15 starting date.

16 d. Limitation Years Beginning On Or After July 1, 2007.

17 For limitation years beginning on or after July 1,  
18 2007, the actuarially equivalent straight life annuity  
19 is equal to the greater of:

- 20 (1) the annual amount of the straight life annuity  
21 (if any) payable to the member under the System  
22 commencing at the same annuity starting date as  
23 the member's form of benefit, and  
24

1           (2) the annual amount of the straight life annuity  
2           commencing at the same annuity starting date that  
3           has the same actuarial present value as the  
4           member's form of benefit, computed using a five  
5           percent (5%) interest rate assumption and the  
6           applicable mortality table described in Rev. Rul.  
7           2001-62 (or its successor for these purposes, if  
8           applicable) for that annuity starting date.

9           6. Benefit Forms Subject to Section 417(e)(3) of the Internal  
10 Revenue Code of 1986, as amended: The straight life annuity that is  
11 actuarially equivalent to the member's form of benefit shall be  
12 determined under this paragraph 6 if the form of the member's  
13 benefit is other than a benefit form described in paragraph 5 of  
14 this subsection. In this case, the actuarially equivalent straight  
15 life annuity shall be determined as follows:

16           a. Annuity Starting Date in Plan Years Beginning After  
17           ~~2005~~ December 31, 2007 (Plan Years beginning on or  
18           after July 1, 2008). If the annuity starting date of  
19           the member's form of benefit is in a plan year  
20           beginning after ~~2005~~ December 31, 2007, the  
21           actuarially equivalent straight life annuity is equal  
22           to the greatest of (1), (2) or (3) below:

23           (1) the annual amount of the straight life annuity  
24           commencing at the same annuity starting date that

1 has the same actuarial present value as the  
2 member's form of benefit, computed using the  
3 interest rate and the mortality table (or other  
4 tabular factor) each as set forth in subsection G  
5 of Section 50-105.4 of this title for adjusting  
6 benefits in the same form,

7 (2) the annual amount of the straight life annuity  
8 commencing at the same annuity starting date that  
9 has the same actuarial present value as the  
10 member's form of benefit, computed using a five  
11 and one-half percent (5.5%) interest rate  
12 assumption and the applicable mortality table  
13 described in Rev. Rul. 2001-62 (or its successor  
14 for these purposes, if applicable), and

15 (3) the annual amount of the straight life annuity  
16 commencing at the same annuity starting date that  
17 has the same actuarial present value as the  
18 member's form of benefit, computed using:

19 (a) ~~the rate of interest on thirty-year Treasury~~  
20 ~~securities as specified by the Commissioner~~  
21 ~~for the lookback month for the stability~~  
22 ~~period specified below. The lookback month~~  
23 ~~applicable to the stability period is the~~  
24 ~~fourth calendar month preceding the first~~

1 ~~day of the stability period, as specified~~  
2 ~~below. The adjusted first, second, and~~  
3 ~~third segment rates under Section~~  
4 ~~417(e)(3)(C) and (D) of the Internal Revenue~~  
5 ~~Code of 1986, as amended, applied under~~  
6 ~~rules similar to the rules of Section~~  
7 ~~430(h)(2)(C) of the Internal Revenue Code of~~  
8 ~~1986, as amended, for the fourth calendar~~  
9 ~~month preceding the plan year in which falls~~  
10 ~~the annuity starting date for the~~  
11 ~~distribution and the stability period is the~~  
12 ~~successive period of one (1) plan year which~~  
13 ~~contains the annuity starting date for the~~  
14 ~~distribution and for which the applicable~~  
15 ~~interest rate remains constant, or as~~  
16 ~~otherwise provided in the applicable~~  
17 ~~guidance if the first day of the first plan~~  
18 ~~year beginning after December 31, 2007, does~~  
19 ~~not coincide with the first day of the~~  
20 ~~applicable stability period, and~~

21 (b) the applicable mortality table described in  
22 Rev. Rul. 2001-62 (or its successor for  
23 these purposes, if applicable),

24 divided by one and five one-hundredths (1.05).

1           b. Annuity Starting Date in Plan Years Beginning in 2006  
2           or 2007. If the annuity starting date of the member's  
3           form of benefit is in a Plan Year beginning in 2006 or  
4           2007, the actuarially equivalent straight life annuity  
5           is equal to the greatest of (1), (2) or (3) below:

6           (1) the annual amount of the straight life annuity  
7           commencing at the same annuity starting date that  
8           has the same actuarial present value as the  
9           member's form of benefit, computed using the  
10           interest rate and the mortality table (or other  
11           tabular factor) each as set forth in subsection G  
12           of Section 50-105.4 of this title for adjusting  
13           benefits in the same form,

14           (2) the annual amount of the straight life annuity  
15           commencing at the same annuity starting date that  
16           has the same actuarial present value as the  
17           member's form of benefit, computed using a five  
18           and one-half percent (5.5%) interest rate  
19           assumption and the applicable mortality table  
20           described in Rev. Rul. 2001-62 (or its successor  
21           for these purposes, if applicable), and

22           (3) the annual amount of the straight life annuity  
23           commencing at the same annuity starting date that  
24

1           has the same actuarial present value as the  
2           member's form of benefit, computed using:

3           (a) the rate of interest on thirty-year Treasury  
4           securities as specified by the Commissioner  
5           for the lookback month for the stability  
6           period specified below. The lookback month  
7           applicable to the stability period is the  
8           fourth calendar month preceding the first  
9           day of the stability period, as specified  
10           below. The stability period is the  
11           successive period of one (1) plan year which  
12           contains the annuity starting date for the  
13           distribution and for which the applicable  
14           interest rate remains constant, and  
15           (b) the applicable mortality table described in  
16           Rev. Rul. 2001-62 (or its successor for  
17           these purposes, if applicable),  
18           divided by one and five one-hundredths (1.05).

19           c. Annuity Starting Date in Plan Years Beginning in 2004  
20           or 2005:

21           (1) If the annuity starting date of the member's form  
22           of benefit is in a plan year beginning in 2004 or  
23           2005, the actuarially equivalent straight life  
24           annuity is equal to the annual amount of the

1 straight life annuity commencing at the same  
2 annuity starting date that has the same actuarial  
3 present value as the member's form of benefit,  
4 computed using whichever of the following  
5 produces the greater annual amount:

6 (a) the interest rate and the mortality table  
7 (or other tabular factor) each as set forth  
8 in subsection G of Section 50-105.4 of this  
9 title for adjusting benefits in the same  
10 form, and

11 (b) a five and one-half percent (5.5%) interest  
12 rate assumption and the applicable mortality  
13 table described in Rev. Rul. 2001-62 (or its  
14 successor for these purposes, if  
15 applicable).

16 (2) If the annuity starting date of the member's  
17 benefit is on or after the first day of the first  
18 plan year beginning in 2004 and before December  
19 31, 2004, the application of this subparagraph b  
20 shall not cause the amount payable under the  
21 member's form of benefit to be less than the  
22 benefit calculated under the System, taking into  
23 account the limitations of this section, except  
24 that the actuarially equivalent straight life

1 annuity is equal to the annual amount of the  
2 straight life annuity commencing at the same  
3 annuity starting date that has the same actuarial  
4 present value as the member's form of benefit,  
5 computed using whichever of the following  
6 produces the greatest annual amount:

7 (a) the interest rate and mortality table (or  
8 other tabular factor) each as set forth in  
9 subsection G of Section 50-105.4 of this  
10 title for adjusting benefits in the same  
11 form,

12 (b) (i) the rate of interest on thirty-year  
13 Treasury securities as specified by the  
14 Commissioner for the lookback month for  
15 the stability period specified below.  
16 The lookback month applicable to the  
17 stability period is the fourth calendar  
18 month preceding the first day of the  
19 stability period, as specified below.  
20 The stability period is the successive  
21 period of one (1) plan year which  
22 contains the annuity starting date for  
23 the distribution and for which the  
24

1 applicable interest rate remains  
2 constant, and

3 (ii) the applicable mortality table  
4 described in Rev. Rul. 2001-62 (or its  
5 successor for these purposes, if  
6 applicable), and

7 (c) (i) the rate of interest on thirty-year  
8 Treasury securities as specified by the  
9 Commissioner for the lookback month for  
10 the stability period specified below.  
11 The lookback month applicable to the  
12 stability period is the fourth calendar  
13 month preceding the first day of the  
14 stability period, as specified below.  
15 The stability period is the successive  
16 period of one (1) plan year which  
17 contains the annuity starting date for  
18 the distribution and for which the  
19 applicable interest rate remains  
20 constant (as in effect on the last day  
21 of the last plan year beginning before  
22 January 1, 2004, under provisions of  
23 the System then adopted and in effect),  
24 and

1 (ii) the applicable mortality table  
2 described in Rev. Rul. 2001-62 (or its  
3 successor for these purposes, if  
4 applicable).

5 ~~7. Subject to the adjustment under subsection E of this~~  
6 ~~section, the foregoing limitation shall not be applicable with~~  
7 ~~respect to any member whose annual benefits from the System and~~  
8 ~~under all other defined benefit plans of the participating~~  
9 ~~municipality are less than Ten Thousand Dollars (\$10,000.00) for the~~  
10 ~~year or from any prior year, if such member has not at any time~~  
11 ~~participated in any defined contribution plan maintained by the~~  
12 ~~participating municipality.~~

13 C. If a member has less than ten (10) years of participation in  
14 the System and all predecessor municipal police pension and  
15 retirement systems, the dollar limitation otherwise applicable under  
16 subsection B of this section shall be multiplied by a fraction, the  
17 numerator of which is the number of the years of participation in  
18 the System of the member, but never less than one (1), and the  
19 denominator of which is ten (10).

20 D. Adjustment of Dollar Limitation for Benefit Commencement  
21 Before Age Sixty-two (62) or After Age Sixty-five (65): Effective  
22 for benefits commencing in limitation years ending after December  
23 31, 2001, the dollar limitation under subsection B of this section  
24 shall be adjusted if the annuity starting date of the member's

1 benefit is before age sixty-two (62) or after age sixty-five (65).

2 If the annuity starting date is before age sixty-two (62), the

3 dollar limitation under subsection B of this section shall be

4 adjusted under paragraph 1 of this subsection, as modified by

5 paragraph 3 of this subsection, but subject to paragraph 4 of this

6 subsection. If the annuity starting date is after age sixty-five

7 (65), the dollar limitation under subsection B of this section shall

8 be adjusted under paragraph 2 of this subsection, as modified by

9 paragraph 3 of this subsection.

10 1. Adjustment of Defined Benefit Dollar Limitation for Benefit  
11 Commencement Before Age Sixty-two (62):

12 a. Limitation Years Beginning Before July 1, 2007. If  
13 the annuity starting date for the member's benefit is  
14 prior to age sixty-two (62) and occurs in a limitation  
15 year beginning before July 1, 2007, the dollar  
16 limitation for the member's annuity starting date is  
17 the annual amount of a benefit payable in the form of  
18 a straight life annuity commencing at the member's  
19 annuity starting date that is the actuarial equivalent  
20 of the dollar limitation under subsection B of this  
21 section (adjusted under subsection C of this section  
22 for years of participation less than ten (10), if  
23 required) with actuarial equivalence computed using

24

1           whichever of the following produces the smaller annual  
2           amount:

3           (1)   the interest rate and the mortality table (or  
4                other tabular factor) each as set forth in  
5                subsection G of Section 50-105.4 of this title,  
6                or

7           (2)   a five-percent interest rate assumption and the  
8                applicable mortality table as described in Rev.  
9                Rul. 2001-62 (or its successor for these  
10              purposes, if applicable).

11          b.   Limitation Years Beginning On Or After July 1, 2007.

12           (1)   System Does Not Have Immediately Commencing  
13                Straight Life Annuity Payable at Both Age Sixty-  
14                two (62) and the Age of Benefit Commencement. If  
15                the annuity starting date for the member's  
16                benefit is prior to age sixty-two (62) and occurs  
17                in a limitation year beginning on or after July  
18                1, 2007, and the System does not have an  
19                immediately commencing straight life annuity  
20                payable at both age sixty-two (62) and the age of  
21                benefit commencement, the dollar limitation for  
22                the member's annuity starting date is the annual  
23                amount of a benefit payable in the form of a  
24                straight life annuity commencing at the member's

1 annuity starting date that is the actuarial  
2 equivalent of the dollar limitation under  
3 subsection B of this section (adjusted under  
4 subsection C of this section for years of  
5 participation less than ten (10), if required)  
6 with actuarial equivalence computed using a five-  
7 percent interest rate assumption and the  
8 applicable mortality table for the annuity  
9 starting date as described in Rev. Rul. 2001-62  
10 (or its successor for these purposes, if  
11 applicable) (and expressing the member's age  
12 based on completed calendar months as of the  
13 annuity starting date).

