



State of Alaska

TRS Statutes

January
2010

Including the:

- ✧ *Teachers' Retirement System*
- ✧ *Group Health and Life Insurance Plan*

*The statutes in this handbook
are current as of December 31, 2009.
Amendments occurring after that date may
be found in the Alaska Statutes and
Alaska Administrative Code.*

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Alaska Statutes

TITLE 14. EDUCATION

CHAPTER 14.25. TEACHERS' RETIREMENT SYSTEM OF ALASKA

Administrative Code - For teachers' retirement system, see 2 AAC 36.

For major medical insurance, see 2 AAC 39, art. 3.

For appeals from denials of medical claims under the medical coverage provided by the teachers' retirement system, see 2 AAC 39, art. 5.

Editors Notes - In general, a person's right to benefits under the state's public employee retirement systems vests when the person joins the system. *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981). Therefore, former law may govern the benefits of some members of the teachers' retirement system. The user is advised to ascertain which version of a particular statute is applicable. Earlier versions of the statutes can be found in prior editions of the Alaska Statutes or in the published Session Laws of Alaska.

History Reports - For governor's transmittal letter for ch. 92, SLA 2004 (SB 232), making a series of amendments to this chapter to ensure compliance with federal Internal Revenue Service changes that maintain the retirement system as a qualified plan, see 2003 Senate Journal 1722 - 1723.

AG Opinions - There is a strong probability that the Alaska courts would find a diversion of retirement funds for other purposes to be violative of the Alaska constitution and would in addition find the governor bound by statute to include employer contributions in his budget. Therefore, it is strongly recommended that any budget submitted by the governor contain the prescribed funds. December 2, 1992 Op. Att'y Gen.

Collateral Refs - 60A Am. Jur. 2d Pensions and Retirement Funds, Sec. 13-32.

78 C.J.S. Schools and School Districts, Sec. 338 et seq.

ARTICLE 01. ADMINISTRATION OF THE TEACHERS' RETIREMENT SYSTEM

SEC. 14.25.001. PURPOSE.

The purpose of this chapter is to encourage qualified teachers to enter and remain in service with participating employers by establishing plans for the payment of retirement, disability, and death benefits to or on behalf of the members.

History - (Sec. 1 ch 9 FSSLA 2005)

SEC. 14.25.002. ATTORNEY GENERAL.

The attorney general of the state is the legal counsel for the system and shall advise the administrator and represent the system in a legal proceeding.

History - (Sec. 1 ch 9 FSSLA 2005)

SEC. 14.25.003. ADMINISTRATOR.

(a) The commissioner of administration or the commissioner's designee is the administrator of the system.

(b) The commissioner of administration shall adopt regulations to govern the operation of the system.

History - (Sec. 1 ch 9 FSSLA 2005)

SEC. 14.25.004. POWERS AND DUTIES OF THE ADMINISTRATOR.

(a) The administrator shall

- (1) establish and maintain an adequate system of accounts;
- (2) transmit the funds deposited in the system to the retirement fund established and maintained by the Alaska Retirement Management Board;
- (3) approve or disapprove claims for retirement benefits;
- (4) make payments for the various purposes specified;
- (5) submit periodic reports or statements of account that are needed;
- (6) issue a statement of account to an employee not less than once each year showing the amount of the employee's contributions to the applicable plan in the system;

(7) formulate and recommend to the commissioner of administration regulations to govern the operation of the system;

(8) as soon as possible after the close of each fiscal year, and not later than six months after the close of each fiscal year, send to the governor and the legislature an annual statement on the operations of each of the plans in the system containing

(A) a balance sheet;

(B) a statement of income and expenditures for the previous fiscal year;

(C) a report on valuation of trust fund assets;

(D) a summary of assets held in the trust fund listed by the categories of investment, as provided by the Alaska Retirement Management Board;

(E) other statistical financial data that are necessary for proper understanding of the financial condition of the system as a whole and each plan in the system and the result of its operations;

(9) engage an independent certified public accountant to conduct an annual audit of each plan's accounts and the annual report of the system's financial condition and activity;

(10) report to the Legislative Budget and Audit Committee concerning the condition and administration of each plan and distribute the report to the members of each plan in the system;

(11) publish an information handbook for each plan in the system at intervals that the administrator considers appropriate;

(12) meet at least annually with the board to review the condition and management of the retirement systems and to review significant changes to policies, regulations, or benefits; and

(13) do whatever else may be necessary to carry out the purposes of each plan in the system.

(b) The administrator is authorized to charge fees necessary to members' accounts to cover the ongoing cost of operating each plan in the system.

(c) The administrator is authorized to contract with public and private entities to provide record keeping, benefits payments, and other functions necessary for the administration of each plan in the system.

History - (Sec. 1 ch 9 FSSLA 2005)

SEC. 14.25.005. REGULATIONS.

(a) Regulations adopted by the commissioner of administration under this chapter relate to the internal management of a state agency, and the adoption of the regulations is not subject to AS 44.62 (Administrative Procedure Act).

(b) Notwithstanding (a) of this section, a regulation adopted under this chapter shall be published in the Alaska Administrative Register and Code for informational purposes.

(c) Each regulation adopted under this chapter must conform to the style and format requirements of the drafting manual for administrative regulations that is published under AS 44.62.050.

(d) At least 30 days before the adoption, amendment, or repeal of a regulation under this chapter, the commissioner of administration shall provide notice of the action that is being considered. The notice shall be

(1) posted in public buildings throughout the state;

(2) published in one or more newspapers of general circulation in each judicial district of the state;

(3) mailed to each person or group that has filed a request for notice of proposed action with the commissioner of administration; and

(4) furnished to each member of the legislature and to the Legislative Affairs Agency.

(e) Failure to mail notice to a person as required under (d)(3) of this section does not invalidate an action taken by the commissioner of administration.

(f) The commissioner of administration may hold a hearing on a proposed regulation.

(g) A regulation adopted under this chapter takes effect 30 days after adoption by the commissioner of administration.

(h) Notwithstanding the other provisions of this section, a regulation may be adopted, amended, or repealed, effective immediately, as an emergency regulation by the commissioner of administration. For an emergency regulation to be effective, the commissioner must find that the adoption, amendment, or repeal of the regulation is necessary for the immediate preservation of the orderly operation of the system. The commissioner shall, within 10 days after

adoption of an emergency regulation, give notice of the adoption under (d) of this section.

(i) In this section, "regulation" has the meaning given in AS 44.62.640(a).

History - (Sec. 1 ch 9 FSSLA 2005)

SEC. 14.25.006. APPEALS.

An employer, member, annuitant, or beneficiary may appeal a decision made by the administrator to the office of administrative hearings established under AS 44.64. An aggrieved party may appeal a final decision to the superior court.

History - (Sec. 1 ch 9 FSSLA 2005)

SEC. 14.25.007. INVESTMENT MANAGEMENT OF RETIREMENT SYSTEM FUNDS.

The Alaska Retirement Management Board established under AS 37.10.210 is the fiduciary of the system funds.

History - (Sec. 1 ch 9 FSSLA 2005)

SEC. 14.25.008. DEFINITIONS.

In AS 14.25.001 - 14.25.008,

(1) "plan" means a retirement plan established in AS 14.25.009 - 14.25.220 or the retirement plan established in AS 14.25.310 - 14.25.590;

(2) "system" means all retirement plans established under the teachers' retirement system.

History - (Sec. 1, 2 ch 9 FSSLA 2005)

Amendment Notes - The 2005 amendment, effective July 1, 2006, substituted "in AS 14.25.009 - 14.25.220 or the retirement plan established in AS 14.25.310 - 14.25.590" for "in this chapter" in paragraph (1).

ARTICLE 02. TEACHERS' DEFINED BENEFIT RETIREMENT PLAN

SEC. 14.25.009. APPLICABILITY OF AS 14.25.009 - 14.25.220.

The provisions of AS 14.25.009 - 14.25.220 apply only to members first hired before July 1, 2006.

History - (Sec. 3 ch 9 FSSLA 2005)

Article Notes - Legislative History Reports. For governor's transmittal letter for ch. 20, SLA 2007 (SB 123), proposing needed corrections and clarifications of statutes enacted as part of the 2005 legislation establishing defined contributions retirement plans and making related amendments to defined benefit retirement plans, see 2007 Senate Journal 567 - 570.

SEC. 14.25.010. RETIREMENT PLAN ESTABLISHED; FEDERAL QUALIFICATION REQUIREMENTS.

(a) A joint-contributory retirement plan for teachers of the state is created.

(b) The retirement plan established by AS 14.25.009 - 14.25.220 is intended to qualify under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified retirement plan established and maintained by the state for its employees, for the employees of school districts and regional educational attendance areas in the state, and for the employees of other employers whose participation is authorized by AS 14.25.009 - 14.25.220 and who participate in this plan.

(c) An amendment to AS 14.25.009 - 14.25.220 does not provide a person with a vested right to a benefit if the Internal Revenue Service determines that the amendment will result in disqualification of the plan under the Internal Revenue Code.

History - (Sec. 1 ch 145 SLA 1955; am Sec. 1 ch 89 SLA 1960; am Sec. 1 ch 59 SLA 2002; am Sec. 2 ch 92 SLA 2004; am Sec. 4 ch 9 FSSLA 2005)

Amendment Notes - The 2004 amendment, effective June 26, 2004, added subsection (c).

The 2005 amendment, effective July 28, 2005, substituted "plan" for "system" in three places and updated section references.

Decisions - Applicability of benefits to same-sex couples. - Employee benefits programs, which included the benefits for retired teachers described in this article, were held violative of the rights of same-sex couples under Alaska

Const. art. XII, Sec. 6, where programs covered married public employees but not domestic partners. *Alaska Civ. Liberties Union v. State*, 122 P.3d 781 (Alaska 2005).

Cited in *Duncan v. Retired Pub. Empls. of Alaska, Inc.*, 71 P.3d 882 (Alaska 2003).

SEC. 14.25.012. PURPOSE AND EFFECTIVE DATE.

(a) [Repealed, Sec. 132 ch 9 FSSLA 2005].

(b) The plan created in AS 14.25.009 - 14.25.220 became effective as of July 1, 1955, at which time contributions by the participating employers and members began.

(c) Employees first hired after June 30, 2006, are not eligible to participate in the plan established in AS 14.25.009 - 14.25.220.

History - (Sec. 1 ch 13 SLA 1980; am Sec. 5, 6, 132 ch 9 FSSLA 2005)

Amendment Notes - The 2005 amendment, effective July 28, 2005, repealed subsection (a); substituted "plan" for "system" and updated section references in subsection (b); and added subsection (c).

Decisions - Applied in *Pub. Empls. Ret. Sys. v. Gallant*, 153 P.3d 346 (Alaska 2007).

SEC. 14.25.015. - 14.25.037L ADMINISTRATOR; POWERS OF THE ADMINISTRATOR; REGULATIONS; DUTIES OF THE ADMINISTRATOR; TEACHERS' RETIREMENT BOARD; HEARINGS. [REPEALED, SEC. 132 CH 9 FSSLA 2005].

Repealed or Renumbered

SEC. 14.25.040. MEMBERSHIP; CREDITED SERVICE.

(a) Unless a teacher or member participates in a university retirement program under AS 14.40.661 - 14.40.799 or has elected under AS 14.25.540 to participate in the plan established in AS 14.25.310 - 14.25.590, a teacher or member contracting for service with a participating employer is subject to AS 14.25.009 - 14.25.220.

(b) A state legislator who was an active member of this plan under other sections of AS 14.25.009 - 14.25.220 within the 12 months immediately preceding election to office may elect to be an active member of this plan for as long as the state legislator serves continuously as a state legislator subject

to the requirements of (c) of this section, if, within 90 days after taking the oath of office,

(1) the state legislator directs the employer in writing to

(A) pay into this plan the employer contributions required for a member under AS 14.25.009 - 14.25.220; and

(B) deduct from the state legislator's salary and pay into this plan

(i) the employee contributions required for a member under AS 14.25.009 - 14.25.220; and

(ii) an amount equal to the difference between the total employer and state contributions required for a member under AS 14.25.009 - 14.25.220 and the employer contributions which would be required under the public employees' retirement system (AS 39.35) if the legislator were covered under that system; and

(2) notice is given the administrator in writing.

(c) A state legislator is not entitled to elect membership under (b) of this section if the state legislator is covered for the same period of service under the public employees' retirement system (AS 39.35). An election of membership under (b) of this section is retroactive to the date the state legislator took the oath of office. A state legislator may not receive membership credit under (b) of this section for legislative service performed before the legislative session during which the state legislator elected membership under (b) of this section. In order to continue in membership service under (b) of this section, the state legislator must earn at least 0.3 years of membership service under other sections of AS 14.25.009 - 14.25.220 during each five-year period. A state legislator may not receive membership credit under AS 14.25.009 - 14.25.220 for legislative service on or after the date the legislator commits a criminal offense from which a pension forfeiture under AS 37.10.310 results.

(d) A person who is employed at least half-time in the plan during the same period that the person is employed at least half-time in a position in the public employees' retirement plan under AS 39.35.095 - 39.35.680 shall receive credited service under each plan for half-time employment. However, the amount of credited service a person receives under the public employees' retirement plan during a school year may not exceed the amount necessary, when added to the amount of credited service earned during the school year under the plan, to equal one year of credited service. A person who was employed at least half-time in a position in the public employees' retirement plan under AS 39.35.095 - 39.35.680 in the same period that the person was employed at least half-time in a position in this plan may claim credited service

in both plans for employment before May 31, 1989. To obtain this credited service, the person shall claim the service and verify the period of half-time employment. When eligibility for half-time service credit has been established, an indebtedness shall be determined to the retirement plan in which the person did not participate. The amount of the indebtedness is the full actuarial cost of providing benefits for the credited service claimed. Interest as prescribed by regulation accrues on that indebtedness beginning on the later of July 1, 1989, or the date on which the member is first eligible to claim the service. Any outstanding indebtedness existing at the time the person retires will require an actuarial adjustment to the benefits payable based on that service.

(e) A teacher who is assaulted while on the job, who files for benefits under AS 23.30, and who, as a result of a physical injury from the assault, is placed on leave without pay, whether or not the teacher is receiving benefits under AS 23.30 for the injury, is entitled to accrue credited service while the teacher, because of the injury, is on leave-without-pay status or is receiving workers' compensation benefits under AS 23.30. Entitlement to earn credited service under this subsection ends when the teacher is eligible to receive benefits under AS 14.25.110(a) or 14.25.130(a).

History - (Sec. 5 ch 145 SLA 1955; am Sec. 1 ch 86 SLA 1963; am Sec. 1 ch 151 SLA 1966; am Sec. 1 ch 85 SLA 1971; am Sec. 1 ch 66 SLA 1973; am Sec. 1 ch 169 SLA 1976; am Sec. 1 ch 82 SLA 1979; am Sec. 1 ch 58 SLA 1989; am Sec. 1 ch 104 SLA 1989; am Sec. 1 ch 52 SLA 2000; am Sec. 2, 3 ch 57 SLA 2001; am Sec. 4 ch 58 SLA 2001; am Sec. 7 - 9 ch 9 FSSLA 2005; am Sec. 3 ch 47 SLA 2007)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, in this section "AS 14.25.009 - 14.25.220" was substituted for "this chapter" and "plan" was substituted for "system".

Amendment Notes - The 2001 amendment by Sec. 3 and 15, ch. 57, SLA 2001, as amended by Sec. 17, ch. 50, SLA 2005, and as reconciled with Sec. 8, ch. 9, FSSLA 2005, effective July 1, 2009, in (a), deleted ", has filed an election under AS 14.25.043(b)" preceding "or has elected".

The 2005 amendment by Sec. 7 and 9, ch 9, FSSLA 2005, effective July 28, 2005, in subsection (a) substituted "participates in a" for "has elected to participate in the optional" and updated section references; and in subsection (d) substituted "plan" for "system" throughout and updated section references; and effective July 1, 2006, inserted "or has elected under AS 14.25.540 to participate in the plan established in AS 14.25.310 - 14.25.590" in subsection (a).

The 2005 amendment by Sec. 8, ch 9, FSSLA 2005, effective July 1, 2006, inserted "or has elected under AS 14.25.540 to participate in the plan established in AS 14.25.310 - 14.25.590" near the middle of subsection (a).

The 2007 amendment, effective July 10, 2007, added the last sentence of subsection (c).

SEC. 14.25.043. REEMPLOYMENT OF RETIRED MEMBERS.

(a) If a retired member again becomes an active member, benefit payments may not be made during the period of reemployment. The retirement benefit must be suspended for the entire school year if the teacher is reemployed as an active teacher for a period equivalent to a year of service. During the period of reemployment, deductions from the member's salary will be made in accordance with AS 14.25.050.

(b) [Repealed, Sec. 12 ch 57 SLA 2001 as amended by Sec. 6 ch 15 SLA 2003 and Sec. 10 ch 50 SLA 2005].

(c) Upon subsequent retirement, the retired member is entitled to receive an additional benefit based on the credited service and the average base salary during the period of reemployment in accordance with AS 14.25.110. If the initial benefit payments to which the retired member is eligible have been actuarially reduced because the member retired early under AS 14.25.110(b), the member shall also receive an incremental benefit based on the amount of the actuarial reduction imposed by AS 14.25.110(j) on the first benefit and the length of time that the employee was reemployed and not receiving retirement benefits. The amount of the incremental benefit is equal to the difference between the normal retirement benefit to which the member would have been entitled had the member taken a normal retirement and the early retirement benefit that the member has been receiving based on the member's initial period of employment multiplied by the total number of months that the member did not receive retirement benefits because of reemployment and that amount actuarially adjusted to be paid over the expected lifetime of the member.

(d) A member who retired under AS 14.25.110(a) and participated in a retirement incentive program under ch. 26, SLA 1986; ch. 89, SLA 1989; ch. 65, SLA 1996; ch. 4, FSSLA 1996; or ch. 92, SLA 1997, who is subsequently reemployed as a commissioner may become an active member without losing the incentive credit provided under the applicable retirement incentive plan and is not subject to any related reemployment indebtedness.

(e) [Repealed, Sec. 6 ch 15 SLA 2003 as amended by Sec. 10 ch 50 SLA 2005].

History - (Sec. 4 ch 13 SLA 1980; am Sec. 6 ch 68 SLA 2000; am Sec. 4, 5, 12 ch 57 SLA 2001; am Sec. 6 ch 58 SLA 2001; am Sec. 2, 3, 6 ch 15 SLA 2003; am Sec. 3 - 5, 10 ch 50 SLA 2005)

Cross References - For provision applicable to a retired teacher who was rehired and made an election under AS 14.25.043(b) or (e) before November 3, 2004, see Sec. 14(a) and (c), ch. 50, SLA 2005, in the 2005 Temporary and Special Acts. For provision applicable to a retired teacher

who was rehired and made an election under AS 14.25.043(b) or (e) on or after November 3, 2004, see Sec. 14(b) and (c), ch. 50, SLA 2005, in the Temporary and Special Acts.

Amendment Notes - The 2001 amendment by Sec. 5, 12, and 15, ch. 57, SLA 2001, as amended by Sec. 6, ch. 15, SLA 2003, Sec. 10 and 17, ch. 50, SLA 2005, and Sec. 3, 19, and 21, ch. 50, SLA 2005, effective July 1, 2009, in (a), deleted the end of the first sentence, which read, "unless the teacher makes an election under (b) or (e) of this section", and in the third sentence, following "During the period of reemployment," deleted "the member is subject to AS 14.25.050, and"; and repealed subsections (b) and (e). Sections 7, 9, and 13, ch. 58, SLA 2001, which also repealed or amended provisions of this section in the same manner effective July 1, 2005, were repealed by Sec. 13 and 18, ch. 50, SLA 2005.

The 2003 amendment, effective July 31, 2003, inserted "or (e)" in the first sentence in subsection (a) and added subsections (d) and (e).

The 2005 amendment, effective July 1, 2005, added the fourth through sixth sentences in subsection (b) and added the third through fifth sentences in subsection (e).

The 2005 amendment, effective July 1, 2009, in subsection (a) deleted "unless the teacher makes an election under (b) or (e) of this section" from the end of the first sentence and "the member is subject to AS 14.25.050, and" preceding "deductions" in the last sentence.

SEC. 14.25.045. PARTICIPATION BY NATIONAL EDUCATION ASSOCIATION EMPLOYEES. [REPEALED, SEC. 116(A) CH 20 SLA 2007].

Repealed or Renumbered

SEC. 14.25.047. PARTICIPATION BY SPECIAL EDUCATION SERVICE AGENCY EMPLOYEES.

An employee of the Special Education Service Agency may participate in the plan under AS 14.25.009 - 14.25.220 if

(1) the employee possesses or is eligible to possess a teacher certificate under AS 14.20.020; and

(2) the employee pays all retroactive contributions required to be made under AS 14.25.009 - 14.25.220.

History - (Sec. 3 ch 112 SLA 1986)

Revisors Notes - In 1992, "system" was substituted for "retirement fund" to correct an error of omission in ch. 106, SLA 1988.

Under sec. 144, ch. 9, FSSLA 2005, in this section "AS 14.25.009 - 14.25.220" was substituted for "this chapter" and "plan" was substituted for "system".

SEC. 14.25.048. TEACHERS OF ALASKA NATIVE LANGUAGE AND CULTURE.

(a) Except as provided in (d) of this section, an employee employed by a participating employer on or after June 5, 1988, shall participate in the plan under AS 14.25.009 - 14.25.220 if the employee

(1) teaches Alaska Native language or culture in a permanent full-time or permanent part-time position;

(2) learned about the subject to be taught by living in the culture or using the language in daily life; and

(3) is qualified to teach the subject to elementary or secondary students as required by regulations adopted by the Department of Education and Early Development.

(b) An employee or former employee may receive credit for retroactive membership service for employment before June 5, 1988 if the employee or former employee met the requirements listed in (a) of this section at the time of the employment. To receive credit for the retroactive membership service, the employee or former employee shall claim the service and pay the retroactive contributions required under AS 14.25.061. However, an employee or former employee may not receive retroactive credit under this subsection if the employee received credited service under AS 39.35 for the employment.

(c) An employee or former employee who received credit under AS 39.35 for service that qualifies under (a) of this section may elect to transfer those periods of employment to the plan. To receive credit for retroactive membership service under this subsection, the employee or former employee shall claim the service and pay the retroactive contributions required under AS 14.25.061.

(d) Notwithstanding (a) of this section, an employee employed as a teacher of Alaska Native language and culture and participating in the Public Employees' Retirement System under AS 39.35 on the day before June 5, 1988 shall remain a member under AS 39.35 unless the employee elects to become a member of the Teachers' Retirement System on or before September 3, 1988.

History - (Sec. 4 ch 106 SLA 1988)

Revisors Notes - In 1999, in (a) of this section, "Department of Education" was changed to "Department of Education and Early Development" in accordance with Sec. 89, ch. 58, SLA 1999.

Under sec. 144, ch. 9, SLA 2005, and, consistent with AS 14.25.009, to correct a manifest error, in (a) of this section, "AS 14.25.009 - 14.25.220" was substituted for "this chapter" and in (a) and (c) of this section "system" was substituted for "plan".

SEC. 14.25.050. CONTRIBUTIONS BY MEMBERS.

(a) Except as provided in (c) of this section, beginning January 1, 1991, each member shall contribute to the plan an amount equal to 8.65 percent of the member's base salary accrued from July 1 to the following June 30. The employer shall deduct the contribution from the member's salary at the end of each payroll period, and the contribution shall be credited by the plan to the member contribution account. The contributions shall be deducted from employee compensation before the computation of applicable federal taxes and shall be treated as employer contributions under 26 U.S.C. 414(h)(2). A member may not have the option of making the payroll deduction directly in cash instead of having the contribution picked up by the employer.

(b) Each teacher is entitled to receive credit for unrefunded contributions paid into the retirement fund of 1945.

(c) The employer of a teacher who, because of a physical injury caused by an on-the-job assault, is on unpaid leave of absence or is receiving benefits under AS 23.30 shall pay the teacher's contributions required by this section while the teacher is on unpaid leave or receiving the workers' compensation benefits.

(d) A teacher who is placed on leave of absence without pay because the teacher is unable to work due to an on-the-job injury or occupational illness for which the teacher is receiving benefits under AS 23.30 and for which the teacher is not entitled to credited service under AS 14.25.040(e) may elect to receive credited service for the time on leave of absence without pay status. When a teacher elects to receive credited service under this subsection, an indebtedness is established. The amount of the indebtedness is equal to the contributions that the teacher would have made if the teacher had been working. Interest as prescribed by regulation accrues on the indebtedness beginning on the date that the teacher returns to work or terminates employment. If there is an outstanding indebtedness at the time the teacher is appointed to retirement, benefits shall be actuarially adjusted.

History - (Sec. 6 ch 145 SLA 1955; am Sec. 4 ch 89 SLA 1960; am Sec. 3 ch 78 SLA 1962; am Sec. 1 ch 84 SLA 1969; am Sec. 1 ch 138 SLA 1970; am Sec. 1 ch 128 SLA 1977; am Sec. 5 ch 106 SLA 1988; am Sec. 1 ch 97 SLA 1990; am Sec. 2, 3 ch 52 SLA 2000; am Sec. 3 ch 59 SLA 2002; am Sec. 3 ch 92 SLA 2004)

Revisors Notes - Section 5, ch. 106, SLA 1988 amended (b) of this section to substitute "retirement system of 1945" for "retirement fund of 1945." The amendment was erroneous and inconsistent with other references in this chapter to the fund. That amendment is not, therefore, shown in the text of the subsection.

Under sec. 144, ch. 9, FSSLA 2005, "plan" was substituted for "system" in this section.

Amendment Notes - The 2004 amendment, effective June 26, 2004, substituted "member" for "teacher" three times in subsection (a), and inserted "and the contribution shall be credited by the system to the member contribution account" in the second sentence of subsection (a).

AG Opinions - PERS and TRS contribution rates may be increased for individuals who became members of the systems before the effective date of the rate increases, if the increases are accompanied by comparable enhancements to benefits. April 20, 2005 Op. Att'y Gen.

Decisions - Cited in *Casperson v. Alaska Teachers' Retirement Bd.*, 664 P.2d 583 (Alaska 1983); *Bartley v. State*, Sup. Ct. Op. No. 5888 (File No. S-10392), 110 P.3d 1254 (Alaska 2005).

SEC. 14.25.055. SUPPLEMENTAL CONTRIBUTIONS BY TEACHERS.

If a teacher first joined the plan before July 1, 1982, and is married or has a minor child and wishes to make a spouse or minor child eligible for a spouse's pension or a survivor's allowance, the teacher may elect to make a supplemental contribution of an additional one percent of the teacher's base salary within 90 days of the teacher's entry into participation in the plan, or within 90 days of marriage, or within 90 days of the birth or adoption of a child dependent upon the teacher. Once an election is made under this section, supplemental contributions must be made whenever contributions are required under AS 14.25.050 unless the teacher executes a written waiver with the administrator. The execution of a waiver relinquishes all rights and benefits previously accrued under AS 14.25.162 and 14.25.164.

History - (Sec. 2 ch 151 SLA 1966; am Sec. 1 ch 45 SLA 1967; am Sec. 2 ch 84 SLA 1969; am Sec. 2 ch 138 SLA 1970; am Sec. 2 ch 66 SLA 1973; am Sec. 2 ch 128 SLA 1977; am Sec. 5 ch 13 SLA 1980; am Sec. 4 ch 137 SLA 1982)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "plan" was substituted for "system" in this section.

SEC. 14.25.060. ARREARAGE INDEBTEDNESS.

(a) If a member first joined the plan before July 1, 1990, and has military service or Alaska Bureau of Indian Affairs (BIA) service, or if a member joined the plan before July 1, 1978, and has creditable outside service, the member may claim this service. If the member claims the service, the member is indebted to the plan as follows:

(1) at the time of first becoming a member of the plan, the arrearage indebtedness is seven percent of the base salary multiplied by the total number of years of creditable outside, military, and Alaska BIA service; the administrator shall add compound interest at the rate prescribed by regulation to the arrearage indebtedness beginning July 1, 1963, or at the time the member first becomes eligible to claim the service, whichever is later, to the date of payment or the date of retirement, whichever occurs first;

(2) if a member terminates from the plan and is subsequently reemployed as a member, the arrearage indebtedness to the plan for outside, military, or Alaska BIA service accumulated in the interim is seven percent of the base salary upon reentering membership service, multiplied by the number of years of interim outside, military, and Alaska BIA service; compound interest at the rate prescribed by regulation shall be added to the arrearage indebtedness beginning July 1, 1963, or the date of reemployment as a member, whichever is later, to the date of payment or the date of retirement, whichever occurs first.

(b) If a member joins the plan on or after July 1, 1978, and has creditable outside service, the member may claim this service. If claimed, the member is indebted to the plan as follows:

(1) The arrearage indebtedness is the full actuarial cost of providing benefits for the service being claimed. Compound interest at the rate prescribed by regulation shall be added to the arrearage indebtedness beginning the date the actuarial cost is established to the date of payment or the date of retirement, whichever occurs first.

(2) If a member terminates from the plan and is subsequently reemployed as a member, the arrearage indebtedness for outside service during the interim is the full actuarial cost of providing benefits for the interim service being claimed. Compound interest at the rate prescribed by regulation shall be added to the arrearage indebtedness beginning the date the actuarial cost is established to the date of payment or the date of retirement, whichever occurs first.

(c) The total military service claimed may not exceed five years. The combined total of outside and military service may not exceed 10 years, except that, if entry into the armed forces is immediately preceded by membership

service and within one year after discharge is continued by membership service, that service may not be counted for purposes of determining the applicability of the 10-year limitation on the combined total of outside and military service.

(d) If a member first joined the plan on or after July 1, 1990, and has military service or Alaska BIA service, the member's indebtedness shall be determined under (a) of this section except that the percentage multiplier is 8.65 percent.

History - (Sec. 7 ch 145 SLA 1955; am Sec. 3 ch 142 SLA 1957; am Sec. 5 ch 89 SLA 1960; am Sec. 2 ch 86 SLA 1963; am Sec. 11 ch 70 SLA 1964; am Sec. 3, 4 ch 151 SLA 1966; am Sec. 2 ch 76 SLA 1968; am Sec. 3, 4 ch 138 SLA 1970; am Sec. 3 ch 66 SLA 1973; am Sec. 3 ch 128 SLA 1977; am Sec. 14 ch 136 SLA 1978; am Sec. 6, 7 ch 13 SLA 1980; am Sec. 5, 75 ch 137 SLA 1982; am Sec. 1 ch 82 SLA 1986; am Sec. 6, 7 ch 106 SLA 1988; am Sec. 2, 3 ch 97 SLA 1990; am Sec. 4 ch 92 SLA 2004)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "plan" was substituted for "system" in this section.

Cross References - For conversion of claimed BIA contract school service to BIA service, see Sec. 2, ch. 44, SLA 1992.

Amendment Notes - The 2004 amendment, effective June 26, 2004, substituted "system" for "service" in the first sentence of subsection (a), inserted "the member may claim this service. If the member claims the service" in subsection (a), and made stylistic changes.

AG Opinions - In computing the amount of contributions for arrearages, teaching service in Alaska with the Bureau of Indian Affairs, a federal agency, is not "creditable membership service" such as will excuse the payment of arrearages for service prior to June 30, 1955, for participation in the teachers' retirement plan. 1960 Op. Att'y Gen. No. 11.

Bureau of Indian Affairs teaching service should be treated as "outside service" for the purposes of computing "arrearages" and "creditable service" under provisions of the Teachers' Retirement Act. 1960 Op. Att'y Gen. No. 11.

Regulations promulgated by the territorial or State Board of Education governing salaries are not germane to calculations of arrearage forgiveness or creditable service under the Teachers' Retirement System. 1960 Op. Att'y Gen. No. 11.

