

1 ENGROSSED SENATE
2 BILL NO. 1989

By: Brown of the Senate

3 and

4 Sullivan of the House

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

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

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

20 SECTION 1. AMENDATORY 11 O.S. 2001, Section 50-101, as
21 last amended by Section 1, Chapter 169, O.S.L. 2009 (11 O.S. Supp.
22 2009, Section 50-101), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 2. The actual retirement date of the member.

4 For distributions made for calendar years beginning on or after
5 January 1, 2001 through December 31, 2004, the System shall apply
6 the minimum distribution requirements and incidental benefit
7 requirements of Section 401(a)(9) of the Internal Revenue Code of
8 1986, as amended, in accordance with the regulations under Section
9 401(a)(9) of the Internal Revenue Code of 1986, as amended, which
10 were proposed on January 17, 2001, notwithstanding any provision of
11 the System to the contrary. For distributions made for calendar
12 years beginning on or after January 1, 2005, the System shall apply
13 the minimum distribution incidental benefit requirements, incidental
14 benefit requirements, and minimum distribution requirements of
15 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
16 in accordance with the final regulations under Section 401(a)(9) of
17 the Internal Revenue Code of 1986, as amended, which were issued in
18 April 2002 and June 2004, notwithstanding any provision of the
19 System to the contrary. Effective January 1, 2009, with respect to
20 the Oklahoma Police Deferred Option Plan, to the extent applicable,
21 no minimum distribution is required for 2009 in accordance with
22 Section 401(a)(9)(H) of the Internal Revenue Code of 1986, as
23 amended.
24

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

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

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

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

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

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

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

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

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

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

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

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

- 17 a. survivor benefits payable to a surviving spouse under
18 a qualified joint and survivor annuity to the extent
19 such benefits would not be payable if the member's
20 benefit were paid in another form,
- 21 b. benefits that are not directly related to retirement
22 benefits (such as a qualified disability benefit,
23 preretirement incidental death benefits, and
24 postretirement medical benefits), or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 6 (a) the interest rate and the mortality table
7 (or other tabular factor) each as set forth
8 in subsection G of Section 50-105.4 of this
9 title for adjusting benefits in the same
10 form, and
11 (b) a five and one-half percent (5.5%) interest
12 rate assumption and the applicable mortality
13 table described in Rev. Rul. 2001-62 (or its
14 successor for these purposes, if
15 applicable).

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

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

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

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

1 applicable interest rate remains
2 constant, and

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

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

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

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

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

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

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

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

3 dollar limitation under subsection B of this section shall be

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

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

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

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

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

9 paragraph 3 of this subsection.

10 1. Adjustment of Defined Benefit Dollar Limitation for Benefit

11 Commencement Before Age Sixty-two (62):

12 a. Limitation Years Beginning Before July 1, 2007. If

13 the annuity starting date for the member's benefit is

14 prior to age sixty-two (62) and occurs in a limitation

15 year beginning before July 1, 2007, the dollar

16 limitation for the member's annuity starting date is

17 the annual amount of a benefit payable in the form of

18 a straight life annuity commencing at the member's

19 annuity starting date that is the actuarial equivalent

20 of the dollar limitation under subsection B of this

21 section (adjusted under subsection C of this section

22 for years of participation less than ten (10), if

23 required) with actuarial equivalence computed using

24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 1. An Eligible Retirement Plan; or

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

11 specified by the Distributee in a Direct Rollover.

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

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

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

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

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

9 Internal Revenue Code of 1986, as amended, or

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

11 qualified trust which is part of a defined

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

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

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

15 account for amounts so transferred, including

16 separately accounting for the portion of such

17 distribution which is includable in gross income

18 and the portion of such distribution which is not

19 so includable, and

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

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

23 Internal Revenue Code of 1986, as amended, or

24

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

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

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

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

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

1 3. "Distributee" means an employee or former employee. In
2 addition, effective June 7, 1993, the employee's or former
3 employee's surviving spouse and the employee's or former employee's
4 spouse or former spouse who is the alternate payee under a qualified
5 domestic order, as defined in subsection B of Section 50-124 of this
6 title, are Distributees with regard to the interest of the spouse or
7 the former spouse. Effective for distributions after December 31,
8 2006, a Distributee also includes the member's nonspouse designated
9 beneficiary, pursuant to Section 401(a)(9)(E) of the Internal
10 Revenue Code of 1986, as amended. ~~In the case of a nonspouse~~
11 ~~beneficiary, the, who may only elect a Direct Rollover may be made~~
12 ~~only~~ (to the extent such Distributee does not receive a lump sum
13 payment) to an individual retirement account or annuity (other than
14 an endowment contract) described in Section 408(a) or (b) of the
15 Internal Revenue Code of 1986, as amended, (IRA), that is
16 established on behalf of such designated beneficiary and that will
17 be treated as an inherited IRA pursuant to the provisions of Section
18 402(c)(11) of the Internal Revenue Code of 1986, as amended. Also,
19 in this case, the determination of any required minimum distribution
20 under Section 401(a)(9) of the Internal Revenue Code of 1986, as
21 amended, that is ineligible for rollover shall be made in accordance
22 with Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395. The required
23 minimum distribution rules of Section 401(a)(9)(B) (other than
24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23

