

**Retirement System**  
**IRS Compliance Policy**

## Table of Contents

I.	SECTION 1. PUBLIC EMPLOYEES RETIREMENT SYSTEM TIERS 1, 2, AND 3 DEFINED BENEFIT PLAN .....	2
	A. Rollover Distributions – Compliance with 26 U.S.C. 402 .....	2
	B. Distribution Requirements – Compliance with 26 U.S.C. 401(a)(9).....	2
	C. 415 Limitations - Compliance with 26 U.S.C. 415 .....	2
	D. Group Trust Provisions – Compliance with 26 U.S.C. 401(a)(24).....	11
	E. Participation in Group Trust – Compliance with 26 U.S.C. 401(a)(24).....	12
II.	SECTION 2. PUBLIC EMPLOYEES' TIER 4 DEFINED CONTRIBUTION RETIREMENT PLAN.....	13
	A. Distribution Requirements – Compliance with 26 U.S.C. 401(a)(9).....	13
	B. Distribution Requirements – Compliance with Required Minimum Distribution Suspension for 2009 under 26 U.S.C. 401(a)(9)(H).....	13
	C. Rollover Distributions – Compliance with 26 U.S.C. 402 .....	13
	D. 415 Limitations – Compliance with 26 U.S.C. 415.....	14
	E. Occupational Disability Benefits and Reemployment of Disabled Employees.....	20
	F. Vesting .....	21
	G. Forfeitures .....	21
	H. Distribution upon Termination .....	21
	I. Group Trust Provisions – Compliance with 26 U.S.C. 401(a)(24).....	22
	J. Participation in Group Trust – Compliance with 26 U.S.C. 401(a)(24).....	22
III.	SECTION 3. TEACHERS' RETIREMENT SYSTEM TIERS 1 AND 2 DEFINED BENEFIT PLAN.....	23
	A. Rollover Distributions – Compliance with 26 U.S.C. 402 .....	23
	B. Distribution Requirements – Compliance with 26 U.S.C. 401(a)(9).....	23
	C. 415 Limitations - Compliance with 26 U.S.C. 415 .....	23
	D. Group Trust Provisions – Compliance with 26 U.S.C. 401(a)(24).....	32
	E. Participation in Group Trust – Compliance with 26 U.S.C. 401(a)(24).....	33
IV.	SECTION 4. TEACHERS' TIER 3 DEFINED CONTRIBUTION RETIREMENT PLAN.....	34
	A. Distribution Requirements – Compliance with 26 U.S.C. 401(a)(9).....	34
	B. Distribution Requirements – Compliance with Required Minimum Distribution Suspension for 2009 under 26 U.S.C 401(a)(9)(H).....	34
	C. Rollover Distributions – Compliance with 26 U.S.C. 402 .....	34
	D. 415 Limitations – Compliance with 26 U.S.C. 415 .....	35
	E. Occupational Disability .....	41
	F. Vesting .....	42
	G. Forfeitures .....	42
	H. Distribution upon Termination .....	42
	I. Group Trust Provisions – Compliance with 26 U.S.C. 401(a)(24).....	43
	J. Participation in Group Trust – Compliance with 26 U.S.C. 401(a)(24).....	43

V.	SECTION 5. JUDICIAL RETIREMENT SYSTEM.....	44
A.	Rollover Distributions – Compliance with U.S.C. 402 .....	44
B.	Distribution Requirements – Compliance with U.S.C. 401(a)(9).....	44
C.	415 Limitations - Compliance with 26 U.S.C. 415 .....	44
D.	Group Trust Provisions – Compliance with U.S.C. 401(a)(24).....	54
E.	Participation in Group Trust – Compliance with U.S.C. 401(a)(24) .....	54
VI.	SECTION 6. STATE OF ALASKA SUPPLEMENTAL ANNUITY PLAN .....	55
A.	Participation in Group Trust – Article IV.B. Amendments Placed in Trust, Fees and Adjustments – Compliance with U.S.C. 401(a)(24).....	55
VII.	SECTION 7. NATIONAL GUARD AND NAVAL MILITIA RETIREMENT SYSTEM.....	56
A.	Internal Revenue Code Section 401(a)(1).....	56
B.	Internal Revenue Code Section 401(a)(2).....	56
C.	Internal Revenue Code Section 401(a)(7).....	56
D.	Internal Revenue Code Section 401(a)(8).....	57
E.	Internal Revenue Code Section 401(a)(9).....	57
F.	Internal Revenue Code Section 401(a)(25).....	57
G.	Internal Revenue Code Section 401(a)(31).....	58
H.	Internal Revenue Code Section 401(a)(36).....	59
I.	Internal Revenue Code Section 401(a)(37).....	59
J.	Internal Revenue Code Section 414(p) .....	60
K.	Internal Revenue Code Section 414(u) .....	60
L.	Internal Revenue Code Section 415:.....	60
M.	Internal Revenue Code Section 503(b) .....	64
N.	Group Trust Provisions – Compliance with U.S.C. 401(a)(24).....	64
O.	Participation in Group Trust – Compliance with U.S.C. 401(a)(24) .....	64
VIII.	SECTION 8. PUBLIC EMPLOYEES’ DEFERRED COMPENSATION PROGRAM.....	65

## **Retirement System IRS Compliance Policy**

The purpose of this Retirement System IRS Compliance Policy is to provide detailed guidance on federal compliance provisions for the State of Alaska Retirement System Plans as required under the Internal Revenue Code of 1986, as amended, related Treasury Regulations, and other applicable federal laws, as well as discretionary federal law amendments as determined by the State of Alaska. Please also consult the Alaska Statutes (AS) and Alaska Administrative Code (AAC) as referenced.

**I. SECTION 1. PUBLIC EMPLOYEES RETIREMENT SYSTEM TIERS 1, 2, AND 3  
DEFINED BENEFIT PLAN**

**A. Rollover Distributions – Compliance with 26 U.S.C. 402**

Notwithstanding any other provisions to the contrary, and for purposes of AS 39.35.195, "distributee" means a member or a beneficiary who is the surviving spouse of the member or an alternate payee. Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by 26 U.S.C. 401(a)(9)(E). However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

**B. Distribution Requirements – Compliance with 26 U.S.C. 401(a)(9)**

Notwithstanding any other provisions to the contrary, and pursuant to AS 39.35.370 and AS 39.35.371, the entire interest of a member must be distributed or must begin to be distributed not later than the member's required beginning date. If a plan member fails to apply for retirement benefits by April 1 of the calendar year following the calendar year in which he or she reaches 70½ years of age or April 1 of the calendar year following the calendar year in which he or she terminates employment, whichever is later, the plan will begin distributing the benefit as required by this section. Death benefits must be distributed in accordance with 26 U.S.C. 401(a)(9), including the incidental death benefit requirement in 26 U.S.C. 401(a)(9)(G), and the regulations implementing that section.

All distributions required under AS 39.35.370 and 39.35.371 are determined and made in accordance with a good faith interpretation of 26 U.S.C. 401(a)(9) and regulations adopted under that statute as applicable to a governmental plan within the meaning of 26 U.S.C. 414(d), including any minimum distribution incidental benefit requirement in 26 U.S.C. 401(a)(9)(G).

**C. 415 Limitations - Compliance with 26 U.S.C. 415**

- (a) Basic 415 Limitations. Notwithstanding any other provisions to the contrary, and pursuant to AS 39.35.370(i), member contributions made to, and retirement benefits paid from, the plan shall be limited to such extent as may be necessary to conform to the requirements of 26 U.S.C. 415 for a qualified pension plan.
- (b) Limitation Year. For purposes of 26 U.S.C. 415, the limitation year is the calendar year.
- (c) Participation in Other Qualified Plans: Aggregation of Limits.
  - i. The 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in 26 U.S.C. 414(j) maintained by the member's employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a member were payable from one (1) plan;

- ii. The 415(c) limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in 26 U.S.C. 414(i) maintained by the member's employer in this plan shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable from one (1) plan.
- (d) 415(b) Limit. Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in 26 U.S.C. 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in 26 U.S.C. 415(b)(1)(A), subject to the applicable adjustments in 26 U.S.C. 415(b) and subject to any additional limits that may be specified in this section. In no event shall a member's annual benefit payable in any limitation year from the system be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to 26 U.S.C. 415(d) and the regulations thereunder.
- (e) Definition of Annual Benefit. For purposes of 26 U.S.C. 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to 26 U.S.C. 415(n)) and to rollover contributions (as defined in 26 U.S.C. 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with Treasury Regulations.
- (f) Adjustments to Basic 415(b) Limitation for Form of Benefit. If the benefit under the plan is other than the form specified in (e), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations.
  - i. If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the 26 U.S. 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii) that takes into account the additional benefits under the form of benefit as follows:
  - ii. For a benefit paid in a form to which 26 U.S.C. 417(c)(3) does not apply (generally, a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of:
    - 1. The annual amount of the straight life annuity (if any) payable to the member under the system commencing at the same annuity starting date as the form of benefit to the member, or

2. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulations Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 26 U.S.C. 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B)); or
3. For a benefit paid in a form to which 26 U.S.C. 417(e)(3) applies (generally, a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of:
  - a) The annual amount of the straight life annuity commencing at the annuity start date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;
  - b) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5% interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality table for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 26 U.S.C. 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B)); or
  - c) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(3) using for any annuity starting dates within the limitation year the rate in effect for the second month prior to the limitation year and (i) for years prior to January 1,

2009, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 26 U.S.C. 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B)), divided by 1.05.

- d) The actuary may adjust the 415(b) limit at the annuity starting date in accordance with the above subsections (2) and (3).
- (g) Benefits For Which No Adjustment of the 415(b) Limit is Required. For purposes of this section, the following benefits shall not be taken into account in adjusting these limits:
- (1) Any ancillary benefit which is not directly related to retirement income benefits;
  - (2) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;
  - (3) Any other benefit not required under 26 U.S.C. 415(b)(2) and Treasury Regulations thereunder to be taken into account for purposes of the limitation of 26 U.S.C. 415(b)(1).
- (h) Other Adjustments in 415(b) Limitation.
- (1) In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of 26 U.S.C. 415(b), so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar (\$160,000) (as adjusted) annual benefit beginning at age sixty-two (62).
  - (2) In the event the member's benefit is based on at least fifteen (15) years of service as a full-time employee of any police or fire department or on fifteen (15) years of military service, the adjustment provided for in (1) above shall not apply.
  - (3) The reductions provided for in (1) above shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.



- (i) Less than Ten (10) Years of Participation Adjustment for 415(b) Limitations. The maximum retirement benefits payable to any member who has completed less than ten (10) years of participation shall be the amount determined under subsection (c), as adjusted under subsection (d) and/or (f), multiplied by a fraction, the numerator of which is the number of the member's years of participation and the denominator of which is ten (10). The limit under subsection (h) (concerning the \$10,000 limit) shall be similarly reduced for any member who has accrued less than ten (10) years of service, except the fraction shall be determined with respect to years of service instead of years of participation. The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.
- (j) Ten Thousand Dollar (\$10,000) Limit. Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such member under the plan and under all other qualified defined benefit pension plans to which the member's employer contributes, do not exceed ten thousand dollars (\$10,000) for the applicable limitation year and for any prior limitation year and the employer has not at any time maintained a qualified defined contribution plan in which the member participated.
- (k) Effect of COLA without a Lump Sum Component on 415(b) Testing. Effective on and after January 1, 2009, for purposes of applying the 415(b) limit to a member with no lump sum benefit, the following will apply:
  - (1) a member's applicable 415(b) limit will be applied to the member's annual benefit in the member's first limitation year without regard to any automatic cost of living adjustments;
  - (2) to the extent that the member's annual benefit equals or exceeds the limit, the member will no longer be eligible for cost of living increases until such time as the benefit plus the accumulated increases are less than the 415(b) limit;
  - (3) thereafter, in any subsequent limitation year, a member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable 415(b) limit including any adjustment to the 26 U.S.C. 415(b)(1)(A) dollar limit under 26 U.S.C. 415(d), and the Treasury Regulations thereunder.
- (l) Effect of COLA with a Lump Sum Component on 415(b) Testing. On and after January 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable limit will be applied taking into consideration cost of living increases as required by 26 U.S.C. 415(b) and applicable Treasury Regulations.

