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Official Business

# Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

SUMMARY SB 286:

A person receiving benefits under the Judicial Retirement System may obtain auditory, visual and dental insurance under AS39.30.090 (15). The person electing to have insurance shall pay the cost of the insurance.



Alaska Court System

State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K Street  
Anchorage, Alaska 99501

WM. GRANT CALLOW  
General Counsel

April 14, 1981

Honorable Bob Mulcahy, Chairman  
Senate Labor and Commerce Committee  
Pouch V, State Capitol  
Juneau, Alaska 99811

Dear Senator Mulcahy:

At the request of the Alaska Court System, SB 286 was introduced this year which, if enacted, would amend AS 39.30.090(15) to allow retired state judges and justices who receive retirement benefits from the state to purchase auditory, visual and dental insurance for themselves. The bill has been referred to the Senate Labor and Commerce Committee for review.

Under the current statute, retired teachers and other retired state employees are allowed to purchase this type of insurance coverage, and it seems that the drafters of the subsection may have inadvertently overlooked retired judges since (1) they are expressly covered in all the other related subsections of the statute (9-13); and (2) there is no fiscal impact because the retired judges are expressly required to pay the cost of the insurance. I am enclosing copies of the current statute and SB 286 for your reference.

A number of our retired state judges and justices, and particularly Senior Justice John Dimond, are understandably concerned about this bill.

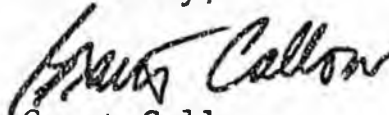
On behalf of the Court System, I would like to respectfully request that SB 286 be considered by the Labor and Commerce Committee at its earliest convenience. Since it is a short bill without any apparent fiscal impact to the state, I would not expect it to be at all controversial.

Honorable Bob Mulcahy  
April 14, 1981  
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I will, of course, be happy to appear before the Labor and Commerce Committee to answer any questions which you or any of the other committee members may have on the bill.

Please let me know if you have any questions.

Sincerely,



Grant Callow  
General Counsel

GC:kmp

enclosures

(8) "wages" means remuneration for employment, including the cash value of remuneration paid in any medium other than cash, except that "wages" does not include that part of remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act. (§ 2 ch 95 SLA 1951)

Editor's note. — The federal Insurance Contributions Act, referred to in paragraph (4), may be found in 26 U.S.C. §§ 3101 — 3125. The Social Security Act, referred to in paragraph (7), may be found in 42 U.S.C. § 301 et seq.

## Article 2. Group Life and Health Insurance.

### Section

90. Procurement of group insurance

100. Definitions

**Sec. 39.30.090. Procurement of group insurance.** The Department of Administration may obtain a policy or policies of group insurance covering state employees and employees of other participating governmental units 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, audio-visual insurance, or other medical care insurance.

(2) Each eligible employee of the state, his spouse and his unmarried children chiefly dependent on him 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) Repealed by § 14 ch 47 SLA 1974.

(5) Repealed by § 14 ch 47 SLA 1974.

(6) The Department of Administration shall obtain the insurance policy from any insurer authorized to transact business in the state under AS 21.09 and 21.90.

(7) The Department of Administration shall make available bid specifications for desired insurance benefits to all insurance carriers

least once every succeeding five years. The lowest responsible bid submitted by an insurance carrier with adequate servicing facilities shall govern selection of a carrier under this section.

(8) 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.

(9) A person receiving benefits under AS 14.25.110, AS 22.25 or AS 39.35 who is not 65 years of age may obtain major medical and life insurance under this section for himself and any dependents who have not reached the age of 65 years.

(10) A person receiving benefits under AS 14.25.110, AS 22.25 or AS 39.35 who is 65 years of age or older but who has dependents who are under 65 may obtain major medical insurance for these dependents under this section.

(11) A person receiving benefits under AS 14.25.110, AS 22.25 or AS 39.35 may obtain major medical and prescription drug insurance under this section for himself and any dependents to cover costs which are not covered by the federal old age survivor's and disability insurance program.

(12) A person electing to have insurance under (9), (10) or (11) of this section shall pay the cost of this insurance.

(13) No person may elect for coverage under (9), (10) or (11) of this section unless he was or is presently eligible for coverage under this section.

(14) 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.

(15) A person receiving benefits under AS 14.25 or AS 39.35 may obtain auditory, visual, and dental insurance for himself 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 those afforded under the federal old age, survivors, and disability insurance program, if any. 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. (§ 2 ch 151 SLA 1955; am § 1 ch 168 SLA 1959; am § 1 ch 105 SLA 1965; am § 1 ch 70 SLA 1968; am § 66 ch 69 SLA 1970; am § 1 ch 123 SLA 1970; am § 1 ch 159 SLA 1972; am §§ 1, 2 ch 46 SLA 1973; am §§ 13, 14 ch 47 SLA 1974; am § 2 ch 27 SLA 1976; am § 39 ch 177 SLA 1978; am § 1 ch 55 SLA 1979)

Effect of amendments. — The 1976 amendment added paragraph (14). The 1978 amendment, retroactive to "electing coverage under this section" and deleted "as a condition of employment" following "permanent part-time

(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. (§ 1 ch 135 SLA 1980; § 23 ch 146 SLA 1980)

Editor's note. — Section 7, ch. 135, both make this section retroactive to SLA 1980 and § 52, ch. 146, SLA 1980. January 1, 1980.

**Sec. 39.30.180. Definitions.** In AS 39.30.150 — 39.30.180,

(1) "commissioner" means the commissioner of the Department of Administration;

(2) "participating employer" means

(A) the State of Alaska; and

(B) an employer

(i) who is an employer as defined in AS 39.35.680(17);

(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. (§ 1 ch 135 SLA 1980; § 23 ch 146 SLA 1980)

Editor's note. — Section 7, ch. 135, both make this section retroactive to SLA 1980 and § 52, ch. 146, SLA 1980. January 1, 1980.

**Chapter 35. Public Employees' Retirement System of Alaska.**

**Article**

1. Administration (§§ 39.35.010 — 39.35.110)
2. Membership (§§ 39.35.120 — 39.35.150)
3. Contributions by Employees (§§ 39.35.160 — 39.35.240)
4. Contributions by Employers (§§ 39.35.250 — 39.35.290)
5. Service (§§ 39.35.300 — 39.35.360)
6. Benefits (§§ 39.35.370 — 39.35.547)
7. Participation by Political Subdivisions and Public Organizations (§§ 39.35.550 — 39.35.650)
8. General Provisions (§§ 39.35.660 — 39.35.690)

**Article 1. Administration.**

Section	Section
10. Purpose and effective date	60. Duties of the administrator
20. Administration	70. Duty of employers to furnish records
30. Public Employees Retirement Board	80. Duties of commissioner of revenue
40. Powers and duties of board	90. Attorney general
42. Regulations	100. Accounting
50. Administrator	110. Investments

**Sec. 39.35.010. Purpose and effective date.** (a) The purpose of

(b) The system created becomes effective as of January 1, 1961, at which time contributions by the state and its employees begin. (§ 2 ch 143 SLA 1960; am § 25 ch 13 SLA 1980)

Effect of amendment. — The 1980 amendment inserted "or a political subdivision or public organization of the state" following "in the service of the state" near the middle of subsection (a).

**Sec. 39.35.020. Administration.** The commissioner of administration is responsible for the administration of the system and for carrying out this chapter. In addition he has the following powers and duties:

- (1) maintain the accounts of the system;
- (2) make payments for the various purposes specified;
- (3) submit periodic reports or statements of account which are needed;
- (4) issue a statement of account to an employee requesting it showing the amount of his contributions to the system;
- (5) 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, the legislature, and the board an annual statement on the operations of the system containing
  - (A) a balance sheet;
  - (B) a statement of income and expenditures for the year;
  - (C) a report on an actuarial valuation of its assets and liabilities;
  - (D) a detailed statement of the investments acquired and disposed of during the year;
  - (E) a list of investments owned;
  - (F) other statistical financial data which are necessary for a proper understanding of the financial condition of the system and the result of its operations;
- (6) Repealed by § 50 ch 13 SLA 1980. (§ 31 ch 143 SLA 1960; § 50 ch 13 SLA 1980)

Effect of amendment. — The 1980 amendment, repealed paragraph (6), which read "publish a synopsis of the annual report for the information of employees included in the system."

**Sec. 39.35.030. Public Employees Retirement Board.** (a) A Public Employees Retirement Board composed of five members is established.

(b) Three board members shall be members of the personnel board of the Department of Administration. The remaining two board members shall be members of the system and elected by the members of the system.

the board. The term of office of an elected member is six years. A vacancy in an unexpired elective term shall be filled by election for a new six year term.

(d) A member of the board may receive a per diem allowance and transportation expenses in carrying out the duties set out in this chapter. (§ 32 ch 143 SLA 1960; am §§ 14, 15 ch 128 SLA 1977)

**Effect of amendment.** — The 1977 amendment substituted "board members" for "members of the board" in the first sentence of subsection (b), rewrote the second sentence of that subsection, and rewrote subsection (c).

**Sec. 39.35.040. Powers and duties of board.** The Public Employees Retirement Board has the following powers and duties:

(1) to hold such regular meetings and special meetings considered necessary; all meetings are open to the public and the board keeps a full record of all its proceedings;

(2) to adopt, with modifications it considers proper, rules and regulations recommended by the administrator for carrying out this chapter;

(3) to consider and adopt resolutions on matters referred to it by the administrator in connection with changes in policy and revisions of this chapter;

(4) to act as an appeals board, hold hearings at the request of an employer, employee, surviving spouse or a beneficiary on decisions made by the administrator, and submit its findings to the administrator;

(5) to have prepared, at least biennially, an actuarial valuation of the total obligations under the system of each employer and, on the basis of the valuation and in time for incorporation of the results in the state budget, to certify to the appropriate budgetary authorities of each employer:

(A) an appropriate contribution rate for all employers, in addition to which the state shall pay the appropriate social security contribution; and

(B) an amount appropriate for each employer to liquidate his past service liability; the board shall have an actuarial and financial experience analysis of the system conducted at appropriate intervals, but no less frequently than once every six years; the actuarial valuations and the actuarial and financial experience analysis shall be prepared and certified by a member of the American Academy of Actuaries;

(6) to prescribe the policies for the proper operation of the system and carry on other activities which are considered necessary to carry out the intent and purpose of the system in accordance with this

(8) to waive the requirements of AS 39.35.520 in accordance with AS 39.35.522;

(9) to exercise the duties set out in AS 39.30.155 with respect to the supplemental employee benefit program (AS 39.30.150 — 39.30.180),

(10) to exercise the duties set out in AS 39.45.025 with respect to the deferred compensation program for state employees. (§ 32 ch 143 SLA 1960; am § 1 ch 235 SLA 1968; am § 1 ch 109 SLA 1970; am § 2 ch 159 SLA 1972; am §§ 1—4 ch 1 SLA 1974; am §§ 16, 17 ch 128 SLA 1977, am § 8 ch 174 SLA 1978; am § 24 ch 146 SLA 1980)

**Effect of amendments.** — The 1977 amendment substituted "surviving spouse" for "widow" in paragraph (4), and in paragraph (5), substituted "each employer" for "the state and each participating political subdivision and public organization" in two places in the introductory paragraph, deleted "participating" preceding "employers" in

subparagraph (A) and preceding "employer" in subparagraph (B), and substituted "actuarial" for "biennial" in subparagraph (3).

The 1978 amendment added paragraph (8).

The 1980 amendment added paragraphs (9) and (10).

**Sec. 39.35.042. Regulations.** Regulations adopted by the board under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act (AS 44.32). (§ 3 ch 13 SLA 1963)

**Sec. 39.35.050. Administrator.** (a) The commissioner shall appoint an administrator in charge of the public employees' retirement system and the supplemental employee benefit program (AS 39.30.150 — 39.30.180).

(b) Repealed by § 50 ch 13 SLA 1980. (§ 33 ch 143 SLA 1960; am § 5 ch 1 SLA 1974; am §§ 26, 50 ch 13 SLA 1980; am § 25 ch 146 SLA 1980)

**Effect of amendments.** — The first 1980 amendment deleted "the detailed affairs of" preceding "the system" near the end of the former first sentence of subsection (a), deleted the former second sentence of subsection (a) which read: "The commissioner may appoint the personnel director of the personnel division of the Department of Administration as the administrator," and repealed subsection

(b), which read: "The administrator shall serve as secretary of the board. He shall administer the business of the system and is responsible for its proper operation."

The second 1980 amendment inserted "public employees' retirement" preceding "system" near the beginning of the section, and added "and the supplemental employee benefit program (AS 39.30.150—39.30.180)" at the end of the section.

**Sec. 39.35.060. Duties of the administrator.** The administrator shall:

(1) with the assistance of a technical actuarial advisor, submit to the board the required actuarial tables and the statistical data necessary for periodic actuarial surveys of the operating experience of the system;

information requested by the actuary for preparing valuations and periodic experience analyses;

(3) attend meetings of the board and serve as secretary of the board;

(4) certify to the appropriate division of the Department of Administration the payments made according to this chapter;

(5) remit to the appropriate division of the Department of Revenue for deposit in the name of the system, money received for the account of the system;

(6) formulate and recommend to the board rules and regulations to govern the operation of the system;

(7) formulate and recommend to the board regulations to govern the operation of the supplemental employee benefit program (AS 39.30.150 — 39.30.180). (§ 33 a ch 143 SLA 1960; am § 6 ch 1 SLA 1974; am § 27 ch 13 SLA 1980; am § 26 ch 146 SLA 1980)

**Revisor's note.** — Under the authority of AS 01.05.031, this section has been slightly reworded and rearranged for clarity.

1980 amendment added "and serve as secretary of the board" at the end of paragraph (3).

The second 1980 amendment added paragraph (7).

**Effect of amendments.** — The first

**Sec. 39.35.070. Duty of employers to furnish records.** Each employer shall furnish the administrator with records concerning the periods of service, dates of birth, compensation, new entrants into service, death, withdrawals and other employee data necessary for the proper and effective operation of the system. (§ 33 b ch 143 SLA 1960; am § 7 ch 1 SLA 1974)

**Sec. 39.35.080. Duties of commissioner of revenue.** The commissioner of revenue is the treasurer of the system and shall

(1) act as official custodian of the cash and securities belonging to the system and provide adequate safe deposit facilities for them;

(2) receive cash belonging to the system;

(3) collect the interest and principal on securities acquired by the system and deposit it in the pension fund maintained in the name of the system;

(4) invest and reinvest the assets of the pension fund in accordance with AS 39.35.110. (§ 34 ch 143 SLA 1960)

**Sec. 39.35.090. Attorney general.** The attorney general of the state is the attorney for the system and shall represent it in a legal proceeding. (§ 35 ch 143 SLA 1960)

**Sec. 39.35.100. Accounting.** (a) The commissioner of administration shall establish and maintain an adequate system of accounts and records for the system. The accounts and records shall be integrated with the accounts, records, and procedures of the employers

(b) All income of the pension fund and all disbursements made by the fund shall be credited or charged, whichever is appropriate, to the following accounts:

(1) an individual account shall be maintained for each employee to record the amount of his mandatory contributions collected under AS 39.35.160(a). As of the last day of each calendar year and each fiscal year beginning with June 30, 1969, this account shall be credited with interest, by applying one half of the prescribed rate of interest to the balance in the account as of that date. Upon retirement, the amount actuarially determined as necessary to fully fund the benefits to be received shall be transferred first from the employee contribution account and, after the employee contribution account has been exhausted, then from the employer contribution account into the retirement reserve account.

(2) An individual account shall be maintained for each employee to record the amount of his voluntary contributions. As of the last day of each calendar year and each fiscal year beginning with June 30, 1969, this account shall be credited with interest, by applying one half of the prescribed rate of interest to the balance in the account as of that date. Amounts which, before termination of employment, are withdrawn by an employee from his savings account shall be charged to that account. Upon retirement, the amount actuarially determined as necessary to fully fund the benefits to be received shall be transferred first from the employee savings account and, after the employee savings account has been exhausted, then from the employer contribution account into the retirement reserve account.

(3) A separate account for each employer shall be maintained. The account shall be credited with contributions of the employer. This account shall be charged with the employer's actuarial charge for pension, death benefits, and other benefits paid under this system to or on behalf of the employee of the employer. After an allowance for interest credited to employee contribution accounts and employee savings accounts, the investment income of the pension fund shall be allocated to each employer asset share account according to the ratio that the average of the assets in an employer's account as of the beginning and as of the end of the fiscal year bears to the total of the average balance of all employers.

