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**DECEMBER 15, 2021**

**SUMMARY OF PROPOSED RULE AMENDMENT**

**ATRS RULE 8 – PURCHASES AND REFUNDS**

**I. PURPOSE**

To amend ATRS Rule 8 – Purchases and Refunds (Rule 8) in accordance with legislation enacted during the Regular Session, 2021, and to redraft current provisions for clarity and to correct nonsubstantive issues such as formatting, renumbering, grammar, and spelling as appropriate. The amendments to Rule 8 are necessary for the proper operation and administration of the Arkansas Teacher Retirement System.

**II. BACKGROUND AND DISCUSSION**

A.C.A. § 24-7-301 provides that the Board of Trustees of the Arkansas Teacher Retirement System is responsible for the general administration and proper operation of the Arkansas Teacher Retirement System and for implementing the Arkansas Teacher Retirement System Act, A.C.A. § 24-7-201 et seq.

A.C.A. § 24-7-305(b) gives the Board of Trustees of the Arkansas Teacher Retirement System the authority to promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the Arkansas Teacher Retirement System. Acts 2021, No. 595 requires the Arkansas Teacher Retirement System to promulgate rules pursuant to the provisions of each act identified by the Bureau of Legislative Research as requiring the promulgation of one (1) or more rules.

Rule 8 currently provides that only an active member may purchase domestic federal service credit. Acts 2021, No. 279 amended the law to provide that both active and inactive members may purchase domestic federal service credit. Rule 8 is being amended to reflect the amendment to the law in Acts 2021, No. 279.

Acts 2021, No. 279 amended references to “interest” to “regular interest” as appropriate. Rule 8 is being amended to correspond with Acts 2021, No. 279 by referring to “regular interest” instead of “interest” as appropriate.

Rule 8 currently provides that A.C.A. § 24-7-201 et seq. permits members to purchase various types of service and credit that service to the member under certain circumstances. For clarity, Rule 8 is being amended to add additional rules concerning the various types of purchasable service and when purchased service may be credited to a member in the Arkansas Teacher Retirement System.

Rule 8 is being amended to redraft current provisions for clarity and correct nonsubstantive issues such as formatting, renumbering, grammar, and spelling as appropriate.

**III. KEY POINTS**

Rule 8 is being amended to:

- Provide that both active and inactive members may purchase domestic federal service credit;



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- Amend “interest” to “regular interest” as appropriate;
  - Add additional rules concerning the various types of free and purchasable service and when free and purchasable service may be credited to a member in the Arkansas Teacher Retirement System;
  - Amend or add language recommended through public comment that:
    - Clarifies that free military service will be credited to a member’s account on a pro-rated basis if the member has both contributory and noncontributory service;
    - Corrects the list numbering for Section (III)(c)(1) of the proposed rule;
    - Removes “and” from between Section (III)(h)(2)(A)(i)(b) and Section (III)(h)(2)(A)(i)(c) of the proposed rule;
    - Provides that a full year salary shall be calculated by dividing each partial year’s service percentage into each partial year’s salary;
    - Appropriately references “account” and “accountant” as necessary;
    - Clarifies when the Arkansas Teacher Retirement System will refund interest; and
    - Adds additional rules concerning the overpayment of member and employer contributions; and
  - Redraft current provisions for clarity and correct nonsubstantive issues such as formatting, renumbering, grammar, and spelling as appropriate.

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**Public Comments**  
**Proposed Rule 8 – Purchases and Refunds**

**1. Page 1, Section (I)(d).**

- a. **ATRS Staff Comment:** Is the reference to the “*United States Department of State*” correct?
- b. **Response:** Yes.

**2. Page 2, Section (I)(e)(1)(B)(ii).**

- a. **ATRS Staff Comment:** Should there be an “*and*” at end of Section (I)(e)(1)(B)(ii)?
- b. **Response:** Yes. This conforms with the style format of the Code of Arkansas Rules.

**3. Page 2, Section (II)(a).**

- a. **ATRS Staff Comment:** Should a rule providing, “*If the member has both contributory and noncontributory service, free military service will be credited to the member’s account on a pro-rated basis*”, be included in this section?
- b. **Response:** Yes. The appropriate changes have been made.

**4. Page 5, Section (III)(c)(1).**

- a. **ATRS Staff Comment:** Is the list numbering for Section (III)(c)(1) correct?
- b. **Response:** No. The appropriate changes have been made.

**5. Page 8, Section (III)(h)(2)(A)(i)(b) and (c).**

- a. **ATRS Staff Comment:** Should there be an “*and*” between Section (III)(h)(2)(A)(i)(b) and Section (III)(h)(2)(A)(i)(c)?
- b. **Response:** **Response:** No. The appropriate change has been made.

**6. Page 9, Section (III)(i)(1)**

- a. **ATRS Staff Comment:** To be consistent with the other types of purchases in Rule 8, under the Federal Retirement Service, should “*active*” be removed from “*An active member may purchase...*”?
- b. **Response:** No. The proposed rule aligns with the current provisions of Ark. Code Ann. § 24-1-107.

**7. Page 10, Section (IV)(a)**

- a. **ATRS Staff Comment:** Should a rule requiring members to purchase service no later than one (1) month before the member’s effective date of retirement be included?
- b. **Response:** No. Legislative amendments appear to be required before the commentator’s suggestion could be included in the proposed rules.

