

STATE OF OKLAHOMA

1st Session of the 52nd Legislature (2009)

SENATE BILL 1071

By: Barrington

AS INTRODUCED

An Act relating to retirement; amending 11 O.S. 2001, Sections 49-100.1, as last amended by Section 1, Chapter 128, O.S.L. 2003, 49-106, as last amended by Section 1, Chapter 345, O.S.L. 2007, 49-106.2, as last amended by Section 2, Chapter 177, O.S.L. 2008, Section 3, Chapter 345, O.S.L. 2007, 49-109, as last amended by Section 5, Chapter 345, O.S.L. 2007 and 49-138, as last amended by Section 4, Chapter 203, O.S.L. 2005 (11 O.S. Supp. 2008, Sections 49-100.1, 49-106, 49-106.2, 49-106.4, 49-109 and 49-138), which relate to the Oklahoma Firefighters Pension and Retirement System; modifying definition, updating statutory citation; specifying that certain limitation is not applicable to certain members; clarifying requirements for certain accounts or annuities; updating statutory citation; allowing certain survivors to be entitled to certain additional benefits; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 49-100.1, as last amended by Section 1, Chapter 128, O.S.L. 2003 (11 O.S. Supp. 2008, Section 49-100.1), is amended to read as follows:

Section 49-100.1 As used in this article:

1 1. "System" means the Oklahoma Firefighters Pension and  
2 Retirement System and all predecessor municipal firefighters pension  
3 and retirement systems;

4 2. "Article" means Article 49 of this title;

5 3. "State Board" means the Oklahoma Firefighters Pension and  
6 Retirement Board;

7 4. "Local board" means the local firefighters pension and  
8 retirement boards;

9 5. "Fund" means the Oklahoma Firefighters Pension and  
10 Retirement Fund;

11 6. "Member" means all eligible firefighters of a participating  
12 municipality or a fire protection district who perform the essential  
13 functions of fire suppression, prevention, and life safety duties in  
14 a fire department. The term "member" shall include but not be  
15 limited to the person serving as fire chief of any participating  
16 municipality, provided that a person serving as fire chief of a  
17 participating municipality shall meet the age, agility, physical and  
18 other eligibility requirements required by law at the time said  
19 person becomes a member of the System. Effective July 1, 1987, a  
20 member does not include a "leased employee". The term "leased  
21 employee" means any person (other than an employee of the recipient)  
22 who pursuant to an agreement between the recipient and any other  
23 person ("leasing organization") has performed services for the  
24 recipient (or for the recipient and related persons determined in

1 accordance with Section 414(n)(6) of the Internal Revenue Code of  
2 1986, as amended) on a substantially full-time basis for a period of  
3 at least one year, and such services are performed under primary  
4 direction or control by the recipient. Contributions or benefits  
5 provided a leased employee by the leasing organization which are  
6 attributable to services performed for the recipient employer shall  
7 be treated as provided by the recipient employer. A leased employee  
8 shall not be considered an employee of the recipient if the  
9 requirements of the safe harbor provisions of Section 414(n)(5) of  
10 the Internal Revenue Code of 1986, as amended, are satisfied.  
11 Effective July 1, 1999, any individual who agrees with the  
12 participating municipality that the individual's services are to be  
13 performed as a leased employee or an independent contractor shall  
14 not be a member regardless of any classification as a common law  
15 employee by the Internal Revenue Service or any other governmental  
16 agency, or any court of competent jurisdiction;

17 7. "Normal retirement date" means the date at which the member  
18 is eligible to receive the unreduced payments of the member's  
19 accrued retirement benefit. Such date shall be the first day  
20 following the date the member completes twenty (20) years of  
21 credited service. If the member's employment continues past the  
22 normal retirement date of the member, the actual retirement date of  
23 the member shall be the first day following the date the member  
24

1 terminates employment with more than twenty (20) years of credited  
2 service;

