

## CHAPTER 145

## AN ACT

To provide an actuarially sound retirement plan for teachers in the public schools of the Territory, providing for transfer of funds; repealing Sections 37-5-21 through and including 37-5-35, ACLA 1949, as amended by Chapter 29, SLA 1951, and Chapter 143, SLA 1953; and prescribing an effective date.

(S. B. 112)

**Be it Enacted by the Legislature of the Territory of Alaska:**

**Section 1. Retirement System Established.** A joint-contributory retirement system for teachers of the Territory of Alaska is hereby created and established.

**Section 2. Definition of Terms.**

(a) "Board" means the Teachers' Retirement Board.

(b) "Employer" means any incorporated city, incorporated school district, independent school district, the Board of Regents of the University of Alaska, and the Office of the Commissioner of Education.

(c) "Teacher" means any certified teacher, principal, supervisor or superintendent employed on a full-time basis in the public schools in the Territory of Alaska, the Commissioner of Education, Deputy Commissioner of Education, supervisors within the Department of Education, and all resident teachers and instructors, including the administrative officers, librarian,

and extension service personnel of the University of Alaska. In all cases of doubt the Retirement Board shall determine whether any person is a teacher as defined in this Act.

(d) "Member" means any person included in the membership of the system as provided in subsection (c).

(e) "Prior service" means service as a "Teacher" in a public school not under the supervision and control of the Territorial Board of Education, the school board of any incorporated city, incorporated school district, independent school district, or the Board of Regents of the University of Alaska.

(f) "Military service" means service in the Armed Forces of the United States after January 1, 1940.

(g) "Membership service" means service as a teacher in a public school within the Territory of Alaska under the supervision and control of the Territorial Board of

Education, the school board of any incorporated city, incorporated school district, independent school district, or the Board of Regents of the University of Alaska.

(h) "Creditable service" means prior service not to exceed ten (10) years, plus membership service as is provided in subsection (g).

(i) "Simple interest" means interest solely on the principal.

(j) "Year of service" means service of at least 140 school days in any one school year.

(k) "School year" means the 12-month period beginning July 1st of each year and ending June 30th of the next ensuing year.

(l) "Base salary" or "basic salary" means the annual salary authorized to be paid a teacher if employed in the same position in the First Judicial Division of the Territory of Alaska. "Salary authorized" means that salary fixed by the Board of Education; or if an employee of the Department of Education or the University of Alaska, that salary, in fact, paid such employee.

(m) "Retirement fund" means the fund consisting of all matching contributions by incorporated cities, from the School Tax Fund, and from other appropriated funds; all contributions from whatever source; and income and interest derived from the investment of monies.

(n) "Retirement salary" means the money received by a retired teacher from the fund.

(o) "Non-revertible funds" means that portion of a teacher's contribution not subject to a refund.

(p) "Retirement System of 1945" and "Retirement Fund of 1945," or like terms, means the system and fund established by Section 37-5-21, ACLA 1949, et seq., as amended by Chapter 29, Session Laws of Alaska 1951 and Chapter 143, Session Laws of Alaska 1953.

Whenever used in connection with this Act, the masculine pronoun shall include both masculine and feminine gender.

**Section 3. Teachers' Retirement Board.** There is hereby created a "Teachers' Retirement Board," which shall be composed of the same members serving on the Territorial Board of Education. Members of the Board shall serve without pay but shall be entitled to all reasonable expenses incurred as provided by law.

**Section 4. Powers and Duties.** The Board shall have, but not by way of limitation, the following powers and duties: (a) to adopt rules and regulations necessary for the administration and enforcement of this Act; (b) to employ such assistants as are necessary at salaries determined by the Board and paid from the Retirement Fund; (c) to establish and maintain an adequate system of accounts for the Retirement Fund; (d) to approve or disapprove claims for retirement salary; (e) to keep an official record of all proceedings; (f) to publish

biennially a report showing the financial conditions of the Retirement Fund; and (g) to do whatever else may be necessary to effectuate the purposes of this Act.

**Section 5. Membership.** On or after July 1, 1955, all teachers contracting for service with employers, as defined in this Act, except those whose attained age in completed years on the July 1st which falls on or after the date of commencement of service, diminished by the number of years of creditable service prior to such July 1st, exceeds forty (40), shall be subject to the provisions of this Act.