**8. Page 10, Section (IV)(a)**

- a. **ATRS Staff Comment:** Should a rule prohibiting a member from purchasing service unless the member is vested be included?
- b. **Response:** No. Legislative amendments appear to be required before the commentator's suggestion could be included in the proposed rules. Additionally, as purchasing service earlier reduces the purchase price, adopting the commentator's suggestion would prevent a member from being able to purchase service at the cheapest cost possible.

**9. Page 10, Section (IV)(a)**

- a. **ATRS Staff Comment:** Should a rule prohibiting a member from purchasing service unless the member meets the requirements for having the purchase service included in the calculation of the member's benefits be included?
- b. **Response:** No. Legislative amendments appear to be required before the commentator's suggestion could be included in the proposed rules. Additionally, as purchasing service earlier reduces the purchase price, adopting the commentator's suggestion would prevent a member from being able to purchase service at the cheapest cost possible.

**10. Page 11, Section (IV)(c)(1)**

- a. **ATRS Staff Comment:** Section (IV)(c) relates to the way the purchase is calculated. Do we need to define the year? Once a year has closed?
- b. **Response:** No, the year does not need to be defined. No changes have been made.

**11. Page 11, Section (IV)(c)(5)**

- a. **BLR Comment:** This rule appears to be premised on current Section (II)(D). Is the calculation the same? The current rule seems to provide the percentage is divided into the partial year's salary (salary ÷ percentage or salary/percentage), while the proposed rule seems to provide that the percentage is divided by salary (percentage ÷ salary or percentage/salary)?
- b. **Response:** The calculation has not changed. The percentage should be divided into the partial year's salary (salary ÷ percentage or salary/percentage). This change has been made.

**12. Page 12, Section (IV)(c)(6)**

- a. **ATRS Staff Comment:** This deals with calculation. I don't understand why we would not use the correct salary or service reflected on a member's history if it was corrected through a history adjustment.
- b. **Response:** The proposed rule provides an accurate and fair method for calculating actuarial cost for service to be purchased. No changes have been made.

**13. Page 13, Section (IV)(d)(2)(D)**

- a. **BLR Comment:** In the third line, should the terms "*account*" and "*accountant*" be switched?
- b. **Response:** Yes. This change has been made.

**14. Page 14, Section (IV)(d)(4)(E)**

- a. **ATRS Staff Comment:** When would Section (IV)(d)(4)(E) come into play?
- b. **Response:** Ark. Code Ann. § 24-7-612(b)(2) provides that if a member has not agreed to a reasonable payment schedule for a service credit purchase on or before June 30, 2012, the member's payments, if any, shall be returned to the member without interest on the member's payments. Therefore, Section (IV)(d)(4)(E) would likely come into play if there was a legislative change to Ark. Code Ann. § 24-7-612(b)(2) or another statute that required a refund of interest in this situation. Appropriate changes have been made to clarify when the Arkansas Teacher Retirement System (ATRS) would refund interest.

**15. Page 15, Section (V)(b)**

- a. **ATRS Staff Comment:** Does this section address the termination of refunds? If yes, should this section be removed and placed in Rule 6 – Membership Rules or Rule 7 - Reporting and Eligibility?
- b. **Response:** This section addresses a refund of member contributions and employer contributions. ATRS intends to continue reorganizing its rules and an appropriate relocation of Section (V)(b) will be made at a later time. No changes have been made.

**16. Page 15, Section (V)(b).**

- a. **ATRS Staff Comment:** Should additional rules concerning the documentation of refunds or forfeitures of de minimis amounts owed to an employer be included in this section?
- b. **Response:** Yes. Appropriate changes have been made.

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## ~~ATRS Rule 8~~

### ~~PURCHASES AND REFUNDS~~ ATRS RULE 8

#### FREE SERVICE CREDIT, PURCHASABLE SERVICE CREDIT, AND PURCHASE ACCOUNTS

~~A.C.A. Arkansas Code §§ 24-1-107, 24-7-406, 24-7-601, 24-7-602, 24-7-607, 24-7-711, 24-7-719, and 24-7-735, 24-1-107~~

## **I. Definitions**

### **I. Definitions**

- a. "Armed forces reserve" means one (1) of the reserve components of the United States Armed Forces;

~~"Back Contributions" means mandatory contributions payable for service and salary rendered in a covered position within the ATRS look back period.~~

- b. "Domestic federal service" means service rendered as a teacher or administrator in a school or similar institution located on a military base or installation that is administered by the United States Department of Defense;

- c. "Out-of-state service" means service performed in a state other than Arkansas and in a position that would have been covered by the Arkansas Teacher Retirement System (ATRS) if the service had been actual service performed in Arkansas and covered by ATRS;

- d. "Overseas service" means service in:

1. An American-related overseas school that is sponsored and approved by either the **United States Department of State** or the United States Department of Defense; or

2. The Peace Corps or AmeriCorps VISTA, Volunteers in Service to America;

- B. ~~e. "Private School Service~~ school service" ~~as defined in A.C.A. § 24-7-607, additionally, employment under the Head Start Programs will also be considered private school service and will have the same requirements for the issuance of teaching licenses by the Arkansas State Department of Education as determined by ATRS staff.~~ means:

1. Service rendered in a private school, or agency that would have been covered by ATRS if the:

A. Service had been rendered in a public school; and

B. Private school or agency:

i. Has positions that would require the issuance of a teaching

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license in a public school based on a determination by ATRS;  
or

ii. Is recognized as a private education-related entity by  
resolution adopted by the Board of Trustees of the Arkansas  
Teacher Retirement System (Board); and

f. “Uniformed Services of the United States” means service in the:

1. United States Armed Forces;
2. Army National Guard;
3. Air National Guard when engaged in active duty for training, state  
active duty, inactive duty training, or full-time National Guard duty;
4. United States Commissioned Corps of the Public Health Service; and
5. Any other category of persons designated by the President of the  
United States in time of war or emergency.

