

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB788 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Don Armes

\_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

PROPOSED COMMITTEE  
SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL NO. 788

By: Barrington of the Senate

and

Armes of the House

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to compliance with Internal Revenue Service regulations; amending 11 O.S. 2001, Sections 49-100.1, as last amended by Section 1, Chapter 438, O.S.L. 2010, 49-106, as last amended by Section 1, Chapter 345, O.S.L. 2007, 49-106.2, as last amended by Section 3, Chapter 438, O.S.L. 2010, 49-106.3, as last amended by Section 4, Chapter 438, O.S.L. 2010 and Section 3, Chapter 345, O.S.L. 2007, as amended by Section 5, Chapter 438, O.S.L. 2010 (11 O.S. Supp. 2010, Sections 49-100.1, 49-106, 49-106.2, 49-106.3 and 49-106.4), which relate to the Oklahoma Firefighters Pension and Retirement System; clarifying effective dates; specifying the System is treated as in compliance with certain requirements under certain conditions; updating statutory citation; clarifying applicability of certain provision; clarifying effective dates regarding certain distributions; specifying treatment of certain transfer; providing for retroactive effect of certain amendments; providing for noncodification; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 11 O.S. 2001, Section 49-100.1, as  
2 last amended by Section 1, Chapter 438, O.S.L. 2010 (11 O.S. Supp.  
3 2010, Section 49-100.1), is amended to read as follows:

4 Section 49-100.1 As used in this article:

5 1. "System" means the Oklahoma Firefighters Pension and  
6 Retirement System and all predecessor municipal firefighters pension  
7 and retirement systems;

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

9 3. "State Board" means the Oklahoma Firefighters Pension and  
10 Retirement Board;

11 4. "Local board" means the local firefighters pension and  
12 retirement boards;

13 5. "Fund" means the Oklahoma Firefighters Pension and  
14 Retirement Fund;

15 6. "Member" means all eligible firefighters of a participating  
16 municipality or a fire protection district who perform the essential  
17 functions of fire suppression, prevention, and life safety duties in  
18 a fire department. The term "member" shall include but not be  
19 limited to the person serving as fire chief of any participating  
20 municipality, provided that a person serving as fire chief of a  
21 participating municipality shall meet the age, agility, physical and  
22 other eligibility requirements required by law at the time said  
23 person becomes a member of the System. Effective July 1, 1987, a  
24 member does not include a "leased employee". The term "leased

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

21 7. "Normal retirement date" means the date at which the member  
22 is eligible to receive the unreduced payments of the member's  
23 accrued retirement benefit. Such date shall be the first day  
24 following the date the member completes twenty (20) years of

1 credited service. If the member's employment continues past the  
2 normal retirement date of the member, the actual retirement date of  
3 the member shall be the first day following the date the member  
4 terminates employment with more than twenty (20) years of credited  
5 service;

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

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

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

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

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

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

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

1 the member to reduce the member's regular cash remuneration under  
2 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be  
3 treated as if the member did not make such an election. Only salary  
4 on which required contributions have been made may be used in  
5 computing final average salary.

6 In addition to other applicable limitations, and notwithstanding  
7 any other provision to the contrary, for plan years beginning on or  
8 after July 1, 2002, the annual gross salary of each "Noneligible  
9 Member" taken into account under the System shall not exceed the  
10 Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA")  
11 annual salary limit. The EGTRRA annual salary limit is Two Hundred  
12 Thousand Dollars (\$200,000.00), as adjusted by the Commissioner for  
13 increases in the cost of living in accordance with Section  
14 401(a)(17)(B) of the Internal Revenue Code of 1986, as amended. The  
15 annual salary limit in effect for a calendar year applies to any  
16 period, not exceeding twelve (12) months, over which salary is  
17 determined ("determination period") beginning in such calendar year.  
18 If a determination period consists of fewer than twelve (12) months,  
19 the EGTRRA salary limit will be multiplied by a fraction, the  
20 numerator of which is the number of months in the determination  
21 period, and the denominator of which is twelve (12). For purposes  
22 of this subsection, a "Noneligible Member" is any member who first  
23 became a member during a plan year commencing on or after July 1,  
24 1996.