Decisions - Calculation of arrearages. - Plain language of subsection (a) requires the same multiplier to be used in calculating arrearages for all creditable non-Teachers' Retirement System service. *Bartley v. State*, Sup. Ct. Op. No. 5888 (File No. S-10392), 110 P.3d 1254 (Alaska 2005).

SEC. 14.25.061. RETROACTIVE INDEBTEDNESS.

(a) A member who was not subject to the provisions of AS 14.25.009 - 14.25.220, but who becomes subject to them because of a legislative change, may elect to receive credit for retroactive membership service by contributing to the plan an amount equal to the contributions the member would have made had the member been subject to the provisions of AS 14.25.009 - 14.25.220 for those years of retroactive service after June 30, 1955. Retroactive contributions are not required for retroactive membership service before July 1, 1955. Compound interest at the rate prescribed by regulation shall be added to the retroactive indebtedness from July 1, 1966, or the time of first becoming eligible under AS 14.25.009 - 14.25.220, whichever is later, to the date of payment or the date of retirement, whichever occurs first.

(b) If retroactive indebtedness contributions have been made for retroactive service before July 1, 1955, the member is entitled to a refund of those retroactive membership indebtedness contributions.

(c) A refund of retroactive indebtedness contributions for retroactive service before July 1, 1955 is not subject to the repayment provision of AS 14.25.062.

History - (Sec. 4 ch 128 SLA 1977; am Sec. 8, 9 ch 13 SLA 1980; am Sec. 8 ch 106 SLA 1988)

Postponed Repeal Effective Date -. Delayed repeal of subsection (c). - Under Sec. 133, ch. 9, FSSLA 2005, subsection (c) is repealed June 30, 2010.

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, in this section "AS 14.25.009 - 14.25.220" was substituted for "this chapter" and "plan" was substituted for "system".

Amendment Notes - The 2005 amendment, effective June 30, 2010, repealed subsection (c).

SEC. 14.25.062. REINSTATEMENT INDEBTEDNESS.

A member who has received a refund of contributions in accordance with AS 14.25.150 forfeits corresponding credited service under AS 14.25.009 - 14.25.220. [A member may elect to reinstate credited service associated with the refund by repaying the total amount of the refund. If an election is made under this section, an indebtedness to the plan in the amount of the total refund shall be established. Compound interest at the rate prescribed by regulation shall be added to the reinstatement indebtedness from the date of the refund to the date of repayment or the date of retirement, whichever occurs first.]

Repeals 7/1/2010

History - (Sec. 4 ch 128 SLA 1977; am Sec. 10 ch 13 SLA 1980; am Sec. 9 ch 106 SLA 1988; am Sec. 5 ch 92 SLA 2004)

Postponed Repeal Effective Date -.

Delayed repeal of section. - Under Sec. 133, ch. 9, FSSLA 2005, this section is repealed June 30, 2010.

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, in this section "AS 14.25.009 - 14.25.220" was substituted for "this chapter" and "plan" was substituted for "system".

Amendment Notes - The 2004 amendment, effective June 26, 2004, rewrote this section.

SEC. 14.25.063. PAYMENT OF INDEBTEDNESS.

(a) In AS 14.25.009 - 14.25.220, a member does not have to be reemployed under this plan in order to make indebtedness payments. However, except as provided in (d) of this section, a former member must be reemployed under this plan in order to make indebtedness payments. Payments apply first to accrued interest and then to principal.

(b) Any outstanding indebtedness that exists at the time a member is appointed to retirement will necessitate an actuarial adjustment to the benefits payable based on the member's corresponding service.

(c) If, as a result of service credit claimed for which there is a corresponding indebtedness existing at retirement, the member's retirement benefit is actuarially reduced and the resulting benefit is less than it would have been if the service credit had not been claimed, the retirement benefit shall be equal to the amount it would have been had the service credit never been claimed.

(d) A former member who received a total refund of the member's contribution account balance because of a levy under AS 09.38.065 or a federal tax levy may make indebtedness payments under this section.

History - (Sec. 11 ch 13 SLA 1980; am Sec. 6, 7 ch 137 SLA 1982; am Sec. 1, 2 ch 89 SLA 1988)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, in this section "AS 14.25.009 - 14.25.220" was substituted for "this chapter" and "plan" was substituted for "system".

**SEC. 14.25.065. TRANSMITTAL OF CONTRIBUTIONS; CLAIMS
AGAINST FUNDS OF AN EMPLOYER.**

(a) All contributions deducted in accordance with AS 14.25.050 and 14.25.055 shall be transmitted to the plan for deposit in the retirement fund no later than 15 days following the close of the payroll period, with the final contributions due for any school year transmitted no later than July 15.

(b) The contributions of employers under AS 14.25.070 must be transmitted to the plan for deposit in the retirement fund and the Alaska retiree health care trust at the close of each pay period. If the contributions are not submitted within the prescribed time limit, interest must be assessed on the outstanding contributions at one and one-half times the most recent actuarially determined rate of earnings for the plan from the date that contributions were originally due. Amounts due from an employer and interest as prescribed in this section may be claimed by the administrator from any agency of the state or political subdivision that has in its possession funds of the employer or that is authorized to disburse funds to the employer that are not restricted by statute or appropriation to a specific purpose. The amount claimed shall be certified by the administrator as sufficient to pay the contributions and interest due from the employer. The amount claimed shall be submitted to the administrator for deposit in the retirement fund and the Alaska retiree health care trust.

History - (Sec. 3 ch 84 SLA 1969; am Sec. 4 ch 66 SLA 1973; am Sec. 12 ch 13 SLA 1980; am Sec. 10 ch 106 SLA 1988; am Sec. 1 ch 20 SLA 2007)

Revisors Notes - In 1999, in (b) of this section, "Department of Education" was changed to "Department of Education and Early Development" in accordance with Sec. 89, ch. 58, SLA 1999.

Under sec. 144, ch. 9, FSSLA 2005, in this section "plan" was substituted for "system".

Amendment Notes - The 2007 amendment, effective June 7, 2007, rewrote subsection (b).

SEC. 14.25.070. CONTRIBUTIONS BY EMPLOYERS.

(a) Each employer shall contribute to the system every payroll period an amount calculated by applying a rate of 12.56 percent to the total of all base salaries paid by the employer to active members of the system, including any adjustments to contributions required by AS 14.25.173(a).

(b) The employer shall transmit the contributions calculated in (a) of this section to the administrator in accordance with AS 14.25.065. The administrator shall allocate contributions received for full payment of

(1) the actuarially determined employer normal cost for the plan; and

(2) all contributions required by AS 14.25.350 and AS 39.30.370 for the fiscal year.

(c) If, after allocation of contributions under (b) of this section, a portion of the employer contributions remains, the administrator shall apply that remaining portion toward payment of the past service liability of the plan.

(d) Notwithstanding (a) of this section, the annual employer contribution rate may not be less than the rate sufficient to allow payment of the employer normal cost and the employer contributions required under AS 14.25.350 and AS 39.30.370.

(e) [Repealed, Sec. 83, 84, and 86, ch. 41, SLA 2009, effective July 1, 2009].

(f) All or a portion of the employer's share of any accrued actuarial liability to the plan may be prepaid in a lump sum. The commissioner of administration may, by regulation, establish a minimum amount for the lump sum payment of a portion. The administrator shall charge to the employer appropriate and reasonable administrative costs to the plan attributable to a lump sum payment that are not greater than administrative costs applied to other employer contributions. If an employer is grouped with any other employer in accounting for contributions, the lump sum payment for the employer shall be accounted for separately in accordance with regulations adopted by the commissioner. The regulations must provide for crediting to each lump sum payment account all earnings and losses received from investment of that payment. The lump sum payment shall be used solely to offset contributions under this section required of the employer for which the payment was made, taking into account earnings and losses from its investment. A lump sum payment made by or on behalf of an employer under this subsection, together with all earnings and losses from investment of that payment, may not be considered in calculating that employer's share of any discretionary payment authorized by the state that benefits multiple employers.

(g) If all or a portion of an employer's share of any accrued actuarial liability to the plan is prepaid in a lump sum under (f) of this section, the administrator shall calculate a revised employer contribution rate for that employer in recognition of that prepayment not more than 30 days following the prepayment.

(h) In this section, "normal cost" means the cost of providing the benefits expected to be credited, with respect to service, to all active members of the plan during the year beginning after the last valuation date.

History - (Sec. 8 ch 145 SLA 1955; am Sec. 5 ch 151 SLA 1966; am Sec. 5 ch 138 SLA 1970; am Sec. 5 ch 66 SLA 1973; am Sec. 22 ch 91 SLA 1987; am Sec. 11 ch 106 SLA 1988; am Sec. 4 ch 59 SLA 2002; am Sec. 6 ch 92 SLA 2004; am Sec. 6, 12 ch 50 SLA 2005; am Sec. 10, 11 ch 9 FSSLA 2005; am Sec. 2, 3 ch 20 SLA 2007; am Sec. 3 ch 13 SLA 2008; am Sec. 1 ch 35 SLA 2008; am Sec. 81, 83 ch 41 SLA 2009)

Revisors Notes - Former subsection (c) was enacted as (b) and relettered in 2005, at which time "plan" was substituted for "system" in former subsection (c) in accordance with sec. 144, ch. 9, FSSLA 2005. Subsections (f) and (g) were enacted as (d) and (e) and relettered in 2008, at which time an internal reference in (g) was conformed and subsection (h), which had been enacted as (f), was relettered.

Subsection (e) was repealed July 1, 2009, by Sec. 83, ch. 41, SLA 2009. Under Sec. 84, ch. 41, SLA 2009, the repeal was contingent on the repeal of AS 14.20.135 under Sec. 12 and 15, ch. 57, SLA 2001, as amended by Sec. 6, ch. 15, SLA 2003, and by Sec. 10 and 17, ch. 50, SLA 2005. Under Sec. 86, ch. 41, SLA 2009, the repeal took effect on the date of the repeal of AS 14.20.135, which occurred on July 1, 2009.

Amendment Notes - The first 2008 amendment, effective July 1, 2008, rewrote the section.

The second 2008 amendment, effective May 23, 2008, added subsections (d) and (e) (now (f) and (g)).

The 2009 amendment, effective July 1, 2009, repealed subsection (e).

SEC. 14.25.075. PURCHASE OF CREDITED SERVICE.

(a) An employee who is eligible to purchase credited service under AS 14.25.047 or 14.25.048, a member who is eligible to purchase credited service under AS 14.25.048, 14.25.050, 14.25.060, 14.25.061, 14.25.062, 14.25.100, or 14.25.107, or a teacher who is eligible to purchase credited service under AS 14.20.345, AS 14.25.050, 14.25.062, or 14.25.105, in lieu of making payments directly to the plan, may elect to have the member's employer make payments as provided in this section.

(b) A member may elect to have the employer make payments for all or any portion of the amounts payable for the member's purchase of credited service through a salary reduction program as follows:

(1) the amounts paid under a salary reduction program are in lieu of contributions by the member making the election; the electing member's salary or other compensation shall be reduced by the amount paid by the employer under this subsection;

(2) the member shall make an irrevocable election under this subsection to purchase credited service as permitted in AS 14.20.345, AS 14.25.047, 14.25.048, 14.25.050, 14.25.060, 14.25.061, 14.25.062, 14.25.100, 14.25.105, or 14.25.107 before the member's termination of employment; the irrevocable election must specify the number of payroll periods that deductions will be made from the member's compensation and the dollar amount of deductions for each payroll period during the specified number of payroll periods; the deductions made under this paragraph cease upon the earlier of the member's termination of employment with the employer or the member's death; amounts paid by an employer under (f) of this section may not be applied toward the payment of the dollar amount of the deductions representing the portion of the credited service that is being purchased by the member through payroll deduction in accordance with the member's irrevocable election under this paragraph;

(3) amounts paid by an employer under this subsection shall be treated as employer contributions for the purpose of determining tax treatment under 26 U.S.C. (Internal Revenue Code); the amounts paid by the employer under this section may not be included in the member's gross income for income tax purposes until those amounts are distributed by refund or retirement benefit payments.

(c) Unless otherwise provided, member contributions paid by the employer under this section are treated for all other purposes under the plan in the same manner and to the same extent as member contributions that are not paid by an employer under this section and AS 14.25.050. The plan may assess interest or administrative charges attributable to any salary reduction election made under this section. The interest or administrative charges shall be added to the contribution that is made to the plan by the member each payroll period, and that is paid by the employer. The interest or administrative charges may not be treated as member contributions for any purposes under AS 14.25.009 - 14.25.220, and a member or a member's beneficiary does not have a right to the return of the interest or administrative charges under any other provision of this section. Interest assessed under this section shall be at the rate specified by regulations adopted by the administrator.

(d) For plan fiscal years beginning on or after July 1, 2001, the requirements of AS 14.25.110(k) may not be applied to reduce the amount of credited service that may be purchased under this section by a member who first becomes an employee of the plan before July 1, 2001, to an amount that is less than the amount of credited service allowed to be purchased with the application of any of the limits prescribed in 26 U.S.C. 415.

(e) Contributions to the plan to purchase credited service under this section do not qualify for treatment under this section if recognition of that service would cause a member to receive a retirement benefit for the same service from the plan and from one or more other retirement plans or systems of the state.

(f) The administrator may accept rollover contributions from a member, and direct transfers as described in this subsection, for the purchase, in whole or in part, of forfeited credited service under this section for the reinstatement, in whole or in part, of forfeited credited service under AS 14.25.062. Contributions made under this subsection may not be applied to purchase service being paid under (b) of this section. A rollover contribution or transfer as described in this subsection shall be treated as employer contributions for the purpose of determining tax treatment under the Internal Revenue Code and may be made by any one or a combination of the following methods:

(1) subject to the limitations prescribed in 26 U.S.C. 402(c), accepting eligible rollover distributions directly from one or more eligible retirement plans as defined by 26 U.S.C. 402(c)(8)(B);

(2) subject to the limitations prescribed in 26 U.S.C. 403(b)(13), accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the member, on or after January 1, 2002, from a tax sheltered annuity described in 26 U.S.C. 403(b);

(3) subject to the limitations prescribed in 26 U.S.C. 457(e)(17), accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the member, on or after January 1, 2002, from an eligible deferred compensation plan of a tax-exempt organization or a state or local government described in 26 U.S.C. 457(b);

(4) accepting direct trustee-to-trustee transfer from an account established for the benefit of the member in AS 39.30.150 - 39.30.180 (Alaska Supplemental Annuity Plan).

(g) Payments made under this section shall be applied to reduce the member's outstanding indebtedness described in AS 14.25.063 at the time that the contributions are received by the plan.

(h) If a member retires before all payments are made under this section, the plan shall calculate the member's benefits based only on the payments actually made with respect to the credited service purchased.

(i) On satisfaction of the eligibility requirements of AS 14.20.345, AS 14.25.047, 14.25.048, 14.25.050, 14.25.060, 14.25.061, 14.25.062, 14.25.100, 14.25.105, or 14.25.107, the requirements of this section, and the administrative filing requirements specified by the administrator, the plan shall adjust the member's credited service history and add any additional service credits acquired.

(j) After an election is made under this section, the election is binding on and irrevocable for the member and the member's employer during the member's remaining period of current employment. After a member makes an

irrevocable election under this section, the member does not have the option of choosing to receive the contributed amounts directly in cash.

History - (Sec. 5 ch 59 SLA 2002; am Sec. 7 - 10, 32 ch 92 SLA 2004; am Sec. 14 ch 9 FSSLA 2005; am Sec. 4 ch 20 SLA 2007)

Delayed Amendment -. of subsections (a), (b), and (i). - Under Sec. 12, 13, 16, and 149, ch. 9, FSSLA 2005, effective June 30, 2010, subsections (a), (b), and (i) of this section will read as follows: ""(a) An employee who is eligible to purchase credited service under AS 14.25.047 or 14.25.048, a member who is eligible to purchase credited service under AS 14.25.048, 14.25.050, 14.25.060, 14.25.061, 14.25.100, or 14.25.107, or a teacher who is eligible to purchase credited service under AS 14.20.345, AS 14.25.050, or 14.25.105, in lieu of making payments directly to the plan, may elect to have the member's employer make payments as provided in this section.

"(b) A member may elect to have the employer make payments for all or any portion of the amounts payable for the member's purchase of credited service through a salary reduction program as follows:

"(1) the amounts paid under a salary reduction program are in lieu of contributions by the member making the election; the electing member's salary or other compensation shall be reduced by the amount paid by the employer under this subsection;

"(2) the member shall make an irrevocable election under this subsection to purchase credited service as permitted in AS 14.20.345, AS 14.25.047, 14.25.048, 14.25.050, 14.25.060, 14.25.061, 14.25.100, 14.25.105, or 14.25.107 before the member's termination of employment; the irrevocable election must specify the number of payroll periods that deductions will be made from the member's compensation and the dollar amount of deductions for each payroll period during the specified number of payroll periods; the deductions made under this paragraph cease upon the earlier of the member's termination of employment with the employer or the member's death; amounts paid by an employer under (f) of this section may not be applied toward the payment of the dollar amount of the deductions representing the portion of the credited service that is being purchased by the member through payroll deduction in accordance with the member's irrevocable election under this paragraph;

"(3) amounts paid by an employer under this subsection shall be treated as employer contributions for the purpose of determining tax treatment under 26 U.S.C. (Internal Revenue Code); the amounts paid by the employer under this section may not be included in the member's gross income for income tax purposes until those amounts are distributed by refund or retirement benefit payments.

"(i) On satisfaction of the eligibility requirements of AS 14.20.345, AS 14.25.047, 14.25.048, 14.25.050, 14.25.060, 14.25.061, 14.25.100, 14.25.105, or 14.25.107, the requirements of this section, and the administrative filing requirements specified by the administrator, the plan shall adjust the member's credited service history and add any additional service credits acquired."

of subsection (f). - Under Sec. 5 and 119, ch. 20, SLA 2007, effective July 1, 2010, subsection (f) will read as follows: ""(f) The administrator may accept rollover contributions from a member. Contributions made under this subsection may not be applied to purchase service being paid under (b) of this section. A rollover contribution as described in this subsection shall be treated as employer contributions for the purpose of determining tax treatment under the Internal Revenue Code and may be made by any one or a combination of the following methods:

"(1) subject to the limitations prescribed in 26 U.S.C. 402(c), accepting eligible rollover distributions directly from one or more eligible retirement plans as defined by 26 U.S.C. 402(c)(8)(B);

"(2) subject to the limitations prescribed in 26 U.S.C. 403(b)(13), accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the member, on or after January 1, 2002, from a tax sheltered annuity described in 26 U.S.C. 403(b);

"(3) subject to the limitations prescribed in 26 U.S.C. 457(e)(17), accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the member, on or after January 1, 2002, from an eligible deferred compensation plan of a tax-exempt organization or a state or local government described in 26 U.S.C. 457(b);

"(4) accepting direct trustee-to-trustee transfer from an account established for the benefit of the member in AS 39.30.150 - 39.30.180 (Alaska Supplemental Annuity Plan)."

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, in this section "AS 14.25.009 - 14.25.220" was substituted for "this chapter", "administrator" was substituted for "board", and "plan" was substituted for "system". Also in 2005, in (a) of this section, "system" was substituted for "plan" to correct a manifest error, consistent with AS 14.25.009.

Amendment Notes - The 2004 amendment, effective June 26, 2004, rewrote subsections (a), (b), (f), and (i).

The 2005 amendment, effective July 28, 2005, substituted "plan" for "system" in subsection (e); and, effective June 30, 2010, deleted section references in subsection (a) and paragraph (b)(2), in subsection (f) rewrote the first sentence and deleted "or transfer" following "contribution" in the third sentence, and in subsection (i) deleted a section reference.

The 2007 amendment, effective June 7, 2007, substituted "eligible retirement plans as defined by 26 U.S.C. 402(c)(8)(B)" for "retirement programs of another employer that are qualified under 26 U.S.C. 401(a) or accepting rollovers directly from a member" in paragraph (f)(1), deleted former paragraph (f)(2), relating to conduit rollover contributions, and made related changes.

Editors Notes - Section 15, ch. 9, FSSLA 2005 was to have amended subsection (f) effective June 30, 2010, but Sec. 15, ch. 9, FSSLA 2005 was repealed by Sec. 116(c), ch. 20, SLA 2007, effective June 7, 2007.

SEC. 14.25.080. CONTRIBUTIONS BY THE STATE. [REPEALED, SEC. 25 CH 91 SLA 1987].

Repealed or Renumbered

SEC. 14.25.085. ADDITIONAL STATE CONTRIBUTIONS.

In addition to the contributions that the state is required to make under AS 14.25.070 as an employer, the state shall contribute to the plan each July 1 or, if funds are not available on July 1, as soon after July 1 as funds become available, an amount for the ensuing fiscal year that, when combined with the total employer contributions that the administrator estimates will be allocated under AS 14.25.070(c), is sufficient to pay the plan's past service liability at the contribution rate adopted by the board under AS 37.10.220 for that fiscal year.

History - Sec. 4 ch 13 SLA 2008)

Cross References - For protection of damage awards from reduction on account of contributions under this section, see AS 09.17.070(f).

Effective Date Notes - Section 27, ch. 13, SLA 2008 makes this section effective July 1, 2008.

SEC. 14.25.087. CONTRIBUTIONS FOR MEDICAL BENEFITS.

Contributions made by an employer under AS 14.25.070 and 14.25.085 shall be separately computed for benefits provided by AS 14.25.168 and shall be deposited in the Alaska retiree health care trust established under AS 39.30.097(a).

History - (Sec. 5 ch 13 SLA 2008)

Amendment Notes - Section 27, ch. 13, SLA 2008 makes this section effective July 1, 2008.

**SEC. 14.25.090. CONTRIBUTIONS BY THE STATE FOR
ARREARAGES. [REPEALED, SEC. 7 CH 66 SLA
1973].**

Repealed or Renumbered

SEC. 14.25.100. CREDIT FOR SERVICE IN THE ARMED FORCES.

(a) A member who served as an active member of the armed forces of the United States may receive credited service under this plan up to a maximum of five years if the member received a discharge under other than dishonorable conditions and is not entitled to receive retirement benefits from the United States government for the same service. Each 12 months of military service equals one school year, and lesser military periods will be determined for credit purposes in a proportionate ratio to a year. Credit for service in the armed forces shall be granted only if the member makes contributions for the service in the same manner as required for outside service under AS 14.25.060. The military service credited under this section shall be included in the 10-year limitation of outside service as specified in AS 14.25.060, except if entry into the armed forces is immediately preceded by Alaska membership service and following discharge is continued by Alaska membership service within one year thereafter, service may not be counted for purposes of determining the applicability of the 10-year limitation on outside service.

(b) Where a member is unable to resume teaching in a public school within one year following discharge because of hospitalization, rehabilitation training, a disability derived while in the armed forces, or other like circumstances, the administrator shall determine the allowance or disallowance of any service in the armed forces.

(c) [Repealed, Sec. 7 ch 155 SLA 1976].

(d) [Repealed, Sec. 7 ch 155 SLA 1976].

(e) A member may not be credited with the same period of service in the armed forces under this section if credit for that military service was granted under the public employees' retirement system (AS 39.35). The combined period of military service claimed under this section and AS 39.35 may not exceed five years.

History - (Sec. 11 ch 145 SLA 1955; am Sec. 8 ch 89 SLA 1960; am Sec. 1 ch 57 SLA 1974; am Sec. 5, 7 ch 155 SLA 1976; am Sec. 5 ch 128 SLA 1977; am Sec. 13 ch 13 SLA 1980; am Sec. 4 ch 97 SLA 1990)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "plan" was substituted for "system" in subsection (a).

SEC. 14.25.105. CREDIT FOR SERVICE AS AN EMPLOYEE OF THE TERRITORY OF ALASKA.

(a) A teacher who completes 15 years of membership service under AS 14.25.009 - 14.25.220 may elect to receive credited service for employment rendered to the Territory of Alaska before January 3, 1959, regardless of the office, department, division or agency of the territory in which employed. Credited service allowed under this section may not exceed five years.

(b) A teacher may not be credited with service under this section if credit for service as an employee of the Territory of Alaska was granted for the same period under AS 39.35 (public employees' retirement system).

(c) A teacher who elects to receive credited service under this section for service to the Territory of Alaska shall make a retroactive contribution under this plan for the period of territorial employment following June 30, 1955.

History - (Sec. 1 ch 146 SLA 1980)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, in this section "AS 14.25.009 - 14.25.220" was substituted for "this chapter" and in subsection (c), "plan" was substituted for "system".

SEC. 14.25.107. CREDIT FOR ALASKA BIA SERVICE.

A member who joins the plan on or after July 1, 1978, who has Alaska BIA service may claim all of that service as credited service. A retirement benefit payable under AS 14.25.009 - 14.25.220 for Alaska BIA service shall be reduced by an amount equal to the retirement benefits paid to the member by the United States government for the same service.

History - (Sec. 8 ch 137 SLA 1982)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, in this section "AS 14.25.009 - 14.25.220" was substituted for "this chapter" and "plan" was substituted for "system".

Cross References - For conversion of claimed BIA contract school service to BIA service, see Sec. 2, ch. 44, SLA 1992.

SEC. 14.25.110. RETIREMENT BENEFITS.

(a) Subject to AS 14.25.167, a member is eligible for a normal retirement benefit if the member

(1) was first hired before July 1, 1975, has attained the age of 55 years, and has at least 15 years of credited service, the last five of which have been membership service or is otherwise vested in the plan;

(2) has attained the age of 60 years and has at least eight years of membership service;

(3) has attained the age of 60 years, has at least five years of membership service, and has Alaska BIA service which, when added to the membership service, will equal at least eight years;

(4) has at least 25 years of credited service, the last five of which have been membership service;

(5) has at least 20 years of membership service;

(6) has at least 20 years of combined membership service and Alaska BIA service, the last five of which have been membership service; or

(7) has, for each of 20 school years,

(A) at least one-half year of membership service as a part-time teacher;

(B) one full year of membership service as a full-time teacher; or

(C) any combination of service qualified under this paragraph.

(b) Subject to AS 14.25.167, a member is eligible for an early retirement benefit upon completing the service requirements in (a)(1) of this section and attaining the age of 50 years or upon completing the service requirements in (a)(2) or (3) of this section and attaining the age of 55 years.

(c) The burden is on the applicant to prove eligibility for retirement benefits to the full satisfaction of the administrator.

(d) The monthly amount of a retirement benefit for a member who has paid the full amount of any indebtedness is one-twelfth of the member's average base salary during any three school years of membership service multiplied by

(1) two percent of the years of credited service earned before June 30, 1990, including credited fractional years, and the years of credited service through a total of 20 years; plus

(2) two and one-half percent of the years of credited service earned after June 30, 1990, that are more than 20 years of total credited service.

(e) The monthly amount of a retirement benefit must be determined in accordance with (d) of this section as it is in effect on the date of termination of the retiring member's last segment of employment.

(f) [Repealed, Sec. 47 ch 59 SLA 2002].

(g) [Repealed, Sec. 47 ch 59 SLA 2002].

(h) [Repealed, Sec. 47 ch 59 SLA 2002].

(i) Benefits payable under this section accrue from the first day of the month after which all of the following requirements are met: (1) the member meets the eligibility requirements of this section; (2) the member terminates employment; and (3) the member applies for retirement. Benefits are not payable under this section during a school year in which credit for a full year of service is granted. The benefits are payable the last day of the month. If payment is delayed, a retroactive payment must be made for the month in which a benefit is payable under this section. The last payment shall be for the month in which the member dies or is no longer eligible for a benefit under this section.

(j) An actuarial adjustment must be made to benefits payable under (d) of this section for early retirement.

(k) For plan fiscal years beginning after December 31, 1975, and notwithstanding any other provision of AS 14.25.009 - 14.25.220, the projected annual benefit provided by AS 14.25.009 - 14.25.220 and the benefit from all other defined benefit plans required to be aggregated with the benefits from this plan under the provisions of 26 U.S.C. 415 may not increase to an amount in excess of the amount permitted under 26 U.S.C. 415 at any time. In the event that any projected annual benefit of a member exceeds the limitation of 26 U.S.C. 415 for a limitation year, the plan shall take any necessary remedial action to correct an excess accrued annual benefit. The provisions of 26 U.S.C. 415, and the regulations adopted under that statute, as applied to qualified defined benefit plans of governmental employers are incorporated as part of the terms and conditions of the plan. This subsection applies to any member of this plan.

(l) Notwithstanding (d) of this section,

(1) for the plan fiscal years beginning on or after January 1, 1996, the base salary of a member who joined the plan after the first day of the first plan fiscal year beginning after December 31, 1995, that is used to calculate the member's average base salary may not exceed \$150,000, as adjusted for the cost of living in accordance with 26 U.S.C. 401(a)(17)(B); and

(2) for plan fiscal years beginning on or after January 1, 2002, the base salary of a member that is used to calculate the member's average base salary may not exceed \$200,000, as adjusted for the cost of living in accordance with 26 U.S.C. 401(a)(17)(B).

(m) Notwithstanding the definition of "base salary" in AS 14.25.220, in (l) of this section, for plan fiscal years beginning on or after January 1, 1998, and for purposes of 26 U.S.C. 415(b)(3) and the regulations adopted under that statute,

(1) "base salary"

(A) includes any amount that is contributed by the employer under a salary reduction agreement and that is not includable in the member's gross income under 26 U.S.C. 125, 132(f)(4), 402(e)(3), 402(h), or 403(b); and

(B) is limited to compensation that is actually paid to a member during the determination period;

(2) "determination period" means the plan fiscal year.

History - Sec. 12 ch 145 SLA 1955; am Sec. 4 ch 142 SLA 1957; am Sec. 9 ch 89 SLA 1960; am Sec. 4 ch 86 SLA 1963; am Sec. 6 ch 151 SLA 1966; am Sec. 2 ch 85 SLA 1971; am Sec. 8 ch 66 SLA 1973; am Sec. 1 ch 77 SLA 1973; am Sec. 2 ch 57 SLA 1974; am Sec. 1 - 3 ch 173 SLA 1975; am Sec. 5 ch 169 SLA 1976; am Sec. 14 ch 13 SLA 1980; am Sec. 2 ch 146 SLA 1980; am Sec. 9 ch 137 SLA 1982; am Sec. 1 ch 81 SLA 1986; am Sec. 1, 2 ch 117 SLA 1986; am Sec. 22 ch 85 SLA 1988; am Sec. 1 ch 79 SLA 1990; am Sec. 5 - 8 ch 97 SLA 1990; am Sec. 7 ch 68 SLA 2000; am Sec. 6, 47 ch 59 SLA 2002; am Sec. 11 ch 92 SLA 2004)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, in this section "AS 14.25.009 - 14.25.220" was substituted for "this chapter" and "plan" was substituted for "system".

Amendment Notes - The 2004 amendment, effective June 26, 2004, added "For system fiscal years beginning after December 31, 1975" at the beginning of subsection (k), and inserted "annual" in the second sentence of subsection (k).

Editors Notes - In general, a person's right to benefits under the state's public employee retirement systems vests when the person joins the system. *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981). Therefore, former law may govern the benefits of some members of the teachers' retirement system. The user is advised to ascertain which version of the statute is applicable. Earlier versions of the statutes can be found in prior editions of the Alaska Statutes or in the published Session Laws of Alaska.

AG Opinions - The legislature did not intend such a strict interpretation as to require a teacher to work the last 5 school years for the full 140-day year. 1966 Op. Att'y Gen. No. 2.

A teacher satisfies the requirement of subsection (a) by working any five creditable years or combination of fractional years totalling 5 years, as long as they are the last 5 years she worked and they are in membership service. 1966 Op. Att'y Gen. No. 2, issued prior to the 1975 amendment.