**Section 6. Contributions by Teachers.** Commencing July 1, 1955, each teacher shall contribute to the Retirement Fund an amount equal to five percent (5%) of his base salary. Each employer shall deduct from the compensation of each teacher for each and every payroll period subsequent to the date on which such teacher became a member, the above stated amount; provided, no deduction for any one school year shall exceed the amount of \$300.

**Section 7. Contributions by Teachers for Arrearages.** If a teacher has previous creditable service, he shall be indebted, in addition to the above contributions, in the following amounts:

(a) If, at the time of becoming a member under this retirement system, a teacher has five (5) years or more of membership service, his indebtedness shall be

five percent (5%) of the average base salary not to exceed Six Thousand Dollars (\$6,000.00) in any one school year, received for the last five (5) years of membership service, multiplied by the total number of years of creditable service.

(b) If, at the time of becoming a member under this retirement system, a teacher has less than five (5) years of membership service and no prior service, his indebtedness shall be five percent (5%) of the total base salary not to exceed Six Thousand Dollars (\$6,000.00) in any one school year, received during his membership service.

(c) If, at the time of becoming a member under this retirement system, a teacher has less than five (5) years of membership service, along with prior service, his indebtedness shall be five percent (5%) of the total base salary not to exceed Six Thousand Dollars (\$6,000.00) in any one school year, received during his membership service, including the prior service; provided, however, that the base salary for any period of prior service shall be determined to be the same base salary, not to exceed Six Thousand Dollars (\$6,000.00), paid at the time of first becoming employed as a teacher, under the provisions of this Act.

(d) If, at the time of becoming a member under this retirement system, a teacher has no membership service but has prior

service, his indebtedness shall be five percent (5%) of the total base salary, not to exceed Six Thousand Dollars (\$6,000.00) in any one school year, of the prior service; provided, however, that the base salary shall be determined to be the same base salary paid at the time of first becoming employed as a teacher, under the provisions of this Act.

The teachers in (a) through (d) shall be credited with the total amount of contributions, if any, less any refunds, paid into the Retirement Fund of 1945.

If a teacher, after becoming a member of this retirement system discontinues membership and subsequently desires to be re-instated and receive credit for other prior service accumulated in the interim time, his indebtedness to the Retirement Fund for such additional credit shall be computed as follows: Five percent (5%) of the base salary, not to exceed Six Thousand Dollars (\$6,000.00), received upon re-instatement multiplied by the number of years of interim prior service; provided, however, that the total prior service claimed shall not exceed ten (10) years.

**Section 8. Contributions by Employer.** All employers shall contribute to the Retirement Fund an amount equal to one-half the sum contributed each pay period by the teachers. The sum due hereunder shall be deducted by the Commissioner of Education semi-annually from Territorial funds due the schools and school districts and shall be transmitted by him to the

Secretary of the Teachers' Retirement System for deposit to the Retirement Fund, provided, however, the University of Alaska shall forward its contribution to the Secretary of the Teachers' Retirement System semi-annually for deposit by him in the Retirement Fund.

**Section 9. Contributions by the Territory.** The Territory shall contribute to the Retirement Fund from the Territorial School Tax Fund an amount equal to one-half the sum contributed each pay period by the teachers. The sum due hereunder shall be covered into the Retirement Fund semi-annually.

**Section 10. Contributions by the Territory for Arrearages.** The Territory shall contribute to the Retirement Fund from the Territorial School Tax Fund, an amount equal to: (a) the arrearage payments made by teachers as provided in Section 7 herein; and/or (b) the arrearage outstanding under option (2) of Section 13 herein.

**Section 11. Credit for Service in the Armed Forces.** Any teacher who served as an active member of the Armed Forces of the United States on or after January 1, 1940, 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 (5) years. Each twelve (12) months of military service shall equal one (1) school year, and lesser military periods shall be determined for credit purposes in a proportionate ratio to a school

year; Provided, that the teacher return to teaching in a public school within one (1) year following discharge from the Armed Forces; and Provided, further, that if entry into the Armed Forces was immediately preceded by membership service and, following discharge, is continued by membership service within one (1) year thereafter, such member shall be accredited with membership service, otherwise it shall be credited as prior service; Provided, further, that the total prior service claimed and credited shall not exceed ten (10) years.