- (m) 415(c) Limit. After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of \$40,000 (as adjusted pursuant to 26 U.S.C. 415(d) or 100% of the member's compensation.
- (1) Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.
  - (2) For purposes of applying the 415(c) limits only and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulation Section 1.415(c)-2, or successor regulations; provided, however, that member contributions picked up under 26 U.S.C. 414(h) shall not be treated as compensation.
  - (3) Compensation will be defined as wages within the meaning of 26 U.S.C. 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under 26 U.S.C. 6041(d), 26 U.S.C. 6051(a)(3) and 26 U.S.C. 6052 and will be determined without regard to any rules under 26 U.S.C. 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in 26 U.S.C. 3401(a)(2)).
    - (A) However, for limitation years beginning on and after January 1, 1998, compensation will also include amounts that would otherwise be included in compensation but for an election under 26 U.S.C. 125(a), 26 U.S.C. 402(e)(3), 26 U.S.C. 402(h)(1)(B), 26 U.S.C. 402(k), or 26 U.S.C. 457(b). For limitation years beginning on and after January 1, 2001, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of 26 U.S.C. 132(f)(4).
    - (B) For limitation years beginning on and after January 1, 2009, compensation for the limitation year will also include compensation paid by the later of 2 ½ months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:
      - (i) the payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance

from employment, the payments would have been paid to the employee while the employee continued in employment with the employer; or

- (ii) The payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued; or
- (iii) payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the member at the same time if the member had continued employment with the employer and only to the extent that the payment is includible in the member's gross income.

Any payments not described in paragraph (B) above are not considered compensation if paid after severance from employment, even if they are paid within 2 1/2 months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service (within the meaning of 26 U.S.C. 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service. An employee who is in qualified military service (within the meaning of 26 U.S.C. 414(u)(1)) shall be treated as receiving compensation from the employer during such period of qualified military service equal to (i) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service, or (ii) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve (12) month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

- (C) Back pay, within the meaning of Treasury Regulation Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.
- (4) If the annual additions for any member for a plan year exceed the limitation under 26 U.S.C. 415(c), the excess annual addition will be

corrected as permitted under the Employee Plans Compliance System (or similar IRS correction program).

- (n) Service Purchases under 26 U.S.C. 415(n) For Members Covered Under AS 39.35.095 – 39.35.680. Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the plan, then the requirements of 26 U.S.C. 415(n) will be treated as met only if:
- (1) the requirements of 26 U.S.C. 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of 26 U.S.C. 415(b), or
  - (2) the requirements of 26 U.S.C. 415(c) are met, determined by treating all such contributions as annual additions for purposes of 26 U.S.C. 415(c).
  - (3) For purposes of applying this section, the plan will not fail to meet the reduced limit under 26 U.S.C. 415(b)(2)(C) solely by reason of this subparagraph and will not fail to meet the percentage limitation under 26 U.S.C. 415(c)(1)(B) solely by reason of this section.
  - (4) For purposes of this section the term "permissive service credit" means service credit recognized by the plan for purposes of calculating a member's benefit under the plan, which such member has received under the plan, and which such member may receive only by making a voluntary additional contribution, in an amount determined under the plan, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may include service credit for period for which there is no performance of service, and, notwithstanding clause (B), may include service credited in order to provide an increased benefit for service credit which a member is receiving under the plan.

- (5) The plan will fail to meet the requirements of this section if:
- (A) more than five years of nonqualified service credit are taken into account for purposes of this subparagraph, or
  - (B) any nonqualified service credit is taken into account under this paragraph before the member has at least five years of participation under the plan.
- (6) For purposes of paragraph (5), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997,

the term "nonqualified service credit" means permissive service credit other than that allowed with respect to

- (A) service (including parental, medical, sabbatical, and similar leave) as an employee of the Government of the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of a repayment described in 26 U.S.C. 415(k)(3)).
- (B) service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in clause (A)) of an education organization described in 26 U.S.C. 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable leave of education, as determined under the applicable law of the jurisdiction in which the service was performed,
- (C) service as an employee of an association of employees who are described in clause (A), or
- (D) military service (other than qualified military service under 26 U.S.C. 414(u) recognized by the plan.

In the case of service described in clause (A), (B), or (C), such service will be nonqualified service if recognition of such service would cause a member to receive a retirement benefit for the same service under more than one plan.

- (7) In the case of a trustee-to-trustee transfer after December 31, 2001, to which 26 U.S.C. 403(b)(13)(A) or 26 U.S.C. 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer)
  - (A) the limitations of paragraph (5) will not apply in determining whether the transfer is for the purchase of permissive service credit, and
  - (B) the distribution rules applicable under federal law to the plan will apply to such amounts and any benefits attributable to such amounts.
- (8) For an eligible participant, the limitation of 26 U.S.C. 415(c)(1) shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of the plan as in effect on August 5, 1997. For

purposes of this paragraph an eligible participant is an individual who first became a participant in the plan before January 1, 1998.

- (o) Modification of Contributions for 415(c) and 415(n) Purposes For Members Covered Under AS 39.35.095 – 39.35.680. Notwithstanding any other provision of law to the contrary, the plan may modify a request by a member to make a contribution under this rule if the amount of the contribution would exceed the limits provided in 26 U.S.C. 415 by using the following methods:
  - (1) If the law requires a lump sum payment for the purchase of service credit, the plan may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under 26 U.S.C. 415(c) or 26 U.S.C. 415(n).
  - (2) If payment pursuant to subparagraph (1) will not avoid a contribution in excess of the limits imposed by 26 U.S.C. 415(c) or 26 U.S.C. 415(n), the plan may either reduce the member's contribution to an amount within the limits of those sections or refuse the member's contribution.
- (p) Repayments of Cashouts. Any repayment of contributions (including interest thereon) to the plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or another governmental plan maintained by the retirement system shall not be taken into account for purposes of 26 U.S.C. 415, in accordance with applicable Treasury Regulations.
- (q) Reduction of Benefits Priority. Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's defined benefit component under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans; and next, by reducing the member's defined contribution component benefit under any defined benefit plans; and next by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrator for such other plans provided. However, that necessary reduction may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering such member.

#### **D. Group Trust Provisions – Compliance with 26 U.S.C. 401(a)(24)**

The Alaska Retirement Management Board may, unless restricted by law, transfer assets of the defined benefit plan of the Public Employees' Retirement System under AS 39.35.095 – 39.35.680 or retiree medical trusts under AS 39.35.535 to a collective or common group trust, as permitted under Internal Revenue Code Section 401(a)(24), Revenue Ruling 81-100, Revenue

Ruling 2011-1, and Revenue Ruling 2014-24 (or subsequent guidance), that is operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under the Internal Revenue Code Section 401(a), individual retirement accounts that are exempt under section Internal Revenue Code Section 408(e), eligible governmental plans that meet the requirements of section 457(b) of the Internal Revenue Code, and government plans under section 401(a)(24) of the Internal Revenue Code. For this purpose, a trust includes a custodial account or separate tax-favored account maintained by an insurance contract that is treated as a trust under section 401(f) or under section 457(g)(3) of the Internal Revenue Code.

- i. For purposes of valuation, the value of the interest maintained by each plan participating in such group trust shall be the fair market value of the portion of the group trust held for each plan, determined in accordance with generally recognized valuation procedures. The assets of each plan participating in the group trust shall not be used for or diverted to any purposes other than for the exclusive benefit of the participants and beneficiaries of such plan.
- ii. The Alaska Retirement Management Board may adopt one or more group trust(s) as part of each plan, by executing appropriate agreements with the group trust's trustee.

**E. Participation in Group Trust – Compliance with 26 U.S.C. 401(a)(24)**

The defined benefit plan of the Public Employees' Retirement System under AS 39.35.095 – 39.35.680 may participate in a collective or common group trust, as permitted under Internal Revenue Code Section 401(a)(24) and pursuant to Revenue Rulings 81-100, 2011-1, and 2014-24. In any event, no part of the Trust corpus or income may be used for, or diverted to, purposes other than for the exclusive benefit of the specific plan participants and their beneficiaries.

Such participation shall be at the direction of the Alaska Retirement Management Board.

## **II. SECTION 2. PUBLIC EMPLOYEES' TIER 4 DEFINED CONTRIBUTION RETIREMENT PLAN**

### **A. Distribution Requirements – Compliance with 26 U.S.C. 401(a)(9)**

Notwithstanding any other provisions to the contrary, and pursuant to AS 39.35.840, the entire interest of a member must be distributed or must begin to be distributed not later than the member's required beginning date. If a plan member fails to apply for retirement benefits by April 1 of the calendar year following the calendar year in which he or she reaches 70½ years of age or April 1 of the calendar year following the calendar year in which he or she terminates employment, whichever is later, the plan will begin distributing the benefit as required by AS 39.35.840. Death benefits must be distributed in accordance with 26 U.S.C. 401(a)(9), including the incidental death benefit requirement in 26 U.S.C. 401(a)(9)(G), and the regulations implementing that section.

All distributions required under AS 39.35.840 are determined and made in accordance with a good faith interpretation of 26 U.S.C. 401(a)(9) and regulations adopted under that statute as applicable to a governmental plan within the meaning of 26 U.S.C. 414(d), including any minimum distribution incidental benefit requirement in 26 U.S.C. 401(a)(9)(G).

### **B. Distribution Requirements – Compliance with Required Minimum Distribution Suspension for 2009 under 26 U.S.C. 401(a)(9)(H)**

Effective January 1, 2009 and notwithstanding any other provisions of AS 39.35.840, a participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of 26 U.S.C. 401(a)(9)(H) ("2009 RMDs"), and who would have satisfied that requirement by later receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant, the joint lives (or joint life expectancy) of the participant and the participant's designated beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will receive those distributions for 2009 unless the participant or beneficiary chooses not to receive such distributions. Participants and beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence. In addition, notwithstanding AS 39.35.760, and solely for purposes of applying the direct rollover provisions of the Plan, 2009 RMDs and Extended 2009 RMDs will be treated as eligible rollover distributions.

### **C. Rollover Distributions – Compliance with 26 U.S.C. 402**

For purposes of AS 39.35.760, "distributee" means a member or a beneficiary who is the surviving spouse of the member or an alternate payee. Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by 26 U.S.C. 401(a)(9)(E). However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.



**D. 415 Limitations – Compliance with 26 U.S.C. 415**

- (a) **Basic 415 Limitations.** Notwithstanding any other provisions to the contrary, and pursuant to 39.35.780, member contributions made to, and retirement benefits paid from, the plan shall be limited to such extent as may be necessary to conform to the requirements of 26 U.S.C. 415 for a qualified pension plan.
- (b) **Limitation Year.** For purposes of 26 U.S.C. 415, the limitation year is the calendar year.
- (c) **Participation in Other Qualified Plans: Aggregation of Limits.**
  - (1) The 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in 26 U.S.C. 414(j) maintained by the member's employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a member were payable from one (1) plan;
  - (2) The 415(c) limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in 26 U.S.C. 414(i) maintained by the member's employer in this plan shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable from one (1) plan.
- (d) **415(b) Limit.** Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in 26 U.S.C. 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in 26 U.S.C. 415(b)(1)(A), subject to the applicable adjustments in 26 U.S.C. 415(b) and subject to any additional limits that may be specified in this section. In no event shall a member's annual benefit payable in any limitation year from the system be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to 26 U.S.C. 415(d) and the regulations thereunder.
- (e) **Definition of Annual Benefit.** For purposes of 26 U.S.C. 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to 26 U.S.C. 415(n)) and to rollover contributions (as defined in 26 U.S.C. 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with Treasury Regulations.
- (f) **Adjustments to Basic 415(b) Limitation for Form of Benefit.** If the benefit under the plan is other than the form specified in (e), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations.