Decisions - Calculation of benefits pursuant to law of year of enrollment.
 - Retiree who first enrolled in the teachers' retirement system in 1969 was entitled to have his benefits calculated according to 1969 law and should have been allowed to include the lump-sum he received for accrual of unused leave during the three years used to calculate his average base salary. Flisock v. State, Div. of Retirement & Benefits, 818 P.2d 640 (Alaska 1991).

Constitutionality of cost-of-living allowance. - Limiting cost-of-living allowance (COLA) payments to resident retirees does not violate the Equal Protection Clause of the Alaska Constitution. Pub. Emples. Ret. Sys. v. Gallant, 153 P.3d 346 (Alaska 2007).

Two teachers were not entitled to normal retirement based on their hire date by the Bureau of Indian Affairs, which was creditable non-Alaska Teachers' Retirement System (ATR) service, because the correct date for purposes of calculating retirement is the date of hire into the ATR. Bartley v. State, Sup. Ct. Op. No. 5888 (File No. S-10392), 110 P.3d 1254 (Alaska 2005).

Applied in Casperson v. Alaska Teachers' Retirement Bd., 664 P.2d 583 (Alaska 1983).

Cited in Johnson v. Public Employees Retirement Bd., 848 P.2d 263 (Alaska 1993).

Collateral Refs - What constitutes "salary," "wages," "pay," or the like, within pension law basing benefits thereon. 91 ALR5th 225.

SEC. 14.25.115. UNUSED SICK LEAVE CREDIT.

(a) A teacher in membership service on or after July 1, 1977, who is appointed to retirement on or after July 1, 1978, may elect to apply unused sick leave credit in computing the total number of years of credited service under AS 14.25.110(d) except for sick leave earned while participating in a university retirement program under AS 14.40.661 - 14.40.799. To obtain service credit for unused sick leave, a teacher must apply to the administrator not later than one year after appointment to retirement. Unused sick leave shall be credited on a day-for-day basis in accordance with the table for service after July 1, 1969, contained in AS 14.25.220(45). Teacher contributions may not be required for credited unused sick leave.

(b) A teacher appointed to retirement before July 1, 1978, who returns to membership service on or after July 1, 1978, and is subsequently reappointed to retirement is eligible for unused sick leave credit only with respect to sick leave accrued during membership service on or after July 1, 1978.

(c) Benefits payable under this section accrue from the first day of the month after which all the following requirements are met: (1) the teacher meets the eligibility requirements of this section; (2) the teacher's written application for unused sick leave credit is received and verified by the administrator; and (3) a period of time has elapsed since the date of appointment to retirement equal to the amount of verified unused sick leave. Benefits are payable on the last day of the month.

History - (Sec. 13 ch 136 SLA 1978; am Sec. 29 ch 59 SLA 1982; am Sec. 10 ch 137 SLA 1982; am Sec. 2 ch 104 SLA 1989; am Sec. 17 ch 9 FSSLA 2005)

Revisors Notes - In 2002, in subsection (a), "AS 14.25.220(45)" was substituted for "AS 14.25.220(43)" to reflect the 2002 renumbering of paragraphs in AS 14.25.220.

Amendment Notes - The 2005 amendment, effective July 28, 2005, in subsection (a) deleted "the optional" preceding "university retirement program" and made a stylistic change.

Decisions - Cited in *Casperson v. Alaska Teachers' Retirement Bd.*, 664 P.2d 583 (Alaska 1983).

SEC. 14.25.120. MANNER OF COMPUTING SERVICE RETIREMENT SALARY. [REPEALED, SEC. 50 CH 13 SLA 1980].

Repealed or Renumbered

SEC. 14.25.125. CONDITIONAL SERVICE RETIREMENT BENEFITS.

(a) Subject to AS 14.25.167, a member is eligible for a normal retirement salary at age 60 with at least

(1) two years membership service if the member also is eligible for a normal retirement benefit under the public employees' retirement system (AS 39.35); or

(2) one year of membership service if the member is a retired member of the public employees' retirement system.

(b) Subject to AS 14.25.167, a member is eligible for an early retirement salary at age 55 with at least

(1) two years of membership service if the member also is eligible for an early retirement benefit under the public employees' retirement system (AS 39.35);

(2) one year of membership service if the member is a retired member of the public employees' retirement system.

(c) Membership service for which contributions were refunded is not creditable under this section unless the refunded contributions have been repaid. For purposes of this section, a member or former member does not have to be reemployed under this plan in order to repay refunded contributions. Compound interest at the rate prescribed by regulation must be added to the reinstatement indebtedness from the date of the refund to the date of repayment.

(c) Repeals 7/1/2010

(d) The monthly amount of a conditional service retirement benefit shall be calculated on the years of credited service in accordance with AS 14.25.110(d), except that a member may irrevocably elect to substitute "average monthly compensation" as defined in AS 39.35.680 in place of the member's average base salary divided by 12.

(e) Benefits payable under this section accrue from the first day of the month (1) in which the member meets the eligibility requirements of this section, (2) following the date of termination, and (3) following application for retirement, and are payable the last day of the month. If payment is delayed, a retroactive payment shall be made to cover the period of deferment. The last payment shall be made for the month in which the member dies or is no longer eligible for a benefit under this section.

History - (Sec. 2 ch 174 SLA 1978; am Sec. 15 ch 13 SLA 1980; am Sec. 11 ch 137 SLA 1982; am Sec. 3, 4 ch 117 SLA 1986; am Sec. 9, 10 ch 97 SLA 1990; am Sec. 7, 8 ch 59 SLA 2002; am Sec. 6 ch 20 SLA 2007)

Delayed Amendment - of subsection (c). - Under Sec. 6 and 119, ch. 20, SLA 2007, effective July 1, 2010, subsection (c) will read as follows: ""(c) Membership service for which contributions were refunded is not creditable under this section."

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, in this section "plan" was substituted for "system" in subsection (c).

SEC. 14.25.130. DISABILITY BENEFITS.

(a) A member who has five or more years of membership service is eligible for a disability pension if, after July 1, 1966, and before the member's normal retirement date, the member's employment is terminated because of a permanent disability as defined in AS 14.25.220.

(b) [Repealed, Sec. 16 ch 13 SLA 1980].

(c) Once each year during the first five years following appointment to disability under this section, and once every three-year period thereafter, the administrator may require a disabled member who has not attained eligibility for normal retirement to undergo a medical or mental examination by a

competent physician. The administrator shall suspend any disability benefit for a disabled member who refuses to undergo a physical or mental examination when requested under this section.

(d) The amount of the disability benefit is equal to 50 percent of the member's base salary immediately before becoming disabled. The disability benefit is increased by 10 percent of the member's base salary immediately before becoming disabled for each dependent child, up to a maximum of four dependent children.

(e) Benefits payable under this section accrue from the first day of the month after which the following requirements are met: (1) the member meets the eligibility requirements of this section; and (2) the member terminates employment. The benefits are payable the last day of the month. If payment is delayed, a retroactive payment must be made to cover the period of deferment. The last payment for a dependent child shall be for the month in which the child ceases to be a dependent child. The last payment for the disabled member shall be made for the month in which the disabled member recovers from the disability, dies, or is eligible for normal retirement.

(f) A member is not entitled to a disability benefit under this section unless the member files a timely application for the benefit with the administrator. The application is timely if it is filed by the later of six months after the date that the member's disability began or 90 days after the termination of the member's employment. The administrator may waive a filing deadline under this subsection if there are extraordinary circumstances that resulted in the inability to meet the filing deadline. The administrator may delegate the authority to waive a filing deadline under this subsection to the administrator.

History - (Sec. 14 ch 145 SLA 1955; am Sec. 12 ch 89 SLA 1960; am Sec. 5 ch 86 SLA 1963; am Sec. 8 ch 151 SLA 1966; am Sec. 15 ch 66 SLA 1973; am Sec. 7 ch 173 SLA 1975; am Sec. 2 ch 169 SLA 1976; am Sec. 16 ch 13 SLA 1980; am Sec. 12 ch 137 SLA 1982; am Sec. 8, 9 ch 68 SLA 2000)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "administrator" was substituted for "board" in this section.

Editors Notes - In general, a person's right to benefits under the state's public employee retirement systems vests when the person joins the system. *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981). Therefore, former law may govern the benefits of some members of the teachers' retirement system. The user is advised to ascertain which version of the statute is applicable. Earlier versions of the statutes can be found in prior editions of the Alaska Statutes or in the published Session Laws of Alaska.

AG Opinions - The disability retirement provisions of the Public Employees Retirement System and the Teachers' Retirement System are consistent with the federal Age Discrimination in Employment Act of 1967, as amended (29

U.S.C. Sec. 621 - 634), and with the implementing regulations of the Equal Employment Opportunity Commission. December 10, 1992 Op. Att'y Gen.

Decisions - "Membership years." - Teachers' Retirement Board erred when it interpreted the term "membership years" in subsection (a) as being the equivalent of "years of service" as defined in AS 14.25.220. *Casperson v. Alaska Teachers' Retirement Bd.*, 664 P.2d 583 (Alaska 1983).

**SEC. 14.25.135. - 14.25.140L DEFERRED RETIREMENT
BENEFITS; NOTIFICATION OF INTENT TO RETIRE;
MANNER OF COMPUTING DISABILITY RETIREMENT
SALARY. [REPEALED, SEC. 50 CH 13 SLA 1980].**

Repealed or Renumbered

SEC. 14.25.142. COST-OF-LIVING ALLOWANCE.

(a) While residing in the state, a person receiving a benefit under AS 14.25.009 - 14.25.220 who is at least 65 years of age or who is receiving a disability benefit under AS 14.25.009 - 14.25.220 is entitled to receive a monthly cost-of-living allowance in addition to the basic benefit. The amount of this allowance is 10 percent of the basic benefit.

(b) A person receiving a cost-of-living allowance under this section shall notify the administrator when the person expects to be absent from the state for a continuous period that exceeds 90 days. After that notification, the person is no longer entitled to receive the monthly cost-of-living allowance, except that a person may be absent from the state for not more than six months without loss of the cost-of-living allowance if the absence is the result of illness and required by order of a licensed physician. Upon return to the state, and upon notification to the administrator, the person is again entitled to receive the monthly cost-of-living allowance, commencing with the first monthly benefit payment made after notification of the person's return.

(c) In this section, "residing in the state" means domiciled and physically present in the State of Alaska. A person's status as "residing in the state" does not change if the person is absent from the state for a continuous period of

(1) 90 days or less;

(2) six months or less, when ordered by a physician to be absent from the state; or

(3) any length of time while the person is a member of a reserve or auxiliary component of the armed forces of the United States, including the organized militia of Alaska consisting of the Alaska National Guard, the Alaska Naval Militia, and the Alaska State Defense Force, and is called to active duty by the appropriate state or federal authority.

History - (Sec. 10 ch 151 SLA 1966; am Sec. 18 ch 66 SLA 1973; am Sec. 6 ch 128 SLA 1977; am Sec. 2, 3 ch 82 SLA 1979; am Sec. 11 ch 97 SLA 1990; am Sec. 1 ch 70 SLA 2003)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "AS 14.25.009 - 14.25.220" was substituted for "this chapter" in this section.

Amendment Notes - The 2003 amendment, effective June 12, 2003, rewrote subsection (c).

Editors Notes - Section 17, ch. 82, SLA 1979 provides: "A person receiving benefits under AS 14.25 on July 1, 1979 is eligible for any increase in benefits resulting from the amendments to AS 14.25 enacted in Sec. 2 and 3 of ch. 82, SLA 1979."

AG Opinions - Regulation 2 AAC 36.210 is consistent with this statute. However, we also understand that the Teachers' Retirement System (TRS) has, prior to the adoption of the regulation, paid the COLA to benefit recipients whom TRS considered to be residents but who would not have met the 93/183 days test. In light of that, we conclude that the regulation should only be applied to those joining TRS after its adoption. March 15, 1995 Op. Att'y Gen.

Decisions - Constitutionality. - Limiting cost-of-living allowance (COLA) payments to resident retirees does not violate the Equal Protection Clause of the Alaska Constitution; the small payments were fairly and substantially related to their purpose, and they did not substantially infringe on the right of retirees to live elsewhere. *Pub. Emples. Ret. Sys. v. Gallant*, 153 P.3d 346 (Alaska 2007).

SEC. 14.25.143. POST RETIREMENT PENSION ADJUSTMENT.

(a) Once each year, the administrator shall increase benefit payments to eligible disabled members, to persons age 60 or older receiving benefits under this plan in the preceding calendar year, and to persons who have received benefits under this plan for at least eight years who are not otherwise eligible for an increase under this section.

(b) The increase in benefit payments applies to total benefit payments except for the cost-of-living allowance under AS 14.25.142. The amount of the increase is a percentage of the current benefit equal to

(1) the lesser of 75 percent of the increase in the cost of living in the preceding calendar year or nine percent, for recipients who on July 1 are at least 65 years old and for members receiving disability benefits; and

(2) the lesser of 50 percent of the increase in the cost of living in the preceding calendar year or six percent, for recipients who on July 1 are at least 60 but less than 65 years old or for recipients who on July 1 are less than 60 years old but who have received benefits from the plan for at least eight years.

(c) If a recipient was not receiving benefits during the entire preceding calendar year, the increase in benefits under this section shall be adjusted by multiplying it by the fraction whose numerator is the number of months for which benefits were received in the preceding calendar year and whose denominator is 12.

(d) If at the time of first receiving a retirement benefit, a member was receiving a disability benefit under this plan, the administrator shall, at the time the member is appointed to retirement, increase the retirement benefit by a percentage equal to the total cumulative percentage increase that has been applied to the member's disability benefit under this section.

(e) When computing a death benefit under AS 14.25.155, 14.25.157, or 14.25.160 or a survivor's benefit under AS 14.25.162, 14.25.164, or 14.25.167, adjustments granted to the deceased member or survivor under this section shall be included in the computation.

(f) An increase in benefit payments under this section is effective July 1 of each year and is based on the percentage increase in the consumer price index for urban wage earners and clerical workers for Anchorage, Alaska during the previous calendar year as determined by the United States Department of Labor, Bureau of Labor Statistics.

History - (Sec. 11 ch 151 SLA 1966; am Sec. 5 ch 86 SLA 1971; am Sec. 19 ch 66 SLA 1973; am Sec. 3 ch 99 SLA 1974; am Sec. 7 ch 128 SLA 1977; am Sec. 17 ch 13 SLA 1980; am Sec. 3 - 6 ch 146 SLA 1980; am Sec. 13 ch 137 SLA 1982; am Sec. 12 ch 106 SLA 1988; am Sec. 12 ch 97 SLA 1990; am Sec. 18, 19 ch 9 FSSLA 2005)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "plan" was substituted for "system" in this section.

Editors Notes - In general, a person's right to benefits under the state's public employee retirement systems vests when the person joins the system. *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981). Therefore, former law may govern the benefits of some members of the teachers' retirement system. The user is advised to ascertain which version of a particular statute is applicable. The version of this statute that was in effect immediately after the 1980 amendments read as follows:

"Sec. 14.25.143. POST RETIREMENT PENSION ADJUSTMENT. (a) When the administrator determines that the cost of living has increased and that the financial condition of the retirement fund permits, the administrator shall increase benefit payments to persons receiving benefits under this system.

"(b) The amount of the increase in benefit payments may not exceed the greater of

"(1) the increase in the cost of living since the date of retirement; or

"(2) four percent of the retirement benefit compounded for each year of retirement.

"(c) The administrator shall implement this section by regulation.

"(d) A person receiving benefits under this chapter shall be granted a 10 percent increase in the current base benefit if the person was receiving benefits on July 1, 1976. The increase shall be effective July 1, 1977.

"(e) If at the time of first receiving a retirement benefit a member was receiving a disability benefit, the administrator shall include the time during which the member received the disability benefit in determining the number of years of retirement under this section.

"(f) An increase in benefit payments under this section is effective July 1 of the year for which the increase is granted."

Section 48, ch. 146, SLA 1980 provides: "The retirement benefit payable to a member of the teachers' retirement system who is receiving a normal retirement benefit under AS 14.25.110 on July 1, 1980, and who at the time of his retirement was receiving a disability benefit under the teachers' retirement system, shall be increased by a percentage equal to the percentage of all post-retirement pension adjustments payable under AS 14.25.143 during the period that the member was receiving a disability benefit."

Under Sec. 18 and 19, ch. 9, FSSLA 2005, following amendment by sec. 3, ch. 146, SLA 1980, and until amended by sec. 12, ch. 97, SLA 1990, (a) of this section read: "(a) When the administrator determines that the cost of living has increased and that the financial condition of the retirement fund permits, the administrator shall increase benefit payments to persons receiving benefits under this plan. For purposes of this subsection, the financial condition of the fund would only permit an increase in benefits when the ratio of total fund assets to the accrued liability meets or exceeds 105 percent. In this subsection, "accrued liability" means the present value of all member benefits accrued by member service in this plan."

AG Opinions - If the financial condition of the funds does not permit payment of the PRPA, it is allowable to prospectively not pay existing members new [or additional] ad hoc PRPAs. However, a new statutory provision cannot reduce the existing number of members who retain a vested right to a PRPA if one is awarded, unless the new statutory provision includes comparable enhancements to benefits. April 20, 2005 Op. Att'y Gen.

Legislation that limits the administrator's discretion and allows an award of an ad hoc PRPA only if a retirement fund is actuarially funded at over 100 percent and employer contribution rates are set at less than eight percent would be subject to challenge under existing case law. The constitutional rights of

members regarding the ad hoc PRPA include the right to consideration of an award of a PRPA based on the discretion existing under the repealed statutes. April 20, 2005 Op. Att'y Gen.

SEC. 14.25.145. INTEREST ON INDIVIDUAL ACCOUNTS.

Interest shall be credited to each teacher's account at the end of each school year at the rate prescribed by the board for that year.

History - (Sec. 16 ch 145 SLA 1955; am Sec. 6 ch 142 SLA 1957; am Sec. 4 ch 78 SLA 1962; am Sec. 7 ch 138 SLA 1970; am Sec. 20 ch 66 SLA 1973; am Sec. 20 ch 9 FSSLA 2005)

Amendment Notes - The 2005 amendment, effective July 28, 2005, substituted "by the board" for "by regulation".

SEC. 14.25.150. REFUND UPON TERMINATION.

(a) Except as provided in (b) of this section, a terminated member is entitled to a refund of the balance of the member contribution account. A member is not entitled to a refund of supplemental contributions except as provided in AS 14.25.160(a).

(b) A member who is terminated and is a vested member, deferred vested member, or who is entitled to benefits under AS 14.25.125, and who is married at the time of application for a refund or whose rights to a refund are subject to a qualified domestic relations order is entitled to receive a refund of the balance of the member contribution account only if the member's present spouse and each person entitled under the order consent to the refund in writing on a form provided by the administrator. The administrator may waive written consent from the person entitled under the order if the administrator determines that the person cannot be located or for other reasons established by regulation. The administrator may waive written consent from the spouse if the administrator determines that

(1) the member was not married to the spouse during any period of the member's employment with an employer;

(2) the spouse has no rights to benefits under AS 14.25.009 - 14.25.220 because of the terms of a qualified domestic relations order;

(3) the spouse cannot be located;

(4) the member and spouse have been married for less than two years and the member establishes that they are not cohabiting; or

(5) another reason established by regulation exists.

(c) [Effective June 30, 2010]. A member who has received a refund of contributions in accordance with this section forfeits corresponding credited service under AS 14.25.009 - 14.25.220.

History - (Sec. 16 ch 145 SLA 1955; am Sec. 6 ch 142 SLA 1957; am Sec. 4 ch 78 SLA 1962; am Sec. 7 ch 86 SLA 1963; am Sec. 12 ch 151 SLA 1966; am Sec. 5 ch 84 SLA 1969; am Sec. 21 - 23 ch 66 SLA 1973; am Sec. 8 ch 128 SLA 1977; am Sec. 14 ch 137 SLA 1982; am Sec. 5, 6 ch 117 SLA 1986; am Sec. 21 ch 9 FSSLA 2005)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "AS 14.25.009 - 14.25.220" was substituted for "this chapter" in this section.

Amendment Notes - The 2005 amendment, effective June 30, 2010, added subsection (c).

SEC. 14.25.153. RIGHTS UNDER QUALIFIED DOMESTIC RELATIONS ORDER.

A former spouse shall be treated as a spouse or surviving spouse under AS 14.25.009 - 14.25.220 to the extent required by a qualified domestic relations order. Rights under the order do not take effect until the order is filed with the administrator.

History - (Sec. 7 ch 117 SLA 1986)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "AS 14.25.009 - 14.25.220" was substituted for "this chapter" in this section.

Decisions - Cited in *Laing v. Laing*, 741 P.2d 649 (Alaska 1987).

SEC. 14.25.155. NONOCCUPATIONAL DEATH BENEFITS.

(a) If the death of a member occurs after completing less than one year of membership service and the proximate cause of death is not a bodily injury sustained or hazard undergone while in the performance and within the scope of the member's duties of employment, the member's designated beneficiary shall be paid the balance of the member contribution account.

(b) If the death of a member occurs after completing at least one year of membership service but before becoming a vested member, and the proximate cause of death is not a bodily injury sustained or hazard undergone while in the performance and within the scope of the member's duties of employment, the lump-sum death benefit described in AS 14.25.160(b) and (c) shall be paid to the designated beneficiary of the member.

(c) If the death of a vested member or deferred vested member occurs and the proximate cause of death is not a bodily injury sustained or hazard undergone while in the performance and within the scope of the member's duties of employment, the surviving spouse may elect to receive either the benefits described in (b) of this section or a 50 percent joint and survivor option as provided under AS 14.25.167(a)(2) based on credited service to the date of the member's termination. If no spouse survives a vested or deferred vested member, or if a person other than the spouse is designated as beneficiary in accordance with AS 14.25.166, the administrator shall pay the designated beneficiary the benefits described in AS 14.25.160(b) and (c). Benefits accrue from the first day of the month following the member's death and are payable the last day of the month.

(d) Benefits are not payable under this section if benefits are payable under AS 14.25.157, 14.25.160, 14.25.162, 14.25.164, or 14.25.167.

History - (Sec. 15 ch 137 SLA 1982; am Sec. 8 ch 117 SLA 1986)

SEC. 14.25.157. OCCUPATIONAL DEATH BENEFITS.

(a) If (1) the death of a member occurs before the member first attains eligibility for normal retirement, and (2) the proximate cause of death is a bodily injury sustained or hazard undergone while in the performance and within the scope of the member's duties of employment, and (3) the injury or hazard is not the proximate result of wilful negligence on the part of the member, the administrator shall pay a monthly survivor's pension equal to 40 percent of the member's base salary at the time of termination of employment, divided by 12, to the member's surviving spouse. If there is no surviving spouse, the administrator shall pay the monthly survivor's pension in equal parts to the dependent children of the member. On the date the normal retirement of the member would have occurred if the member had lived, monthly payments must equal the monthly amount of the normal retirement benefit to which the member, had the member lived and continued employment until the member's normal retirement date, would have been entitled with an average base salary as existed at the member's death and the credited service to which the member would have been entitled. If the member does not have a spouse or dependent children at the time of death or if the member designates as beneficiary under AS 14.25.166 someone other than the surviving spouse or dependent children, the administrator shall pay the member's designated beneficiary those benefits available to a beneficiary under AS 14.25.160(b) and (c) and may not pay a benefit to the surviving spouse or dependent children.

(b) The first payment of the surviving spouse's pension or of a dependent child's pension shall accrue from the first day of the month following the member's death and is payable the last day of the month. The last payment shall be made for the last month in which there is an eligible surviving spouse or dependent child.

(c) Benefits are not payable under this section if benefits are payable under AS 14.25.155, 14.25.160, 14.25.162, 14.25.164, or 14.25.167.

(d) If a member's death is caused by an act of assault, assassination, or terrorism directly related to the person's status as a member, whether the act occurs on or off the member's job site, the death shall be considered to have occurred in the performance of and within the scope of the member's duties for purposes of (a)(2) of this section. If the expressed or apparent motive and intent of the perpetrator of the harm inflicted upon the member was due to the performance of the member's job duties or employment as a member, the death shall be considered to be directly related to the member's status as a member. A member's job duties are those performed within the course and scope of the member's employment with an employer.

History - (Sec. 15 ch 137 SLA 1982; am Sec. 9 ch 117 SLA 1986; am Sec. 1 ch 40 SLA 2002)

SEC. 14.25.160. DEATH BENEFITS.

(a) A death benefit shall be paid and any supplemental contributions shall be refunded to the designated beneficiary, upon receipt of a valid claim and proof of the death of a member who

(1) is not retired and is not eligible for benefits under AS 14.25.162 or 14.25.164; and

(2) either

(A) has made supplemental contributions under AS 14.25.055 since the date one year immediately preceding the member's death or since July 1, 1983, whichever is later; or

(B) is making supplemental contributions under AS 14.25.055 but has made them for less than one year.

(b) Upon the death of an active member who meets the conditions specified in (a) of this section, the amount of the death benefit is the sum of the following less any retirement benefit previously received by the member:

(1) the member contribution account;

(2) \$100 times the years of membership service;

(3) \$1,000; and

(4) \$500 if the deceased member is survived by one or more dependent children at the time of death and if the designated beneficiary is a dependent child of the member or is the parent or guardian of the dependent child of the member.

(c) If the sum of (b)(2) and (3) of this section exceeds \$3,000, only \$3,000 may be added to amounts under (b)(1) and (4) in calculating the death benefit under (b) of this section.

(d) Upon the death of an inactive member who meets the conditions specified in (a) of this section, the death benefit is the amount determined in (b)(1) of this section.

(e) Upon the death of a disabled member who is not eligible for normal retirement and who meets the conditions specified in (a) of this section, the death benefit is the amount determined in (b) of this section.

(f) Upon the death of a retired member who meets the conditions specified in (a) of this section, the death benefit is the amount determined in (b)(1) of this section less all retirement benefits paid to the deceased member.

(g) If supplemental contributions have been made under AS 14.25.055, benefits may be payable under AS 14.25.162 or 14.25.164 if the deceased member meets the eligibility requirements of one of those sections.

(h) Payment made to a beneficiary under this section is in place of any other benefit under AS 14.25.009 - 14.25.220.

History - Sec. 17 ch 145 SLA 1955; am Sec. 7 ch 142 SLA 1957; am Sec. 13 ch 89 SLA 1960; am Sec. 5 ch 78 SLA 1962; am Sec. 13 - 15 ch 151 SLA 1966; am Sec. 6 ch 84 SLA 1969; am Sec. 18 ch 13 SLA 1980; am Sec. 16, 17 ch 137 SLA 1982; am Sec. 13 ch 106 SLA 1988)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "AS 14.25.009 - 14.25.220" was substituted for "this chapter" in this section.

SEC. 14.25.162. SURVIVOR'S ALLOWANCE.

(a) If an active or disabled member dies and leaves a dependent child, and supplemental contributions have been made under AS 14.25.055 for at least one year of credited service, a survivor's allowance is payable under (b) of this section. If a retired member or a deferred vested member dies and leaves a dependent child, and supplemental contributions have been made under AS 14.25.055 for at least five years of credited service, a survivor's allowance is payable under (b) of this section. Application for the survivor's allowance must be made in writing to the administrator.

(b) A survivor's allowance is payable under this section as follows:

(1) an allowance of 10 percent of the member's base salary immediately before the member's death, retirement, or disability shall be paid for each dependent child; if there are four or more dependent children, the total amount paid to those children is 40 percent of the member's base salary before the member's death, retirement, or disability, paid in equal amounts to each child; the allowance shall be recomputed for the month in which the number of dependent children is less than four and the benefits shall be decreased accordingly; the adoption of a dependent child does not terminate the survivor's allowance payable under this section;

(2) an allowance of 35 percent of the member's base salary shall be paid to the member's surviving spouse as long as there is an eligible dependent child, as determined under (b)(1) of this section, for whom the surviving spouse is legally responsible; if there is no surviving spouse, an allowance of 10 percent of the member's base salary shall be paid to each court-appointed guardian, not to exceed one allowance for each child or for each group of children who have the same guardian or joint guardians;

(3) when no further benefits are payable under this section, the difference between the amount that would have been paid under AS 14.25.160 and any payments made to the member, spouse, guardian, or dependent children under this section shall be paid to those beneficiaries described in AS 14.25.166;

(4) benefits are not payable under this section if benefits are payable under AS 14.25.155, 14.25.157, 14.25.164, or 14.25.167.

(c) The survivor's allowance accrues from the first day of the month following the death of a member and is payable on the last day of the month. If payment is delayed, a retroactive payment must be made for the month in which a benefit is payable under this section. The last payment is for the month in which a benefit is payable under this section.

History - (Sec. 16 ch 151 SLA 1966; am Sec. 7 - 9 ch 84 SLA 1969; am Sec. 11, 12 ch 138 SLA 1970; am Sec. 15 ch 32 SLA 1971; am Sec. 1 ch 52 SLA 1972; am Sec. 24, 25 ch 66 SLA 1973; am Sec. 9, 10, 55 ch 128 SLA 1977; am Sec. 19 ch 13 SLA 1980; am Sec. 18, 19 ch 137 SLA 1982; am Sec. 14 ch 106 SLA 1988)

Editors Notes - In general, a person's right to benefits under the state's public employee retirement systems vests when the person joins the system. *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981). Therefore, former law may govern the benefits of some members of the teachers' retirement system. The user is advised to ascertain which version of the statute is applicable. Earlier versions of the statutes can be found in prior editions of the Alaska Statutes or in the published Session Laws of Alaska.

SEC. 14.25.163. ROLLOVER DISTRIBUTIONS AND ROLLOVER CONTRIBUTIONS.

(a) A distributee may elect, at the time and in the manner prescribed by the administrator, to have all or part of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in the direct rollover.

(b) Except as provided by AS 14.25.075(f), the plan does not accept contributions of eligible rollover distributions.

(c) In this section,

(1) "direct rollover" means the payment of an eligible rollover distribution by the plan to an eligible retirement plan specified by a distributee who is eligible to elect a direct rollover;

(2) "distributee" means a member or a beneficiary who is the surviving spouse of the member or an alternate payee;

(3) "eligible retirement plan" means

(A) an individual retirement account described in 26 U.S.C. 408(a);

(B) an individual retirement annuity defined in 26 U.S.C. 408(b);

(C) an annuity plan described in 26 U.S.C. 403(a);

(D) a qualified trust described in 26 U.S.C. 401(a);

(E) on and after January 1, 2002, an annuity plan described in 26 U.S.C. 403(b);

(F) on or after January 1, 2002, a governmental plan described in 26 U.S.C. 457(b); or

(G) on or after January 1, 2008, a Roth IRA described in 26 U.S.C. 408A;

(4) "eligible rollover distribution" means a distribution of all or part of a total account to a distributee, except for

(A) a distribution that is one of a series of substantially equal installments payable not less frequently than annually over the life expectancy of the distributee or the joint and last survivor life expectancy of the distributee and the distributee's designated beneficiary, as defined in 26 U.S.C. 401(a)(9);

(B) a distribution that is one of a series of substantially equal installments payable not less frequently than annually over a specified period of 10 years or more;

(C) a distribution that is required under 26 U.S.C. 401(a) (9);

(D) the portion of any distribution that is not includable in gross income; however, a portion under this subparagraph may be transferred only to an individual retirement account or annuity described in 26 U.S.C. 408(a) or (b), to a qualified plan described in 26 U.S.C. 401(a) or 403(a), or to an annuity contract described in 26 U.S.C. 403(b), that agrees to separately account for amounts transferred, including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not includable in gross income; and

(E) other distributions that are reasonably expected to total less than \$200 during a year.

History - (Sec. 9 ch 59 SLA 2002; am Sec. 7 - 10 ch 20 SLA 2007)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "plan" was substituted for "system" in this section.