## **II. Free Service Credit**

### **a. Military Service Credit**

#### 1. Generally

- A. A person may establish military service credit with ATRS at any  
time after becoming a member.
- B. Military service credit established with ATRS is effective after the  
member completes five (5) years of actual service in ATRS,  
excluding military service credit.
- C. ATRS shall provide a member with military service credit after the  
member:
  - i. Completes and submits Form M-1 to ATRS; and
  - ii. Submits official military documentation listing the entry and  
discharge dates of the member’s first enlistment or induction  
into the United States Armed Forces.
- D. Military service credited to a member before July 1, 1986, shall be  
considered contributory service.
- E. Military service credited to a member shall not exceed five (5) years  
unless the member is entitled to service credit for service in the  
uniformed services of the United States. (Arkansas Code § 24-7-  
602(c)).
- F. Military service shall be credited in order of the years that are  
chronologically closest to the member’s service with a covered  
employer.

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G. A member shall not receive military service credit for military service years resulting from the member's reenlistment or voluntary extension of his or her initial enlistment.

H. Free military service shall be credited to a member's account on a prorated basis if the member has bot contributory and noncontributory service.

## 2. Federal Military Draft

### A. New Members

- i. A member who is first employed after serving in the United States Armed Forces during a period of time in which the military draft was in effect is eligible to receive free military service credit if the member:
- ii. Completes five (5) or more years of actual service in ATRS; and
- iii. Receives an honorable discharge.

### B. Active Members

- i. An active member who enters the United States Armed Forces during any period that a federal military draft was in effect and who becomes an active member after an honorable discharge from the United States Armed Forces may receive free military service credit regardless of whether the member has five (5) or more years of credited service at the time of his or her reemployment.
- ii. An active member who enters the United States Armed Forces during a period that a federal military draft was in effect and obtains a refund of member contributions from ATRS may receive free military service credit if the member:
  - a. Receives an honorable discharge from the United States Armed Forces; and
  - b. Repays the actuarial equivalent of the member's refunded service to ATRS before retiring.

## **~~II. Purchase of Service Credit/Repayment of Refunds – General~~**

### **III. Purchasable Service Credit**

#### a. Military Service Credit

##### 1. Service in the United States Armed Forces

- A. A member shall receive service credit for service in the United States Armed Forces that cannot be credited to the member under



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Arkansas Code § 24-7-602(a) if the member pays ATRS the actuarial equivalent for the service credit.

## 2. Service in the Uniformed Services of the United States

A. Effective December 12, 1994, a member shall be treated as not having incurred a break in service with a covered employer if the member:

i. Leaves employment with a school to voluntarily or involuntarily serve in the uniformed services of the United States; and

ii. Returns to employment with a school.

B. A member's absence from his or her employment with a school due to his or her service in the uniformed services of the United States shall not exceed five (5) years.

C. A member described in this ATRS Rule 8 III.a.2.A shall accrue benefits for the time he or she served in the uniformed services of the United States if:

i. The member pays the employee contributions as provided in Arkansas Code § 24-7-406; and

ii. Employer contributions are paid for the time the member served in the uniformed services of the United States.

## b. Service in National Guard and Armed Forces

1. A member may purchase up to five (5) years of service for his or her service in the National Guard or armed forces reserve.

2. A member shall receive credit for service in the National Guard or armed forces reserve if the member:

A. Submits an application for National Guard or armed forces reserve service credit to the Board;

B. Provides ATRS with satisfactory proof of his or her service in the National Guard or armed forces reserve;

C. Pays ATRS, in full, the actuarial equivalent of the member's benefits for each year of National Guard or armed forces reserve service credit being purchased; and

D. Has established at least five (5) years of actual service with ATRS, excluding National Guard or armed forces reserve service.

3. ATRS shall not credit a member with more than five (5) years of service for service in the National Guard or armed forces reserve.

## c. Domestic Federal Service

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1. Beginning January 1, 2003, a member may purchase up to ten (10) years of domestic federal service that shall be credited if:

i. The member:

- i. Has contributions left on deposit with another system and the domestic federal service credit being purchased is limited to service for which another system similar in purpose to ATRS, except for Social Security, could not pay a benefit;
- ii. Pays ATRS, in full, the actuarial equivalent of benefits for each year of domestic federal service credit being purchased; and
- iii. Has established at least five (5) years of actual service, excluding federal domestic service; and

ii. All other requirements set by rules adopted by the Board are met.

2. A member may purchase a fraction of a year of domestic federal service that shall be credited if the:

- A. Member has at least one-fourth (1/4) of a year of domestic federal service in a fiscal year; and
- B. Fraction of a year of domestic federal service can be credited in accordance with Arkansas Code § 24-7-601.

d. Out-of-State Service

1. Out-of-State Service — Purchased Before July 1, 1987

- A. Out-of-state service purchased before July 1, 1987, shall be credited as service in accordance with the law in effect before July 1, 1987.