- 14 (2) System Has Immediately Commencing Straight Life  
15 Annuity Payable at Both Age Sixty-two (62) and  
16 the Age of Benefit Commencement. If the annuity  
17 starting date for the member's benefit is prior  
18 to age sixty-two (62) and occurs in a limitation  
19 year beginning on or after July 1, 2007, and the  
20 System has an immediately commencing straight  
21 life annuity payable at both age sixty-two (62)  
22 and the age of benefit commencement, the dollar  
23 limitation for the member's annuity starting date  
24 is the lesser of the limitation determined under

1           division (1) of subparagraph b of this paragraph  
2           and the dollar limitation under subsection B of  
3           this section (adjusted under subsection C of this  
4           section for years of participation less than ten  
5           (10), if required) multiplied by the ratio of the  
6           annual amount of the immediately commencing  
7           straight life annuity under the System at the  
8           member's annuity starting date to the annual  
9           amount of the immediately commencing straight  
10          life annuity under the System at age sixty-two  
11          (62), both determined without applying the  
12          limitations of this section.

13           2. Adjustment of Defined Benefit Dollar Limitation for Benefit  
14 Commencement After Age Sixty-five (65):

- 15           a. Limitation Years Beginning Before July 1, 2007. If  
16           the annuity starting date for the member's benefit is  
17           after age sixty-five (65) and occurs in a limitation  
18           year beginning before July 1, 2007, the dollar  
19           limitation for the member's annuity starting date is  
20           the annual amount of a benefit payable in the form of  
21           a straight life annuity commencing at the member's  
22           annuity starting date that is the actuarial equivalent  
23           of the dollar limitation under subsection B of this  
24           section (adjusted under subsection C of this section

1 for years of participation less than ten (10), if  
2 required) with actuarial equivalence computed using  
3 whichever of the following produces the smaller annual  
4 amount:

5 (1) the interest rate and the mortality table (or  
6 other tabular factor) each as set forth in  
7 subsection G of Section 50-105.4 of this title,  
8 or

9 (2) a five-percent interest rate assumption and the  
10 applicable mortality table as described in Rev.  
11 Rul. 2001-62 (or its successor for these  
12 purposes, if applicable).

13 b. Limitation Years Beginning On Or After July 1, 2007.

14 (1) System Does Not Have Immediately Commencing  
15 Straight Life Annuity Payable at Both Age Sixty-  
16 five (65) and the Age of Benefit Commencement.  
17 If the annuity starting date for the member's  
18 benefit is after age sixty-five (65) and occurs  
19 in a limitation year beginning on or after July  
20 1, 2007, and the System does not have an  
21 immediately commencing straight life annuity  
22 payable at both age sixty-five (65) and the age  
23 of benefit commencement, the dollar limitation at  
24 the member's annuity starting date is the annual

1 amount of a benefit payable in the form of a  
2 straight life annuity commencing at the member's  
3 annuity starting date that is the actuarial  
4 equivalent of the dollar limitation under  
5 subsection B of this section (adjusted under  
6 subsection C of this section for years of  
7 participation less than ten (10), if required)  
8 with actuarial equivalence computed using a five-  
9 percent interest rate assumption and the  
10 applicable mortality table for the annuity  
11 starting date as described in Rev. Rul. 2001-62  
12 (or its successor for these purposes, if  
13 applicable) (and expressing the member's age  
14 based on completed calendar months as of the  
15 annuity starting date).

- 16 (2) System Has Immediately Commencing Straight Life  
17 Annuity Payable at Both Age Sixty-five (65) and  
18 Age of Commencement. If the annuity starting  
19 date for the member's benefit is after age sixty-  
20 five (65) and occurs in a limitation year  
21 beginning on or after July 1, 2007, and the  
22 System has an immediately commencing straight  
23 life annuity payable at both age sixty-five (65)  
24 and the age of benefit commencement, the dollar

1 limitation at the member's annuity starting date  
2 is the lesser of the limitation determined under  
3 division (1) of subparagraph b of this paragraph  
4 and the dollar limitation under subsection B of  
5 this section (adjusted under subsection C of this  
6 section for years of participation less than ten  
7 (10), if required) multiplied by the ratio of the  
8 annual amount of the adjusted immediately  
9 commencing straight life annuity under the System  
10 at the member's annuity starting date to the  
11 annual amount of the adjusted immediately  
12 commencing straight life annuity under the System  
13 at age sixty-five (65), both determined without  
14 applying the limitations of this section. For  
15 this purpose, the adjusted immediately commencing  
16 straight life annuity under the System at the  
17 member's annuity starting date is the annual  
18 amount of such annuity payable to the member,  
19 computed disregarding the member's accruals after  
20 age sixty-five (65) but including actuarial  
21 adjustments even if those actuarial adjustments  
22 are used to offset accruals; and the adjusted  
23 immediately commencing straight life annuity  
24 under the System at age sixty-five (65) is the

1           annual amount of such annuity that would be  
2           payable under the System to a hypothetical member  
3           who is age sixty-five (65) and has the same  
4           accrued benefit as the member.

5           3. Notwithstanding the other requirements of this subsection,  
6 no adjustment shall be made to the dollar limitation under  
7 subsection B of this section to reflect the probability of a  
8 member's death between the annuity starting date and age sixty-two  
9 (62), or between age sixty-five (65) and the annuity starting date,  
10 as applicable, if benefits are not forfeited upon the death of the  
11 member prior to the annuity starting date. To the extent benefits  
12 are forfeited upon death before the annuity starting date, such an  
13 adjustment shall be made. For this purpose, no forfeiture shall be  
14 treated as occurring upon the member's death if the System does not  
15 charge members for providing a qualified preretirement survivor  
16 annuity, as defined in Section 417(c) of the Internal Revenue Code  
17 of 1986, as amended, upon the member's death.

18           4. Notwithstanding any other provision to the contrary, for  
19 limitation years beginning on or after January 1, 1997, if payment  
20 begins before the member reaches age sixty-two (62), the reductions  
21 in the limitations in this subsection shall not apply to a member  
22 who is a "qualified participant" as defined in Section 415(b)(2)(H)  
23 of the Internal Revenue Code of 1986, as amended.

1 E. Minimum Benefit Permitted: Notwithstanding anything else in  
2 this section to the contrary, the benefit otherwise accrued or  
3 payable to a member under this System shall be deemed not to exceed  
4 the maximum permissible benefit if:

5 1. The retirement benefits payable for a limitation year under  
6 any form of benefit with respect to such member under this System  
7 and under all other defined benefit plans (without regard to whether  
8 a plan has been terminated) ever maintained by a participating  
9 municipality do not exceed Ten Thousand Dollars (\$10,000.00)  
10 multiplied by a fraction:

- 11 a. the numerator of which is the member's number of  
12 credited years (or part thereof, but not less than one  
13 (1) year) of service (not to exceed ten (10) years)  
14 with the participating municipality, and  
15 b. the denominator of which is ten (10); and

16 2. The participating municipality (or a predecessor employer)  
17 has not at any time maintained a defined contribution plan in which  
18 the member participated (for this purpose, mandatory employee  
19 contributions under a defined benefit plan, individual medical  
20 accounts under Section 401(h) of the Internal Revenue Code of 1986,  
21 as amended, and accounts for postretirement medical benefits  
22 established under Section 419A(d) (1) of the Internal Revenue Code of  
23 1986, as amended, are not considered a separate defined contribution  
24 plan).

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

11 G. Effective for years beginning after December 31, 1997, if a  
12 member purchases service pursuant to Section 50-111.2 and Section  
13 50-111.4 of this title, which qualifies as "permissive service  
14 credit" pursuant to Section 415(n) of the Internal Revenue Code of  
15 1986, as amended, the limitations of Section 415 of the Internal  
16 Revenue Code of 1986, as amended, may be met by either:

17 1. Treating the accrued benefit derived from such contributions  
18 as an annual benefit under subsection B of this section, or

19 2. Treating all such contributions as annual additions for  
20 purposes of Section 415(c) of the Internal Revenue Code of 1986, as  
21 amended.

22 H. Effective for years beginning after December 31, 1997, if a  
23 member repays to the System any amounts received because of such  
24 member's prior termination pursuant to subsection C of Section 50-

1 111.1 of this title, such repayment shall not be taken into account  
2 for purposes of Section 415 of the Internal Revenue Code of 1986, as  
3 amended, pursuant to Section 415(k)(3) of the Internal Revenue Code  
4 of 1986, as amended.

5 I. For limitation years beginning on or after January 1, 1995,  
6 subsection C of this section, paragraph 1 of subsection D of this  
7 section, and the proration provided under subparagraphs a and b of  
8 paragraph 1 of subsection E of this section shall not apply to a  
9 benefit paid under the System as the result of the member becoming  
10 disabled by reason of personal injuries or sickness, or amounts  
11 received by the beneficiaries, survivors or estate of the member as  
12 the result of the death of the member.

13 J. For distributions made in limitation years beginning on or  
14 after January 1, 2000, the combined limit of repealed Section 415(e)  
15 of the Internal Revenue Code of 1986, as amended, shall not apply.

16 K. The State Board is hereby authorized to revoke the special  
17 election previously made on June 19, 1991, under Internal Revenue  
18 Code Section 415(b)(10).

19 SECTION 5. AMENDATORY 11 O.S. 2001, Section 50-114.2, as  
20 last amended by Section 6, Chapter 177, O.S.L. 2008 (11 O.S. Supp.  
21 2009, Section 50-114.2), is amended to read as follows:

22 Section 50-114.2 A. This section applies to distributions made  
23 on or after January 1, 1993. Notwithstanding any provision of the  
24 System to the contrary that would otherwise limit a Distributee's

1 election hereunder, a Distributee, including a nonspouse designated  
2 beneficiary, to the extent permitted under paragraph 3 of subsection  
3 B of this section, may elect, at the time and in the manner  
4 prescribed by the State Board, to have any portion of an Eligible  
5 Rollover Distribution paid directly to ~~an~~ :

6 1. An Eligible Retirement Plan; or

7 2. Effective for distributions after December 31, 2007, a Roth  
8 IRA described in Section 408A of the Internal Revenue Code of 1986,  
9 as amended, subject to any limitations described in Section  
10 408A(c) of the Internal Revenue Code of 1986, as amended;

11 specified by the Distributee in a Direct Rollover.

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

14 1. "Eligible Rollover Distribution" means any distribution of  
15 all or any portion of the balance to the credit of the Distributee,  
16 except that an Eligible Rollover Distribution does not include: any  
17 distribution that is one of a series of substantially equal periodic  
18 payments (not less frequently than annually) made for the life (or  
19 life expectancy) of the Distributee or the joint lives (or life  
20 expectancies) of the Distributee and the Distributee's designated  
21 beneficiary, or for a specified period of ten (10) years or more;  
22 any distribution to the extent such distribution is required under  
23 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended;  
24 and the portion of any distribution that is not includable in gross

1 income. Effective January 1, 2002, a portion of a distribution  
2 shall not fail to be an Eligible Rollover Distribution merely  
3 because the portion consists of after-tax member contributions which  
4 are not includable in gross income. However, such portion may be  
5 ~~paid~~ transferred only:

6 a. from January 1, 2002, through December 31, 2006, ~~to:~~

7 (1) to an individual retirement account or annuity

8 described in Section 408(a) or (b) of the

9 Internal Revenue Code of 1986, as amended, or

10 (2) in a direct trustee-to-trustee transfer, to a

11 qualified trust which is part of a defined

12 contribution plan ~~described in Section 401(a) or~~

13 ~~403(a) of the Internal Revenue Code of 1986, as~~

14 ~~amended, and which~~ that agrees to separately

15 account for amounts so transferred, including

16 separately accounting for the portion of such

17 distribution which is includable in gross income

18 and the portion of such distribution which is not

19 so includable, and

20 b. on or after January 1, 2007, ~~to:~~

21 (1) to an individual retirement account or annuity

22 described in Section 408(a) or (b) of the

23 Internal Revenue Code of 1986, as amended, or

24

1           (2) in a direct trustee-to-trustee transfer, to a  
2           qualified trust described in Section 401(a) or  
3           403(a) of the Internal Revenue Code of 1986, as  
4           amended, or an annuity contract described in  
5           Section 403(b) of the Internal Revenue Code of  
6           1986, as amended, and if such trust or annuity  
7           contract provides for separate accounting for  
8           amounts so transferred (and earnings thereon),  
9           including separately accounting for the portion  
10          of such distribution which is includable in gross  
11          income and the portion of such distribution which  
12          is not so includable.