Amendment Notes - The 2007 amendment, effective June 7, 2007, substituted "AS 14.25.075(f)" for "AS 14.25.075(f)(5)" in subsection (b), added "or an alternate payee" to paragraph (c)(2), deleted former paragraph (c)(3) (B), relating to certain distributions made prior to January 1, 2002, making related designation changes, added paragraph (c)(3)(G), added the proviso at the end of paragraph (c)(4)(D), deleted former paragraph (c)(4)(E), relating to hardship distributions made prior to January 1, 2002, and made related and stylistic changes.

SEC. 14.25.164. SPOUSE'S PENSION.

(a) If an active or disabled member dies, a pension is payable to the member's spouse if the member made supplemental contributions under AS 14.25.055 for at least one year of credited service. If a retired member or deferred vested member dies, a pension is payable to the member's spouse if the member made supplemental contributions under AS 14.25.055 for at least five years of credited service. Application for the spouse's pension must be made in writing to the administrator.

(b) A spouse's pension is payable under this section as follows:

(1) a spouse's pension is equal to 50 percent of the retirement benefit that the deceased member was receiving; if the member was not receiving a retirement benefit, the spouse's pension is equal to 50 percent of the amount

the member would have received, based on the member's average base salary and credited service to the date of the member's death and assuming that the member would have been eligible for a normal retirement benefit as of that date;

(2) in the event of the death of a member's spouse who is receiving a spouse's pension, the difference between the amount that would have been paid under AS 14.25.160 and any payments made to the member, spouse, guardian, or dependent children shall be paid to those beneficiaries described in AS 14.25.166;

(3) benefits are not payable under this section if benefits are payable under AS 14.25.155, 14.25.157, 14.25.162, or 14.25.167.

(c) The spouse's pension accrues from the first day of the month following the death of a member and is payable on the last day of the month. If payment is delayed, a retroactive payment must be made for the month in which a benefit is payable under this section. The last payment is for the month in which the spouse dies.

History - (Sec. 17 ch 151 SLA 1966; am Sec. 10 - 12 ch 84 SLA 1969; am Sec. 19 ch 69 SLA 1970; am Sec. 26 - 28 ch 66 SLA 1973; am Sec. 11 ch 173 SLA 1975; am Sec. 11 ch 128 SLA 1977; am Sec. 20 ch 13 SLA 1980; am Sec. 20 ch 13 SLA 1982; am Sec. 15 ch 106 SLA 1988)

Editors Notes - In general, a person's right to benefits under the state's public employee retirement systems vests when the person joins the system. *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981). Therefore, former law may govern the benefits of some members of the teachers' retirement system. The user is advised to ascertain which version of the statute is applicable. Earlier versions of the statutes can be found in prior editions of the Alaska Statutes or in the published Session Laws of Alaska.

SEC. 14.25.165. DISTRIBUTION REQUIREMENTS.

(a) The entire interest of a member must be distributed or must begin to be distributed not later than the member's required beginning date.

(b) If a member dies after the distribution of the member's interest has begun but before the distribution has been completed, the remaining portion of the interest shall continue to be distributed at least as rapidly as under the method of distribution being used before the member's death.

(c) If a member has made a distribution election and dies before the distribution of the member's interest begins, distribution of the member's entire interest shall be completed by December 31 of the calendar year containing the fifth anniversary of the member's death. However, if any portion of the

member's interest is payable to a designated beneficiary, distributions may be made over the life of the designated beneficiary or over a period certain not greater than the life expectancy of the designated beneficiary, commencing on or before December 31 of the calendar year immediately following the calendar year in which the member died, and, if the designated beneficiary is the member's surviving spouse, the date distributions are required to begin may not be earlier than the later of December 31 of the calendar year (1) immediately following the calendar year in which the member died, or (2) in which the member would have attained 70 1/2 years of age, whichever is earlier. If the surviving spouse dies after the member but before payments to the spouse have begun, the provisions of this subsection apply as if the surviving spouse were the member. An amount paid to a child of the member will be treated as if it were paid to the surviving spouse if the amount becomes payable to the surviving spouse when the child reaches the age of majority.

(d) If a member has not made a distribution election before the member's death, the member's designated beneficiary must elect the method of distribution not later than December 31 of the calendar year (1) in which distributions would be required to begin under this section, or (2) that contains the fifth anniversary of the date of death of the member, whichever is earlier. If the member does not have a designated beneficiary or if the designated beneficiary does not elect a method of distribution, distribution of the member's entire interest must be completed by December 31 of the calendar year containing the fifth anniversary of the member's death.

(e) For purposes of (c) of this section, distribution of a member's interest is considered to begin (1) on the member's required beginning date, or (2) if the designated beneficiary is the member's surviving spouse and the surviving spouse dies after the member but before payments to the spouse have begun, on the date distribution is required to begin to the surviving spouse. If distribution in the form of an annuity irrevocably commences to the member before the required beginning date, the date distribution is considered to begin is the date that the distribution actually commences.

(f) Notwithstanding any contrary provisions of AS 14.25.009 - 14.25.220, the requirements of this section apply to all distributions of a member's interest and take precedence over any inconsistent provisions of AS 14.25.009 - 14.25.220.

(g) All distributions required under this section are determined and made in accordance with 26 U.S.C. 401(a)(9) and regulations adopted under that statute, including any minimum distribution incidental benefit requirement.

(h) Unless otherwise specified, the provisions of this section apply to calendar years beginning on or after January 1, 1983.

(i) In this section,

(1) "designated beneficiary" means the individual who is designated as the beneficiary under the plan in accordance with 26 U.S.C. 401(a)(9) and regulations adopted under that statute;

(2) "required beginning date" means the first day of April of the calendar year following the calendar year in which the member either attains 70 1/2 years of age or actually retires, whichever is later.

History - (Sec. 10 ch 59 SLA 2002; am Sec. 12 ch 92 SLA 2004)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "AS 14.25.009 - 14.25.220" was substituted for "this chapter" and "plan" was substituted for "system" in this section.

Amendment Notes - The 2004 amendment, effective June 26, 2004, substituted "1983" for "1989" in subsection (h).

SEC. 14.25.166. DESIGNATION OF BENEFICIARY.

(a) Each member shall designate the beneficiary or beneficiaries to whom the administrator shall distribute benefits payable under AS 14.25.009 - 14.25.220 as a consequence of the member's death. Notwithstanding a previous designation of beneficiary, a person who is the spouse of a member at the time of the member's death automatically becomes the designated beneficiary if the spouse was married to the member during part of the member's employment for an employer

(1) except to the extent a qualified domestic relations order filed with the administrator provides for payment to a former spouse or other dependent of the member; or

(2) unless the member filed a revocation of beneficiary accompanied by a written consent to the revocation from the present spouse and each person entitled under the order; however, consent of the present spouse is not required if the member and the present spouse had been married for less than two years on the date of the member's death and if the member established when filing the revocation that the member and the present spouse were not cohabiting.

(b) Except as provided in (a) of this section, the member may change or revoke the designation without notice to the beneficiary or beneficiaries at any time. If a member designates more than one beneficiary, each shares equally unless the member specifies a different allocation or preference. The designation of a beneficiary, a change or revocation of a beneficiary, and a consent to revocation of a beneficiary shall be made on a form provided by the administrator and is not effective until filed with the administrator.

(c) If a member fails to designate a beneficiary, or if no designated beneficiary survives the member, the death benefit shall be paid

(1) to the surviving spouse or, if there is none surviving,

(2) to the surviving children in equal parts or, if there are none surviving,

(3) to the surviving parents in equal parts or, if there are none surviving,

(4) to the estate.

(d) A person claiming entitlement to benefits payable under AS 14.25.009 - 14.25.220 as a consequence of a member's death shall provide the administrator with a marriage certificate, divorce or dissolution judgment, or other evidence of entitlement. Documents establishing entitlement may be filed with the administrator immediately after a change in the member's marital status. If the administrator does not receive notification of a claim before the date 10 days after the member's death, the person claiming entitlement is not entitled to receive from the division of retirement and benefits any benefit already paid by the administrator.

History - (Sec. 21 ch 137 SLA 1982; am Sec. 10 - 12 ch 117 SLA 1986)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "AS 14.25.009 - 14.25.220" was substituted for "this chapter" in this section.

SEC. 14.25.167. JOINT AND SURVIVOR OPTION.

(a) Benefits payable under this section are in place of benefits payable under AS 14.25.110, 14.25.125, 14.25.155, 14.25.157, 14.25.160, 14.25.162, or 14.25.164. Upon filing an application for retirement with the administrator, or when a disabled member becomes eligible for normal retirement under AS 14.25.130(e), the member shall designate the person who is the member's spouse at the time of appointment to retirement as the contingent beneficiary. However, if the designation of the spouse is revoked under (c) of this section, the member may designate a dependent approved by the administrator as the contingent beneficiary or may take normal or early retirement under AS 14.25.110 or 14.25.125. The administrator shall pay benefits under the option elected by the member. The member may elect an option that provides that

(1) the member is entitled to receive a reduced benefit payable for life, and, after the member's death, the contingent beneficiary is entitled to receive payments in the amount of 75 percent of the reduced benefit for life;

(2) the member is entitled to receive a reduced benefit payable for life, and, after the member's death, the contingent beneficiary is entitled to receive payments in the amount of 50 percent of the reduced benefit for life; or

(3) the member is entitled to receive a reduced benefit payable during the joint lifetime of the member and the contingent beneficiary, and, after the death of either the member or the contingent beneficiary, the survivor is entitled to receive payments in the amount of 66-2/3 percent of the reduced benefit for life.

(b) The aggregate of the pension payments expected to be paid to a member and the member's contingent beneficiary under the options set out in (a) of this section shall be the actuarial equivalent of the pension that the member is otherwise entitled to receive upon retirement.

(c) A member may elect or change an option without the approval of the administrator if the member's election or change is filed in writing with the administrator before the effective date of the member's retirement. A member may revoke a joint and survivor option if the member files with the administrator before the effective date of the member's retirement a revocation and a consent to the revocation signed by the member's present spouse and each person entitled to benefits under a qualified domestic relations order on forms provided by the administrator. The administrator may waive the requirement for written consent from

(1) a person entitled under the order if the person cannot be located or for another reason established by regulation; or

(2) the spouse if

(A) the member is not married;

(B) the member was not married to the spouse during any period of the member's employment with an employer;

(C) the spouse has no rights to the option because of the terms of a qualified domestic relations order;

(D) the spouse cannot be located;

(E) the member and spouse have been married for less than two years and the member establishes that they are not cohabiting; or

(F) another reason is established under regulations of the administrator.

(d) A member, including a deferred vested member, may, regardless of age, elect a joint and survivor option any time before appointment to receive a retirement benefit.

(e) If either the member or contingent beneficiary dies before the member is appointed to retirement, the election becomes inoperative. Once the member is appointed to retirement, the election is irrevocable, even if the retired member is reemployed. Any additional retirement benefit to which the reemployed member may become entitled will be paid in accordance with the initial election made under this section, unless the contingent beneficiary is deceased. If the contingent beneficiary is deceased, the benefits earned during the period of reemployment are subject to AS 14.25.110, or this section if another contingent beneficiary was designated during the period of reemployment. All other benefits earned during previous periods of employment are subject to the election at the time the member was appointed to retirement. If death occurs during the period of reemployment and the proximate cause of death is not a bodily injury sustained or hazard undergone while in the performance and within the scope of the member's duties of employment, those benefits earned while reemployed are subject to AS 14.25.155(c). All other benefits earned during previous periods of employment are subject to the election at the time the member was appointed to retirement. If death occurs during the period of reemployment and the proximate cause of death is a bodily injury sustained or hazard undergone while in the performance and within the scope of the member's duties of employment and the injury or hazard is not the proximate result of wilful negligence on the part of the member, all benefits earned during all periods of employment are subject to AS 14.25.157.

(f) The member and any person claiming to be a contingent beneficiary shall file with the administrator a marriage certificate, divorce or dissolution judgment, or other evidence necessary to determine the applicability of this section and the identity of any contingent beneficiary.

(g) If the administrator determines, based on the affidavit of the member and other evidence, that a member is eligible to elect a form of payment other than a joint and survivor option under this section, and no contrary evidence is presented to the administrator within 60 days after the effective date of the member's retirement, no claim under this section, made by a spouse or former spouse of the member, may be paid if payment would result in an increase in actuarial liability to the plan.

(h) If a member fails to elect an option under (a) of this section and no effective revocation is filed with the administrator, the member is considered to have elected the option provided in (a)(2) of this section.

History - (Sec. 21 ch 137 SLA 1982; am Sec. 13 - 15 ch 117 SLA 1986)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "plan" was substituted for "system" in this section.

SEC. 14.25.168. MEDICAL BENEFITS.

(a) Except as provided in (c) of this section, the following persons are entitled to major medical insurance coverage under this section:

(1) for teachers first hired before July 1, 1990,

(A) a teacher who is receiving a monthly benefit from the plan and who has elected coverage;

(B) the spouse and dependent children of the teacher described in (A) of this paragraph;

(C) the surviving spouse of a deceased teacher who is receiving a monthly benefit from the plan and who has elected coverage;

(D) the dependent children of a deceased teacher who are dependent on the surviving spouse described in (C) of this paragraph;

(2) for teachers first hired on or after July 1, 1990,

(A) a teacher who is receiving a monthly benefit from the plan and who has elected coverage for the teacher;

(B) the spouse of the teacher described in (A) of this paragraph if the teacher elected coverage for the spouse;

(C) the dependent children of the teacher described in (A) of this paragraph if the teacher elected coverage for the dependent children;

(D) the surviving spouse of a deceased teacher who is receiving a monthly benefit from the plan and who has elected coverage;

(E) the dependent children of a deceased teacher who are dependent on the surviving spouse described in (D) of this paragraph if the surviving spouse has elected coverage for the dependent children.

(b) After an election of coverage under this section, major medical insurance coverage takes effect on the same date as retirement benefits begin and stops when the member or survivor is no longer eligible to receive a monthly benefit. The coverage for persons age 65 or older is the same as that available for persons under age 65. The benefits payable to those persons age 65 or older supplement any benefits provided under the federal old age, survivors and disability insurance program. The medical premium and optional insurance premiums owed by a member or survivor shall be deducted from the benefit owed to the member or survivor before payment of the benefit.

(c) Receipt under a qualified domestic relations order of a monthly benefit from the plan does not entitle a person or the person's spouse or child to insurance coverage under (a) of this section. However, a member's former spouse who receives a monthly benefit under a qualified domestic relations order is entitled to receive major medical insurance coverage if the former spouse

(1) elects the coverage within 60 days after the first monthly benefit paid under the order is mailed first class or otherwise delivered; and

(2) pays the premium established by the administrator for the coverage.

(d) A benefit recipient may elect major medical insurance coverage in accordance with regulations and under the following conditions:

(1) a person who has less than 25 years of membership service and who is younger than 60 years of age must pay an amount equal to the full monthly group premium for retiree major medical insurance coverage;

(2) a disabled member, a disabled member who is appointed to normal retirement, a person 60 years of age or older, or a person who has at least 25 years of membership service is not required to make premium payments.

(e) The administrator shall inform members who have requested appointment to retirement that the health insurance coverage available to retired members may be different from the health insurance coverage provided to employees. The administrator shall also notify those members of time limits for selecting optional health insurance coverage and whether the election is irrevocable. A member who has requested appointment to retirement shall indicate in writing on a form provided by the administrator that the member has received the information required by this subsection and whether the member has chosen to receive optional health insurance coverage.

(f) On and after July 1, 2007, benefits under this section shall be provided in part by the Alaska retiree health care trust established under AS 39.30.097(a).

History - (Sec. 18 ch 151 SLA 1966; am Sec. 1 ch 200 SLA 1975; am Sec. 22 ch 137 SLA 1982; Sec. 16, 17 ch 117 SLA 1986; am Sec. 13 - 15 ch 97 SLA 1990; am Sec. 1 ch 14 SLA 1992; am Sec. 10 ch 68 SLA 2000; am Sec. 6 ch 57 SLA 2001; am Sec. 8 ch 58 SLA 2001; am Sec. 22 ch 9 FSSLA 2005; am Sec. 11 ch 20 SLA 2007)

Revisors Notes - In 1984, the word "under" was inserted in the last sentence of subsection (b) to correct a manifest error of omission in Sec. 22, ch. 137, SLA 1982.

Under sec. 144, ch. 9, FSSLA 2005, "plan" was substituted for "system" in this section.

Amendment Notes - The 2005 amendment, effective January 1, 2006, rewrote subsection (a).

The 2007 amendment, effective June 7, 2007, added subsection (f).

Editors Notes - In general, a person's right to benefits under the state's public employee retirement systems vests when the person joins the system. *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981). Therefore, former law may govern the benefits of some members of the teachers' retirement system. The user is advised to ascertain which version of the statute is applicable. Earlier versions of the statutes can be found in prior editions of the Alaska Statutes or in the published Session Laws of Alaska.

AG Opinions - Pre-funding of the medical component of PERS and TRS benefits, to the extent that pre-funding would be considered an accrued benefit, may not be discontinued for members who were employed during the period that statutes required pre-funding. Funding of medical benefits may be set at less than 100% funding for new members. April 20, 2005 Op. Att'y Gen.

Health benefits provided by the state's retirement system statutes are part of the retirement benefit package that becomes part of the contract of employment when the public employee is hired. As such, retiree health benefits are among the benefits that must be included in the PERS and TRS employer contribution rates under AS 14.25.070, AS 39.30.095, and AS 39.35.250 - 39.35.290. Consistent with these statutes, employer contribution rates have historically been set to fully fund retiree health benefits. April 20, 2005 Op. Att'y Gen.

Decisions - Applied in *University of Alaska v. Tumeo*, 933 P.2d 1147 (Alaska 1997).

SEC. 14.25.169. DUPLICATE BENEFITS.

If payments from this retirement plan are due to a teacher or to the teacher's spouse under more than one provision of this plan, the teacher or spouse shall elect under which provision and which benefit the teacher or spouse wishes to receive and no payments may be made under any other provision. However, benefits under AS 14.25.155, 14.25.157, 14.25.160, 14.25.162, 14.25.164, and 14.25.167 shall be paid in addition to those benefits or that service credit a person is entitled to receive because of the person's own membership in the retirement plan. A teacher may not receive (1) duplicate credit under this plan for the same period of service, (2) more than one year of service credit in the course of a school year, or (3) a benefit while accruing service credit under this plan, except as provided in this section.

History - (Sec. 19 ch 151 SLA 1966; am Sec. 2 ch 184 SLA 1972; am Sec. 23 ch 137 SLA 1982)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "plan" was substituted for "system" in this section.

**SEC. 14.25.170. ADMINISTRATION. [REPEALED, SEC. 132 CH 9
FSSLA 2005].**

Repealed or Renumbered

SEC. 14.25.173. ADJUSTMENTS.

(a) When a change or error is made in the records maintained by the plan or in the contributions made on behalf of an employee or an error is made in computing a benefit, and, as a result, a teacher or member or beneficiary is entitled to receive from the plan more or less than the teacher or member or beneficiary would have been entitled to receive had the records or contributions been correct or had the error not been made, (1) the records, contributions, or error shall be corrected, and (2) as far as practicable, future payments or benefit entitlement shall be adjusted so that the actuarial equivalent of the pension or benefit to which the teacher or member or beneficiary was correctly entitled will be paid. An adjustment to contributions shall be picked up by the employer in accordance with AS 14.25.050 or treated as an adjustment to the employer's contributions in accordance with this section, depending upon the nature of the adjustment. If no future benefit payments are due, a person who was paid any amount to which the person was not entitled is liable for repayment of that amount, and a person who was not paid the full amount to which the person was entitled shall be paid that amount.

(b) An adjustment that requires the recovery of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or beneficiary was notified of the error;

(2) the error was not the result of erroneous information supplied by the member or beneficiary; and

(3) the member or beneficiary did not have reasonable grounds to believe that the amount of the benefit was in error.

(c) At least quarterly, the administrator shall report to the commissioner of administration on all situations since the administrator's last report in which an adjustment has been prohibited under (b) of this section. If the commissioner of administration finds that there is reason to believe that one or more of the conditions set out in (b) of this section have not been met, the administrator shall notify the member or beneficiary that an adjustment will be made to recover the overpayment. A member or beneficiary who receives notice of adjustment under this subsection may file a request with the commissioner of administration for a waiver of the adjustment under AS 14.25.175. An adjustment that requires the repayment of benefits may not be required while the waiver request is pending.

(d) The plan shall pay interest on amounts owed to a member or beneficiary. Interest shall be charged on amounts owed to the plan by a member or beneficiary if the amount owed is the result of erroneous information supplied by the member or beneficiary, or the member or beneficiary had reasonable grounds to believe the amount of the benefit was in error. The interest paid under this subsection is at the rate established by regulation for indebtedness contributions owed. Interest accrues from the date on which the correct payment was due and continues until an actuarial adjustment to the benefit is effective or the amount owed is paid. Accrued interest for periods less than 60 days or in amounts less than the limit established in regulation for writing off small indebtedness and refund balances may not be collected or paid under this subsection.

History - (Sec. 4 ch 169 SLA 1976; am Sec. 1 ch 15 SLA 1984; am Sec. 2 ch 82 SLA 1986; am Sec. 11 ch 59 SLA 2002; am Sec. 23 ch 9 FSSLA 2005)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "plan" was substituted for "system" in this section.

Amendment Notes - The 2005 amendment, effective July 28, 2005, in subsection (c) substituted "At least quarterly" for "At each regularly scheduled meeting of the Teachers' Retirement Board" at the beginning, "commissioner of administration" for "board" in two places, "file a request with the commissioner of administration" for "appeal to the board", and "waiver request" for "appeal".

SEC. 14.25.175. WAIVER OF ADJUSTMENTS.

(a) Upon request by an affected member or beneficiary under (b) of this section, the commissioner of administration may waive an adjustment or a portion of an adjustment made under AS 14.25.173 if, in the opinion of the commissioner of administration,

(1) the adjustment or portion of the adjustment will cause undue hardship to the member or beneficiary;

(2) the adjustment was not the result of erroneous information supplied by the member or beneficiary;

(3) before the adjustment was made, the member or beneficiary received confirmation from the administrator that the member's or beneficiary's records were correct; and

(4) the member or beneficiary had no reasonable grounds to believe the records were incorrect before the adjustment was made.

(b) In order to obtain consideration of a waiver under this section, the affected member or beneficiary shall file a request with the commissioner of administration in writing within 30 days after receipt of notice that the records have been adjusted. The ruling of the commissioner of administration shall be in writing.

(c) A ruling of the commissioner of administration to deny a waiver under (b) of this section may be appealed to the office of administrative hearings.

(d) The office of administrative hearings may reverse the commissioner of administration's decision to deny a waiver and may impose conditions on granting a waiver that it considers equitable. These conditions may include requiring the member or beneficiary to make additional contributions to the plan.

(e) [Repealed, Sec. 132 ch 9 FSSLA 2005].

(f) [Repealed, Sec. 57 ch 68 SLA 2000].

(g) [Repealed, Sec. 57 ch 68 SLA 2000].

History - (Sec. 1 ch 81 SLA 1979; am Sec. 24 ch 137 SLA 1982; am Sec. 11, 12, 57 ch 68 SLA 2000; am Sec. 24 - 27, 132 ch 9 FSSLA 2005)

Amendment Notes - The 2005 amendment, effective July 28, 2005, substituted "commissioner of education" for "board" in two places in the introductory language of subsection (a) and two places in subsection (b); substituted "request" for "appeal" at the beginning of subsection (a); substituted "shall file a request with" for "must appeal to" in subsection (b); rewrote subsection (c); in subsection (d) rewrote the first sentence and substituted "plan" for "system" in the second sentence; and repealed subsection (e).

SEC. 14.25.177. EFFECT OF AMENDMENTS; DETERMINATION OF BENEFITS UPON TERMINATION.

(a) An amendment to AS 14.25.009 - 14.25.220 is not retroactive unless its retroactivity is expressly stated in the amendment.

(b) The monthly amount of a benefit payable under AS 14.25.009 - 14.25.220 shall be determined in accordance with the provisions of AS 14.25.009 - 14.25.220 in effect on the date of termination of the member's last segment of employment.

History - (Sec. 4 ch 169 SLA 1976; am Sec. 21 ch 13 SLA 1980)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "AS 14.25.009 - 14.25.220" was substituted for "this chapter" in this section.

Cross References - For general rule on retroactivity of legislation, which (a) of this section restates, see AS 01.10.090.

Editors Notes - In general, a person's right to benefits under the state's public employee retirement systems vests when the person joins the system. *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981). Therefore, former law may govern the benefits of some members of the teachers' retirement system. The user is advised to ascertain which version of a particular statute is applicable. Earlier versions of the statutes can be found in prior editions of the Alaska Statutes or in the published Session Laws of Alaska.

SEC. 14.25.180. MANAGEMENT AND INVESTMENT OF FUND.
[REPEALED, SEC. 132 CH 9 FSSLA 2005].

Repealed or Renumbered

SEC. 14.25.181. EXCLUSIVE BENEFIT; USE OF FORFEITURES;
LIMITATIONS.

(a) The corpus or income of the assets held in trust as required by the plan may not be diverted to or used for other than the exclusive benefit of the members or their beneficiaries.

(b) If, upon termination of the plan, all liabilities are satisfied, any excess assets shall revert to the employers as determined by the administrator subject to the approval of the termination by the Internal Revenue Service.

(c) The administrator shall use forfeitures that arise for any reason, including from termination of employment or death, to reduce employer contributions. Forfeitures may not be applied to increase the benefits of any member.

(d) The administrator shall determine the amount of any benefit that is determined on the basis of actuarial tables using assumptions approved by the commissioner of administration. The amount of benefits is not subject to employer discretion.

(e) Employee contributions paid to, and retirement benefits paid from, the plan may not exceed the annual limits on contributions and benefits, respectively, allowed by 26 U.S.C. 415. Notwithstanding any contrary provision of law, the administrator may modify a request by a member to make a contribution to the plan if the amount of the contribution would exceed the limits provided in 26 U.S.C. 415 by using the following methods:

(1) if the law requires a lump sum payment for the purchase of service credit, the administrator may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under 26 U.S.C. 415(c) or (n);

(2) if a periodic payment plan under (1) of this subsection will not avoid a contribution in excess of the limits imposed by 26 U.S.C. 415(c), the administrator may either reduce the member's contribution to an amount within the limits of that section or refuse the member's contribution.

History - (Sec. 12 ch 59 SLA 2002; am Sec. 12, 13 ch 20 SLA 2007)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "plan" was substituted for "system" in this section.

Amendment Notes - The 2007 amendment, effective June 7, 2007, substituted "shall revert to the employers as determined by the administrator subject to the approval of the termination by the Internal Revenue Service" for "arising from erroneous actuarial computation shall revert to the employers on a pro rata basis" in subsection (b), and added subsections (c), (d), and (e).

**SEC. 14.25.190. MANAGEMENT AND INVESTMENT OF FUND.
[REPEALED, SEC. 132 CH 9 FSSLA 2005].**

Repealed or Renumbered

**SEC. 14.25.195. SPECIAL RULES FOR TREATMENT OF QUALIFIED
MILITARY SERVICE.**

Notwithstanding any contrary provisions of AS 14.25.009 - 14.25.220, with respect to qualified military service, contributions shall be made and benefits and service credit shall be provided in accordance with 26 U.S.C. 414(u).

History - (Sec. 13 ch 59 SLA 2002)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "AS 14.25.009 - 14.25.220" was substituted for "this chapter" in this section.

SEC. 14.25.200. EXEMPTION FROM TAXATION AND PROCESS.

(a) Except as provided in AS 29.45.030(a)(1) or in (c) of this section, member contributions and other amounts held in the plan on behalf of a member or other person who is or may become eligible for benefits under the plan are exempt from Alaska state and municipal taxes and are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge of any kind, either voluntary or involuntary, before they are received by the person entitled to the amount under the terms of the plan. Any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any right to amounts accrued in the plan is void. However, a member's right to receive benefits or the member contribution account may be assigned

(1) under a qualified domestic relations order;

(2) to a trust or similar legal device that meets the requirements for a Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C. 1396p(d)(4); or

(3) as provided in (c) of this section.

(b) Member contributions and other amounts held in the plan and benefits payable under AS 14.25.009 - 14.25.220 are exempt from garnishment, execution, or levy as provided in AS 09.38 (exemptions).

(c) An inactive member may elect to have the taxable portion of the member contribution account transferred directly to another plan or an individual retirement arrangement that is qualified under the federal Internal Revenue Code and that accepts the transfer.

History - (Sec. 22 ch 145 SLA 1955; am Sec. 17 ch 89 SLA 1960; am Sec. 13 ch 84 SLA 1969; am Sec. 22 ch 13 SLA 1980; am Sec. 3 ch 62 SLA 1982; am Sec. 3 ch 82 SLA 1986; am Sec. 18 ch 117 SLA 1986; am Sec. 17 ch 106 SLA 1988; am Sec. 5 ch 31 SLA 1992; am Sec. 2 ch 102 SLA 1994; am Sec. 13, 14 ch 68 SLA 2000)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "AS 14.25.009 - 14.25.220" was substituted for "this chapter" and "plan" was substituted for "system" in this section.

Decisions -Cited in Gutterman v. First Nat'l Bank, 597 P.2d 969 (Alaska 1979).

SEC. 14.25.205. TIME LIMIT FOR APPLICATION.

If an application for benefits or for refund has not been filed with the administrator by July 1 following the date on which an inactive member (except a member on leave of absence without pay) would attain age 75, or if an application for benefits or for refund has not been filed with the administrator within the 50 years following the most recent date on which the person was an active member, benefits or refunds may not be paid under AS 14.25.009 - 14.25.220 and the member's records may be destroyed.

History - (Sec. 14 ch 84 SLA 1969; am Sec. 23 ch 13 SLA 1980)

Revisors Notes - Under sec. 144, ch. 9, FSSLA 2005, "AS 14.25.009 - 14.25.220" was substituted for "this chapter" in this section.

SEC. 14.25.210. PENALTY FOR FALSE STATEMENTS.

(a) A person who knowingly makes a false statement, or falsifies or permits to be falsified any record of this plan, in an attempt to defraud this plan, is guilty of a class A misdemeanor.

(b) In this section, "knowingly" has the meaning given in AS 11.81.900(a).

History - (Sec. 20 ch 145 SLA 1955; am Sec. 15, 16 ch 68 SLA 2000; am Sec. 28 ch 9 FSSLA 2005)

Amendment Notes - The 2005 amendment, effective July 28, 2005, in subsection (a) substituted "plan" for "system" in two places and deleted "and forfeits all rights under this chapter" from the end of the subsection.

SEC. 14.25.212. PENSION FORFEITURE.

The provisions of AS 37.10.310 apply to pension benefits under AS 14.25.009 - 14.25.220.

History - (Sec. 4 ch 47 SLA 2007)

SEC. 14.25.220. DEFINITIONS.