2. Out-of-State Service — Purchased on and after July 1, 1987

- A. A member may purchase up to fifteen (15) years of out-of-state service.
- B. Out-of-state service shall be credited if:

i. The member:

- a. Has contributions left on deposit with another system and the out-of-state service credit being purchased is limited to service for which another system similar in purpose to ATRS, except for Social Security, could not pay a benefit;
- b. Pays ATRS, in full, the actuarial equivalent of benefits for each year of out-of-state service credit being purchased; and

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c. Has established at least five (5) years of actual service, excluding out-of-state service; and

ii. All other requirements set by rules adopted by the Board are met.

C. A member may purchase a fraction of a year of out-of-state service that shall be credited if the:

i. Member has at least one-fourth (1/4) of a year of out-of-state service in a fiscal year; and

ii. Fraction of a year of out-of-state service can be credited in accordance with Arkansas Code § 24-7-601.

## e. Overseas Service

1. A member may purchase service credit for service in an overseas school if:

A. The member:

i. Has at least five (5) years of service in a position covered by ATRS; and

ii. Performs the minimum days of service at the overseas school required for a fiscal year of service credit;

B. The overseas service credit is limited to service for which another system similar in purpose to ATRS, except Social Security, could not pay a benefit; and

C. The actuarial equivalent of the member's benefits is paid to ATRS

2. ATRS shall not credit a member with more than ten (10) years of overseas service credit.

## f. Service in the General Assembly

1. A member of the Senate or House of Representatives of the General Assembly who is a member of ATRS shall receive credited service and salary in ATRS for his or her full contract salary if the:

A. School district requires the member's salary to be reduced during the member's attendance at:

i. Regular or extraordinary sessions of the General Assembly; or

ii. Interim meetings of regular or special committees of the General Assembly;

B. Member submits an application for General Assembly service credit to ATRS;

C. Member pays ATRS the necessary member contributions; and

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D. Required employer contributions are paid to ATRS for the amount of the salary reduction during periods of the member's attendance at regular or extraordinary sessions of the General Assembly or sessions of legislative committees.

2. A member of the Senate or House of Representatives who currently serves in the General Assembly or has served in the legislative committees for any year that is within five (5) years of July 6, 1977, shall receive credited service and salary for his or her full contract if the:

A. Member submits an application for General Assembly service credit to ATRS and pays the employee contributions; and

B. Required employer contributions are paid from the Public School Fund to ATRS for the portion of the contractual period in which the member's salary was reduced during the member's legislative service.

3. A member of the Senate or House of Representatives of the General Assembly who is an employee and member of ATRS shall receive credited service and salary for his or her full contract salary if:

A. Either the member or school district decides it is in the best interest of the member to take a leave of absence for up to one (1) full calendar year at a time in order for the member to attend his or her duties as a member of the General Assembly; and

B. Both the required employee and employer contributions are paid to ATRS for the amount of the member's contract salary during periods in which the member attended sessions of the General Assembly or legislative committees.

## g. Advanced Degree Service

1. Beginning June 28, 1985, a member who is a public school teacher or administrator and takes a leave of absence from a school in order to obtain an advanced degree at an institution of higher learning or to fulfill the requirements of a scholarship or grant shall receive credited service for the time of the member's actual enrollment in the institution if the member:

A. Submits an application for the advanced degree service credit to ATRS; and

B. Pays the actuarial equivalent of the member's benefits to the system for each year of service credit being purchased.

## h. Private School Service

1. Head Start Programs

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A. Employment with a Head Start program shall be considered private school service.

## 2. Certified Private School Service Credit

A. A member may purchase up to fifteen (15) years of private school service to be credited as certified service if:

i. The member:

- a. Has contributions left on deposit with another system and the private school service credit being purchased is limited to service for which another system similar in purpose to ATRS, except for Social Security, could not pay a benefit;
- b. Pays ATRS, in full, the actuarial equivalent of benefits for each year of private school service credit being purchased; and
- c. Has established at least five (5) years of actual service, excluding private school service; and

ii. All other requirements set by rules adopted by the Board are met.

## 2. Noncertified Private School Service Credit

A. A member may purchase up to five (5) years of noncertified private school service that shall be credited as noncertified service if:

i. The member:

- a. Submits an application to purchase noncertified private school service to ATRS;
- b. Has contributions left on deposit with another system and the noncertified service credit being purchased is limited to service for which another state-supported pension system or system similar in purpose to ATRS could not pay a **benefit**;
- c. Pays ATRS, in full, the actuarial equivalent of benefits for each year of service credit being purchased; **and**
- d. Has established at least five (5) years of actual service; and

ii. All other requirements set by rules adopted by the Board are met.

B. A member may purchase a fraction of a year of private school service that shall be credited if the:

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- i. Member has at least one-fourth (1/4) of a year of private school service in a fiscal year; and
- ii. Fraction of a year of private school service can be credited in accordance with Arkansas Code § 24-7-601.