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 Board shall determine the allowance or disallowance of any service in the Armed Forces.

Arrearages for credited service in the Armed Forces shall be computed as set forth in Section 7 and Section 10 of this Act.

#### **Section 12. Eligibility for Service Retirement.**

(a) Any teacher who has completed twenty-five (25) years of creditable service, the last five (5) years of which is membership service in the Territory, and who has attained the age of fifty-five (55) years, may retire from service, and apply in writing for his retirement salary.

(b) Any teacher who has com-

pleted twenty-five (25) years of creditable service, the last five (5) years of which is membership service in the Territory, and who has attained the age of sixty-five (65) years during any school year, shall be retired on the first day of July following his sixty-fifth (65th) birthday; Provided, however, except for the purposes of determining eligibility for membership in this retirement system, compulsory retirement at the age of sixty-five (65) shall not apply to the Commissioner of Education, the Deputy Commissioner of Education, supervisors within the Department of Education and other full time administrators.

(c) The burden of proof of eligibility for any retirement benefits hereunder shall be borne by the applicant to the full satisfaction of the Board.

**Section 13. Manner of Computing Service Retirement Salary.** Every teacher who has made application for retirement salary shall receive from the Retirement Fund, for each school year subsequent to the date of said application, a retirement salary payable on the first day of each month, commencing the month following retirement.

The payment made on the first day of the month in which death occurs shall constitute the last payment.

The amount of retirement salary to be paid shall be computed as follows:

(a) If the teacher has attained

the age of sixty (60) or over on the date 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 shall be one and one-half percent (11/2%) of his highest average base salary, not to exceed Six Thousand Dollars (\$6,000.00) in any one school year, during any five (5) consecutive years of membership service multiplied by the total number of years of creditable service.

(b) If, on the date of making application for retirement salary, the teacher has not paid the full amount of his indebtedness to the Retirement Fund, he may elect either.

Option (1)—to have any retirement salary which shall become due the teacher withheld until such time as the total amount withheld is equal to the outstanding indebtedness due the Retirement Fund, or Option (2)—to cancel the outstanding indebtedness due the Retirement Fund by accepting a reduced annuity for life, computed by deducting ten percent (10%) of the indebtedness still outstanding from the annual retirement salary that would be due and owing the teacher if there were no indebtedness.

If option (1) is elected, the teacher, at a subsequent date, may pay into the Retirement Fund all or any part of the indebtedness still outstanding. However, option (2), after

once being elected, is irrevocable.

(c) If the teacher has not attained the age of sixty (60) on the date which the application for a retirement salary is filed, the annual retirement salary that would be due and owing the teacher if he attained the age of sixty (60) or over, shall be reduced annually by the amount derived from the following computations: Multiply one-half of one percent (1/2%) times the number of months, to the nearest month, by which the applicant-teacher's attained age on date of filing application falls short of sixty (60) times the amount of annual retirement salary that would be due and owing the teacher if he attained the age of sixty (60) or over.

If the teacher has any outstanding indebtedness to the fund on the date of making application for retirement salary, he may elect either of aforementioned options (1) or (2) in subsection (b) of this section; Provided, that if option (2) is elected, the reduction as computed in this subsection shall be applied after deriving the adjusted retirement salary under option (2).

(d) 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 the sum of Nine Hundred Seventy-Five Dollars (\$975) plus ten percent (10%) of the total contribution made by the teacher to the Retirement Fund

of 1945.

(e) If a teacher, after receiving any retirement salary, shall be re-employed as a full-time teacher in membership service, his retirement salary shall be suspended during the period of such re-employment.

The retirement salary shall be suspended for the entire school year if the teacher is re-employed as a full time teacher in membership service for a period of time equivalent to a year of service, as used in this Act.

During such period of re-employment, deductions from salary may be made at the option of the teacher for contributions to the Retirement Fund as provided in Section 6. If such 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 one and one-half (1 1/2%) percent of the base salary, not to exceed Six Thousand Dollars (\$6,000.00) in any one school year, for such period of re-employment, provided that if the teacher has not attained the age of sixty (60) on the date which payment of retirement salary is resumed, the additional amount provided for in this subsection shall be reduced annually by the amount derived from the following computations: Multiply one-half of one percent (1/2%) times the number of months, to

the nearest month, by which the teacher's attained age on date of subsequent retirement falls short of sixty (60) times the additional amount provided for in this sub-section.