3 8. "Credited service" means the period of service used to  
4 determine the eligibility for and the amount of benefits payable to  
5 a member. Credited service shall consist of the period during which  
6 the member participated in the System or the predecessor municipal  
7 systems as an active employee in an eligible membership  
8 classification, plus any service prior to the establishment of the  
9 predecessor municipal systems which was credited under the  
10 predecessor municipal systems; provided however, "credited service"  
11 for members from a fire protection district shall not begin accruing  
12 before July 1, 1982;

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

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

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

24

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

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

7 14. "Final average salary" means the average paid gross salary  
8 of the firefighter for normally scheduled hours over the highest  
9 salaried thirty (30) consecutive months of the last sixty (60)  
10 months of credited service. Gross salary shall not include payment  
11 for accumulated sick or annual leave upon termination of employment,  
12 any uniform allowances or any other compensation for reimbursement  
13 of out-of-pocket expenses. Only salary on which the required  
14 contributions have been made may be used in computing the final  
15 average salary. Effective January 1, 1988, gross salary shall  
16 include any amount of elective salary reduction under Section 125 of  
17 the Internal Revenue Code of 1986, as amended. Gross salary shall  
18 include any amount of elective salary reduction under Section 457 of  
19 the Internal Revenue Code of 1986, as amended, and any amount of  
20 nonelective salary reduction under Section 414(h) of the Internal  
21 Revenue Code of 1986, as amended. Effective July 1, 1998, for  
22 purposes of determining a member's compensation, any contribution by  
23 the member to reduce his regular cash remuneration under 132(f)(4)  
24 of the Internal Revenue Code of 1986, as amended, shall be treated

1 as if the member did not make such an election. Only salary on  
2 which required contributions have been made may be used in computing  
3 final average salary.

4 In addition to other applicable limitations, and notwithstanding  
5 any other provision to the contrary, for plan years beginning on or  
6 after July 1, 2002, the annual gross salary of each "Noneligible  
7 Member" taken into account under the System shall not exceed the  
8 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")  
9 annual salary limit. The EGTRRA annual salary limit is Two Hundred  
10 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for  
11 increases in the cost of living in accordance with Section  
12 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The  
13 annual salary limit in effect for a calendar year applies to any  
14 period, not exceeding twelve (12) months, over which salary is  
15 determined ("determination period") beginning in such calendar year.  
16 If a determination period consists of fewer than twelve (12) months,  
17 the EGTRRA salary limit will be multiplied by a fraction, the  
18 numerator of which is the number of months in the determination  
19 period, and the denominator of which is twelve (12). For purposes  
20 of this subsection, a "Noneligible Member" is any member who first  
21 became a member during a plan year commencing on or after July 1,  
22 1996.

23 For plan years beginning on or after July 1, 2002, any reference  
24 to the annual salary limit under Section 401(a)(17) of the Internal

1 Revenue Code of 1986, as amended, shall mean the EGTRRA salary limit  
2 set forth in this subsection.

3 Effective January 1, 2008, gross salary shall also include gross  
4 salary, as described above, but paid by the later of two and one-  
5 half (2 1/2) months after a firefighter's severance from employment  
6 or the end of the plan year that includes the date the firefighter  
7 terminated employment, if it is a payment that, absent a severance  
8 from employment, would have been paid to the firefighter while the  
9 firefighter continued in employment with the participating  
10 municipality. Effective January 1, 2008, any payments not described  
11 above shall not be considered gross salary if paid after severance  
12 from employment, even if they are paid by the later of two and one-  
13 half (2 1/2) months after the date of severance from employment or  
14 the end of the plan year that includes the date of severance from  
15 employment. Effective January 1, 2008, back pay, within the meaning  
16 of Section 1.415 (c)-2(g)(8) of the Income Tax Regulations, shall be  
17 treated as gross salary for the plan year to which the back pay  
18 relates to the extent the back pay represents wages and compensation  
19 that would otherwise be included in this definition. Effective for  
20 years beginning after December 31, 2008, gross salary shall also  
21 include differential wage payments under Section 414(u)(12) of the  
22 Internal Revenue Code of 1986, as amended;