## 3. Private Education-Related Entity Private School Service

A. A member may purchase up to five (5) years of private education-related entity private school service that shall be credited as noncertified service if:

- i. The member:
  - a. Submits an application to purchase private education-related entity private school service to ATRS;
  - b. Has contributions left on deposit with another system and the private education-related entity private school service credit being purchased is limited to service for which another state-supported pension system or system similar in purpose to ATRS could not pay a benefit;
  - c. Pays ATRS, in full, the actuarial equivalent of benefits for each year of service credit being purchased;
  - d. Has established at least five (5) years of actual service; and
- ii. All other requirements set by rules adopted by the Board are met.

## i. Federal Retirement Service

1. An active member may purchase up to ten (10) years of federal retirement service that shall be credited if the:

- A. Federal retirement service being purchased is limited to service for which the federal retirement system could not pay a benefit to the member;
- B. Member submits an application to purchase federal retirement service to ATRS;
- C. Member provides certification of his or her federal retirement service to ATRS on a form approved by ATRS;
- D. Member pays ATRS, in full, the actuarial equivalent of benefits for each year of service credit being purchased; and
- E. Member has established at least five (5) years of actual service, excluding federal retirement service.

2. A member shall complete at least one hundred sixty (160) working

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days before the member may establish one (1) year of federal retirement service credit.

3. One (1) month of federal service shall be considered twenty (20) days of service.
4. A member may purchase a fraction of a year of federal retirement service that shall be credited if the:
  - A. Member has at least one-fourth (1/4) of a year of federal retirement service in a fiscal year; and
  - B. Fraction of a year of federal retirement service can be credited in accordance with Arkansas Code § 24-7-601.
5. Federal retirement service credit shall be considered contributory service.
6. Purchased federal retirement service shall be credited to the fiscal year in which the service was rendered.
7. If a member is not an active member before establishing federal retirement service with ATRS, the member's contribution payments and regular interest shall be refunded.
8. Purchase account payments made through employer pick-up are subject to restrictions specified in this ATRS Rule 8, regulations, and the Internal Revenue Code.

## IV. Cost of Service and Purchase Accounts

~~A. Arkansas Code § 24-7-601 et seq. allows a member to purchase various types of service and credit that service to the member under certain circumstances.~~

### a. Generally

1. A member shall purchase service using ATRS approved forms.
2. A member who purchases service shall receive credit for the purchased service if the actuarial equivalent of both the employee and employer contributions, as calculated by ATRS, are paid to ATRS.
3. The requirement for service to be purchased at the actuarial cost shall not apply to free military service credit established with ATRS.
4. A salary earned for service purchased at the actuarial cost:
  - A. Shall not be used to calculate a member's final average salary; and
  - B. May be used to determine repaid refunds for service that is required to be reported within the refunded service.

b. Contact Buyouts, Settlements, and Court Ordered Payments



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1. A member shall only earn service credit for actual, on-site work performed for a covered employer for the period specified in a contract buyout, settlement, or court ordered payment unless the member purchases service or salary that would have been received by the member if the member had been successful in his or her legal claim.
2. A member shall purchase service or salary at the actuarial cost for service and salary that the member would have earned if the member had not been terminated.
3. If a member is on call with a covered employer and not subject to either a contract buyout, settlement, or court ordered payment, the salary paid to the member as a regular employee shall be credited to the member.
4. On call credit shall not be added to a member's salary with another covered employer.
5. ATRS shall not adjust a member's service history until the:
  - A. Member or the member's covered employer provides a copy of the settlement, a file-marked court order, or a certified copy of the contract buyout to ATRS; and
  - B. Actuarial cost to purchase the service has been paid in full to ATRS.

## c. Actuarial Cost of Service — Purchase Formula

~~B. Actuarial cost for purchase of service does not include adjustments to salary and service that are made in order to properly reflect the member's mandatory salary and service records. In addition, the actuarial cost of service does not apply to free military service credit that is established with ATRS.~~

1. A member's highest salary shall be used as the base year when calculating the actuarial cost for service being purchased by the member
2. A member's base year shall be the member's highest salary year unless the highest salary year is more than one hundred fifty percent (150%) greater than the next highest salary year.
3. If a member's highest salary year is more than one hundred fifty percent (150%) greater than the next highest salary year, the highest two (2) salary years shall be added together and divided by two (2) to determine the base year to be used for calculating the actuarial cost for service being purchased.
4. If a member does not have enough full service years to determine a base year for the purchase formula, a full year salary shall be used to



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determine the base year.

5. A full year salary shall be calculated by dividing each partial year's service percentage into each partial year's salary.

6. The actuarial cost for service to be purchased shall not include adjustments to salary and service that are made in order to properly reflect the member's mandatory salary and service record.

7. Service purchased at the actuarial cost shall be contributory.

~~C. The actuarial cost for purchase of service shall use the member's highest salary year as the formula's "base year." The base year shall always be the member's highest salary year unless the highest salary year is more than 150% greater than the next highest salary year. In that event, the best two (2) salary years shall be added together and divided by two (2) to establish the base year for the formula.~~

~~D. If a member does not have sufficient full service years to establish the base year for the purchase formula, then each partial year's service percentage shall be divided into each partial year's salary to establish a full year salary from the partial year salary to determine the base year for the formula.~~

~~E. Salaries for actuarially purchased service shall not be used in the calculation of final average salary except for repaid refunds for mandatorily reported service within the refunded service.~~

~~F. All actuarially purchased service shall be purchased as contributory.~~

~~G. Members seeking to purchase service with ATRS shall use forms developed by ATRS staff to establish the service.~~

## d. Purchase Accounts

### 1. Purchase Account Commitment Statement

A. A purchase account established before July 1, 2011, shall have an approved Purchase Account Commitment Statement (PACS) on file with ATRS detailing the member's payment plan.