13          Effective for distributions after December 31, 2007, such after-  
14          tax portion may also be transferred to a Roth IRA described in  
15          Section 408A of the Internal Revenue Code of 1986, as amended,  
16          subject to any limitations described in Section 408A(c) of the  
17          Internal Revenue Code of 1986, as amended, that agrees to separately  
18          account for amounts so transferred, including separately accounting  
19          for the portion of such distribution which is includible in gross  
20          income and the portion of such distribution which is not so  
21          includible.

22          Notwithstanding the foregoing, effective January 1, 2009, to the  
23          extent applicable, if all or a portion of a distribution from the  
24          Oklahoma Police Deferred Option Plan during 2009 is treated as an

1 Eligible Rollover Distribution pursuant to Section 402(c)(4) of the  
2 Internal Revenue Code of 1986, as amended, but would not be so  
3 treated if the minimum distribution requirements under Section  
4 401(a)(9) of the Internal Revenue Code of 1986, as amended, had  
5 applied during 2009, such distribution shall not be treated as an  
6 Eligible Rollover Distribution for purposes of Section 401(a)(31),  
7 Section 3405(c) or Section 402(f) of the Internal Revenue Code of  
8 1986, as amended;

9       2. "Eligible Retirement Plan" means an individual retirement  
10 account described in Section 408(a) of the Internal Revenue Code of  
11 1986, as amended, an individual retirement annuity described in  
12 Section 408(b) of the Internal Revenue Code of 1986, as amended, an  
13 annuity plan described in Section 403(a) of the Internal Revenue  
14 Code of 1986, as amended, or a qualified trust described in Section  
15 401(a) of the Internal Revenue Code of 1986, as amended, that  
16 accepts the Distributee's Eligible Rollover Distribution. Effective  
17 January 1, 2002, an Eligible Retirement Plan shall also mean an  
18 annuity contract described in Section 403(b) of the Internal Revenue  
19 Code of 1986, as amended, and an eligible plan under Section 457(b)  
20 of the Internal Revenue Code of 1986, as amended, which is  
21 maintained by a state, political subdivision of a state, or any  
22 agency or instrumentality of a state or political subdivision of a  
23 state and which agrees to separately account for amounts transferred  
24 into such plan from the System;

1       3. "Distributee" means an employee or former employee. In  
2 addition, effective June 7, 1993, the employee's or former  
3 employee's surviving spouse and the employee's or former employee's  
4 spouse or former spouse who is the alternate payee under a qualified  
5 domestic order, as defined in subsection B of Section 50-124 of this  
6 title, are Distributees with regard to the interest of the spouse or  
7 the former spouse. Effective for distributions after December 31,  
8 2006, a Distributee also includes the member's nonspouse designated  
9 beneficiary, pursuant to Section 401(a)(9)(E) of the Internal  
10 Revenue Code of 1986, as amended. ~~In the case of a nonspouse~~  
11 ~~beneficiary, the, who may only elect a Direct Rollover may be made~~  
12 ~~only~~ (to the extent such Distributee does not receive a lump sum  
13 payment) to an individual retirement account or annuity (other than  
14 an endowment contract) described in Section 408(a) or (b) of the  
15 Internal Revenue Code of 1986, as amended, (IRA), that is  
16 established on behalf of such designated beneficiary and that will  
17 be treated as an inherited IRA pursuant to the provisions of Section  
18 402(c)(11) of the Internal Revenue Code of 1986, as amended. Also,  
19 in this case, the determination of any required minimum distribution  
20 under Section 401(a)(9) of the Internal Revenue Code of 1986, as  
21 amended, that is ineligible for rollover shall be made in accordance  
22 with Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395. The required  
23 minimum distribution rules of Section 401(a)(9)(B) (other than

24

1 clause iv thereof) of the Internal Revenue Code of 1986, as amended,  
2 apply to the transferee IRA; and

3 4. "Direct Rollover" means a payment by the System to the  
4 Eligible Retirement Plan specified by the Distributee or, effective  
5 for distributions on or after January 1, 2008, to a Roth IRA under  
6 Section 408A of the Internal Revenue Code of 1986, as amended, as  
7 specified by the Distributee (assuming the Distributee otherwise  
8 meets the Roth IRA requirements).

9 C. At least thirty (30) days before and, effective January 1,  
10 2007, not more than one hundred eighty (180) days before the date of  
11 distribution, the Distributee (other than a nonspouse designated  
12 beneficiary prior to January 1, 2010) must be provided with a notice  
13 of rights which satisfies Section 402(f) of the Internal Revenue  
14 Code of 1986, as amended, as to rollover options and tax effects.  
15 Such distribution may commence less than thirty (30) days after the  
16 notice is given, provided that:

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

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

23 D. Prior to January 1, 2010, a distribution with respect to a  
24 nonspouse designated beneficiary shall be made in accordance with

1 Notice 2007-7, Q&A 15, 2007-5 Internal Revenue Bulletin 395.  
2 Effective January 1, 2010, a distribution with respect to a  
3 nonspouse designated beneficiary shall be subject to Sections  
4 401(a)(31), 402(f), and 3405(c) of the Internal Revenue Code of  
5 1986, as amended.

6 SECTION 6. AMENDATORY Section 4, Chapter 152, O.S.L.  
7 2007, as amended by Section 4, Chapter 169, O.S.L. 2009 (11 O.S.  
8 Supp. 2009, Section 50-114.3), is amended to read as follows:

9 Section 50-114.3 A. An individual who has been designated,  
10 pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of  
11 1986, as amended, as the beneficiary of a deceased member and who is  
12 not the surviving spouse of the member, may elect, in accordance  
13 with Section 402(c)(11) of the Internal Revenue Code of 1986, as  
14 amended, and at the time and in the manner prescribed by the State  
15 Board, to have a direct trustee-to-trustee transfer of any portion  
16 of such beneficiary's lump-sum distribution from the System after  
17 December 31, 2006, made to an individual retirement account or  
18 individual retirement annuity (other than an endowment contract)  
19 described in Section 408(a) or (b) of the Internal Revenue Code of  
20 1986, as amended (IRA), that is established on behalf of such  
21 designated individual. If such transfer is made, then:

22 1. The transfer is treated as an eligible rollover distribution  
23 for purposes of Section 402(c)(11) of the Internal Revenue Code of  
24 1986, as amended;

1        2. The transferee IRA is treated as an inherited individual  
2 retirement account or an inherited individual retirement annuity  
3 (within the meaning of Section 408(d)(3)(C) of the Internal Revenue  
4 Code of 1986, as amended), and must be titled in the name of the  
5 deceased member, for the benefit of the beneficiary; and

6        3. The required minimum distribution rules of Section  
7 401(a)(9)(B) (other than clause iv thereof) of the Internal Revenue  
8 Code of 1986, as amended, apply to the transferee IRA.

9        B. A trust maintained for the benefit of one or more designated  
10 beneficiaries shall be treated in the same manner as a ~~trust~~  
11 designated beneficiary.

12        C. The State Board shall promulgate such rules as are necessary  
13 to implement the provisions of this section.

14        SECTION 7.        AMENDATORY        11 O.S. 2001, Section 50-128, as  
15 last amended by Section 6, Chapter 169, O.S.L. 2009 (11 O.S. Supp.  
16 2009, Section 50-128), is amended to read as follows:

17        Section 50-128. A. Any member who has heretofore left the  
18 Police Department qualifying under this article to enter the  
19 military service of the United States during World War II and who  
20 returned to said department on or before July 1, 1947, or the Korean  
21 conflict and who returned to said department on or before January 1,  
22 1956, shall receive credit for such time in military service without  
23 having made contribution to the System; and any member who has  
24 heretofore left, or hereafter may leave said department because of

1 involuntary conscription into the military services of the United  
2 States at any time and who returns to said department within ninety  
3 (90) days after the member's release from such involuntary service  
4 shall receive credit for such time in said military service on the  
5 Police Department without having made contribution to the System  
6 only for that period that is involuntary; voluntary enlistments and  
7 voluntary extensions of military service being herewith specifically  
8 excluded for retirement credit.

9       B. A member who began participation in the System prior to July  
10 1, 2003, and who retires on or after July 1, 1998, shall be entitled  
11 to prior service credit, not to exceed five (5) years, for those  
12 periods of military service on active duty prior to membership in  
13 the Oklahoma Police Pension and Retirement System. All members who  
14 initially begin participation with the System after June 30, 2003,  
15 may acquire prior military service credit for a maximum of five (5)  
16 years of such service credit upon payment of the actuarial cost of  
17 such service in the manner prescribed by and subject to all of the  
18 requirements of Section 50-111.4 of this title. For members of the  
19 System hired or rehired on or after July 1, 2003, if the military  
20 service credit authorized by this subsection is used to compute the  
21 retirement benefit of the member and the member retires from the  
22 System, such military service credit shall not be used to compute  
23 the retirement benefit in any other retirement system created  
24 pursuant to the Oklahoma Statutes and the member may receive credit

1 for such service only in the retirement system from which the member  
2 first retires.

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

7 1. During the following periods, including the beginning and  
8 ending dates, and only for the periods served, from:

9 a. April 6, 1917, to November 11, 1918, commonly referred  
10 to as World War I,

11 b. September 16, 1940, to December 7, 1941, as a member  
12 of the 45th Division,

13 c. December 7, 1941, to December 31, 1946, commonly  
14 referred to as World War II,

15 d. June 27, 1950, to January 31, 1955, commonly referred  
16 to as the Korean Conflict or the Korean War,

17 e. February 28, 1961, to May 7, 1975, commonly referred  
18 to as the Vietnam era, except that:

19 (1) for the period from February 28, 1961, to August  
20 4, 1964, military service shall only include  
21 service in the Republic of Vietnam during that  
22 period, and

23

24

1           (2) for purposes of determining eligibility for  
2           education and training benefits, such period  
3           shall end on December 31, 1976, or

4           f. August 1, 1990, to December 31, 1991, commonly  
5           referred to as the Gulf War, the Persian Gulf War, or  
6           Operation Desert Storm, but excluding any person who  
7           served on active duty for training only, unless  
8           discharged from such active duty for a service-  
9           connected disability;

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

1 C. An eligible member pursuant to subsection B of this section  
2 shall include only those persons who shall have served during the  
3 times or in the areas prescribed thereunder and only if such person  
4 provides appropriate documentation in such time and manner as  
5 required by the System to establish such military service prescribed  
6 in this section, or for service pursuant to division (1) of  
7 subparagraph e of paragraph 1 of subsection B of this section, those  
8 persons who were awarded service medals, as authorized by the United  
9 States Department of Defense as reflected in the veteran's Defense  
10 Department Form 214, related to the Vietnam Conflict for service  
11 prior to August 5, 1964. The provisions of subsection B of this  
12 section shall include military retirees, whose retirement was based  
13 only on active service, that have been rated as having twenty  
14 percent (20%) or greater service-connected disability by the  
15 Veterans Administration or the Armed Forces of the United States.

16 D. Effective December 12, 1994, a leave of absence on account  
17 of a period of "qualified military service" in the uniformed  
18 services of the United States (within the meaning of Section  
19 414(u) (5) of the Internal Revenue Code of 1986), followed by a  
20 return to the service of the participating municipality within  
21 ninety (90) days after the completion of the period of service,  
22 shall constitute credited service. Notwithstanding any provision  
23 herein to the contrary:

1        1. Contributions, benefits and service credit with respect to  
2 qualified military service shall be provided in accordance with  
3 Section 414(u) of the Internal Revenue Code of 1986, as amended,  
4 which is in accordance with the Uniformed Services Employment and  
5 Reemployment Rights Act of 1994, as amended (USERRA). The  
6 municipality's contributions to the System for a member covered by  
7 USERRA are due when such a member makes up his or her contributions  
8 that were missed due to his or her qualified military service; and

9        2. Effective January 1, 2007, if any member dies while  
10 performing qualified military service (as defined in Section 414(u)  
11 of the Internal Revenue Code of 1986, as amended), the survivors of  
12 the member are entitled to any additional benefits other than  
13 benefit accruals relating to the period of qualified military  
14 service provided under the System had the member resumed and then  
15 terminated employment on account of death.

