

**SENATE CS FOR CS FOR SS FOR HOUSE BILL NO. 254(RLS)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-SECOND LEGISLATURE - SECOND SESSION**

**BY THE SENATE RULES COMMITTEE**

**Offered: 5/13/02**

**Referred: First Supplemental Calendar**

**Sponsor(s): REPRESENTATIVES JAMES BY REQUEST, Mulder**

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act relating to the teachers' retirement system, the judicial retirement system, and**  
2   **the public employees' retirement system and to the tax qualification under the Internal**  
3   **Revenue Code of those systems; amending the definition of 'actuarial adjustment' in the**  
4   **teachers' retirement system and the public employees' retirement system; repealing**  
5   **certain provisions of the teachers' retirement system and the public employees'**  
6   **retirement system; amending the statutory limitation on payment of warrants to make**  
7   **an exception for warrants making benefit payments or refunds under various state**  
8   **retirement and benefit programs; relating to the teachers' retirement system; relating to**  
9   **the public employees' retirement system in regard to temporary legislative employees**  
10   **and peace officers and fire fighters; and providing for an effective date."**

11   **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

12    \* **Section 1.** AS 14.25.010 is amended by adding a new subsection to read:

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

\* **Sec. 2.** AS 14.25.030 is amended to read:

**Sec. 14.25.030. Duties of the administrator.** The administrator shall

(1) establish and maintain an adequate system of accounts for the system;

(2) approve or disapprove claims for retirement benefits;

(3) serve as secretary of the Alaska Teachers' Retirement Board and keep an official record of all proceedings;

(4) publish annually a report showing the financial condition of the system; [AND]

(5) **publish an information handbook for the system at intervals as the administrator considers appropriate; and**

**(6)** do whatever else may be necessary to carry out the purposes of this chapter.

\* **Sec. 3.** AS 14.25.050(a) is amended to read:

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

\* **Sec. 4.** AS 14.25.070 is amended to read:

**Sec. 14.25.070. Contributions by employer.** An employer shall contribute to

the system an amount equal to the percentage, as certified by the administrator, of the sum total of the base salaries of all teachers that is required in addition to teacher contributions to provide the benefits of this chapter times the sum total of the base salaries paid to teachers, including any adjustments to contributions required by AS 14.25.173(a), by the employer.

\* **Sec. 5.** AS 14.25 is amended by adding a new section to read:

**Sec. 14.25.075. Purchase of credited service.** (a) An employee who is eligible to purchase credited service under AS 14.25.047 or 14.25.048, a member who is eligible to purchase credited service under AS 14.25.060, 14.25.061, or 14.25.100, or a teacher who is eligible to purchase credited service under AS 14.20.345, AS 14.25.050, or 14.25.105 is a member for purposes of this section. A member, in lieu of making payments directly to the system, may elect to have the member's employer make payments as provided in this section.

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

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

(2) the member shall make an election under this section to purchase credited service as permitted in AS 14.20.345, AS 14.25.047, 14.25.048, 14.25.050, 14.25.060, 14.25.061, 14.25.100, or 14.25.105 before the member's termination of employment; the election must specify the number of payroll periods that deductions will be made from the member's compensation and the dollar amount of deductions for each payroll period during the specified number of payroll periods;

(3) a member who makes an election under this section to have the employer make payments for less than all of the amounts payable for the member's purchase of credited service may subsequently elect to have the employer make payments for all or any portion of the remaining amounts payable for the member's purchase of credited service;

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

6                   (c) Unless otherwise provided, member contributions paid by the employer  
7 under this section are treated for all other purposes under the system in the same  
8 manner and to the same extent as member contributions that are not paid by an  
9 employer under this section and AS 14.25.050. The system may assess interest or  
10 administrative charges attributable to any salary reduction election made under this  
11 section. The interest or administrative charges shall be added to the contribution that  
12 is made to the system by the member each payroll period, and that is paid by the  
13 employer. The interest or administrative charges may not be treated as member  
14 contributions for any purposes under this chapter, and a member or a member's  
15 beneficiary does not have a right to the return of the interest or administrative charges  
16 under any other provision of this section. Interest assessed under this section shall be  
17 at the rate specified by regulations adopted by the board.