B. A PACS may be modified with the agreement of the member and ATRS.

C. A modification of a PACS may include changes to the type of payment, the duration of the service purchase agreement, and a decrease of the service purchased policy.

D. The service purchased under a PACS shall not be increased.

E. ATRS shall cancel a service purchase agreement with a member if the member fails to comply with the terms of the agreement.

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F. Purchase account payments shall be applied to the member's account on the date the payment is received by ATRS.

## 2. Rollover Payments

A. ATRS shall accept participant rollover contributions and direct rollovers for the purchase of service credit from a qualified retirement plan.

B. A depository trustee from a qualified retirement plan shall certify to ATRS that the rollover deposit account is qualified and eligible to receive rollover distributions before a distribution of a member's account monies.

C. If the depository trustee is unable to certify the rollover deposit account as qualified and eligible to receive rollover distributions, ATRS shall accept a certification from a public accountant who has an active certified public accountant's license.

D. A public accountant shall not certify a rollover deposit account as qualified and eligible to receive rollover distributions if the public **accountant** has an interest in the rollover deposit **account** as a member, spouse, or designated beneficiary.

## 3. Deceased Member

A. If a member with an active purchase account dies, the member's spouse, beneficiary, or legal representative shall have up to six (6) months from the member's date of death to pay the balance of the purchase account unless the deadline is extended by ATRS for good cause.

B. If the member's purchase account is not paid in full within six (6) months of the member's date of death, the purchase account shall be closed and payments made towards the purchase account shall be considered as part of the member's residual account balance.

## 4. Cancellation of Purchase Accounts

A. A purchase account that is paid in full after a final payment has been tendered shall not be cancelled.

B. A member's purchase account may be cancelled if:

i. The member submits a written cancellation request to ATRS; and

ii. ATRS approves the cancellation request.

C. ATRS may approve a cancellation request and refund a member's purchase account if the purchase account:

i. Is an account that has been paid only with after-tax

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contributions;

ii. Is an account that has been paid only with employer pick-up contributions and one (1) of the following applies:

a. All payments on the irrevocable payroll authorization have been completed;

b. The member terminates employment with the employer;  
or

c. The member retires; or

iii. Is an account that has been paid only with rollover or transfer contributions and the rollover or transfer contributions may be rolled over or transferred to another qualified plan or refunded to the member after the deduction and payment of federal taxes.

D. If a member's cancellation request is approved by ATRS, ATRS shall refund the balance of the member's purchase account without interest to the member.

E. ATRS shall refund interest to a member if a refund of interest is statutorily mandated under Arkansas Code § 24-7-612 or another applicable provision of the Arkansas Code.

~~H. If an active member with an active purchase account dies, the member's spouse, ATRS beneficiary, or legal representative shall have up to six (6) months to pay the balance of the purchase account. If the purchase account is not paid in full within six (6) months of the date of death, the purchase account is cancelled and any payments shall be treated as part of the member's residual account balance. ATRS may extend the six (6) month period for good cause shown.~~

## **III. Special Provisions for the Repayment of Refunded Member Contributions**

### **V. Refunds**

#### **a. Purchase of Refunded Service**

~~A. To be eligible to repay a refund, a person must be an active member of ATRS by completing forty (40) days or more after reemployment by an ATRS covered employer.~~

1. B. A member must purchase the total credited service forfeited by the refund in order to purchase the refunded service. A member shall not purchase refunded service unless he or she purchases the total credited service forfeited by a refund.

2. C. If a member has received more than one refund, repayment must

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~~be made in inverse order.~~ A repayment of refunded contributions shall be made in inverse order if the member has received more than one (1) refund of contributions.

3. The most recent refund account must shall be paid in full before a member may purchase a previous refund account ~~can be purchased~~.

## b. Refund of Member and Employer Contributions

### 1. Overpayments

A. ATRS shall send written notification to a member or covered employer, as appropriate, of a contribution overpayment that is less than the de minimis amount that may be refunded.

B. ATRS shall not refund an overpayment of the member's contributions that is equal to or less than the de minimis amount unless the member submits a written request for a refund to ATRS within fourteen (14) days of receiving the written notice of the contribution overpayment from ATRS.

C. ATRS shall not refund an overpayment of employee contributions and employer contributions paid by the covered employer that is equal to or less than the de minimis amount unless the covered employer submits a written request for a refund to ATRS within fourteen (14) days of receiving the written notice of the contribution overpayment from ATRS.

D. If the member or covered employer does not submit a written request for a refund within fourteen (14) days of receiving the written notice of the contribution overpayment from ATRS, the amount of the contribution overpayment shall be forfeited to the trust assets of ATRS.

2. The total amount reported by the covered employer shall be credited to contributions.

3. The de minimis amount shall be periodically set by the Board, by board resolution, and shall remain the same amount until adjusted by the Board.