16        SECTION 8.        AMENDATORY        47 O.S. 2001, Section 2-300, as  
17 last amended by Section 7, Chapter 169, O.S.L. 2009 (47 O.S. Supp.  
18 2009, Section 2-300), is amended to read as follows:

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

- 20        1. "System" means the Oklahoma Law Enforcement Retirement  
21 System;  
22        2. "Act" means Section 2-300 et seq. of this title;  
23        3. "Board" means the Oklahoma Law Enforcement Retirement Board  
24 of the System;

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

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

4 6. a. "Member" means:

5 (1) all commissioned law enforcement officers of the  
6 Oklahoma Highway Patrol Division of the  
7 Department of Public Safety who have obtained  
8 certification from the Council on Law Enforcement  
9 Education and Training, and all cadets of a  
10 Patrol Academy of the Department of Public  
11 Safety,

12 (2) law enforcement officers and criminalists of the  
13 Oklahoma State Bureau of Investigation,

14 (3) law enforcement officers of the Oklahoma State  
15 Bureau of Narcotics and Dangerous Drugs Control  
16 designated to perform duties in the investigation  
17 and prevention of crime and the enforcement of  
18 the criminal laws of this state,

19 (4) law enforcement officers of the Oklahoma  
20 Alcoholic Beverage Laws Enforcement Commission  
21 designated to perform duties in the investigation  
22 and prevention of crime and the enforcement of  
23 the criminal laws of this state,  
24

1 (5) employees of the Communications Section of the  
2 Oklahoma Highway Patrol Division, radio  
3 technicians, and tower technicians of the  
4 Department of Public Safety, who are employed in  
5 any such capacity as of June 30, 2008, and who  
6 remain employed on or after July 1, 2008, until a  
7 termination of service, or until a termination of  
8 service with an election of a vested benefit from  
9 the System, or until retirement. Effective July  
10 1, 2008, a person employed for the first time as  
11 an employee of the Department of Public Safety in  
12 the Communications Division as an information  
13 systems telecommunication technician of the  
14 Department of Public Safety shall not be a member  
15 of the System,

16 (6) park rangers of the Oklahoma Tourism and  
17 Recreation Department and any park manager or  
18 park supervisor of the Oklahoma Tourism and  
19 Recreation Department who was employed in such a  
20 position prior to July 1, 1985, and who elects on  
21 or before September 1, 1996, to participate in  
22 the System, and

23 (7) inspectors of the Board of Pharmacy.  
24

1           b.    Effective July 1, 1987, a member does not include a  
2                "leased employee" as defined under Section 414(n) (2) of  
3                the Internal Revenue Code of 1986, as amended.  
4                Effective July 1, 1999, any individual who agrees with  
5                the participating employer that the individual's  
6                services are to be performed as a leased employee or  
7                an independent contractor shall not be a member  
8                regardless of any classification as a common-law  
9                employee by the Internal Revenue Service or any other  
10              governmental agency, or any court of competent  
11              jurisdiction.

12          c.    All persons who shall be offered a position of a  
13                commissioned law enforcement officer as an employee of  
14                one of the agencies described in subparagraph a of  
15                this paragraph shall participate in the System upon  
16                the person meeting the requisite post-offer-pre-  
17                employment physical examination standards which shall  
18                be subject to the following requirements:

- 19              (1) all such persons shall be of good moral  
20                 character, free from deformities, mental or  
21                 physical conditions, or disease and alcohol or  
22                 drug addiction which would prohibit the person  
23                 from performing the duties of a law enforcement  
24                 officer,

1 (2) said physical-medical examination shall pertain  
2 to age, sight, hearing, agility and other  
3 conditions the requirements of which shall be  
4 established by the Board,

5 (3) the person shall be required to meet the  
6 conditions of this subsection prior to the  
7 beginning of actual employment but after an offer  
8 of employment has been tendered by a  
9 participating employer,

10 (4) the Board shall have authority to deny or revoke  
11 membership of any person submitting false  
12 information in such person's membership  
13 application, and

14 (5) the Board shall have final authority in  
15 determining eligibility for membership in the  
16 System, pursuant to the provisions of this  
17 subsection;

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

- 22 a. completes twenty (20) years of vesting service, or  
23 b. attains sixty-two (62) years of age with ten (10)  
24 years of vesting service, or

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

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

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

8 With respect to distributions under the System made for calendar  
9 years beginning on or after January 1, 2005, the System shall apply  
10 the minimum distribution incidental benefit requirements, incidental  
11 benefit requirements, and minimum distribution requirements of  
12 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,  
13 in accordance with the final regulations under Section 401(a)(9) of  
14 the Internal Revenue Code of 1986, as amended, which were issued in  
15 April 2002 and June 2004, notwithstanding any provision of the  
16 System to the contrary. With respect to distributions under the  
17 System made for calendar years beginning on or after January 1,  
18 2001, through December 31, 2004, the System shall apply the minimum  
19 distribution requirements and incidental benefit requirements of  
20 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,  
21 in accordance with the regulations under Section 401(a)(9) of the  
22 Internal Revenue Code of 1986, as amended, which were proposed in  
23 January 2001, notwithstanding any provision of the System to the  
24 contrary.

1       Effective July 1, 1989, notwithstanding any other provision  
2 contained herein to the contrary, in no event shall commencement of  
3 distribution of the accrued retirement benefit of a member be  
4 delayed beyond April 1 of the calendar year following the later of:  
5 (1) the calendar year in which the member reaches seventy and one-  
6 half (70 1/2) years of age; or (2) the actual retirement date of the  
7 member. The preceding sentence does not allow deferral of benefit  
8 commencement beyond the age of sixty-five (65).

9       A member who was required to join the System effective July 1,  
10 1980, because of the transfer of the employing agency from the  
11 Oklahoma Public Employees Retirement System to the System, and was  
12 not a member of the Oklahoma Public Employees Retirement System on  
13 the date of such transfer shall be allowed to receive credit for  
14 prior law enforcement service rendered to this state, if the member  
15 is not receiving or eligible to receive retirement credit or  
16 benefits for such service in any other public retirement system,  
17 upon payment to the System of the employee contribution the member  
18 would have been subject to had the member been a member of the  
19 System at the time, plus five percent (5%) interest. Service credit  
20 received pursuant to this paragraph shall be used in determining the  
21 member's retirement benefit, and shall be used in determining years  
22 of service for retirement or vesting purposes;

23       8. "Actual paid base salary" means the salary received by a  
24 member, excluding payment for any accumulated leave or uniform

1 allowance. Salary shall include any amount of nonelective salary  
2 reduction under Section 414(h) of the Internal Revenue Code of 1986;

3 9. "Final average salary" means the average of the highest  
4 thirty (30) consecutive complete months of actual paid gross salary.  
5 Gross salary shall include any amount of elective salary reduction  
6 under Section 457 of the Internal Revenue Code of 1986, as amended,  
7 and any amount of nonelective salary reduction under Section 414(h)  
8 of the Internal Revenue Code of 1986, as amended. Effective July 1,  
9 1992, gross salary shall include any amount of elective salary  
10 reduction under Section 125 of the Internal Revenue Code of 1986, as  
11 amended. Effective July 1, 1998, gross salary shall include any  
12 amount of elective salary reduction not includable in the gross  
13 income of the member under Section 132(f)(4) of the Internal Revenue  
14 Code of 1986, as amended. Effective July 1, 1998, for purposes of  
15 determining a member's compensation, any contribution by the member  
16 to reduce his or her regular cash remuneration under Section  
17 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be  
18 treated as if the member did not make such an election. Only salary  
19 on which required contributions have been made may be used in  
20 computing the final average salary. Gross salary shall not include  
21 severance pay.

22 In addition to other applicable limitations, and notwithstanding  
23 any other provision to the contrary, for plan years beginning on or  
24 after July 1, 2002, the annual gross salary of each "Noneligible

1 Member" taken into account under the System shall not exceed the  
2 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")  
3 annual salary limit. The EGTRRA annual salary limit is Two Hundred  
4 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for  
5 increases in the cost of living in accordance with Section  
6 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The  
7 annual salary limit in effect for a calendar year applies to any  
8 period, not exceeding twelve (12) months, over which salary is  
9 determined ("determination period") beginning in such calendar year.  
10 If a determination period consists of fewer than twelve (12) months,  
11 the EGTRRA salary limit will be multiplied by a fraction, the  
12 numerator of which is the number of months in the determination  
13 period, and the denominator of which is twelve (12). For purposes  
14 of this section, a "Noneligible Member" is any member who first  
15 became a member during a plan year commencing on or after July 1,  
16 1996.

17 For plan years beginning on or after July 1, 2002, any reference  
18 in the System to the annual salary limit under Section 401(a)(17) of  
19 the Internal Revenue Code of 1986, as amended, shall mean the EGTRRA  
20 salary limit set forth in this provision.

21 Effective January 1, 2008, gross salary for a plan year shall  
22 also include gross salary, as described above, for services, but  
23 paid by the later of two and one-half (2 1/2) months after a  
24 member's severance from employment or the end of the ~~plan~~ calendar

1 year that includes the date the member terminated employment, if it  
2 is a payment that, absent a severance from employment, would have  
3 been paid to the member while the member continued in employment  
4 with the employer.

5       Effective January 1, 2008, any payments not described above  
6 shall not be considered gross salary if paid after severance from  
7 employment, even if they are paid by the later of two and one-half  
8 (2 1/2) months after the date of severance from employment or the  
9 end of the ~~plan~~ calendar year that includes the date of severance  
10 from employment, except payments to an individual who does not  
11 currently perform services for the employer by reason of qualified  
12 military service within the meaning of Section 414(u)(5) of the  
13 Internal Revenue Code of 1986, as amended, to the extent these  
14 payments do not exceed the amounts the individual would have  
15 received if the individual had continued to perform services for the  
16 employer rather than entering qualified military service.

17       Effective January 1, 2008, back pay, within the meaning of  
18 Section 1.415(c)-2(g)(8) of the Income Tax Regulations, shall be  
19 treated as gross salary for the ~~plan~~ limitation year to which the  
20 back pay relates to the extent the back pay represents wages and  
21 compensation that would otherwise be included in this definition.

22       Effective for years beginning after December 31, 2008, gross  
23 salary shall also include differential wage payments under Section  
24 414(u)(12) of the Internal Revenue Code of 1986, as amended;

1        10. "Credited service" means the period of service used to  
2 determine the amount of benefits payable to a member. Credited  
3 service shall consist of the period during which the member  
4 participated in the System or the predecessor Plan as an active  
5 employee in an eligible membership classification, plus any service  
6 prior to the establishment of the predecessor Plan which was  
7 credited under the predecessor Plan and for law enforcement officers  
8 and criminalists of the Oklahoma State Bureau of Investigation and  
9 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
10 who became members of the System on July 1, 1980, any service  
11 credited under the Oklahoma Public Employees Retirement System as of  
12 June 30, 1980, and for members of the Communications and Lake Patrol  
13 Divisions of the Oklahoma Department of Public Safety, who became  
14 members of the System on July 1, 1981, any service credited under  
15 the predecessor Plan or the Oklahoma Public Employees Retirement  
16 System as of June 30, 1981, and for law enforcement officers of the  
17 Alcoholic Beverage Laws Enforcement Commission who became members of  
18 the System on July 1, 1982, any service credited under the Oklahoma  
19 Public Employees Retirement System as of June 30, 1982, and for park  
20 rangers of the Oklahoma Tourism and Recreation Department who became  
21 members of the System on July 1, 1985, any service credited under  
22 the Oklahoma Public Employees Retirement System as of June 30, 1985,  
23 and for inspectors of the Oklahoma State Board of Pharmacy who  
24 became members of the System on July 1, 1986, any service credited

1 under the Oklahoma Public Employees Retirement System as of June 30,  
2 1986, for law enforcement officers of the Oklahoma Capitol Patrol  
3 Division of the Department of Public Safety who became members of  
4 the System effective July 1, 1993, any service credited under the  
5 Oklahoma Public Employees Retirement System as of June 30, 1993, and  
6 for all commissioned officers in the Gunsmith/Ammunition Reloader  
7 Division of the Department of Public Safety who became members of  
8 the System effective July 1, 1994, any service credited under the  
9 Oklahoma Public Employees Retirement System as of June 30, 1994, and  
10 for the park managers or park supervisors of the Oklahoma Tourism  
11 and Recreation Department who were employed in such a position prior  
12 to July 1, 1985, and who elect to become members of the System  
13 effective September 1, 1996, any service transferred pursuant to  
14 subsection C of Section 2-309.6 of this title and any service  
15 purchased pursuant to subsection B of Section 2-307.2 of this title.  
16 Effective August 5, 1993, an authorized leave of absence shall  
17 include a period of absence pursuant to the Family and Medical Leave  
18 Act of 1993;