(4) An expense account shall be maintained for the system. This account shall be charged with all disbursements representing administrative expenses incurred by the system. At the end of the year the expense account shall be allocated to each employer in accordance with (b)(3) of this section. Expenditures from this account shall be included in the governor's budget for each fiscal year and are subject

**Effect of amendments.** — The 1977 amendment in subsection (b), substituted "record" for "which" in the first sentences of paragraphs (1) and (2), deleted "shall be credited as of the date of deduction or payment, as the case may be" from the end of the first sentences of paragraphs (1) and (2), substituted "retirement" for "granting a pension" near the beginning of the third sentence of paragraph (1), deleted "an employee's" preceding "retirement, the amount," in the fourth sentence of paragraph (2), substituted "savings account" for "contribution account" in two

places in the fourth sentence of paragraph (2), and deleted an exception from the end of the second sentence of paragraph (3). The amendment also, in paragraph (4) of subsection (b), deleted "credited with all contributions of employers for the purposes of meeting their respective proportion of the total administrative expenses of the system during each fiscal year, and it shall be" following "This account shall be" near the beginning of the second sentence and rewrote the third sentence.

**Sec. 39.35.110. Investments.** (a) When, in the opinion of the commissioner of administration, there is on hand in the pension fund a surplus over and above a reasonably safe amount to take care of current demands upon the fund, the surplus, or so much of it as in the judgment of the commissioner of administration is considered proper, may be invested at competitive national market rates by the commissioner of revenue in

- (1) Repealed by § 15 ch 122 SLA 1980.
- (2) Repealed by § 15 ch 122 SLA 1980.
- (3) Repealed by § 15 ch 122 SLA 1980.
- (4) Repealed by § 15 ch 122 SLA 1980.
- (5) shares of federally chartered savings and loan associations in Alaska, to the extent that the investment is insured by the federal government or an agency of the federal government;
- (6) deposits with mutual savings banks in Alaska, to the extent that the investment is insured by the federal government or an agency of the federal government;
- (7) deposits with state and national banks in Alaska to the extent that the investment is insured by the federal government or an agency of the federal government;
- (8) Repealed by § 15 ch 122 SLA 1980.
- (9) the guaranteed portion of Small Business Administration loans;
- (10) first lien real estate mortgages guaranteed by the federal Veterans Administration;
- (11) notes secured by mortgages of commercial or residential buildings if the mortgages are insured by a private mortgage insurance corporation which is authorized to do business in Alaska and has combined capital, surplus and reserves aggregating at least \$20,000,000; however,

(A) no mortgage insurance is necessary for commercial loans having loan-to-value ratios of less than 50 percent and the minimum coverage of other commercial loans shall be 10 percent for those having a

(B) no mortgage insurance is necessary for residential loans having a loan-to-value ratio of less than 70 percent and the minimum coverage of other residential loans shall be 10 percent for those having a loan-to-value ratio greater than 70 percent but less than 90 percent and 20 percent for those having a loan-to-value ratio of 90 percent;

(12) conventional residential mortgages if the originating financial institution retains at least 25 percent of the mortgage for a minimum of two years;

(13) notes secured by mortgages of commercial buildings if the originating financial institution retains at least 25 percent of the mortgage until maturity;

(14) FHA guaranteed portion of business and industrial loans made under the Rural Development Act of 1972;

(15) Repealed by § 15 ch 122 SLA 1980.

(16) Repealed by § 15 ch 122 SLA 1980.

(17) bankers' acceptances which are eligible for discount at the Federal Reserve Bank and certificates of deposit issued by United States domestic banks which are members of the Federal Deposit Insurance Corporation if a generally recognized secondary market exists for the certificates of deposit;

(18) obligations of, or obligations insured by or guaranteed by, the United States or agencies or instrumentalities of the United States;

(19) obligations secured by reserves paid in by the United States or agencies or instrumentalities of the United States or obligations of corporations in which the United States is a shareholder or member;

(20) corporate debt securities with a minimum rating of "A" or an equivalent rating by a nationally recognized rating organization;

(21) preferred and common stock of companies which have paid dividends in each of the three years immediately preceding the investment;

(22) commercial paper bearing the highest rating of a nationally recognized rating organization;

(23) securities of foreign governments, foreign governmental agencies, and foreign corporations the principal, interest or dividends on which are payable in either United States dollars or foreign currencies; however, investments under this paragraph may not exceed 10 percent of the total investments of the pension fund;

(24) foreign time deposits of both United States-owned and foreign-owned banks and trust companies denominated in either United States dollars or foreign currencies; however, investments under this paragraph may not exceed 20 percent of the total investments of the pension fund;

(25) gold bullion certified as to fineness of at least 9½ percent; however, investments under this paragraph may not exceed 10 percent

that Alaska gold bullion is available if it can be obtained at a price comparable to out-of-state sources.

(b) Repealed by § 15 ch 122 SLA 1980.

(c) In making investments the commissioner of revenue shall exercise the judgment and care under the circumstances then prevailing which an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income. However, no more than 50 percent of the pension fund may be invested at a given time in corporate stocks and debt securities, nor may more than five percent of the voting stock of one corporation be owned. Stocks eligible for purchase are restricted to stocks which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Federal Securities and Exchange Commission.

(d) Except as provided in this section, the commissioner of revenue may

(1) invest and reinvest the principal and income of the pension fund without distinction between principal and income;

(2) sell, exchange, convey, transfer, or otherwise dispose of an investment of the pension fund held in the name of the system by private contract or at public auction;

(3) vote upon a stock, bond, or other security; give a general or special proxy or power of attorney with or without power of substitution; exercise a conversion privilege, subscription right, or other option and make payments incidental to it; consent to or participate in a corporate reorganization or other change affecting corporate securities, delegate discretionary power, pay an assessment or charge in connection with the delegation; and generally exercise any of the powers of an owner with respect to stocks, bonds, securities, or other investments held in the pension fund;

(4) make, execute, acknowledge, and deliver documents of transfer and conveyance and instruments necessary or appropriate to carry out the powers granted;

(5) register investments held in the pension fund in the name of the system;

(6) do all acts whether or not expressly authorized which are considered necessary or proper for the protection of the investments held in the pension fund.

(e) To qualify as a mortgage which may be purchased under (a)(1), (12), or (13) of this section,

(2) the mortgage may not have been held by the originating financial institution for a period greater than 90 days.

(f) When more than one-half of one per cent of the aggregate of all loans purchased from a financial institution becomes delinquent for 60 days, the pension fund shall discontinue purchasing loans from that financial institution until the delinquency is reduced to less than one-half of one per cent.

(g) Repealed by § 15 ch 122 SLA 1980.

(h) The commissioner of revenue may enter into futures contracts for the sale of investments purchased under (a) of this section only for the purpose of hedging an existing equivalent ownership position in the investments.

(i) The commissioner of revenue may transfer at any time a portion of the assets of the pension fund to a trust which is qualified under sec. 401(a) of the Internal Revenue Code (26 U.S.C. sec. 401(a)) and exempt from taxation under sec. 501(a) of the Internal Revenue Code (26 U.S.C. sec. 501(a)) and which is maintained as a medium for pooling a portion of the funds of pension and profit-sharing trusts for diversifying investments in real estate and interests in real estate.

(j) The commissioner of revenue may enter into a contract or trust agreement necessary to effectuate the transfer of assets of the pension fund or to maintain the assets of the pension fund to be transferred to a trust under (i) of this section. (§ 37 ch 143 SLA 1960; am § 1 ch 129 SLA 1961; am § 1 ch 150 SLA 1962; am § 2 ch 4 SLA 1964; am §§ 1 — 3 ch 80 SLA 1964; am § 1 ch 111 SLA 1964; am § 1 ch 56 SLA 1967; am § 4 ch 73 SLA 1969; am §§ 3, 4 ch 17 SLA 1970; am § 2 ch 112 SLA 1972; am §§ 3, 4 ch 25 SLA 1974; am §§ 3, 4 ch 59 SLA 1977; am §§ 7 — 10, 15 ch 122 SLA 1980)

**Cross references.** — As to custody and investment of the teachers retirement fund, see AS 14.25.180. As to investment of surplus funds of the state, see AS 37.10.070.

**Effect of amendments.** — The 1977 amendment, in subsection (a), inserted "private mortgage insurance" in paragraph (11), added the language beginning "however, (A) no mortgage insurance is necessary" to the end of that paragraph, and added paragraphs (16) and (17).

The 1980 amendment, in subsection (a), inserted "at competitive national market rates" near the end of the introductory paragraph, repealed former paragraphs (1) — (4), (8), and (15) and (16), substituted "the" for "such" preceding "investment" in paragraphs (5) and (6), substituted "of the

security" near the beginning of the introductory paragraph of paragraph (11), substituted "buildings" for "real estate" and added "until maturity" in paragraph (13), and "negotiable time" preceding "certificates of deposit" in paragraph (17), substituted "United States domestic" for "commercial" near the middle of paragraph (17), added the material at the end of paragraph (17), which begins "which are members of" and ends "certificates of deposit," and added paragraphs (18) — (25). The amendment, in subsection (c), substituted "an institutional investor" for "a man," and "large investments entrusted to it" for "his own affairs" near the beginning of the subsection, deleted "his" following "permanent disposition of" and "the" preceding "probable safety of capital" near the middle of the subsection, inserted

them as well as the probable safety of his capital" at the end of the first sentence, deleted "mutual funds and" preceding "corporate stocks" near the beginning of the second sentence, substituted "debt securities" for "bonds," and "may" for "any" near the middle of the second

sentence, substituted "and" for a comma following "bank stocks," and deleted "and shares in mutual funds" following "insurance stocks" near the middle of the third sentence; rewrote subsection (e); added subsections (h) - (j); and repealed subsections (b) and (g).

Article 2. Membership.

<b>Section</b>	<b>Section</b>
120. Commencement of participation	154. North Pacific Fishery Management Council employees
125. Participation of elected officials	155. [Obsolete]
130. [Repealed]	157. [Obsolete]
140. [Repealed]	158. Administrative director of courts
150. Re-employment of retired employees	
153. Army and air national guard employees	

**Sec. 39.35.120. Commencement of participation.** (a) An employee of the state shall be included in this system upon commencement of his employment with the state, or on January 1, 1961, whichever is later. An employee of a political subdivision or public organization which becomes an employer shall be included in the system on the effective date of the employer's participation or the date of the employee's commencement of employment with the employer, whichever is later.

(b) [Effective until January 1, 1981] Inclusion in the system is a condition of employment for an employee except an elected official.

[Effective January 1, 1981] Inclusion in the system is a condition of employment for an employee except as otherwise provided for an elected official. (§ 4 ch 143 SLA 1960; am § 1 ch 155 SLA 1966; am § 28 ch 13 SLA 1980; am § 27 ch 146 SLA 1980)

**Effect of amendments.** - The first 1980 amendment deleted "or quasi-public" preceding "organization" near the beginning of the second sentence in subsection (a).

The second 1980 amendment, effective January 1, 1981, inserted "as otherwise provided for" preceding "an elected official" near the end of subsection (b).

**Negotiability of retirement system benefits.** - Given subsection (b) of this section and AS 39.35.120, which make inclusion in the public employees

retirement system (AS 39.35) a condition of employment for state employees and contributions to it mandatory, the conclusion is that the legislature intended the statutory provisions of the public employees retirement system to apply to all state employees, and benefits under the public employees retirement system may not be negotiated under the Public Employment Relations Act (AS 23.40.070 - 23.40.260). January 23, 1978, Op. Att'y Gen.

**Sec. 39.35.125. Participation of elected officials.** [Effective until January 1, 1981] (a) An elected official, other than a state legislator who is an active member of the teachers' retirement system, may be included in the system if, within 60 days after taking the oath

(1) he directs his employer in writing to make the necessary deductions from his salary and to pay into the system the contributions required by and for an employee under this chapter and

(2) notice is given the commissioner of administration in writing.

(b) After an elected official has elected to be included in the system he and his employer are liable for contributions whenever he is a qualified elected official of an employer.

(c) An elected official, other than a state legislator who is an active member of the teachers' retirement system, may be included retroactively in the system if he makes retroactive contributions equal to what he would have made if he had elected to be included when he became eligible under (a) of this section.

(d) A former elected state official whose latest term of office expired before May 12, 1966 may be included retroactively in the system and receive credit for time previously served as an elected state official if he makes retroactive contributions equal to what he would have made if he had been eligible for membership in the system.

(e) Former elected state officials whose latest term of office expired before May 12, 1966 must claim prior legislative service and make retroactive contributions before July 1, 1977.

[Effective January 1, 1981] (a) An elected official is included in the system unless he files a written waiver of coverage with the administrator. A waiver under this subsection waives coverage of future employment as an elected official, regardless of any change of employer. An elected official may file a waiver under this subsection at any time after his election to office, including the period before he takes the oath of his office. An elected official may revoke a waiver under this subsection by filing a written revocation with the administrator. A revocation under this subsection operates prospectively only, and the elected official may not receive credited service for service as an elected official while the waiver was in effect. There is no limit on the number of times an elected official may file a waiver or revocation under this subsection.

(b) Service as an elected official before January 1, 1981, with an employer may be included retroactively as credited service with the system if the elected official or former elected official makes retroactive contributions equal to what he would have made if he had been included in the system when he took the oath of his office as an elected official. The rate used to calculate the retroactive contributions may not be less than the rate in effect on January 1, 1961. An elected official or former elected official must claim prior service and make retroactive contributions before February 1, 1982. An elected official or former elected official may not receive credited service under this subsection for any period in which he was receiving a retirement benefit from the

to claim credited service under this subsection unless he is reemployed as an active member and claims the credited service before February 1, 1982. Service as an elected official with an employer constitutes employment as an active member so long as no waiver of coverage under (a) of this section is in effect.

(c) An elected official included in the system and his employer are liable for contributions whenever he is an elected official unless a waiver of coverage under (a) of this section is in effect. (§ 2 ch 155 SLA 1966; am § 3 ch 159 SLA 1972; am § 1 ch 254 SLA 1976; am § 19 ch 128 SLA 1977; am §§ 8, 9 ch 82 SLA 1979; am § 28 ch 146 SLA 1980)

**Effect of amendments.** — The 1976 amendment added subsections (d) and (e).

The 1977 amendment substituted "an employer" for "a participating employer" at the end of subsection (b).

The 1979 amendment inserted "other than a state legislator who is an active member of the teachers' retirement system" in the introductory language of subsection (a) and in subsection (c).

The 1980 amendment, effective January 1, 1981, rewrote the section.

**Editor's note.** — Section 46, ch 146, SLA 1980, effective January 1, 1981, provides: "AS 39.35.125 (a), as reenacted in § 28 of this Act, applies to an elected official holding office on or after January 1, 1981, even though he may have assumed office before that date."

**Sec. 39.35.130. Termination of participation.**

Repealed by § 55 ch 128 SLA 1977.

**Editor's note.** — The repealed section derived from § 5, ch. 143, SLA 1960.

**Sec. 39.35.140. Re-employment of former employees.**

Repealed by § 55 ch 128 SLA 1977.

**Editor's note.** — The repealed section derived from § 6, ch. 143, SLA 1960.

**Sec. 39.35.150. Re-employment of retired employees.** If a retired employee subsequently becomes an active member, no benefit payments will be made during the period of re-employment. During the period of re-employment, deductions from the employee's salary will be made in accordance with AS 39.35.160. Upon subsequent retirement, the retired employee is entitled to receive an additional pension based on the credited service and the average monthly compensation earned during the period of re-employment in accordance with AS 39.35.370. (§ 7 ch 143 SLA 1960; am § 4 ch 109 SLA 1970; am § 4 ch 159 SLA 1972; am § 11 ch 1 SLA 1974; am § 20 ch 128 SLA 1977)

**Effect of amendment.** — The 1977 amendment rewrote this section. (CSSB 264), see 1972 House Journal, p. 924

"re-employed" by the state on a "regular full-time basis" if he were elected to the state legislature. 1965 Op. Atty Gen., No. 4, issued prior to the 1977 amendment. But see AS 39.35.125.

A former territorial employee, retired

under the Public Employees Retirement Act of 1949, was entitled to receive both his salary as a legislator and his retirement benefits while he served in the state legislature. 1965 Op. Atty Gen., No. 4, issued prior to the 1977 amendment.