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

5 Effective ~~January 1, 2008~~ June 9, 2010, gross salary shall also  
6 include gross salary, as described above, for services, but paid by  
7 the later of two and one-half (2 1/2) months after a firefighter's  
8 severance from employment or the end of the calendar year that  
9 includes the date the firefighter terminated employment, if it is a  
10 payment that, absent a severance from employment, would have been  
11 paid to the firefighter while the firefighter continued in  
12 employment with the participating municipality.

13 Effective ~~January 1, 2008~~ June 9, 2010, any payments not  
14 described above shall not be considered gross salary if paid after  
15 severance from employment, even if they are paid by the later of two  
16 and one-half (2 1/2) months after the date of severance from  
17 employment or the end of the calendar year that includes the date of  
18 severance from employment, except payments to an individual who does  
19 not currently perform services for the participating municipality by  
20 reason of qualified military service within the meaning of Section  
21 414(u)(5) of the Internal Revenue Code of 1986, as amended, to the  
22 extent these payments do not exceed the amounts the individual would  
23 have received if the individual had continued to perform services

24



1 for the participating municipality rather than entering qualified  
2 military service.

3 Effective ~~January 1, 2008~~ June 9, 2010, back pay, within the  
4 meaning of Section 1.415(c)-2(g)(8) of the Income Tax Regulations,  
5 shall be treated as gross salary for the ~~limitation~~ year to which  
6 the back pay relates to the extent the back pay represents wages and  
7 compensation that would otherwise be included in this definition.

8 Effective for years beginning after December 31, 2008, gross  
9 salary shall also include differential wage payments under Section  
10 414(u)(12) of the Internal Revenue Code of 1986, as amended;

11 15. "Accrued retirement benefit" means two and one-half percent  
12 (2 1/2%) of the firefighter's final average salary multiplied by the  
13 member's years of credited service not to exceed thirty (30) years;

14 16. "Beneficiary" means a member's surviving spouse or any  
15 surviving children, including biological and adopted children, at  
16 the time of the member's death. The surviving spouse must have been  
17 married to the firefighter for the thirty (30) continuous months  
18 preceding the firefighter's death provided a surviving spouse of a  
19 member who died while in, or as a consequence of, the performance of  
20 the member's duty for a participating municipality, shall not be  
21 subject to the marriage limitation for survivor benefits. A  
22 surviving child of a member shall be a beneficiary until reaching  
23 eighteen (18) years of age or twenty-two (22) years of age if the  
24 child is enrolled full time and regularly attending a public or

1 private school or any institution of higher education. Any child  
2 adopted by a member after the member's retirement shall be a  
3 beneficiary only if the child is adopted by the member for the  
4 thirty (30) continuous months preceding the member's death. Any  
5 child who is adopted by a member after the member's retirement and  
6 such member dies accidentally or as a consequence of the performance  
7 of the member's duty as a firefighter shall not be subject to the  
8 thirty-month adoption requirement. This definition of beneficiary  
9 shall be in addition to any other requirement set forth in this  
10 article;

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

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

22 SECTION 2. AMENDATORY 11 O.S. 2001, Section 49-106, as  
23 last amended by Section 1, Chapter 345, O.S.L. 2007 (11 O.S. Supp.  
24 2010, Section 49-106), is amended to read as follows:

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

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

1 under Section 401(a)(9) of the Internal Revenue Code of 1986, as  
2 amended, which were proposed in January 2001, notwithstanding any  
3 provision of the System to the contrary. Effective July 1, 1989,  
4 notwithstanding any other provision contained herein to the  
5 contrary, in no event shall commencement of distribution of the  
6 accrued retirement benefit of a member be delayed beyond April 1 of  
7 the calendar year following the later of:

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

10 2. The actual retirement date of the member.

11 Effective September 8, 2009, notwithstanding anything to the  
12 contrary of the System, the System, which is a governmental plan  
13 (within the meaning of Section 414(d) of the Internal Revenue Code  
14 of 1986, as amended) is treated as having complied with Section  
15 401(a)(9) of the Internal Revenue Code of 1986, as amended, for all  
16 years to which Section 401(a)(9) of the Internal Revenue Code of  
17 1986, as amended, applies to the System if the System complies with  
18 a reasonable and good faith interpretation of Section 401(a)(9) of  
19 the Internal Revenue Code of 1986, as amended.