19 11. "Disability" means a physical or mental condition which, in  
20 the judgment of the Board, totally and presumably permanently  
21 prevents the member from engaging in the usual and customary duties  
22 of the occupation of the member and thereafter prevents the member  
23 from performing the duties of any occupation or service for which  
24 the member is qualified by reason of training, education or

1 experience. A person is not under a disability when capable of  
2 performing a service to the employer, regardless of occupation,  
3 providing the salary of the employee is not diminished thereby;

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

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

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

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

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

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

8 SECTION 9. AMENDATORY 47 O.S. 2001, Section 2-305.1A, as  
9 last amended by Section 9, Chapter 177, O.S.L. 2008 (47 O.S. Supp.  
10 2009, Section 2-305.1A), is amended to read as follows:

11 Section 2-305.1A A. This section applies to distributions made  
12 on or after January 1, 1993. Notwithstanding any provision of the  
13 System to the contrary that would otherwise limit a Distributee's  
14 election hereunder, a Distributee, including a nonspouse designated  
15 beneficiary, to the extent permitted under paragraph 3 of subsection  
16 B of this section, may elect, at the time and in the manner  
17 prescribed by the Board, to have any portion of an Eligible Rollover  
18 Distribution paid directly to ~~an~~ :

- 19 1. An Eligible Retirement Plan; or  
20 2. Effective for distributions after December 31, 2007, a Roth  
21 IRA described in Section 408A of the Internal Revenue Code of 1986,  
22 as amended, subject to any limitations described in Section 408A(c)  
23 of the Internal Revenue Code of 1986, as amended,  
24 specified by the Distributee in a Direct Rollover.

1 B. As used in this section:

2 1. "Eligible Rollover Distribution" means any distribution of  
3 all or any portion of the balance to the credit of the Distributee,  
4 except that an Eligible Rollover Distribution does not include: any  
5 distribution that is one of a series of substantially equal periodic  
6 payments (not less frequently than annually) made for the life (or  
7 life expectancy) of the Distributee or the joint lives (or life  
8 expectancies) of the Distributee and the Distributee's designated  
9 beneficiary, or for a specified period of ten (10) years or more;  
10 any distribution to the extent such distribution is required under  
11 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended;  
12 and the portion of any distribution that is not includable in gross  
13 income. Effective January 1, 2002, a portion of a distribution  
14 shall not fail to be an Eligible Rollover Distribution merely  
15 because the portion consists of after-tax member contributions which  
16 are not includable in gross income. However, such portion may be  
17 ~~paid~~ transferred only:

18 a. from January 1, 2002, through December 31, 2006, ~~to:~~

19 (1) to an individual retirement account or annuity

20 described in Section 408(a) or (b) of the  
21 Internal Revenue Code of 1986, as amended, or

22 (2) in a direct trustee-to-trustee transfer, to a

23 qualified trust which is part of a defined

24 contribution plan ~~described in Section 401(a) or~~

1           ~~403(a) of the Internal Revenue Code of 1986, as~~  
2           ~~amended, and which~~ that agrees to separately  
3           account for amounts so transferred, including  
4           separately accounting for the portion of such  
5           distribution which is includable in gross income  
6           and the portion of such distribution which is not  
7           so includable; and

8           b.    on or after January 1, 2007,~~to~~:

9           (1)   to an individual retirement account or annuity  
10           described in Section 408(a) or (b) of the

11           Internal Revenue Code of 1986, as amended, or

12           (2)   in a direct trustee-to-trustee transfer to a

13           qualified trust ~~described in Section 401(a) or~~

14           ~~403(a) of the Internal Revenue Code of 1986, as~~

15           ~~amended~~, or an annuity contract described in

16           Section 403(b) of the Internal Revenue Code of

17           1986, as amended, and such trust or annuity

18           contract provides for separate accounting for

19           amounts so transferred (and earnings thereon),

20           including separately accounting for the portion

21           of such distribution which is includable in gross

22           income and the portion of such distribution which

23           is not so includable.

24

1 Effective for distributions after December 31, 2007, such after-  
2 tax portion may also be transferred to a Roth IRA described in  
3 Section 408A of the Internal Revenue Code of 1986, as amended,  
4 subject to any limitations described in Section 408A(c) of the  
5 Internal Revenue Code of 1986, as amended, that agrees to separately  
6 account for amounts so transferred, including separately accounting  
7 for the portion of such distribution which is includible in gross  
8 income and the portion of such distribution which is not so  
9 includible.

10 2. "Eligible Retirement Plan" means an individual retirement  
11 account described in Section 408(a) of the Internal Revenue Code of  
12 1986, as amended, an individual retirement annuity described in  
13 Section 408(b) of the Internal Revenue Code of 1986, as amended, an  
14 annuity plan described in Section 403(a) of the Internal Revenue  
15 Code of 1986, as amended, or a qualified trust described in Section  
16 401(a) of the Internal Revenue Code of 1986, as amended, that  
17 accepts the Distributee's Eligible Rollover Distribution. Effective  
18 January 1, 2002, an Eligible Retirement Plan shall also mean an  
19 annuity contract described in Section 403(b) of the Internal Revenue  
20 Code of 1986, as amended, and an eligible plan under Section 457(b)  
21 of the Internal Revenue Code of 1986, as amended, which is  
22 maintained by a state, political subdivision of a state, or any  
23 agency or instrumentality of a state or political subdivision of a  
24

1 state and which agrees to separately account for amounts transferred  
2 into such plan from the System.

3 3. "Distributee" means an employee or former employee. In  
4 addition, effective June 7, 1993, the employee's or former  
5 employee's surviving spouse and the employee's or former employee's  
6 spouse or former spouse who is the alternate payee under a qualified  
7 domestic order, as defined in subsection B of Section 2-303.3 of  
8 this title, are Distributees with regard to the interest of the  
9 spouse or the former spouse. Effective for distributions after  
10 December 31, 2006, a Distributee also includes the member's  
11 nonspouse designated beneficiary, pursuant to Section 401(a)(9)(E)  
12 of the Internal Revenue Code of 1986, as amended. ~~In the case of a~~  
13 ~~nonspouse beneficiary, the,~~ who may only elect a Direct Rollover may  
14 be made only (to the extent such Distributee does not receive a lump  
15 sum payment) to an individual retirement account or annuity (other  
16 than an endowment contract) described in Section 408(a) or (b) of  
17 the Internal Revenue Code of 1986, as amended, ("IRA"), that is  
18 established on behalf of such designated beneficiary and that will  
19 be treated as an inherited IRA pursuant to the provisions of Section  
20 402(c)(11) of the Internal Revenue Code of 1986, as amended. Also,  
21 in this case, the determination of any required minimum distribution  
22 under Section 401(a)(9) of the Internal Revenue Code of 1986, as  
23 amended, that is ineligible for rollover shall be made in accordance  
24 with Notice 2007-7, Q&A 17 and 18, 2007-5 Internal Revenue Bulletin

1 395. The required minimum distribution rules of Section  
2 401(a)(9)(B) (other than clause iv thereof) of the Internal Revenue  
3 Code of 1986, as amended, apply to the transferee IRA.

4 4. "Direct Rollover" means a payment by the System to the  
5 Eligible Retirement Plan specified by the Distributee or, effective  
6 for distributions on or after January 1, 2008, to a Roth IRA under  
7 Section 408A of the Internal Revenue Code of 1986, as amended, as  
8 specified by the Distributee, assuming the Distributee otherwise  
9 meets the Roth IRA requirements.

10 C. At least thirty (30) days before and, effective January 1,  
11 2007, not more than one hundred eighty (180) days before the date of  
12 distribution, the Distributee (other than a nonspouse designated  
13 beneficiary prior to January 1, 2010) must be provided with a notice  
14 of rights which satisfies Section 402(f) of the Internal Revenue  
15 Code of 1986, as amended, as to rollover options and tax effects.  
16 Such distribution may commence less than thirty (30) days after the  
17 notice is given, provided that:

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

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

24

1        D. Prior to January 1, 2010, a distribution with respect to a  
2 nonspouse designated beneficiary shall be made in accordance with  
3 Notice 2007-7, Q&A 15, 2007-5 Internal Revenue Bulletin 395.  
4 Effective January 1, 2010, a distribution with respect to a  
5 nonspouse designated beneficiary shall be subject to Sections  
6 401(a)(31), 402(f) and 3405(c) of the Internal Revenue Code of 1986,  
7 as amended.

8            SECTION 10.            AMENDATORY            Section 9, Chapter 152, O.S.L.  
9 2007, as amended by Section 10, Chapter 169, O.S.L. 2009 (47 O.S.  
10 Supp. 2009, Section 2-305.1B), is amended to read as follows:

11            Section 2-305.1B A. An individual who has been designated,  
12 pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of  
13 1986, as amended, as the beneficiary of a deceased member and who is  
14 not the surviving spouse of the member, may elect, in accordance  
15 with Section 402(c)(11) of the Internal Revenue Code of 1986, as  
16 amended, and at the time and in the manner prescribed by the Board,  
17 to have a direct trustee-to-trustee transfer of any portion of such  
18 beneficiary's lump-sum distribution from the Oklahoma Law  
19 Enforcement Retirement System after December 31, 2006, made to an  
20 individual retirement account or individual retirement annuity  
21 (other than an endowment contract) described in Section 408(a) or  
22 (b) of the Internal Revenue Code of 1986, as amended (IRA), that is  
23 established on behalf of such designated individual. If such  
24 transfer is made, then:

1        1. The transfer is treated as an eligible rollover distribution  
2 for purposes of Section 402(c)(11) of the Internal Revenue Code of  
3 1986, as amended;

4        2. The transferee IRA is treated as an inherited individual  
5 retirement account or an inherited individual retirement annuity  
6 (within the meaning of Section 408(d)(3)(C) of the Internal Revenue  
7 Code of 1986, as amended), and must be titled in the name of the  
8 deceased member, for the benefit of the beneficiary; and

9        3. The required minimum distribution rules of Section  
10 401(a)(9)(B), other than clause iv thereof, of the Internal Revenue  
11 Code of 1986, as amended, apply to the transferee IRA.

12        B. A trust maintained for the benefit of one or more designated  
13 beneficiaries shall be treated in the same manner as a ~~trust~~  
14 designated beneficiary.

15        C. The Board shall promulgate such rules as are necessary to  
16 implement the provisions of this section.

17        SECTION 11.        AMENDATORY        47 O.S. 2001, Section 2-305.2, as  
18 last amended by Section 20, Chapter 46, 2nd Extraordinary Session,  
19 O.S.L. 2006 (47 O.S. Supp. 2009, Section 2-305.2), is amended to  
20 read as follows:

21        Section 2-305.2 A. In lieu of terminating employment and  
22 accepting a service retirement pension pursuant to Section 2-305 of  
23 this title, any member of the Oklahoma Law Enforcement Retirement  
24 System who has not less than twenty (20) years of participating

1 service and who is eligible to receive a service retirement pension  
2 may ~~elect~~ make an irrevocable election to participate in the  
3 Oklahoma Law Enforcement Deferred Option Plan and defer the receipts  
4 of benefits in accordance with the provisions of this section.

5 B. For purposes of this section, participating service shall  
6 include service credit recognized pursuant to paragraphs (c) and (d)  
7 of Section 2-307, subsection B of Section 2-307.2, and Sections 2-  
8 309.1, 2-309.2, 2-309.3, 2-309.4, 2-309.5, 2-309.6 and 2-309.7 of  
9 this title but for eligibility purposes only.

10 C. The duration of participation in the Oklahoma Law  
11 Enforcement Deferred Option Plan for a member shall not exceed five  
12 (5) years. Participation in the Oklahoma Law Enforcement Deferred  
13 Option Plan must begin the first day of a month and end on the last  
14 day of the month. At the conclusion of a member's participation in  
15 the Oklahoma Law Enforcement Deferred Option Plan, the member shall  
16 terminate employment as a member of the Oklahoma Law Enforcement  
17 Retirement System, and shall start receiving the member's accrued  
18 monthly retirement benefit from the System. Such a member may  
19 continue to receive in-service distributions of such member's  
20 accrued monthly retirement benefit from the System if the member is  
21 reemployed by a state agency only if such reemployment is in a  
22 position not covered under the System.