**Sec. 39.35.153. Army and air national guard employees.** Regular full-time civilian employees of the Alaska Army National Guard and Air National Guard, whose entire salary is paid from allotted federal funds, are included in this system, if the federal or state government pays the employer's contributions. If the amount which the federal government may legally contribute to the system is lower than the required employer's contribution, the state government shall contribute the difference. If the employer's contributions are not paid when due, no service credit for the period of delinquency will be granted until the contributions are paid. (§ 1 ch 53 SLA 1965)

**Sec. 39.35.154. North Pacific Fishery Management Council employees.** Employees of the North Pacific Fishery Management Council appointed under 16 U.S.C. 1852(f)(1) (§ 302(f)(1) of P. L. 94-265), whose compensation is paid from allotted federal funds, are included in the system if the council pays the employer's contributions. If the employer's contributions are not paid when due, no credited service for the period of delinquency may be granted until the contributions are paid. (§ 1 ch 86 SLA 1977)

**Legislative history report.** — For 1977 House Journal, p. 1206; 1977 Senate report on ch. 86, SLA 1977 (CSSB 135), see Journal, p. 535.

**Sec. 39.35.155. Former magistrates. [Obsolete]**

**Revisor's note.** — This section is obsolete. It reads as follows: "A magistrate who terminated his employment before July 1, 1977 may be included retroactively in the system and receive service credit for time previously served as a magistrate if,

before July 1, 1978, he makes retroactive contributions equal to what he would have made if he had been participating in the system."

**Editor's note.** — The obsolete section derived from § 21, ch. 128, SLA 1977.

**Sec. 39.35.157. Alaska State Office in Tokyo employees. [Obsolete]**

**Revisor's note.** — This section is obsolete. It reads as follows: "An employee of the Alaska State Office in Tokyo (AS 44.19.082) who, before July 1, 1979, was not treated as being included in the system may be included retroactively in the system and receive service credit time

by the state on his behalf in an individual account in the Far East severance account in the Department of Administration. If the employee does not elect to be included in the system retroactively, the state shall pay the employee the amount held by the state on the employee's behalf in the Far East severance account on July 1, 1980, at

Editor's note. — The obsolete section was derived from § 4, ch. 52, SLA 1979.

**Sec. 39.35.158. Administrative director of courts.** An administrative director of the Alaska court system who withdraws from the judicial retirement system under AS 22.25.012 is eligible for membership in the system and shall receive credited service in the system for service rendered as administrative director. To be eligible for membership in the system under this subsection, the administrative director must contribute to the system

(1) the amount he would have contributed if he had been a member during the period of his membership in the judicial retirement system; and

(2) any contributions for services as administrative director refunded to him by the system at the time he became a member of the judicial retirement system. (§ 30 ch 146 SLA 1980)

**Article 3. Contributions by Employees.**

Section	Section
160. Amount of employee contributions	210. [Repealed]
170. Employment contributions mandatory	220. [Repealed]
180. Voluntary contributions by employee	230. Refund upon death of retired employee
190. [Repealed]	240. Withdrawal of voluntary contributions
200. Refund upon termination of employment for reason other than death	

**Sec. 39.35.160. Amount of employee contributions.** (a) While participating in the system each peace officer and each fireman shall contribute five per cent and every other employee shall contribute four and one-quarter per cent of his compensation to the public employees' retirement system.

(b) Repealed by § 6 ch 135 SLA 1980 and § 39 ch 146 SLA 1980. (§ 8a ch 143 SLA 1960; am § 2 ch 235 SLA 1968; am § 3 ch 35 SLA 1969; am § 5 ch 109 SLA 1970; am § 5 ch 159 SLA 1972; am § 2 ch 58 SLA 1979; § 6 ch 135 SLA 1980; § 39 ch 146 SLA 1980)

**Effect of amendments.** The 1970 amendment substituted the language beginning "he consider" and to have agreed" for "pay the appropriate social security contribution" in subsection (b).

The first and second 1980 amendments, retroactive to January 1, 1980, repealed subsection (b).

**Editor's note.** — Section 2, ch. 123, SLA 1976, purported to amend subsection

a special election conducted by the Public Employees Retirement Board to be held among active members of the retirement system. During the conduct of this election, the division shall remain impartial and take no position on the question." The amendment was rejected by the public employees.

Section 1, ch. 58, SLA 1979, purported to amend subsection (a) of this section.

January 1, 1980, by the Department of Administration among the active members of the Public Employees' Retirement System. The amendment was rejected. Legislative history report. For report on ch. 159, SLA 1972 (FCCS HCS (SSB) 264), see 1972 House Journal, p. 924.

**Sec. 39.35.170. Employment contributions mandatory.** Contributions of employees shall be made by payroll deductions. Every included employee 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 an employee to be reduced below the minimum required by law. Payment of an employee's compensation, less payroll deductions, is a full and complete discharge and satisfaction of all claims and demands by the employee relating to remuneration of his services during the period covered by the payment, except with respect to the benefits provided under the system. (§ 8 b ch 143 SLA 1960; am § 3 ch 155 SLA 1966)

**Negotiability of retirement system benefits.** — Given AS 39.35.120(b) and this section, which make inclusion in the public employees retirement system (AS 39.35) a condition of employment for state employees and contributions to it mandatory, the conclusion is that the legislature intended the statutory provisions of the public employees retirement system to apply to all state employees, and benefits under the public employees retirement system may not be negotiated under the Public Employment Relations Act (AS 23.40.070-23.40.260), January 23, 1978, Op. Atty Gen

**Sec. 39.35.180. Voluntary contributions by employee.** In addition to the mandatory contributions required of an employee under AS 39.35.170, an employee may, during each calendar year he is participating in the system, voluntarily contribute to his employee savings account an amount not to exceed five per cent of his compensation for that year. (§ 8 c ch 143 SLA 1960)

**Sec. 39.35.190. Disposition of contributions.**

Repealed by § 55 ch 128 SLA 1977.

**Editor's note.** — The repealed section derived from § 8 d, ch. 143, SLA 1960.

**Sec. 39.35.200. Refund upon termination of employment for reason other than death.** (a) An inactive employee, not on leave-without-pay status or layoff status, is entitled to receive a refund of the balance of (1) his employee contribution account and (2) his employee savings account.

(b) If, upon termination of employment, an employee has credited service of less than five years and has less than \$1,000 in his employee

reemployed with an employer and whose contributions have not been refunded before re-employment is not eligible for a refund. (§ 9 a ch 143 SLA 1960; am § 12 ch 1 SLA 1974; am § 1 ch 81 SLA 1976; am § 22 ch 128 SLA 1977)

**Effect of amendments.** — The 1976 amendment inserted "a" preceding "refund" in present subsection (a) and in the first sentence of present subsection (b) and added the second sentence of present subsection (b).

The 1977 amendment designated the former first sentence as subsection (a) and

the former second and third sentences as subsection (b), rewrote present subsection (a), and in present subsection (b), substituted "an employee" for "the employee" in the first sentence and substituted "an employer" for "a participating employer of the system" in the second sentence.

**Sec. 39.35.210. Refund upon termination of employment by death.**

Repealed by § 55 ch 128 SLA 1977.

**Editor's note.** — The repealed section derived from § 9 b, ch 143, SLA 1960, am § 106, ch 127, SLA 1974

**Sec. 39.35.220. Refund upon retirement.**

Repealed by § 55 ch 128 SLA 1977.

**Editor's note.** — The repealed section derived from § 9 c, ch 143, SLA 1960

**Sec. 39.35.230. Refund upon death of retired employee.** Upon the death of a retired employee, the employee's beneficiary shall be paid

(1) the excess of the balance in the employee contribution account of the deceased employee as of the date of the beginning of the employee's pension payments over the sum of the pension payments previously received by the employee, but this amount may not be paid if a joint and survivor option under AS 39.35.450 is in effect or if a surviving spouse's pension under AS 39.35.440 is payable; and

(2) the remaining payments purchased by the balance in the employee savings account of the deceased employee as of the date he retired. (§ 9 d ch 143 SLA 1960; am § 107 ch 127 SLA 1974)

**Sec. 39.35.240. Withdrawal of voluntary contributions.** An active employee may withdraw his savings account only if he receives the consent of the administrator. The administrator may permit a withdrawal before termination of employment only in cases of financial need. (§ 9 e ch 143 SLA 1960; am § 23 ch 128 SLA 1977)

**Effect of amendment.** — The 1977 amendment rewrote the first sentence and substituted "administrator" for "board" in the second sentence.

**Article 4. Contributions by Employers.**

<b>Section</b>	<b>Section</b>
250. Calculation of employer's contribution rate	280. Determination and payment of state contributions
260. Annual calculation	290. Rules governing treatment of employer contributions
270. Amount of employer's contributions	

**Sec. 39.35.250. Calculation of employer's contribution rate.** (a) An employer shall make contributions to the system in amounts determined in accordance with this section. For the purposes of this section, the past service date for each employer is the entry date of the employer or December 31, 1972, whichever is later. After December 31, 1972, if amendments to this chapter are enacted which substantially affect benefits accrued before the effective date of the amendment, the past service date will be changed to December 31 of the year immediately preceding that in which the amendment is enacted. The contribution rate is the sum of the consolidated employer rate and the past service rate.

(b) As used in (a) of this section, "consolidated employer rate" means the percentage of compensation of all active employees in the system which, if paid over the period of their credited service after their past service date and when combined with all employee contributions, is sufficient to provide the benefits earned after such past service dates. This percentage is uniformly determined for all employers and is applicable to each employer.

(c) As used in (a) of this section, "past service rate" means the percentage of compensation of all active employees in the system necessary to provide the annual amount required to amortize the unfunded obligations of the employer for benefits earned before the employer's past service date over a period not to exceed 40 years. The period of amortization begins at the past service date of each employer. The percentage is separately determined for each employer. (§ 10 a ch 143 SLA 1960; am § 13 ch 1 SLA 1974; am § 24 ch 128 SLA 1977)

**Effect of amendment.** — The 1977 amendment rewrote the section

**Sec. 39.35.260. Annual calculation.** The contribution rate for each employer shall be calculated every fiscal year, using the information available at the time the computation is made. The computation shall be completed in time to be considered in the state budget. Each employer shall provide in its budget for the payment of

**Sec. 39.35.270. Amount of employer's contributions.** The amount of each employer's contributions shall be determined by applying the employer's contribution rate to the total compensation paid to the active employees of the employer for each payroll period. This amount shall be remitted by the employer to the administrator in accordance with AS 39.35.610. (§ 10 c ch 143 SLA 1960; am § 14 ch 1 SLA 1974; am § 25 ch 128 SLA 1977)

**Effect of amendment.** — The 1977 amendment divided the former first sentence into the present first and second sentences, substituted "compensation paid to the active employees" for "of all compensation paid to participating employees" in the present first sentence, rewrote the present second sentence, and deleted the former second sentence, which provided for the determination of the percentage of the annual payment for past service liability

**Sec. 39.35.280. Determination and payment of state contributions.** The total amount of contributions required under AS 39.35.350 — 39.35.290 to be made by the state into the system shall be ascertained by the department of administration as soon as practicable after the end of each calendar month and shall be paid from the general fund of the state, except as provided in this section. If an employee is paid wages by the state during the month from a special or administrative fund provided by law, the payment to the system shall be made from that special or administrative fund. If the wages of an employee include both wages for state employment paid from the general fund of the state and wages for state employment paid from special or administrative funds the amount to be paid into the system shall be prorated among the state funds in proportion to the wages paid to the individuals from each fund. However, no payment may be made from the special or administrative fund if the statute covering the special or administrative fund prohibits it. (§ 10 d ch 143 SLA 1960)

**Sec. 39.35.290. Rules governing transmittal of employer contributions.** The board shall adopt rules to ensure the orderly and efficient transmittal of employer contributions. (§ 10 e ch 143 SLA 1960)

**Article 5. Service.**

Section	Section
300. Employment with the state	340. Military service
310. Employment with other employers	345. Temporary service credit
320. [Repealed]	350. Restatement of credited service
330. Leave of absence	360. Earlier service

of this chapter, the University of Alaska is not an office, department, division, or agency of the state. Service credit may not be granted under this chapter for service which is creditable under the teachers' retirement system, AS 14.25.

(b) A permanent part-time employee of the state receives credited service on a pro rata basis to that which would have been earned as a permanent full-time employee. (§ 11 ch 143 SLA 1960; am § 4 ch 155 SLA 1966; am § 4 ch 27 SLA 1976; am § 26 ch 128 SLA 1977; am § 29 ch 13 SLA 1980)

**Effect of amendments.** — The 1976 amendment added subsection (b). The 1977 amendment rewrote subsection (a) and substituted "credited service" for "service credit" in subsection (b). The 1980 amendment added the present second and third sentences in subsection (a).

**Sec. 39.35.310. Employment with other employers.** (a) An active employee is entitled to credited service for periods of employment with a political subdivision or a public organization beginning with the effective date of the employer's participation in the system. The employee is also entitled to credited service for periods of employment as designated in the employer's participation agreement.

(b) A permanent part-time employee of a political subdivision or a public organization receives credited service on a basis proportionate to that which would have been earned as a permanent full-time employee. (§ 12 ch 143 SLA 1960; am § 27 ch 128 SLA 1977; am § 30 ch 13 SLA 1980)

**Effect of amendments.** — The 1977 amendment rewrote the section. The 1980 amendment deleted "or quasi-public" preceding "organization" in the first sentence of subsection (a) and in subsection (b).

**Sec. 39.35.320. Transfers between employers.**

Repealed by § 55 ch 128 SLA 1977.

**Editor's note.** — The repealed section derived from § 13, ch. 143, SLA 1960

**Sec. 39.35.330. Leave of absence.** (a) A leave of absence with pay authorized by an employer will not be considered as interrupting employment, if the employee is a permanent part-time employee, credited service will be granted on a basis proportionate to that which would have been earned as a permanent full-time employee.

(b) A leave of absence without pay which exceeds 10 working days authorized by an employer will be

Effect of amendment. — The 1977 amendment designated the provisions of this section as subsection (a), rewrote that subsection, and added subsection (b).

**Sec. 39.35.340. Military service.** (a) A vested employee is entitled to credited service for active military service in the armed forces of the United States, either by enlistment or induction, if the employee did not receive a dishonorable discharge. The credited service allowed may not exceed an aggregate period of five years. Benefits are not payable on credited service for military service unless the employee makes retroactive contributions to the system for the period of time that service credit is claimed. However, if the employee was in the employ of an employer on the date of entry into the armed forces and returned to the employ of an employer within 90 days after the date of his discharge from military service, he is not required to make retroactive contributions under this system for the period of credited service.

(b) In order to obtain credited service under this section, an employee shall make an election to do so and shall verify his period of military service. When eligibility for credited service for military service has been established, an indebtedness shall be determined as follows: (1) the employee's actual compensation, or the calculated annual compensation for those employees working less than 12 months, during the calendar year 1976 or the year in which an employee first becomes vested under this chapter, whichever is later, multiplied by (2) six percent, this product multiplied by (3) the number of years of military service credited under this section. Interest as prescribed by regulation accrues on this indebtedness commencing on July 1, 1977, or one year following the date a person first becomes vested, whichever is later. Any outstanding indebtedness which exists at the time a person is appointed to retirement will necessitate an actuarial adjustment to the benefits payable based upon that military service.

(c) A retired employee on July 1, 1976, is eligible to receive increased benefits based upon military service as described in (a) of this section. To receive credited service for military service, a retired employee must verify his military service. When verified, a retired employee is entitled to receive an increased benefit which shall be actuarially adjusted to reflect his indebtedness for that credit. The indebtedness shall be calculated in the same manner as described in (b) of this section except that it shall be based on the average monthly compensation used in calculating the benefit. The effective date of this increased benefit is the beginning of the month following that in which eligibility has been established.

(d) The credited service granted under this section may not be used to satisfy the credited service requirements for normal retirement.

do so and must verify his period of military service. When eligibility for military service has been established, an indebtedness shall be determined as follows: the employee's actual compensation, or the calculated annual compensation for those employees working less than 12 months, during the calendar year the employee terminated, shall be multiplied by six percent; this product shall then be multiplied by the number of years of military service credit under this section. Interest as prescribed by regulation accrues on this indebtedness commencing July 1, 1978. Any outstanding indebtedness which exists at the time a person is appointed to retirement will necessitate an actuarial adjustment to the benefits payable based upon that military service.

(f) An employee cannot be credited with a period of active military service in the armed forces of the United States under this section if credit for that military service was granted under AS 14.25.

(g) A surviving spouse receiving or entitled to receive a surviving spouse's pension under AS 39.35.440 or benefits under a joint and survivor option filed under AS 39.35.450 is eligible to receive increased benefits based upon military service as described in (a) of this section. To receive credited service for military service, the surviving spouse must verify the employee's military service. When verified, the surviving spouse is entitled to receive an increased benefit which shall be actuarially adjusted to reflect his or her indebtedness for that credit. The indebtedness shall be calculated in the same manner as described in (b) of this section except that it shall be based on the average monthly compensation used in calculating the benefit. Benefits payable under this subsection are effective the first day of the month following that in which eligibility has been established.