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

23 D. If the requirements of Section 4 49-106.5 of this ~~act~~ title  
24 are satisfied, a member who, by reason of attainment of normal

1 retirement date or age, is separated from service as a public safety  
2 officer with the member's participating municipality, may elect to  
3 have payment made directly to the provider for qualified health  
4 insurance premiums by deduction from his or her monthly pension  
5 payment, after December 31, 2006, in accordance with Section 402(1)  
6 of the Internal Revenue Code of 1986, as amended.

7 SECTION 3. AMENDATORY 11 O.S. 2001, Section 49-106.2, as  
8 last amended by Section 3, Chapter 438, O.S.L. 2010 (11 O.S. Supp.  
9 2010, Section 49-106.2), is amended to read as follows:

10 Section 49-106.2 A. For limitation years prior to July 1,  
11 2007, the limitations of Section 415 of the Internal Revenue Code of  
12 1986, as amended, shall be computed in accordance with the  
13 applicable provisions of the System in effect at that time and, to  
14 the extent applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-  
15 51, except as provided below. 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 or her 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 severance 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 411(a)(9) of the Internal  
13 Revenue Code of 1986, as amended.

14 c. Limitation Years 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 (or its successor for  
6 these purposes, if applicable) for that annuity  
7 starting date, or

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

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

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

16 (2) the annual amount of the straight life annuity  
17 commencing at the same annuity starting date that  
18 has the same actuarial present value as the  
19 member's form of benefit, computed using a five  
20 percent (5%) interest rate assumption and the  
21 applicable mortality table described in Revenue  
22 Ruling 2001-62 (or its successor for these  
23 purposes, if applicable) for that annuity  
24 starting date.

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

8           a. Annuity Starting Date in Plan Years Beginning After  
9           December 31, 2007 (Plan Years beginning on or after  
10           July 1, 2008). If the annuity starting date of the  
11           member's form of benefit is in a plan year beginning  
12           after December 31, 2007, the actuarially equivalent  
13           straight life annuity is equal to the greatest of (1),  
14           (2) or (3) below:

15           (1) 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 the  
19           interest rate and the mortality table or other  
20           tabular factor each as set forth in subsection H  
21           of Section 49-100.9 of this title for adjusting  
22           benefits in the same form,

23           (2) 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 a five  
3 and one-half percent (5.5%) interest rate  
4 assumption and the applicable mortality table  
5 described in Revenue Ruling 2001-62 (or its  
6 successor for these purposes, if applicable), and

7 (3) 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:

11 (a) the adjusted first, second, and third  
12 segment rates under Section 417(e)(3)(C) and  
13 (D) of the Internal Revenue Code of 1986, as  
14 amended, applied under rules similar to the  
15 rules of Section 430(h)(2)(C) of the  
16 Internal Revenue Code of 1986, as amended,  
17 for the fourth calendar month preceding the  
18 plan year in which falls the annuity  
19 starting date for the distribution and the  
20 stability period is the successive period of  
21 one plan year which contains the annuity  
22 starting date for the distribution and for  
23 which the applicable interest rate remains  
24 constant, or as otherwise provided in the

1 applicable guidance if the first day of the  
2 first plan year beginning after December 31,  
3 2007, does not coincide with the first day  
4 of the applicable stability period, and

5 (b) the applicable mortality table described in  
6 Revenue Ruling 2001-62 (or its successor for  
7 these purposes, if applicable),

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

9 b. Annuity Starting Date in Plan Years Beginning in 2006  
10 or 2007. If the annuity starting date of the member's  
11 form of benefit is in a plan year beginning in 2006 or  
12 2007, the actuarially equivalent straight life annuity  
13 is equal to the greatest of (1), (2) or (3) below:

14 (1) 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 the  
18 interest rate and the mortality table (or other  
19 tabular factor) each as set forth in subsection H  
20 of Section 49-100.9 of this title for adjusting  
21 benefits in the same form,

22 (2) the annual amount of the straight life annuity  
23 commencing at the same annuity starting date that  
24 has the same actuarial present value as the

1 member's form of benefit, computed using a five  
2 and one-half percent (5.5%) interest rate  
3 assumption and the applicable mortality table  
4 described in Revenue Ruling 2001-62 (or its  
5 successor for these purposes, if applicable), and

6 (3) 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:

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

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

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

2           c.   Annuity Starting Date in Plan Years Beginning in 2004  
3                   or 2005.

