

1 ENGROSSED SENATE  
BILL NO. 577

By: Brown of the Senate

and

McDaniel (Randy) of the  
House

7 An Act relating to compliance with Internal Revenue  
8 Service regulations; amending 11 O.S. 2001, Sections  
9 50-114, as last amended by Section 3, Chapter 437,  
10 O.S.L. 2010, 50-114.1, as last amended by Section 4,  
11 Chapter 437, O.S.L. 2010, 50-114.2, as last amended  
12 by Section 5, Chapter 437, O.S.L. 2010, and Section  
13 4, Chapter 152, O.S.L. 2007, as last amended by  
14 Section 6, Chapter 437, O.S.L. 2010 (11 O.S. Supp.  
15 2010, Sections 50-114, 50-114.1, 50-114.2 and 50-  
16 114.3), which relate to the Oklahoma Police Pension  
17 and Retirement System; specifying the System is  
18 treated as in compliance with certain requirements  
19 under certain conditions; updating statutory  
20 citation; modifying date regarding certain  
21 distributions; clarifying who is a distributee for  
22 certain distributions; allowing certain beneficiaries  
23 to make a direct rollover to a Roth IRA; clarifying  
24 effective dates regarding certain distributions;  
clarifying treatment of certain transfers; allowing  
certain beneficiaries to elect to make certain  
transfer; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 2001, Section 50-114, as  
last amended by Section 3, Chapter 437, O.S.L. 2010 (11 O.S. Supp.  
2010, Section 50-114), is amended to read as follows:

Section 50-114. A. The State Board is hereby authorized to pay  
out of funds in the System a monthly service pension to any member

1 eligible as hereinafter provided, not exceeding in any event the  
2 amount of money in such funds and not exceeding in any event the  
3 accrued retirement benefit for such member, except as provided for  
4 herein. In order for a member to be eligible for such service  
5 pension the following requirements must be complied with:

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

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

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

24

1 B. Any member complying with all requirements of this article,  
2 who reaches normal retirement date, upon application, shall be  
3 retired at the accrued retirement benefit. When a member has served  
4 for the necessary number of years and is otherwise eligible, as  
5 provided in this article, if such member is discharged without cause  
6 by the participating municipality, the member shall be eligible for  
7 a pension.

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

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

13 2. The actual retirement date of the member.

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

1 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,  
2 in accordance with the final regulations under Section 401(a)(9) of  
3 the Internal Revenue Code of 1986, as amended, which were issued in  
4 April 2002 and June 2004, notwithstanding any provision of the  
5 System to the contrary. Effective January 1, 2009, with respect to  
6 the Oklahoma Police Deferred Option Plan, to the extent applicable,  
7 no minimum distribution is required for 2009 in accordance with  
8 Section 401(a)(9)(H) of the Internal Revenue Code of 1986, as  
9 amended.

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

19 D. In the event of the death of any member who has been awarded  
20 a retirement benefit or is eligible therefor as provided in this  
21 section, such member's beneficiaries shall be paid such retirement  
22 benefit. The remaining portion of the member's retirement benefit  
23 shall be distributed to the beneficiaries at least as rapidly as  
24 under the method of distribution to the member. Effective March 1,

1 1997, if a member to whom a retirement benefit has been awarded or  
2 who is eligible therefor dies prior to the date as of which the  
3 total amount of retirement benefit paid equals the total amount of  
4 the employee contributions paid by or on behalf of the member and  
5 the member does not have a surviving beneficiary, the total benefits  
6 paid as of the date of the member's death shall be subtracted from  
7 the accumulated employee contribution amount and the balance, if  
8 greater than zero (0), shall be paid to the member's estate.

9 E. The State Board may review and affirm a member's request for  
10 retirement benefits prior to the member's normal retirement date  
11 provided that no retirement benefits are paid prior to the normal  
12 retirement date.

13 F. A member retired under the provisions of this article may  
14 apply to the State Board to have the member's retirement benefits  
15 set aside and may make application for disability benefits. Upon  
16 approval of the disability benefits, the member would become subject  
17 to all provisions of this article pertaining to disability  
18 retirement.