- (1) If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the 26 U.S. 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii) that takes into account the additional benefits under the form of benefit as follows:
  - (A) The annual amount of the straight life annuity (if any) payable to the member under the system commencing at the same annuity starting date as the form of benefit to the member, or
  - (B) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulations Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 26 U.S.C. 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B)); or
- (2) For a benefit paid in a form to which 26 U.S.C. 417(c)(3) does not apply (generally, a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of:
  - (A) The annual amount of the straight life annuity (if any) payable to the member under the system commencing at the same annuity starting date as the form of benefit to the member, or
  - (B) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulations Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 26 U.S.C. 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B)); or
- (3) For a benefit paid in a form to which 26 U.S.C. 417(e)(3) applies (generally, a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of:
  - (A) The annual amount of the straight life annuity commencing at the annuity start date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;
  - (B) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5% interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality table for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling

2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 26 U.S.C. 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B)); or

- (C) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(3) using for any annuity starting dates within the limitation year the rate in effect for the second month prior to the limitation year and (i) for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 26 U.S.C. 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B)), divided by 1.05.
- (4) The actuary may adjust the 415(b) limit at the annuity starting date in accordance with the above subsections (2) and (3).
- (g) Benefits For Which No Adjustment of the 415(b) Limit is Required. For purposes of this section, the following benefits shall not be taken into account in adjusting these limits:
  - (1) Any ancillary benefit which is not directly related to retirement income benefits;
  - (2) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;
  - (3) Any other benefit not required under 26 U.S.C. 415(b)(2) and Treasury Regulations thereunder to be taken into account for purposes of the limitation of 26 U.S.C. 415(b)(1).
- (h) Other Adjustments in 415(b) Limitation.
  - (1) In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of 26 U.S.C. 415(b), so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty

thousand dollar (\$160,000) (as adjusted) annual benefit beginning at age sixty-two (62).

- (2) In the event the member's benefit is based on at least fifteen (15) years of service as a full-time employee of any police or fire department or on fifteen (15) years of military service, the adjustment provided for in (1) above shall not apply.
  - (3) The reductions provided for in (1) above shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.
- (i) Less than Ten (10) Years of Participation Adjustment for 415(b) Limitations. The maximum retirement benefits payable to any member who has completed less than ten (10) years of participation shall be the amount determined under subsection (d), as adjusted under subsection (f) and/or (h), multiplied by a fraction, the numerator of which is the number of the member's years of participation and the denominator of which is ten (10). The limit under subsection (j) (concerning the \$10,000 limit) shall be similarly reduced for any member who has accrued less than ten (10) years of service, except the fraction shall be determined with respect to years of service instead of years of participation. The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.
  - (j) Ten Thousand Dollar (\$10,000) Limit. Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such member under the plan and under all other qualified defined benefit pension plans to which the member's employer contributes, do not exceed ten thousand dollars (\$10,000) for the applicable limitation year and for any prior limitation year and the employer has not at any time maintained a qualified defined contribution plan in which the member participated.
  - (k) Effect of COLA without a Lump Sum Component on 415(b) Testing. Effective on and after January 1, 2009, for purposes of applying the 415(b) limit to a member with no lump sum benefit, the following will apply:
    - (1) a member's applicable 415(b) limit will be applied to the member's annual benefit in the member's first limitation year without regard to any automatic cost of living adjustments;
    - (2) to the extent that the member's annual benefit equals or exceeds the limit, the member will no longer be eligible for cost of living increases until such time as the benefit plus the accumulated increases are less than the 415(b) limit;

- (3) thereafter, in any subsequent limitation year, a member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable 415(b) limit including any adjustment to the 26 U.S.C. 415(b)(1)(A) dollar limit under 26 U.S.C. 415(d), and the Treasury Regulations thereunder.
- (l) Effect of COLA with a Lump Sum Component on 415(b) Testing. On and after January 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable limit will be applied taking into consideration cost of living increases as required by 26 U.S.C. 415(b) and applicable Treasury Regulations.
- (m) 415(c) Limit. After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of \$40,000 (as adjusted pursuant to 26 U.S.C. 415(d) or 100% of the member's compensation.
  - (1) Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.
  - (2) For purposes of applying the 415(c) limits only and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulation Section 1.415(c)-2, or successor regulations; provided, however, that member contributions picked up under 26 U.S.C. 414(h) shall not be treated as compensation.
  - (3) Compensation will be defined as wages within the meaning of 26 U.S.C. 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under 26 U.S.C. 6041(d), 26 U.S.C. 6051(a)(3) and 26 U.S.C. 6052 and will be determined without regard to any rules under 26 U.S.C. 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in 26 U.S.C. 3401(a)(2)).
    - (A) However, for limitation years beginning on and after January 1, 1998, compensation will also include amounts that would otherwise be included in compensation but for an election under 26 U.S.C. 125(a), 26 U.S.C. 402(e)(3), 26 U.S.C. 402(h)(1)(B), 26 U.S.C. 402(k), or 26 U.S.C. 457(b). For limitation years beginning on and after January 1, 2001, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of 26 U.S.C. 132(f)(4).

- (B) For limitation years beginning on and after January 1, 2009, compensation for the limitation year will also include compensation paid by the later of 2 ½ months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:
- (i) the payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee while the employee continued in employment with the employer; or
  - (ii) The payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued; or
  - (iii) payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the member at the same time if the member had continued employment with the employer and only to the extent that the payment is includible in the member's gross income.

Any payments not described in paragraph (B) above are not considered compensation if paid after severance from employment, even if they are paid within 2 1/2 months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service (within the meaning of 26 U.S.C. 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service. An employee who is in qualified military service (within the meaning of 26 U.S.C. 414(u)(1)) shall be treated as receiving compensation from the employer during such period of qualified military service equal to (i) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service, or (ii) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve (12) month period immediately preceding the qualified military service (or, if

shorter, the period of employment immediately preceding the qualified military service).

- (C) Back pay, within the meaning of Treasury Regulation Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.
- (4) If the annual additions for any member for a plan year exceed the limitation under 26 U.S.C. 415(c), the excess annual addition will be corrected as permitted under the Employee Plans Compliance System (or similar IRS correction program).
- (n) Repayments of Cashouts. Any repayment of contributions (including interest thereon) to the plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or another governmental plan maintained by the retirement system shall not be taken into account for purposes of 26 U.S.C. 415, in accordance with applicable Treasury Regulations.
- (o) Reduction of Benefits Priority. Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's defined benefit component under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans; and next, by reducing the member's defined contribution component benefit under any defined benefit plans; and next by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrator for such other plans provided. However, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering such member.

#### **E. Occupational Disability Benefits and Reemployment of Disabled Employees**

Notwithstanding any other provisions to the contrary, and pursuant to AS 39.35.890, the monthly amount of an occupational disability benefit is 40 percent of the disabled employee's gross monthly compensation at the time of termination due to disability. Notwithstanding AS 39.35.790(b), at the time a member is appointed to disability, the member becomes fully vested in the employer contributions made under AS 39.35.750(a). A disabled member is fully vested in the contributions to the member's individual account made under this subsection. An employee is not entitled to elect distributions from the employee's individual contribution account under AS 39.35.810 while the employee is receiving disability benefits under AS 39.35.890. While an employee is receiving disability benefits, the employer shall make

contributions based on the disabled employee's gross monthly compensation at the time of termination due to disability,

- (1) that would have been paid to the employee's individual account under AS 39.35.730 and 39.35.750(a), to the trust account established under AS 39.35.750(e), without deduction from the employee's disability payments; and
- (2) to the appropriate accounts and funds under AS 39.35.750(b) – (e).

#### **F. Vesting**

A member vests immediately and fully in member contributions and related earnings. A member vests in employer contributions made on that member's behalf and related earnings according to the schedule specified in AS 39.35.790. Ninety days after a participant terminates employment and is no longer contributing to the plan, any non-vested employer contribution amounts in the participant's individual account shall be forfeited and transferred to a separate account in the fund. If a participant who has not received a distribution of the member's individual account returns to active participation in the plan, the amount that was forfeited shall be restored as non-vested employer contribution amounts in the member's individual account. For purposes of this section, the member's years of service shall be determined as of the date the member ceases active participation in this plan and will include any years of service with the same employer, attributable to prior, non-consecutive participation in the plan.

#### **G. Forfeitures**

Any forfeited non-vested employer contribution amounts in a participant's individual account shall be transferred to a separate account in the fund. These forfeitures shall not be used to increase any member's benefit, but instead shall be used to offset future employer contributions. This section does not apply to retiree medical benefits under AS 39.35.880.

#### **H. Distribution upon Termination**

A participant having fewer than five years of service in the plan who does not elect to receive a distribution under AS 39.35.810(a) may leave the amounts on deposit with the plan unless the account is \$1,000 or less and therefore subject to automatic distribution under AS 39.35.810(a)(5).

A participant having fewer than five years of service in the plan who elects a distribution under AS 39.35.810(a) is entitled to a lump-sum distribution of the participant's individual account. A participant who receives a distribution under this section shall forfeit all rights to benefits under the plan. A participant may elect a distribution under this section provided that all of the following apply:

- (a) Sixty days have elapsed since the participant's termination of service, unless the exception for immediate and heavy financial need set forth in AS 39.35.810(b) applies; and



- (b) The participant has not returned to active membership in the plan.

**I. Group Trust Provisions – Compliance with 26 U.S.C. 401(a)(24)**

- (a) The Alaska Retirement Management Board may, unless restricted by law, transfer assets of the defined contribution plan of the Public Employees' Retirement System under AS 39.35.700 – AS 39.35.990 to a collective or common group trust, as permitted under Internal Revenue Code Section 401(a)(24), Revenue Ruling 81-100, Revenue Ruling 2011-1, and Revenue Ruling 2014-24 (or subsequent guidance), that is operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under section 401(a) of the Internal Revenue Code, individual retirement accounts that are exempt under section 408(e) of the Internal Revenue Code, eligible governmental plans that meet the requirements of section 457(b) of the Internal Revenue Code, and government plans under section 401(a)(24) of the Internal Revenue Code. For this purpose, a trust includes a custodial account or separate tax-favored account maintained by an insurance contract that is treated as a trust under section 401(f) or under section 457(g)(3) of the Internal Revenue Code.
- (b) For purposes of valuation, the value of the interest maintained by each plan participating in such group trust shall be the fair market value of the portion of the group trust held for each plan, determined in accordance with generally recognized valuation procedures. The assets of each plan participating in the group trust shall not be used for or diverted to any purposes other than for the exclusive benefit of the participants and beneficiaries of such plan. The Alaska Retirement Management Board may adopt one or more group trust(s) as part of each plan, by executing appropriate agreements with the group trust's trustee.

**J. Participation in Group Trust – Compliance with 26 U.S.C. 401(a)(24)**

The defined contribution plan of the Public Employees' Retirement System under AS 39.35.700-39.35.990 may participate in a collective or common group trust, as permitted under Internal Revenue Code Section 401(a)(24) and pursuant to Revenue Rulings 81-100, 2011-1, and 2014-24. In any event, no part of the Trust corpus or income may be used for, or diverted to, purposes other than for the exclusive benefit of the specific plan participants and their beneficiaries.

Such participation shall be at the direction of the Alaska Retirement Management Board.

### **III. SECTION 3. TEACHERS' RETIREMENT SYSTEM TIERS 1 AND 2 DEFINED BENEFIT PLAN**

#### **A. Rollover Distributions – Compliance with 26 U.S.C. 402**

For purposes of AS 14.25.163, "distributee" means a member or a beneficiary who is the surviving spouse of the member or an alternate payee. Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by 26 U.S.C. 401(a)(9)(E). However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

#### **B. Distribution Requirements – Compliance with 26 U.S.C. 401(a)(9)**

Notwithstanding any other provisions to the contrary, and pursuant to AS 14.25.165, the entire interest of a member must be distributed or must begin to be distributed not later than the member's required beginning date. If a plan member fails to apply for retirement benefits by April 1 of the calendar year following the calendar year in which he or she reaches 70½ years of age or April 1 of the calendar year following the calendar year in which he or she terminates employment, whichever is later, the plan will begin distributing the benefit as required by this section. Death benefits must be distributed in accordance with 26 U.S.C. 401(a)(9), including the incidental death benefit requirement in 26 U.S.C. 401(a)(9)(G), and the regulations implementing that section.