23 D. When a member begins participation in the Oklahoma Law  
24 Enforcement Deferred Option Plan, the contribution of the member

1 shall cease. The employer contributions shall continue to be paid  
2 in accordance with Section 2-304 of this title. Employer  
3 contributions for members who elect the Oklahoma Law Enforcement  
4 Deferred Option Plan shall be credited equally to the Oklahoma Law  
5 Enforcement Retirement System and to the member's Oklahoma Law  
6 Enforcement Deferred Option Plan account. The monthly retirement  
7 benefits that would have been payable had the member elected to  
8 cease employment and receive a service retirement shall be paid into  
9 the member's Oklahoma Law Enforcement Deferred Option Plan account.

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

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

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

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

22 2. A lump-sum payment from the account equal to the option  
23 account balance of the member, payable to the annuity provider which  
24

1 shall be selected by the member as a result of the research and  
2 investigation of the member; or

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

4 Notwithstanding any other provision contained herein to the  
5 contrary, commencement of distributions under the Oklahoma Law  
6 Enforcement Deferred Option Plan shall be no later than the time as  
7 set forth in paragraph 7 of Section 2-300 of this title.

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

12 G. If the member dies during the period of participation in the  
13 Oklahoma Law Enforcement Deferred Option Plan, a lump-sum payment  
14 equal to the account balance of the member shall be paid to the  
15 designated beneficiary as defined in paragraph 17 of Section 2-300  
16 of this title, or if there is no designated beneficiary or the  
17 designated beneficiary predeceases the member, to the estate of the  
18 member. If such member was receiving, or eligible to receive, an  
19 in-line-of-duty disability pension pursuant to subsection E or F of  
20 Section 2-305 of this title at the time of death, payment of the  
21 account balance shall be an in-line-of-duty disability payment.

22 H. In lieu of participating in the Oklahoma Law Enforcement  
23 Deferred Option Plan pursuant to subsections A, B, C, D, E and F of  
24 this section, a member may ~~elect~~ make an irrevocable election to

1 participate in the Oklahoma Law Enforcement Deferred Option Plan  
2 pursuant to this subsection as follows:

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

5 a. "back drop date" means the date selected by the member  
6 which is up to five (5) years before the member elects  
7 to participate in the Oklahoma Law Enforcement  
8 Deferred Option Plan, but not before the date at which  
9 the member completes twenty (20) years of  
10 participating service,

11 b. "termination date" means the date the member elects to  
12 participate in the Oklahoma Law Enforcement Deferred  
13 Option Plan pursuant to this subsection and the date  
14 the member terminates employment and starts receiving  
15 the member's accrued monthly retirement benefit from  
16 the System. Such termination has at all times  
17 included reemployment of a member by a state agency,  
18 but only in a position not covered under the System,

19 c. "earlier attained participating service" means the  
20 participating service earned by a member as of the  
21 back drop date. Earlier attained participating  
22 service cannot be reduced to less than twenty (20)  
23 years of participating service, and  
24

1           d. "deferred benefit balance" means all retirement  
2           benefits that would have been paid from the back drop  
3           date to the termination date, and one half (1/2) of  
4           the employer contributions from the back drop date to  
5           the termination date, with interest based on how the  
6           benefit would have accumulated on a compound annual  
7           basis as if the member had participated in the  
8           Oklahoma Law Enforcement Deferred Option Plan pursuant  
9           to subsections A, B, C, D and E of this section from  
10          the back drop date to the termination date;

11          2. At the termination date, a member's monthly pension benefit  
12          shall be determined based on the earlier attained participating  
13          service and on the final average salary as of the back drop date.  
14          The member's individual deferred option account shall be credited  
15          with an amount equal to the deferred benefit balance; the member  
16          shall terminate employment and shall start receiving the member's  
17          accrued monthly retirement benefit from the System. The member  
18          shall, upon application filed with the Board, be refunded from the  
19          fund an amount equal to the accumulated contributions the member  
20          made to the fund from the back drop date to the termination date,  
21          but excluding any interest. Such termination has at all times  
22          included reemployment of a member by a state agency, but only in a  
23          position not covered under the System. The provisions of  
24

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

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

16       SECTION 12.       AMENDATORY       47 O.S. 2001, Section 2-305.4, as  
17 last amended by Section 11, Chapter 169, O.S.L. 2009 (47 O.S. Supp.  
18 2009, Section 2-305.4), is amended to read as follows:

19       Section 2-305.4 A. For limitation years prior to July 1, 2007,  
20 the limitations of Section 415 of the Internal Revenue Code of 1986,  
21 as amended, shall be computed in accordance with the applicable  
22 provisions of the System in effect at that time and, to the extent  
23 applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-51, except  
24 as provided below. Notwithstanding any other provision contained

1 herein to the contrary, the benefits payable to a member from the  
2 Oklahoma Law Enforcement Retirement System provided by employer  
3 contributions (including contributions picked up by the employer  
4 under Section 414(h) of the Internal Revenue Code of 1986, as  
5 amended), shall be subject to the limitations of Section 415 of the  
6 Internal Revenue Code of 1986, as amended, in accordance with the  
7 provisions of this section. The limitations of this section shall  
8 apply in limitation years beginning on or after July 1, 2007, except  
9 as otherwise provided below.

10 B. Except as provided below, effective for limitation years  
11 ending after December 31, 2001, any accrued retirement benefit  
12 payable to a member as an annual benefit as described below shall  
13 not exceed One Hundred Sixty Thousand Dollars (\$160,000.00),  
14 automatically adjusted under Section 415(d) of the Internal Revenue  
15 Code of 1986, as amended, for increases in the cost of living, as  
16 prescribed by the Secretary of the Treasury or the Secretary's  
17 delegate, effective January 1 of each calendar year and applicable  
18 to the limitation year ending with or within such calendar year.  
19 The automatic annual adjustment of the dollar limitation in this  
20 subsection under Section 415(d) of the Internal Revenue Code of  
21 1986, as amended, shall apply to a member who has had a separation  
22 from employment.

23 1. The member's annual benefit is a benefit that is payable  
24 annually in the form of a straight life annuity. Except as provided

1 below, where a benefit is payable in a form other than a straight  
2 life annuity, the benefit shall be adjusted to an actuarially  
3 equivalent straight life annuity that begins at the same time as  
4 such other form of benefit and is payable on the first day of each  
5 month, before applying the limitations of this section. For a  
6 member who has or will have distributions commencing at more than  
7 one annuity starting date, the annual benefit shall be determined as  
8 of each such annuity starting date (and shall satisfy the  
9 limitations of this section as of each such date), actuarially  
10 adjusting for past and future distributions of benefits commencing  
11 at the other annuity starting dates. For this purpose, the  
12 determination of whether a new starting date has occurred shall be  
13 made without regard to Section 1.401(a)-20, Q&A 10(d), and with  
14 regard to Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Income Tax  
15 Regulations.

- 16 2. No actuarial adjustment to the benefit shall be made for:
- 17 a. survivor benefits payable to a surviving spouse under  
18 a qualified joint and survivor annuity to the extent  
19 such benefits would not be payable if the member's  
20 benefit were paid in another form,
  - 21 b. benefits that are not directly related to retirement  
22 benefits (such as a qualified disability benefit,  
23 preretirement incidental death benefits) and  
24 postretirement medical benefits, or

1           c.    the inclusion in the form of a benefit of an automatic  
2               benefit increase feature, provided, the form of  
3               benefit is not subject to Section 417(e)(3) of the  
4               Internal Revenue Code of 1986, as amended, and would  
5               otherwise satisfy the limitations of this section, and  
6               the System provides that the amount payable under the  
7               form of benefit in any limitation year shall not  
8               exceed the limits of this section applicable at the  
9               annuity starting date, as increased in subsequent  
10              years pursuant to Section 415(d) of the Internal  
11              Revenue Code of 1986, as amended. For this purpose,  
12              an automatic benefit increase feature is included in a  
13              form of benefit if the form of benefit provides for  
14              automatic, periodic increases to the benefits paid in  
15              that form.

16           3.   The determination of the annual benefit shall take into  
17           account Social Security supplements described in Section 411(a)(9)  
18           of the Internal Revenue Code of 1986, as amended, and benefits  
19           transferred from another defined benefit plan, other than transfers  
20           of distributable benefits pursuant to Section 1.411(d)-4, Q&A-3(c),  
21           of the Income Tax Regulations, but shall disregard benefits  
22           attributable to employee contributions or rollover contributions.

23           4.   Effective for distributions in plan years beginning after  
24           December 31, 2003, the determination of actuarial equivalence of

1 forms of benefit other than a straight life annuity shall be made in  
2 accordance with paragraph 5 or paragraph 6 of this subsection.

3 5. Benefit Forms Not Subject to Section 417(e)(3) of the  
4 Internal Revenue ~~code~~ Code of 1986, as amended: The straight life  
5 annuity that is actuarially equivalent to the member's form of  
6 benefit shall be determined under this paragraph 5 if the form of  
7 the member's benefit is either:

8 a. a nondecreasing annuity (other than a straight life  
9 annuity) payable for a period of not less than the  
10 life of the member (or, in the case of a qualified  
11 preretirement survivor annuity, the life of the  
12 surviving spouse), or

13 b. an annuity that decreases during the life of the  
14 member merely because of:

15 (1) the death of the survivor annuitant (but only if  
16 the reduction is not below fifty percent (50%) of  
17 the benefit payable before the death of the  
18 survivor annuitant), or

19 (2) the cessation or reduction of Social Security  
20 supplements or qualified disability payments (as  
21 defined in Section ~~401(a)(11)~~ 411(a)(9) of the  
22 Internal Revenue Code of 1986, as amended).

23 c. Limitation Years Beginning Before July 1, 2007. For  
24 limitation years beginning before July 1, 2007, the

1 actuarially equivalent straight life annuity is equal  
2 to the annual amount of the straight life annuity  
3 commencing at the same annuity starting date that has  
4 the same actuarial present value as the member's form  
5 of benefit computed using whichever of the following  
6 produces the greater annual amount:

- 7 (1) the interest rate and the mortality table or  
8 other tabular factor, each as set forth in  
9 subsection H of Section 2-303.1 of this title for  
10 adjusting benefits in the same form, and  
11 (2) a five percent (5%) interest rate assumption and  
12 the applicable mortality table described in  
13 Revenue Ruling 2001-62 (or its successor for  
14 these purposes, if applicable) for that annuity  
15 starting date.

16 d. Limitation Years Beginning On Or After July 1, 2007.

17 For limitation years beginning on or after July 1,  
18 2007, the actuarially equivalent straight life annuity  
19 is equal to the greater of:

- 20 (1) the annual amount of the straight life annuity,  
21 if any, payable to the member under the System  
22 commencing at the same annuity starting date as  
23 the member's form of benefit, and  
24

1           (2) the annual amount of the straight life annuity  
2           commencing at the same annuity starting date that  
3           has the same actuarial present value as the  
4           member's form of benefit, computed using a five  
5           percent (5%) interest rate assumption and the  
6           applicable mortality table described in Revenue  
7           Ruling 2001-62 (or its successor for these  
8           purposes, if applicable) for that annuity  
9           starting date.