**Section 14. Eligibility for Disability Retirement.** Upon the application of a teacher in membership service who has become permanently disabled and who has had five (5) or more membership years, such teacher may be retired by the Board as of the first day of the month following the permanent disability; Provided, the Board, after a report of medical examination of the teacher has been submitted, shall certify that such teacher is physically or mentally incapacitated for the further performance of duty, and that such incapacity is likely to be permanent and that such teacher should be retired; Provided, further, that the number of years of prior service credited for the purposes of disability retirement shall not exceed ten (10) years or the number of membership years, whichever is smaller.

A teacher retired because of disability under this section and who subsequently recovers from such disability shall not be entitled to any disability retirement salary from the first day of the month following recovery.

Once each year during the first five (5) years following retirement of a teacher under this section, and once in every three (3) year period thereafter, the Board may, and

upon his application for disability retirement salary, shall, require any teacher who has not attained the age of sixty-five (65) years to undergo a medical or mental examination by a competent physician or psychiatrist; provided, further, that the Board shall suspend any disability retirement allowance for a teacher who refuses to undergo a physical or mental examination when requested by the Board within the purview of this section.

**Section 15. Manner of Computing Disability Retirement Salary.** Every teacher who has made application for disability retirement salary shall receive from the Retirement Fund, for each school year subsequent to the date of said application, a disability retirement salary payable on the first day of each month, commencing the month following the disability.

The payment made on the first day of the month in which death occurs shall constitute the last payment .

The amount of disability retirement salary to be paid shall be computed as follows:

(a) Each teacher who has made application for disability retirement salary after attaining the age of fifty-five (55) years or over, shall compute the amount of disability retirement salary to which he is entitled in the same manner as service retirement salaries are computed in Section 13 (a), (b), and (c).

(b) Each teacher who has made

application for disability retirement salary before attaining the age of fifty-five (55) years, shall compute the amount of disability retirement salary to which he would be entitled if he were fifty-five (55) years of age, using the methods of computation set forth in Section 13 (b) and (c).

(c) If the teacher was a member of the retirement system established by the Retirement Act of 1945, any annual retirement salary allowed for disability granted heretofore shall be computed as set forth in (a) or (b) of this section, but shall in no event be less than the sum of: Thirty-Nine Dollars (\$39.00) multiplied by the number of years of creditable service up to a maximum of twenty-five (25) years, plus ten percent (10%) of the total contributions made by the teacher to the Retirement Fund of 1945 for membership service.

**Section 16. Payment on Withdrawal from System.** Every teacher leaving membership service shall be entitled to a refund of his contributions to the Retirement Fund as follows:

(a) If the teacher has not completed more than two (2) years of membership service, he shall receive his total accumulated contributions less a deduction of Twelve Dollars and Fifty Cents (\$12.50) per year or a proportionate amount for fractional years, less any amounts owing to the Retirement Fund because of

previous withdrawals.

(b) If the teacher has completed more than two (2) years but less than ten (10) years of membership service, he shall receive his accumulated contributions less any amounts owing to the Retirement Fund because of previous withdrawals.

(c) If the teacher has completed more than ten (10) years of membership service, he shall receive, in addition to a refund of his total contributions less any amounts owing to the Retirement Fund because of previous withdrawals, two percent (2%) simple interest on his annual contributions.

(d) If a teacher, who has received a refund of contributions, shall be re-employed in membership service, he shall become indebted to the Retirement Fund in the amount of such refund, including interest paid him, if any, increased by the amount, if any, deducted for administrative expenses. Such indebtedness to the Retirement Fund shall bear compound interest at the rate of two percent (2%) per annum from July 1 following the date of re-employment to the date of repayment or the date of retirement of the teacher, whichever occurs first.

(e) A teacher who has received a refund under the Retirement Act of 1945, shall not be entitled to any further refunds of the non-revertible portion of his contri-

butions.

(f) 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 timely application shall not be entitled to a refund of any portion of those contributions made under said Act.