23

24

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

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

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

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

12 SECTION 2. AMENDATORY 11 O.S. 2001, Section 49-106, as  
13 last amended by Section 1, Chapter 345, O.S.L. 2007 (11 O.S. Supp.  
14 2008, Section 49-106), is amended to read as follows:

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

1        B. With respect to distributions under the System made for  
2 calendar years beginning on or after January 1, 2005, the System  
3 shall apply the minimum distribution incidental benefit  
4 requirements, incidental benefit requirements, and minimum  
5 distribution requirements of Section 401(a)(9) of the Internal  
6 Revenue Code of 1986, as amended, in accordance with the final  
7 regulations under Section 401(a)(9) of the Internal Revenue Code of  
8 1986, as amended, which were issued in April 2002 and June 2004,  
9 notwithstanding any provision of the System to the contrary. With  
10 respect to distributions under the System made for calendar years  
11 beginning on or after January 1, 2001 through December 31, 2004, the  
12 System shall apply the minimum distribution requirements and  
13 incidental benefit requirements of Section 401(a)(9) of the Internal  
14 Revenue Code of 1986, as amended, in accordance with the regulations  
15 under Section 401(a)(9) of the Internal Revenue Code of 1986, as  
16 amended, which were proposed in January 2001, notwithstanding any  
17 provision of the System to the contrary. Effective July 1, 1989,  
18 notwithstanding any other provision contained herein to the  
19 contrary, in no event shall commencement of distribution of the  
20 accrued retirement benefit of a member be delayed beyond April 1 of  
21 the calendar year following the later of:

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

24        2. The actual retirement date of the member.

1 C. Any member or beneficiary eligible to receive a monthly  
2 benefit from the System may make an election to waive all or a  
3 portion of monthly benefits.

4 D. If the requirements of Section 4 49-106.5 of this ~~act~~ title  
5 are satisfied, a member who, by reason of attainment of normal  
6 retirement date or age, is separated from service as a public safety  
7 officer with the member's participating municipality, may elect to  
8 have payment made directly to the provider for qualified health  
9 insurance premiums by deduction from his or her monthly pension  
10 payment, after December 31, 2006, in accordance with Section 402(1)  
11 of the Internal Revenue Code of 1986, as amended.

12 SECTION 3. AMENDATORY 11 O.S. 2001, Section 49-106.2, as  
13 last amended by Section 2, Chapter 177, O.S.L. 2008 (11 O.S. Supp.  
14 2008, Section 49-106.2), is amended to read as follows:

15 Section 49-106.2 A. Notwithstanding any other provision  
16 contained herein to the contrary, the benefits payable to a member  
17 from the System provided by employer contributions (including  
18 contributions picked up by the employer under Section 414(h) of the  
19 Internal Revenue Code of 1986, as amended) shall be subject to the  
20 limitations of Section 415 of the Internal Revenue Code of 1986, as  
21 amended, in accordance with the provisions of this section. The  
22 limitations of this section shall apply in limitation years  
23 beginning on or after July 1, 2007, except as otherwise provided  
24 below.

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

14 1. The member's annual benefit is a benefit that is payable  
15 annually in the form of a straight life annuity. Except as provided  
16 below, where a benefit is payable in a form other than a straight  
17 life annuity, the benefit shall be adjusted to an actuarially  
18 equivalent straight life annuity that begins at the same time as  
19 such other form of benefit and is payable on the first day of each  
20 month, before applying the limitations of this section. For a  
21 member who has or will have distributions commencing at more than  
22 one annuity starting date, the annual benefit shall be determined as  
23 of each such annuity starting date (and shall satisfy the  
24 limitations of this section as of each such date), actuarially

1 adjusting for past and future distributions of benefits commencing  
2 at the other annuity starting dates. For this purpose, the  
3 determination of whether a new starting date has occurred shall be  
4 made without regard to Section 1.401(a)-20, Q&A 10(d), and with  
5 regard to Section 1.415(b)-1(b)(1)(iii)(B) and (C) of the Income Tax  
6 Regulations.

