

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 59th Legislature (2024)

4   HOUSE BILL 4051

By: May

7                               AS INTRODUCED

8           An Act relating to retirement; amending 11 O.S. 2021,  
9           Section 49-138, which relates to the Firefighters  
10          Pension and Retirement System; providing for the  
            purchase of military service credit; and providing an  
            effective date.

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

15           SECTION 1.       AMENDATORY       11 O.S. 2021, Section 49-138, is  
16   amended to read as follows:

17           Section 49-138.   A.   Any member of a regularly constituted fire  
18   department of any municipality who is now serving or may hereafter  
19   serve in the Armed Forces of the United States whether such service  
20   is voluntary or involuntary, who shall have been a member of such  
21   fire department at the time of entering such service, shall be  
22   entitled to have the whole of the time of such service applied under  
23   the provisions of Section 49-106 of this title, so far as the same  
24   applies to a service pension; provided further, that the

1 municipality shall continue its payment into said pension fund, to  
2 the same force and effect as though the member were in the actual  
3 service of such fire department; provided, that any person who is  
4 eligible for such service but who shall have volunteered for  
5 military or naval service for a period not to exceed five (5) years  
6 shall likewise be entitled to all of the benefits of Sections 49-138  
7 through 49-142 of this title for the full period of such service or  
8 enlistment; provided further, that only one such period of voluntary  
9 service shall be considered hereunder. If such person shall  
10 reenlist, unless required to do so by law, such person shall not  
11 thereafter be entitled to the provisions of this subsection. The  
12 provisions of this subsection shall not apply where any such person  
13 dies during the period of said service or enlistment, and shall not  
14 entitle the surviving spouse or children to any benefits, and shall  
15 not apply to any member who shall have served on active duty  
16 (including initial active duty) for training purposes only and/or  
17 inactive duty training.

18 B. Effective February 1, 1997, credited service received  
19 pursuant to this section or credited service for wartime military  
20 service received as otherwise provided by law shall be used in  
21 determining the member's retirement benefit but shall not be used in  
22 determining years of service for retirement, vesting purposes or  
23 eligibility for participation in the Oklahoma Firefighters Deferred  
24 Option Plan. For a member of the System hired on or after July 1,

1 2003, if the military service credit authorized by this section is  
2 used to compute the retirement benefit of the member and the member  
3 retires from the System, such military service credit shall not be  
4 used to compute the retirement benefit in any other retirement  
5 system created pursuant to the Oklahoma Statutes and the member may  
6 receive credit for such service only in the retirement system from  
7 which the member first retires.

8 C. A member who served in the Armed Forces of the United States  
9 or any component thereof and who was honorably discharged may  
10 receive up to five (5) years of prior or participating military  
11 service credit, only upon payment of the actuarial cost of service  
12 credit as determined by the Oklahoma Firefighters Pension and  
13 Retirement Board pursuant to Section 49-117.3 of this title.

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

20 For purposes of this subsection, "military service" means  
21 service in the Armed Forces of the United States by honorably  
22 discharged persons during the following time periods, as reflected  
23 on such person's Defense Department Form 214, as follows:  
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1        1. During the following periods, including the beginning and  
2 ending dates, and only for the periods served, from:

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

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

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

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

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

13                (1) for the period from February 28, 1961, to August  
14 4, 1964, military service shall only include  
15 service in the Republic of Vietnam during that  
16 period, and

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

20            f. August 1, 1990, to December 31, 1991, commonly  
21 referred to as the Gulf War, the Persian Gulf War, or  
22 Operation Desert Storm, but excluding any person who  
23 served on active duty for training only, unless  
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1 discharged from such active duty for a service-  
2 connected disability;

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

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

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

12 ~~E~~ F. Notwithstanding any provision herein to the contrary:

13 1. Contributions, benefits and service credit with respect to  
14 qualified military service shall be provided in accordance with  
15 Section 414(u) of the Internal Revenue Code of 1986, as amended,  
16 which is in accordance with the Uniformed Services Employment and  
17 Reemployment Rights Act of 1994, as amended (USERRA); and

18 2. Effective January 1, 2007, if any member dies while  
19 performing qualified military service (as defined in Section 414(u)  
20 of the Internal Revenue Code of 1986, as amended), the survivors of  
21 the member are entitled to any additional benefits (other than  
22 benefits accruals relating to the period of qualified military  
23 service) provided under the System had the member resumed and then  
24 terminated employment on account of death.

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

9       SECTION 2. This act shall become effective November 1, 2024.

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11 COMMITTEE REPORT BY: COMMITTEE ON BANKING, FINANCIAL SERVICES AND  
12 PENSIONS, dated 02/27/2024 - DO PASS.  
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