4                   (1) If the annuity starting date of the member's form  
5                   of benefit is in a plan year beginning in 2004 or  
6                   2005, the actuarially equivalent straight life  
7                   annuity is equal to the annual amount of the  
8                   straight life annuity commencing at the same  
9                   annuity starting date that has the same actuarial  
10                  present value as the member's form of benefit,  
11                  computed using whichever of the following  
12                  produces the greater annual amount:

13                   (a) the interest rate and the mortality table or  
14                   other tabular factor, each as set forth in  
15                   subsection H of Section 49-100.9 of this  
16                   title for adjusting benefits in the same  
17                   form, and

18                   (b) a five and one-half percent (5.5%) interest  
19                   rate assumption and the applicable mortality  
20                   table described in Revenue Ruling 2001-62  
21                   (or its successor for these purposes, if  
22                   applicable).

23                   (2) If the annuity starting date of the member's  
24                   benefit is on or after the first day of the first

1 plan year beginning in 2004 and before December  
2 31, 2004, the application of this subparagraph b  
3 shall not cause the amount payable under the  
4 member's form of benefit to be less than the  
5 benefit calculated under the System, taking into  
6 account the limitations of this section, except  
7 that the actuarially equivalent straight life  
8 annuity is equal to the annual amount of the  
9 straight life annuity commencing at the same  
10 annuity starting date that has the same actuarial  
11 present value as the member's form of benefit,  
12 computed using whichever of the following  
13 produces the greatest annual amount:

- 14 (a) the interest rate and mortality table or  
15 other tabular factor, each as set forth in  
16 subsection H of Section 49-100.9 of this  
17 title for adjusting benefits in the same  
18 form,
- 19 (b) i. the rate of interest on thirty-year  
20 Treasury securities as specified by the  
21 Commissioner for the lookback month for  
22 the stability period specified below.  
23 The lookback month applicable to the  
24 stability period is the fourth calendar



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

9 ii. the applicable mortality table  
10 described in Revenue Ruling 2001-62 (or  
11 its successor for these purposes, if  
12 applicable), and

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

1 applicable interest rate remains  
2 constant (as in effect on the last day  
3 of the last plan year beginning before  
4 January 1, 2004, under provisions of  
5 the System then adopted and in effect),  
6 and

7 ii. the applicable mortality table  
8 described in Revenue Ruling 2001-62 (or  
9 its successor for these purposes, if  
10 applicable).

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

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

1 before sixty-two (62) years of age, the dollar limitation under  
2 subsection B of this section shall be adjusted under paragraph 1 of  
3 this subsection, as modified by paragraph 3 of this subsection, but  
4 subject to paragraph 4 of this subsection. If the annuity starting  
5 date is after sixty-five (65) years of age, the dollar limitation  
6 under subsection B of this section shall be adjusted under paragraph  
7 2 of this subsection, as modified by paragraph 3 of this subsection.

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

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

24

1 (1) the interest rate and the mortality table or  
2 other tabular factor, each as set forth in  
3 subsection H of Section 49-100.9 of this title,  
4 or

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

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

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

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

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

1 of subparagraph b of this paragraph and the  
2 dollar limitation under subsection B of this  
3 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 sixty-two (62)  
11 years of age, both determined without applying  
12 the limitations of this section.