19 G. Upon the death of a retired member or a beneficiary, the  
20 benefit payment for the month in which the retired member or  
21 beneficiary died, if not previously paid, shall be made to the  
22 beneficiary of the member or to the member's or beneficiary's estate  
23 if there is no beneficiary. Such benefit payment shall be made in  
24

1 an amount equal to a full monthly benefit payment regardless of the  
2 day of the month in which the retired member or beneficiary died.

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

11 SECTION 2. AMENDATORY 11 O.S. 2001, Section 50-114.1, as  
12 last amended by Section 4, Chapter 437, O.S.L. 2010 (11 O.S. Supp.  
13 2010, Section 50-114.1), is amended to read as follows:

14 Section 50-114.1. A. For limitation years prior to July 1,  
15 2007, the limitations of Section 415 of the Internal Revenue Code of  
16 1986, as amended, shall be computed in accordance with the  
17 applicable provisions of the System in effect at that time and, to  
18 the extent applicable, Revenue Ruling 98-1 and Revenue Ruling 2001-  
19 51, except as provided below. Notwithstanding any other provision  
20 contained herein to the contrary, the benefits payable to a member  
21 from the System provided by employer contributions (including  
22 contributions picked up by the employer under Section 414(h) of the  
23 Internal Revenue Code of 1986, as amended) shall be subject to the  
24 limitations of Section 415 of the Internal Revenue Code of 1986, as

1 amended, in accordance with the provisions of this section. The  
2 limitations of this section shall apply in limitation years  
3 beginning on or after July 1, 2007, except as otherwise provided  
4 below.

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

18 1. The member's annual benefit is a benefit that is payable  
19 annually in the form of a straight life annuity. Except as provided  
20 below, where a benefit is payable in a form other than a straight  
21 life annuity, the benefit shall be adjusted to an actuarially  
22 equivalent straight life annuity that begins at the same time as such  
23 other form of benefit and is payable on the first day of each month,  
24 before applying the limitations of this section. For a member who

1 has or will have distributions commencing at more than one annuity  
2 starting date, the annual benefit shall be determined as of each such  
3 annuity starting date (and shall satisfy the limitations of this  
4 section as of each such date), actuarially adjusting for past and  
5 future distributions of benefits commencing at the other annuity  
6 starting dates. For this purpose, the determination of whether a new  
7 starting date has occurred shall be made without regard to Section  
8 1.401(a)-20, Q&A 10(d), and with regard to Section 1.415(b)-  
9 1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.

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

- 11 a. survivor benefits payable to a surviving spouse under a  
12 qualified joint and survivor annuity to the extent such  
13 benefits would not be payable if the member's benefit  
14 were paid in another form,
- 15 b. benefits that are not directly related to retirement  
16 benefits (such as a qualified disability benefit,  
17 preretirement incidental death benefits, and  
18 postretirement medical benefits), or
- 19 c. the inclusion in the form of benefit of an automatic  
20 benefit increase feature, provided the form of benefit  
21 is not subject to Section 417(e)(3) of the Internal  
22 Revenue Code of 1986, as amended, and would otherwise  
23 satisfy the limitations of this section, and the System  
24 provides that the amount payable under the form of

1 benefit in any limitation year shall not exceed the  
2 limits of this section applicable at the annuity  
3 starting date, as increased in subsequent years  
4 pursuant to Section 415(d) of the Internal Revenue Code  
5 of 1986, as amended. For this purpose, an automatic  
6 benefit increase feature is included in a form of  
7 benefit if the form of benefit provides for automatic,  
8 periodic increases to the benefits paid in that form.