7 2. No actuarial adjustment to the benefit shall be made for:

8 a. survivor benefits payable to a surviving spouse under  
9 a qualified joint and survivor annuity to the extent  
10 such benefits would not be payable if the member's  
11 benefit were paid in another form,

12 b. benefits that are not directly related to retirement  
13 benefits such as a qualified disability benefit,  
14 preretirement incidental death benefits, and  
15 postretirement medical benefits, or

16 c. the inclusion in the form of a benefit of an automatic  
17 benefit increase feature, provided, the form of  
18 benefit is not subject to Section 417(e)(3) of the  
19 Internal Revenue Code of 1986, as amended, and would  
20 otherwise satisfy the limitations of this section, and  
21 the System provides that the amount payable under the  
22 form of benefit in any limitation year shall not  
23 exceed the limits of this section applicable at the  
24 annuity starting date, as increased in subsequent

1 years pursuant to Section 415(d) of the Internal  
2 Revenue Code of 1986, as amended. For this purpose,  
3 an automatic benefit increase feature is included in a  
4 form of benefit if the form of benefit provides for  
5 automatic, periodic increases to the benefits paid in  
6 that form.

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

14 4. Effective for distributions in plan years beginning after  
15 December 31, 2003, the determination of actuarial equivalence of  
16 forms of benefit other than a straight life annuity shall be made in  
17 accordance with paragraph 5 or paragraph 6 of this subsection.

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

- 23 a. a nondecreasing annuity (other than a straight life  
24 annuity) payable for a period of not less than the

1 life of the member (or, in the case of a qualified  
2 preretirement survivor annuity, the life of the  
3 surviving spouse), or

4 b. an annuity that decreases during the life of the  
5 member merely because of:

6 (1) the death of the survivor annuitant, but only if  
7 the reduction is not below fifty percent (50%) of  
8 the benefit payable before the death of the  
9 survivor annuitant, or

10 (2) the cessation or reduction of Social Security  
11 supplements or qualified disability payments as  
12 defined in Section 401(a)(11) of the Internal  
13 Revenue Code of 1986, as amended.

14 c. Limitation Year Beginning Before July 1, 2007. For  
15 limitation years beginning before July 1, 2007, the  
16 actuarially equivalent straight life annuity is equal  
17 to the annual amount of the straight life annuity  
18 commencing at the same annuity starting date that has  
19 the same actuarial present value as the member's form  
20 of benefit computed using whichever of the following  
21 produces the greater annual amount:

22 (1) the interest rate and the mortality table or  
23 other tabular factor, each as set forth in  
24

1 subsection H of Section 49-100.9 of this title  
2 for adjusting benefits in the same form, and  
3 (2) a five percent (5%) interest rate assumption and  
4 the applicable mortality table described in  
5 Revenue Ruling 2001-62 for that annuity starting  
6 date, or

7 d. Limitation Years Beginning On or After July 1, 2007.

8 For limitation years beginning on or after July 1,  
9 2007, the actuarially equivalent straight life annuity  
10 is equal to the greater of:

11 (1) the annual amount of the straight life annuity,  
12 if any, payable to the member under the System  
13 commencing at the same annuity starting date as  
14 the member's form of benefit, and

15 (2) 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 a five  
19 percent (5%) interest rate assumption and the  
20 applicable mortality table described in Revenue  
21 Ruling 2001-62 for that annuity starting date.

22 6. Benefit Forms Subject to Section 417 (e) (3) of the Internal  
23 Revenue Code of 1986, as amended: The straight life annuity that is  
24 actuarially equivalent to the member's form of benefit shall be

1 determined under this paragraph 6 if the form of the member's  
2 benefit is other than a benefit form described in paragraph 5 of  
3 this subsection. In this case, the actuarially equivalent straight  
4 life annuity shall be determined as follows:

5 a. Annuity Starting Date in Plan Years Beginning After  
6 2005. If the annuity starting date of the member's  
7 form of benefit is in a plan year beginning after  
8 2005, the actuarially equivalent straight life annuity  
9 is equal to the greatest of:

10 (1) the annual amount of the straight life annuity  
11 commencing at the same annuity starting date that  
12 has the same actuarial present value as the  
13 member's form of benefit, computed using the  
14 interest rate and the mortality table or other  
15 tabular factor each as set forth in subsection H  
16 of Section 49-100.9 of this title for adjusting  
17 benefits in the same form,

18 (2) the annual amount of the straight life annuity  
19 commencing at the same annuity starting date that  
20 has the same actuarial present value as the  
21 member's form of benefit, computed using a five  
22 and one-half percent (5.5%) interest rate  
23 assumption and the applicable mortality table  
24 described in Revenue Ruling 2001-62, and

1 (3) 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:

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

17 (b) the applicable mortality table described in  
18 Revenue Ruling 2001-62,  
19 divided by one and five one-hundredths (1.05).

20 b. Annuity Starting Date in Plan Years Beginning in 2004  
21 or 2005.

22 (1) If the annuity starting date of the member's form  
23 of benefit is in a plan year beginning in 2004 or  
24 2005, 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 greater annual amount:

7 (a) the interest rate and the mortality table or  
8 other tabular factor, each as set forth in  
9 subsection H of Section 49-100.9 of this  
10 title for adjusting benefits in the same  
11 form, and

12 (b) a five and one-half percent (5.5%) interest  
13 rate assumption and the applicable mortality  
14 table described in Revenue Ruling 2001-62.

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

6 (a) the interest rate and mortality table or  
7 other tabular factor, each as set forth in  
8 subsection H of Section 49-100.9 of this  
9 title for adjusting benefits in the same  
10 form,

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

1                   ii.    the applicable mortality table  
2                            described in Revenue Ruling 2001-62,  
3                            and

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

22                   ii.   the applicable mortality table  
23                            described in Revenue Ruling 2001-62.  
24

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

8        C. If a member has less than ten (10) years of participation in  
9 the System and all predecessor municipal firefighter pension and  
10 retirement systems, the dollar limitation otherwise applicable under  
11 subsection B of this section shall be multiplied by a fraction, the  
12 numerator of which is the number of the years of participation in  
13 the System of the member, but never less than one (1), and the  
14 denominator of which is 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 49-100.9 of this title,  
24 or

1 (2) a five percent (5%) interest rate assumption and  
2 the applicable mortality table as described in  
3 Revenue Ruling 2001-62.

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

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

1 percent (5%) interest rate assumption and the  
2 applicable mortality table for the annuity  
3 starting date as described in Revenue Ruling  
4 2001-62 (and expressing the member's age based on  
5 completed calendar months as of the annuity  
6 starting date).

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

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

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

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

23           (1)  the interest rate and the mortality table or  
24           other tabular factor, each as set forth in

1 subsection H of Section 49-100.9 of this title,  
2 or

3 (2) a five percent (5%) interest rate assumption and  
4 the applicable mortality table as described in  
5 Revenue Ruling 2001-62.

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

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

1 participation less than ten (10), if required)  
2 with actuarial equivalence computed using a five  
3 percent (5%) interest rate assumption and the  
4 applicable mortality table for the annuity  
5 starting date as described in Revenue Ruling  
6 2001-62 (and expressing the member's age based on  
7 completed calendar months as of the annuity  
8 starting date).

- 9 (2) System Has Immediately Commencing Straight Life  
10 Annuity Payable at Both Sixty-five (65) Years of  
11 Age and Age of Benefit Commencement. If the  
12 annuity starting date for the member's benefit is  
13 after sixty-five (65) years of age and occurs in  
14 a limitation year beginning on or after July 1,  
15 2007, and the System has an immediately  
16 commencing straight life annuity payable at both  
17 sixty-five (65) years of age and the age of  
18 benefit commencement, the dollar limitation at  
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 adjusted immediately  
3 commencing straight life annuity under the System  
4 at the member's annuity starting date to the  
5 annual amount of the adjusted immediately  
6 commencing straight life annuity under the System  
7 at sixty-five (65) years of age, both determined  
8 without applying the limitations of this section.  
9 For this purpose, the adjusted immediately  
10 commencing straight life annuity under the System  
11 at the member's annuity starting date is the  
12 annual amount of such annuity payable to the  
13 member, computed disregarding the member's  
14 accruals after sixty-five (65) years of age but  
15 including actuarial adjustments even if those  
16 actuarial adjustments are used to offset  
17 accruals; and the adjusted immediately commencing  
18 straight life annuity under the System at sixty-  
19 five (65) years of age is the annual amount of  
20 such annuity that would be payable under the  
21 System to a hypothetical member who is sixty-five  
22 (65) years of age and has the same accrued  
23 benefit as the member.  
24