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

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

1 section for years of participation less than ten (10),  
2 if 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 H of Section 49-100.9 of this title,  
8 or  
9 (2) a five percent (5%) interest rate assumption and  
10 the applicable mortality table as described in  
11 Revenue Ruling 2001-62 (or its successor for  
12 these 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 Sixty-five  
16 (65) Years of Age and the Age of Benefit  
17 Commencement. If the annuity starting date for  
18 the member's benefit is after sixty-five (65)  
19 years of age and occurs in a limitation year  
20 beginning on or after July 1, 2007, and the  
21 System does not have an immediately commencing  
22 straight life annuity payable at both sixty-five  
23 (65) years of age and the age of benefit  
24 commencement, the dollar limitation at the

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

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



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

1           accruals; and the adjusted immediately commencing  
2           straight life annuity under the System at sixty-  
3           five (65) years of age is the annual amount of  
4           such annuity that would be payable under the  
5           System to a hypothetical member who is sixty-five  
6           (65) years of age and has the same accrued  
7           benefit as the member.

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

21          4. Notwithstanding any other provision to the contrary, for  
22          limitation years beginning on or after January 1, 1997, if payment  
23          begins before the member reaches sixty-two (62) years of age, the  
24          reductions in the limitations in this subsection shall not apply to

1 a member who is a "qualified participant" as defined in Section  
2 415(b)(2)(H) of the Internal Revenue Code of 1986, as amended.

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

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

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

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

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

1 1986, as amended, are not considered a separate defined contribution  
2 plan).

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

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

21 H. Effective for years beginning after December 31, 1997, if a  
22 member purchases service under Sections 49-117.2 and 49-117.3 of  
23 this title, which qualifies as "permissive service credit" pursuant  
24 to Section 415(n) of the Internal Revenue Code of 1986, as amended,

1 the limitations of Section 415 of the Internal Revenue Code of 1986,  
2 as amended, may be met by either:

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

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

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

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

18 K. The State Board is hereby authorized to revoke the special  
19 election previously made on June 21, 1991, under Section 415(b)(10)  
20 of the Internal Revenue Code ~~Section 415(b)(10)~~ of 1986, as amended.

21 SECTION 4. AMENDATORY 11 O.S. 2001, Section 49-106.3, as  
22 last amended by Section 4, Chapter 438, O.S.L. 2010 (11 O.S. Supp.  
23 2010, Section 49-106.3), is amended to read as follows:

24

1 Section 49-106.3 A. For distributions made on or after January  
2 1, ~~1993~~ 2002, and notwithstanding any provision of the System to the  
3 contrary that would otherwise limit a Distributee's election  
4 hereunder, a Distributee, including a nonspouse designated  
5 beneficiary, to the extent permitted under paragraph 3 of subsection  
6 B of this section, may elect, at the time and in the manner  
7 prescribed by the State Board, to have any portion of an Eligible  
8 Rollover Distribution paid, as specified by the Distributee in a  
9 Direct Rollover, directly to:

- 10 1. An Eligible Retirement Plan; or
- 11 2. Effective for distributions after December 31, 2007, a Roth  
12 IRA described in Section 408A of the Internal Revenue Code of 1986,  
13 as amended, subject to any limitations described in Section 408A(c)  
14 of the Internal Revenue Code of 1986, as amended.

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

- 17 1. "Eligible Rollover Distribution" means any distribution of  
18 all or any portion of the balance to the credit of the Distributee,  
19 except that an Eligible Rollover Distribution does not include any  
20 distribution that is one of a series of substantially equal periodic  
21 payments (not less frequently than annually) made for the life (or  
22 life expectancy) of the Distributee or the joint lives (or life  
23 expectancies) of the Distributee and the Distributee's designated  
24 beneficiary, or for a specified period of ten (10) years or more;

1 any distribution to the extent such distribution is required under  
2 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended;  
3 and the portion of any distribution that is not includable in gross  
4 income. Effective January 1, 2002, a portion of a distribution  
5 shall not fail to be an Eligible Rollover Distribution merely  
6 because the portion consists of after-tax member contributions which  
7 are not includable in gross income. However, such portion may be  
8 transferred only:

9 (a) from January 1, 2002, through December 31, 2006:

10 (1) to an individual retirement account or annuity  
11 described in Section 408(a) or (b) of the  
12 Internal Revenue Code of 1986, as amended, or

13 (2) in a direct trustee-to-trustee transfer, to a  
14 qualified trust which is a part of a defined  
15 contribution plan that agrees to separately  
16 account for amounts so transferred, including  
17 separately accounting for the portion of such  
18 distribution which is includable in gross income  
19 and the portion of such distribution which is not  
20 so includable, and