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

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

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

- 1 a. a nondecreasing annuity (other than a straight life  
2 annuity) payable for a period of not less than the life  
3 of the member (or, in the case of a qualified  
4 preretirement survivor annuity, the life of the  
5 surviving spouse), or
- 6 b. an annuity that decreases during the life of the member  
7 merely because of:
- 8 (1) the death of the survivor annuitant (but only if  
9 the reduction is not below fifty percent (50%) of  
10 the benefit payable before the death of the  
11 survivor annuitant), or
- 12 (2) the cessation or reduction of Social Security  
13 supplements or qualified disability payments (as  
14 defined in Section 411(a)(9) of the Internal  
15 Revenue Code of 1986, as amended).
- 16 c. Limitation Years Beginning Before July 1, 2007. For  
17 limitation years beginning before July 1, 2007, the  
18 actuarially equivalent straight life annuity is equal  
19 to the annual amount of the straight life annuity  
20 commencing at the same annuity starting date that has  
21 the same actuarial present value as the member's form  
22 of benefit computed using whichever of the following  
23 produces the greater annual amount:
- 24

1 (1) the interest rate and the mortality table (or  
2 other tabular factor), each as set forth in  
3 subsection G of Section 50-105.4 of this title for  
4 adjusting benefits in the same form; and

5 (2) a five percent (5%) interest rate assumption and  
6 the applicable mortality table described in Rev.  
7 Rul. 2001-62 (or its successor for these purposes,  
8 if applicable) for that annuity starting date.

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

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

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

17 (2) the annual amount of the straight life annuity  
18 commencing at the same annuity starting date that  
19 has the same actuarial present value as the  
20 member's form of benefit, computed using a five  
21 percent (5%) interest rate assumption and the  
22 applicable mortality table described in Rev. Rul.  
23 2001-62 (or its successor for these purposes, if  
24 applicable) for that annuity 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 benefit  
5 is other than a benefit form described in paragraph 5 of this  
6 subsection. In this case, the actuarially equivalent straight life  
7 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 G  
21           of Section 50-105.4 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 Rev. Rul. 2001-62 (or its successor  
6 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 segment  
12 rates under Section 417(e)(3)(C) and (D) of  
13 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 Internal  
16 Revenue Code of 1986, as amended, for the  
17 fourth calendar month preceding the plan year  
18 in which falls the annuity starting date for  
19 the distribution and the stability period is  
20 the successive period of one (1) plan year  
21 which contains the annuity starting date for  
22 the distribution and for which the applicable  
23 interest rate remains constant, or as  
24 otherwise provided in the applicable guidance

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

5 (b) the applicable mortality table described in  
6 Rev. Rul. 2001-62 (or its successor for these  
7 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 G  
20 of Section 50-105.4 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 Rev. Rul. 2001-62 (or its successor  
5 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 day  
16 of the stability period, as specified below.  
17 The stability period is the successive period  
18 of one (1) plan year which contains the  
19 annuity starting date for the distribution  
20 and for which the applicable interest rate  
21 remains constant, and

22 (b) the applicable mortality table described in  
23 Rev. Rul. 2001-62 (or its successor for these  
24 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 produces  
12                  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 G of Section 50-105.4 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 Rev. Rul. 2001-62 (or its  
21                  successor for these purposes, if applicable).

22                  (2)   If the annuity starting date of the member's  
23                  benefit is on or after the first day of the first  
24                  plan year beginning in 2004 and before December

1 31, 2004, the application of this subparagraph b  
2 shall not cause the amount payable under the  
3 member's form of benefit to be less than the  
4 benefit calculated under the System, taking into  
5 account the limitations of this section, except  
6 that 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 produces  
12 the greatest annual amount:

13 (a) the interest rate and mortality table (or  
14 other tabular factor) each as set forth in  
15 subsection G of Section 50-105.4 of this  
16 title for adjusting benefits in the same  
17 form,

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

1 stability period, as specified below.

2 The stability period is the successive  
3 period of one (1) plan year which  
4 contains the annuity starting date for  
5 the distribution and for which the  
6 applicable interest rate remains  
7 constant, and

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

11 (c) (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 (1) plan year which  
21 contains the annuity starting date for  
22 the distribution and for which the  
23 applicable interest rate remains  
24 constant (as in effect on the last day

1 of the last plan year beginning before  
2 January 1, 2004, under provisions of the  
3 System then adopted and in effect), and  
4 (ii) the applicable mortality table described  
5 in Rev. Rul. 2001-62 (or its successor  
6 for these purposes, if applicable).