All distributions required under AS 14.25.110 and AS 14.25.165 are determined and made in accordance with a good faith interpretation of 26 U.S.C. 401(a)(9) and regulations adopted under that statute as applicable to a governmental plan within the meaning of 26 U.S.C. 414(d), including any minimum distribution incidental benefit requirement in 26 U.S.C. 401(a)(9)(G).

#### **C. 415 Limitations - Compliance with 26 U.S.C. 415**

- (a) **Basic 415 Limitations.** Notwithstanding any other provisions to the contrary, and pursuant to AS 14.25.110 and AS 14.25.165, member contributions made to, and retirement benefits paid from, the plan shall be limited to such extent as may be necessary to conform to the requirements of 26 U.S.C. 415 for a qualified pension plan.
- (b) **Limitation Year.** For purposes of 26 U.S.C. 415, the limitation year is the calendar year.
- (c) **Participation in Other Qualified Plans: Aggregation of Limits.**
  - (1) The 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in 26 U.S.C. 414(j) maintained by the member's employer in this plan shall apply as if the

total benefits payable under all such defined benefit plans in which the member has been a member were payable from one (1) plan;

- (2) The 415(c) limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in 26 U.S.C. 414(i) maintained by the member's employer in this plan shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable from one (1) plan.
- (d) 415(b) Limit. Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in 26 U.S.C. 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in 26 U.S.C. 415(b)(1)(A), subject to the applicable adjustments in 26 U.S.C. 415(b) and subject to any additional limits that may be specified in this section. In no event shall a member's annual benefit payable in any limitation year from the system be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to 26 U.S.C. 415(d) and the regulations thereunder.
- (e) Definition of Annual Benefit. For purposes of 26 U.S.C. 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to 26 U.S.C. 415(n)) and to rollover contributions (as defined in 26 U.S.C. 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with Treasury Regulations.
- (f) Adjustments to Basic 415(b) Limitation for Form of Benefit. If the benefit under the plan is other than the form specified in (e), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations.
  - (1) If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the 26 U.S. 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii) that takes into account the additional benefits under the form of benefit as follows:
  - (2) For a benefit paid in a form to which 26 U.S.C. 417(c)(3) does not apply (generally, a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of:

- (A) The annual amount of the straight life annuity (if any) payable to the member under the system commencing at the same annuity starting date as the form of benefit to the member, or
  - (B) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulations Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 26 U.S.C. 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B)); or
- (3) For a benefit paid in a form to which 26 U.S.C. 417(e)(3) applies (generally, a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of:
- (A) The annual amount of the straight life annuity commencing at the annuity start date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;
  - (B) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5% interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality table for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 26 U.S.C. 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B)); or
  - (C) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(3) using for any annuity starting dates within the limitation year the rate in effect for the second

month prior to the limitation year and (i) for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 26 U.S.C. 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B)), divided by 1.05.

- (4) The actuary may adjust the 415(b) limit at the annuity starting date in accordance with the above subsections (2) and (3).
- (g) Benefits For Which No Adjustment of the 415(b) Limit is Required. For purposes of this section, the following benefits shall not be taken into account in adjusting these limits:
- (1) Any ancillary benefit which is not directly related to retirement income benefits;
  - (2) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;
  - (3) Any other benefit not required under 26 U.S.C. 415(b)(2) and Treasury Regulations thereunder to be taken into account for purposes of the limitation of 26 U.S.C. 415(b)(1).
- (h) Other Adjustments in 415(b) Limitation.
- (1) In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of 26 U.S.C. 415(b), so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar (\$160,000) (as adjusted) annual benefit beginning at age sixty-two (62).
  - (2) In the event the member's benefit is based on at least fifteen (15) years of service as a full-time employee of any police or fire department or on fifteen (15) years of military service, the adjustment provided for in (1) above shall not apply.
  - (3) The reductions provided for in (1) above shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.
- (i) Less than Ten (10) Years of Participation Adjustment for 415(b) Limitations. The maximum retirement benefits payable to any member who has completed less

than ten (10) years of participation shall be the amount determined under subsection (c), as adjusted under subsection (d) and/or (f), multiplied by a fraction, the numerator of which is the number of the member's years of participation and the denominator of which is ten (10). The limit under subsection (h) (concerning the \$10,000 limit) shall be similarly reduced for any member who has accrued less than ten (10) years of service, except the fraction shall be determined with respect to years of service instead of years of participation. The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

- (j) Ten Thousand Dollar (\$10,000) Limit. Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such member under the plan and under all other qualified defined benefit pension plans to which the member's employer contributes, do not exceed ten thousand dollars (\$10,000) for the applicable limitation year and for any prior limitation year and the employer has not at any time maintained a qualified defined contribution plan in which the member participated.
- (k) Effect of COLA without a Lump Sum Component on 415(b) Testing. Effective on and after January 1, 2009, for purposes of applying the 415(b) limit to a member with no lump sum benefit, the following will apply:
  - (1) a member's applicable 415(b) limit will be applied to the member's annual benefit in the member's first limitation year without regard to any automatic cost of living adjustments;
  - (2) to the extent that the member's annual benefit equals or exceeds the limit, the member will no longer be eligible for cost of living increases until such time as the benefit plus the accumulated increases are less than the 415(b) limit;
  - (3) thereafter, in any subsequent limitation year, a member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable 415(b) limit including any adjustment to the 26 U.S.C. 415(b)(1)(A) dollar limit under 26 U.S.C. 415(d), and the Treasury Regulations thereunder.
- (l) Effect of COLA with a Lump Sum Component on 415(b) Testing. On and after January 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable limit will be applied taking into consideration cost of living increases as required by 26 U.S.C. 415(b) and applicable Treasury Regulations.

- (m) 415(c) Limit. After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of \$40,000 (as adjusted pursuant to 26 U.S.C. 415(d) or 100% of the member's compensation.
- (1) Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.
  - (2) For purposes of applying the 415(c) limits only and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulation Section 1.415(c)-2, or successor regulations; provided, however, that member contributions picked up under 26 U.S.C. 414(h) shall not be treated as compensation.
  - (3) Compensation will be defined as wages within the meaning of 26 U.S.C. 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under 26 U.S.C. 6041(d), 26 U.S.C. 6051(a)(3) and 26 U.S.C. 6052 and will be determined without regard to any rules under 26 U.S.C. 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in 26 U.S.C. 3401(a)(2)).
    - (A) However, for limitation years beginning on and after January 1, 1998, compensation will also include amounts that would otherwise be included in compensation but for an election under 26 U.S.C. 125(a), 26 U.S.C. 402(e)(3), 26 U.S.C. 402(h)(1)(B), 26 U.S.C. 402(k), or 26 U.S.C. 457(b). For limitation years beginning on and after January 1, 2001, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of 26 U.S.C. 132(f)(4).
    - (B) For limitation years beginning on and after January 1, 2009, compensation for the limitation year will also include compensation paid by the later of 2 ½ months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:
      - (i) the payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance

from employment, the payments would have been paid to the employee while the employee continued in employment with the employer; or

- (ii) The payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued; or
- (iii) payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the member at the same time if the member had continued employment with the employer and only to the extent that the payment is includible in the member's gross income.

Any payments not described in paragraph (B) above are not considered compensation if paid after severance from employment, even if they are paid within 2 1/2 months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service (within the meaning of 26 U.S.C. 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service. An employee who is in qualified military service (within the meaning of 26 U.S.C. 414(u)(1)) shall be treated as receiving compensation from the employer during such period of qualified military service equal to (i) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service, or (ii) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve (12) month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

- (C) Back pay, within the meaning of Treasury Regulation Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

- (4) If the annual additions for any member for a plan year exceed the limitation under 26 U.S.C. 415(c), the excess annual addition will be



corrected as permitted under the Employee Plans Compliance System (or similar IRS correction program).

- (n) Service Purchases under 26 U.S.C. 415(n) For Members Covered Under AS 14.25.009 – 14.25.220. Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the plan, then the requirements of 26 U.S.C. 415(n) will be treated as met only if:
- (1) the requirements of 26 U.S.C. 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of 26 U.S.C. 415(b), or
  - (2) the requirements of 26 U.S.C. 415(c) are met, determined by treating all such contributions as annual additions for purposes of 26 U.S.C. 415(c).
  - (3) For purposes of applying this section, the plan will not fail to meet the reduced limit under 26 U.S.C. 415(b)(2)(C) solely by reason of this subparagraph and will not fail to meet the percentage limitation under 26 U.S.C. 415(c)(1)(B) solely by reason of this section.
  - (4) For purposes of this section the term "permissive service credit" means service credit
    - (A) recognized by the plan for purposes of calculating a member's benefit under the plan,
    - (B) which such member has received under the plan, and
    - (C) which such member may receive only by making a voluntary additional contribution, in an amount determined under the plan, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may include service credit for periods for which there is no performance of service, and, notwithstanding clause (B), may include service credited in order to provide an increased benefit for service credit which a member is receiving under the plan.

- (5) The plan will fail to meet the requirements of this section if:
- (A) more than five years of nonqualified service credit are taken into account for purposes of this subparagraph, or
  - (B) any nonqualified service credit is taken into account under this paragraph before the member has at least five years of participation under the plan.

- (6) For purposes of paragraph (5), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to
- (A) service (including parental, medical, sabbatical, and similar leave) as an employee of the Government of the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of a repayment described in 26 U.S.C. 415(k)(3)).
  - (B) service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in clause (A)) of an education organization described in 26 U.S.C. 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable leave of education, as determined under the applicable law of the jurisdiction in which the service was performed,
  - (C) service as an employee of an association of employees who are described in clause (A), or
  - (D) military service (other than qualified military service under 26 U.S.C. 414(u) recognized by the plan.

In the case of service described in clause (A), (B), or (C), such service will be nonqualified service if recognition of such service would cause a member to receive a retirement benefit for the same service under more than one plan.

- (7) In the case of a trustee-to-trustee transfer after December 31, 2001, to which 26 U.S.C. 403(b)(13)(A) or 26 U.S.C. 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer)
- (A) the limitations of paragraph (5) will not apply in determining whether the transfer is for the purchase of permissive service credit, and
  - (B) the distribution rules applicable under federal law to the plan will apply to such amounts and any benefits attributable to such amounts.
- (8) For an eligible participant, the limitation of 26 U.S.C. 415(c)(1) shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be

purchased under the terms of the plan as in effect on August 5, 1997. For purposes of this paragraph an eligible participant is an individual who first became a participant in the plan before January 1, 1998.

- (o) Modification of Contributions for 415(c) and 415(n) Purposes For Members Covered Under AS 14.25.009 – 14.25.220. Notwithstanding any other provision of law to the contrary, the plan may modify a request by a member to make a contribution under this rule if the amount of the contribution would exceed the limits provided in 26 U.S.C. 415 by using the following methods:
  - (1) If the law requires a lump sum payment for the purchase of service credit, the plan may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under 26 U.S.C. 415(c) or 26 U.S.C. 415(n).
  - (2) If payment pursuant to subparagraph (1) will not avoid a contribution in excess of the limits imposed by 26 U.S.C. 415(c) or 26 U.S.C. 415(n), the plan may either reduce the member's contribution to an amount within the limits of those sections or refuse the member's contribution.
- (p) Repayments of Cashouts. Any repayment of contributions (including interest thereon) to the plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or another governmental plan maintained by the retirement system shall not be taken into account for purposes of 26 U.S.C. 415, in accordance with applicable Treasury Regulations.
- (q) Reduction of Benefits Priority. Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's defined benefit component under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans; and next, by reducing the member's defined contribution component benefit under any defined benefit plans; and next by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrator for such other plans provided. However, that necessary reduction may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering such member.