In AS 14.25.009 - 14.25.220, unless the context requires otherwise,

(1) "active member" means a member who is employed by an employer, is receiving compensation on a full-time or part-time basis and is making contributions to the plan, or a member making contributions under AS 14.20.330 or 14.20.345;

(2) "actuarial adjustment" means the adjustment necessary to obtain equality in value of the aggregate expected payments under two different forms of pension payments, considering expected mortality and interest earnings on the basis of assumptions, factors, and methods specified in regulations issued under the plan that are formally adopted by the board and that clearly preclude employer discretion in the determination of the amount of any member's benefit;

(3) "administrator" means the commissioner of administration or the commissioner's designee under AS 14.25.003;

(4) "annuitant" means a retired member or a disabled member who is receiving a benefit under this plan;

(5) "average base salary" means the result obtained by dividing the sum of the member's three highest years' base salary by three, or if a member does not have three years base salary, then by dividing the sum of all base salaries by the number of years of base salary; the base salary for a year in

which credit is granted for disability totaling more than one-third of a year may not be used in the computation of the average base salary; the base salary in a school year for which the member receives compensation for less than two-thirds of a year may not be used in the computation of the average base salary; if compensation is received for more than two-thirds of a year, the full base salary for that school year shall be used in the computation of the average base salary;

(6) "base salary"

(A) means the total remuneration payable under contract for a full year of membership service, including addenda to the contract but, for a member first hired on or after July 1, 1996, does not include remuneration in excess of the limitations set out in 26 U.S.C. 401(a)(17);

(B) has the same meaning as "compensation" under AS 39.35.680(9) when applied to a state legislator who elects membership under AS 14.25.040(b);

(7) "beneficiary" means a person designated by a member to receive benefits that may be due from the plan upon the member's death;

(8) "BIA service" means service, including partial years, as a teacher, a certificated person employed in a full-time position requiring a teaching certificate as a condition of employment, or a Bureau of Indian Affairs professional educator in a school or school system contracted or operated by the Bureau of Indian Affairs in Alaska;

(9) "board" means the Alaska Retirement Management Board established under AS 37.10.210;

(10) "compensation" means the total remuneration paid under contract to a member for services rendered during a school year, including cost-of-living differentials, payments for leave that is actually used by the member, the amount by which the member's wages are reduced under AS 39.30.150(c), an amount that is contributed by the employer under a salary reduction agreement and that is not includable in the gross income of the employee under 26 U.S.C. 125 or 132(f)(4), and the amount deferred under an employer-sponsored deferred compensation plan or the tax shelter annuity plan approved by the Department of Education and Early Development, but does not include retirement benefits, welfare benefits, per diem, expense allowances, workers' compensation payments, or payments for leave not used by the member, whether those leave payments are scheduled payments, lump-sum payments, donations, or cash-ins; for purposes of AS 14.25.050, compensation paid includes any payment made after June 30 of a school year for services rendered before the end of the school year;

(11) "credited service" means

(A) all membership service as defined in this section, territorial employment as defined in this section, plus outside, military, and Alaska BIA service, with outside and military service limited to 10 years except under the conditions set out in AS 14.25.100;

(B) for purposes of eligibility for benefits under AS 14.25.009 - 14.25.220, service for which no indebtedness is owed;

(12) "deferred vested member" means an inactive member who meets the service requirements of a vested member;

(13) "dependent child" means an unmarried child of a member, including an adopted child, who is dependent upon the member for support and who is either (A) less than 19 years old, or (B) less than 23 years old and registered at and attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education and Early Development; the age limits set out in this paragraph do not apply to a child who is totally and permanently disabled;

(14) "disabled member" means a member who is terminated, who has not received a refund from the plan, and who is receiving a disability benefit from the plan;

(15) "early retirement" means retirement under AS 14.25.110(b);

(16) "employer" means a public school district, the Board of Regents of the University of Alaska, the Department of Education and Early Development, the Regional Resource Centers, or the state legislature with respect to a state legislator who elects membership under AS 14.25.040(b);

(17) "fiscal year" means the period beginning on July 1 and ending on June 30 of the following calendar year;

(18) "former member" means a member who is terminated and who received a total refund of the balance of the mandatory contribution account, or who has requested in writing a refund of the balance of the mandatory contribution account;

(19) "full-time teacher" means a teacher occupying a position requiring teaching on a regular basis for the normal work period per day or week at a teaching assignment, excluding teaching as an assistant or graduate assistant or teaching on a substitute, temporary, or per diem basis;

(20) "inactive teacher or member" means a member who is terminated and who has not received a refund from the plan or a member who is on leave of absence and who is not making contributions under AS 14.20.345;

(21) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended;

(22) "member contribution account" means the total maintained by the plan of the member's mandatory contributions, indebtedness principal and interest payments, interest credited to each of those accounts, and adjustments to the account in accordance with AS 14.25.173;

(23) "membership service" means

(A) full or part-time service as a teacher in a public school in the Territory or State of Alaska, or both, under the supervision and control of the Territorial Board of Education or the Department of Education and Early Development or the school board of a city, regional educational attendance area, or borough school district;

(B) full-time or part-time teaching at the University of Alaska or a full-time administrative position at the University of Alaska that requires academic standing and that has been approved for inclusion in the plan by the administrator;

(C) any period during which the teacher receives a disability benefit under this plan or is on an approved sabbatical leave granted in accordance with AS 14.20.310;

(D) continuous service as a state legislator when performed by a state legislator who elects membership under AS 14.25.040(b), subject to the requirements of AS 14.25.040(c);

(E) full-time or part-time service as an employee of the Special Education Service Agency, subject to the requirements of AS 14.25.047; or

(F) full-time or part-time service as an Alaska Native language or culture expert, subject to the requirements of AS 14.25.048;

(24) "military service" means active duty in the armed forces of the United States;

(25) "nonpublic school" means a school established by an agency other than a state that is primarily supported by other than public funds, and operation of whose program rests with other than publicly elected or appointed officials, and is state approved or accredited;

(26) "non-vested member" means an active or inactive member who does not meet the requirements of a vested member or deferred vested member;

(27) "normal retirement" means retirement under AS 14.25.110(a);

(28) "outside service" means service for full years as defined by (45)(A)(x) and (45)(B)(xi) of this section

(A) as a certificated full-time elementary or secondary teacher or a certificated person in a full-time position requiring a teaching certificate as a condition of employment in an out-of-state public school within the United States, or in a school outside the United States supported by funds of the United States;

(B) as a certificated full-time elementary or secondary teacher or a certificated person in a full-time position requiring a teaching certificate as a condition of employment in an approved or accredited nonpublic school within the United States, or in a school outside the United States supported by funds of the United States;

(C) in a full-time position requiring academic standing in an out-of-state institution of higher learning accredited by a nationally recognized accrediting agency as listed in the Education Directory - Colleges and Universities by the National Center for Education Statistics;

(D) as a full-time teacher in an approved or accredited nonpublic institution of higher learning in Alaska;

(29) "part-time teacher" means a teacher occupying a position requiring teaching on a regular basis for at least 50 percent of the normal workweek at a teaching assignment, excluding teaching as an assistant or graduate assistant, or teaching on a substitute, temporary, or per diem basis;

(30) "past service liability" means the actuarially determined excess of the accrued liability of the plan over the value of the plan's assets, as of the date of the last actuarial valuation;

(31) "permanent disability" means a physical or mental condition that, in the judgment of the administrator, based upon medical reports and other evidence satisfactory to the administrator, presumably prevents a member from satisfactorily performing the member's usual duties for the member's employer or the duties of another position or job that an employer makes available for which the member is qualified by training or education;

(32) "plan" means the retirement benefit plan established under AS 14.25.009 - 14.25.220;

(33) "prescribed rate of interest" means the rate of interest used for computing employer contributions, for preparing actuarial tables used by the plan, for crediting interest to members' contributions, and for charging interest on members' indebtedness accounts;

(34) "public school" means a school operated by publicly elected or appointed school officials in which the program and activities are under the control of those officials and that is supported by public funds;

(35) "qualified domestic relations order" means a divorce or dissolution judgment under AS 25.24, including an order approving a property settlement, that

(A) creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the member contribution account or benefits payable with respect to a member;

(B) sets out the name and last known mailing address, if any, of the member and of each alternate payee covered by the order;

(C) sets out the amount or percentage of the member's benefit, or of any survivor's benefit, to be paid to the alternate payee, or sets out the manner in which that amount or percentage is to be determined;

(D) sets out the number of payments or period to which the order applies;

(E) sets out the plan to which the order applies;

(F) does not require any type or form of benefit or any option not otherwise provided by AS 14.25.009 - 14.25.220;

(G) does not require an increase of benefits in excess of the amount provided by AS 14.25.009 - 14.25.220, determined on the basis of actuarial value; and

(H) does not require the payment, to an alternate payee, of benefits that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order;

(36) "retired teacher or member" means a member who is terminated, who has not received a refund from the plan, and who is receiving a benefit, other than disability, from the plan;

(37) "retirement" means that period of time from the first day of the month following

(A) the date of termination; and

(B) application for retirement in which a person is appointed to receive a retirement benefit, other than a disability benefit;

(38) "retirement benefit" means the annuity received by a retired member from the plan;

(39) "retirement fund" or "fund" means the fund in which the assets of the plan, including income and interest derived from the investment of money, are deposited and held;

(40) "Retirement System of 1945" and "Retirement Fund of 1945" or like terms mean the system and fund established in sections 37-5-21 - 37-5-35, ACLA 1949;

(41) "school year" means the 12-month period beginning July 1 of each year and ending June 30 of the following year;

(42) "supplemental contribution account" means the account maintained by the plan to record the supplemental contributions of each member, including interest and adjustments to the account;

(43) "system" means all retirement plans established under the teachers' retirement system;

(44) "teacher" and "member" are used interchangeably under AS 14.25.009 - 14.25.220 and mean a person eligible to participate in the plan and who is covered by the plan, limited to

(A) a certificated full-time or part-time elementary or secondary teacher, a certificated school nurse, or a certificated person in a position requiring a teaching certificate as a condition of employment in a public school of the state, the Department of Education and Early Development, or the Department of Labor and Workforce Development;

(B) a full-time or part-time teacher of the University of Alaska or a person occupying a full-time administrative position at the University of Alaska that requires academic standing; the approval of the administrator must be obtained before an administrative position qualifies for membership in the plan; however, a teacher or administrative person at the university who is participating in a university retirement program under AS 14.40.661 - 14.40.799 is not a member under this plan;

(C) a state legislator who elects membership under AS 14.25.040(b);

(45) "territorial employment" means non-teaching employment with the Territory of Alaska as provided under AS 14.25.105; territorial employment is not membership service;

(46) "vested member" or "vested teacher" means an active member who has completed either

(A) 15 years of service, the last five of which have been membership service, for a member first hired before July 1, 1975;

(B) eight years of membership service;

(C) five years of membership and three years of BIA service; or

(D) 12 school years of part-time membership service or 12 school years in each of which the member earned either part-time or full-time membership service;

(47) "year of service" means service, except for military and territorial service, during the dates set for a school year; partial-year service credit is given for membership and BIA service as follows:

(A) before July 1, 1969, during any school year,

(i) less than 20 days, no credit;

(ii) 20 days or more but less than 35 days, 0.2 years;

(iii) 35 days or more but less than 49 days, 0.3 years;

(iv) 49 days or more but less than 63 days, 0.4 years;

(v) 63 days or more but less than 77 days, 0.5 years;

(vi) 77 days or more but less than 91 days, 0.6 years;

(vii) 91 days or more but less than 105 days, 0.7 years;

(viii) 105 days or more but less than 119 days, 0.8 years;

(ix) 119 days or more but less than 133 days, 0.9 years;

(x) 133 days or more, 1.0 years;

(B) on or after July 1, 1969, during any school year,

(i) less than nine days, no credit;

(ii) nine days or more but less than 27 days, 0.1 years;

(iii) 27 days or more but less than 45 days, 0.2 years;

(iv) 45 days or more but less than 63 days, 0.3 years;

- (v) 63 days or more but less than 81 days, 0.4 years;
- (vi) 81 days or more but less than 100 days, 0.5 years;
- (vii) 100 days or more but less than 118 days, 0.6 years;
- (viii) 118 days or more but less than 136 days, 0.7 years;
- (ix) 136 days or more but less than 154 days, 0.8 years;
- (x) 154 days or more but less than 172 days, 0.9 years;
- (xi) 172 days or more, 1.0 years;

(C) service performed on a part-time basis will be credited in proportion to the amount of credit that would have been received for service performed on a full-time basis.

History - (Sec. 2 ch 145 SLA 1955; am Sec. 1 ch 142 SLA 1957; am Sec. 2 ch 89 SLA 1960; am Sec. 7 ch 179 SLA 1960; am Sec. 1, 2 ch 78 SLA 1962; am Sec. 8 - 12 ch 86 SLA 1963; am Sec. 1 ch 111 SLA 1965; am Sec. 20 - 22 ch 151 SLA 1966; am Sec. 1 ch 76 SLA 1968; am Sec. 15 - 19 ch 84 SLA 1969; am Sec. 21 ch 46 SLA 1970; am Sec. 13 - 18 ch 138 SLA 1970; am Sec. 3 - 5 ch 229 SLA 1970; am Sec. 16 - 18 ch 32 SLA 1971; am Sec. 6 - 8 ch 86 SLA 1971; am Sec. 30 - 33 ch 66 SLA 1973; am Sec. 3 ch 57 SLA 1974; am Sec. 21 ch 127 SLA 1974; am Sec. 12, 13 ch 173 SLA 1975; am Sec. 1, 6 ch 155 SLA 1976; am Sec. 5 ch 169 SLA 1976; am Sec. 12, 13 ch 128 SLA 1977; am Sec. 4, 5 ch 174 SLA 1978; am Sec. 4 - 7 ch 82 SLA 1979; am Sec. 24 ch 13 SLA 1980; am Sec. 25 - 28 ch 137 SLA 1982; am Sec. 1 ch 55 SLA 1985; am Sec. 4 - 7 ch 82 SLA 1986; am Sec. 4 ch 112 SLA 1986; am Sec. 19 ch 117 SLA 1986; am Sec. 18, 19 ch 106 SLA 1988; am Sec. 31 ch 50 SLA 1989; am Sec. 3 ch 104 SLA 1989; am Sec. 16 ch 97 SLA 1990; am Sec. 1 ch 44 SLA 1992; am Sec. 1 ch 53 SLA 2000; am Sec. 17 - 20 ch 68 SLA 2000; am Sec. 14 - 16 ch 59 SLA 2002; am Sec. 1 ch 49 SLA 2003; am Sec. 13, 14 ch 92 SLA 2004; am Sec. 29 - 34, 132 ch 9 FSSLA 2005; am Sec. 14, 15 ch 20 SLA 2007; am Sec. 6 ch 13 SLA 2008)

Revisors Notes - Reorganized in 1987, 2002, 2005, and 2008 to alphabetize the defined terms.

In 1999, in various paragraphs of this section, "commissioner of education" was changed to "commissioner of education and early development" and "Department of Education" was changed to "Department of Education and Early Development" in accordance with Sec. 89, ch. 58, SLA 1999.

In 2005, in (6)(B) of this section, "AS 39.35.680(9)" was substituted for "AS 39.35.680(8)" to reflect the 2005 renumbering of AS 39.35.680(8). Also in 2005, under sec. 144, ch. 9, FSSLA 2005, "AS 14.25.009 - 14.25.220" was substituted for "this chapter" and "plan" was substituted for "system" in this section.

Amendment Notes - The 2003 amendment, effective July 1, 2003, added ", or the Department of Labor and Workforce Development" at the end of subparagraph (42)(A) [now (44)(A)].

The 2004 amendment, effective June 26, 2004, rewrote paragraph (2), and substituted "'teacher' and 'member' are used interchangeably under this chapter and mean" for "'teacher' or 'member' means" in paragraph (42) [now (44)].

The 2005 amendment, effective July 28, 2005, in paragraphs (2) and (40) [now (42)] substituted "plan" for "system"; in paragraph (2) deleted a section reference; updated a section reference in paragraphs (3) and (9); in paragraph (3) deleted "person appointed by the" following "means the" and inserted "or the commissioner's designee"; in paragraph (9) substituted "Alaska Retirement Management Board" for "Alaska Teachers' Retirement Board"; deleted "in accordance with AS 14.25.170" from the end of paragraph (40) [now (42)]; repealed former paragraph (41), defining "system"; deleted "the optional" preceding "university retirement program" near the end of subparagraph (42)(B) [now (44)(B)]; and added paragraph (46) [now (32)].

The 2007 amendment, effective June 7, 2007, inserted "an amount that is contributed by the employer under a salary reduction agreement and that is not includable in the gross income of the employee under 26 U.S.C. 125 or 132(f)(4)" in paragraph (10), and deleted "the National Education Association of Alaska" following "Early Development" in paragraph (16).

The 2008 amendment, effective July 1, 2008, added paragraphs (46) and (47) (now (30) and (43)).

Editors Notes - In general, a person's right to benefits under the state's public employee retirement systems vests when the person joins the system. *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981). Therefore, former law may govern the benefits of some members of the teachers' retirement system. The user is advised to ascertain which version of the statute is applicable. Earlier versions of the statutes can be found in prior editions of the Alaska Statutes or in the published Session Laws of Alaska.

AG Opinions - Amounts paid by the Anchorage School District to the Anchorage Education Association for dues for the association's representation of teachers in the district should not be included in base salary either for payment of contributions or for computation of benefits. July 25, 1989 Op. Att'y Gen.

Decisions - "Membership years" in AS 14.25.130(a). - Teachers' Retirement Board erred when it interpreted the term "membership years" in AS 14.25.130(a) as being the equivalent of "years of service" as defined in this section. *Casperson v. Alaska Teachers' Retirement Bd.*, 664 P.2d 583 (Alaska 1983).

Quoted in *Flisock v. State, Div. of Retirement & Benefits*, 818 P.2d 640 (Alaska 1991).

Cited in *Laing v. Laing*, 741 P.2d 649 (Alaska 1987).

Collateral Refs - What constitutes "salary," "wages," "pay," or the like, within pension law basing benefits thereon. 91 ALR5th 225.

ARTICLE 03. TEACHERS FIRST HIRED ON OR AFTER JULY 1, 2006

SEC. 14.25.310. APPLICABILITY OF AS 14.25.310 - 14.25.590.

The provisions of AS 14.25.310 - 14.25.590 apply only to teachers who first become members on or after July 1, 2006, to members who are employed by employers that do not participate in the defined benefit retirement plan established under AS 14.25.009 - 14.25.220, or to members who transfer into the defined contribution retirement plan under AS 14.25.540.

History - (Sec. 35 ch 9 FSSLA 2005; am Sec. 16 ch 20 SLA 2007)

Delayed Amendment - of section. - Under Sec. 17 and 119, ch. 20, SLA 2007, effective July 1, 2010, this section will read as follows: ""Applicability of AS 14.25.310 - 14.25.590. The provisions of AS 14.25.310 - 14.25.590 apply only to teachers who first become members on or after July 1, 2006, to members who are employed by employers that do not participate in the defined benefit retirement plan established under AS 14.25.009 - 14.25.220, to former members under AS 14.25.220, or to members who transfer into the defined contribution retirement plan under AS 14.25.540.""

Amendment Notes - The 2007 amendment, effective June 7, 2007, inserted "to members who are employed by employers that do not participate in the defined benefit retirement plan established under AS 14.25.009 - 14.25.220" and "retirement."

Article Notes - Legislative History Reports. For governor's transmittal letter for ch. 20, SLA 2007 (SB 123), proposing needed corrections and clarifications of statutes enacted as part of the 2005 legislation establishing defined contributions retirement plans and making related amendments to defined benefit retirement plans, see 2007 Senate Journal 567 - 570.

SEC. 14.25.320. DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED.

(a) A defined contribution retirement plan for teachers of the state is created.

(b) The defined contribution retirement plan includes a plan in which savings are accumulated in an individual account for the exclusive benefit of the member or beneficiaries. The plan is established effective July 1, 2006, at which time contributions by employers and members begin.

(c) The defined contribution retirement plan is intended to qualify under 26 U.S.C. 401(a), 414(d), and 414(k) (Internal Revenue Code) as a qualified retirement plan established and maintained by the state for its employees and for the employees of school districts and regional educational attendance areas in the state. Benefits under AS 14.25.480 are not provided by the defined contribution retirement plan.

(d) An amendment to the defined contribution retirement plan does not provide a person with a vested right to a benefit if the Internal Revenue Service determines that the amendment will result in disqualification of the plan under the Internal Revenue Code.

History - (Sec. 35 ch 9 FSSLA 2005; am Sec. 18 ch 20 SLA 2007)

Amendment Notes - The 2007 amendment, effective June 7, 2007, in subsection (c) inserted "and 414(k)" in the first sentence, added the second sentence, and made related changes.

SEC. 14.25.330. MEMBERSHIP.

(a) A teacher who first becomes a member on or after July 1, 2006, shall participate in the plan as a member of the defined contribution retirement plan.

(b) A teacher who is participating in a university retirement program under AS 14.40.661 - 14.40.799 may not participate as a member of the defined contribution retirement plan.

History - (Sec. 35 ch 9 FSSLA 2005)

SEC. 14.25.340. CONTRIBUTIONS BY MEMBERS.

(a) Each member shall contribute to the member's individual account an amount equal to eight percent of the member's compensation from July 1 to the following June 30.

(b) [Repealed, Sec. 116 ch 20 SLA 2007].

(c) The employer shall deduct the contribution from the member's compensation at the end of each payroll period, and the contribution shall be credited by the administrator to the member's individual account. The contributions shall be deducted from the member's compensation before the computation of applicable federal taxes and shall be treated as employer contributions under 26 U.S.C. 414(h)(2). A member may not have the option of making the payroll deduction directly in cash instead of having the contribution picked up by the employer.

History - (Sec. 35 ch 9 FSSLA 2005; am Sec. 116 ch 20 SLA 2007)

Amendment Notes - The 2007 amendment, effective June 7, 2007, repealed subsection (b)

SEC. 14.25.345. EMPLOYMENT CONTRIBUTIONS MANDATORY.

(a) Contributions of members shall be made by payroll deductions. Each member shall be considered to consent to payroll deductions. It is of no consequence that a payroll deduction may cause the compensation paid in cash to a member to be reduced below the minimum required by law.

(b) Payment of a member's compensation, less payroll deductions, is a full and complete discharge and satisfaction of all claims and demands by the member relating to remuneration of services during the period covered by the payment, except with respect to the benefits provided under the plan.

History - (Sec. 35 ch 9 FSSLA 2005)

SEC. 14.25.350. CONTRIBUTIONS BY EMPLOYERS.

(a) An employer shall contribute to each member's individual account an amount equal to seven percent of the member's compensation from July 1 to the following June 30.

(b) An employer shall also contribute an amount equal to a percentage, as approved by the board, of each member's compensation from July 1 to the following June 30 to pay for retiree major medical insurance. This contribution shall be paid into the Alaska retiree health care trust established by the commissioner of administration under AS 39.30.097(b) and shall be accounted for in accordance with regulations adopted by the commissioner.

(c) Notwithstanding (b) of this section, the employer contribution for retiree major medical insurance for fiscal year 2007 shall be 1.75 percent of each member's compensation from July 1 to the following June 30.

(d) An employer shall also make contributions to the health reimbursement arrangement plan under AS 39.30.370.

(e) An employer shall make annual contributions to a trust account in the plan, applied as a percentage of each member's compensation from July 1 to the following June 30, in an amount determined by the board to be actuarially required to fully fund the cost of providing occupational disability and occupational death benefits under AS 14.25.310 - 14.25.590.

History - (Sec. 35 ch 9 FSSLA 2005; am Sec. 19, 20 ch 20 SLA 2007; am Sec. 7 ch 13 SLA 2008)

Amendment Notes - The 2007 amendment, effective June 7, 2007, substituted "approved" for "certified" in the first sentence of subsection (b), substituted "Alaska retiree health care trust" for "group health and life benefits fund," "AS 39.30.097(b)" for "AS 39.30.095," and "adopted" for "established" in the second sentence of subsection (b), and added subsection (e).

The 2008 amendment, effective July 1, 2008, substituted "AS 39.30.370" for "AS 39.30.300" in subsection (d).

SEC. 14.25.360. ROLLOVER CONTRIBUTIONS AND DISTRIBUTIONS.

(a) A teacher entering the plan may elect, at the time and in the manner prescribed by the administrator, to have all or part of a direct rollover distribution from an eligible retirement plan owned by the member paid directly into the member's individual account.

(b) Rollover contributions do not count as a purchase of membership service for the purpose of determining years of service.

(c) A distributee may elect, at the time and in the manner prescribed by the administrator, to have all or part of a direct rollover distribution paid directly to an eligible retirement plan specified by the distributee in the direct rollover.

(d) In this section,

(1) "direct rollover" means the payment of an eligible rollover distribution by the plan to an eligible retirement plan specified by a distributee who is eligible to elect a direct rollover;

(2) "distributee" means a member, or a beneficiary who is the surviving spouse of the member, or an alternate payee;

(3) "eligible retirement plan" means

(A) an individual retirement account described in 26 U.S.C. 408(d)(3)(A);

(B) an annuity plan described in 26 U.S.C. 403(a);

(C) a qualified trust described in 26 U.S.C. 401(a);

(D) an annuity plan described in 26 U.S.C. 403(b);

(E) a governmental plan described in 26 U.S.C. 457(b);

(F) an individual retirement annuity described in 26 U.S.C. 408(b); or

(G) on or after January 1, 2008, a Roth IRA described in 26 U.S.C. 408A;

(4) "eligible rollover distribution" means a distribution of all or part of a total account to a distributee, except for

(A) a distribution that is one of a series of substantially equal installments payable not less frequently than annually over the life expectancy of the distributee or the joint and last survivor life expectancy of the distributee and the distributee's designated beneficiary, as defined in 26 U.S.C. 401(a)(9);

(B) a distribution that is one of a series of substantially equal installments payable not less frequently than annually over a specified period of 10 years or more;

(C) a distribution that is required under 26 U.S.C. 401(a)(9);

(D) the portion of any distribution that is not includable in gross income; however, a portion under this subparagraph may be transferred only to an individual retirement account or annuity described in 26 U.S.C. 408(a) or (b), to a qualified plan described in 26 U.S.C. 401(a) or 403(a), or to an annuity contract described in 26 U.S.C. 403(b), that agrees to separately account for amounts transferred, including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not includable in gross income; and

(E) other distributions that are reasonably expected to total less than \$200 during a year.

History - (Sec. 35 ch 9 FSSLA 2005; am Sec. 21, 22 ch 20 SLA 2007)

Amendment Notes - The 2007 amendment, effective June 7, 2007, substituted "an individual" for "a conduit individual" in paragraph (d)(3)(A), added paragraphs (d)(3)(F) and (d)(3)(G), added the proviso following paragraph (d)(4)(D), deleted former paragraph (d)(4)(E), relating to a hardship distribution, and made related changes.

**SEC. 14.25.370. TRANSMITTAL OF CONTRIBUTIONS; CLAIMS
AGAINST FUNDS OF AN EMPLOYER; USE OF
CONTRIBUTIONS.**

(a) All contributions deducted in accordance with AS 14.25.310 - 14.25.590 shall be transmitted to the plan for deposit in the appropriate account or trusts as soon as administratively feasible, but in no event later than 15 days following the close of the payroll period, with the final contributions due for any school year transmitted no later than July 15.

(b) If contributions are not transmitted within the prescribed time limit, interest shall be assessed on the outstanding contributions at the rate established under AS 14.25.065 from the date that contributions were originally due. Amounts due from an employer and interest as prescribed in this subsection may be claimed by the administrator from any agency of the state or political subdivision that has in its possession funds of the employer or that is authorized to disburse funds to the employer that are not restricted by statute or appropriation to a specific purpose. The amount claimed shall be certified by the administrator as sufficient to pay the contributions and interest due from the employer. The amount claimed shall be submitted to the administrator for deposit in the appropriate account or trusts.

(c) An employer is responsible for administrative fees, investment fees, and investment losses charged to accounts established under AS 14.25.340 resulting from contribution adjustments because the employer enrolled a member in the plan before the member was eligible for membership. Contributions made by an employee shall be returned to the employer by reducing future employee contributions due. Contributions, net of fees and investment losses, made by an employer shall be used to reduce future employer contributions due.

History - (Sec. 35 ch 9 FSSLA 2005; am Sec. 23, 24 ch 20 SLA 2007)

Amendment Notes - The 2007 amendment, effective June 7, 2007, substituted "appropriate account or trusts" for "trust fund" in subsection (a), added "with the final contributions due for any school year transmitted no later than July 15" to subsection (a), and added subsections (b) and (c).

SEC. 14.25.380. LIMITATIONS ON CONTRIBUTIONS AND BENEFITS.

Notwithstanding any other provisions of this plan, the annual additions to each member's individual account under this plan and under all defined contribution plans of the employer required to be aggregated with the contributions from this plan under the provisions of 26 U.S.C. 415 may not exceed, for any limitation year, the amount permitted under 26 U.S.C. 415(c) at any time. If the amount of a member's individual account contributions exceeds the limitation of 26 U.S.C. 415(c) for any limitation year, the administrator

shall take any necessary remedial action to correct an excess contribution. A fixed benefit provided under this plan may not exceed, for or during a limitation year, the amount permitted under 26 U.S.C. 415(b). If a fixed benefit provided under this plan exceeds, for or during a limitation year, the amount permitted under 26 U.S.C. 415(b), the administrator shall take remedial action necessary to comply with the limits on the benefit amount in 26 U.S.C. 415(b). The provisions of 26 U.S.C. 415, and the regulations adopted under that statute, as applied to qualified plans of governmental employers are incorporated as part of the terms and conditions of the plan.

History - (Sec. 35 ch 9 FSSLA 2005; am Sec. 25 ch 20 SLA 2007)

Amendment Notes - The 2007 amendment, effective June 7, 2007, substituted "26 U.S.C. 415(c)" for "26 U.S.C. 415" in the first sentence, substituted "individual account" for "defined contribution plan" in the second sentence, inserted the third and fourth sentences, and substituted "plans of governmental employers" for "defined contribution plans of governmental employees" in the last sentence.

SEC. 14.25.390. VESTING.

(a) A participating member is immediately and fully vested in that member's contributions and related earnings.

(b) A member is fully vested in the employer contributions made on that member's behalf, and related earnings, after five years of service. A member is partially vested in the employer contributions made on that member's behalf, and the related earnings, in the ratio of

- (1) 25 percent with two years of service;
- (2) 50 percent with three years of service; and
- (3) 75 percent with four years of service.

History - (Sec. 35 ch 9 FSSLA 2005)

SEC. 14.25.400. INVESTMENT OF INDIVIDUAL ACCOUNTS.

(a) The board shall provide a range of investment options and permit a participant to exercise investment control over the participant's assets in the member's individual account as provided in this section. If a participant exercises control over the assets in the individual account, the participant is not considered a fiduciary for any reason on the basis of exercising that control.

(b) A participant may direct investment of plan funds held in an account among available investment funds in accordance with rules established by the board.

(c) A participant may elect to change or transfer all or a portion of the participant's existing account balance among available investment funds not more often than once each day in accordance with the rules established by the administrator. Only the last election received by the administrator before the transmittal of contributions to the trust fund for allocation to the individual account will be used to direct the investment of the contributions received.

(d) Except to the extent clearly set out in the terms of the investment plans offered by the employer to the employee, the employer is not liable to the participant for investment losses if the prudent investment standard has been met.

(e) The employer, administrator, state, board, or a person or entity who is otherwise a fiduciary is not liable by reason for any participant's investment loss that results from the participant's directing the investment of plan assets allocated to the participant's account.

(f) To the extent that a member's individual account has been divided as provided in a qualified domestic relations order between participants, each participant shall be treated as the holder of a separate individual account for purposes of investment yields, decisions, transfers, and time limitations imposed by this section.

History - (Sec. 35 ch 9 FSSLA 2005)

SEC. 14.25.410. DISTRIBUTION ELECTION AT TERMINATION.

(a) A member is eligible to elect distribution of the member's account in accordance with this section 60 days after termination of employment.