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

14 D. Adjustment of Dollar Limitation for Benefit Commencement  
15 Before Age Sixty-two (62) or After Age Sixty-five (65): Effective  
16 for benefits commencing in limitation years ending after December 31,  
17 2001, the dollar limitation under subsection B of this section shall  
18 be adjusted if the annuity starting date of the member's benefit is  
19 before age sixty-two (62) or after age sixty-five (65). If the  
20 annuity starting date is before age sixty-two (62), the dollar  
21 limitation under subsection B of this section shall be adjusted under  
22 paragraph 1 of this subsection, as modified by paragraph 3 of this  
23 subsection, but subject to paragraph 4 of this subsection. If the  
24 annuity starting date is after age sixty-five (65), the dollar

1 limitation under subsection B of this section shall be adjusted under  
2 paragraph 2 of this subsection, as modified by paragraph 3 of this  
3 subsection.

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

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

- 19 (1) the interest rate and the mortality table (or  
20 other tabular factor) each as set forth in  
21 subsection G of Section 50-105.4 of this title, or  
22 (2) a five-percent interest rate assumption and the  
23 applicable mortality table as described in Rev.  
24

1           Rul. 2001-62 (or its successor for these purposes,  
2           if applicable).

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

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

1 starting date as described in Rev. Rul. 2001-62  
2 (or its successor for these purposes, if  
3 applicable) (and expressing the member's age based  
4 on completed calendar months as of the annuity  
5 starting date).

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

1 amount of the immediately commencing straight life  
2 annuity under the System at age sixty-two (62),  
3 both determined without applying the limitations  
4 of this section.

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

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

- 20 (1) the interest rate and the mortality table (or  
21 other tabular factor) each as set forth in  
22 subsection G of Section 50-105.4 of this title, or  
23 (2) a five-percent interest rate assumption and the  
24 applicable mortality table as described in Rev.

1           Rul. 2001-62 (or its successor for these purposes,  
2           if applicable).

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

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

1 starting date as described in Rev. Rul. 2001-62  
2 (or its successor for these purposes, if  
3 applicable) (and expressing the member's age based  
4 on completed calendar months as of the annuity  
5 starting date).

6 (2) System Has Immediately Commencing Straight Life  
7 Annuity Payable at Both Age Sixty-five (65) and  
8 Age of Commencement. If the annuity starting date  
9 for the member's benefit is after age sixty-five  
10 (65) and occurs in a limitation year beginning on  
11 or after July 1, 2007, and the System has an  
12 immediately commencing straight life annuity  
13 payable at both age sixty-five (65) and the age of  
14 benefit commencement, the dollar limitation at the  
15 member's annuity starting date is the lesser of  
16 the limitation determined under division (1) of  
17 subparagraph b of this paragraph and the dollar  
18 limitation under subsection B of this section  
19 (adjusted under subsection C of this section for  
20 years of participation less than ten (10), if  
21 required) multiplied by the ratio of the annual  
22 amount of the adjusted immediately commencing  
23 straight life annuity under the System at the  
24 member's annuity starting date to the annual

1 amount of the adjusted immediately commencing  
2 straight life annuity under the System at age  
3 sixty-five (65), both determined without applying  
4 the limitations of this section. For this  
5 purpose, the adjusted immediately commencing  
6 straight life annuity under the System at the  
7 member's annuity starting date is the annual  
8 amount of such annuity payable to the member,  
9 computed disregarding the member's accruals after  
10 age sixty-five (65) but including actuarial  
11 adjustments even if those actuarial adjustments  
12 are used to offset accruals; and the adjusted  
13 immediately commencing straight life annuity under  
14 the System at age sixty-five (65) is the annual  
15 amount of such annuity that would be payable under  
16 the System to a hypothetical member who is age  
17 sixty-five (65) and has the same accrued benefit  
18 as the member.