#### **D. Group Trust Provisions – Compliance with 26 U.S.C. 401(a)(24)**

The Alaska Retirement Management Board may, unless restricted by law, transfer assets of AS 14.25.009 – AS 14.25.220 or retiree medical trusts under AS 14.25.168 to a collective or common group trust, as permitted under Internal Revenue Code Section 401(a)(24), Revenue

Ruling 81-100, Revenue Ruling 2011-1, and Revenue Ruling 2014-24 (or subsequent guidance), that is operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under section 401(a) of the Internal Revenue Code, individual retirement accounts that are exempt under section 408(e) of the Internal Revenue Code, eligible governmental plans that meet the requirements of section 457(b) of the Internal Revenue Code, and government plans under section 401(a)(24) of the Internal Revenue Code. For this purpose, a trust includes a custodial account or separate tax-favored account maintained by an insurance contract that is treated as a trust under section 401(f) or under section 457(g)(3) of the Internal Revenue Code.

- i. For purposes of valuation, the value of the interest maintained by each plan participating in such group trust shall be the fair market value of the portion of the group trust held for each plan, determined in accordance with generally recognized valuation procedures. The assets of each plan participating in the group trust shall not be used for or diverted to any purposes other than for the exclusive benefit of the participants and beneficiaries of such plan.
- ii. The Alaska Retirement Management Board may adopt one or more group trust(s) as part of each plan, by executing appropriate agreements with the group trust's trustee.

**E. Participation in Group Trust – Compliance with 26 U.S.C. 401(a)(24)**

The defined benefit plan of the Teachers' Retirement System under AS 14.25.009 – 14.25.220 may participate in a collective or common group trust, as permitted under Internal Revenue Code Section 401(a)(24) and pursuant to Revenue Rulings 81-100, 2011-1, and 2014-24. In any event, no part of the Trust corpus or income may be used for, or diverted to, purposes other than for the exclusive benefit of the specific plan participants and their beneficiaries.

Such participation shall be at the direction of the Alaska Retirement Management Board.

#### **IV. SECTION 4. TEACHERS' TIER 3 DEFINED CONTRIBUTION RETIREMENT PLAN**

##### **A. Distribution Requirements – Compliance with 26 U.S.C. 401(a)(9)**

Notwithstanding any other provisions to the contrary, and pursuant to AS 14.25.440, the entire interest of a member must be distributed or must begin to be distributed not later than the member's required beginning date. If a plan member fails to apply for retirement benefits by April 1 of the calendar year following the calendar year in which he or she reaches 70½ years of age or April 1 of the calendar year following the calendar year in which he or she terminates employment, whichever is later, the plan will begin distributing the benefit as required by AS 14.25.440. Death benefits must be distributed in accordance with 26 U.S.C. 401(a)(9), including the incidental death benefit requirement in 26 U.S.C. 401(a)(9)(G), and the regulations implementing that section.

All distributions required under AS 14.25.440 are determined and made in accordance with a good faith interpretation of 26 U.S.C. 401(a)(9) and regulations adopted under that statute as applicable to a governmental plan within the meaning of 26 U.S.C. 414(d), including any minimum distribution incidental benefit requirement in 26 U.S.C. 401(a)(9)(G).

##### **B. Distribution Requirements – Compliance with Required Minimum Distribution Suspension for 2009 under 26 U.S.C 401(a)(9)(H)**

Effective January 1, 2009 and notwithstanding any other provisions of AS 14.25.440, a participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of 26 U.S.C. 401(a)(9)(H) ("2009 RMDs"), and who would have satisfied that requirement by later receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant, the joint lives (or joint life expectancy) of the participant and the participant's designated beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will receive those distributions for 2009 unless the participant or beneficiary chooses not to receive such distributions. Participants and beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence. In addition, notwithstanding AS 14.25.360, and solely for purposes of applying the direct rollover provisions of the Plan, 2009 RMDs and Extended 2009 RMDs will be treated as eligible rollover distributions.

##### **C. Rollover Distributions – Compliance with 26 U.S.C. 402**

For purposes of AS 14.25.360, "distributee" means a member or a beneficiary who is the surviving spouse of the member or an alternate payee. Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by 26 U.S.C. 401(a)(9)(E). However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

**D. 415 Limitations – Compliance with 26 U.S.C. 415**

- (a) **Basic 415 Limitations.** Notwithstanding any other provisions to the contrary, and pursuant to AS 14.25.380, member contributions made to, and retirement benefits paid from, the plan shall be limited to such extent as may be necessary to conform to the requirements of 26 U.S.C. 415 for a qualified pension plan.
- (b) **Limitation Year.** For purposes of 26 U.S.C. 415, the limitation year is the calendar year.
- (c) **Participation in Other Qualified Plans: Aggregation of Limits.**
  - (1) The 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in 26 U.S.C. 414(j) maintained by the member's employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a member were payable from one (1) plan;
  - (2) The 415(c) limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in 26 U.S.C. 414(i) maintained by the member's employer in this plan shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable from one (1) plan.
- (d) **415(b) Limit.** Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in 26 U.S.C. 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in 26 U.S.C. 415(b)(1)(A), subject to the applicable adjustments in 26 U.S.C. 415(b) and subject to any additional limits that may be specified in this section. In no event shall a member's annual benefit payable in any limitation year from the system be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to 26 U.S.C. 415(d) and the regulations thereunder.
- (e) **Definition of Annual Benefit.** For purposes of 26 U.S.C. 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to 26 U.S.C. 415(n)) and to rollover contributions (as defined in 26 U.S.C. 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with Treasury Regulations.
- (f) **Adjustments to Basic 415(b) Limitation for Form of Benefit.** If the benefit under the plan is other than the form specified in (e), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations.

- (1) If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the 26 U.S. 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii) that takes into account the additional benefits under the form of benefit as follows:
  - (A) The annual amount of the straight life annuity (if any) payable to the member under the system commencing at the same annuity starting date as the form of benefit to the member, or
  - (B) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulations Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 26 U.S.C. 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B)); or
- (2) For a benefit paid in a form to which 26 U.S.C. 417(c)(3) does not apply (generally, a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of:
  - (A) The annual amount of the straight life annuity (if any) payable to the member under the system commencing at the same annuity starting date as the form of benefit to the member, or
  - (B) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulations Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 26 U.S.C. 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B)); or
- (3) For a benefit paid in a form to which 26 U.S.C. 417(e)(3) applies (generally, a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of:
  - (A) The annual amount of the straight life annuity commencing at the annuity start date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;
  - (B) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5% interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality table for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling

2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 26 U.S.C. 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B)); or

- (C) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(3) using for any annuity starting dates within the limitation year the rate in effect for the second month prior to the limitation year and (i) for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 26 U.S.C. 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B)), divided by 1.05.
- (4) The actuary may adjust the 415(b) limit at the annuity starting date in accordance with the above subsections (2) and (3).
- (g) Benefits For Which No Adjustment of the 415(b) Limit is Required. For purposes of this section, the following benefits shall not be taken into account in adjusting these limits:
  - (1) Any ancillary benefit which is not directly related to retirement income benefits;
  - (2) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;
  - (3) Any other benefit not required under 26 U.S.C. 415(b)(2) and Treasury Regulations thereunder to be taken into account for purposes of the limitation of 26 U.S.C. 415(b)(1).
- (h) Other Adjustments in 415(b) Limitation.
  - (1) In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of 26 U.S.C. 415(b), so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty



thousand dollar (\$160,000) (as adjusted) annual benefit beginning at age sixty-two (62).

- (2) In the event the member's benefit is based on at least fifteen (15) years of service as a full-time employee of any police or fire department or on fifteen (15) years of military service, the adjustment provided for in (1) above shall not apply.
  - (3) The reductions provided for in (1) above shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.
- (i) Less than Ten (10) Years of Participation Adjustment for 415(b) Limitations. The maximum retirement benefits payable to any member who has completed less than ten (10) years of participation shall be the amount determined under subsection (d), as adjusted under subsection (f) and/or (h), multiplied by a fraction, the numerator of which is the number of the member's years of participation and the denominator of which is ten (10). The limit under subsection (j) (concerning the \$10,000 limit) shall be similarly reduced for any member who has accrued less than ten (10) years of service, except the fraction shall be determined with respect to years of service instead of years of participation. The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.
  - (j) Ten Thousand Dollar (\$10,000) Limit. Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such member under the plan and under all other qualified defined benefit pension plans to which the member's employer contributes, do not exceed ten thousand dollars (\$10,000) for the applicable limitation year and for any prior limitation year and the employer has not at any time maintained a qualified defined contribution plan in which the member participated.
  - (k) Effect of COLA without a Lump Sum Component on 415(b) Testing. Effective on and after January 1, 2009, for purposes of applying the 415(b) limit to a member with no lump sum benefit, the following will apply:
    - (1) a member's applicable 415(b) limit will be applied to the member's annual benefit in the member's first limitation year without regard to any automatic cost of living adjustments;
    - (2) to the extent that the member's annual benefit equals or exceeds the limit, the member will no longer be eligible for cost of living increases until such time as the benefit plus the accumulated increases are less than the 415(b) limit;

- (3) thereafter, in any subsequent limitation year, a member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable 415(b) limit including any adjustment to the 26 U.S.C. 415(b)(1)(A) dollar limit under 26 U.S.C. 415(d), and the Treasury Regulations thereunder.
- (l) Effect of COLA with a Lump Sum Component on 415(b) Testing. On and after January 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable limit will be applied taking into consideration cost of living increases as required by 26 U.S.C. 415(b) and applicable Treasury Regulations.
- (m) 415(c) Limit. After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of \$40,000 (as adjusted pursuant to 26 U.S.C. 415(d) or 100% of the member's compensation.
  - (1) Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.
  - (2) For purposes of applying the 415(c) limits only and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulation Section 1.415(c)-2, or successor regulations; provided, however, that member contributions picked up under 26 U.S.C. 414(h) shall not be treated as compensation.
  - (3) Compensation will be defined as wages within the meaning of 26 U.S.C. 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under 26 U.S.C. 6041(d), 26 U.S.C. 6051(a)(3) and 26 U.S.C. 6052 and will be determined without regard to any rules under 26 U.S.C. 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in 26 U.S.C. 3401(a)(2)).
    - (A) However, for limitation years beginning on and after January 1, 1998, compensation will also include amounts that would otherwise be included in compensation but for an election under 26 U.S.C. 125(a), 26 U.S.C. 402(e)(3), 26 U.S.C. 402(h)(1)(B), 26 U.S.C. 402(k), or 26 U.S.C. 457(b). For limitation years beginning on and after January 1, 2001, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of 26 U.S.C. 132(f)(4).

- (B) For limitation years beginning on and after January 1, 2009, compensation for the limitation year will also include compensation paid by the later of 2 ½ months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:
- (i) the payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee while the employee continued in employment with the employer; or
  - (ii) The payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued; or
  - (iii) payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the member at the same time if the member had continued employment with the employer and only to the extent that the payment is includible in the member's gross income.

Any payments not described in paragraph (B) above are not considered compensation if paid after severance from employment, even if they are paid within 2 1/2 months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service (within the meaning of 26 U.S.C. 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service. An employee who is in qualified military service (within the meaning of 26 U.S.C. 414(u)(1)) shall be treated as receiving compensation from the employer during such period of qualified military service equal to (i) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service, or (ii) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve (12) month period immediately preceding the qualified military service (or, if

shorter, the period of employment immediately preceding the qualified military service).

- (C) Back pay, within the meaning of Treasury Regulation Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.
- (4) If the annual additions for any member for a plan year exceed the limitation under 26 U.S.C. 415(c), the excess annual addition will be corrected as permitted under the Employee Plans Compliance System (or similar IRS correction program).
- (n) Repayments of Cashouts. Any repayment of contributions (including interest thereon) to the plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or another governmental plan maintained by the retirement system shall not be taken into account for purposes of 26 U.S.C. 415, in accordance with applicable Treasury Regulations.
- (o) Reduction of Benefits Priority. Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's defined benefit component under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans; and next, by reducing the member's defined contribution component benefit under any defined benefit plans; and next by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrator for such other plans provided. However, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering such member.