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

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

20           E. Minimum Benefit Permitted: Notwithstanding anything else in  
21 this section to the contrary, the benefit otherwise accrued or  
22 payable to a member under this System shall be deemed not to exceed  
23 the maximum permissible benefit if:  
24

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

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

11           b. the denominator of which is ten (10); and

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

21        F. In no event shall the maximum annual accrued retirement  
22 benefit of a member allowable under this section be less than the  
23 annual amount of such accrued retirement benefit, including early  
24 pension and qualified joint and survivor annuity amounts, duly

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

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

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

21 1. Treating the accrued benefit derived from such contributions  
22 as an annual benefit under subsection B of this section; or

23

24

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

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

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

17        SECTION 4.        AMENDATORY        Section 3, Chapter 345, O.S.L.  
18 2007 (11 O.S. Supp. 2008, Section 106.4), is amended to read as  
19 follows:

20        Section 49-106.4 A. An individual who has been designated,  
21 pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of  
22 1986, as amended, as the beneficiary of a deceased member and who is  
23 not the surviving spouse of the member, may elect, in accordance  
24 with Section 402(c)(11) of the Internal Revenue Code of 1986, as

1 amended, and at the time and in the manner prescribed by the  
2 Oklahoma Firefighters Pension and Retirement Board, to have a direct  
3 trustee-to-trustee transfer of any portion of such beneficiary's  
4 lump-sum distribution from the Oklahoma Firefighters Pension and  
5 Retirement System after December 31, 2006, made to an individual  
6 retirement account or individual retirement annuity (other than an  
7 endowment contract) described in Section 408(a) or (b) of the  
8 Internal Revenue Code of 1986, as amended (IRA), that is established  
9 on behalf of such designated individual. If such transfer is made  
10 then:

11 1. The transfer is treated as an eligible rollover distribution  
12 for purposes of Section 402(c)(11) of the Internal Revenue Code of  
13 1986, as amended;

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

19 3. The required minimum distribution rules of Section  
20 401(a)(9)(B) (other than clause iv thereof) of the Internal Revenue  
21 Code of 1986, as amended, apply to the transferee IRA.

22 B. A trust maintained for the benefit of one or more designated  
23 beneficiaries shall be treated in the same manner as a trust  
24 designated beneficiary.

1 C. The Oklahoma Firefighters Pension and Retirement Board shall  
2 promulgate such rules as are necessary to implement the provisions  
3 of this section.

4 SECTION 5. AMENDATORY 11 O.S. 2001, Section 49-109, as  
5 last amended by Section 5, Chapter 345, O.S.L. 2007 (11 O.S. Supp.  
6 2008, Section 49-109), is amended to read as follows:

7 Section 49-109. A. Whenever any firefighter serving in any  
8 capacity in a regularly constituted fire department of a  
9 municipality shall become so physically or mentally disabled while  
10 in, or in consequence of, the performance of the firefighter's duty  
11 as to prevent the effective performance of the firefighter's duties,  
12 the State Board may, upon the firefighter's written request, or  
13 without such request if the State Board deems it for the good of the  
14 department, retire the firefighter from active service, and if so  
15 retired, shall direct that the firefighter be paid from the System a  
16 monthly pension equal to the greater of:

17 1. Fifty percent (50%) of the average monthly salary which was  
18 paid to the firefighter during the last thirty (30) months of the  
19 firefighter's service; or

20 2. Two and one-half percent (2 1/2%) of the firefighter's final  
21 average salary multiplied by the member's years of credited service,  
22 not to exceed thirty (30) years, provided such firefighter has  
23 completed twenty (20) or more years of credited service.