(h) The combined period of military service claimed under this section and under AS 14.25 may not exceed five years. (§ 15 ch 143 SLA 1960; am § 1 ch 123 SLA 1976; am § 29 ch 128 SLA 1977; am § 6 ch 174 SLA 1978; am §§ 31—36 ch 13 SLA 1980)

Effect of amendments. — The 1976 amendment rewrote this section.

The 1977 amendment substituted references to credited service for references to service credit throughout subsections (a) through (d), substituted "A vested employee" for "An employee" at the beginning of subsection (a), deleted the former third sentence of subsection (a), relating to when service credit might be granted, inserted "first" in the first sentence of subsection (b), and in subsection (c), substituted "retired employee" for "person receiving retirement benefits under this chapter" in the first sentence, substituted "employee" for "person" in the second sentence.

retired person to receive military service credit, he" in the third sentence, and deleted "retirement" preceding "benefit" in the fourth sentence. The amendment also rewrote subsection (d) and added subsections (e) and (f).

The 1978 amendment added subsection (g).

The 1980 amendment in subsection (b), deleted "before July 1, 1977 or within one year following the date when the employee first becomes vested under this chapter, if later" at the end of the first sentence, and added a comma following "July 1, 1977" in the next to last sentence; in subsection (c), inserted a comma following "July 1, 1976" near the beginning of the subsection,

credit" for "such credit" at the end of the third sentence; in subsection (e), inserted a comma following "July 1, 1976" near the beginning of the subsection, and deleted "before July 1, 1978" at the end of the second sentence; in subsection (f) inserted "a period of" preceding "active military service" near the beginning of the subsection, and inserted "that" preceding "military service" near the end of the subsection; in subsection (g) deleted "within one year of the effective date of this act" at the end of the second sentence, and substituted "effective the first day of

the month following that in which eligibility has been established" for "payable retroactively to July 1, 1977" at the end of the subsection; and added present subsection (h).

Editor's note. — Section 51, ch. 146, SLA 1980 provides: "An employee who is a retired member of the public employees' retirement system on July 1, 1980, is entitled to receive increased benefits based on military service granted under AS 39.35.340(b) as amended by ch. 13, SLA 1980."

**Sec. 39.35.345. Temporary service credit.** (a) A vested employee is entitled to credited service for periods in which he regularly rendered full-time personal service to an employer but was not qualified to participate in the system because of the exclusion of temporary workers as described in AS 39.35.680(21)(C)(iii). Benefits are not payable on this credited service unless the employee makes retroactive contributions to the system for the period of time that credited service is claimed. The retroactive contribution is the full actuarial cost of providing benefits for the credited service claimed.

(b) To obtain credited service under this section, an employee must elect to do so and must verify his period of temporary service before July 1, 1981, or within one year following the date when the employee first becomes vested under this chapter, if later. When eligibility for temporary service credit has been established, an indebtedness shall be determined as provided in (a) of this section. Interest as prescribed by regulation accrues on that indebtedness beginning July 1, 1981, or one year following the date an employee first becomes vested, whichever is later. Any outstanding indebtedness existing at the time an employee retires will require an actuarial adjustment to the benefits payable based on the temporary service.

(c) A deferred vested employee on July 1, 1980, is eligible to claim credited service under (a) of this section. To obtain credited service under this section, a deferred vested employee must elect to do so and must verify his period of temporary service before July 1, 1981. When eligibility for temporary service credit has been established, an indebtedness shall be determined as provided in (a) of this section. Interest as prescribed by regulation accrues on that indebtedness beginning July 1, 1981. Any outstanding indebtedness existing at the time a deferred vested employee retires will require an actuarial adjustment to the benefits payable based on the temporary service.

(d) The credited service granted under this section may not be used to satisfy the credited service requirements for normal or early retirement. (§ 29 ch 146 SLA 1980)

Revisor's note. — This section was originally enacted as AS 39.35.156.

**Sec. 39.35.350. Reinstatement of credited service.** (a) An employee who receives a refund of contributions in accordance with AS 39.35.200 forfeits corresponding service under this chapter.

(b) An employee may reinstate credited service associated with a refund by repaying the total amount of the refund. Interest will accrue from the date of the refund until repayment of the refund or retirement, whichever occurs first. Payments will apply first to accrued interest and then to principal.

(c) If, on the date of retirement, an employee has not paid in full the amount of his reinstatement indebtedness, he may irrevocably elect either (1) option one — to receive a refund of the principal paid on the reinstatement indebtedness and forfeit the corresponding credited service, or (2) option two — to cancel the outstanding indebtedness due by accepting an actuarial reduction to the retirement benefit for life. (§ 16 ch 143 SLA 1960; am § 3 ch 235 SLA 1968; am § 2 ch 81 SLA 1976; am § 30 ch 128 SLA 1977)

Effect of amendment. — The 1977 amendment rewrote this section.

**Sec. 39.35.360. Earlier service.** (a) An employee employed before January 1, 1980, who completes three years of credited service with the state after January 1, 1961, for which the employee makes contributions required by this chapter is entitled to credited service for service rendered (1) before January 1, 1961, as an employee of the state and former Territory of Alaska; (2) before January 1, 1961, as an employee of the United States government in Alaska, excluding service in the armed forces of the United States; or (3) after January 1, 1961, as a peace officer or correctional officer of a participating political subdivision of the state if the employee is vested and is an active peace officer in the system as of July 1, 1980. The retirement benefits payable to an employee under this section shall be reduced by the amount of the retirement pension benefits paid to him by the United States government for the same period of service.

(b) An employee who is entitled to credited service for employment before January 1, 1961, is not required to make retroactive contributions under this chapter.

(c) [Effective until January 1, 1981] An elected state official who elects to participate in the system under AS 39.35.125 is entitled to service credit for service rendered to the state or territory before 1961 if

(2) his service rendered to the state after January 1, 1961, totals three years or more.

Repealed by § 41 ch 146 SLA 1980, effective January 1, 1981.

(d) Repealed by § 2 ch 26 SLA 1974.

(e) An employee of a detention facility provided by a local government unit to the territorial or state government under AS 33.30.060, who continues in state employment upon transfer of the facility to the state, is entitled to credited service for his prior service with the facility if the employee remains in continuous employment with the state until July 1, 1976. To obtain credited service the employee is required to make retroactive contributions for the period of service between January 1, 1961 and the effective date of the transfer of the facility to the state.

(f) A surviving spouse receiving or entitled to receive a surviving spouse's pension under AS 39.35.440 or benefits under a joint and survivor option filed under AS 39.35.450 is eligible for increased benefits for any service credit authorized under (a) of this section, but not claimed or authorized by law before the employee's death.

(g) An employee is eligible to receive up to 10 years of credited service for service rendered before July 1, 1979, as a temporary employee of the legislature of the state or territory during legislative sessions. To receive retroactive credited service under this subsection, an employee must claim the service before July 1, 1980. When the employee claims the service, an indebtedness of the employee to the system shall be established. The amount of this indebtedness is equal to the contributions the employee would have made if he had been eligible for membership in the system. The rate used to calculate these contributions may not be less than the rate in effect on January 1, 1961. Interest as prescribed by regulation accrues on this indebtedness beginning July 1, 1980. Any outstanding indebtedness which exists at the time the employee retires will require an actuarial adjustment to the benefits which are based upon retroactive credited service under this subsection.

(h) An employee of the state is eligible to receive credited service as provided under AS 39.35.300(b) for service rendered as a permanent part-time employee before January 1, 1976. To receive retroactive credited service under this subsection, the employee must claim the service before July 1, 1981. When the employee claims retroactive credited service, an indebtedness of the employee to the system shall be established. The amount of this indebtedness is equal to the contributions the employee would have made if he had been eligible for membership in the system. The rate used to calculate the contributions may not be less than the rate in effect on January 1, 1961. Interest as prescribed by regulation accrues on the indebtedness beginning July 1,

which are based on retroactive credited service under this subsection. (§ 17 ch 143 SLA 1960; am § 4 ch 80 SLA 1964; am §§ 5, 6 ch 155 SLA 1966; am § 4 ch 235 SLA 1968; am § 1 ch 55 SLA 1973; am §§ 1, 2 ch 26 SLA 1974; am §§ 1, 2 ch 245 SLA 1976; am §§ 31 — 33 ch 128 SLA 1977; am §§ 1, 7 ch 174 SLA 1978; am § 3 ch 81 SLA 1979; am § 10 ch 82 SLA 1979; am §§ 31, 32, 41 ch 146 SLA 1980)

**Revisor's note.** — Subsection (a) of this section apparently has no effect after January 1, 1980, since it applies only to employees employed before that date.

Subsection (g) of this section apparently has no effect after July 1, 1980, since credited service under this subsection must have been claimed by that date.

**Effect of amendments.** — The 1976 amendment, among other things, added the language beginning "and heavy equipment operators" to the end of that sentence, and added subsection (e).

The 1977 amendment, among other things, substituted "credited service for employment before January 1, 1961" for "service credit for prior service" and "this chapter" for "this system for the period of prior service credit" in subsection (b) and

substituted "credited service" for "service credit" in the first and second sentences of subsection (e).

The 1978 amendment, among other things, added subsection (f).

The second 1979 amendment added subsection (g).

Sections 31 and 32, ch. 146, SLA 1980, rewrote subsection (a) and added subsection (h). Section 41 of ch. 146, effective January 1, 1981, repealed subsection (c).

**Editor's note.** — Section 15, ch. 82, SLA 1979 provides that AS 39.35.360(g) applies to a temporary employee of the Eleventh Legislature, First Session, even though he may not be an employee under the public employee's retirement system on July 1, 1979.

**Article 6. Benefits.**

- Section
- 370. Retirement benefits
- 380. [Repealed]
- 385. Conditional service retirement benefits
- 390. [Repealed]
- 395. Voluntary contribution benefit
- 400. Nonoccupational disability pensions
- 410. Occupational disability pensions
- 420. Nonoccupational death benefits
- 430. Occupational death benefit
- 440. Death after occupational disability
- 450. Joint and survivor option
- 451. Spouse survivor benefits under Public Employees Retirement Act of 1940
- 460. Level income option
- 470. Other forms of payment
- 475. Post-retirement pension adjustment

- Section
- 480. Cost-of-living allowance
- 485. Minimum benefit
- 490. Designation of beneficiary
- 495. Time limit for application
- 500. Safeguard of employee funds held by the system
- 510. Voluntary waiver of benefits
- 520. Adjustments
- 522. Waiver of adjustments
- 525. Limitation on use of credited service as peace officer or fireman
- 530. Limit on pension
- 535. Medical benefits
- 540. Minimum benefit
- 545. [Repealed]
- 546. Tax exemption
- 547. Effect of amendments

**Sec. 39.35.370. Retirement benefits.** (a) A terminated employee is eligible for a normal retirement benefit (1) at age 55 with at least five years credited service, or (2) with at least 20 years of credited service as a peace officer or fireman, or (3) with at least 30 years of credited service for all other employees

(c) The monthly amount of a retirement benefit for a peace officer or fireman is two per cent of the average monthly compensation times the years of credited service up through 10 years, plus two and one-half per cent of the average monthly compensation times the years of service over 10 years. For all other employees it is two per cent of the average monthly compensation times the years of service. An actuarial adjustment must be made for an early retirement benefit.

(d) The monthly amount of a retirement benefit for a deferred vested member shall be determined in accordance with (c) of this section as it was in effect on the date of the employee's termination of employment.

(e) 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) he terminates his employment; and (3) he applies for retirement. The benefits 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 a benefit is payable under this section.

(f) A member who is vested in the system as a peace officer or fireman at the time he incurs a permanent disability of at least 33-1/3 per cent under workers' compensation and who (1) undergoes retraining because of the disability; and (2) is subsequently employed with the state or other employer in a position other than peace officer or fireman, is eligible for a normal retirement benefit as a peace officer or fireman under (a) and (c) of this section when he has completed 20 years of credited service. (§ 18 ch 143 SLA 1960; am § 2 ch 102 SLA 1963; am § 7 ch 155 SLA 1966; am § 5 ch 235 SLA 1968; am § 6 ch 109 SLA 1970; am §§ 6, 7 ch 159 SLA 1972; am § 15 ch 47 SLA 1974; am § 34 ch 128 SLA 1977; am § 33 ch 146 SLA 1980)

**Effect of amendments.** — The 1977 amendment rewrote this section.

The 1980 amendment added subsection (f).

**Editor's note.** — Section 49, ch. 146, SLA 1980, provides: "The retirement benefit payable to a member of the public employees' retirement system who is receiving a normal retirement benefit under AS 39.35.370 on the effective date of this Act, and who at the time of his retirement was receiving a disability

pension under the public employees' retirement system, shall be increased by a percentage equal to the percentage of all post-retirement pension adjustments payable under AS 39.35.476 during the period that the member was receiving a disability benefit."

**Legislative history report.** — For report on ch. 159, SLA 1972 (FCCS HCS CSSB 264), see 1972 House Journal, p. 992.

**Sec. 39.35.380. Early retirement benefits.**

Repealed by § 56 ch 128 SLA 1977.

**Sec. 39.35.385. Conditional service retirement benefits.** (a) An employee is eligible for a normal retirement benefit at age 55 with at least two years of credited service if the employee also is eligible for a normal retirement salary under the teachers' retirement system (AS 14.25).

(b) An employee is eligible for an early retirement benefit at age 50 with at least two years of credited service if the employee also is eligible for an early retirement salary under the teachers' retirement system (AS 14.25).

(c) Credited 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 system in order to pay 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.

(d) The monthly amount of a normal retirement benefit for a peace officer or fireman is two per cent of the average monthly compensation times the years of service up through 10 years, plus two and one-half per cent of the average monthly compensation times the years of service over 10 years. For all other employees it is two per cent of the average monthly compensation times the number of years of service. An actuarial adjustment of this amount must be made for an early retirement benefit.

(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.

(f) An employee is eligible for a normal retirement benefit at age 55 or an early retirement benefit at age 50 if he has at least 60 days of credited service as a temporary employee of the legislature during each of five legislative sessions. (§ 3 ch 174 SLA 1978; am § 11 ch 82 SLA 1979; am § 37 ch 13 SLA 1980)

**Effect of amendments.** — The 1979 amendment added subsection (f).

The 1980 amendment added the present second and third sentences in subsection (c).

**Editor's note.** — Section 15, ch. 82,

SLA 1979, provides that AS 39.35.385 (f) applies to a temporary employee of the Eleventh Legislature, First Session, even though he may not be an employee under the public employee's retirement system on July 1, 1979.

**Sec. 39.35.390. Deferred retirement benefit.**

**Editor's note.** — The repealed section derived from § 20, ch. 143, SLA 1960; am. § 5, ch. 80, SLA 1964; am. § 8, ch. 155, SLA 1966; am. §§ 6, 7, ch. 235, SLA 1968; am. § 8, ch. 109, SLA 1970; am. § 9, ch. 159, SLA 1972; am. § 3, ch. 81, SLA 1976.

**Sec. 39.35.395. Voluntary contribution benefit.** The balance of the employee's savings account will be paid in one of the following options as elected by the employee: (1) a lump sum payment; or (2) a life annuity on a full cash refund or term-certain basis; or (3) installments over a designated period of time. (§ 35 ch 128 SLA 1977)

**Sec. 39.35.400. Nonoccupational disability pensions.** (a) An employee is eligible for a nonoccupational disability pension if his employment is terminated because of a total and apparently permanent nonoccupational disability, as defined in AS 39.35.680, before his normal retirement date and after five or more years of credited service.

(b) The nonoccupational 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. Benefits shall be continued after one year from the date of appointment to nonoccupational disability only if the disabled employee fulfills the requirements set out in (c) of this section. The last payment shall be for (1) the month in which the death of the disabled employee occurs, or (2) the month in which the disabled employee recovers from disability, or (3) the month in which the disabled employee ceases to be eligible for disability benefits under the Social Security Act, or (4) the month in which the disabled employee reaches normal retirement age, whichever occurs first.

(c) If the disabled employee becomes ineligible to receive nonoccupational disability benefits, he is entitled to receive a normal or early retirement pension if he would have been eligible for the pension had his employment continued during the period of disability. However, the period of disability does not constitute credited service.

(d) The monthly amount of the nonoccupational disability pension shall be determined in accordance with AS 39.35.370(c), considering the employee's credited service and compensation before termination of employment.