#### **E. Occupational Disability**

Notwithstanding any other provisions to the contrary, and pursuant to AS 14.25.485, the monthly amount of an occupational disability benefit is 40 percent of the disabled member's gross monthly compensation at the time of termination due to disability. Notwithstanding AS 14.25.390(b), at the time a member is appointed to disability, the member becomes fully vested in the employer contributions made under AS 14.25.350(a). A disabled member is fully vested in the contributions to the member's individual account made under this 14.25.485. A member is not entitled to elect distributions from the member's individual contribution account under AS 14.25.410 while the member is receiving disability benefits under this section. While a member

is receiving disability benefits, the employer shall make contributions based on the disabled member's gross monthly compensation at the time of termination due to disability,

- (1) that would have been paid to the member's individual account under AS 14.25.340 and AS 14.25.350(a), to the trust account established under AS 14.25.350(e), without deduction from the member's disability payments; and
- (2) to the appropriate accounts and funds under AS 14.25.350(b)-(e).

#### **F. Vesting**

A member vests immediately and fully in member contributions and related earnings. A member vests in employer contributions made on that member's behalf and related earnings according to the schedule specified in AS 14.25.390. Ninety days after a participant terminates employment and is no longer contributing to the plan, any non-vested employer contribution amounts in the participant's individual account shall be forfeited and transferred to a separate account in the fund. If a participant who has not received a distribution of the member's individual account returns to active participation in the plan, the amount that was forfeited shall be restored as non-vested employer contribution amounts in the member's individual account. For purposes of this section, the member's years of service shall be determined as of the date the member ceases active participation in this plan and will include any years of service with the same employer, attributable to prior, non-consecutive participation in the plan.

#### **G. Forfeitures**

Any forfeited non-vested employer contribution amounts in a participant's individual account shall be transferred to a separate account in the fund. These forfeitures shall not be used to increase any member's benefit, but instead shall be used to offset future employer contributions. This section does not apply to retiree medical benefits under AS 39.35.880. This subsection does not apply to retiree medical benefits under AS 14.25.480.

#### **H. Distribution upon Termination**

A participant having fewer than five years of service in the plan who does not elect to receive a distribution under 14.25.410 may leave the amounts on deposit with the plan unless the account is \$1,000 or less and therefore subject to automatic distribution under AS 14.25.410.

A participant having fewer than five years of service in the plan who elects a distribution under AS 14.25.440 is entitled to a lump-sum distribution of the participant's individual account. A participant who receives a distribution under this section shall forfeit all rights to benefits under the plan. A participant may elect a distribution under this section provided that all of the following apply:

- (a) Sixty days have elapsed since the participant's termination of service, unless the exception for immediate and heavy financial need set forth in AS 14.25.410 applies; and

- (b) The participant has not returned to active membership in the plan.

**I. Group Trust Provisions – Compliance with 26 U.S.C. 401(a)(24)**

- (a) The Alaska Retirement Management Board may, unless restricted by law, transfer assets of the defined contribution plan of the Teachers' Retirement System (AS 14.25.310-14.25-590) to a collective or common group trust, as permitted under Internal Revenue Code Section 401(a)(24), Revenue Ruling 81-100, Revenue Ruling 2011-1, and Revenue Ruling 2014-24 (or subsequent guidance), that is operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under section 401(a) of the Internal Revenue Code, individual retirement accounts that are exempt under section 408(e) of the Internal Revenue Code, eligible governmental plans that meet the requirements of section 457(b) of the Internal Revenue Code, and government plans under section 401(a)(24) of the Internal Revenue Code. For this purpose, a trust includes a custodial account or separate tax-favored account maintained by an insurance contract that is treated as a trust under section 401(f) or under section 457(g)(3) of the Internal Revenue Code.
- (b) For purposes of valuation, the value of the interest maintained by each plan participating in such group trust shall be the fair market value of the portion of the group trust held for each plan, determined in accordance with generally recognized valuation procedures. The assets of each plan participating in the group trust shall not be used for or diverted to any purposes other than for the exclusive benefit of the participants and beneficiaries of such plan.
- (c) The Alaska Retirement Management Board may adopt one or more group trust(s) as part of each plan, by executing appropriate agreements with the group trust's trustee.

**J. Participation in Group Trust – Compliance with 26 U.S.C. 401(a)(24)**

The defined contribution plan of the Teachers' Retirement System (AS 14.25.310-14.25-590) may participate in a collective or common group trust, as permitted under Internal Revenue Code Section 401(a)(24) and pursuant to Revenue Rulings 81-100, 2011-1, and 2014-24. In any event, no part of the Trust corpus or income may be used for, or diverted to, purposes other than for the exclusive benefit of the specific plan participants and their beneficiaries.

Such participation shall be at the direction of Alaska Management Retirement Board.

## **V. SECTION 5. JUDICIAL RETIREMENT SYSTEM**

### **A. Rollover Distributions – Compliance with U.S.C. 402**

Notwithstanding any other provisions to the contrary, and for purposes of AS 22.25.022, "distributee" means a member or a beneficiary who is the surviving spouse of the member or an alternate payee. Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by 26 U.S.C. 401(a)(9)(E). However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

### **B. Distribution Requirements – Compliance with U.S.C. 401(a)(9)**

Notwithstanding any other provisions to the contrary, and pursuant to AS 22.25.021, the entire interest of a member must be distributed or must begin to be distributed not later than the member's required beginning date. If a plan member fails to apply for retirement benefits by April 1 of the calendar year following the calendar year in which he or she reaches 70½ years of age or April 1 of the calendar year following the calendar year in which he or she terminates employment, whichever is later, the plan will begin distributing the benefit as required by this section. Death benefits must be distributed in accordance with 26 U.S.C. 401(a)(9), including the incidental death benefit requirement in 26 U.S.C. 401(a)(9)(G), and the regulations implementing that section.

All distributions required under AS 22.25.021 are determined and made in accordance with a good faith interpretation of 26 U.S.C. 401(a)(9) and regulations adopted under that statute as applicable to a governmental plan within the meaning of 26 U.S.C. 414(d), including any minimum distribution incidental benefit requirement in 26 U.S.C. 401(a)(9)(G).

### **C. 415 Limitations - Compliance with 26 U.S.C. 415**

- (a) Basic 415 Limitations. Notwithstanding any other provisions to the contrary, and pursuant to AS 22.25.023, member contributions made to, and retirement benefits paid from, the plan shall be limited to such extent as may be necessary to conform to the requirements of 26 U.S.C. 415 for a qualified pension plan.
- (b) Limitation Year. For purposes of 26 U.S.C. 415, the limitation year is the calendar year.
- (c) Participation in Other Qualified Plans: Aggregation of Limits.
  - i. The 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in 26 U.S.C. 414(j) maintained by the member's employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a member were payable from one (1) plan;

- ii. The 415(c) limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in 26 U.S.C. 414(i) maintained by the member's employer in this plan shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable from one (1) plan.
- (d) 415(b) Limit. Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in 26 U.S.C. 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in 26 U.S.C. 415(b)(1)(A), subject to the applicable adjustments in 26 U.S.C. 415(b) and subject to any additional limits that may be specified in this section. In no event shall a member's annual benefit payable in any limitation year from the system be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to 26 U.S.C. 415(d) and the regulations thereunder.
- (e) Definition of Annual Benefit. For purposes of 26 U.S.C. 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to 26 U.S.C. 415(n)) and to rollover contributions (as defined in 26 U.S.C. 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with Treasury Regulations.
- (f) Adjustments to Basic 415(b) Limitation for Form of Benefit. If the benefit under the plan is other than the form specified in (e), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations.
- i. If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the 26 U.S. 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii) that takes into account the additional benefits under the form of benefit as follows:
  - ii. For a benefit paid in a form to which 26 U.S.C. 417(c)(3) does not apply (generally, a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of:
    - 1. The annual amount of the straight life annuity (if any) payable to the member under the system commencing at the same annuity starting date as the form of benefit to the member, or



2. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulations Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 26 U.S.C. 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B)); or
3. For a benefit paid in a form to which 26 U.S.C. 417(e)(3) applies (generally, a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of:
  - a) The annual amount of the straight life annuity commencing at the annuity start date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;
  - b) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5% interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality table for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 26 U.S.C. 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B)); or
  - c) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(3) using for any annuity starting dates within the limitation year the rate in effect for the second month prior to the limitation year and (i) for years prior to January 1,

2009, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in 26 U.S.C. 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B)), divided by 1.05.

- (g) The actuary may adjust the 415(b) limit at the annuity starting date in accordance with the above subsections (2) and (3).
- (h) Benefits For Which No Adjustment of the 415(b) Limit is Required. For purposes of this section, the following benefits shall not be taken into account in adjusting these limits:
  - 1. Any ancillary benefit which is not directly related to retirement income benefits;
  - 2. That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;
  - 3. Any other benefit not required under 26 U.S.C. 415(b)(2) and Treasury Regulations thereunder to be taken into account for purposes of the limitation of 26 U.S.C. 415(b)(1).
- (i) Other Adjustments in 415(b) Limitation.
  - 1. In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of 26 U.S.C. 415(b), so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar (\$160,000) (as adjusted) annual benefit beginning at age sixty-two (62).
  - 2. In the event the member's benefit is based on at least fifteen (15) years of service as a full-time employee of any police or fire department or on fifteen (15) years of military service, the adjustment provided for in (1) above shall not apply.
  - 3. The reductions provided for in (1) above shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.
- (j) Less than Ten (10) Years of Participation Adjustment for 415(b) Limitations. The maximum retirement benefits payable to any member who has completed less

than ten (10) years of participation shall be the amount determined under subsection (c), as adjusted under subsection (d) and/or (f), multiplied by a fraction, the numerator of which is the number of the member's years of participation and the denominator of which is ten (10). The limit under subsection (h) (concerning the \$10,000 limit) shall be similarly reduced for any member who has accrued less than ten (10) years of service, except the fraction shall be determined with respect to years of service instead of years of participation. The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

- (k) Ten Thousand Dollar (\$10,000) Limit. Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such member under the plan and under all other qualified defined benefit pension plans to which the member's employer contributes, do not exceed ten thousand dollars (\$10,000) for the applicable limitation year and for any prior limitation year and the employer has not at any time maintained a qualified defined contribution plan in which the member participated.
- (l) Effect of COLA without a Lump Sum Component on 415(b) Testing. Effective on and after January 1, 2009, for purposes of applying the 415(b) limit to a member with no lump sum benefit, the following will apply:
  - (1) a member's applicable 415(b) limit will be applied to the member's annual benefit in the member's first limitation year without regard to any automatic cost of living adjustments;
  - (2) to the extent that the member's annual benefit equals or exceeds the limit, the member will no longer be eligible for cost of living increases until such time as the benefit plus the accumulated increases are less than the 415(b) limit;
  - (3) thereafter, in any subsequent limitation year, a member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable 415(b) limit including any adjustment to the 26 U.S.C. 415(b)(1)(A) dollar limit under 26 U.S.C. 415(d), and the Treasury Regulations thereunder.
- (m) Effect of COLA with a Lump Sum Component on 415(b) Testing. On and after January 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable limit will be applied taking into consideration cost of living increases as required by 26 U.S.C. 415(b) and applicable Treasury Regulations.