19 3. Notwithstanding the other requirements of this subsection, no  
20 adjustment shall be made to the dollar limitation under subsection B  
21 of this section to reflect the probability of a member's death  
22 between the annuity starting date and age sixty-two (62), or between  
23 age sixty-five (65) and the annuity starting date, as applicable, if  
24 benefits are not forfeited upon the death of the member prior to the

1 annuity starting date. To the extent benefits are forfeited upon  
2 death before the annuity starting date, such an adjustment shall be  
3 made. For this purpose, no forfeiture shall be treated as occurring  
4 upon the member's death if the System does not charge members for  
5 providing a qualified preretirement survivor annuity, as defined in  
6 Section 417(c) of the Internal Revenue Code of 1986, as amended, upon  
7 the member's death.

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

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

18 1. The retirement benefits payable for a limitation year under  
19 any form of benefit with respect to such member under this System and  
20 under all other defined benefit plans (without regard to whether a  
21 plan has been terminated) ever maintained by a participating  
22 municipality do not exceed Ten Thousand Dollars (\$10,000.00)  
23 multiplied by a fraction:  
24

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

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

15           F.    In no event shall the maximum annual accrued retirement  
16 benefit of a member allowable under this section be less than the  
17 annual amount of such accrued retirement benefit, including early  
18 pension and qualified joint and survivor annuity amounts, duly  
19 accrued by the member as of the last day of the limitation year  
20 beginning in 1982, or as of the last day of the limitation year  
21 beginning in 1986, whichever is greater, disregarding any plan  
22 changes or cost-of-living adjustments occurring after July 1, 1982,  
23 as to the 1982 accrued amount, and May 5, 1986, as to the 1986  
24 accrued amount.

1 G. Effective for years beginning after December 31, 1997, if a  
2 member purchases service pursuant to Section 50-111.2 and Section  
3 50-111.4 of this title, which qualifies as "permissive service  
4 credit" pursuant to Section 415(n) of the Internal Revenue Code of  
5 1986, as amended, the limitations of Section 415 of the Internal  
6 Revenue Code of 1986, as amended, may be met by either:

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

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

12 H. Effective for years beginning after December 31, 1997, if a  
13 member repays to the System any amounts received because of such  
14 member's prior termination pursuant to subsection C of Section 50-  
15 111.1 of this title, such repayment shall not be taken into account  
16 for purposes of Section 415 of the Internal Revenue Code of 1986, as  
17 amended, pursuant to Section 415(k)(3) of the Internal Revenue Code  
18 of 1986, as amended.

19 I. For limitation years beginning on or after January 1, 1995,  
20 subsection C of this section, paragraph 1 of subsection D of this  
21 section, and the proration provided under subparagraphs a and b of  
22 paragraph 1 of subsection E of this section shall not apply to a  
23 benefit paid under the System as the result of the member becoming  
24 disabled by reason of personal injuries or sickness, or amounts

1 received by the beneficiaries, survivors or estate of the member as  
2 the result of the death of the member.

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

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

9 SECTION 3. AMENDATORY 11 O.S. 2001, Section 50-114.2, as  
10 last amended by Section 5, Chapter 437, O.S.L. 2010 (11 O.S. Supp.  
11 2010, Section 50-114.2), is amended to read as follows:

12 Section 50-114.2. A. This section applies to distributions  
13 made on or after January 1, ~~1993~~ 2002. Notwithstanding any  
14 provision of the System to the contrary that would otherwise limit a  
15 Distributee's election hereunder, a Distributee, including a  
16 nonspouse designated beneficiary, to the extent permitted under  
17 paragraph 3 of subsection B of this section, may elect, at the time  
18 and in the manner prescribed by the State Board, to have any portion  
19 of an Eligible Rollover Distribution paid directly to:

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

1 specified by the Distributee in a Direct Rollover.

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

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

20 a. from January 1, 2002, through December 31, 2006:

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

1 (2) in a direct trustee-to-trustee transfer, to a  
2 qualified trust which is part of a defined  
3 contribution plan that agrees to separately  
4 account for amounts so transferred, including  
5 separately accounting for the portion of such  
6 distribution which is includable in gross income  
7 and the portion of such distribution which is not  
8 so includable, and

9 b. on or after January 1, 2007:

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 or an annuity contract described  
15 in Section 403(b) of the Internal Revenue Code of  
16 1986, as amended, ~~if~~ and such trust or ~~annuity~~  
17 contract provides for separate accounting for  
18 amounts so transferred (and earnings thereon),  
19 including separately accounting for the portion  
20 of such distribution which is includable in gross  
21 income and the portion of such distribution which  
22 is not so includable.