4. For refunded contributions, the rate of regular interest compounded annually after the first year of contributions shall be credited as follows:

<u>Service</u>	<u>Regular Interest Rate</u>
<u>Before July 1, 1984</u>	<u>3%</u>
<u>For July 1, 1984 through June 30, 2009</u>	<u>6%</u>
<u>For July 1, 2010, through June 30, 2011</u>	<u>2%</u>
<u>For July 1, 2012, through June 30, 2017</u>	<u>1%</u>

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<u>For July 1, 2017 and after</u>	<u>0.08%</u>
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5. Payable regular interest shall be computed:
  - A. On each member's individual account on June 30; and
  - B. By multiplying the balance in the member's individual account as of July 1, including contributions and regular interest credit from previous years, plus one-half (1/2) of the contributions for the year ending June 30 by the annual applicable regular interest percentage rate.
6. The Board, by board resolution, may change the regular interest rate on refunded contributions for subsequent years by stating the new regular interest rate, the date that the new regular interest rate is effective, and any other features necessary for implementing the regular interest rate.
7. Regular interest shall not be paid on contributions made in the year in which a refund of contributions is paid to a member.
8. ATRS shall issue a refund for a member's contributions that are closed on ATRS' books after receiving the member's properly completed refund application.
9. If a second refund payment is required to complete the refund of contributions, the second payment shall be made when all quarters of service the member works are closed on ATRS' books.
10. A rollover payment shall be made in one (1) payment when all quarters of service the member works are closed on ATRS' books.
11. A refund is effective on the date on which ATRS first issues a payment of the refund.

## **IV. Refunds of Member Contributions**

~~A. ATRS will not refund an overpayment of a member's or employer's contribution that is equal or less than the de minimus amount remitted to ATRS, except upon the written request from the member. The total amount reported by the employing authority shall be credited to contributions. The board shall periodically set the de minimus amount by board resolution, which shall remain until adjusted by the board.~~

~~B. On refunded contributions, the rate of interest compounded annually after the first year of contributions is credited as follows:~~

<del>Service</del>	<del>Interest Rate</del>
<del>Before July 1, 1984</del>	<del>3%</del>
<del>For July 1, 1984 through June 30, 2009</del>	<del>6%</del>

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For July 1, 2010, through June 30, 2011	2%
For July 1, 2012, through June 30, 2017	1%
For July 1, 2017 and after	0.08%

~~C. Payable interest shall be computed on each member's individual account on June 30 each year by multiplying the balance in the member's individual account as of July 1 (including all contributions and interest credit from previous years) plus one-half (1/2) of the contributions for the year ending on June 30 by the annual applicable interest percentage rate.~~

~~D. The Board may by board resolution change the interest rate on refunded contributions for future years by stating the new interest rate, the date that the new interest rate will become effective, and any other features of the interest rate's implementation.~~

~~E. Regular interest is not paid on contributions made in the year in which a refund is paid.~~

~~F. ATRS will issue a refund for any member contributions that have been closed on the books of ATRS upon receipt of a properly completed refund application. If a second payment is required to complete the refund, the payment will be made when all quarters of service the member worked are closed on the books of ATRS. Rollovers will be made in one payment when all quarters of service worked have been closed on the books of ATRS.~~

~~G. The effective date of a refund is the date that ATRS first issues payment of a refund.~~

## **~~V. Rollover Acceptance and Distribution~~**

### **~~A. Accepting Rollovers for Payment on ATRS Purchase Accounts~~**

~~ATRS will accept participant rollover contributions and/or direct rollovers for the purchase of service credit from qualified retirement plans as set forth in the Arkansas Code.~~

### **~~B. Rollover Eligibility of ATRS Distributions~~**

~~The depository trustee from the qualified retirement plan shall certify to ATRS that the rollover deposit account is "qualified" and eligible to receive rollover distributions prior to a distribution of a member's account monies. If the depository trustee cannot certify the eligibility status, ATRS will accept a certification from a currently licensed certified public accountant who has an active certified public accountant's license. The certification may not be made by a certified public accountant if the certified public accountant has an interest in the account as a member, spouse, or designated beneficiary.~~

## **~~VI. Purchase Payment Rules~~**

~~A. A purchase account established prior to July 1, 2011 must have an approved~~

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~~Purchase Account Commitment Statement on file with ATRS that details the member's payment plan. The Purchase Account Commitment Statement may be modified by agreement of ATRS and the member. A member who fails to complete the terms of the service purchase agreement authorizes ATRS to cancel the agreement. Modifications of the Purchase Account Commitment Statement may include types of payment, duration, and a decrease of the service purchased policy. The service purchased under a Purchase Account Commitment Statement cannot be increased.~~

~~B. An agreement to complete payment of purchase account shall exist upon tender of the initial payment to ATRS.~~

## **~~VII. Cancellation of Purchase Service Accounts~~**

~~A. An established purchase account may be cancelled if the request is submitted in writing by the member and approved by ATRS. The amount of payments to date will be returned to the member without interest unless the payment of interest is statutorily mandated.~~

~~B. The cancelled purchase account may be refunded under certain conditions:~~

- ~~1. Accounts paid only with after tax contributions can be returned to the member.~~
- ~~2. Accounts paid only with employer pick-up contributions cannot be returned to the member unless the member terminates employment or retires.~~
- ~~3. Accounts paid only with rollover/transfer contributions may be rolled to another qualified plan or refunded to the member after deduction and payment of federal taxes.~~

~~C. Purchase account payments made through employer pick-up (Irrevocable Payroll Authorization) cannot be canceled until:~~

- ~~1. The number of payments on the Irrevocable Payroll Authorization is completed; or~~
- ~~2. The member terminates employment; or~~
- ~~3. The member retires.~~