- (n) 415(c) Limit. After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of \$40,000 (as adjusted pursuant to 26 U.S.C. 415(d) or 100% of the member's compensation.
- (1) Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.
  - (2) For purposes of applying the 415(c) limits only and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulation Section 1.415(c)-2, or successor regulations; provided, however, that member contributions picked up under 26 U.S.C. 414(h) shall not be treated as compensation.
  - (3) Compensation will be defined as wages within the meaning of 26 U.S.C. 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under 26 U.S.C. 6041(d), 26 U.S.C. 6051(a)(3) and 26 U.S.C. 6052 and will be determined without regard to any rules under 26 U.S.C. 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in 26 U.S.C. 3401(a)(2)).
    - (A) However, for limitation years beginning on and after January 1, 1998, compensation will also include amounts that would otherwise be included in compensation but for an election under 26 U.S.C. 125(a), 26 U.S.C. 402(e)(3), 26 U.S.C. 402(h)(1)(B), 26 U.S.C. 402(k), or 26 U.S.C. 457(b). For limitation years beginning on and after January 1, 2001, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of 26 U.S.C. 132(f)(4).
    - (B) For limitation years beginning on and after January 1, 2009, compensation for the limitation year will also include compensation paid by the later of 2 ½ months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:
      - (i) the payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance

from employment, the payments would have been paid to the employee while the employee continued in employment with the employer; or

- (ii) The payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued; or
- (iii) payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have paid to the member at the same time if the member had continued employment with the employer and only to the extent that the payment is includible in the member's gross income.

Any payments not described in paragraph (B) above are not considered compensation if paid after severance from employment, even if they are paid within 2 1/2 months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service (within the meaning of 26 U.S.C. 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service. An employee who is in qualified military service (within the meaning of 26 U.S.C. 414(u)(1)) shall be treated as receiving compensation from the employer during such period of qualified military service equal to (i) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service, or (ii) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve (12) month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

- (C) Back pay, within the meaning of Treasury Regulation Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

- (4) If the annual additions for any member for a plan year exceed the limitation under 26 U.S.C. 415(c), the excess annual addition will be

corrected as permitted under the Employee Plans Compliance System (or similar IRS correction program).

- (o) Service Purchases under 26 U.S.C. 415(n) For Members Covered Under AS 22.25.010 – 22.25.900. Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the plan, then the requirements of 26 U.S.C. 415(n) will be treated as met only if:
- (1) the requirements of 26 U.S.C. 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of 26 U.S.C. 415(b), or
  - (2) the requirements of 26 U.S.C. 415(c) are met, determined by treating all such contributions as annual additions for purposes of 26 U.S.C. 415(c).
  - (3) For purposes of applying this section, the plan will not fail to meet the reduced limit under 26 U.S.C. 415(b)(2)(C) solely by reason of this subparagraph and will not fail to meet the percentage limitation under 26 U.S.C. 415(c)(1)(B) solely by reason of this section.
  - (4) For purposes of this section the term "permissive service credit" means service credit
    - (A) recognized by the plan for purposes of calculating a member's benefit under the plan,
    - (B) which such member has received under the plan, and
    - (C) which such member may receive only by making a voluntary additional contribution, in an amount determined under the plan, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may include service credit for period for which there is no performance of service, and, notwithstanding clause (B), may include service credited in order to provide an increased benefit for service credit which a member is receiving under the plan.

- (5) The plan will fail to meet the requirements of this section if:
- (A) more than five years of nonqualified service credit are taken into account for purposes of this subparagraph, or

- (B) any nonqualified service credit is taken into account under this paragraph before the member has at least five years of participation under the plan.
- (6) For purposes of paragraph (5), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to
- (A) service (including parental, medical, sabbatical, and similar leave) as an employee of the Government of the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of a repayment described in 26 U.S.C. 415(k)(3)).
  - (B) service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in clause (A)) of an education organization described in 26 U.S.C. 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable leave of education, as determined under the applicable law of the jurisdiction in which the service was performed,
  - (C) service as an employee of an association of employees who are described in clause (A), or
  - (D) military service (other than qualified military service under 26 U.S.C. 414(u) recognized by the plan.

In the case of service described in clause (A), (B), or (C), such service will be nonqualified service if recognition of such service would cause a member to receive a retirement benefit for the same service under more than one plan.

- (7) In the case of a trustee-to-trustee transfer after December 31, 2001, to which 26 U.S.C. 403(b)(13)(A) or 26 U.S.C. 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer)
- (A) the limitations of paragraph (5) will not apply in determining whether the transfer is for the purchase of permissive service credit, and
  - (B) the distribution rules applicable under federal law to the plan will apply to such amounts and any benefits attributable to such amounts.

- (8) For an eligible participant, the limitation of 26 U.S.C. 415(c)(1) shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of the plan as in effect on August 5, 1997. For purposes of this paragraph an eligible participant is an individual who first became a participant in the plan before January 1, 1998.
- (p) Modification of Contributions for 415(c) and 415(n) Purposes For Members Covered Under AS 22.25.010 – 22.25.900. Notwithstanding any other provision of law to the contrary, the plan may modify a request by a member to make a contribution under this rule if the amount of the contribution would exceed the limits provided in 26 U.S.C. 415 by using the following methods:
- (1) If the law requires a lump sum payment for the purchase of service credit, the plan may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under 26 U.S.C. 415(c) or 26 U.S.C. 415(n).
- (2) If payment pursuant to subparagraph (1) will not avoid a contribution in excess of the limits imposed by 26 U.S.C. 415(c) or 26 U.S.C. 415(n), the plan may either reduce the member's contribution to an amount within the limits of those sections or refuse the member's contribution.
- (q) Repayments of Cashouts. Any repayment of contributions (including interest thereon) to the plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or another governmental plan maintained by the retirement system shall not be taken into account for purposes of 26 U.S.C. 415, in accordance with applicable Treasury Regulations.
- (r) Reduction of Benefits Priority. Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's defined benefit component under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans; and next, by reducing the member's defined contribution component benefit under any defined benefit plans; and next by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrator for such other plans provided. However, that necessary reduction may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering such member.



**D. Group Trust Provisions – Compliance with U.S.C. 401(a)(24)**

The Alaska Retirement Management Board may, unless restricted by law, transfer assets of the Judicial Retirement System under AS 22.25.010 –22.25.900 or retiree medical trust under AS 22.25.090 to a collective or common group trust, as permitted under Internal Revenue Code Section 401(a)(24), Revenue Ruling 81-100, Revenue Ruling 2011-1, and Revenue Ruling 2014-24 (or subsequent guidance), that is operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under section 401(a) of the Internal Revenue Code, individual retirement accounts that are exempt under section 408(e) of the Internal Revenue Code, eligible governmental plans that meet the requirements of section 457(b) of the Internal Revenue Code, and government plans under section 401(a)(24) of the Internal Revenue Code. For this purpose, a trust includes a custodial account or separate tax-favored account maintained by an insurance contract that is treated as a trust under section 401(f) or under section 457(g)(3) of the Internal Revenue Code.

- i. For purposes of valuation, the value of the interest maintained by each plan participating in such group trust shall be the fair market value of the portion of the group trust held for each plan, determined in accordance with generally recognized valuation procedures. The assets of each plan participating in the group trust shall not be used for or diverted to any purposes other than for the exclusive benefit of the participants and beneficiaries of such plan.
- ii. The Alaska Retirement Management Board may adopt one or more group trust(s) as part of each plan, by executing appropriate agreements with the group trust's trustee.

**E. Participation in Group Trust – Compliance with U.S.C. 401(a)(24)**

The defined benefit plan of the Judicial Retirement System under AS 22.25.010 – 22.25.900 may participate in a collective or common group trust, as permitted under Internal Revenue Code Section 401(a)(24) and pursuant to Revenue Rulings 81-100, 2011-1, and 2014-24. In any event, no part of the Trust corpus or income may be used for, or diverted to, purposes other than for the exclusive benefit of the specific plan participants and their beneficiaries.

Such participation shall be at the direction of the Alaska Retirement Management Board.

## **VI. SECTION 6. STATE OF ALASKA SUPPLEMENTAL ANNUITY PLAN**

### **A. Participation in Group Trust – Article IV.B. Amendments Placed in Trust, Fees and Adjustments – Compliance with U.S.C. 401(a)(24)**

The Supplemental Benefit System under AS 39.30.150 –39.30.180 may participate in a collective or common group trust, as permitted under Internal Revenue Code Section 401(a)(24) and pursuant to Revenue Rulings 81-100, 2011-1, and 2014-24. In any event, no part of the Trust corpus or income may be used for, or diverted to, purposes other than for the exclusive benefit of the specific plan participants and their beneficiaries.

## **VII. SECTION 7. NATIONAL GUARD AND NAVAL MILITIA RETIREMENT SYSTEM**

### **Alaska National Guard and Naval Militia Retirement System Policies for Compliance with Certain Internal Revenue Code Provisions**

The Alaska National Guard and Naval Militia Retirement System shall satisfy the applicable qualification requirements in Section 401(a) and 414(d) of the Internal Revenue Code of 1986, as amended, for a governmental defined benefit plan. In order to meet those requirements, notwithstanding any other provision of retirement system law, the system is subject to the following provisions effective January 1, 1973, unless otherwise provided in this section. The regulations in this Article, in addition to Alaska Statutes ("AS") 26.05.222 – 26.05.229, as these regulations and statutes are amended from time to time, constitute the plan document for the system.

#### **Definitions**

- (1) All references to the Internal Revenue Code or Code mean the Internal Revenue Code of 1986, as amended.
- (2) The plan year is the fiscal year commencing July 1.
- (3) For 415 testing purposes, the limitation year is the calendar year.

#### **A. Internal Revenue Code Section 401(a)(1)**

Participation in the system is open to commissioned or warrant officers and enlisted persons in the Alaska National Guard or Alaska Naval Militia. In any event, a person in any of the following categories shall not be eligible to participate in the system: (i) any person designated in good faith by the National Guard or Naval Militia as an independent contractor, regardless of whether such person is later determined to be a common law employee for tax purposes, or (ii) a "leased employee" as defined under Internal Revenue Code Section 414(n).

#### **B. Internal Revenue Code Section 401(a)(2)**

The assets of the system shall never inure to the benefit of an employer and shall be held for the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the system.

#### **C. Internal Revenue Code Section 401(a)(7)**

In addition to any protection provided by this regulation and Alaska law:

- (1) A member shall be 100% vested in his or her service retirement benefit upon completion of a total of twenty (20) years or more of satisfactory service in the National Guard, Naval Militia, the armed forces of the United States, and the reserves of them, or any combination of these components, with at least five (5) of such years in the National Guard or Naval Militia;

(2) An active member who has completed at least five (5) years of service, shall be 100% vested in a lump sum benefit payable to his beneficiary upon death. See 26.05.224(d);

(3) A former member who has completed at least 20 years of service shall be vested in a lump sum benefit payable to his beneficiary; and

(4) In the event of a full or partial termination of, or a complete discontinuance of employer contributions to, the system, the accrued benefits of the affected members under the system shall be 100% vested and nonforfeitable to the extent funded and to the extent required by federal law.

**D. Internal Revenue Code Section 401(a)(8)**

In conformity with section 401(a)(8) of the Internal Revenue Code, any forfeitures of benefits by members or former members of the retirement system shall not be used to pay benefit increases. However, such forfeitures shall be used to reduce employer contributions.

**E. Internal Revenue Code Section 401(a)(9)**

The retirement system shall pay all benefits in accordance with a good faith interpretation of the requirements of section 401(a)(9) of the Internal Revenue Code and the regulations in effect under that section, as applicable to a governmental plan within the meaning of section 414(d) of the Internal Revenue Code. The retirement system is subject to the following provisions:

(1) Distribution of a member's benefit must begin by the required beginning date, which is the later of the April 1 following the calendar year in which the member attains age 70 1/2 or April 1 of the year following the calendar year in which the member terminates. If a member fails to apply for retirement benefits by the later of either of those dates, the Commissioner shall begin distribution of the monthly benefit as required by this policy.

(2) The member's entire interest must be distributed over the member's life.

(3) The retirement system pursuant to a qualified domestic relations order may establish separate benefits for a member and nonmember.

(4) If a member dies before required distribution of the member's benefits has begun, the member's interest must be distributed within five (5) years of his death.