(e) A disabled employee receiving a nonoccupational disability benefit shall provide the administrator, one year after appointment to disability benefits and once each year thereafter until disability benefits cease, proof of continuing eligibility to receive disability payments under the Social Security Act. If the disabled employee is

demonstrate that disability payments under the Social Security Act would be payable had the employee been otherwise eligible. If the disabled employee fails to provide the administrator with evidence of continuing eligibility for disability payments under the Social Security Act or other medical evidence required by the administrator within 30 days following each anniversary date, the disability benefits from the system shall cease. If that information is subsequently provided to the administrator, benefit payments will resume beginning for the month following that in which the information is provided. When disability payments under the Social Security Act cease, it is the responsibility of the disabled employee to notify the administrator immediately.

(f) A disabled employee's nonoccupational disability pension terminates when the employee first attains eligibility for normal retirement. At that time, his retirement benefits will be calculated under the provisions of AS 39.35.370(c). (§ 21 ch 143 SLA 1960; am § 9 ch 155 SLA 1966; am §§ 9, 10 ch 109 SLA 1970; am § 10 ch 159 SLA 1972; am §§ 15 — 17 ch 1 SLA 1974; am §§ 4—8 ch 123 SLA 1976; am §§ 36, 37 ch 128 SLA 1977)

**Effect of amendments.** — The 1976 amendment rewrote subsections (b) and (e), substituted "disabled employee becomes ineligible to receive nonoccupational disability benefits" for "retired employee recovers from the nonoccupational disability" in the first sentence of subsection (c), deleted the former second and third sentences of subsection (d), which read, respectively, "However, the amount shall be reduced by wage continuation payments which are available to the employee and which are attributable to the employers" and "The amount may not exceed the benefit determined in accordance with § 410(d) of this chapter." The amendment also added subsection (f).

The 1977 amendment in subsection (b), deleted "pension" following "nonoccupational disability" in the first sentence, added "and are payable the last day of the month" to the end of the first sentence, substituted "benefit" for

"pension" and for "first month's pension" in the second sentence, substituted "employee" for "person" in the third sentence, and in the fourth sentence, inserted "(1)," deleted "(1)" following "month in which," and inserted "in which" near the end. In subsection (e), the amendment substituted "benefit" for "pension" and "benefits" for "retirement" in the first sentence, substituted "a social security payment" for "social security" and "disability payments" for "disability benefits" in the second sentence, substituted "benefits" for "payments" in the third sentence, inserted "benefit" preceding "payments" in the fourth sentence, and deleted the former sixth sentence, which read "Upon notification, the administrator shall cease making disability payments."

**Editor's note.** — The Social Security Act, referred to in subsections (b) and (e), may be found in 42 U.S.C. § 301 et seq.

**Sec. 39.35.410. Occupational disability pensions.** (a) An employee is eligible for an occupational disability pension if his employment is terminated because of a total and apparently permanent occupational disability, as defined in AS 39.35.680, before his normal retirement date.

(b) The occupational disability benefits accrue beginning the first

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. Benefits shall be continued after one year from date of appointment to occupational disability only if the disabled employee fulfills the requirements set out in (g) of this section. The last payment shall be for the month in which (1) the death of the disabled employee occurs, or (2) the month in which the disabled employee recovers from disability, or (3) the month in which the disabled employee ceases to be eligible for disability payments under the Social Security Act, or (4) the month the disabled employee reaches normal retirement age, whichever occurs first.

(c) If the disabled employee becomes ineligible to receive occupational disability benefits before his normal retirement date, the disabled employee shall then be entitled to receive an early retirement pension if he would have been eligible for the pension had his employment continued during the period of disability. The period of disability constitutes credited service.

(d) The monthly amount of an occupational disability pension is 40 per cent of the disabled employee's gross monthly compensation at the time of termination due to disability.

(e) Repealed by § 12 ch 123 SLA 1976.

(f) An employee is not entitled to an occupational disability pension unless he files an application for it with the administrator within six months after the date of the accident, if disability is attributable to an accident, or within six months after the date his disability begins if the disability is caused by an occupational disease. If the disability is attributable to an accident, the employee shall file a notice of the accident with the administrator within 30 days following the date it occurred. This 30-day filing period is suspended for the time the employee's condition prevents him from filing.

(g) A disabled employee receiving an occupational disability benefit shall provide the administrator, one year after appointment to disability benefits and once each year thereafter until disability benefits cease, proof of continuing eligibility to receive disability payments under the Social Security Act. If a disabled employee is otherwise ineligible for a social security payment, he shall provide the administrator with sufficient medical evidence once each year to demonstrate that disability payments under the Social Security Act would be payable had the employee been otherwise eligible. If the disabled employee fails to provide the administrator with evidence of continuing eligibility for disability payments under the Social Security Act or other medical evidence required by the administrator within 30 days following each anniversary date, the disability benefit from the

following that in which the information is provided. When disability payments under the Social Security Act cease, it is the responsibility of the disabled employee to notify the administrator immediately.

(h) A disabled employee's occupational disability pension shall terminate when the disabled employee first attains eligibility for normal retirement. At that time, his retirement benefit will be calculated under the provisions of AS 39.35.370(c). (§ 22 ch 143 SLA 1960; am § 11 ch 109 SLA 1970; am §§ 18—21 ch 1 SLA 1974; am § 13 ch 205 SLA 1975; am §§ 9—13 ch 123 SLA 1976; am §§ 32, 39 ch 128 SLA 1977; am § 38 ch 13 SLA 1980)

**Effect of amendments.** — The 1976 amendment rewrote subsections (b), (d), and (g), substituted "disabled employee becomes ineligible to receive occupational disability benefits" for "retired employee recovers from the occupational disability" and "disabled employee shall" for "retired employee shall" in the first sentence of subsection (c), deleted "for all employees" from the end of the second sentence of subsection (c), and repealed subsection (e), which read "An employee's occupational disability pension shall be reduced by any workmen's compensation or wage continuation payments which are available to the employee and which are attributable to the employers."

The 1977 amendment in subsection (b), deleted "pension" following "occupational disability" in the first sentence, added "and are payable the last day of the month" to the end of the first sentence, substituted "benefit" for "pension" and for "first month's pension" in the second sentence, substituted "employee" for "person" in the third sentence, and substituted "payments" for "benefits" in

the fourth sentence. In subsection (g), the amendment substituted "benefit" for "pension" and "benefits" for "retirement" in the first sentence, substituted "a social security payment" for "social security" and "payments" for "benefits" in the second sentence, substituted "benefit" for "payments" in the third sentence, inserted "benefit" preceding "payments" in the fourth sentence, and deleted the former sixth sentence, which read "Upon notification, the administrator shall cease making disability payments."

The 1980 amendment substituted "disabled employee's" for "retired employee's" at the beginning of subsection (h), and inserted "disabled" preceding "employee" near the middle of the first sentence of subsection (h).

**Editor's note.** — Chapter 205, SLA 1975, which amended this section, was submitted to the voters by referendum and was rejected.

The Social Security Act, referred to in subsections (b) and (g), may be found in 42 U.S.C. § 301 et seq.

**Sec. 39.35.420. Nonoccupational death benefits.** (a) If the death of an employee occurs from nonoccupational causes after completing less than one year of credited service, the employee's beneficiary shall be paid the balance of: (1) the employee's contribution account; and (2) the employee's savings account. If the death of an employee occurs from nonoccupational causes after completing at least one year but less than five years of credited service, a lump sum death benefit shall be paid to the beneficiary of the employee. The amount of the lump sum death benefit shall be \$100 times years of credited service plus \$1,000. The lump sum death benefit is in addition to the balance of the employee's contribution account and savings account.

**Sec. 14.25.080. Contributions by the state.** The state legislature may appropriate to the retirement fund an amount equal to one-half the percentage, as certified by the administrator, of the amount required in addition to teacher contributions to provide the benefits of this chapter. It may be appropriated annually and deposited in the retirement fund monthly. (§ 9 ch 145 SLA 1955; am § 6 ch 89 SLA 1960; am § 8 ch 179 SLA 1960; am § 4 ch 84 SLA 1969; am § 6 ch 138 SLA 1970; am § 6 ch 66 SLA 1973)

**Effect of amendment.** — The 1973 amendment, in the first sentence, deleted "either" following "equal to" and "or an amount equal to five per cent of the teachers' base salaries, whichever is less" following "this chapter."

**Sec. 14.25.090. Contributions by the state for arrearages.**  
Repealed by § 7 ch 66 SLA 1973.

**Editor's note.** — The repealed section derived from § 10, ch. 145, SLA 1955; § 7, ch. 89, SLA 1960; § 9, ch. 179, SLA 1960; § 3, ch. 86, SLA 1963.

**Sec. 14.25.100. Credit for service in the armed forces.** (a) A teacher who served as an active member of the armed forces of the United States after December 31, 1939, having entered the armed forces immediately after service as a teacher in a public school, may receive creditable service under this retirement system, up to a maximum of five years. Each 12 months of military service equals one school year, and lesser military periods shall be determined for credit purposes in a proportionate ratio to a school year. To receive creditable service under this section, the teacher must have returned to teaching in a public school within one year following discharge from the armed forces. If entry into the armed forces was immediately preceded by membership service and, following discharge, is continued by membership service within one year thereafter, such service shall not be counted for purposes of determining the applicability of the 10 year limitation on outside service.

(b) Where a teacher 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) Credit of service in the armed forces shall be granted only if the teacher makes contributions for such service in the same manner as is required for outside service under § 60 of this chapter.

(d) Credit for service in the armed forces shall be granted for up to four years if a teacher's entrance into the teaching profession was delayed due to military service. This delay may be either before, during,

the same manner as required for teachers on leave of absence under AS 14.20.345(f) of this chapter. However, credit under this section shall only be granted when the teacher applying has been granted other than a dishonorable military discharge. (§ 11 ch 145 SLA 1955; am § 8 ch 89 SLA 1960; am § 1 ch 57 SLA 1974)

**Effect of amendment.** — The 1974 amendment added subsection (d).

**Sec. 14.25.110. Eligibility for service retirement.** (a) A teacher is eligible for normal retirement if he has completed either

(1) at least 15 years of creditable service, the last five of which have been membership service, except that a member first hired after July 1, 1975 must have eight years of membership service, and has attained the age of 55 years, or

(2) at least eight years of membership service and has attained the age of 55 years, or

(3) at least 25 years of creditable service, the last five of which have been membership service, or

(4) at least 20 years of membership service.

(b) A teacher is eligible for early retirement if he has completed either of the service requirements in (a)(1) or (a)(2) of this section and has attained the age of 50 years.

(c) A teacher who has completed either of the service requirements in (a)(1) or (a)(2) of this section and has attained the age of 65 years during the school year, shall be retired on the July 1 following his 65th birthday unless he is retained by request of his employer. Provisions of this subsection regarding compulsory retirement do not apply to personnel of the University of Alaska.

(d) A retired teacher who has been receiving a disability retirement salary is eligible for a service retirement salary upon attaining 55 years of age.

(e) The burden is upon the applicant to prove eligibility for retirement benefits to the full satisfaction of the administrator. (§ 12 ch 145 SLA 1955; am § 4 ch 142 SLA 1957; am § 9 ch 89 SLA 1960; am § 4 ch 86 SLA 1963; am § 6 ch 151 SLA 1966; am § 2 ch 85 SLA 1971; am § 8 ch 66 SLA 1973; am § 1 ch 77 SLA 1973; am § 2 ch 57 SLA 1974; am §§ 1 — 3 ch 173 SLA 1975)

**Effect of amendments.** — The 1971 amendment, in subsection (a), inserted "either (1)," substituted "have" for "has," deleted "and has completed at least 10 years of membership service" following "membership service in the state," and inserted "or (2) 30 years of creditable service, the last five years of which have

stood prior to the 1973 amendments to this section, the amendment deleted "and has completed at least 10 years of membership service" following "membership service in the state."

Section 8, ch. 63, SLA 1973, rewrote this section.

The 1974 amendment substituted "25

The 1975 amendment, effective June 30, 1975, in subsection (a), inserted "except that a member first hired after July 1, 1975 must have eight years of membership service" in paragraph (1), substituted "55 years" for "60 years" in that paragraph and in paragraph (2), added "or" at the end of paragraph (3), and added paragraph (4). The amendment also substituted "50 years" for "55 years" in subsection (b) and "55 years" for "60 years" in subsection (d).

**Legislative intent.** — The legislature did not intend such a strict interpretation as to require a teacher to work the last 5 school years for the full 146 day year. 1966 Op. Att'y Gen., No. 2.

A teacher satisfies the requirement of

subsection (a) by working any 5 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.

**ALR references.** — Increase of pension benefits as applicable to those already receiving benefits, 118 ALR 996.

Statute of limitations in respect of action or proceeding to establish right to or recovery of benefit or pension, 136 ALR 809.

What amounts to waiver of status or rights under teachers' tenure statute, 106 ALR 1078.

**Sec. 14.25.120. Manner of computing service retirement salary.** (a) Every teacher who has applied for retirement salary and who has satisfactorily shown his eligibility as provided in § 110 of this chapter, shall receive from the retirement fund, for each school year subsequent to the date of application, a retirement salary payable on the first day of each month, beginning the month following retirement.

(b) The payment made on the first day of the month in which death occurs is the last payment.

(c) The amount of retirement salary to be paid is computed as follows:

(1) If the teacher is eligible for normal retirement as of the date on which the application for a retirement salary is filed and has paid into the retirement fund the full amount of his indebtedness, his annual retirement salary is two per cent of his average base salary during any three of the last 10 years of membership service multiplied by the total number of years of creditable service, including credited fractional years.

(2) If, on the date of applying for retirement salary, the teacher has not paid the full amount of his indebtedness to the retirement fund, he may elect either:

(A) option one — to have any retirement salary which becomes due the teacher withheld until such time as the total amount withheld is equal to the outstanding indebtedness due the retirement fund, or

(B) option two — to cancel the outstanding indebtedness due the retirement fund by accepting a reduced annuity for life, computed by deducting 10 per cent of the indebtedness still outstanding from the annual retirement salary that would be due and owing the teacher if there were no indebtedness.

(3) If option one under (c)(2) of this section is elected, the teacher, at a subsequent date, may pay into the retirement fund all or any part of

(4) If the teacher is not eligible for normal retirement, but is eligible for early retirement, as defined in § 110(a) and (b) of this chapter, on the date when application for retirement salary is filed, his annual retirement salary is the amount that would be due and owing to the teacher if he were at least 55, reduced by the amount derived from the following computations: multiply one-half of one per cent times the number of months, to the nearest month, by which the applicant's attained age on the date of filing application falls short of 55 years, times the amount of annual retirement salary that would be due and owing the teacher if he were at least 55 years of age.

(5) If the teacher has any outstanding indebtedness to the fund on the date of applying for retirement salary, he may elect either option one or two in (c)(2) of this section. However, if he elects option two, the reduction as computed in (4) of this subsection shall be applied after deriving the adjusted retirement salary under option two.

(6) If the retiring teacher was a member of the retirement system established by the Retirement Act of 1945, his annual retirement salary shall in no case be less than \$975 plus 10 per cent of the total contribution made by the teacher to the retirement fund of 1945.

(7) If a teacher, after receiving retirement salary, is reemployed as a full-time teacher in membership service, his retirement salary shall be suspended during the period of reemployment. The retirement salary shall be suspended for the entire school year if the teacher is reemployed as a full-time teacher in membership service for a period of time equivalent to a year of service.

(8) During a period of reemployment following retirement, deductions from salary may be made at the option of the teacher for contributions to the retirement fund as provided in § 50 of this chapter. If deductions are made, the annual amount of retirement salary shall be increased when the teacher again retires from active membership service, by adding to the annual amount previously payable, an amount equal to two per cent of the teacher's base salary for the period of reemployment. However, if the teacher has not attained the age of 55 on the date when payment of retirement salary is resumed, the additional amount provided for in this paragraph shall be reduced by the amount derived from the following computations: multiply one-half of one per cent times the number of months, to the nearest month, by which the teacher's attained age on the date of subsequent retirement falls short of 55 years, times the additional amount provided in this paragraph.

(d) A teacher who was receiving a service retirement salary on July 1, 1955, shall receive an additional \$50 a month for life, payable on the first day of each month, if the teacher was at least 55 years of age on July 1, 1955.

(g) A teacher who retired before July 1, 1971, with at least 25 years of creditable service, at least 15 of which were membership service, and who is entitled to a retirement salary under either this retirement fund or the retirement fund of 1945, shall receive a service retirement salary based on a minimum sum of \$20 per month for each year of creditable service, not including adjustments made under § 142 or § 143 of this chapter. A teacher who retired before July 1, 1971, with less than 25 years of creditable service, and who is entitled to a retirement salary under either this retirement fund or the retirement fund of 1945, shall receive a service retirement salary of at least \$20 per month for each year of credited service. If, on the date the teacher originally applied for retirement salary, the teacher elected option two as provided by (c)(2)(B) of this section as payment of his indebtedness or a reduced benefit in accordance with (c)(4) of this section, the amount of the dollar reduction shall remain in effect.