10           6. Benefit Forms Subject to Section 417(e)(3) of the Internal  
11 Revenue Code of 1986, as amended: The straight life annuity that is  
12 actuarially equivalent to the member's form of benefit shall be  
13 determined under this paragraph 6 if the form of the member's  
14 benefit is other than a benefit form described in paragraph 5 of  
15 this subsection. In this case, the actuarially equivalent straight  
16 life annuity shall be determined as follows:

17           a. Annuity Starting Date in Plan Years Beginning After  
18           ~~2005~~ December 31, 2007 (Plan Years beginning on or  
19           after July 1, 2008). If the annuity starting date of  
20           the member's form of benefit is in a plan year  
21           beginning after ~~2005~~ December 31, 2007, the  
22           actuarially equivalent straight life annuity is equal  
23           to the greatest of (1), (2) or (3) below:

1 (1) the annual amount of the straight life annuity  
2 commencing at the same annuity starting date that  
3 has the same actuarial present value as the  
4 member's form of benefit, computed using the  
5 interest rate and the mortality table or other  
6 tabular factor, each as set forth in subsection H  
7 of Section 2-303.1 of this title for adjusting  
8 benefits in the same form,

9 (2) the annual amount of the straight life annuity  
10 commencing at the same annuity starting date that  
11 has the same actuarial present value as the  
12 member's form of benefit, computed using a five  
13 and one-half percent (5.5%) interest rate  
14 assumption and the applicable mortality table  
15 described in Revenue Ruling 2001-62 (or its  
16 successor for these purposes, if applicable), and

17 (3) the annual amount of the straight life annuity  
18 commencing at the same annuity starting date that  
19 has the same actuarial present value as the  
20 member's form of benefit, computed using:

21 (a) the adjusted first, second, and third  
22 segment rates under Section 417(e) (3) (C) and  
23 (D) of the Internal Revenue Code of 1986, as  
24 amended, applied under rules similar to the

1 rules of Section 430(h)(2)(C) of the  
2 Internal Revenue Code of 1986, as amended,  
3 for the fourth calendar month preceding the  
4 plan year in which falls the annuity  
5 starting date for the distribution and the  
6 stability period is the successive period of  
7 one (1) plan year which contains the annuity  
8 starting date for the distribution and for  
9 which the applicable interest rate remains  
10 constant, or as otherwise provided in the  
11 applicable guidance if the first day of the  
12 first plan year beginning after December 31,  
13 2007, does not coincide with the first day  
14 of the applicable stability period, and  
15 (b) the applicable mortality table described in  
16 Revenue Ruling 2001-62 (or its successor for  
17 these purposes, if applicable),  
18 divided by one and five one-hundredths (1.05).

19 b. Annuity Starting Date in Plan Years Beginning in 2006  
20 or 2007. If the annuity starting date of the member's  
21 form of benefit is in a Plan Year beginning in 2006 or  
22 2007, the actuarially equivalent straight life annuity  
23 is equal to the greatest of (1), (2) or (3) below:  
24

1           (1) the annual amount of the straight life annuity  
2           commencing at the same annuity starting date that  
3           has the same actuarial present value as the  
4           member's form of benefit, computed using the  
5           interest rate and the mortality table (or other  
6           tabular factor) each as set forth in subsection H  
7           of Section 2-303.1 of this title for adjusting  
8           benefits in the same form,

9           (2) the annual amount of the straight life annuity  
10           commencing at the same annuity starting date that  
11           has the same actuarial present value as the  
12           member's form of benefit, computed using a five  
13           and one-half percent (5.5%) interest rate  
14           assumption and the applicable mortality table  
15           described in Revenue Ruling 2001-62 (or its  
16           successor for these purposes, if applicable), and

17           (3) the annual amount of the straight life annuity  
18           commencing at the same annuity starting date that  
19           has the same actuarial present value as the  
20           member's form of benefit, computed using:

21           (a) the rate of interest on thirty-year Treasury  
22                securities as specified by the Commissioner  
23                for the lookback month for the stability  
24                period specified below. The lookback month

1 applicable to the stability period is the  
2 fourth calendar month preceding the first  
3 day of the stability period, as specified  
4 below. The stability period is the  
5 successive period of one (1) plan year which  
6 contains the annuity starting date for the  
7 distribution and for which the applicable  
8 interest rate remains constant, and

- 9 (b) the applicable mortality table described in  
10 Revenue Ruling 2001-62 (or its successor for  
11 these purposes, if applicable),  
12 divided by one and five one-hundredths (1.05).

13 ~~b.~~

14 c. Annuity Starting Date in Plan Years Beginning in 2004  
15 or 2005.

- 16 (1) If the annuity starting date of the member's form  
17 of benefit is in a plan year beginning in 2004 or  
18 2005, the actuarially equivalent straight life  
19 annuity is equal to the annual amount of the  
20 straight life annuity commencing at the same  
21 annuity starting date that has the same actuarial  
22 present value as the member's form of benefit,  
23 computed using whichever of the following  
24 produces the greater annual amount:

1 (a) the interest rate and the mortality table or  
2 other tabular factor, each as set forth in  
3 subsection H of Section 2-303.1 of this  
4 title for adjusting benefits in the same  
5 form, and

6 (b) a five and one-half percent (5.5%) interest  
7 rate assumption and the applicable mortality  
8 table described in Revenue Ruling 2001-62  
9 (or its successor for these purposes, if  
10 applicable).

11 (2) If the annuity starting date of the member's  
12 benefit is on or after the first day of the first  
13 plan year beginning in 2004 and before December  
14 31, 2004, the application of this subparagraph  
15 shall not cause the amount payable under the  
16 member's form of benefit to be less than the  
17 benefit calculated under the System, taking into  
18 account the limitations of this section, except  
19 that the actuarially equivalent straight life  
20 annuity is equal to the annual amount of the  
21 straight life annuity commencing at the same  
22 annuity starting date that has the same actuarial  
23 present value as the member's form of benefit,  
24

1           computed using whichever of the following  
2           produces the greatest annual amount:

3           (a)   the interest rate and mortality table or  
4                 other tabular factor, each as set forth in  
5                 subsection H of Section 2-203.1 of this  
6                 title for adjusting benefits in the same  
7                 form,

8           (b)   i.   the rate of interest on thirty-year  
9                 Treasury securities as specified by the  
10                Commissioner for the lookback month for  
11                the stability period specified below.  
12                The lookback month applicable to the  
13                stability period is the fourth calendar  
14                month preceding the first day of the  
15                stability period, as specified below.  
16                The stability period is the successive  
17                period of one (1) plan year which  
18                contains the annuity starting date for  
19                the distribution and for which the  
20                applicable interest rate remains  
21                constant, and

22                ii.  the applicable mortality table  
23                described in Revenue Ruling 2001-62 (or

24

1 its successor for these purposes, if  
2 applicable), and

3 (c) i. the rate of interest on thirty-year  
4 Treasury securities as specified by the  
5 Commissioner for the lookback month for  
6 the stability period specified below.

7 The lookback month applicable to the  
8 stability period is the fourth calendar  
9 month preceding the first day of the  
10 stability period, as specified below.

11 The stability period is the successive  
12 period of one (1) plan year which  
13 contains the annuity starting date for  
14 the distribution and for which the  
15 applicable interest rate remains  
16 constant (as in effect on the last day  
17 of the last plan year beginning before  
18 January 1, 2004, under provisions of  
19 the System then adopted and in effect),  
20 and

21 ii. the applicable mortality table  
22 described in Revenue Ruling 2001-62 (or  
23 its successor for these purposes, if  
24 applicable).

1       ~~7. Subject to the adjustment under subsection E of this~~  
2 ~~section, the foregoing limitation shall not be applicable with~~  
3 ~~respect to any member whose annual benefits from the System and~~  
4 ~~under all other defined benefit plans of the employer are less than~~  
5 ~~Ten Thousand Dollars (\$10,000.00) for the year or from any prior~~  
6 ~~year, if such member has not at any time participated in any defined~~  
7 ~~contribution plan maintained by the employer.~~

8       C. If a member has less than ten (10) years of participation in  
9 the System and all predecessor pension and retirement systems, the  
10 dollar limitation otherwise applicable under subsection B of this  
11 section shall be multiplied by a fraction, the numerator of which is  
12 the number of the years of participation in the System of the  
13 member, but never less than one (1), and the denominator of which is  
14 ten (10).

15       D. Adjustment of Dollar Limitation for Benefit Commencement  
16 Before Sixty-two (62) Years of Age or After Sixty-five (65) Years of  
17 Age: Effective for benefits commencing in limitation years ending  
18 after December 31, 2001, the dollar limitation under subsection B of  
19 this section shall be adjusted if the annuity starting date of the  
20 member's benefit is before sixty-two (62) years of age or after  
21 sixty-five (65) years of age. If the annuity starting date is  
22 before sixty-two (62) years of age, the dollar limitation under  
23 subsection B of this section shall be adjusted under paragraph 1 of  
24 this subsection, as modified by paragraph 3 of this subsection, but

1 subject to paragraph 4 of this subsection. If the annuity starting  
2 date is after sixty-five (65) years of age, the dollar limitation  
3 under subsection B of this section shall be adjusted under paragraph  
4 2 of this subsection, as modified by paragraph 3 of this subsection.

5 1. Adjustment of Defined Benefit Dollar Limitation for Benefit  
6 Commencement Before Sixty-two (62) Years of Age:

7 a. Limitation Years Beginning Before July 1, 2007. If  
8 the annuity starting date for the member's benefit is  
9 prior to sixty-two (62) years of age and occurs in a  
10 limitation year beginning before July 1, 2007, the  
11 dollar limitation for the member's annuity starting  
12 date is the annual amount of a benefit payable in the  
13 form of a straight life annuity commencing at the  
14 member's annuity starting date that is the actuarial  
15 equivalent of the dollar limitation under subsection B  
16 of this section (adjusted under subsection C of this  
17 section for years of participation less than ten (10),  
18 if required) with actuarial equivalence computed using  
19 whichever of the following produces the smaller annual  
20 amount:

21 (1) the interest rate and the mortality table or  
22 other tabular factor, each as set forth in  
23 subsection H of Section 2-303.1 of this title, or  
24

1 (2) a five percent (5%) interest rate assumption and  
2 the applicable mortality table as described in  
3 Revenue Ruling 2001-62 (or its successor for  
4 these purposes, if applicable).

5 b. Limitation Years Beginning On or After July 1, 2007.

6 (1) System Does Not Have Immediately Commencing  
7 Straight Life Annuity Payable at Both Sixty-two  
8 (62) Years of Age and the Age of Benefit  
9 Commencement. If the annuity starting date for  
10 the member's benefit is prior to sixty-two (62)  
11 years of age and occurs in a limitation year  
12 beginning on or after July 1, 2007, and the  
13 System does not have an immediately commencing  
14 straight life annuity payable at both sixty-two  
15 (62) years of age and the age of benefit  
16 commencement, the dollar limitation for the  
17 member's annuity starting date is the annual  
18 amount of a benefit payable in the form of a  
19 straight life annuity commencing at the member's  
20 annuity starting date that is the actuarial  
21 equivalent of the dollar limitation under  
22 subsection B of this section (adjusted under  
23 subsection C of this section for years of  
24 participation less than ten (10), if required)

1 with actuarial equivalence computed using a five  
2 percent (5%) interest rate assumption and the  
3 applicable mortality table for the annuity  
4 starting date as described in Revenue Ruling  
5 2001-62 (or its successor for these purposes, if  
6 applicable) (and expressing the member's age  
7 based on completed calendar months as of the  
8 annuity starting date).

- 9 (2) System Has Immediately Commencing Straight Life  
10 Annuity Payable at Both Sixty-two (62) Years of  
11 Age and the Age of Benefit Commencement. If the  
12 annuity starting date for the member's benefit is  
13 prior to sixty-two (62) years of age and occurs  
14 in a limitation year beginning on or after July  
15 1, 2007, and the System has an immediately  
16 commencing straight life annuity payable at both  
17 sixty-two (62) years of age and the age of  
18 benefit commencement, the dollar limitation for  
19 the member's annuity starting date is the lesser  
20 of the limitation determined under division (1)  
21 of subparagraph b of this paragraph and the  
22 dollar limitation under subsection B of this  
23 section (adjusted under subsection C of this  
24 section for years of participation less than ten

1 (10), if required) multiplied by the ratio of the  
2 annual amount of the immediately commencing  
3 straight life annuity under the System at the  
4 member's annuity starting date to the annual  
5 amount of the immediately commencing straight  
6 life annuity under the System at sixty-two (62)  
7 years of age, both determined without applying  
8 the ~~limitation~~ limitations of this section.

9 2. Adjustment of Defined Benefit Dollar Limitation for Benefit  
10 Commencement After Sixty-five (65) Years of Age:

- 11 a. Limitation Years Beginning Before July 1, 2007. If  
12 the annuity starting date for the member's benefit is  
13 after sixty-five (65) years of age and occurs in a  
14 limitation year beginning before July 1, 2007, the  
15 dollar limitation for the member's annuity starting  
16 date is the annual amount of a benefit payable in the  
17 form of a straight life annuity commencing at the  
18 member's annuity starting date that is the actuarial  
19 equivalent of the dollar limitation under subsection B  
20 of this section (adjusted under subsection C of this  
21 section for years of participation less than ten (10),  
22 if required) with actuarial equivalence computed using  
23 whichever of the following produces the smaller annual  
24 amount:

- 1 (1) the interest rate and the mortality table or  
2 other tabular factor, each as set forth in  
3 subsection H of Section 2-303.1 of this title, or  
4 (2) a five percent (5%) interest rate assumption and  
5 the applicable mortality table as described in  
6 Revenue Ruling 2001-62 (or its successor for  
7 these purposes, if applicable).