(g) A teacher's non-revertible contributions shall apply and be credited to the teacher's account, should the teacher resume membership service and become eligible for a retirement salary.

**Section 17. Payment Upon Death of Teacher.** Upon receipt of a valid claim and proper proofs of the death of a member, his accumulated contributions, as determined under Section 16 of this Act, shall be paid to his estate or to any person he has nominated by written designation, executed and filed with the Board. All claims and presentations of proof shall be made within five (5) years of termination of service; provided, however, that if the teacher has received any retirement salary, the estate or the designated beneficiary shall only be entitled to the accumulated contributions, less all retirement salary paid the deceased teacher, plus two (2) percent simple interest only on the amount of refund.

**Section 18. Alternate Recomputation of Retirement Salary Granted Under Retirement Act of 1945.** Every teacher retired under the provisions of the Retirement Act of 1945, who on July 1, 1955, is receiv-

ing a retirement salary, shall be entitled to a recomputation of his retirement salary in accordance with the provisions of this Act. Recomputations shall be based on the age of the teacher as of the date his retirement salary commenced under the Retirement Act of 1945.

All recomputations under this Act shall be made as of July 1, 1955, unless the teacher's retirement salary under the Retirement Act of 1945 is being withheld to satisfy past arrearages, in which case the recomputation shall be made as of the date the arrearages are paid in full.

If such recomputation under this Act produces a higher annual retirement salary than that granted under the provisions of the Retirement Act of 1945, such higher retirement salary shall become effective and continue as of the date of recomputation. In no event will the teacher receive an annual retirement salary less than that granted under the provisions of the Retirement Act of 1945.

**Section 19. Use of the Fund by Territorial Treasurer.** The Territorial Treasurer shall be custodian of the Retirement Fund and is hereby given full charge and control of said fund with authorization to keep and invest and to pay out and disburse the same. The Treasurer shall be governed by the general laws of the Territory applicable to the handling and investment of other Territorial funds so

that the Retirement Fund may have the same safeguards as the General Fund of the Territory.

All payments required under this law shall be made in the same manner as all other Territorial funds are disbursed.

**Section 20. Protection Against Fraud.** Any person who shall willfully or knowingly make any false statement, or shall falsify or permit to be falsified any record or records of this Retirement System, shall be guilty of a misdemeanor and on conviction thereof in any court of competent jurisdiction, shall be punished by a fine not exceeding Five Hundred (\$500.00) Dollars or imprisonment not to exceed six (6) months, or both fine and imprisonment in the discretion of the court, and shall forfeit all rights under this Act.

**Section 21. Actuarial Evaluations of the Retirement Fund.** Actuarial evaluations of the Retirement Fund shall be made at intervals of not more than five (5) years and on the basis of such re-evaluations the Board may recommend to the Territorial Legislature any necessary readjustment.

**Section 22. Exemption from Taxation and Process.** Teachers' retirement salaries shall be exempt from any Territorial or municipal tax and shall not be subject to execution, attachment, garnishment or any other process whatsoever.

**Section 23.** The Retirement Fund of 1945 is hereby transferred to

the Retirement Fund as established in this Act.

Section 24. **Repealing Clause.** Sections 37-5-21 through and including 37-5-35, ACLA 1949, as amended

by Chapter 29, SLA 1951 and Chapter 143, SLA 1953, are hereby repealed.

Section 25. **Effective Date.** This Act shall become effective on the 1st day of July, 1955.

Approved March 28, 1955

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## CHAPTER 146

### AN ACT

**Relating to nursing care of an indigent aged person, now deceased; making an appropriation; and declaring an emergency.**

(S. B. 148)

**Be it Enacted by the Legislature of the Territory of Alaska:**

Section 1. There is hereby appropriated to Mrs. Alina S. Kidney the sum of \$534.70 (being the difference between the amount determined by the Probate Court in Fairbanks, Alaska, to be owing Mrs. Kidney and the amount actually awarded) out of any monies in the General Fund of the Territorial Treasury not otherwise ap-

propriated, for the purpose of reimbursing the said Mrs. Kidney for nursing care prior to the decease of an aged person, Charles O. Sunstedt.

Section 2. An emergency is hereby declared to exist and this Act shall take effect immediately upon its passage and approval, or upon its becoming law without such approval.

Approved March 28, 1955