(b) Notwithstanding (a) of this section, distribution of all or a portion of the individual account of a member may take place before the 60th day after the termination of employment with the approval of the administrator if the member makes a written request for a distribution under this subsection. The member's spouse must consent to the request in writing if the member is married. Distribution of an individual account may only be made on account of an immediate and heavy financial need of the member for the following reasons and in the amount the need is demonstrated for

(1) medical care described in 26 U.S.C. 213(d) incurred by the member, the member's spouse, or the member's dependent, or necessary to obtain that medical care;

(2) the purchase of a principal residence for the member;

(3) postsecondary education tuition and related educational fees for the next 12-month period for the member, the member's spouse, or a dependent of the member; in this paragraph, "dependent" has the meaning given in 26 U.S.C. 152;

(4) prevention of the eviction of the member from the member's principal residence or foreclosure on the mortgage of the member's principal residence; or

(5) any need prescribed by the United States Department of the Treasury, Internal Revenue Service, in a revenue ruling, notice, or other document of general applicability that satisfies the safe harbor definition of hardship under regulations adopted under 26 U.S.C. 401(k).

(c) If a member dies before benefits commence, the member's beneficiary is immediately eligible to elect distribution of the member's share of the member's individual account.

(d) Distributions are payable to an alternate payee in accordance with the terms and conditions of a qualified domestic relations order that is received and approved by the administrator as specified in AS 14.25.460.

(e) Distributions that are being paid to a member may not be affected by the member's subsequent reemployment with the employer. Upon reemployment, a new individual account shall be established for the member to which any future contributions shall be allocated. Upon subsequent termination of employment, the member's new individual account shall be distributed in accordance with this section.

History - (Sec. 35 ch 9 FSSLA 2005)

SEC. 14.25.420. FORMS OF DISTRIBUTION.

(a) A participant may elect to receive distribution of the participant's share of the individual account in a

(1) lump sum payment, which is a single payment of the entire balance in the account;

(2) periodic lump sum payment, which is a payment of a portion of the balance in the account, not more than twice each year;

(3) period certain annuity payment, which is an annuity payable in a fixed number of monthly installments for a duration of 60, 120, or 180 months;

(4) life annuity with a period certain payment, which is an annuity payable until the later of the first day of the month in which the annuitant's death occurs, or the date on which the payment of a fixed number of monthly installments is completed; the period certain for installments is 120 or 180 months;

(5) single life annuity payment, which is an annuity payable monthly until the first of the month in which the annuitant's death occurs; or

(6) joint and survivor annuity payment, which is an annuity payable monthly to the member until the first of the month in which the member's death occurs; after the member's death, a survivor annuity equal to 50 percent or 100 percent of the member's benefit, as previously elected by the member, shall be paid monthly to the joint annuitant for the remainder of the survivor's lifetime.

(b) Upon the death of an annuitant whose payments have commenced, an annuitant's beneficiary shall receive further payments only to the extent provided in accordance with the form of payment that was being made to the annuitant. The remaining portion of the interest shall continue to be distributed at least as rapidly as under the method of distribution being used before the annuitant's death.

(c) If a participant dies before the distribution commencement date, distribution of the participant's entire interest to a beneficiary shall be payable in any form other than a joint and survivor annuity.

(d) If an unmarried member or other participant fails to elect a form of payment before the distribution commencement date, the account shall be paid to a beneficiary in the form of a lump sum to the extent required by the minimum distribution requirements set out in the Internal Revenue Code. If a married member fails to elect a form of payment before the distribution commencement date, the account shall be paid in the form of a 50 percent joint and survivor annuity, with the member's spouse as the joint annuitant.

History - (Sec. 35 ch 9 FSSLA 2005)

SEC. 14.25.430. MANNER OF ELECTING DISTRIBUTIONS.

(a) Any election or any alteration or revocation of a prior election by a participant for any purpose under this plan shall be on forms or made in a manner prescribed for that purpose by the plan administrator. To be effective, the forms required or the required action for any purpose under this plan must be completed and received in accordance with regulations adopted by the commissioner of administration.

(b) At any time, but not less than seven days before the distribution commencement date, a member, alternate payee, or beneficiary may change

- (1) the form of payment election;
- (2) an election to commence benefits; or
- (3) the joint annuitant designation.

(c) Changes in elections are not allowed on or after seven days before the distribution commencement date.

History - (Sec. 35 ch 9 FSSLA 2005)

SEC. 14.25.440. DISTRIBUTION REQUIREMENTS.

(a) Payments to a participant shall commence as soon as administratively feasible following the distribution commencement date. The distribution commencement date is the first date on which one of the following occurs:

(1) a member meets the requirements of AS 14.25.410 and has made a complete application for payment under AS 14.25.430;

(2) a participant has elected to defer receipt of the account to a date specified, the date has been attained, and the participant has made a complete application for payment;

(3) a member attains normal retirement age and has not made an application for payment or elected to defer receipt of the account to a date later than normal retirement age;

(4) a member's beneficiary does not make an application for benefits, and five years have elapsed since the member's death;

(5) notwithstanding (1) - (4) of this subsection, a participant whose account has a balance of \$1,000 or less meets the requirements of AS 14.25.410, at which time the participant must take payment of the participant's account.

(b) The entire interest of a participant must be distributed or must begin to be distributed not later than the member's required beginning date.

(c) If a member dies after the distribution of the member's interest has begun but before the distribution has been completed, the remaining portion of the interest shall continue to be distributed at least as rapidly as under the method of distribution being used before the member's death.

(d) If a member has made a distribution election and dies before the distribution of the member's interest begins, distribution of the member's entire interest shall be completed by December 31 of the calendar year containing the fifth anniversary of the member's death. However, if any portion of the member's interest is payable to a designated beneficiary, distributions may be made over the life of the designated beneficiary or over a period certain not greater than the life expectancy of the designated beneficiary, commencing on or before December 31 of the calendar year immediately following the calendar year in which the member died, and, if the designated beneficiary is the member's surviving spouse, the date distributions are required to begin may not be earlier than the later of December 31 of the calendar year (1) immediately following the calendar year in which the member died, or (2) in which the member would have attained 70 1/2 years of age, whichever is earlier. If the surviving spouse dies after the member but before payments to the spouse

have begun, the provisions of this subsection apply as if the surviving spouse were the member. An amount paid to a child of the member shall be treated as if it were paid to the surviving spouse if the amount becomes payable to the surviving spouse when the child reaches the age of majority.

(e) If a member has not made a distribution election before the member's death, the member's designated beneficiary must elect the method of distribution not later than December 31 of the calendar year (1) in which distributions would be required to begin under this section, or (2) that contains the fifth anniversary of the date of death of the member, whichever is earlier. If the member does not have a designated beneficiary or if the designated beneficiary does not elect a method of distribution, distribution of the member's entire interest must be completed by December 31 of the calendar year containing the fifth anniversary of the member's death.

(f) For purposes of (b) of this section, distribution of a member's interest is considered to begin (1) on the member's required beginning date, or (2) if the designated beneficiary is the member's surviving spouse and the surviving spouse dies after the member but before payments to the spouse have begun, on the date distribution is required to begin to the surviving spouse. If distribution in the form of an annuity irrevocably commences to the member before the required beginning date, the date distribution is considered to begin is the date that the distribution actually commences.

(g) Notwithstanding any contrary provisions of AS 14.25.310 - 14.25.590, the requirements of this section apply to all distributions of a member's interest and take precedence over any inconsistent provisions of AS 14.25.310 - 14.25.590.

(h) All distributions required under this section are determined and made in accordance with 26 U.S.C. 401(a)(9) and regulations adopted under that statute, including any minimum distribution incidental benefit requirement.

(i) In this section,

(1) "designated beneficiary" means the individual who is designated as the beneficiary under the plan in accordance with 26 U.S.C. 401(a)(9) and regulations adopted under that statute;

(2) "required beginning date" means the first day of April of the calendar year following the calendar year in which the member either attains 70 1/2 years of age or actually terminates employment, whichever is later.

History - (Sec. 35 ch 9 FSSLA 2005)

SEC. 14.25.450. DESIGNATION OF BENEFICIARY.

(a) Each participant shall have the right to designate a beneficiary and shall have the right, at any time, to revoke the designation or to substitute another beneficiary, subject to the following limitation: if a married member elects a nonspouse beneficiary, the value of the benefit payable to the beneficiary may not exceed 50 percent of the member's portion of the account balance, and the member's spouse shall automatically be considered the beneficiary for the remaining 50 percent of the account balance, unless the spouse consents to the beneficiary designation in a writing that is notarized or witnessed by the administrator. If the spouse consents in this manner, a married member may designate a nonspouse beneficiary for the entire benefit or any portion of the benefit as part of an available form of payment contained in this plan,

(1) except to the extent a qualified domestic relations order filed with the administrator provides for payment to a former spouse or other dependent of the member; or

(2) unless the member filed a revocation of beneficiary accompanied by a written consent to the revocation from the present spouse and each person entitled under the order; however, consent of the present spouse is not required if the member and the present spouse had been married for less than one year on the date of the member's death and if the member established when filing the revocation that the member and the present spouse were not cohabiting.

(b) Except as provided in (a) of this section, the member may change or revoke the designation without notice to the beneficiary or beneficiaries at any time. If a member designates more than one beneficiary, each shares equally unless the member specifies a different allocation or preference. The designation of a beneficiary, a change or revocation of a beneficiary, and a consent to revocation of a beneficiary shall be made on a form provided by the administrator and is not effective until filed with the administrator.

(c) If a member fails to designate a beneficiary, or if no designated beneficiary survives the member, the death benefit shall be paid

(1) to the surviving spouse or, if there is none surviving;

(2) to the surviving children of the member in equal parts or, if there are none surviving;

(3) to the surviving parents in equal parts or, if there are none surviving;

(4) to the estate.

(d) A person claiming entitlement to benefits payable under AS 14.25.310 - 14.25.590 as a consequence of a member's death shall provide the administrator with a marriage certificate, divorce or dissolution judgment, or other evidence

of entitlement. Documents establishing entitlement may be filed with the administrator immediately after a change in the member's marital status. If the administrator does not receive notification of a claim before the date 10 days after the member's death, the person claiming entitlement is not entitled to receive from the division of retirement and benefits any benefit already paid by the administrator.

History - (Sec. 35 ch 9 FSSLA 2005)

SEC. 14.25.460. RIGHTS UNDER QUALIFIED DOMESTIC RELATIONS ORDER.

(a) Notwithstanding the nonalienation provisions in AS 14.25.500(a), the administrator may direct that benefits be paid to someone other than a member or beneficiary under a valid qualified domestic relations order that is executed by the judge of a competent court in accordance with applicable state law and that has been accepted by the administrator.

(b) The administrator shall determine whether an order meets the requirements of this section within a reasonable period after receiving an order. The administrator shall notify the member and any alternate payee that an order has been received and indicate to the member and any alternate payee when the order is accepted. A separate account for the alternate payee portion shall be established as soon as administratively feasible after the order has been accepted by the administrator.

History - (Sec. 35 ch 9 FSSLA 2005)

SEC. 14.25.470. ELIGIBILITY FOR RETIREMENT AND MEDICAL BENEFITS.

(a) In order to obtain medical benefits under AS 14.25.480, a member must retire directly from the plan. A member is eligible to retire from the plan if the member has been an active member for at least 12 months before application for retirement and

(1) the member has at least 30 years of service; or

(2) the member reaches the normal retirement age and has at least 10 years of service.

(b) The normal retirement age is the age set for Medicare eligibility at the time the member retires.

(c) A member's surviving spouse is eligible to elect medical benefits under AS 14.25.480 if the member had retired, or was eligible for retirement and medical benefits at the time of the member's death.

(d) A member shall apply for retirement and medical benefits on the forms and in the manner prescribed by the administrator.

(e) Participation in the retiree major medical insurance plan is not required in order to participate in the health reimbursement arrangement.

(f) A person eligible for retirement and medical benefits is not required to participate in the health reimbursement arrangement in order to elect participation in the retiree major medical insurance plan.

(g) An eligible person shall make the irrevocable election to participate or not participate in the retiree major medical insurance plan by reaching 70 1/2 years of age, or upon application for retirement and medical benefits, whichever is later.

History - Sec. 35 ch 9 FSSLA 2005)

SEC. 14.25.480. MEDICAL BENEFITS.

(a) The medical benefits available to eligible persons are access to the retiree major medical insurance plan and to the health reimbursement arrangement under AS 39.30.300. Access to the retiree major medical insurance plan means that an eligible person may not be denied insurance coverage except for failure to pay the required premium.

(b) Retiree major medical insurance plan coverage elected by an eligible member under this section covers the eligible member, the spouse of the eligible member, and the dependent children of the eligible member.

(c) Retiree major medical insurance plan coverage elected by a surviving spouse of an eligible member under this section covers the surviving spouse and the dependent children of the eligible member who are dependent on the surviving spouse.

(d) Major medical insurance coverage takes effect on the first day of the month following the date of the administrator's approval of the election and stops when the person who elects coverage dies or fails to make a required premium payment.

(e) The coverage for persons 65 years of age or older is the same as that available for persons under 65 years of age. The benefits payable to those persons 65 years of age or older supplement any benefits provided under the federal old age, survivors and disability insurance program.

(f) The medical and optional insurance premiums owed by the person who elects coverage may be deducted from the health reimbursement arrangement. If the amount of the health reimbursement arrangement becomes insufficient

to pay the premiums, the person who elects coverage under (a) of this section shall pay the premiums directly.

(g) The cost of premiums for retiree major medical insurance coverage for an eligible member or surviving spouse who is

(1) not eligible for Medicare is an amount equal to the full monthly group premiums for retiree major medical insurance coverage;

(2) eligible for Medicare is the following percentage of the premium amounts established for retirees who are eligible for Medicare:

(A) 30 percent if the member had 10 or more, but less than 15, years of service;

(B) 25 percent if the member had 15 or more, but less than 20, years of service;

(C) 20 percent if the member had 20 or more, but less than 25, years of service;

(D) 15 percent if the member had 25 or more, but less than 30, years of service;

(E) 10 percent if the member had 30 or more years of service.

(h) The eligibility for retiree major medical insurance coverage for an alternate payee under a qualified domestic relations order shall be determined based on the eligibility of the member to elect coverage. The alternate payee shall pay the full monthly premium for retiree major medical insurance coverage.

(i) A person who is entitled to retiree major medical insurance coverage shall

(1) be informed by the administrator in writing

(A) that the health insurance coverage available to retired members may be different from the health insurance coverage provided to employees;

(B) of time limits for selecting optional health insurance coverage and whether the election is irrevocable; and

(2) indicate in writing on a form provided by the administrator that the person has received the information required by this subsection and whether the person has chosen to receive optional health insurance coverage.

(j) The monthly group premiums for retiree major medical insurance coverage are established by the administrator in accordance with AS 39.30.095. Nothing in AS 14.25.310 - 14.25.590 guarantees a person who elects coverage under (a) of this section a monthly group premium rate for retiree major medical insurance coverage other than the premium in effect for the month in which the premium is due for coverage for that month.

(k) In this section, "health reimbursement arrangement" means the plan established in AS 39.30.300.

History - (Sec. 35 ch 9 FSSLA 2005)

SEC. 14.25.485. OCCUPATIONAL DISABILITY BENEFITS AND REEMPLOYMENT OF DISABLED MEMBERS.

(a) A member is eligible for an occupational disability benefit if employment is terminated because of a total and apparently permanent occupational disability before the member's normal retirement date.

(b) The occupational disability benefits accrue beginning the first day of the month following termination of employment as a result of the disability and are payable the last day of the month. If a final determination granting the benefit is not made in time to pay the benefit when due, a retroactive payment shall be made to cover the period of deferment. The last payment shall be for the first month in which the disabled member

- (1) dies;
- (2) recovers from the disability;
- (3) fails to meet the requirements under (f), (h), or (k) of this section; or
- (4) reaches normal retirement age.

(c) If the disabled member becomes ineligible to receive occupational disability benefits before the normal retirement date, the disabled member shall then be entitled to receive retirement benefits if the member would have been eligible for the benefit had employment continued during the period of disability. The period of disability constitutes membership service in regard to determining eligibility for retirement.

(d) The monthly amount of an occupational disability benefit is 40 percent of the disabled member's gross monthly compensation at the time of termination due to disability. Notwithstanding AS 14.25.390(b), at the time a member is appointed to disability, the member becomes fully vested in the employer contributions made under AS 14.25.350(a). A disabled member is fully vested in the contributions to the member's individual account made

under this subsection. A member is not entitled to elect distributions from the member's individual contribution account under AS 14.25.410 while the member is receiving disability benefits under this section. While a member is receiving disability benefits, based on the disabled member's gross monthly compensation at the time of termination due to disability, the employer shall make contributions to the

(1) member's individual account under AS 14.25.340 on behalf of the member, without deduction from the member's disability payments; and

(2) appropriate accounts and funds on behalf of the member under AS 14.25.350.

(e) A member is not entitled to an occupational disability benefit unless the member files an application for an occupational disability benefit with the administrator within 90 days after the date of terminating employment. If the member is unable to meet a filing requirement of this subsection, the filing requirement may be waived by the administrator if there are extraordinary circumstances that resulted in the member's inability to meet the filing requirement.

(f) A disabled member receiving an occupational disability benefit shall undergo a medical examination as often as the administrator considers advisable, but not more frequently than once each year. The administrator shall determine the place of the examination and engage the physician or physicians. If, in the judgment of the administrator, the examination indicates that the disabled member is no longer incapacitated because of a total and apparently permanent occupational disability, the administrator may not issue further disability benefits to the member.

(g) A disabled member's occupational disability benefit terminates the last day of the month in which the disabled member first qualifies for normal retirement. At that time, the member's retirement benefit shall be determined under the provisions of AS 14.25.420 - 14.25.440, 14.25.470, and 14.25.480. A member whose occupational disability benefit terminates under this subsection shall be considered to have retired directly from the plan.

(h) A member appointed to disability benefits shall apply to the division of vocational rehabilitation of the Department of Labor and Workforce Development within 30 days after the date disability benefits commence. The member shall be enrolled in a rehabilitation program if the member meets the eligibility requirements of the division of vocational rehabilitation. Unless the member demonstrates cause, benefits shall terminate at the end of the first month in which a disabled member

(1) fails to report to the division of vocational rehabilitation;

(2) is certified by the division of vocational rehabilitation as failing to cooperate in a vocational rehabilitation program;

(3) fails to interview for a job; or

(4) fails to accept a position offered.

(i) Upon the death of a disabled member who is receiving or is entitled to receive an occupational disability benefit, the administrator shall pay the surviving spouse a surviving spouse's pension, equal to 40 percent of the member's monthly compensation at the time of termination of employment because of occupational disability. If there is no surviving spouse, the administrator shall pay the survivor's pension in equal parts to the dependent children of the member. While the monthly survivor's pension is being paid, the survivor is not entitled to elect distributions from the member's individual contribution account under AS 14.25.410. The first payment of the surviving spouse's pension or of a dependent child's pension shall accrue from the first day of the month following the member's death and is payable the last day of the month. The last payment shall be made the last day of the last month in which there is an eligible surviving spouse or dependent child, or the last day of the month in which the member would have first qualified for normal retirement if the member had survived, whichever day is sooner. A retirement benefit shall be determined under the provisions of AS 14.25.420 - 14.25.440, 14.25.470, and 14.25.480 based on the date the member would have first qualified for normal retirement if the member had survived. In addition to the payment of the member's individual account, the surviving spouse or, if there is no surviving spouse, the surviving dependent children of the member, shall receive an additional benefit in an amount equal to the accumulated contributions that would have been made to the deceased member's individual account under AS 14.25.340(a) and 14.25.350(a), based on the deceased member's gross monthly compensation at the time of occupational disability, from the time of the member's death to the date the member would have first qualified for normal retirement if the member had survived. Earnings shall be allocated to the additional benefit calculated under this subsection based on the actual rate of return, net of expenses, of the trust account established under AS 14.25.350(e) over the period that the contributions would have been made. This additional amount and allocated earnings shall be paid in the same manner as determined for the member's individual account under AS 14.25.420 - 14.25.460 to the extent permitted by the Internal Revenue Service. For the purpose of determining eligibility of a survivor who is receiving a benefit under this subsection for medical benefits under AS 14.25.470 and 14.25.480, a member who died while receiving disability benefits shall be considered to have retired directly from the plan on the date the member would have first qualified for normal retirement if the member had survived. The period during which the member was eligible for a disability benefit and the period during which a survivor's pension is paid to a survivor under this subsection each

constitute membership service for the purposes of determining eligibility for medical benefits under AS 14.25.310 - 14.25.590 and AS 39.30.300 - 39.30.495.

(j) While a survivor under (i) of this section is receiving a survivor's pension, the employer of the deceased member shall make contributions with respect to the survivor based on the deceased member's gross monthly compensation at the time of termination due to disability

(1) that would have been paid to the member's individual account under AS 14.25.340 and 14.25.350(a) to the trust account established under AS 14.25.350(e), without deduction from the survivor's pension; and

(2) to the appropriate accounts and funds under AS 14.25.350(b) - (e).

(k) In this section, "occupational disability" means a physical or mental condition that the administrator determines presumably permanently prevents an employee from satisfactorily performing the employee's usual duties or the duties of another comparable position or job available to the employee and for which the employee is qualified by training or education; however, the proximate cause of the condition must be a bodily injury sustained, or a hazard undergone, while in the performance and within the scope of the employee's duties and not the proximate result of the wilful negligence of the employee.

History - (Sec. 35 ch 9 FSSLA 2005; am Sec. 26 - 31 ch 20 SLA 2007)

Revisors Notes - Subsection (j) was enacted as (k); relettered in 2007, at which time former subsection (j) was relettered as (k) and the reference in (b)(3) was conformed.

Amendment Notes - The 2007 amendment, effective June 7, 2007, inserted "or (k)" in paragraph (b)(3), inserted the second, third, and fourth sentences in subsection (d), substituted "the last day of the month in which the disabled member first qualifies" for "when the disabled member first attains eligibility" in the first sentence of subsection (g) and "whose occupational disability benefit terminates under this subsection" for "receiving disability benefits up until eligibility for retirement" in the last sentence of that subsection, rewrote subsections (i) and (j) [now (k)], added subsection (k) [now (j)], and made related and stylistic changes.

SEC. 14.25.486. DISABILITY BENEFIT ADJUSTMENT.

(a) Once each year, the administrator shall increase disability benefits. The amount of the increase is a percentage of the current disability benefit equal to the lesser of 75 percent of the increase in the cost of living in the preceding calendar year or nine percent.

(b) If a disabled member was not receiving a benefit during the entire preceding calendar year, the increase in the benefit under this section shall be adjusted by multiplying it by a fraction, the numerator of which is the number of months for which the benefit was received in the preceding calendar year and the denominator of which is 12.

(c) An increase in benefit payments under this section is effective July 1 of each year and is based on the percentage increase in the Consumer Price Index for urban wage earners and clerical workers for Anchorage, Alaska, during the previous calendar year, as determined by the United States Department of Labor, Bureau of Labor Statistics.

(d) Benefit adjustments under this section shall terminate the last day of the month following the date on which a disabled member is no longer receiving a disability benefit under AS 14.25.485.

History - (Sec. 32 ch 20 SLA 2007)

SEC. 14.25.487. OCCUPATIONAL DEATH BENEFIT.

(a) If (1) the death of a member occurs before the member's retirement and before the member's normal retirement date, (2) the proximate cause of death is a bodily injury sustained or a hazard undergone while in the performance and within the scope of the member's duties, and (3) the injury or hazard is not the proximate result of wilful negligence of the member, a monthly survivor's pension shall be paid to the surviving spouse. If there is no surviving spouse or if the spouse later dies, the monthly survivor's pension shall be paid in equal parts to the dependent children of the member.

(b) The first payment of the surviving spouse's pension or of a dependent child's pension shall be made for the month following the month in which the member dies. Payments shall cease on the last day of the month in which there is no longer an eligible spouse or eligible dependent child, or the last day of the month following the earliest date the member would have first qualified for normal retirement if the member had survived, whichever day is sooner.

(c) The monthly survivor's pension in (b) of this section for survivors of members is 40 percent of the member's monthly compensation in the month in which the member dies. While the monthly survivor's pension is being paid, the survivor is not entitled to elect distributions from the member's individual contribution account under AS 14.25.410, except as required by AS 14.25.440. While the monthly survivor's pension is being paid, the employer shall make contributions with respect to the member's surviving spouse and member's surviving dependent children based on the deceased member's gross monthly compensation at the time of occupational death

(1) that would have been paid to the member's individual account under AS 14.25.340 and 14.25.350(a), to the trust account established under AS 14.25.350(e), without deduction from the survivor's pension; and

(2) to the appropriate accounts and funds under AS 14.25.350(b) - (e).

(d) If a member's death is caused by an act of assault, assassination, or terrorism directly related to the person's status as a member, whether the act occurs on or off the member's job site, the death shall be considered to have occurred in the performance of and within the scope of the member's duties for purposes of (a)(2) of this section. If the expressed or apparent motive and intent of the perpetrator of the harm inflicted upon the member was due to the performance of the member's job duties or employment, the death shall be considered to be directly related to the member's status as a member. A member's job duties are those performed within the course and scope of the person's employment with an employer.

(e) On the date the member would have first qualified for normal retirement if the member had survived, the retirement benefit shall be determined under the provisions of AS 14.25.420 - 14.25.440, 14.25.470, and 14.25.480. In addition to payment of the member's individual account, the surviving spouse or, if there is no surviving spouse, the surviving dependent children of the member, shall receive an additional benefit in an amount equal to the accumulated contributions that would have been made to the deceased member's individual account under AS 14.25.340(a) and 14.25.350(a), based on the deceased member's gross monthly compensation at the time of the member's occupational death, from the time of the member's death to the date the member would have first qualified for normal retirement if the member had survived. Earnings shall be allocated to the additional benefit calculated under this subsection based on the actual rate of return, net of expenses, of the trust account established under AS 14.25.350(e) over the period that the contributions would have been made. This additional amount and allocated earnings shall be paid in the same manner as determined for the member's individual account under AS 14.25.420 - 14.25.460 to the extent permitted by the Internal Revenue Service. A member who died and whose survivors receive occupational death benefits under this section shall be considered to have retired directly from the plan on the date the member would have first qualified for normal retirement if the member had survived. The period during which a survivor's pension is paid under this subsection constitutes membership service for the purposes of determining vesting in employer contributions under AS 14.25.390(b) and eligibility for medical benefits under AS 14.25.310 - 14.25.590 and AS 39.30.300 - 39.30.495.

History - (Sec. 35 ch 9 FSSLA 2005; am Sec. 33 - 35 ch 20 SLA 2007)

Amendment Notes - The 2007 amendment, effective June 7, 2007, split subsection (b) into two sentences, rewrote the second sentence of subsection (b) which previously read "and payment shall cease to be made beginning with the month in which the member would have first qualified for retirement," inserted the second sentence of subsection (c), substituted "with respect to the member's surviving spouse and member's surviving dependent children" for "on behalf of the member's beneficiaries" in the third sentence of subsection (c), inserted "that would have been paid" and "and 14.25.350(a), to the trust account established under AS 14.25.350(e)" in paragraph (c)(1), substituted "under AS 14.25.350(b) - (e)" for "on behalf of the member under AS 14.25.350" in paragraph (c)(2), and rewrote subsection (e), in part by inserting the second, third, fourth, and last sentences.

SEC. 14.25.488. SURVIVORS' PENSION ADJUSTMENT.

(a) Once each year, the administrator shall increase payments to a person 60 years of age or older receiving a survivor's pension under AS 14.25.485(i) or 14.25.487(c) and to a person who has received a survivor's pension under AS 14.25.485(i) or 14.25.487(c) for at least eight years, who is not otherwise eligible for an increase under this section.

(b) The amount of the increase is a percentage of the current survivor's pension equal to the lesser of 50 percent of the increase in the cost of living in the preceding calendar year or six percent.

(c) If a survivor was not receiving a pension during the entire preceding calendar year, the increase in the survivor's pension under this section shall be adjusted by multiplying it by a fraction, the numerator of which is the number of months for which the pension was received in the preceding calendar year and the denominator of which is 12.

(d) The administrator shall increase the initial survivor's pension paid to a survivor of a member who died while receiving disability benefits by a percentage equal to the total cumulative percentage that has been applied to the member's disability benefit under AS 14.25.486.

(e) An increase in benefit payments under this section is effective July 1 of each year and is based on the percentage increase in the Consumer Price Index for urban wage earners and clerical workers for Anchorage, Alaska, during the previous calendar year, as determined by the United States Department of Labor, Bureau of Labor Statistics.

(f) Pension adjustments under this section shall terminate the last day of the month following the date on which a survivor is no longer receiving a survivor's pension under AS 14.25.485(i) or 14.25.487(c).

History - (Sec. 36 ch 20 SLA 2007)

SEC. 14.25.489. PREMIUMS FOR RETIREE MAJOR MEDICAL INSURANCE COVERAGE UPON TERMINATION OF DISABILITY BENEFITS OR SURVIVOR'S PENSION.

The premium for retiree major medical insurance coverage payable by a member whose disability benefit is terminated under AS 14.25.485(g) or by an eligible survivor whose survivor pension is terminated under AS 14.25.485(i) or 14.25.487(e) when the member would have been eligible for normal retirement if the member had survived shall be determined under AS 14.25.480(g)(2) as if the member or survivor were eligible for Medicare.

History - (Sec. 36 ch 20 SLA 2007)

SEC. 14.25.490. AMENDMENT AND TERMINATION OF PLAN.

(a) The state has the right to amend the plan at any time and from time to time, in whole or in part, including the right to make retroactive amendments referred to in 26 U.S.C. 401(b).

(b) The plan administrator may not modify or amend the plan retroactively in such a manner as to reduce the benefits of any member accrued to date under the plan by reason of contributions made before the modification or amendment except to the extent that the reduction is permitted by the Internal Revenue Code.

(c) The state may, in its discretion, terminate the plan in whole or part at any time without liability for the termination. If the plan is terminated, all investments remain in force until all individual accounts have been completely distributed under the plan, and, after all plan liabilities are satisfied, excess assets revert to the employer.

(d) Any contribution made by an employer to the plan because of a mistake of fact must be returned to the employer by the administrator within one year after the contribution or discovery, whichever is later.

History - (Sec. 35 ch 9 FSSLA 2005)

SEC. 14.25.500. EXCLUSIVE BENEFIT.

(a) The corpus or income of the assets held in trust as required by the plan may not be diverted or used for other than the exclusive benefit of the participants.

(b) If plan benefits are provided through the distribution of annuity or insurance contracts, any refunds or credits in excess of plan benefits due to dividends, earnings, or other experience rating credits, or surrender or cancellation credits, shall be paid to the trust fund.

(c) The assets of the plan may not be used to pay premiums or contributions of the employer under another plan maintained by the employer.

(d) The administrator shall use forfeitures in the fixed benefit account of the plan that arise for any reason, including from termination of employment or death, to reduce employer contributions. Forfeitures may not be applied to increase the benefits of any member.

(e) The administrator shall determine the amount of any fixed benefit that is determined on the basis of actuarial tables using assumptions approved by the commissioner. The amount of benefits is not subject to employer discretion.

History - (Sec. 35 ch 9 FSSLA 2005; am Sec. 37 ch 20 SLA 2007)

Amendment Notes - The 2007 amendment, effective June 7, 2007, added subsections (d) and (e).

SEC. 14.25.510. NONGUARANTEED RETURNS, RATES, OR BENEFIT AMOUNTS.

The plan created by AS 14.25.310 - 14.25.590 is, with respect to individual accounts, treated as a defined contribution plan, and not a defined benefit plan. The amount of money in the individual account of a participant depends on the amount of contributions and the rate of return from investments of the account that varies over time. If benefits are paid in the form of an annuity, the benefit amount payable is dependent on the amount of money in the account and the interest rates applied and service fees charged by the annuity payor at the time the annuity is purchased from the carrier and benefits are first paid. Nothing in this plan guarantees a participant

(1) a rate of return or interest rate other than that actually earned by the account of the participant, less applicable administrative expenses; or

(2) an annuity based on interest rates or service charges other than interest rates available from and service charges by the annuity payor in effect at the time the annuity is paid.