23 Effective for distributions after December 31, 2007, such after-  
24 tax portion may also be directly transferred to a Roth IRA described

1 in Section 408A of the Internal Revenue Code of 1986, as amended,  
2 subject to any limitations described in Section 408A(c) of the  
3 Internal Revenue Code of 1986, as amended, that agrees to separately  
4 account for amounts so transferred, including separately accounting  
5 for the portion of such distribution which is includible in gross  
6 income and the portion of such distribution which is not so  
7 includible.

8 Notwithstanding the foregoing, effective January 1, 2009, to the  
9 extent applicable, if all or a portion of a distribution from the  
10 Oklahoma Police Deferred Option Plan during 2009 is treated as an  
11 Eligible Rollover Distribution pursuant to Section 402(c)(4) of the  
12 Internal Revenue Code of 1986, as amended, but would not be so  
13 treated if the minimum distribution requirements under Section  
14 401(a)(9) of the Internal Revenue Code of 1986, as amended, had  
15 applied during 2009, such distribution shall not be treated as an  
16 Eligible Rollover Distribution for purposes of Section 401(a)(31),  
17 Section 3405(c) or Section 402(f) of the Internal Revenue Code of  
18 1986, as amended;

19 2. "Eligible Retirement Plan" means an individual retirement  
20 account described in Section 408(a) of the Internal Revenue Code of  
21 1986, as amended, an individual retirement annuity described in  
22 Section 408(b) of the Internal Revenue Code of 1986, as amended, an  
23 annuity plan described in Section 403(a) of the Internal Revenue  
24 Code of 1986, as amended, or a qualified trust described in Section

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

11 3. "Distributee" means an employee or former employee. In  
12 addition, effective June 7, 1993, the employee's or former  
13 employee's surviving spouse and the employee's or former employee's  
14 spouse or former spouse who is the alternate payee under a qualified  
15 domestic order, as defined in subsection B of Section 50-124 of this  
16 title, are Distributees with regard to the interest of the spouse or  
17 the former spouse. Effective for distributions after December 31,  
18 2006, a Distributee also includes the member's nonspouse designated  
19 beneficiary (and certain trusts described in Section 402(c)(11)(B)  
20 of the Internal Revenue Code of 1986, as amended), pursuant to  
21 Section 401(a)(9)(E) of the Internal Revenue Code of 1986, as  
22 amended, who may ~~only~~ elect any portion of a payment to be made in a  
23 Direct Rollover ~~(to the extent such Distributee does not receive a~~  
24 ~~lump sum payment)~~ to an individual retirement account or annuity

1 (other than an endowment contract) described in Section 408(a) or  
2 (b) of the Internal Revenue Code of 1986, as amended, (IRA), that is  
3 established on behalf of such designated beneficiary and that will  
4 be treated as an inherited IRA pursuant to the provisions of Section  
5 402(c)(11) of the Internal Revenue Code of 1986, as amended. Also,  
6 in this case, the determination of any required minimum distribution  
7 under Section 401(a)(9) of the Internal Revenue Code of 1986, as  
8 amended, that is ineligible for rollover shall be made in accordance  
9 with Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395. The required  
10 minimum distribution rules of Section 401(a)(9)(B) (other than  
11 clause iv thereof) of the Internal Revenue Code of 1986, as amended,  
12 apply to the transferee IRA. Furthermore, to the extent permitted  
13 or required under the Worker, Retiree, and Employer Recovery Act of  
14 2008, Notice 2008-30, 2008-12 I.R.B. 638 and/or any other regulatory  
15 guidance, effective for plan years beginning after December 31,  
16 2009, a nonspouse designated beneficiary (as described in and in  
17 accordance with Section 402(c)(11) of the Internal Revenue Code of  
18 1986, as amended), may directly roll over a distribution to a Roth  
19 IRA; and

20 4. "Direct Rollover" means a payment by the System to the  
21 Eligible Retirement Plan specified by the Distributee or, effective  
22 for distributions on or after January 1, 2008, to a Roth IRA under  
23 Section 408A of the Internal Revenue Code of 1986, as amended, as  
24

1 specified by the Distributee (assuming the Distributee otherwise  
2 meets the Roth IRA requirements).