~~D. A purchase account that has been paid in full upon the tender of a final payment cannot be canceled.~~

## **~~VIII. Free Military Service~~**

~~A member of ATRS who entered the Armed Forces of the United States between July 1, 1937, and June 30, 1973, or during a period that a federal military draft is in effect, may establish that military active duty service as service in ATRS without cost, provided the following conditions are met:~~

~~A. Established active duty service must be based upon the service required for the initial enlistment. Reenlistment or voluntary extension of the initial enlistment is not considered compulsory and shall not be allowed as service credit.~~



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~~B. Military service credit shall not exceed five (5) years, and the years to be credited shall be those chronologically closest to the ATRS covered employer service.~~

~~C. ATRS will credit military service upon the completion of Form M-1, provided by ATRS, and official military documents listing the entry and discharge dates of the first enlistment or induction.~~

~~D. The member must have received an honorable discharge.~~

~~E. All military service credited prior to July 1, 1986, is contributory service.~~

~~F. Military service credit may be established at any time after becoming a member of ATRS but official crediting shall be effective upon completion of five (5) years of actual service in ATRS, excluding military service credit.~~

## **~~IX. Purchase of Federal Retirement Service~~**

~~A. An active member shall be eligible to purchase federal retirement service credit under the following conditions:~~

~~1. Federal retirement service eligible for credit purchase is limited to service for which no benefit is payable from the federal retirement system in which he or she had previously been a member.~~

~~2. Federal retirement service credit purchased shall be limited to ten (10) years.~~

~~B. The cost to purchase federal retirement service credit is actuarial cost determined by ATRS.~~

~~C. The federal retirement service will become credited service in ATRS when:~~

~~1. The member payments have been paid in full; and~~

~~2. The member has established five (5) or more years of actual service in ATRS exclusive of federal retirement service.~~

~~D. To be eligible to establish one (1) year of federal retirement service credit, a minimum of one hundred sixty (160) days must have been worked by the member. Fractional years of federal service may be purchased in accordance with A.C.A. §§ 24-7-601 and 24-1-107. A month of federal service shall be considered as twenty (20) days.~~

~~E. Certification of federal retirement service must be submitted to ATRS on a form provided by ATRS.~~

~~F. All federal retirement service credit shall be counted as contributory service.~~

~~G. Purchased federal retirement service shall be credited to the fiscal year in which it was rendered.~~

## **~~X. Contract Buyouts, Settlements, and Court Ordered Payments~~**

~~A. Unless service or salary is purchased for service the member would have~~



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~~received if the member had not been terminated, a member may only accrue service credit for actual, on-site work for a covered employer for any period of time represented in a contract buyout, settlement, or court ordered payment. Such purchased service or salary will be purchased at actuarial cost for service and salary the member would have earned had the member not been terminated. However, if the member is not subject to either a contract buyout, settlement, or court ordered payment, salary paid to the member as a regular employee be credited to the member if the member is on call to the employer. On call credit may not be stacked with salary at another ATRS employer.~~

~~B. ATRS shall not adjust a member's service history until the covered employer or member provides a copy of the court order or settlement, or a certified copy of the contract buyout, to ATRS, and the full cost to purchase has been received.~~

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## HISTORY

Adopted:	February 3, 2004	8-4
Adopted:	June 15, 2004	8-1, 8-4, 8-5, 8-6
Amended:	July 18, 2005	8-2
Amended:	April 26, 2007	8-1, 8-4, 8-7
Adopted:	February 11, 2008	8-19
	October 6, 2008	8-7
	February 1, 2010	8-2 under emergency rules.
	June 7, 2010	8-2 Permanent
	July 1, 2011	8-1, 8-2, 8-4, 8-7, 8-19, 8-20 (Emergency)
Adopted:	August 8, 2011	8-1, 8-2, 8-4, 8-7, 8-19, 8-20
Effective:	November 11, 2011	8-1, 8-2, 8-4, 8-7, 8-19, 8-20
Approved by Board:	February 6, 2012	8-1, 8-2, 8-5, 8-6
Amended:	April 2, 2012	8-2 (Emergency)
Amended:	April 18, 2012	8-1, 8-5, 8-6
Effective:	May 29, 2012	8-1, 8-2, 8-5, 8-6
Approved by Board:	July 26, 2013	8-20
Amended:	October 9, 2013	8-20
Effective:	November 8, 2013	8-20
Approved by Board:	October 5, 2015	8-1, 8-7
Amended:	February 1, 2016	8-1, 8-7
Effective:	February 10, 2016	8-1, 8-7
Effective:	August 5, 2019	Rule 8
Effective:	May 28, 2020	

## FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Teacher Retirement System

DIVISION \_\_\_\_\_

PERSON COMPLETING THIS STATEMENT Jennifer Liwo

TELEPHONE NO. (501) 682-1517 FAX NO. (501) 682-2359 EMAIL: jenniferl@artrs.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE ATRS Rule 8 - Purchases and Refunds

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☐ No ☒
  
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes ☒ No ☐
  
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;

N/A

- b) The reason for adoption of the more costly rule;

N/A

- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

N/A

- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \$ 0.00

Total \$ 0.00

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \$ 0.00

Total \$ 0.00

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ \_\_\_\_\_

\$ \_\_\_\_\_

N/A

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ \_\_\_\_\_

\$ \_\_\_\_\_

N/A

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☐

N/A

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.