(h) A teacher who retires before July 1, 1972, shall receive a service retirement salary computed either under (c)(1) of this section, not including adjustments made under §§ 142 and 143 of this chapter, or under (g) of this section, whichever computation would provide the teacher with the greater amount of service retirement salary. If, on the date the teacher originally applied for retirement salary, the teacher elected option two under (c)(2)(B) of this section as payment of his indebtedness or a reduced benefit under (c)(4) of this section, the amount of the dollar reduction shall remain in effect.

(i) Any amendment to this section shall be applied to a teacher who retired before the effective date of the amendment at the option of the retired teacher. (§ 13 ch 145 SLA 1955; am §§ 10, 11 ch 89 SLA 1960; § 1 ch 57 SLA 1955; am § 7 ch 151 SLA 1966; am §§ 9, 10 ch 138 SLA 1970; am §§ 3, 4 ch 85 SLA 1971; am §§ 1 — 3 ch 86 SLA 1971; am §§ 1, 2 ch 71 SLA 1972; am § 4 ch 71 SLA 1972; am § 1 ch 47 SLA 1973; am §§ 9 — 14 ch 66 SLA 1973; am §§ 2, 3 ch 77 SLA 1973; am §§ 4 — 6, 14 ch 173 SLA 1975)

**Revisor's note (1971).** — Regarding the conflict between (c)(1) and (f) (the latter of which was added by § 4, ch. 86, SLA 1971), see the SB 39 free conference committee's "letter of intent" at page 712 of the 1971 Senate Journal. Also, compare the definition of "average base salary" in AS 14.25.220(22), added by § 8, ch. 86, SLA 1971.

In § 3, ch. 86, SLA 1971, subsection (g) was incorrectly designated subsection (f).

**Effect of amendments.** — The first 1971 amendment, in subsection (c)(1), deleted "at least" preceding "either 60 years of age," substituted "older or has" for "55 years of age with" and substituted "eight" for "10"

The second 1971 amendment, inserted "or completed 30 years of creditable service" near the beginning of subsection (c)(4), substituted "two per cent" for "one and one-half per cent" in the second sentence of subsection (c)(8) and added subsection (g).

The first 1972 amendment, in subsection (g), substituted "\$375" for "\$300" in the first sentence, inserted "based on a minimum sum of \$15 a month for each year of creditable service" in that sentence, and substituted "\$15" for "\$12" in the second sentence. The amendment also added subsections (h) and (i).

The second 1972 amendment substituted

"during any three of the last eight years of membership service" in paragraph (1) of subsection (c).

The first 1973 amendment deleted "of not less than \$375 a month" preceding "based on a minimum sum" in the first sentence of subsection (g).

The second 1973 amendment, inserted "and who has satisfactorily shown his eligibility as provided in § 110 of this chapter" near the beginning of subsection (a), substituted "eligible for normal retirement as of" for "either 60 years of age or older or has 30 years of creditable service on" and the language beginning "during any three" and ending "years of creditable service" for "as defined in (f) of this section, multiplied by the total number of years of creditable service" in paragraph (1) of subsection (c), inserted "on" near the beginning of that paragraph, substituted the language beginning "is not eligible" and ending "§ 110(a) and (b) of this chapter" for "has not attained the age of 60 or completed 30 years of creditable service" and "his" for "the" in paragraph (4) of that subsection, inserted "is the amount," "the" preceding "date of filing," "years," and "years of age" in that paragraph, deleted "shall be" preceding "reduced" and "annually" following "reduced" in that paragraph, substituted "a" for "the" in the first sentence of paragraph (8) of that subsection, inserted "following retirement" in that sentence, "teacher's" in the second sentence of that paragraph, and "years" in the third sentence of that

paragraph, repealed subsections (e) and (f), deleted "of not less than \$375 a month" following "service retirement salary" in the first sentence of subsection (g), and substituted "per" for "a" in that sentence and in the second sentence of that subsection.

The 1975 amendment, effective June 30, 1975, substituted "55" for "60" three times in paragraph (4) of subsection (c), twice in the third sentence of paragraph (8) of that subsection, and in subsection (d). The amendment also substituted "\$20" for "\$15" in the first and second sentences of subsection (g).

**Editor's note.** — The Retirement Act of 1945 was §§ 37-5-21 — 37-5-35 ACLA 1949, as amended by ch. 29, SLA 1951 and ch. 143, SLA 1953. It was repealed by ch. 145, SLA 1955.

Section 9, ch. 86, SLA 1971, effective July 1, 1971, provides: "Sec. 2 of this Act is retrospective to July 1, 1970"

**Legislative committee reports.** — For report on ch. 85, SLA 1971 (FCCS SB 39), see 1971 Senate Journal, p. 712. For report on ch. 44, SLA 1972 (HCSSB 290), see 1972 House Journal, p. 881. For report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 898.

**ALR references.** — Services included in computing period of services for purpose of teacher's retirement benefits, 2 ALR2d 1033.

What constitutes "salary," "wages," "pay," or the like, within pension law basing benefits thereon, 14 ALR2d 634.

**Sec. 14.25.130. Eligibility for disability retirement.** (a) A teacher in membership service who has become permanently disabled, as defined in § 220 of this chapter, before age 55 and who has had five or more membership years may be retired by the administrator as of the first day of the month following the permanent disability. The administrator, after a report of medical examination of the teacher and other information the administrator may request has been submitted, shall certify that the teacher is physically or mentally incapacitated for the further performance of duty, and that the incapacity is likely to be permanent and that the teacher should be retired.

(b) A teacher retired because of disability under this section who subsequently recovers from the disability is not entitled to any disability retirement salary from the first day of the month following recovery.

(c) Once each year during the first five years following retirement of a teacher for disability under this section, and once in a three-year

the age of 65 years to undergo a medical or mental examination by a competent physician or psychiatrist. The administrator shall suspend any disability retirement allowance for a teacher who refuses to undergo a physical or mental examination when requested by the administrator under this section. (§ 14 ch 145 SLA 1955; am § 12 ch 89 SLA 1960; am § 5 ch 86 SLA 1963; am § 8 ch 151 SLA 1966; am § 15 ch 66 SLA 1973; am § 7 ch 173 SLA 1975)

**Effect of amendments.** — The 1973 amendment, in subsection (a), inserted "as defined in § 220 of this chapter" in the first sentence and "and other information the administrator may request" in the second sentence.

The 1975 amendment, effective June 30, 1975, substituted "age 55" for "age 60" in the first sentence of subsection (a).

"Permanent disability" is the permanent inability to perform a specific function. 1960 Op. Att'y Gen., No. 23.

It is not "total disability." 1960 Op. Att'y Gen., No. 23.

**Conditions for disability salary.** — The language of this section indicates that the conditions for a disability salary are a permanent disability resulting in physical or mental incapacity for the further performance of duty. 1960 Op. Att'y Gen., No. 23.

**For limitations on gainful employment of a teacher receiving a disability retirement annuity under this section, see 1960 Op. Att'y Gen., No. 23.**

**Sec. 14.25.135. Deferred retirement benefit.** (a) A teacher is eligible for a deferred benefit if:

(1) he terminates his employment on or after the date on which his attained age and credited service total at least 70 years;

(2) he has completed at least 15 years of creditable service, the last five years of which have been in membership service; and

(3) he does not withdraw his contributions to the retirement fund.

(b) Payment of the deferred benefit shall begin on the first day of the month coinciding with or following the teacher's 55th birthday or the first day of the month in which his application for deferred benefit is filed with the administrator, whichever is later. The last payment shall be made as of the first day of the month in which the death of the retired teacher occurs.

(c) The monthly amount of a normal deferred benefit shall be determined in accordance with § 120 of this chapter as it is in effect on the date of his termination of employment, considering the teacher's credited service and compensation before his termination of employment. If his benefit begins before his normal retirement date, the benefit shall be reduced to the actuarial equivalent.

(d) A teacher is not entitled to a deferred benefit unless an application for it is filed with the administrator on or after the teacher reaches his early retirement date and before he attains his 70th birthday. If the application is received after his 55th birthday but on or before his 70th birthday, no retroactive payment may be made for the months preceding

**Effect of amendments.** — The 1971 amendment, in subsection (a)(2), deleted "of which" following "creditable service" and substituted "eight years of which" for "10 years."

The 1975 amendment, effective June 30, 1975, substituted "on" for "in" and "70 years" for "75 years" in paragraph (1) of subsection (a), "the last five years" for "at

least eight years" in paragraph (2) of that subsection, and "55th" for "60th" in the first sentence of subsection (b) and in the second sentence of subsection (d), added the second sentence of subsection (c), and substituted "on or after the teacher reaches his early retirement date and before he attains" for "not later than" in the first sentence of subsection (d).

**Sec. 14.25.137. Deferred vested retirement benefit.** (a) A teacher is eligible for a deferred vested benefit if

(1) he terminates his employment after completing eight years of membership service; and

(2) he does not withdraw his contributions to the retirement fund.

(b) Payment of the deferred vested retirement benefit shall begin on the first day of the month coinciding with or next following the teacher's 55th birthday or the first day of the month in which his application for deferred vested benefit is filed with the administrator, whichever is later. The last payment shall be made as of the first day of the month in which the death of the teacher occurs.

(c) The monthly amount of the deferred vested benefit shall be determined in accordance with § 120 of this chapter as it is in effect on the date of the teacher's termination of his employment, considering the teacher's credited service and compensation before his termination of employment. If his benefit begins before his normal retirement date, the benefit shall be reduced to the actuarial equivalent.

(d) An application for deferred vested benefit shall not be considered unless application is made on or after the teacher reaches his early retirement date and before he attains his 70th birthday. (§ 1 ch 38 SLA 1965, am § 1 ch 218 SLA 1968; am § 6 ch 85 SLA 1971; am § 4 ch 86 SLA 1971; am § 9 ch 173 SLA 1975)

**Effect of amendments.** — The first 1971 amendment substituted "eight" for "10" in subsection (a)(1).

The second 1971 amendment also substituted "eight" for "10" in subsection (a)(1).

The 1975 amendment, effective June 30, 1975, substituted "55th" for "60th" in the

first sentence of subsection (b), added the second sentence of subsection (c) and substituted "on or after the teacher reaches his early retirement date and before he attains his" for "not more than six months before the teacher's 60th birthday and not later than the teacher's" in subsection (d).

**Sec. 14.25.138. Notification of intention to retire.** A teacher who will be eligible for a deferred benefit under § 135 of this chapter or a deferred vested benefit under § 137 of this chapter shall notify the administrator of his intention to retire. The administrator shall prescribe forms for the notification. (§ 1 ch 38 SLA 1965)

applied for disability retirement salary shall receive from the retirement fund, during each year subsequent to the date of application and certification by the administrator under § 130 of this chapter, a disability retirement salary payable on the first day of each month, beginning the month following the disability.

(b) The payment made on the first day of the month in which the disabled teacher recovers from his disability, dies or attains age 55 constitutes the last payment.

(c) The amount of the disability retirement shall be equal to 50 per cent of the teacher's base salary immediately before his becoming disabled. The disability retirement salary shall be increased by 10 per cent of the teacher's base salary at the date of disability for each minor child, up to a maximum of four minor children, until the first day of the month in which the child ceases to be a minor child or the disability retirement salary terminates, whichever occurs first. (§ 15 ch 145 SLA 1955; am § 5 ch 142 SLA 1957; am § 2 ch 57 SLA 1955; am § 9 ch 151 SLA 1966; am §§ 16, 17 ch 66 SLA 1973; am § 10 ch 173 SLA 1975)

Revisor's note. — See Revisor's note to AS 14.25.120.

Effect of amendments. — The 1973 amendment substituted "during each year" for "for each school year" in subsection (a), inserted "and certification by the administrator under § 130 of this chapter" in that subsection, substituted "the

teacher's" for "his" in the first sentence of subsection (c), and inserted "of the teacher's base salary at the date of disability" in the second sentence of that subsection.

The 1975 amendment, effective June 30, 1975, substituted "age 55" for "age 60" in subsection (b).

Sec. 14.25.142. Cost of living allowance. (a) A teacher who resides in the state after his retirement shall receive a cost of living allowance in addition to his retirement salary. The amount of this allowance is determined by multiplying the teacher's retirement salary by a percentage determined by the administrator not to exceed 10 per cent of the retirement salary. The administrator shall implement this section by regulations.

(b) Repealed by § 18 ch 66 SLA 1973. (§ 10 ch 151 SLA 1966; am § 18 ch 66 SLA 1973)

Effect of amendment. — The 1973 amendment repealed subsection (b).

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, he may increase all service retirement and survivor's benefits salaries to reflect this cost of living increase.

(b) The amount of the increase shall be not more than four per cent compounded for each year of retirement. Increases accrue from the first

of July next following the effective date of retirement and shall be paid beginning the first of July of each year.

(c) The administrator is authorized to implement this section by regulation. (§ 11 ch 151 SLA 1966; am § 5 ch 86 SLA 1971; am § 19 ch 66 SLA 1973; am § 3 ch 99 SLA 1974)

Effect of amendments. — The 1971 amendment inserted "compounded" in the first sentence of subsection (b).

The 1973 amendment substituted "all service retirement and survivor's benefits salaries" for "the pension payments" in subsection (a).

The 1974 amendment substituted "not more than four per cent" for "equal to not more than one and one-half per cent" in the first sentence of subsection (b).

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 regulation for that year. (§ 16 ch 145 SLA 1955; am § 6 ch 142 SLA 1957; am § 4 ch 78 SLA 1962; am § 7 ch 138 SLA 1970; am § 20 ch 66 SLA 1973)

Effect of amendment. — The 1973 amendment deleted the former first sentence and substituted "Interest" for "Thereafter, interest" and "each" for "a" in the present first sentence.

Editor's note. — Section 8, ch. 138, SLA 1970, effective July 1, 1970, provides: "Sec. 7 of this Act is retrospective in nature."

Sec. 14.25.150. Payment on withdrawal from system. A teacher leaving membership service is entitled to a refund of his contributions exclusive of his supplemental contributions to the retirement fund as follows:

(1) A teacher leaving membership service shall receive his total accumulated contributions plus interest credited to his individual contribution account, less any amounts owing to the retirement fund because of previous withdrawals.

(2) Repealed by § 22 ch 66 SLA 1973.

(3) If a teacher who has received a refund of contributions is re-employed in membership service, he is, upon his re-employment, indebted to the retirement fund in the amount of the refund, including interest paid him. This indebtedness to the retirement fund shall bear compound interest at the rate prescribed by regulation beginning July 1 following the date of re-employment to the date of repayment or the date of retirement of the teacher, whichever occurs first.

(4) A teacher who has received a refund under the Retirement Act of 1945 is not entitled to any further refunds of the nonrevertible portion of his contribution.

(5) A teacher who has forfeited his claim to any refund under the provisions of the Retirement Act of 1945 because of failure to file a

(6) A teacher's nonrevertible contributions shall apply and be credited to the teacher's account if the teacher resumes membership service and becomes eligible for a retirement salary.

(7) All claims for refund as provided by this section must be by written application. A teacher who has previously forfeited his claim to a refund under the provisions of former legislation because of failure to file a timely application is entitled to a refund upon submitting a written application. (§ 16 ch 145 SLA 1955; am § 6 ch 142 SLA 1957; am § 4 ch 78 SLA 1962; am § 7 ch 86 SLA 1963; am § 12 ch 151 SLA 1966; am § 5 ch 84 SLA 1969; am §§ 21-23 ch 66 SLA 1973)

**Revisor's note.** — The Retirement Act of 1945 referred to in (4) of this section became §§ 37-5-21 — 37-5-35 ASLA 1949 and was repealed by ch. 145 SLA 1955.

**Effect of amendment.** — The 1973 amendment substituted "A teacher leaving membership service" for "If a teacher has not been in membership service for more than two years, he" in paragraph (1),

inserted "plus interest credited to his individual contribution account" in that paragraph, repealed paragraph (2), substituted "is, upon his re-employment" for "becomes" in the first sentence of paragraph (3), and deleted "if any, increased by the amount, if any, deducted for administrative expenses" at the end of that sentence.

**Sec. 14.25.160. Payment upon death of teacher.** (a) Upon receipt of a valid claim and proper proof of the death of a member who has not ever made a supplemental contribution or whose supplemental contributions were made for less than one year and who is entitled to a refund of contributions, a payment, in the amount specified in this section shall be paid to a person he has nominated by written designation executed and filed with the administrator. If the member failed to designate a beneficiary, or if no designated beneficiary survives the member, the payment shall be made (1) to his surviving spouse or, if there is none surviving, (2) to his surviving children in equal parts or, if there is none surviving, (3) to his surviving parents in equal parts or, if there is none surviving, (4) to his estate.