8 b. Limitation Years Beginning On or After July 1, 2007.

- 9 (1) System Does Not Have Immediately Commencing  
10 Straight Life Annuity Payable at Both Sixty-five  
11 (65) Years of Age and the Age of Benefit  
12 Commencement. If the annuity starting date for  
13 the member's benefit is after sixty-five (65)  
14 years of age and occurs in a limitation year  
15 beginning on or after July 1, 2007, and the  
16 System does not have an immediately commencing  
17 straight life annuity payable at both sixty-five  
18 (65) years of age and the age of benefit  
19 commencement, the dollar limitation at the  
20 member's annuity starting date is the annual  
21 amount of a benefit payable in the form of a  
22 straight life annuity commencing at the member's  
23 annuity starting date that is the actuarial  
24 equivalent of the dollar limitation under

1 subsection B of this section (adjusted under  
2 subsection C of this section for years of  
3 participation less than ten (10), if required)  
4 with actuarial equivalence computed using a five  
5 percent (5%) interest rate assumption and the  
6 applicable mortality table for the annuity  
7 starting date as described in Revenue Ruling  
8 2001-62 (or its successor for these purposes, if  
9 applicable) (and expressing the member's age  
10 based on completed calendar months as of the  
11 annuity starting date).

- 12 (2) System Has Immediately Commencing Straight Life  
13 Annuity Payable at Both Sixty-five (65) Years of  
14 Age and Age of Benefit Commencement. If the  
15 annuity starting date for the member's benefit is  
16 after sixty-five (65) years of age and occurs in  
17 a limitation year beginning on or after July 1,  
18 2007, and the System has an immediately  
19 commencing straight life annuity payable at both  
20 sixty-five (65) years of age and the age of  
21 benefit commencement, the dollar limitation at  
22 the member's annuity starting date is the lesser  
23 of the limitation determined under division (1)  
24 of subparagraph b of this paragraph and the

1 dollar limitation under subsection B of this  
2 section (adjusted under subsection C of this  
3 section for years of participation less than ten  
4 (10), if required) multiplied by the ratio of the  
5 annual amount of the adjusted immediately  
6 commencing straight life annuity under the System  
7 at the member's annuity starting date to the  
8 annual amount of the adjusted immediately  
9 commencing straight life annuity under the System  
10 at sixty-five (65) years of age, both determined  
11 without applying the limitations of this section.  
12 For this purpose, the adjusted immediately  
13 commencing straight life annuity under the System  
14 at the member's annuity starting date is the  
15 annual amount of such annuity payable to the  
16 member, computed disregarding the member's  
17 accruals after sixty-five (65) years of age but  
18 including actuarial adjustments even if those  
19 actuarial adjustments are used to offset  
20 accruals; and the adjusted immediately commencing  
21 straight life annuity under the System at sixty-  
22 five (65) years of age is the annual amount of  
23 such annuity that would be payable under the  
24 System to a hypothetical member who is sixty-five

1 (65) years of age and has the same accrued  
2 benefit as the member.

3 3. Notwithstanding the other requirements of this subsection,  
4 no adjustment shall be made to the dollar limitation under  
5 subsection B of this section to reflect the probability of a  
6 member's death between the annuity starting date and sixty-two (62)  
7 years of age, or between sixty-five (65) years of age and the  
8 annuity starting date, as applicable, if benefits are not forfeited  
9 upon the death of the member prior to the annuity starting date. To  
10 the extent benefits are forfeited upon death before the annuity  
11 starting date, such an adjustment shall be made. For this purpose,  
12 no forfeiture shall be treated as occurring upon the member's death  
13 if the System does not charge members for providing a qualified  
14 preretirement survivor annuity, as defined in Section 417(c) of the  
15 Internal Revenue code of 1986, as amended, upon the member's death.

16 4. Notwithstanding any other provision to the contrary, for  
17 limitation years beginning on or after January 1, 1997, if payment  
18 begins before the member reached sixty-two (62) years of age, the  
19 reductions in the limitations in this subsection shall not apply to  
20 a member who is a "qualified participant" as defined in Section  
21 415(b)(2)(H) of the Internal Revenue Code of 1986, as amended.

22 E. Minimum Benefit Permitted: Notwithstanding anything else in  
23 this section to the contrary, the benefit otherwise accrued or  
24

1 payable to a member under this System shall be deemed not to exceed  
2 the maximum permissible benefit if:

3 1. The retirement benefits payable for a limitation year under  
4 any form of benefit with respect to such member under this System  
5 and under all other defined benefit plans (without regard to whether  
6 a plan has been terminated) ever maintained by a participating  
7 employer do not exceed Ten Thousand Dollars (\$10,000.00) multiplied  
8 by a fraction:

9 a. the numerator of which is the member's number of  
10 credited years (or part thereof, but not less than one  
11 (1) year) of service, not to exceed ten (10), with the  
12 participating employer, and

13 b. the denominator of which is ten (10), and

14 2. The participating employer (or a predecessor employer) has  
15 not at any time maintained a defined contribution plan in which the  
16 member participated (for this purpose, mandatory employee  
17 contributions under a defined benefit plan, individual medical  
18 accounts under ~~section~~ Section 401(h) of the Internal Revenue Code  
19 of 1986, as amended, and accounts for postretirement medical  
20 benefits established under Section 419A(d)(1) of the Internal  
21 Revenue Code of 1986, as amended, are not considered a separate  
22 defined contribution plan).

23 F. In no event shall the maximum annual accrued retirement  
24 benefit of a member allowable under this section be less than the

1 annual amount of such accrued retirement benefit, including early  
2 pension and qualified joint and survivor annuity amounts, duly  
3 accrued by the member as of the last day of the limitation year  
4 beginning in 1982, or as of the last day of the limitation year  
5 beginning in 1986, whichever is greater, disregarding any plan  
6 changes or cost-of-living adjustments occurring after July 1, 1982,  
7 as to the 1982 accrued amount, and May 5, 1986, as to the 1986  
8 accrued amount.

9 G. Effective for years beginning after December 31, 1997, if a  
10 member purchases service under this title, which qualifies as  
11 "permissive service credit" pursuant to Section 415(n) of the  
12 Internal Revenue Code of 1986, as amended, the limitations of  
13 Section 415 of the Internal Revenue Code of 1986, as amended, may be  
14 met by either:

15 1. Treating the accrued benefit derived from such contributions  
16 as an annual benefit under subsection B of this section, or

17 2. Treating all such contributions as annual additions for  
18 purposes of Section 415(c) of the Internal Revenue Code of 1986, as  
19 amended.

20 H. Effective for years beginning after December 31, 1997, if a  
21 member repays to the System any amounts received because of the  
22 member's prior termination pursuant to paragraph 3 of subsection (b)  
23 of Section 2-307 of this title, such repayment shall not be taken  
24 into account for purposes of Section 415 of the Internal Revenue

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

3 I. For limitation years beginning on or after January 1, 1995,  
4 subsection C of this section, paragraph 1 of subsection D of this  
5 section, and the proration provided under subparagraphs a and b of  
6 paragraph 1 of subsection E of this section, shall not apply to a  
7 benefit paid under the System as a result of the member becoming  
8 disabled by reason of personal injuries or sickness, or amounts  
9 received by the beneficiaries, survivors or estate of the member as  
10 the result of the death of the member.

11 J. For distributions made in limitation years beginning on or  
12 after January 1, 2000, the combined limit of repealed Section 415(e)  
13 of the Internal Revenue Code of 1986, as amended, shall not apply.

14 K. The Board is hereby authorized to revoke the special  
15 election previously made under Internal Revenue Code Section  
16 415(b)(10).

17 SECTION 13. AMENDATORY 47 O.S. 2001, Section 2-307, as  
18 last amended by Section 12, Chapter 169, O.S.L. 2009 (47 O.S. Supp.  
19 2009, Section 2-307), is amended to read as follows:

20 Section 2-307. (a) In the event a member of the System obtains  
21 a leave of absence, of not to exceed ninety (90) days at any one  
22 time, because of injury or illness or for any personal reason other  
23 than the acceptance of other employment, the member's membership in  
24 the System shall not terminate and the period of such leave shall be

1 counted toward retirement for length of service if, during such  
2 leave of absence or at the end thereof, the member shall pay to the  
3 Fund an amount equal to the contributions which would have been  
4 deducted from the member's salary during such period if such leave  
5 of absence had not been obtained, but if such contributions are not  
6 paid during such leave or made up within thirty (30) days after the  
7 end of such leave, or if such leave of absence extends for more than  
8 ninety (90) days at any one time, the period of such leave shall not  
9 be counted toward length of service for retirement nor in computing  
10 the amount of any pension or any retirement pay or any other  
11 benefits hereunder.

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

24

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

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

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

10       4. A lump-sum payment for repayment of any amount received  
11 because of a member's prior termination may be repaid by:

12           a. a cash lump-sum payment,

13           b. a trustee-to-trustee transfer from a Section 403(b)  
14 annuity or custodial account, an eligible deferred  
15 compensation plan described in Code Section 457(b)  
16 which is maintained by an eligible employer described  
17 in Code Section 457(e)(1)(A), and/or a Code Section  
18 401(a) qualified plan,

19           c. a direct rollover of tax-deferred funds from a Code  
20 Section 403(b) annuity or custodial account, an  
21 eligible deferred compensation plan described in Code  
22 Section 457(b) which is maintained by an eligible  
23 employer described in Code Section 457(e)(1)(A), a  
24 Code Section 401(a) qualified plan, and/or a Code

1 Section 408(a) or 408(b) traditional or conduit  
2 Individual Retirement Account or Annuity (IRA). Roth  
3 IRAs, Coverdell Education Savings Accounts and after-  
4 tax contributions shall not be used to purchase such  
5 service credit, or

6 d. any combination of the above methods of payment.

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

11 (c) In determining the eligibility of a member for retirement  
12 based upon length of service, any service in the Armed Forces of the  
13 United States or any component thereof between the 16th day of  
14 September, 1940, and the 30th day of June, 1954, and any service in  
15 the Armed Forces of the United States or any component thereof upon  
16 call of the President of the United States or of the Governor of the  
17 State of Oklahoma, together with such prior service, as would have  
18 been otherwise considered as service for retirement for length of  
19 service, shall be considered as service for length of service,  
20 provided that the member returns and files application for  
21 reinstatement as a member of the System within ninety (90) days  
22 after the member's release, or opportunity for release, from such  
23 Armed Forces or component thereof. The member's employing agency  
24 that is making contributions to the System on behalf of the member

1 shall continue payment of contributions into the pension fund, to  
2 the same force and effect as though the member was in the actual  
3 employment of such agency at the same salary for a period not to  
4 exceed five (5) years. If such member shall have been refunded any  
5 portion of the membership contributions as provided in Section 2-308  
6 of this title, the member shall be required to reimburse the Fund  
7 with the same amount at the time of the member's application for  
8 reinstatement in the System, before the reinstated member is given  
9 credit for accrued prior service. Provided, that in no event shall  
10 a member of the System who has entered such Armed Forces or  
11 component thereof prior to retirement be or become eligible for  
12 retirement for length of service unless the member shall thereafter  
13 have been reinstated as a member of the System as provided for  
14 herein, and thereafter remained a member for at least one (1) year  
15 after such reinstatement.

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

18 (e) Notwithstanding any provisions herein to the contrary:

19 1. Contributions, benefits and service credit with respect to  
20 qualified military service shall be provided in accordance with  
21 Section 414(u) of the Internal Revenue Code of 1986, as amended,  
22 which is in accordance with the Uniformed Service Employment and  
23 Reemployment Rights Act of 1994, as amended (USERRA). The  
24 employer's contributions to the System for a member covered by

1 USERRA are due when such a member makes up his or her contributions  
2 that were missed due to his or her qualified military service; and

3 2. Effective January 1, 2007, if any member dies while  
4 performing qualified military service (as defined in Section 414(u)  
5 of the Internal Revenue Code of 1986, as amended), the survivors of  
6 the member are entitled to any additional benefits other than  
7 benefit accruals relating to the period of qualified military  
8 service provided under the System had the member resumed and then  
9 terminated employment on account of death.

10 SECTION 14. It being immediately necessary for the preservation  
11 of the public peace, health and safety, an emergency is hereby  
12 declared to exist, by reason whereof this act shall take effect and  
13 be in full force from and after its passage and approval.

14 Passed the Senate the 1st day of March, 2010.

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\_\_\_\_\_  
Presiding Officer of the Senate

17

18 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
19 2010.

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21

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

22

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24