History - (Sec. 35 ch 9 FSSLA 2005; am Sec. 38 ch 20 SLA 2007)

Amendment Notes - The 2007 amendment, effective June 7, 2007, inserted "with respect to individual accounts, treated as" and "and" in the first sentence, inserted "individual" in the second sentence, and inserted "the annuity is purchased from the carrier and" in the third sentence.

SEC. 14.25.520. NONGUARANTEE OF EMPLOYMENT.

The provisions of AS 14.25.310 - 14.25.590 are not a contract of employment between an employer and an employee, nor do they confer a right of an employee to be continued in the employment of an employer, nor are they a limitation of the right of an employer to discharge an employee with or without cause.

History - (Sec. 35 ch 9 FSSLA 2005)

SEC. 14.25.530. FRAUD.

(a) A person who knowingly makes a false statement or falsifies or permits to be falsified a record of this plan in an attempt to defraud the plan is guilty of a class A misdemeanor.

(b) In this section, "knowingly" has the meaning given in AS 11.81.900(a).

History - (Sec. 35 ch 9 FSSLA 2005)

SEC. 14.25.532. PENSION FORFEITURE.

The provisions of AS 37.10.310 apply to pension benefits under AS 14.25.310 - 14.25.590.

History - (Sec. 5 ch 47 SLA 2007)

SEC. 14.25.540. TRANSFER INTO DEFINED CONTRIBUTION RETIREMENT PLAN BY NONVESTED MEMBERS OF DEFINED BENEFIT RETIREMENT PLAN.

(a) Subject to (i) of this section, an active member of the defined benefit retirement plan of the teachers' retirement system is eligible to participate in the defined contribution retirement plan established under AS 14.25.310 - 14.25.590 if that member has not vested. Participation in the defined contribution retirement plan is in lieu of participation in the defined benefit retirement plan established under AS 14.25.009 - 14.25.220.

(b) A member who has vested in a defined benefit retirement plan is not eligible to transfer under this section.

(c) Each eligible member who elects to participate in the defined contribution retirement plan shall have transferred to a new account the member contribution account balance held in trust for the member under the defined benefit retirement plan of the teachers' retirement system. A matching employer contribution shall be made on behalf of that employee to the new account. The employer shall make the matching contribution from funds

other than the trust funds of the defined benefit retirement plan. The amount of the matching employer contribution is subject to, and may not exceed, the limitation of 26 U.S.C. 415(c) during the applicable limitation year as defined in AS 14.25.590. If the matching employer contribution would exceed the limits during the limitation year in which the transfer occurs, the remaining amount of the matching employer contribution shall be made in the next limitation year, if the limits would not be exceeded.

(d) Upon a transfer, all membership service previously earned under the defined benefit retirement plan shall be nullified for purposes of entitlement to a future benefit under the defined benefit retirement plan but shall be credited for purposes of determining vesting in employer contributions under AS 14.25.390(b) and eligibility to elect medical benefits under AS 14.25.470. Membership service allowed for credit toward medical benefits does not include any service credit purchased under AS 14.25.075 for employment by an employer who is not a participating employer in this chapter.

(e) An eligible member whose accounts are subject to a qualified domestic relations order may not make an election to participate in the defined contribution retirement plan under this subsection unless the qualified domestic relations order is amended or vacated and court-certified copies of the order are received by the administrator.

(f) As directed by the participant, the board shall transfer or cause to be transferred the appropriate amounts to the designated account. The board shall establish transfer procedures by regulation, but the actual transfer may not be later than 30 days after the effective date of the member's participation in the defined contribution retirement plan unless the major financial markets for securities available for a transfer are seriously disrupted by an unforeseen event that also causes the suspension of trading on any national securities exchange in the country where the securities were issued. In that event, the 30-day period of time may be extended by a resolution of the board of trustees. Transfers are not commissionable or subject to other fees and may be in the form of securities or cash as determined by the board. Securities shall be valued as of the date of receipt in the participant's account.

(g) If the board or the administrator receives notification from the United States Department of the Treasury, Internal Revenue Service, that this section or a portion of this section will cause the retirement system under this chapter, or a portion of the retirement system under this chapter, to be disqualified for tax purposes under the Internal Revenue Code, the portion that will cause the disqualification does not apply, and the board and the administrator shall notify the presiding officers of the legislature.

(h) A member who is eligible to elect transfer to the defined contribution retirement plan must make the election not later than 12 months after the first day of the month following the administrator's receipt of the notification

that the member's employer consents to transfers of its members under (i) of this section. The election to participate in the defined contribution retirement plan must be made in writing on forms and in the manner prescribed by the administrator. Before accepting an election to participate in the defined contribution retirement plan, the administrator must provide the employee planning on making an election to participate in the defined contribution retirement plan with information, including calculations to illustrate the effect of moving the employee's retirement plan from the defined benefit retirement plan to the defined contribution retirement plan as well as other information to clearly inform the employee of the potential consequences of the employee's election. An election made under this subsection to participate in the defined contribution retirement plan is irrevocable. Upon making the election, the participant shall be enrolled as a member of the defined contribution retirement plan, the member's participation in the plan shall be governed by the provisions of AS 14.25.310 - 14.25.590, and the member's participation in the defined benefit retirement plan under AS 14.25.009 - 14.25.220 shall terminate. The participant's enrollment in the defined contribution retirement plan shall be effective the first day of the month after the administrator receives the completed enrollment forms. An election made by an eligible member who is married is not effective unless the election is signed by the individual's spouse.

(i) A member may make an election under this section only if the member's employer participates in both the defined benefit retirement plan and the defined contribution retirement plan and consents to transfers under this section. The employer shall notify the administrator if the employer consents to allowing the employer's members to choose to transfer from the defined benefit retirement plan to the defined contribution retirement plan under this section. An employer's notice to allow transfers is irrevocable and applicable to all eligible employees of the employer.

(j) In this section,

(1) "defined benefit retirement plan" means the retirement plan established in AS 14.25.009 - 14.25.220;

(2) "defined contribution retirement plan" means the retirement plan established in AS 14.25.310 - 14.25.590.

History - (Sec. 35 ch 9 FSSLA 2005; am Sec. 39 - 41 ch 20 SLA 2007)

Amendment Notes - The 2007 amendment, effective June 7, 2007, added the last two sentences of subsection (c), inserted "determining vesting in employer contributions under AS 14.25.390(b) and" in the first sentence of subsection (d), and added the first sentence of subsection (h).

SEC. 14.25.550. MEMBERSHIP IN TEACHERS' AND PUBLIC EMPLOYEES' RETIREMENT SYSTEMS.

A person who is employed at least half-time in the public employees' defined contribution retirement plan (AS 39.35.700 - 39.35.990) during the same period that the person is employed at least half-time in a position in the teachers' defined contribution retirement plan (AS 14.25.310 - 14.25.590) shall receive credited service under each plan for half-time employment. However, the amount of credited service a person receives under the public employees' defined contribution retirement plan during a school year may not exceed the amount necessary, when added to the amount of credited service earned during the school year under the teachers' defined contribution retirement plan, to equal one year of credited service.

History - (Sec. 35 ch 9 FSSLA 2005)

SEC. 14.25.560. LEGISLATORS WHO HAVE BEEN TEACHERS.

(a) A state legislator who was an active member of the defined contribution plan under other sections of AS 14.25.310 - 14.25.590 within the 12 months immediately preceding election to office may, subject to the requirements of (b) of this section, elect to be an active member of the teachers' defined contribution retirement plan for as long as the state legislator serves continuously as a state legislator if, within 90 days after taking the oath of office,

(1) the state legislator directs the employer in writing to

(A) pay into this plan the employer contributions required for a member under AS 14.25.310 - 14.25.590; and

(B) deduct from the state legislator's salary and pay into this plan

(i) the employee contributions required for a member under AS 14.25.310 - 14.25.590; and

(ii) an amount equal to the difference between the total employer and state contributions required for a member under AS 14.25.310 - 14.25.590 and the employer contributions that would be required under the public employees' defined contribution retirement plan (AS 39.35.700 - 39.35.990) if the legislator were covered under that plan; and

(2) notice is given the administrator in writing.

(b) A state legislator is not entitled to elect membership under (a) of this section if the state legislator is covered for the same period of service under the public employees' defined contribution retirement plan (AS 39.35.700 - 39.35.990). An election of membership under (a) of this section is retroactive to the date the state legislator took the oath of office. A state legislator may not receive membership credit under (a) of this section for legislative service performed before the legislative session during which the state legislator elected membership under (a) of this section. In order to continue in membership service under (a) of this section, the state legislator must earn at least 0.3 years of membership service under other sections of AS 14.25.310 - 14.25.590 during each five-year period.

History - (Sec. 35 ch 9 FSSLA 2005)

SEC. 14.25.570. PARTICIPATION BY NATIONAL EDUCATION ASSOCIATION EMPLOYEES. [REPEALED, SEC. 116(A) CH 20 SLA 2007].

Repealed or Renumbered

SEC. 14.25.580. PARTICIPATION BY SPECIAL EDUCATION SERVICE AGENCY EMPLOYEES.

An employee of the Special Education Service Agency may participate in the system under this chapter if the employee possesses or is eligible to possess a teacher certificate under AS 14.20.020.

History - (Sec. 35 ch 9 FSSLA 2005)

SEC. 14.25.582. SPECIAL RULES FOR TREATMENT OF QUALIFIED MILITARY SERVICE.

Notwithstanding any contrary provisions of AS 14.25.310 - 14.25.590, with respect to qualified military service, contributions shall be made and benefits and service credit shall be provided in accordance with 26 U.S.C. 414(u).

History - (Sec. 42 ch 20 SLA 2007)

SEC. 14.25.590. DEFINITIONS.

In AS 14.25.310 - 14.25.590, unless the context requires otherwise,

(1) "administrator" has the meaning given in AS 14.25.220;

(2) "alternate payee" means a person entitled to a portion of the distribution from an individual account under a qualified domestic relations order;

(3) "annuitant" means a member, beneficiary, or alternate payee who is receiving a benefit under this plan;

(4) "beneficiary" means the person or persons entitled to receive benefits that may be due from the plan upon the death of the member or alternate payee;

(5) "board" has the meaning given in AS 14.25.220;

(6) "calendar year" has the meaning given in AS 39.35.680;

(7) "compensation"

(A) means

(i) the total remuneration earned by an employee for personal services rendered, including cost-of-living differentials, as reported on the employee's Federal Income Tax Withholding Statement (Form W-2) from the employer for the calendar year;

(ii) the member contribution to the teachers' retirement system under AS 14.25.340;

(B) does not include retirement benefits, severance pay or other separation bonuses, welfare benefits, per diem, expense allowances, workers' compensation payments, payments for leave not used whether those leave payments are scheduled payments, lump-sum payments, donations, or cash-ins, any remuneration contributed by the employer for or on account of the employee under this plan or under any other qualified or nonqualified employee benefit plan, or any remuneration not specifically included above that would have been excluded under 26 U.S.C. 3121(a) (Internal Revenue Code) if the employer had remained in the Federal Social Security System;

(C) notwithstanding (B) of this paragraph, includes any amount that is contributed by the employer under a salary reduction agreement and that is not includible in the gross income of the employee under 26 U.S.C. 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), or 403(b) (Internal Revenue Code); the annual compensation limitation for the member, which is so taken into account for those purposes, may not exceed \$200,000, as adjusted for the cost of living in accordance with 26 U.S.C. 401(a)(17)(B) (Internal Revenue Code), with the limitation for a fiscal year being the limitation in effect for the calendar year within which the fiscal year begins;

(8) "dependent child" has the meaning given in AS 14.25.220;

(9) "distribution commencement date" has the meaning given in AS 14.25.440(a);

(10) "employer" means a public school district, the Board of Regents of the University of Alaska, the Department of Education and Early Development, or the regional resource centers;

(11) "fund" means the assets of the plan;

(12) "individual account" means the total maintained by the plan in an investment account within the trust fund, established for each member for the purposes of allocation of the member's contributions, employer contributions on behalf of the member, and earnings credited to each of those contributions, investment gains and losses, and expenses, as well as reporting of the member's benefit under the plan;

(13) "Internal Revenue Code" has the meaning given in AS 14.25.220;

(14) "investment funds" means those separate funds that are provided within and that make up the trust fund and that are established for the purpose of directing investment through the exercise of the sole control of a member, beneficiary, or alternate payee under the terms of the plan and trust agreement;

(15) "limitation year" means the year for which contributions are made to a member's individual account as reported to the Internal Revenue Service under the limits described in 26 U.S.C. 415(c);

(16) "member" means an employee of an employer or a former employee of an employer who retains a right to benefits under the plan;

(17) "membership service" means full-time or part-time employment with an employer in the plan;

(18) "normal retirement age" means the age set for Medicare eligibility at the time the member retires;

(19) "participant" means the person who has a vested right to an individual account, such as a member, an alternate payee if the account is subject to a qualified domestic relations order, the member's beneficiary if the member is deceased, or an alternate payee's beneficiary if the alternate payee is deceased;

(20) "plan" means the retirement benefit plan established under AS 14.25.310 - 14.25.590;

(21) "prudent investment standard" means the degree of care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(22) "qualified domestic relations order" means a divorce or dissolution judgment under AS 25.24, including an order approving a property settlement, that

(A) creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the individual account, or the benefits payable with respect to a member;

(B) sets out the name and last known mailing address, if any, of the member and of each alternate payee covered by the order;

(C) sets out the amount or percentage of the member's benefit, or of any survivor's benefit, to be paid to the alternate payee, or sets out the manner in which that amount or percentage is to be determined;

(D) sets out the number of payments or period to which the order applies;

(E) sets out the retirement plan to which the order applies;

(F) does not require any type or form of benefit or any option not otherwise provided by AS 14.25.310 - 14.25.590;

(G) does not require an increase of benefits in excess of the amount provided by AS 14.25.310 - 14.25.590; and

(H) does not require the payment, to an alternate payee, of benefits that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order;

(23) "retiree" means an eligible person who has elected to receive the medical benefits under AS 14.25.480;

(24) "retirement fund" or "fund" means the fund in which the assets of the plan, including income and interest derived from the investment of money, are deposited and held;

(25) "school year" has the meaning given in AS 14.25.220;

(26) "system" has the meaning given in AS 14.25.220;

(27) "teacher" and "member" are used interchangeably under AS 14.25.310 - 14.25.590 and mean a person eligible to participate in the plan and who is covered by the plan, limited to

(A) a certificated full-time or part-time elementary or secondary teacher, a certificated school nurse, or a certificated person in a position requiring a teaching certificate as a condition of employment in a public school of the state, the Department of Education and Early Development, or the Department of Labor and Workforce Development;

(B) a full-time or part-time teacher of the University of Alaska or a person occupying a full-time administrative position at the University of Alaska that requires academic standing; the approval of the administrator must be obtained before an administrative position qualifies for membership in the plan; however, a teacher or administrative person at the university who is participating in a university retirement program under AS 14.40.661 - 14.40.799 is not a member under this plan;

(C) a full-time or part-time instructor of the Department of Labor and Workforce Development;

(28) "year of service" means service during the dates set for the school year; partial-year service credit is given for membership service as follows:

(A) during any school year,

(i) less than nine days, no credit;

(ii) nine days or more but less than 27 days, 0.1 years;

(iii) 27 days or more but less than 45 days, 0.2 years;

(iv) 45 days or more but less than 63 days, 0.3 years;

(v) 63 days or more but less than 81 days, 0.4 years;

(vi) 81 days or more but less than 100 days, 0.5 years;

(vii) 100 days or more but less than 118 days, 0.6 years;

(viii) 118 days or more but less than 136 days, 0.7 years;

(ix) 136 days or more but less than 154 days, 0.8 years;

(x) 154 days or more but less than 172 days, 0.9 years;

(xi) 172 days or more, 1.0 years;

(B) service performed on a part-time basis of half time or more shall be credited in proportion to the amount of credit that would have been received for service performed on a full-time basis.

History - (Sec. 35 ch 9 FSSLA 2005; am Sec. 43 ch 20 SLA 2007)

Amendment Notes - The 2007 amendment, effective June 7, 2007, deleted "or any remuneration paid by the employer in excess of the social security taxable wage base for the calendar year" at the end of paragraph (7)(B) and made related changes.

ARTICLE 04. SABBATICAL LEAVE

SEC. 14.20.280. BASIS OF LEAVE.

A teacher who has rendered active service for seven or more years in a district is eligible for sabbatical leave. Sabbatical leave may be taken for educational purposes only, and for not more than one school year.

History - (Sec. 1 ch 134 SLA 1962; am Sec. 1 ch 62 SLA 1964; am Sec. 2 ch 104 SLA 1965; am Sec. 27 ch 98 SLA 1966; am Sec. 1 ch 168 SLA 1968)

Article Notes - Collateral References.- 68 Am. Jur. 2d Schools, Sec. 177.

78 C.J.S. Schools and School Districts, Sec. 329.

SEC. 14.20.290. APPLICATION.

A teacher who wishes to take sabbatical leave shall apply to the governing body of the school district. The teacher shall submit information showing qualifications for sabbatical leave and a plan for education during the leave.

History - (Sec. 2 ch 134 SLA 1962; am Sec. 28 ch 98 SLA 1966)

SEC. 14.20.300. SELECTION OF TEACHERS.

(a) The governing body of the school district has the responsibility for selection of the teachers to be granted sabbatical leave.

(b) In selecting teachers for sabbatical leave, the governing body shall consider the benefit that the school district will derive from the proposed plan of the teacher for educational purposes, the field of study of the teacher, the contributions of the teacher to education in the state, and the seniority of the teacher.

History - (Sec. 3 ch 134 SLA 1962; am Sec. 29 ch 98 SLA 1966)

SEC. 14.20.310. NUMBER OF TEACHERS ON SABBATICAL LEAVE; COMPENSATION.

(a) The number of teachers eligible for sabbatical leave that may be allowed under AS 14.20.280 - 14.20.350 is as follows:

(1) not more than one-half of one percent of the total number of teachers from all borough and city school districts and regional education attendance areas may be on state-supported sabbatical leave in any year;

(2) any number of teachers may be on sabbatical leave at school district or personal expense.

(b) A teacher on state-supported sabbatical leave is entitled to one-half of base salary to be paid by the department.

(c) A teacher on sabbatical leave at district expense is entitled to an amount of salary to be determined by the school board.

History - (Sec. 4 ch 134 SLA 1962; am Sec. 3 ch 104 SLA 1965; am Sec. 30 ch 98 SLA 1966; am Sec. 2 ch 168 SLA 1968; am Sec. 53 ch 6 SLA 1984)

SEC. 14.20.320. RESPONSIBILITY OF TEACHER.

Upon the return of a teacher to the teaching position, the teacher shall make a report to the governing body concerning educational accomplishments. A teacher who does not serve for at least a full year after returning shall refund to the school board money paid to the teacher under AS 14.20.310 unless the failure to serve a full year after return is attributable to sickness, injury, or death.

History - (Sec. 5 ch 134 SLA 1962; am Sec. 4 ch 104 SLA 1965; am Sec. 31 ch 98 SLA 1966; am Sec. 20 ch 46 SLA 1970; am Sec. 54 ch 6 SLA 1984)

SEC. 14.20.330. POSITION, TENURE, AND RETIREMENT.

(a) Unless it is otherwise agreed, a teacher returning from sabbatical leave shall return to the position occupied by that teacher when the sabbatical leave began.

(b) A sabbatical leave is not an interruption of the continuous service necessary to attain or retain tenure under AS 14.20.150, 14.20.155, or 14.20.160. However, the time spent on sabbatical leave may not be counted in determining when a teacher has sufficient service to enable the teacher to acquire tenure rights.

(c) A sabbatical leave is not a break in service for retirement purposes. Payment into the retirement fund shall be made on the basis of full salary.

History - (Sec. 6 ch 134 SLA 1962; am Sec. 32 ch 98 SLA 1966)

SEC. 14.20.340. MILITARY SERVICE AND PREVIOUS LEAVES OF ABSENCE.

To determine eligibility for sabbatical leave, tours of military service and leaves of absence granted before July 1, 1963, are not considered years of active service.

History - (Sec. 7 ch 134 SLA 1962; am Sec. 2 ch 62 SLA 1964)

SEC. 14.20.345. LEAVE OF ABSENCE WITHOUT PAY.

(a) A teacher may be granted a leave of absence without pay for the purposes which may be approved by the governing body of the district if

(1) the teacher's application is approved by the governing body of the district; and

(2) the teacher agrees to return to employment in a public school not later than the beginning of the school year following termination of the period for which the leave of absence was granted.

(b) A leave of absence is not an interruption of the continuous service necessary to attain or retain retirement or tenure rights under AS 14.20.150, 14.20.155, or 14.20.160. However, the time spent on leave of absence may not be counted in determining when a teacher has sufficient service to enable the teacher to acquire retirement or tenure rights.

(c) The leave of absence is not a break in service for retirement purposes.

(d) The governing body of the district may agree to continue the teacher's retirement contributions if the teacher agrees to pay the percent required under AS 14.25.050 of the salary the teacher would have received during the leave of absence and reimburse the district for the district's required retirement contribution. Each year of leave of absence then would count as a year of retirement service.

(e) The governing body of the district may advance the teacher on the district salary schedule when the teacher returns to employment if the governing body determines that the teacher's leave of absence was educationally or professionally beneficial to the teacher or the district.

(f) A teacher may make contributions to the retirement fund for each year or portion of a year of leave of absence taken. The contribution shall include the required percent of the salary the teacher would have received had the leave of absence not been taken, plus the required employer and state contributions that would have been made. Compound interest at the rate prescribed by regulation shall be added as computed from the beginning date of the leave of absence to the date the teacher pays the contribution.

History - (Sec. 5 ch 104 SLA 1965; am Sec. 33, 34 ch 98 SLA 1966; am Sec. 1 ch 44 SLA 1971; am Sec. 1 ch 184 SLA 1972; am Sec. 2 ch 99 SLA 1974; am Sec. 1 ch 6 SLA 1993)

SEC. 14.20.350. DEFINITION.

In AS 14.20.280 - 14.20.350, "teacher" means a certificated member of the teaching, supervisory, or administrative corps in the public schools of the state.

History - (Sec. 8 ch 134 SLA 1962)

ARTICLE 05. UNIVERSITY RETIREMENT PROGRAMS

SEC. 14.40.671. PARTICIPATION.

(a) An employee in a participating position may elect to participate in a university retirement program or to participate in the appropriate state retirement system. Eligibility to participate in a program begins on an employee's appointment to a participating position.

(b) An election under (a) of this section to participate in a university retirement program is irrevocable. The election shall be made in writing on a form provided by the board and approved for the state by the commissioner of administration. The form must be filed with the university not later than 30 days after the date on which the employee is notified by the university that the employee is eligible to participate in the program. A copy of the form shall be delivered to the appropriate state retirement system. The election becomes irrevocable on the date it is received by the board.

(c) Participation in a university retirement program constitutes a waiver of all rights and benefits under the state retirement systems earned on or after the effective date of the election while the employee is participating in a university retirement program.

(d) Except as provided in (e) of this section, if a nonvested member of a state retirement system participates in a university retirement program, the employee may choose to transfer the amount in the employee's contribution

account to a university retirement program. If the employee chooses to transfer the account, the appropriate state retirement system shall pay to the university on behalf of the employee an amount equal to the balance in the account. The payment must be made within 45 days after notice of the employee's decision to transfer the employee's contribution account to a university retirement program is received by the state retirement system. The financial officer of the university shall immediately pay the amount received to the designated company or companies for the benefit of the employee. An employee who transfers assets under this subsection may not reclaim the corresponding service in the state retirement system if the employee is reemployed under the state retirement system.

(e) An employee whose rights to transfer assets out of a state retirement system are subject to a qualified domestic relations order is entitled to transfer assets from the state retirement system to a university retirement program only if the requirements for receiving a refund under AS 14.25.150(b), 14.25.360, AS 39.35.200(c), or 39.35.760, as appropriate, are met.

(f) If a vested member of a state retirement system elects to participate in a university retirement program, the employee ceases to be an active member of the state retirement system on the effective date of the participation in a university retirement program. The employee retains all benefits accrued in the state retirement system.

(g) An employee who does not participate in a university retirement program under this section becomes or remains a member of the appropriate state retirement system.

(h) Notwithstanding (b) of this section, the university may offer an employee who made an election not to participate in an optional university retirement program at the time the employee was eligible to participate in the program an option to enroll in a different university retirement program.

History - (Sec. 4 ch 104 SLA 1989; am Sec. 39 - 41 ch 9 FSSLA 2005)

Amendment Notes - The 2005 amendment by Sec. 39 and 41, ch. 9, FSSLA 2005, effective July 28, 2005, in subsection (a) deleted "the optional" preceding "university retirement program"; in subsection (b) inserted "under (a) of this section" in the first sentence and substituted "with the university" for "with the board" and "employee is notified by the university that the employee is eligible" for "employee first becomes eligible" in the third sentence; in the third sentence of subsection (d) substituted "after notice of the employee's decision to transfer the employee's contribution account to a university retirement program" for "after the election"; added subsection (h); and made stylistic changes throughout the section.

The 2005 amendment by Sec. 40, ch. 9, FSSLA 2005, effective July 1, 2006, added section references in subsection (e)

Alaska Statutes

TITLE 39. PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 30. INSURANCE AND SUPPLEMENTAL EMPLOYEE BENEFITS

Article

2. Group Life and Health Insurance (Secs. 39.30.090-39.30.100)
4. Supplemental Employee Benefits on Withdrawal of Social Security (Secs. 39.30.150-39.30.180)
5. State of Alaska Teachers' and Public Employees' Retiree Health Reimbursement Arrangement Plan (Secs. 39.30.300-39.30.495)

ARTICLE 02. GROUP LIFE AND HEALTH INSURANCE

SEC. 39.30.090. PROCUREMENT OF GROUP INSURANCE.

(a) The Department of Administration may obtain a policy or policies of group insurance covering state employees, persons entitled to coverage under AS 14.25.168, 14.25.480, AS 22.25.090, AS 39.35.535, 39.35.880, or former AS 39.37.145, employees of other participating governmental units, or persons entitled to coverage under AS 23.15.136, subject to the following conditions:

(1) A group insurance policy shall provide one or more of the following benefits: life insurance, accidental death and dismemberment insurance, weekly indemnity insurance, hospital expense insurance, surgical expense insurance, dental expense insurance, audiovisual insurance, or other medical care insurance.

(2) Each eligible employee of the state, the spouse and the unmarried children chiefly dependent on the eligible employee for support, and each eligible employee of another participating governmental unit shall be covered by the group policy, unless exempt under regulations adopted by the commissioner of administration.

(3) A governmental unit may participate under a group policy if

(A) its governing body adopts a resolution authorizing participation, and payment of required premiums;

(B) a certified copy of the resolution is filed with the Department of Administration; and

(C) the commissioner of administration approves the participation in writing.

(4) In procuring a policy of group health or group life insurance as provided under this section or excess loss insurance as provided in AS 39.30.091, the Department of Administration shall comply with the dual choice requirements of AS 21.86.310, and shall obtain the insurance policy from an insurer authorized to transact business in the state under AS 21.09, a hospital or medical service corporation authorized to transact business in this state under AS 21.87, or a health maintenance organization authorized to operate in this state under AS 21.86. An excess loss insurance policy may be obtained from a life or health insurer authorized to transact business in this state under AS 21.09 or from a hospital or medical service corporation authorized to transact business in this state under AS 21.87.

(5) The Department of Administration shall make available bid specifications for desired insurance benefits or for administration of benefit claims and payments to (A) all insurance carriers authorized to transact business in this state under AS 21.09 and all hospital or medical service corporations authorized to transact business under AS 21.87 who are qualified to provide the desired benefits; and (B) to insurance carriers authorized to transact business in this state under AS 21.09, hospital or medical service corporations authorized to transact business under AS 21.87, and third-party administrators licensed to transact business in this state and qualified to provide administrative services. The specifications shall be made available at least once every five years. The lowest responsible bid submitted by an insurance carrier, hospital or medical service corporation, or third-party administrator with adequate servicing facilities shall govern selection of a carrier, hospital or medical service corporation, or third-party administrator under this section or the selection of an insurance carrier or a hospital or medical service corporation to provide excess loss insurance as provided in AS 39.30.091.

(6) If the aggregate of dividends payable under the group insurance policy exceeds the governmental unit's share of the premium, the excess shall be applied by the governmental unit for the sole benefit of the employees.

(7) A person receiving benefits under AS 14.25.110, AS 22.25, AS 39.35, or former AS 39.37 may continue the life insurance coverage that was in effect under this section at the time of termination of employment with the state or participating governmental unit.

(8) A person electing to have insurance under (7) of this subsection shall pay the cost of this insurance.

(9) For each permanent part-time employee electing coverage under this section, the state shall contribute one-half the state contribution rate for permanent full-time state employees, and the permanent part-time employee shall contribute the other one-half.

(10) A person receiving benefits under AS 14.25, AS 22.25, AS 39.35, or former AS 39.37 may obtain auditory, visual, and dental insurance for that person and eligible dependents under this section. The level of coverage for persons over 65 shall be the same as that available before reaching age 65 except that the benefits payable shall be supplemental to any benefits provided under the federal old age, survivors, and disability insurance program. A person electing to have insurance under this paragraph shall pay the cost of the insurance. The commissioner of administration shall adopt regulations implementing this paragraph.

(11) A person receiving benefits under AS 14.25, AS 22.25, AS 39.35, or former AS 39.37 may obtain long-term care insurance for that person and eligible dependents under this section. A person who elects insurance under this paragraph shall pay the cost of the insurance premium. The commissioner of administration shall adopt regulations to implement this paragraph.

(12) Each licensee holding a current operating agreement for a vending facility under AS 23.15.010 - 23.15.210 shall be covered by the group policy that applies to governmental units other than the state.

(b) In this section

(1) “eligible employee” means

(A) an employee who has served in permanent full-time or part-time employment with the same governmental unit for 30 days or more, except an emergency or temporary employee;

(B) an elected or appointed official of a governmental unit, effective upon taking the oath of office; and

(C) a contractual employee of the legislative branch of state government under AS 24.10.060(f) if the employee’s personal services contract provides that the employee is entitled to coverage;

(2) “governmental unit” means the state, a municipality, school district, or other political subdivision of the state, and the North Pacific Fishery Management Council;

(3) “insurance”, “insurance carrier” and “insurance policy” include health care services, health care service contractors and contracts, and health maintenance organizations.

History - (Sec. 1, 2 ch 151 SLA 1955; am Sec. 1 ch 168 SLA 1959; am Sec. 1, 2 ch 105 SLA 1965; am Sec. 1 ch 70 SLA 1968; am Sec. 66 ch 69 SLA 1970; am Sec. 1 ch 123 SLA 1970; am Sec. 1 ch 159 SLA 1972; am Sec. 1, 2 ch 46 SLA 1973; am Sec. 13, 14 ch 47 SLA 1974; am Sec. 2, 3 ch 27 SLA 1976; am Sec. 2 ch 86 SLA 1977; am Sec. 39 ch 177 SLA 1978; am Sec. 1 ch 55 SLA 1979; am Sec. 1 ch 62 SLA 1981; am Sec. 37 ch 137 SLA 1982; am Sec. 1 ch 46 SLA 1984; am Sec. 13, 14 ch 82 SLA 1986; am Sec. 2 ch 38 SLA 1990; am Sec. 2, 3 ch 95 SLA 1990; am Sec. 67 - 69 ch 63 SLA 1993; am Sec. 106 ch 56 SLA 1996; am Sec. 3 ch 22 SLA 1998; am Sec. 69 ch 9 FSSLA 2005)

Revisors Notes - Subsection (b) was formerly AS 39.30.100. Renumbered in 1987.