(b) If a teacher is in membership service at the time of death and has not received any retirement salary, the amount of the payment is the sum of (1) his accumulated contributions as determined under §§ 145 and 150 of this chapter, and (2) \$1,000, plus \$100 multiplied by the number of completed school years of membership service, plus an additional sum of \$500 if the deceased teacher is survived by one or more minor children at the time of his death. However, in no case may the amount payable under (b) (2) of this section exceed \$3,000.

(c) If a teacher has received retirement salary at the time of death, the payment is limited to the amount of his accumulated contributions, plus all interest credited to his account to the date of retirement, less all retirement salary paid the deceased teacher. However, if a teacher dies within one year after the effective date of disability retirement referred to in § 130 of this chapter, the payment on death is the amount

specified in (b) of this section, less the amount of any retirement salary previously paid the deceased teacher.

(d) If a teacher at the time of death is not in membership service and is entitled to a return of his contributions, the accumulated contributions as specified in §§ 145 and 150 of this chapter shall be paid to his designated beneficiary or estate. Further, if a teacher dies within one year after leaving membership service, and is entitled to a return of his contributions and has not received such return on all service, and has not filed a claim for disability retirement, but would have been eligible for disability retirement if claim had been filed, the designated beneficiary or estate is in addition entitled to the payment specified in (b) (2) of this section.

(e) If a teacher receives a refund under this section, it is in lieu of any other benefit under this system. (§ 17 ch 145 SLA 1955; am § 7 ch 142 SLA 1957; am § 13 ch 89 SLA 1960; am § 5 ch 78 SLA 1962; am §§ 13 — 15 ch 151 SLA 1966; am § 6 ch 84 SLA 1969)

**Sec. 14.25.162. Survivor's allowance.** (a) If a teacher dies while in membership service or while receiving a disability retirement salary or after normal retirement and leaves a minor child, his surviving spouse is entitled to a survivor's allowance if the teacher has made a supplemental contribution for at least one year before his death, but if a guardian has been appointed for a minor child, the guardian is entitled to the allowance. A minor child who has neither a surviving parent nor a guardian is entitled to the allowance. If a minor child who is at least 19 years old but less than 23 years old is out of school for more than one semester, payments of his benefits terminate permanently. A teacher's child who is totally and permanently disabled before he is 19 years old, if he is attending school and becomes totally and permanently disabled before he is 23 years old, and who is financially dependent on the teacher at the time of the teacher's death is entitled to the benefits under this section until he dies or is no longer totally and permanently disabled. Application for the survivor's allowance shall be made in writing to the administrator.

(b) The amount of the survivor's allowance shall be equal to either (1) 10 per cent of the teacher's base salary immediately before his death or after normal retirement or becoming disabled for each minor child, or (2) 40 per cent of the base salary, whichever is less. In addition, an allowance of 35 per cent of the teacher's base salary shall be paid to his spouse if the spouse is entitled to the survivor's allowance and is not remarried, and an allowance of 10 per cent of the base salary shall be paid to a guardian entitled to the survivor's allowance. Neither the remarriage of a surviving spouse nor the adoption of a minor child by a new spouse of a surviving spouse will bar the minor child from

additional allowance, shall be paid according to the number of minor children assigned to each guardian.

(c) The survivor allowance is payable on the first day of each month, beginning the month following the death of a teacher. The survivor allowance shall be recomputed on the first day of the month in which the number of minor children is less than four and the pension shall be decreased accordingly. The payment on the first day of the month in which the last minor child ceases to be a minor or dies constitutes the last payment.

(d) In the event of termination of the survivor's allowance and in the absence of a spouse who has or will be eligible for a spouse's pension, a payment of the amount of the teacher's accumulated contributions, plus all interest credited to his account to the date of death or retirement, whichever occurs first, plus an amount equal to 75 per cent of the payment that would have been made on the death of a teacher under § 160(b) (2) of this chapter will be made if the teacher has had less than 20 years of membership service or 100 per cent of the payment that would have been made on the death of the teacher under § 160(b) (2) of this chapter if the teacher has completed 20 or more years of membership service, less all payments to the teacher, spouse, guardian or minor children shall be made to the person he has nominated by written designation executed and filed with the administrator. If the member failed to designate a beneficiary, or if no designated beneficiary survives the member, the payment shall be made (1) to his surviving spouse, or, if there is none surviving, (2) to his surviving children in equal parts, or, if there is none surviving, (3) to his surviving parents in equal parts or, if there is none surviving, (4) to his estate. This payment shall be on the same terms and conditions as a payment made on the death of a teacher.

(e) A person entitled to the survivor's allowance under this section and who resides in the state after the death of the teacher shall receive a cost of living allowance in addition to his survivor's allowance. The amount of this allowance shall be the amount determined by the administrator under § 142 of this chapter. The administrator may implement this subsection by regulations.

(f) When the administrator determines that the cost of living has increased and that the financial condition of the retirement fund permits, he may increase the survivor's allowance to reflect this cost of living increase. The amount of the increase shall be the amount determined by the administrator under § 143 of this chapter. Increases accrue from the first of July next following the death of the teacher and shall be paid beginning the first of July of each year. The administrator is authorized to implement this subsection by regulation. (§ 16 ch 151 SLA 1966; am

Effect of amendments. — The 1971 amendment substituted "parent" for "spouse" in the second sentence of subsection (a).

The 1972 amendment added the fourth sentence in subsection (a).

The 1973 amendment rewrote the second sentence of subsection (e), deleted the fourth sentence of that subsection, and

substituted "the amount determined by the administrator under § 143 of this chapter" for "equal to not more than one and one-half per cent for each year after the death of the teacher" at the end of the second sentence of subsection (f).

Legislative committee report. — For report on ch. 32, SLA 1971 (HB 111 am), see 1971 House Journal, p. 138.

**Sec. 14.25.164. Spouse's pension.** (a) If a teacher dies while in membership service or while receiving a service or disability retirement salary, or is receiving or is entitled to receive a deferred or a deferred vested benefit, the surviving spouse is entitled to a spouse's pension if he or she has not remarried and if the teacher has made supplemental contribution for at least one year before his death. Application for the spouse's pension shall be made in writing to the administrator.

(b) The spouse's pension is payable on the first day of each month, commencing with the first day of the month coinciding with or next following the month in which the spouse attains age 55, unless the spouse is totally and permanently disabled, as defined in § 220 of this chapter, before age 55. If the spouse is totally and permanently disabled from engaging in a regular remunerative occupation or employment, the spouse's pension shall commence on the first of the month coinciding with or next following the teacher's death, or the date of disability, whichever is later. If the spouse ceases to be totally and permanently disabled before age 55, the pension shall be suspended until the spouse again becomes eligible for the pension because of age. The payment on the first day of the month in which the spouse dies or remarries constitutes the last payment.

(c) The amount of the spouse's pension shall be equal to 50 per cent of the service retirement salary that the deceased teacher was receiving, or would have received, based on his base salary and creditable service to the date of his death and assuming that he would have been eligible for a service retirement salary as of that date.

(d) In the event of the death of a teacher's spouse before the time the total payments to the teacher, spouse, guardian or minor children have not been at least equal to the amount of his accumulated contributions, plus all interest credited to his account to the date of death or retirement, whichever occurs first, a payment equal to the difference shall be made to the spouse's estate or to a person the spouse has nominated by written designation executed and filed with the administrator. This payment shall be on the same terms and conditions as a payment upon death of a teacher.

(e) A person entitled to the spouse's pension under this section and

under § 142 of this chapter. The administrator may implement this subsection by regulation.

(f) When the administrator determines that the cost of living has increased and that the financial condition of the retirement fund permits, he may increase the spouse's pension to reflect this cost of living increase. The amount of the increase shall be determined by the administrator under § 143 of this chapter. Increases accrue from the first of July next following the death of the teacher and shall be paid beginning the first of July of each year. The administrator is authorized to implement this subsection by regulation. (§ 17 ch 151 SLA 1966; am §§ 10—12 ch 84 SLA 1969; am § 19 ch 69 SLA 1970; am §§ 26-28 ch 66 SLA 1973; am § 11 ch 173 SLA 1975)

**Effect of amendments.** — The 1973 amendment inserted "as defined in § 220 of this chapter" in the first sentence of subsection (b), rewrote the second sentence of subsection (c), deleted the fourth sentence of that subsection, and substituted "determined by the administrator under § 143 of this chapter" for "equal to not more than one and one-half per cent for each year after the death

of the teacher" at the end of the second sentence of subsection (f).

The 1975 amendment, effective June 30, 1975, in subsection (b), substituted "age 55" for "age 60" twice in the first sentence and once in the third sentence.

**Legislative committee report.** — For report on ch. 69, SLA 1970 (HB 564), see 1970 House Journal Supplement No. 2, p. 7.

**Sec. 14.25.168. Medical benefits.** Each person who is entitled to receive a monthly benefit from the retirement system shall be provided with major medical insurance coverage. Coverage shall become effective on the same date as retirement benefits commence and cease when the retired employee or survivor is no longer eligible to receive a monthly benefit. The level of coverage for persons over age 65 shall be the same as that available prior to reaching age 65 except that the benefits payable shall be supplemental to those afforded under the federal Old Age Survivor and Disability Insurance Program, if any. (§ 18 ch 151 SLA 1966; am § 1 ch 200 SLA 1975)

**Effect of amendment.** — The 1975 amendment, effective July 1, 1975, rewrote this section.

**Legislative committee report.** — For report on ch. 200, SLA 1975 (HCSSB 195 am H), see 1975 Senate Journal, p. 695.

**Sec. 14.25.169. Duplicate benefits.** If payments from this retirement system are due to a teacher or his spouse under more than one provision of this plan, the teacher or spouse shall elect under which provision and which benefit he wishes to receive and no payments may be made under any other provision. However, benefits under §§ 162 and 164 of this chapter shall be paid to a surviving spouse in addition to those benefits he is entitled to receive because of his own membership in the retirement system. (§ 19 ch 151 SLA 1966; am § 2 ch 184 SLA 1972)

**Sec. 14.25.170. Administration.** The commissioner of administration is responsible for the administration of the retirement system and for making the provisions of this chapter effective and his powers and duties for this purpose include but are not limited to

- (1) maintaining the accounts of the system;
- (2) making payments for the various purposes specified;
- (3) submitting such periodic reports or statements of account as may be required;
- (4) prescribing by regulation the rate of interest that shall be credited to the individual contribution accounts of teachers each year; the rate of interest shall be adopted on the basis of the probable effective rate of interest on a long-term basis, and the rate may be changed from time to time by subsequent regulation. (§ 14 ch 89 SLA 1960; am § 6 ch 78 SLA 1962)

**Sec. 14.25.180. Custody and investment.** (a) The commissioner of revenue is the treasurer of the system and has powers and duties for this purpose including but not limited to the following:

- (1) to act as official custodian of the cash and securities belonging to the system and provide adequate safe deposit facilities for them;
- (2) to receive all items of cash belonging to the system;
- (3) to collect the interest and principal on securities acquired by the system and deposit the interest and principal in the retirement fund;
- (4) to invest and reinvest the assets of the retirement fund in accordance with this section.

(b) When, in the opinion of the commissioner of administration, there is on hand in the retirement fund a surplus over and above a reasonably safe amount to take care of current demands upon the fund, the surplus or so much of it as in the judgment of the commissioner of administration is considered proper may be invested by the commissioner of revenue in (1) bonds or other interest-bearing obligations and securities of the United States or an agency of the United States, a state of the United States, or a political subdivision of any state of the United States, if the political subdivision has a population as shown by the last federal census preceding the investment of no less than 30,000 inhabitants, except no population limitation applies to a political subdivision of this state; (2) first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States, or held by the Department of Commerce, or the Department of Natural Resources; (3) corporation bonds, and preferred and common stocks as the commissioner of revenue considers proper investments for the funds; (4) shares of federally chartered savings and loan associations in Alaska, to the extent that the investment is insured by the federal government or by an agency of the federal government; (5) deposits with mutual savings banks in Alaska, to the extent that the investment is

extent that the investment is insured by the federal government or an agency of the federal government; (7) loans guaranteed by the division of veterans' affairs under AS 26.15.040(b); (8) [deleted] (9) the guaranteed portion of Small Business Administration loans; (10) first lien real estate mortgages guaranteed by the federal Veterans Administration; (11) notes secured by mortgages of commercial or residential real estate or other security if the mortgages are insured by a corporation which is authorized to do business in Alaska and has combined capital, surplus and reserves aggregating at least \$20,000,000; (12) conventional residential mortgages if the originating financial institution retains at least 25 per cent of the mortgage for a minimum of two years; (13) notes secured by mortgages of commercial real estate if the originating financial institution retains at least 25 per cent of the mortgage; (14) FHA guaranteed portion of business and industrial loans made under the Rural Development Act of 1972; (15) guaranteed portion of loans made under the Federal Ship Financing Act of 1972. No more than 25 per cent of the surplus may be invested in mortgage securities of the Department of Commerce, and the state shall appropriate sufficient money from the general fund to reimburse the teacher's retirement system for any losses incurred as a result of failure of the obligors to pay on the notes. No more than \$400,000 of the surplus may be invested annually in the mortgage securities of the Department of Natural Resources, and the state shall appropriate sufficient money from the general fund to reimburse the teachers' retirement system for any losses incurred as a result of failure of the obligors to pay on the notes.

(c) In making investments the commissioner of revenue shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital. However, no more than 50 per cent of the retirement fund may be invested at any given time in corporate stocks and bonds, nor may more than five per cent of the voting stock of any corporation be owned. Stocks eligible for purchase are restricted to stocks which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Federal Securities and Exchange Commission.

(d) Except as provided above, the commissioner of revenue may:

(1) invest and reinvest the principal and income of the retirement fund without distinction between principal and income;

(2) sell, exchange, convey, transfer or otherwise dispose of any investment of the retirement fund held in the name of the system by private contract or at public auction;

exercise conversion privileges, subscription rights or other options and make payments incidental thereto; consent to or otherwise participate in corporate reorganizations or other changes affecting corporate securities and delegate discretionary powers and pay assessments or charges in connection therewith; and generally exercise the powers of an owner with respect to stocks, bonds, securities or other investments held in the retirement fund;

(4) make, execute, acknowledge and deliver documents of transfer and conveyance and other instruments necessary or appropriate to carry out the powers granted in this subsection;

(5) register investments in the name of the system;

(6) do all acts whether or not expressly authorized which he considers necessary or proper for the protection of the investments held in the retirement fund.

(e) To qualify as a mortgage which may be purchased under (b) (12) and (13) of this section, the mortgage must

(1) have as a mortgagor an Alaska resident,

(2) be certified by the originating financial institution that the loan being sold has been made in compliance with the law and that liens supporting the loan have been perfected;

(3) have been closed after April 16, 1974, and no loan may be eligible for purchase that is held by the originating institution for a period greater than 90 days.

(f) When more than one-half of one per cent of the aggregate of all loans purchased from a financial institution becomes delinquent for 60 days, the pension fund shall discontinue purchasing loans from that financial institution until the delinquency is reduced to less than one-half of one per cent. (§ 19 ch 145 SLA 1955; am § 15 ch 89 SLA 1960; am § 1 ch 128 SLA 1961; am § 1 ch 90 SLA 1962; am § 3 ch 4 SLA 1964; am §§ 1, 2 ch 66 SLA 1964; am § 1 ch 110 SLA 1964; am § 1 ch 55 SLA 1967; am § 3 ch 73 SLA 1969; am §§ 1, 2 ch 17 SLA 1970; am § 1 ch 112 SLA 1972; am § 26 ch 53 SLA 1973; am §§ 1, 2 ch 25 SLA 1974)

**Effect of amendments.** — The 1972 amendments substituted "and (9) the guaranteed portion of Small Business Administration loans" for "and (8) mutual funds" at the end of the first sentence in subsection (b).

The 1973 amendment, in subsection (c), deleted "mutual funds and" preceding "corporate stocks" in the second sentence, inserted "and" in the third sentence, and deleted "and shares in mutual funds" following "insurance stocks" in that sentence.

The 1974 amendment deleted item (8) and added items (10) — (15) in the first sentence of subsection (b) and added subsections (e) and (f).