21 (b) on or after January 1, 2007:

22 (1) to an individual retirement account or annuity  
23 described in Section 408(a) or (b) of the  
24 Internal Revenue Code of 1986, as amended, or

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

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

22 2. "Eligible Retirement Plan" means an individual retirement  
23 account described in Section 408(a) of the Internal Revenue Code of  
24 1986, as amended, an individual retirement annuity described in



1 Section 408(b) of the Internal Revenue Code of 1986, as amended, an  
2 annuity plan described in Section 403(a) of the Internal Revenue  
3 Code of 1986, as amended, or a qualified trust described in Section  
4 401(a) of the Internal Revenue Code of 1986, as amended, that  
5 accepts the Distributee's Eligible Rollover Distribution. Effective  
6 January 1, 2002, an Eligible Retirement Plan shall also mean an  
7 annuity contract described in Section 403(b) of the Internal Revenue  
8 Code of 1986, as amended, and an eligible plan under Section 457(b)  
9 of the Internal Revenue Code of 1986, as amended, which is  
10 maintained by a state, political subdivision of a state, or any  
11 agency or instrumentality of a state or political subdivision of a  
12 state and which agrees to separately account for amounts transferred  
13 into such plan from the System;

14 3. "Distributee" means a member whether or not the member is an  
15 active firefighter. In addition, effective June 7, 1993, the  
16 member's surviving spouse and the member's spouse or former spouse  
17 who is an alternate payee under a qualified domestic order, as  
18 provided in subsection B of Section 49-126 of this title, are  
19 Distributees with regard to the interest of the spouse or former  
20 spouse. Effective for distributions after December 31, 2006, a  
21 Distributee also includes the member's nonspouse designated  
22 beneficiary, and certain trusts described in Section 402(c)(11)(B)  
23 of the Internal Revenue Code of 1986, as amended, pursuant to  
24 Section 401(a)(9)(E) of the Internal Revenue Code of 1986, as

1 amended, who may ~~only~~ elect any portion of a payment to be made in a  
2 Direct Rollover (to the extent such Distributee does not receive a  
3 lump sum payment) to an individual retirement account or annuity  
4 (other than an endowment contract) described in Section 408(a) or  
5 (b) of the Internal Revenue Code of 1986, as amended, (IRA), that is  
6 established on behalf of such designated beneficiary and that will  
7 be treated as an inherited IRA pursuant to the provisions of Section  
8 402(c)(11) of the Internal Revenue Code of 1986, as amended. Also,  
9 in this case, the determination of any required minimum distribution  
10 under Section 401(a)(9) of the Internal Revenue Code of 1986, as  
11 amended, that is ineligible for rollover shall be made in accordance  
12 with Notice 2007-7, Q&A 17 and 18, 2007-5 Internal Revenue Bulletin  
13 395. The required minimum distribution rules of Section  
14 401(a)(9)(B) (other than clause iv thereof) of the Internal Revenue  
15 Code of 1986, as amended, apply to the transferee IRA. To the  
16 extent permitted or required under the Worker, Retiree and Employer  
17 Recovery Act of 2008, Notice 2008-30, 2008-12 I.R.B. 638 and/or any  
18 other regulatory guidance, effective for plan years beginning after  
19 December 31, 2009, a nonspouse designated beneficiary (as described  
20 in and in accordance with Section 402(c)(11) of the Internal Revenue  
21 Code of 1986, as amended), may directly roll over a distribution to  
22 a Roth IRA; and

23 4. "Direct Rollover" means a payment by the System to the  
24 Eligible Retirement Plan specified by the Distributee or, effective

1 for distributions on or after January 1, 2008, to a Roth IRA under  
2 Section 408A of the Internal Revenue Code of 1986, as amended, as  
3 specified by the Distributee, assuming the Distributee otherwise  
4 meets the Roth IRA requirements.