(5) Notwithstanding the other provisions of this Policy or the provisions of the Treasury Regulations, benefit options may continue so long as the option satisfies section 401(a)(9) of the Internal Revenue Code based on a reasonable and good faith interpretation of that section.

**F. Internal Revenue Code Section 401(a)(25)**

Effective as of July 1, 1989, the Commissioner shall determine the amount of any benefit that is determined on the basis of actuarial assumptions using assumptions adopted by the

Commissioner by regulation, which regulation shall include the applicable mortality table under Revenue Ruling 95-6 or for distributions on and after December 31, 2002, the applicable mortality table under Revenue Ruling 2001-62 or successor revenue rulings. The regulations adopted for this purpose are incorporated as part of the plan document. Benefits are not subject to employer discretion.

**G. Internal Revenue Code Section 401(a)(31)**

For purposes of compliance with section 401(a)(31) of the Internal Revenue Code, this section applies notwithstanding any contrary provision or retirement law that would otherwise limit a distributee's election to make a rollover. A distributee may elect, at the time and in the manner prescribed by the Commissioner, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

(a) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or the life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(b) any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code;

(c) the system does not provide for any employee contributions; therefore, this policy does not provide for after-tax rollover distributions; and

(d) any other distribution which the Internal Revenue Service does not consider eligible for rollover treatment, such as certain corrective distributions necessary to comply with the provisions of section 415 of the Internal Revenue Code or any distribution that is reasonably expected to total less than \$200 during the year.

Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code.

(2) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover distribution:

(a) an individual retirement account described in section 408(a) of the Internal Revenue Code,

(b) an individual retirement annuity described in section 408(b) of the Internal Revenue Code,

- (c) an annuity plan described in section 403(a) of the Internal Revenue Code,
- (d) a qualified trust described in Internal Revenue Code Section 401(a), that accepts the distributee's eligible rollover distribution,
- (e) effective January 1, 2002, an annuity contract described in section 403(b) of the Internal Revenue Code,
- (f) effective January 1, 2002, a plan eligible under section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system, or
- (g) effective January 1, 2008, a Roth IRA described in section 408A of the Internal Revenue Code.

(3) "Distributee" means an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Internal Revenue Code. Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by section 401(a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity shall be treated as an "inherited" individual retirement account or annuity.

(4) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

#### **H. Internal Revenue Code Section 401(a)(36)**

Notwithstanding any provision of AS 26.05.224(c) to the contrary, effective on and after July 1, 2009, a member's retirement pension may not commence until the member has separated from service with the employer and provided that the member is not employed with the National Guard or Naval Militia of Alaska or any other state.

#### **I. Internal Revenue Code Section 401(a)(37)**

(1) Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in chapter 43 of title 38, United States Code), to the extent required by Internal Revenue Code Section 401(a)(37), survivors of a member in a State or local retirement or pension system, are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed. In any event, a deceased member's period of qualified military service must be counted for vesting purposes.

(2) Effective with respect to deaths and/or disabilities occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in chapter 43 of title 38, United States Code), to the extent permitted by section 414(u)(9) of the Internal Revenue Code, for benefit accrual purposes and in the case of death, for vesting purposes, the member shall be treated as having earned years of service for the period of qualified military service, having returned to employment on the day before the death and/or disability, and then having terminated on the date of death or disability. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

**J. Internal Revenue Code Section 414(p)**

If benefits are payable pursuant to a qualified domestic relations order that meets the requirements of a domestic relations order as defined in section 414(p) of the Internal Revenue Code, then the applicable requirements of section 414(p) of the Internal Revenue Code shall be followed by the retirement system.

**K. Internal Revenue Code Section 414(u)**

Effective December 12, 1994, notwithstanding any other provision of the retirement system law, contributions, benefits and service credit with respect to qualified military service are governed by section 414(u) of the Internal Revenue Code and the Uniformed Services Employment and Reemployment Rights Act of 1994.

**L. Internal Revenue Code Section 415:**

(1) **Aggregation of Limits:** The requirements of Internal Revenue Code Section 415(b) must be satisfied, determined by treating (i) the accrued benefit derived from all contributions as an annual benefit for purposes of Internal Revenue Code Section 415(b), and (ii) with respect to any member who at any time has been a member in any other defined benefit plan as defined in Internal Revenue Code Section 414(j) maintained by the member's employer in this system, the total benefits payable under all such defined benefit plans in which the member has been a member as payable from one (1) plan.

(2) **Basic 415(b) Limit:** Retirement benefits paid from the system may not exceed the annual limits on benefits allowed by Internal Revenue Code Section 415. In many cases, this requirement will be satisfied under Internal Revenue Code Section 415(b)(4), which provides that the benefits will be deemed to not exceed these limits if the retirement benefits from the system (and under all other defined benefit plans of the employer) do not exceed \$10,000 for the plan year or for any prior plan year, and the member has not participated in a defined contribution plan of the employer.

(3) **415(b) Limit if Not Satisfied under Paragraph (2):** Before 1995, a member may not receive an annual benefit that exceeds the limits specified in Internal Revenue Code Section 415(b), subject to the applicable adjustments in that section. For purposes of applying these limits, the definition of compensation where applicable shall be "W-2 income" as permitted by Treasury Regulation Section 1.415-2(d)(11), or successor regulation. Beginning in 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in Internal Revenue Code Section 415(b)(1)(A), as increased in subsequent years pursuant to Internal

Revenue Code Section 415(d) and the regulations thereunder, and subject to the applicable adjustments in Internal Revenue Code Section 415(b). For purposes of Internal Revenue Code Section 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) under a plan to which employees do not contribute and under which no rollover contributions are made (as defined in section 415(b)(2)(A) of the Internal Revenue Code).

(4) Adjustments to Limitation under Paragraph (3) for Form of Benefit: If the Basic 415(b) Limit in paragraph (2) is not satisfied, and therefore the limits of paragraph (3) apply, and since the benefit under the system is other than a straight life annuity (with no ancillary benefits), then the benefit shall be adjusted so that it is the equivalent of the annual benefit as defined in paragraph (3), using factors prescribed in Treasury Regulations and as set forth in system policies and procedures.

(5) Benefits Not Taken into Account for 415(b) Limitation: For purposes of the system, the following benefits shall not be taken into account in applying these limits:

(a) Any ancillary benefit which is not directly related to retirement income benefits;

(b) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;

(c) Any other benefit not required under Internal Revenue Code Section 415(b)(2) and Regulations thereunder to be taken into account for purposes of the limitation of Internal Revenue Code Section 415(b)(1).

(6) Adjustments to Basic 415(b) Limitation: Since the form of benefit is not a straight life annuity or a qualified joint and survivor annuity, the limit shall be applied by either reducing the Internal Revenue Code Section 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount [determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii)] that takes into account the additional benefits under the form of benefit as follows:

(a) For a benefit paid in a form to which Internal Revenue Code Section 417(e)(3) does not apply [a monthly benefit], the actuarially equivalent straight life annuity benefit that is the greater of (or the reduced Section 415(b) limit applicable at the annuity starting date which is the "lesser of" when adjusted in accordance with the following assumptions):

(i) The annual amount of the straight life annuity (if any) payable to the member under the system commencing at the same annuity starting date as the form of benefit to the member; or

(ii) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009,



the applicable mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in Internal Revenue Code Section 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing Internal Revenue Code Section 417(e)(3)(B)); or

(b) For a benefit paid in a form to which Internal Revenue Code Section 417(e)(3) applies [a lump sum benefit], the actuarially equivalent straight life annuity benefit that is the greatest of (or the reduced Section 415(b) limit applicable at the annuity starting date which is the "least of" when adjusted in accordance with the following assumptions):

(i) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;

(ii) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality table for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in Internal Revenue Code Section 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing Internal Revenue Code Section 417(e)(3)(B)); or

(iii) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to July 1, 2009, using the rate in effect for the month prior to retirement, and on and after July 1, 2009, using the rate in effect for the first day of the plan year with a one-year stabilization period)) and (i) for years prior to January 1, 2009, the applicable mortality rate for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in Internal Revenue Code Section 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the Internal Revenue Code), divided by 1.05.

(7) Other Adjustments in 415(b) Limitation:

(a) In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of Internal Revenue Code Section 415(b), so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar (\$160,000), as adjusted, annual benefit beginning at age sixty-two (62).

(b) In the event the member's benefit is based on at least fifteen (15) years of service as a full-time employee of any police or fire department or on fifteen (15) years of military service, the adjustments provided for in subsection (a) above shall not apply.

(c) The reductions provided for in subsection (a) above shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

(8) **Less than Ten (10) Years of Service Adjustment for 415(b) Limitation:** The maximum retirement benefits payable to any member who has completed less than ten (10) years of service shall be the amount determined under paragraph (2) multiplied by a fraction, the numerator of which is the number of the member's years of service and the denominator of which is ten (10). The reduction provided by this subsection cannot reduce the maximum benefit below 10%. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

(9) **Ten Thousand Dollar (\$10,000) Limit:** Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such member under this system and under all other qualified defined benefit pension plans to which the member's employer contributes, do not exceed ten thousand dollars (\$10,000) for the applicable limitation year and for any prior limitation year and the employer has not at any time maintained a qualified defined contribution plan in which the member participated.

(10) **Coordination of Limits:** Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering such member.

(11) **Limitation Year:** The limitation year for purposes of Internal Revenue Code Section 415 is the calendar year beginning each January 1 and ending each December 31.

**Amendments:** Nothing contained in this section limits the Commissioner from modifying benefits to the extent such modifications are permissible by applicable state and federal law.

**M. Internal Revenue Code Section 503(b)**

Effective as of July 1, 1989, the Commissioner may not engage in a transaction prohibited by section 503(b) of the Internal Revenue Code.

**N. Group Trust Provisions – Compliance with U.S.C. 401(a)(24)**

The Alaska Retirement Management Board may, unless restricted by law, transfer assets of the Judicial Retirement System under AS 22.25.010 – AS 22.25.900 or retiree medical trust under AS 22.25.090 to a collective or common group trust, as permitted under Internal Revenue Code Section 401(a)(24), Revenue Ruling 81-100, Revenue Ruling 2011-1, and Revenue Ruling 2014-24 (or subsequent guidance), that is operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under section 401(a) of the Internal Revenue Code, individual retirement accounts that are exempt under section 408(e) of the Internal Revenue Code, eligible governmental plans that meet the requirements of section 457(b) of the Internal Revenue Code, and government plans under section 401(a)(24) of the Internal Revenue Code. For this purpose, a trust includes a custodial account or separate tax-favored account maintained by an insurance contract that is treated as a trust under section 401(f) or under section 457(g)(3) of the Internal Revenue Code.

- i. For purposes of valuation, the value of the interest maintained by each plan participating in such group trust shall be the fair market value of the portion of the group trust held for each plan, determined in accordance with generally recognized valuation procedures. The assets of each plan participating in the group trust shall not be used for or diverted to any purposes other than for the exclusive benefit of the participants and beneficiaries of such plan.
- ii. The Alaska Retirement Management Board may adopt one or more group trust(s) as part of each plan, by executing appropriate agreements with the group trust's trustee.

**O. Participation in Group Trust – Compliance with U.S.C. 401(a)(24)**

The Naval Guard and Naval Militia Retirement System under AS 26.05.222 – AS 26.05.229 may participate in a collective or common group trust, as permitted under Internal Revenue Code Section 401(a)(24) and pursuant to Revenue Rulings 81-100, 2011-1, and 2014-24. In any event, no part of the Trust corpus or income may be used for, or diverted to, purposes other than for the exclusive benefit of the specific plan participants and their beneficiaries.

Such participation shall be at the direction of the Alaska Retirement Management Board.

**VIII. SECTION 8. PUBLIC EMPLOYEES' DEFERRED COMPENSATION PROGRAM**

Notwithstanding any other provisions to the contrary, and pursuant to Title 39, Chapter 45 of the Alaska Statute, the Deferred Compensation Program Plan Document provides ongoing detailed guidance on federal compliance provisions as well as discretionary federal law amendments as determined by the State of Alaska.