**Legislative committee reports.** — For report on ch. 73, SLA 1969 (CSHB 278 am), see 1969 House Journal, p. 745. For report on ch. 53, SLA 1973 (CSHB 382), see 1973 House Journal, pp. 793, 885. For report on ch. 25, SLA 1974 (CSHB 253 [Jud] am S), see 1974 House Journal, p. 481.

of not more than five years and on the basis of the reevaluations the administrator may recommend any necessary readjustment to the legislature. Actuarial and financial experience analyses shall be prepared and certified by a member of the American Academy of Actuaries. (§ 21 ch 145 SLA 1955; am § 16 ch 89 SLA 1960; am § 29 ch 66 SLA 1973)

**Effect of amendment.** — The 1973 amendment added the second sentence.

**Sec. 14.25.200. Exemption from taxation and process.** Teachers' retirement salaries and other amounts held in the retirement fund on behalf of the teachers are exempt from state and municipal taxes and are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution or levy of any kind, either voluntary or involuntary before they are received by the person entitled to the amount under the terms of the system, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any right to amounts accrued in the retirement fund shall be void. (§ 22 ch 145 SLA 1955; am § 17 ch 89 SLA 1960; am § 13 ch 84 SLA 1969)

**Cross reference.** — As to other property exempt from execution, see AS 09.35.080.

**Sec. 14.25.205. Time limit for application.** If no application for benefits or for refund has been filed by July 1 following the date on which the member would attain age 75, no benefits or refunds may be paid under this chapter and the member's records may be destroyed. (§ 14 ch 84 SLA 1969)

**Sec. 14.25.210. Penalty for false statements.** A person who wilfully or knowingly makes a false statement, or falsifies or permits to be falsified any record of the retirement system, is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than \$500 or by imprisonment for not more than six months, or by both, and forfeits all rights under this chapter. (§ 20 ch 145 SLA 1955)

**Sec. 14.25.220. Definition of terms.** In this chapter unless the context otherwise requires

(1) "administrator" means the Department of Administration;

(2) "base salary" or "basic salary" means any remuneration accrued under a contract to a teacher for professional services rendered during any school year; for purposes of § 50 of this chapter, base salary accrued includes any payments made after June 30 of a school year for services

(3) "creditable service" means outside and Bureau of Indian Affairs (BIA) service not exceeding 15 years, with outside service limited to 10 years, plus all membership service as provided in (5) of this section;

(4) "employer" means a public school district, the Board of Regents of the University of Alaska, or the Department of Education,

(5) "membership service" means service as a teacher in a public school within the Territory or State of Alaska, or both, under the supervision and control of the Territorial Board of Education or the Department of Education, the school board of any city or borough school district, or the Board of Regents of the University of Alaska, or any period during which the teacher is on an approved sabbatical leave granted in accordance with AS 14.20.310 or is receiving a disability retirement salary;

(6) "military service" means service in the armed forces of the United States after January 1, 1940;

(7) "nonrevertible funds" means that portion of a teacher's contribution not subject to a refund;

(8) "outside service" means service as

(A) a full-time elementary or secondary teacher in out-of-state public schools; or

(B) a full-time elementary or secondary teacher in an out-of-state approved or accredited nonpublic school; or

(C) a full-time teacher in an institution of higher learning accredited by a nationally recognized accrediting agency;

(D) a full-time elementary or secondary teacher in an approved and accredited nonpublic school in Alaska.

(9) "retirement fund" means the fund consisting of all matching contributions by city school districts, money made available by appropriations of the state legislature, and from other appropriated funds, all contributions from whatever source, and income and interest derived from the investment of money;

(10) "retirement salary" means the money received by a retired teacher from the fund;

(11) "Retirement System of 1945" and "Retirement Fund of 1945," or like terms mean the system and fund established by §§ 37-5-21 — 37-5-35, ACLA 1949, as amended;

(12) "salary authorized" means that salary fixed by the State Board of Education and the Department of Education under law; or, if an employee of the Department of Education, University of Alaska, or a community college, the salary paid to the employee;

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

(14) "minor child" means a child or children of the member, including

obligated to support at the time of his death or under 23 years old and registered at and attending on a full-time basis an accredited educational or a technical institution recognized by the state Department of Education and whom the teacher, if living, is supporting or, if dead, was supporting at the time of his death;

(15) "teacher" or "member" means a certified teacher, certified school nurse, principal, supervisor, or superintendent employed on a full-time or a part-time basis in a position having duties which normally require a year of service in the public schools of the state, the commissioner of education, supervisors within the Department of Education, and all full-time resident professional and administrative personnel of the University of Alaska; in case of doubt, the administrator shall finally determine whether or not a person is a teacher as defined in this chapter;

(16) "year of service" means membership service during the dates set for a school term under AS 14.03.030; fractional credit shall be given for membership service after July 1, 1967, during any school year as follows: (A) less than nine days, no credit; (B) nine days or more but less than 27 days, 0.1 years; (C) 27 days or more but less than 45 days, 0.2 years; (D) 45 days or more but less than 63 days, 0.3 years; (E) 63 days or more but less than 81 days, 0.4 years; (F) 81 days or more but less than 100 days, 0.5 years; (G) 100 days or more but less than 118 days, 0.6 years; (H) 118 days or more but less than 136 days, 0.7 years; (I) 136 days or more but less than 154 days, 0.8 years; (J) 154 days or more but less than 172 days, 0.9 years; (K) 172 days or more, 1.0 years; if service is performed on a part-time basis, one-half credit shall be given for each day of service;

(17) "BIA service" means service as a teacher in a school operated by the Bureau of Indian Affairs in Alaska;

(18) "full-time teaching" means teaching on a regular basis for the normal and customary work period per day or week at a particular teaching assignment; excluding teaching on a substitute temporary or per diem basis;

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

(20) "nonpublic school" means a school established by an agency other than a state or its subdivisions which is primarily supported by other than public funds, and the operation of whose program rests with other than publicly elected or appointed officials, and which offers grades kindergarten through 12, or any combination of them, and is state approved or accredited;

(21) "part-time basis" means teaching on a regular basis for part of the normal and customary work period per day or week or month at a

(22) "average base salary" means the highest average base salary during any three of the last 10 years of membership service or the member's total period of membership service, whichever is less; the base salary in any school year for which the member receives less than two-thirds of a year of credit shall not be included in the determination of the average; if two-thirds or more of a year of service credit is granted, the full year's salary shall be included in the determination of the average.

(23) "normal retirement" means retirement after:

(A) completing at least 15 years of creditable service, the last five of which have been membership service, except that a member first hired after July 1, 1975 must have eight years of membership service, and attaining the age of 55 years; or

(B) completing at least eight years of membership service and attaining the age of 55 years; or

(C) completing at least 25 years of creditable service, the last five of which are membership service; or

(D) at least 20 years of membership service;

(24) "early retirement" means retirement after attaining the age of 50 years and completing either:

(A) at least 15 years of creditable service, the last five of which have been membership service, except that a member first hired after July 1, 1975 must have eight years of membership service, or

(B) at least eight years of membership service;

(25) "compulsory retirement" means involuntary retirement after attaining the age of 65 and completing either 15 years of creditable service, the last five of which have been membership service, or eight years of membership service, and failure of the teacher's employer to request that the teacher be retained;

(26) "permanent disability" means a physical or mental condition which, in the judgment of the administrator, based upon medical reports and other evidence satisfactory to the administrator, presumably prevents an employee from satisfactorily performing his usual duties for his employer or the duties of another position or job which an employer makes available and for which the employee is qualified by training or education. (§ 2 ch 145 SLA 1955; am § 1 ch 142 SLA 1957; am § 2 ch 89 SLA 1960; am § 7 ch 179 SLA 1960; am §§ 1,2 ch 78 SLA 1962; am §§ 8 — 12 ch 86 SLA 1963; am § 1 ch 111 SLA 1965; am §§ 20 — 22 ch 151 SLA 1966; am § 1 ch 76 SLA 1968; am §§ 15 — 19 ch 84 SLA 1969; am § 21 ch 46 SLA 1970; am §§ 13 — 18 ch 138 SLA 1970; am §§ 3 — 5 ch 229 SLA 1970; am §§ 16 — 18 ch 32 SLA 1971; am §§ 6 — 8 ch 86 SLA 1971; am §§ 30 — 33 ch 66 SLA 1973; am § 3 ch 57 SLA 1974; am § 21 ch 127 SLA 1974; am §§ 12, 13 ch 143 SLA 1975)

**Chapter 25. Retirement and Death Benefits.**

**Article**

1. Justices and Judges (§§ 22.25.010 — 22.25.090)

**Article 1. Justices and Judges.**

**Section**

- 10. Retirement of justices and judges
- 20. Retirement pay
- 30. Survivors' benefits
- 40. [Repealed]

**Section**

- 45. Appropriations
- 50 — 70. [Repealed]
- 80. Tax exemption
- 90. Medical benefits

**Sec. 22.25.010. Retirement of justices and judges.** (a) A justice or judge shall be retired on the date that he reaches the age of 70. He is eligible for retirement pay if he has had five or more years of service at the time of retirement as a justice or judge.

(b) A justice or judge may be retired for incapacity as provided by law. He is eligible for retirement pay if he has had two or more years of service at the time of retirement for incapacity. The effective date of retirement under this subsection is the first day of the month coinciding with or after the date upon which the governor with respect to a justice, or the supreme court with respect to a judge files with the commissioner of administration a written declaration to the effect that a designated justice or judge was retired for incapacity. A duplicate copy of the declaration shall be filed with the Judicial Council.

(c) A justice or judge who served for a period of five years, and who believes that he has become so incapacitated as to prevent him from efficiently performing his judicial duties may file with the governor a written application for retirement which contains a sworn statement of his service and of his incapacity. When an application is filed, the governor shall appoint a board of three persons to inquire into the circumstances, and may, upon the board's recommendation, retire the justice or judge. The effective date of the retirement shall be as provided in (b) of this section.

(d) A justice or judge may voluntarily retire at any time and shall have a vested right to his accrued retirement pay if he has served five or more years. Retirement pay shall not commence until he has reached age 60; except that an actuarially equivalent retirement pay may be commenced after he has reached age 55 or upon his serving 20 years as a justice or judge. The provisions of (b) of this section are an exception to this rule. A justice or judge desiring to retire under this subsection shall file with the governor a notice of his desire, together with a sworn statement of the facts establishing his eligibility to retire. The governor shall certify those facts to the commissioner of administration and declare, in writing, the eligibility or ineligibility for retirement of the justice or

of the governor is filed with the commissioner of administration. If a justice or judge is not eligible to receive retirement pay at the time of his retirement, his retirement pay shall commence on the first day of the month he reaches age 60 or the month he becomes eligible for an actuarial equivalent if he has applied for this option.

(e) Repealed by § 16 ch 83 SLA 1967, effective July 1, 1967.

(f) In the computation of service for retirement under §§ 10 — 70 of this chapter, the time served by a justice or judge of any court is added to the time served by him, if any, on any other court. All service rendered by a justice or judge, including service as a magistrate or deputy magistrate, before July 1, 1967 shall be included in the computation.

(g) The word "justice" means a supreme court justice, and the word "judge," unless the context clearly indicates otherwise, means a superior court or district court judge. (§ 1 ch 102 SLA 1963; am § 6 — 10, 16 ch 83 SLA 1967; am § 1 ch 160 SLA 1972; am § 2 ch 196 SLA 1976)

*Effect of amendments.* — The 1972 amendment in subsection (d), substituted "60" for "65" in the second sentence, substituted "55" for "60" in that sentence, and substituted "60" for "65" in the seventh sentence.

The 1976 amendment substituted "including service as a magistrate or

deputy magistrate, before July 1, 1967" for "before the effective date of §§ 10 — 70 of this chapter" in the second sentence of subsection (f).

*Legislative committee report.* — For report on ch. 83, SLA 1967 (HB 141), see 1967 House Journal, pp. 339-340.

**Sec. 22.25.020. Retirement pay.** A retired justice or judge eligible for retirement pay shall receive from the date of his eligibility until his death monthly compensation equal to five per cent per year of service, to a maximum of 75 per cent, of the monthly salary authorized for justices and judges, respectively, at the time each retirement payment is made. (§ 1 ch 102 SLA 1963; am § 11 ch 83 SLA 1967)

*Legislative committee report.* — For report on ch. 83, SLA 1967 (HB 141), see 1967 House Journal, pp. 339-340.

**Sec. 22.25.030. Survivors' benefits.** (i) Upon the death of a justice or judge who has served for at least two years, the surviving spouse is entitled to receive monthly compensation equal to one-half of the monthly retirement pay the justice or judge would thereafter have been entitled to receive if retired at the time of death. If at death the justice or judge was not yet entitled to retirement pay, or was or would have been entitled to less than 60 per cent of the monthly salary authorized for his office, the surviving spouse is entitled to monthly compensation equal to 30 per cent of the salary authorized for justices or judges, respectively, at the time each monthly payment is made.

(b) To be eligible for the survivors' benefits, the surviving spouse must have been married to the justice or judge for at least two years immediately preceding the death of the justice or judge. The benefits continue until the remarriage or death of the surviving spouse.

(c) If there is no surviving spouse, or if the surviving spouse does not meet the requirements of (b) of this section, or upon the remarriage or death of the surviving spouse, the surviving dependent child or children of the justice or judge are entitled to receive in equal shares 50 per cent of the amount of the survivors' benefits specified under (a) of this section.

(d) The surviving child or children are entitled to the survivors' benefits under (c) of this section during the period of their dependency. Dependency exists with respect to any child of a justice or judge who is either (1) a minor under the laws of Alaska, (2) under the age of 23 and is a student attending on a full-time basis an accredited educational or technical institution recognized by the state Department of Education, or (3) so mentally or physically incapacitated as to be unable to provide for self care.

(e) If there are both an eligible surviving spouse and surviving dependent children, but who reside in separate households, the surviving spouse and dependent children will share equally in the benefits payable under (a) of this section. (§ 1 ch 102 SLA 1963; am § 12 ch 83 SLA 1967; am § 2 ch 160 SLA 1972)

**Effect of amendment.**

The 1972 amendment rewrote this section.

**Legislative committee report.** — For report on ch. 83, SLA 1967 (HB 141), see 1967 House Journal, pp. 339-240.

**Sec. 22.25.040. Refund of contributions.**

Repealed by § 16 ch 83 SLA 1967.

**Editor's note.** — The repealed section derived from § 1, ch. 102, SLA 1963.

**Legislative committee report.** — For report on ch. 83, SLA 1967 (HB 141), see 1967 House Journal, pp. 339-340.

**Sec. 22.25.045. Appropriations.** An estimated amount sufficient to pay all benefits anticipated to be paid under this chapter in each fiscal year shall be included in the annual appropriation for the state court system. If the actual authorized benefits necessary to be paid in any fiscal year exceed the sum appropriated, the benefits due shall nevertheless be paid from general funds of the state not otherwise appropriated. (§ 13 ch. 83 SLA 1967)

**Legislative committee report.** — For

**Sec. 22.25.050. Financing and administration.**

Repealed by § 13 ch 83 SLA 1967

**Editor's note.** — The repealed section derived from § 1, ch. 102, SLA 1963.

**Legislative committee report.** — For report on ch. 83, SLA 1967 (HB 141), see 1967 House Journal, pp. 339-340.

**Sec. 22.25.060. Contributions.**

Repealed by § 16 ch 83 SLA 1967.

**Editor's note.** — The repealed section derived from § 1, ch. 102, SLA 1963.

**Legislative committee report.** — For report on ch. 83, SLA 1967 (HB 141), see 1967 House Journal, pp. 339-340.

**Sec. 22.25.070. Transfer of contributions.**

Repealed by § 16 ch 83 SLA 1967.

**Editor's note.** — The repealed section derived from § 1, ch. 102, SLA 1963.

**Legislative committee report.** — For report on ch. 83, SLA 1967 (HB 141), see 1967 House Journal, pp. 339-340.

**Sec. 22.25.080. Tax exemption.** Benefits paid under this chapter are exempt from state and municipal income taxes. (§ 4 ch 160 SLA 1972)

**Sec. 22.25.090. Medical benefits.** Each person who is entitled to receive a monthly benefit from the retirement system under this chapter shall be provided with major medical insurance coverage. Coverage shall become effective on the same date as retirement benefits commence and cease when the retired employee or survivor is no longer eligible to receive a monthly benefit. The level of coverage for persons over age 65 shall be the same as that available before reaching age 65 except that the benefits payable shall be supplemental to those afforded under the federal Old Age Survivor and Disability Insurance Program, if any. (§ 4 ch 245 SLA 1976)

**Chapter 28. Contributory Judicial Retirement System.**

**Section**

- 10. Application
- 20. Administration
- 30. Regulations
- 40. Contributions
- 50. Retirement of justices and judges
- 60. Retirement pay
- 70. Survivors' benefits

**Section**

- 80. Tax exemption
- 90. Appropriations
- 100. Accounting
- 110. Refunds
- 120. Prior service credit
- 130. Medical benefits