1        B. If the disability ceases within two (2) years from the date  
2 of the firefighter's disability retirement and before the  
3 firefighter's normal retirement date, the formerly disabled person  
4 shall be restored to active service at the salary attached to the  
5 rank the firefighter held at the time of the firefighter's  
6 disability retirement provided the firefighter is capable of  
7 performing the duties of a firefighter. Whenever such disability  
8 shall cease, such disability pension provided pursuant to paragraph  
9 1 of subsection A of this section shall cease. If a firefighter  
10 participates in the Oklahoma Firefighters Deferred Option Plan  
11 pursuant to Section 49-106.1 of this title, the firefighter's  
12 disability pension provided pursuant to this subsection shall be  
13 reduced to account for the firefighter's participation in the  
14 Oklahoma Firefighters Deferred Option Plan.

15        C. Whenever any firefighter, who has served in any capacity in  
16 a regularly constituted fire department of a municipality of the  
17 state, and who has served less than the firefighter's normal  
18 retirement date, shall become so physically or mentally disabled  
19 from causes not arising in the line of duty as to prevent the  
20 effective performance of the firefighter's duties, the firefighter  
21 shall be entitled to a pension during the continuance of said  
22 disability based upon the firefighter's service period which shall  
23 be fifty percent (50%) of the average monthly salary which was paid  
24

1 to the firefighter during the last sixty (60) months of the  
2 firefighter's service.

3 D. No firefighter shall accrue additional service time while  
4 receiving a disability pension; provided further, that nothing  
5 herein contained shall affect the eligibility of any firefighter to  
6 apply for and receive a retirement pension after the firefighter's  
7 normal retirement date; provided further, that no firefighter shall  
8 receive retirement benefits from the System during the time the  
9 firefighter is receiving disability benefits from the System. Any  
10 member or beneficiary eligible to receive a monthly benefit pursuant  
11 to this section may make an election to waive all or a portion of  
12 monthly benefits.

13 E. If the requirements of Section 4 49-106.5 of this ~~act~~ title  
14 are satisfied, a member who, by reason of disability, is separated  
15 from service as a public safety officer with the member's  
16 participating municipality, may elect to have payment made directly  
17 to the provider for qualified health insurance premiums by deduction  
18 from his or her monthly disability benefit, after December 31, 2006,  
19 in accordance with Section 402(1) of the Internal Revenue Code of  
20 1986, as amended.

21 SECTION 6. AMENDATORY 11 O.S. 2001, Section 49-138, as  
22 last amended by Section 4, Chapter 203, O.S.L. 2005 (11 O.S. Supp.  
23 2008, Section 49-138), is amended to read as follows:  
24

1 Section 49-138. A. Any member of a regularly constituted fire  
2 department of any municipality who is now serving or may hereafter  
3 serve in the Armed Forces of the United States whether such service  
4 is voluntary or involuntary, who shall have been a member of such  
5 fire department at the time of entering such service, shall be  
6 entitled to have the whole of the time of such service applied under  
7 the provisions of Section 49-106 of this title, so far as the same  
8 applies to a service pension; provided further, that the  
9 municipality shall continue its payment into said pension fund, to  
10 the same force and effect as though the member were in the actual  
11 service of such fire department; provided, that any person who is  
12 eligible for such service but who shall have volunteered for  
13 military or naval service for a period not to exceed five (5) years  
14 shall likewise be entitled to all of the benefits of Sections 49-138  
15 through 49-142 of this title for the full period of such service or  
16 enlistment; provided further, that only one such period of voluntary  
17 service shall be considered hereunder. If such person shall  
18 reenlist, unless he is required to do so by law, he shall not  
19 thereafter be entitled to the provisions of this subsection. The  
20 provisions of this subsection shall not apply where any such person  
21 dies during the period of said service or enlistment, and shall not  
22 entitle the surviving spouse or children to any benefits, and shall  
23 not apply to any member who shall have served on active duty

24

1 (including initial active duty) for training purposes only and/or  
2 inactive duty training.