5 C. At least thirty (30) days before and, effective ~~January 1,~~  
6 ~~2007~~ for years beginning after December 31, 2006, not more than one  
7 hundred eighty (180) days before the date of distribution, the  
8 Distributee (other than a nonspouse designated beneficiary prior to  
9 ~~January~~ July 1, 2010) must be provided with a notice of rights which  
10 satisfies Section 402(f) of the Internal Revenue Code of 1986, as  
11 amended, as to rollover options and tax effects. Such distribution  
12 may commence less than thirty (30) days after the notice is given,  
13 provided that:

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

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

20 D. ~~Prior to January~~ For distributions made after December 31,  
21 2006, but prior to July 1, 2010, a distribution with respect to a  
22 nonspouse designated beneficiary shall be made in accordance with  
23 Notice 2007-7, Q&A 15, 2007-5 Internal Revenue Bulletin 395.  
24 Effective ~~January 1, 2010~~ for plan years beginning after December

1 31, 2009, a distribution with respect to a nonspouse designated  
2 beneficiary shall be subject to Sections 401(a)(31), 402(f) and  
3 3405(c) of the Internal Revenue Code of 1986, as amended.

4 SECTION 5. AMENDATORY Section 3, Chapter 345, O.S.L.  
5 2007, as amended by Section 5, Chapter 438, O.S.L. 2010 (11 O.S.  
6 Supp. 2010, Section 49-106.4), is amended to read as follows:

7 Section 49-106.4 A. An individual who has been designated,  
8 pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of  
9 1986, as amended, as the beneficiary of a deceased member and who is  
10 not the surviving spouse of the member, may elect, in accordance  
11 with Section 402(c)(11) of the Internal Revenue Code of 1986, as  
12 amended, ~~and at the time and in the manner prescribed by the~~  
13 ~~Oklahoma Firefighters Pension and Retirement Board,~~ to have a direct  
14 trustee-to-trustee transfer of any portion of such beneficiary's  
15 ~~lump-sum~~ distribution from the Oklahoma Firefighters Pension and  
16 Retirement System after December 31, 2006, made to an individual  
17 retirement account or individual retirement annuity (other than an  
18 endowment contract) described in Section 408(a) or (b) of the  
19 Internal Revenue Code of 1986, as amended (IRA), that is established  
20 on behalf of such designated individual. If such transfer is made  
21 then:

22 1. The For distributions made after December 31, 2006, but  
23 prior to July 1, 2010, the transfer is treated as an eligible  
24 rollover distribution for purposes of Section 402(c)(11) of the

1 Internal Revenue Code of 1986, as amended. For plan years beginning  
2 after December 31, 2009, the transfer is treated as an eligible  
3 rollover distribution;

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; and

12 4. Notwithstanding the foregoing provisions of this section, to  
13 the extent permitted or required under the Worker, Retiree and  
14 Employer Recovery Act of 2008, Notice 2008-30, 2008-12 I.R.B. 638  
15 and/or any other regulatory guidance, effective for plan years  
16 beginning after December 31, 2009, a nonspouse designated  
17 beneficiary (as described in and in accordance with Section  
18 402(c)(11) of the Internal Revenue Code of 1986, as amended), may  
19 elect to have a direct trustee-to-trustee transfer of any portion of  
20 such beneficiary's distribution from the Oklahoma Firefighters  
21 Pension and Retirement System to a Roth 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 designated  
24 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 6. NEW LAW A new section of law not to be  
5 codified in the Oklahoma Statutes reads as follows:

6 With respect to the amendments in paragraph 14 of Section 49-  
7 100.1 of Title 11 of the Oklahoma Statutes contained in Section 1 of  
8 this act, the substitution of June 9, 2010, for January 1, 2008, as  
9 the effective date, shall be considered retroactive to June 9, 2010.

10 SECTION 7. NEW LAW A new section of law not to be  
11 codified in the Oklahoma Statutes reads as follows:

12 With respect to the amendment in paragraph 14 of Section 49-  
13 100.1 of Title 11 of the Oklahoma Statutes contained in Section 1 of  
14 this act, the word "limitation" shall be considered to have been  
15 deleted as of June 9, 2010.

16 SECTION 8. It being immediately necessary for the preservation  
17 of the public peace, health and safety, an emergency is hereby  
18 declared to exist, by reason whereof this act shall take effect and  
19 be in full force from and after its passage and approval.

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