Cross References - For the purpose of the 1978 amendatory act, see Sec. 1, ch. 177, SLA 1978 as amended by Sec. 7, ch. 46, SLA 1982, in the 1982 Temporary and Special Acts and Resolves. For limited enrollment period for certain previously ineligible persons to apply for coverage under paragraph (7) of this section, see Sec. 2, ch. 46, SLA 1984 in the Temporary and Special Acts. For legislative intent concerning the 1998 amendment to paragraph (b) (1), see Sec. 1, ch. 22, SLA 1998 in the 1998 Temporary and Special Acts.

Amendment Notes - The 2005 amendment, effective July 1, 2006, added section references in the introductory language of subsection (a).

Editors Notes - Section 87, ch. 63, SLA 1993 provides “[i]f any section of this bill is found to violate the single subject rule it is severed from the rest of the bill.”

AG Opinions - Because health insurance deals with the economic interests of employees and does not deal with fundamental policy; because this section, the group insurance statute, authorizes the Department of Administration to obtain “a policy or policies”; and because this section does not specify what levels of coverage or benefits must be included in the policy (or policies) obtained, the issue of group life and health insurance benefits is negotiable under the Public Employment Relations Act (AS 23.40.070 - 23.40.260). January 23, 1978 Op. Att’y Gen.

To the extent the cost of negotiated group life and health insurance coverage exceeds what the state would have paid under its employer-sponsored plan, the negotiated coverage is subject to legislative approval under AS 23.40.215. January 23, 1978 Op. Att’y Gen.

Decisions - Applicability of benefits to same-sex couples. - Employee benefits programs, which included the life and health insurance benefits described in this section, violated the rights of same-sex couples under Alaska Const. art. I, Sec. 1, by covering married public employees but not domestic partners. *Alaska Civ. Liberties Union v. State*, 122 P.3d 781 (Alaska 2005).

Applied in *University of Alaska v. Tumeo*, 933 P.2d 1147 (Alaska 1997).

Article Notes - Administrative Code. For group health and life insurance, see 2 AAC 39.

SEC. 39.30.091. AUTHORIZATION FOR SELF-INSURANCE AND EXCESS LOSS INSURANCE.

Notwithstanding AS 21.86.310 or AS 39.30.090, the Department of Administration may provide, by means of self-insurance, one or more of the benefits listed in AS 39.30.090(a)(1) for state employees eligible for the benefits by law or under a collective bargaining agreement and for persons receiving benefits under AS 14.25, AS 22.25, AS 39.35, or former AS 39.37, and their dependents. The department shall procure any necessary excess loss insurance under AS 39.30.090.

History - (Sec. 69 ch 63 SLA 1993; am Sec. 27 ch 68 SLA 2000)

Editors Notes - Section 87, ch. 63, SLA 1993 provides “[i]f any section of this bill is found to violate the single subject rule it is severed from the rest of the bill.”

SEC. 39.30.095. GROUP HEALTH AND LIFE BENEFITS FUND.

(a) The commissioner of administration shall establish the group health and life benefits fund as a special account in the general fund to provide for group life and health insurance under AS 39.30.090 and 39.30.160 or for self-insurance arrangements under AS 39.30.091. The commissioner shall maintain accounts and records for the fund. The fund consists of employer contributions, employee contributions, appropriations from the legislature, and income earned on investment of the fund as provided in (d) of this section.

(b) After obtaining the advice of an actuary, the commissioner of administration shall determine the amount necessary to provide benefits under AS 39.30.090, 39.30.091, and 39.30.160 and, subject to (e) of this section, shall set the rate of employer contribution and employee contribution, if any. With money in the fund, the commissioner of administration shall pay premiums, claims, and administrative costs required under the insurance policies in effect under AS 39.30.090 and 39.30.160, or required under self-insurance arrangements in effect under AS 39.30.091.

(c) The commissioner of administration or the designee of the commissioner is administrator of the fund. The commissioner may contract with

(1) an insurer authorized to transact business in this state under AS 21.09, or a hospital or medical service corporation authorized to transact business in this state under AS 21.87 to reimburse the state for the cost of administering group insurance provided under AS 39.30.090 and 39.30.160; and

(2) a life or health insurer authorized to transact business in the state under AS 21.09, a hospital or medical service corporation authorized to transact business in this state under AS 21.87, or a third-party administrator licensed to transact business in this state for the administration of benefit claims and payments under AS 39.30.091.

(d) If the commissioner of administration determines that there is more money in the fund than the amount needed to pay premiums, benefits, and administrative costs for the current fiscal year, the surplus, or so much of it as the commissioner of administration considers advisable, may be invested by the commissioner of revenue in the same manner as retirement funds are invested under AS 37.10.220.

(e) Notwithstanding (b) of this section, the rate of employer contribution to provide hospital, surgical, dental, audiovisual, and other medical care benefits under AS 39.30.091 is \$515 monthly beginning July 1, 2000; \$575 monthly beginning July 1, 2001; and \$630 monthly beginning July 1, 2002, for the following employees and officials:

(1) employees in the executive branch of the state government, including the governor and lieutenant governor, who are not members of a collective bargaining unit established under the authority of AS 23.40.070 - 23.40.260 (Public Employment Relations Act);

(2) officials and employees of the legislative branch of state government under AS 24;

(3) employees in the judicial branch of state government, including magistrates and other judicial officers, who are not members of a collective bargaining unit established under AS 23.40.070 - 23.40.260 (Public Employment Relations Act).

(f) In this section, “fund” means the group health and life benefits fund.

History - (Sec. 38 ch 137 SLA 1982; am Sec. 57 ch 138 SLA 1986; am Sec. 27, 28 ch 141 SLA 1988; am Sec. 70 - 73 ch 63 SLA 1993; am Sec. 107 ch 56 SLA 1996; am Sec. 6, 7 ch 2 TSSLA 2000; am Sec. 70 ch 9 FSSLA 2005)

Revisors Notes - Subsection (e) was enacted as (f). Relettered in 2000, at which time former subsection (e) was relettered as (f) and a conforming amendment was made in subsection (b).

Amendment Notes - The 2005 amendment, effective July 28, 2005, updated a section reference at the end of subsection (d).

Editors Notes - Section 87, ch. 63, SLA 1993 provides “[i]f any section of this bill is found to violate the single subject rule it is severed from the rest of the bill.”

SEC. 39.30.096. ACCOUNTING AND DISPOSITION OF FEES.
[REPEALED, SEC. 28 CH 90 SLA 1991].

Repealed or Renumbered

SEC. 39.30.097. ALASKA RETIREE HEALTH CARE TRUSTS.

(a) The commissioner of administration is authorized to prefund medical benefits provided by AS 14.25.168, AS 22.25.090, and AS 39.35.535 by establishing an irrevocable trust that is exempt from federal income tax under 26 U.S.C. 115 and subject to the applicable financial reporting, disclosure, and actuarial requirements of the Governmental Accounting Standards Board.

(b) The commissioner of administration is authorized to prefund medical benefits provided by AS 14.25.480, AS 39.30.300, and AS 39.35.880 by establishing an irrevocable trust that is exempt from federal income tax under 26 U.S.C. 115 and subject to the applicable financial reporting, disclosure, and actuarial requirements of the Governmental Accounting Standards Board.

(c) The plans and assets of the Alaska retiree health care trusts shall be under the governance and investment authority of the Alaska Retirement Management Board, which shall serve as trustee of the trust as provided in AS 37.10.210. The commissioner of administration or the commissioner’s designee shall serve as administrator of the Alaska retiree health care trusts.

(d) All employer contributions, appropriations, earnings, and reserves for the payment of retiree medical obligations shall be credited to the retiree health care trusts. The prefunded amounts shall be available without fiscal year limitations for retiree medical benefits and administration costs. The amounts remaining in the trusts, if any, after retiree medical benefits and administration costs have been paid in any year shall be retained in the trusts for future payments until the satisfaction of all employer liabilities under the trusts for retiree medical benefits. All prefunded amounts shall be used solely for the payment of retiree medical benefits and administration costs and for no other purpose.

(e) The assets of the Alaska retiree health care trusts may be pooled, for investment purposes, with assets of the retirement systems, so long as such assets are accounted for separately.

History - (Sec. 50 ch 20 SLA 2007)

Cross References - For provision directing the commissioner of administration to transfer to the retiree health care trusts established under this section the funds that have been deposited in the group health and life benefits fund under AS 39.30.095, including funds in the retiree health insurance fund and retiree health benefit funds that may be held in other accounts, see Sec. 118, ch. 20, SLA 2007, in the 2007 Temporary and Special Acts.

Effective Date Notes - Section 120, ch. 20, SLA 2007, makes this section effective June 7, 2007, in accordance with AS 01.10.070(c).

History Reports - For governor's transmittal letter for ch. 20, SLA 2007 (SB 123), proposing needed corrections and clarifications of statutes enacted as part of the 2005 legislation establishing defined contributions retirement plans and making related amendments to defined benefit retirement plans and to retiree medical and health care benefits to be administered under this section, see 2007 Senate Journal 567 - 570.

SEC. 39.30.098. REGULATIONS.

The commissioner of administration may adopt regulations to implement AS 39.30.090 - 39.30.097. Regulations adopted by the commissioner under this section relate to the internal management of state agencies, and their adoption is not subject to AS 44.62 (Administrative Procedure Act).

History - (Sec. 50 ch 20 SLA 2007)

Effective Date Notes - Section 120, ch. 20, SLA 2007, makes this section effective June 7, 2007, in accordance with AS 01.10.070(c).

SEC. 39.30.100. [RENUMBERED AS AS 39.30.090(B)].

Repealed or Renumbered

ARTICLE 04. SUPPLEMENTAL EMPLOYEE BENEFITS ON WITHDRAWAL FROM SOCIAL SECURITY

SEC. 39.30.150. CONTRIBUTIONS.

(a) In place of contributions to the federal social security system that would have been required on behalf of an employee had the participating employer belonged to the social security system, the participating employer shall contribute an amount equal to 6.13 percent of the wages of the employee up to the taxable wage base then in effect in the social security system. This contribution shall be paid into an individual employee annuity account in the Department of Administration under the terms of the State of Alaska Supplemental Annuity Plan. The department shall pay 6.13 percent of the wages of the employee up to the taxable wage base then in effect in the social security system into the individual employee annuity account established under this subsection. This wage reduction shall be treated as an employer contribution under 26 U.S.C. 414(h)(2). All costs of establishing and administering the programs established under AS 39.30.150 - 39.30.180 shall be paid from the contributions made to the individual employee annuity accounts under this section.

(b) Employees of the division of marine transportation included in AS 39.35.095 - 39.35.680 through the process of collective bargaining under AS 39.35.680(22)(D) may, under the terms of a collective bargaining agreement, utilize contributions made under (a) of this section on their behalf to offset the costs of inclusion in the public employees' retirement system; however,

(1) the state is placed under no obligation to continue making contributions under this section if the state resumes participation in the federal social security system;

(2) the bargaining agreement must provide a mechanism for satisfying any residual liabilities that might exist if the state resumes participation in the federal social security system; and

(3) funds contributed under (a) of this section on behalf of employees who are not covered by maritime union contracts may not be obligated or expended to pay any costs associated with the inclusion of marine transportation employees in AS 39.35.095 - 39.35.680.

(c) An employee may voluntarily elect additional wage reductions to be paid into special individual employee benefit accounts in the Department of Administration. Money in these accounts may only be used to purchase benefits selected by the employee under the supplemental benefits plan established by the administrator.

History - (Sec. 5 ch 58 SLA 1979; am Sec. 2, 3 ch 135 SLA 1980; am Sec. 16, 17 ch 146 SLA 1980; am Sec. 1, 2 ch 55 SLA 1988; am Sec. 71 ch 9 FSSLA 2005)

Revisors Notes - In 2005, in subsection (b), “AS 39.35.680(22)(D)” was substituted for “AS 39.35.680(21)(D)” to reflect the 2005 renumbering of AS 39.35.680(21).

Amendment Notes - The 2005 amendment, effective July 28, 2005, in subsection (b) substituted “in AS 39.35.095 - 39.35.680” for “in the public employees’ retirement system” in the introductory language and in paragraph (3).

History Reports - For governor’s transmittal letter on SSHB 252, from which ch. 55, SLA 1988 derives, see 1988 House Journal 2151-2153.

SEC. 39.30.151. ADMINISTRATOR.

The commissioner of administration or the commissioner’s designee is the administrator of the system.

History - (Sec. 72 ch 9 FSSLA 2005)

SEC. 39.30.153. REPAYMENT OF CONTRIBUTIONS.

Upon termination of employment the amount held on behalf of a terminating employee in the employee’s individual employee annuity account shall be paid to the employee under the terms of the State of Alaska Supplemental Annuity Plan.

History - (Sec. 39 ch 137 SLA 1982; am Sec. 3 ch 55 SLA 1988)

Editors Notes - Section 8, ch. 55, SLA 1988 provides that the amendments made to this section by ch. 55, SLA 1988 apply only “to contributions due the month after a determination is obtained that amendment of the plan in accordance with this Act will not adversely affect the deferral of taxes.”

History Reports - For governor’s transmittal letter on SSHB 252, from which ch. 55, SLA 1988 derives, see 1988 House Journal 2151-2153.

SEC. 39.30.154. POWERS AND DUTIES OF THE ADMINISTRATOR.

The administrator has the same powers and duties with regard to the plan as those set out in AS 14.25.003 and 14.25.004.

History - (Sec. 73 ch 9 FSSLA 2005; am Sec. 51 ch 20 SLA 2007)

Amendment Notes - The 2007 amendment, effective June 7, 2007, substituted "AS 14.25.003 and 14.25.004" for "AS 14.25.004."

SEC. 39.30.155. MANAGEMENT AND INVESTMENT OF FUND.

The Alaska Retirement Management Board is the fiduciary of the fund and has the same powers and duties under this section in regard to the fund as are provided under AS 37.10.220.

History - (Sec. 18 ch 146 SLA 1980; am Sec. 74 ch 9 FSSLA 2005)

Amendment Notes - The 2005 amendment, effective July 28, 2005, rewrote this section.

SEC. 39.30.160. BENEFITS.

(a) The Department of Administration shall, in accordance with policies prescribed by regulations adopted by the commissioner, provide to employees for whom special individual employee benefit accounts are established under AS 39.30.150(c) the following benefit options:

- (1) supplemental health benefits;
- (2) supplemental death benefits;
- (3) supplemental disability benefits; and
- (4) supplemental dependent care benefits.

(b) An employee may select the types and amounts of supplemental benefits to be purchased with the money deposited in the employee's special individual employee benefit accounts under AS 39.30.150. The selection for employees described in AS 39.30.150(a) must be from the benefit options listed in (a) of this section.

(c) [Repealed, Sec. 9 ch 55 SLA 1988].

(d) [Repealed, Sec. 40 ch 146 SLA 1980].

(e) Regulations adopted by the commissioner implementing AS 39.30.150 and this section are not subject to AS 44.62 (Administrative Procedure Act).

History - (Sec. 5 ch 58 SLA 1979; am Sec. 4, 5 ch 135 SLA 1980; am Sec. 19 - 22, 40 ch 146 SLA 1980; am Sec. 4, 5, 9 ch 55 SLA 1988; am Sec. 75 - 77 ch 9 FSSLA 2005; am Sec. 52, 53 ch 20 SLA 2007)

Amendment Notes - The 2005 amendment, effective July 28, 2005, in subsection (a) substituted “Alaska Retirement Management Board” for “Public Employees’ Retirement Board” and updated a section reference; inserted “for employees described in AS 39.30.150(a)” in subsection (b); and substituted “by the board” for “by the Public Employees Retirement Board” in subsection (e).

The 2007 amendment, effective June 7, 2007, substituted “adopted by the commissioner” for “of the Alaska retirement management board” in subsection (a), and substituted “commissioner” for “board” in subsection (e).

History Reports - For governor’s transmittal letter of SSHB 252, from which ch. 55, SLA 1988 derives, see 1988 House Journal 2151-2153.

Decisions - Marital property. - Supplemental employee benefits are marital property subject to equitable division at divorce. *Mann v. Mann*, 778 P.2d 590 (Alaska 1989).

SEC. 39.30.162. SAFEGUARD OF MONEY.

(a) Except as provided in the State of Alaska Supplemental Annuity Plan, amounts held on behalf of, or payable to, an employee or other person who is or who might become eligible for benefits under the plan are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge of any kind, either voluntary or involuntary, before being received by the person entitled to the amount under the terms of the plan. An attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of a right to amounts held under the plan is void.

(b) Except as provided in AS 09.38.065, amounts held on behalf of, or payable to, an employee or other person who is or who might become eligible for benefits under the plan are exempt from garnishment, execution, or levy.

History - (Sec. 6 ch 55 SLA 1988)

History Reports - For governor’s transmittal letter on SSHB 252, from which ch. 55, SLA 1988 derives, see 1988 House Journal 2151-2153.

SEC. 39.30.165. APPEALS.

A final decision made under AS 39.30.150 - 39.30.180 is subject to appeal under AS 44.64.

History - (Sec. 54 ch 20 SLA 2007)

Effective Date Notes - Section 120, ch. 20, SLA 2007, makes this section effective June 7, 2007, in accordance with AS 01.10.070(c).

SEC. 39.30.170. PARTICIPATION IN PROGRAM.

(a) An employer may become a participating employer in the employee benefits program under AS 39.30.150 - 39.30.180, if

(1) the employer participates as an employer in the public employees' retirement system under AS 39.35; and

(2) the employer

(A) is eligible for membership in but has never elected to become a member of the federal social security system; or

(B) withdraws from membership in the federal social security system.

(b) In order to become a participating employer, the employer shall file a request with the commissioner. The request may be made only after adoption of a resolution by the legislative body of a municipality, if the employer is a municipality, or by the board of directors, if the employer is a public organization, and after approval of the resolution by the official required by law to approve the resolution. A certified copy of the resolution shall be filed with the commissioner.

(c) The commissioner shall approve the request if the commissioner finds that the employer has never participated in the federal social security system or has withdrawn from participation in the federal social security system.

(d) The employer may begin participation as a participating employer covered by AS 39.30.150 - 39.30.180 on the date designated by the commissioner.

History - (Sec. 1 ch 135 SLA 1980; Sec. 23 ch 146 SLA 1980)

SEC. 39.30.175. INVESTMENT OF BENEFIT PROGRAM RECEIPTS.

(a) The board is the fiduciary of the mandatory receipts, under AS 39.30.150(a), of the employee benefits program established under AS 39.30.150 - 39.30.180 and has the same powers and duties concerning the management and investment in regard to those receipts as are provided under AS 37.10.220.

(b) The board may provide a range of investment options and permit a participant or beneficiary of the program to exercise control over the assets in the individual employee annuity account established under AS 39.30.150(a). If the board offers investment options, and if a participant or beneficiary exercises control over the assets in the individual employee annuity account,

(1) the participant or beneficiary is not considered a fiduciary for any reason on the basis of exercising that control; and

(2) a person who is otherwise a fiduciary is not liable under this section for any loss, or by reason of any breach, that results from the individual's exercise of control.

(c) If the board is considering entering into a contract or modifying an existing contract concerning the management or investment of the mandatory receipts of the supplemental employee benefits program, the board shall consult with the commissioner of administration before making a decision on the issue.

(d) The board shall develop a contingency plan that addresses the board's response to possible future investment problems.

(e) Except to the extent clearly set out in the terms of the plan document offered by the employer to the employee, the employer is not liable to the employee for investment losses if the prudent investment standard has been met.

(f) [Repealed, Sec. 132 ch 9 FSSLA 2005].

History - (Sec. 14 ch 31 SLA 1992; am Sec. 78, 132 ch 9 FSSLA 2005)

Amendment Notes - The 2005 amendment, effective July 28, 2005, substituted "The board" for "The Alaska State Pension Investment Board" and updated a section reference in subsection (a); and repealed subsection (f).

SEC. 39.30.180. DEFINITIONS.

In AS 39.30.150 - 39.30.180,

(1) "board" means the board of trustees of the Alaska Retirement Management Board established under AS 37.10.210;

(2) "commissioner" means the commissioner of the Department of Administration;

(3) "participating employer" means

(A) the State of Alaska; and

(B) an employer

(i) who is an employer as defined in AS 39.35.680;

(ii) who has never participated in or has withdrawn from participation in the federal social security system; and

(iii) whose participation in the supplemental employee benefit program has been approved by the commissioner.

History - (Sec. 1 ch 135 SLA 1980; Sec. 23 ch 146 SLA 1980; am Sec. 79 ch 9 FSSLA 2005)

Revisors Notes - Paragraph (1) was enacted as paragraph (3) and renumbered in 2005, at which time former paragraphs (1) and (2) were renumbered as (2) and (3).

Amendment Notes - The 2005 amendment, effective July 28, 2005, added paragraph (3) [now (1)].

ARTICLE 05. STATE OF ALASKA TEACHERS’ AND PUBLIC EMPLOYEES’ RETIREE HEALTH REIMBURSEMENT ARRANGEMENT PLAN

SEC. 39.30.300. STATE OF ALASKA TEACHERS’ AND PUBLIC EMPLOYEES’ RETIREE HEALTH REIMBURSEMENT ARRANGEMENT PLAN ESTABLISHED.

The State of Alaska Teachers’ and Public Employees’ Retiree Health Reimbursement Arrangement Plan is established for teachers who first become members of the defined contribution plan of the teachers’ retirement system under AS 14.25.310 - 14.25.590 on or after July 1, 2006, and employees of the state, political subdivisions of the state, and public organizations of the state who first become members of the defined contribution plan of the public employees’ retirement system under AS 39.35.700 - 39.35.990 on or after July 1, 2006.

History - (Sec. 80 ch 9 FSSLA 2005)

Article Notes - Effective Dates. AS 39.30.300 - 39.30.430 and AS 39.30.495 take effect July 1, 2006 under secs. 80 and 148, ch. 9, FSSLA 2005. AS 39.30.440 took effect July 28, 2005, and is retroactive to July 1, 2005.

Legislative History Reports. For governor’s transmittal letter for ch. 20, SLA 2007 (SB 123), proposing needed corrections and clarifications of statutes enacted as part of the 2005 legislation establishing defined contributions retirement plans and making related amendments to defined benefit retirement plans, including amendments to retiree health reimbursement arrangements authorized by AS 39.30.300 - 39.30.495, see 2007 Senate Journal 567 - 570.

SEC. 39.30.310. PURPOSE AND EFFECTIVE DATE.

(a) The purpose of the plan is to allow medical care expenses to be reimbursed from individual savings accounts established for eligible persons.

(b) The plan becomes effective July 1, 2006, at which time contributions by employers begin.

History - (Sec. 80 ch 9 FSSLA 2005)

SEC. 39.30.320. ATTORNEY GENERAL.

The attorney general of the state is the legal counsel for the plan and shall advise the administrator and represent the plan in a legal proceeding.

History - (Sec. 80 ch 9 FSSLA 2005)

SEC. 39.30.330. ADMINISTRATOR.

The commissioner of administration or the commissioner's designee is the administrator of the plan.

History - (Sec. 80 ch 9 FSSLA 2005)

SEC. 39.30.335. APPEALS.

A final decision made under AS 39.30.300 -39.30.495 is subject to appeal under AS 44.64.

History - (Sec. 55 ch 20 SLA 2007)

Effective Date Notes - Section 120, ch. 20, SLA 2007, makes this section effective June 7, 2007, in accordance with AS 01.10.070(c).

SEC. 39.30.340. POWERS AND DUTIES OF THE ADMINISTRATOR.

The administrator shall establish a teachers' and public employees' retiree health reimbursement arrangement plan trust fund in which the assets of the plan shall be deposited and held. The retiree health reimbursement arrangement plan trust fund may be a sub-trust of the Alaska retiree health care trust established under AS 39.30.097(b). The administrator has the same powers and duties with regard to the plan and the trust fund as provided in AS 14.25.003 and 14.25.004.

History - (Sec. 80 ch 9 FSSLA 2005; am Sec. 56 ch 20 SLA 2007)

Amendment Notes - The 2007 amendment, effective June 7, 2007, inserted the second sentence, and substituted "AS 14.25.003 and 14.25.004" for "AS 14.25.004" in the third sentence.

SEC. 39.30.350. EMPLOYER CONTRIBUTION FUND.

The fund established under AS 39.30.340 is an employer contribution fund. The value of the fund reflects employer contributions, expenses, and investment gains and losses. Employee contributions to the fund are not permitted.

History - (Sec. 80 ch 9 FSSLA 2005)

SEC. 39.30.360. MANAGEMENT AND INVESTMENT OF THE FUND.

The Alaska Retirement Management Board is the fiduciary of the fund and has the same powers and duties under this section in regard to the fund as are provided under AS 37.10.220.

History - (Sec. 80 ch 9 FSSLA 2005)

SEC. 39.30.370. CONTRIBUTIONS BY EMPLOYERS.

For each member of the plan, an employer shall contribute to the teachers' and public employees' retiree health reimbursement arrangement plan trust fund an amount equal to three percent of the average annual compensation of all employees of all employers in the teachers' retirement system and public employees' retirement system. The administrator shall maintain a record for each member to account for employer contributions on behalf of that member. The board shall establish by regulation the rate of interest to be applied annually to the amount in a member's individual account.

History - (Sec. 80 ch 9 FSSLA 2005; am Sec. 57 ch 20 SLA 2007)

Amendment Notes - The 2007 amendment, effective June 7, 2007, substituted "average annual compensation of all employees of all employers in the teachers' retirement system and public employees' retirement system" for "employer's average annual employee compensation" in the first sentence.

SEC. 39.30.380. TERMINATION OF EMPLOYMENT.

A person who terminates employment before meeting the eligibility requirements of AS 14.25.470 or AS 39.35.870 loses any right to the contributions made on behalf of the person to the teachers' and public employees' retiree health reimbursement arrangement trust fund. If a person returns to employment with a participating employer by December 31 of the year in which the person reaches 65 years of age, the person's account balance shall be restored in the amount recorded on the date of termination from the trust, adjusted for inflation at the rate of the Consumer Price Index for Anchorage, Alaska. The earlier period of employment with a participating employer shall be credited toward eligibility for medical benefits.

History - (Sec. 80 ch 9 FSSLA 2005)

SEC. 39.30.390. ELIGIBILITY AND REIMBURSEMENT.

Persons who meet the eligibility requirements of AS 14.25.470 and AS 39.35.870 are eligible for reimbursements from the individual account established for a member under the plan, except members do not have to retire directly from the system. A person who is the dependent child of an eligible member is eligible for reimbursements if the eligible member and surviving spouse have both died so long as the person meets the definition of dependent child.

History - (Sec. 80 ch 9 FSSLA 2005)

SEC. 39.30.400. BENEFITS PAYABLE FROM THE INDIVIDUAL ACCOUNT.

(a) The administrator may deduct the cost of monthly premiums from the individual account for retiree major medical insurance on behalf of an eligible person who elected retiree major medical insurance under AS 14.25.480 or AS 39.35.880.

(b) Upon application of an eligible person, the administrator shall reimburse to the eligible person the costs for medical care expenses as defined in 26 U.S.C. 213(d). Reimbursement is limited to the medical expenses of

(1) an eligible member, the spouse of an eligible member, and the dependent children of an eligible member; or

(2) a surviving spouse and the dependent children of an eligible member dependent on the surviving spouse.

(c) When the member's individual account balance is exhausted, the insurance premium deductions under (a) of this section and the reimbursement of medical care expenses under (b) of this section end.

(d) If all eligible persons die before exhausting the member's individual account, the account balance shall revert to the plan.

History - (Sec. 80 ch 9 FSSLA 2005)

SEC. 39.30.410. EXEMPTION FROM TAXATION AND PROCESS.

(a) Contributions and other amounts held in the plan on behalf of a member or other person who is or may become eligible for benefits under the plan may be used only to reimburse eligible medical expenses, are exempt from Alaska state and municipal taxes and federal taxes to the extent allowed under the Internal Revenue Code, and are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge of any kind, either voluntary or involuntary, before they are received by the person entitled to the

amount under the terms of the plan. Any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any right to amounts accrued in the plan is void. However, a member's right to receive benefits may be assigned

(1) under a qualified domestic relations order; or

(2) to a trust or similar legal device that meets the requirements for a Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C. 1396p(d)(4).

(b) Notwithstanding AS 09.38.065, contributions and other amounts held in the plan and benefits payable under this plan are exempt from garnishment, execution, or levy.

History - (Sec. 80 ch 9 FSSLA 2005)

SEC. 39.30.420. AMENDMENT AND TERMINATION OF PLAN.

(a) The state has the right to amend the plan at any time and from time to time, in whole or in part, including the right to make retroactive amendments referred to in 26 U.S.C. 401(b).

(b) The plan administrator may not modify or amend the plan retroactively in such a manner as to reduce the benefits of any member accrued to date under the plan by reason of contributions made before the modification or amendment except to the extent that the reduction is permitted by the Internal Revenue Code.

(c) The state may, in its discretion, terminate the plan in whole or part at any time without liability for the termination. If the plan is terminated, all investments remain in force until all individual accounts have been completely distributed under the plan, and, after all plan liabilities are satisfied, excess assets revert to the employer.

(d) Any contribution made by an employer to the plan because of a mistake of fact must be returned to the employer by the administrator within one year after the contribution or discovery, whichever is later.

History - (Sec. 80 ch 9 FSSLA 2005)

SEC. 39.30.430. EXCLUSIVE BENEFIT.

(a) The corpus or income of the assets held in trust as required by the plan may not be diverted or used for other than the exclusive benefit of the participants.

(b) The assets of the plan may not be used to pay premiums or contributions of the employer under another plan maintained by the employer.

History - (Sec. 80 ch 9 FSSLA 2005)

SEC. 39.30.440. REPORT TO THE LEGISLATURE ON HEALTH CARE COST-SAVING MEASURES.

The Department of Administration shall provide an annual report to the legislature regarding the cost-saving measures it has implemented by regulation appropriate to current and future retirees in the health care system.

History - (Sec. 142 ch 9 FSSLA 2005)

Revisors Notes - This section was enacted as sec. 142, ch. 9, FSSLA 2005, and codified in 2005.

SEC. 39.30.495. DEFINITIONS.

Unless the context requires otherwise, in AS 39.30.300 - 39.30.495,

(1) “administrator” means the commissioner of administration or the commissioner’s designee;

(2) “board” means the Alaska Retirement Management Board established under AS 37.10.210;

(3) “compensation” has the meaning given in AS 14.25.590;

(4) “dependent child” has the meaning given in AS 39.35.680;

(5) “eligible person” means a person who meets the eligibility requirements of AS 14.25.470 or AS 39.35.870;

(6) “employer” has the meaning given in AS 14.25.590 for employers of teachers in the defined contribution plan established in AS 14.25.310 - 14.25.590 and has the meaning given in AS 39.35.990 for employers of public employees in the defined contribution plan established in AS 39.35.700 - 39.35.990;

(7) “fund” means the assets of the teachers’ and public employees’ retiree health reimbursement arrangement plan trust fund;

(8) “individual account” means the record established by the administrator for individual employees under the teachers’ and public employees’ retiree health reimbursement arrangement plan;

(9) “member” means a member of the defined contribution plan of the teachers’ retirement system in AS 14.25.310 - 14.25.590 or a member of the public employees’ retirement system in AS 39.35.700 - 39.35.990;

(10) “plan” means the State of Alaska Teachers’ and Public Employees’ Retiree Health Reimbursement Arrangement Plan established in AS 39.30.300;

(11) “qualified domestic relations order” has the meaning given in AS 14.25.220.

History - (Sec. 80 ch 9 FSSLA 2005)

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