3 B. Effective February 1, 1997, credited service received  
4 pursuant to this section or credited service for wartime military  
5 service received as otherwise provided by law shall be used in  
6 determining the member's retirement benefit but shall not be used in  
7 determining years of service for retirement, vesting purposes or  
8 eligibility for participation in the Oklahoma Firefighters Deferred  
9 Option Plan. For a member of the System hired on or after July 1,  
10 2003, if the military service credit authorized by this section is  
11 used to compute the retirement benefit of the member and the member  
12 retires from the System, such military service credit shall not be  
13 used to compute the retirement benefit in any other retirement  
14 system created pursuant to the Oklahoma Statutes and the member may  
15 receive credit for such service only in the retirement system from  
16 which the member first retires.

17 C. A member who retires or elects to participate in the  
18 Oklahoma Firefighters Deferred Option Plan on or after July 1, 1998,  
19 shall be entitled to prior service credit, not to exceed five (5)  
20 years, for those periods of military service on active duty prior to  
21 membership in the Oklahoma Firefighters Pension and Retirement  
22 System.

23 For purposes of this subsection, "military service" means  
24 service in the Armed Forces of the United States by honorably

1 discharged persons during the following time periods, as reflected  
2 on such person's Defense Department Form 214, as follows:

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

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

7 b. September 16, 1940, to December 7, 1941, for members  
8 of the 45th Division,

9 c. December 7, 1941, to December 31, 1946, commonly  
10 referred to as World War II,

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

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

15 (1) for the period from February 28, 1961, to August  
16 4, 1964, military service shall only include  
17 service in the Republic of Vietnam during that  
18 period, and

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

22 f. August 1, 1990, to December 31, 1991, commonly  
23 referred to as the Gulf War, the Persian Gulf War, or  
24 Operation Desert Storm, but excluding any person who

1 served on active duty for training only, unless  
2 discharged from such active duty for a service-  
3 connected disability;

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

18 D. An eligible member pursuant to subsection C of this section  
19 shall include only those persons who shall have served during the  
20 times or in the areas prescribed in subsection C of this section,  
21 and only if such person provides appropriate documentation in such  
22 time and manner as required by the System to establish such military  
23 service prescribed in this section, or for service pursuant to  
24 division (1) of subparagraph e of paragraph 1 of subsection C of

1 this section, those persons who were awarded service medals, as  
2 authorized by the United States Department of Defense as reflected  
3 in the veteran's Defense Department Form 214, related to the Vietnam  
4 Conflict for service prior to August 5, 1964. The provisions of  
5 subsection C of this section shall include military retirees, whose  
6 retirement was based only on active service, that have been rated as  
7 having twenty percent (20%) or greater service-connected disability  
8 by the Veterans Administration or the Armed Forces of the United  
9 States. The provisions of subsection C of this section shall not  
10 apply to any person who shall have served on active duty for  
11 training purposes only unless discharged from active duty for a  
12 service-connected disability.

13 E. Notwithstanding any provision herein to the contrary,  
14 ~~contributions:~~

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

23 2. Effective January 1, 2007, if any member dies while  
24 performing qualified military service, the survivors of the member

1 are entitled to any additional benefits other than benefit accruals  
2 relating to the period of qualified military service provided under  
3 the System had the member resumed and then terminated employment on  
4 account of death.

5 F. Members or beneficiaries shall make application to the  
6 System for credited service related to wartime military service.  
7 Interest on additional benefits related to wartime military service  
8 owed by the System to a retired member or beneficiary as provided by  
9 law shall cease accruing one (1) year after the effective date the  
10 additional benefits are payable by the System or July 1, 2000,  
11 whichever is later, if the member has not applied to the System for  
12 credited service related to such wartime military service.

13 SECTION 7. It being immediately necessary for the preservation  
14 of the public peace, health and safety, an emergency is hereby  
15 declared to exist, by reason whereof this act shall take effect and  
16 be in full force from and after its passage and approval.

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