3 C. At least thirty (30) days before and, effective ~~January 1,~~  
4 ~~2007~~ for years beginning after December 31, 2006, not more than one  
5 hundred eighty (180) days before the date of distribution, the  
6 Distributee (other than a nonspouse designated beneficiary prior to  
7 ~~January~~ July 1, 2010) must be provided with a notice of rights which  
8 satisfies Section 402(f) of the Internal Revenue Code of 1986, as  
9 amended, as to rollover options and tax effects. Such distribution  
10 may commence less than thirty (30) days after the notice is given,  
11 provided that:

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

16 2. The Distributee, after receiving the notice, affirmatively  
17 elects a distribution.

18 D. ~~Prior~~ For distributions made after December 31, 2006, but  
19 prior to ~~January~~ July 1, 2010, a distribution with respect to a  
20 nonspouse designated beneficiary shall be made in accordance with  
21 Notice 2007-7, Q&A 15, 2007-5 Internal Revenue Bulletin 395.  
22 Effective ~~January 1, 2010~~ for plan years beginning after December  
23 31, 2009, a distribution with respect to a nonspouse designated  
24

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

3 SECTION 4. AMENDATORY Section 4, Chapter 152, O.S.L.  
4 2007, as last amended by Section 6, Chapter 437, O.S.L. 2010 (11  
5 O.S. Supp. 2010, Section 50-114.3), is amended to read as follows:

6 Section 50-114.3 A. An individual who has been designated,  
7 pursuant to Section 401(a)(9)(E) of the Internal Revenue Code of  
8 1986, as amended, as the beneficiary of a deceased member and who is  
9 not the surviving spouse of the member, may elect, in accordance  
10 with Section 402(c)(11) of the Internal Revenue Code of 1986, as  
11 amended, ~~and at the time and in the manner prescribed by the State~~  
12 ~~Board,~~ to have a direct trustee-to-trustee transfer of any portion  
13 of such beneficiary's ~~lump-sum~~ distribution from the System after  
14 December 31, 2006, made to an individual retirement account or  
15 individual retirement annuity (other than an endowment contract)  
16 described in Section 408(a) or (b) of the Internal Revenue Code of  
17 1986, as amended (IRA), that is established on behalf of such  
18 designated individual. If such transfer is made, then:

19 1. The For distributions made after December 31, 2006, but  
20 prior to July 1, 2010, the transfer is treated as an eligible  
21 rollover distribution for purposes of Section 402(c)(11) of the  
22 Internal Revenue Code of 1986, as amended. For plan years beginning  
23 after December 31, 2009, the transfer is treated as an eligible  
24 rollover distribution;

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

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

9        4. Notwithstanding the foregoing provisions of this section, to  
10 the extent permitted or required under the Worker, Retiree, and  
11 Employer Recovery Act of 2008, Notice 2008-30, 2008-12 I.R.B. 638  
12 and/or any other regulatory guidance, effective for plan years  
13 beginning after December 31, 2009, a nonspouse designated  
14 beneficiary (as described in and in accordance with Section  
15 402(c)(11) of the Internal Revenue Code of 1986, as amended), may  
16 elect to have a direct trustee-to-trustee transfer of any portion of  
17 such beneficiary's distribution from the System to a Roth IRA.

18        B. A trust maintained for the benefit of one or more designated  
19 beneficiaries shall be treated in the same manner as a designated  
20 beneficiary.

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

23        SECTION 5. It being immediately necessary for the preservation  
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

3 Passed the Senate the 1st day of March, 2011.

4

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

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7 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
8 2011.

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Presiding Officer of the House  
of Representatives

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