24

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

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

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

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

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

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

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

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

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

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

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

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

4 6. a. "Member" means:

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

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

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

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

24

- 1 (5) employees of the Communications Section of the
2 Oklahoma Highway Patrol Division, radio
3 technicians, and tower technicians of the
4 Department of Public Safety, who are employed in
5 any such capacity as of June 30, 2008, and who
6 remain employed on or after July 1, 2008, until a
7 termination of service, or until a termination of
8 service with an election of a vested benefit from
9 the System, or until retirement. Effective July
10 1, 2008, a person employed for the first time as
11 an employee of the Department of Public Safety in
12 the Communications Division as an information
13 systems telecommunication technician of the
14 Department of Public Safety shall not be a member
15 of the System,
- 16 (6) park rangers of the Oklahoma Tourism and
17 Recreation Department and any park manager or
18 park supervisor of the Oklahoma Tourism and
19 Recreation Department who was employed in such a
20 position prior to July 1, 1985, and who elects on
21 or before September 1, 1996, to participate in
22 the System, and
- 23 (7) inspectors of the Board of Pharmacy.
24

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

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

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

- 1 (2) said physical-medical examination shall pertain
2 to age, sight, hearing, agility and other
3 conditions the requirements of which shall be
4 established by the Board,
- 5 (3) the person shall be required to meet the
6 conditions of this subsection prior to the
7 beginning of actual employment but after an offer
8 of employment has been tendered by a
9 participating employer,
- 10 (4) the Board shall have authority to deny or revoke
11 membership of any person submitting false
12 information in such person's membership
13 application, and
- 14 (5) the Board shall have final authority in
15 determining eligibility for membership in the
16 System, pursuant to the provisions of this
17 subsection;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 B. As used in this section:

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

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

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

21 Internal Revenue Code of 1986, as amended, or

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

23 qualified trust which is part of a defined

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

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

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

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

11 Internal Revenue Code of 1986, as amended, or

12 (2) in a direct trustee-to-trustee transfer to a
13 qualified trust ~~described in Section 401(a) or~~
14 ~~403(a) of the Internal Revenue Code of 1986, as~~
15 ~~amended~~, or an annuity contract described in

16 Section 403(b) of the Internal Revenue Code of
17 1986, as amended, and such trust or annuity

18 contract provides for separate accounting for
19 amounts so transferred (and earnings thereon),

20 including separately accounting for the portion

21 of such distribution which is includable in gross
22 income and the portion of such distribution which

23 is not so includable.
24

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

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

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

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

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

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

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

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

22 2. The Distributee, after receiving the notice, affirmatively
23 elects a distribution.
24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 17 a. survivor benefits payable to a surviving spouse under
18 a qualified joint and survivor annuity to the extent
19 such benefits would not be payable if the member's
20 benefit were paid in another form,
- 21 b. benefits that are not directly related to retirement
22 benefits (such as a qualified disability benefit,
23 preretirement incidental death benefits) and
24 postretirement medical benefits, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 a. Annuity Starting Date in Plan Years Beginning After
18 ~~2005~~ December 31, 2007 (Plan Years beginning on or
19 after July 1, 2008). If the annuity starting date of
20 the member's form of benefit is in a plan year
21 beginning after ~~2005~~ December 31, 2007, the
22 actuarially equivalent straight life annuity is equal
23 to the greatest of (1), (2) or (3) below:
24

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

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

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

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

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

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

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

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

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

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

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

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

13 ~~b.~~

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

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

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

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

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

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

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

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

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

24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (b) In the event a member of the System obtains a leave of
13 absence for the purpose of accepting other employment, or if a
14 member resigns and during such resignation accepts other employment,
15 the member's membership in the System shall terminate as of the date
16 of the beginning of such leave. Provided, that if the membership of
17 a member of the System shall have been terminated either by such
18 leave of absence or by termination of employment, and such former
19 member is reemployed, the Board, upon application therefor made in
20 the same manner as an original application for membership in the
21 System, may reinstate such membership. Such reinstated member shall
22 be allowed full credit toward retirement for all service credit
23 accrued up to the time of termination of membership if, but only if:
24

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

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

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

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

12 a. a cash lump-sum payment,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15

16

Presiding Officer of the Senate

17

18 Passed the House of Representatives the ____ day of _____,
19 2010.

20

21

Presiding Officer of the House
of Representatives

22

23

24