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

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

28                   (f) To the extent that a payment under this section does not alter, amend, or  
29 revoke any one or more currently effective elections made by the employee, the board  
30 may accept employee contributions, which shall also be treated as employer  
31 contributions for the purpose of determining tax treatment under the Internal Revenue

Code, for the payment for credited service purchases made under this section in whole or in part, by any one or a combination of the following methods:

(1) subject to the limitations prescribed in 26 U.S.C. 401(a)(3) and 26 U.S.C. 402(c), accepting eligible rollover distributions directly from one or more retirement programs of another employer that are qualified under 26 U.S.C. 401(a) or accepting rollovers directly from an employee;

(2) subject to the limitations prescribed in 26 U.S.C. 408(d)(3)(A)(ii), accepting from an employee conduit rollover contributions that are received by the employee from one or more conduit rollover individual retirement accounts previously established by the employee;

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

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

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

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

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

(i) On satisfaction of the eligibility requirements of AS 14.20.345, AS 14.25.047, 14.25.048, 14.25.050, 14.25.060, 14.25.061, 14.25.100, or 14.25.105, the requirements of this section, and the administrative filing requirements

1 specified by the board, the system shall adjust the member's credited service history  
2 and add any additional service credits acquired.

3 (j) After an election is made under this section, the election is binding on and  
4 irrevocable for the member and the member's employer during the member's  
5 remaining period of current employment. After a member makes an irrevocable  
6 election under this section, the member does not have the option of choosing to  
7 receive the contributed amounts directly in cash.

8 \* **Sec. 6.** AS 14.25.110 is amended by adding new subsections to read:

9 (k) Notwithstanding any other provision of this chapter, the projected annual  
10 benefit provided by this chapter and the benefit from all other defined benefit plans  
11 required to be aggregated with the benefits from this system under the provisions of 26  
12 U.S.C. 415 may not increase to an amount in excess of the amount permitted under 26  
13 U.S.C. 415 at any time. In the event that any projected annual benefit of a member  
14 exceeds the limitation of 26 U.S.C. 415 for a limitation year, the system shall take any  
15 necessary remedial action to correct an excess accrued benefit. The provisions of 26  
16 U.S.C. 415, and the regulations adopted under that statute, as applied to qualified  
17 defined benefit plans of governmental employers are incorporated as part of the terms  
18 and conditions of the system. This subsection applies to any member of this system.

19 (l) Notwithstanding (d) of this section,

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

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

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

(1) "base salary"

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

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

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

\* **Sec. 7.** AS 14.25.125(a) is amended to read:

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

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

or

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

\* **Sec. 8.** AS 14.25.125(b) is amended to read:

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

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

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

\* **Sec. 9.** AS 14.25 is amended by adding a new section to read:

**Sec. 14.25.163. Rollover distributions and rollover contributions.** (a) A distributee may elect, at the time and in the manner prescribed by the administrator, to have all or part of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in the direct rollover.

(b) Except as provided by AS 14.25.075(f)(5), the system does not accept contributions of eligible rollover distributions.

(c) In this section,

(1) "direct rollover" means the payment of an eligible rollover

1 distribution by the system to an eligible retirement plan specified by a distributee who  
 2 is eligible to elect a direct rollover;

3 (2) "distributee" means a member or a beneficiary who is the surviving  
 4 spouse of the member;

5 (3) "eligible retirement plan"

6 (A) means

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

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

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

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

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

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

17 (B) notwithstanding (A) of this paragraph, means, with respect  
 18 to distributions made before January 1, 2002, an individual retirement account  
 19 or an individual retirement annuity account described or defined in 26 U.S.C.  
 20 408 in the case of an eligible rollover distribution to a beneficiary who is the  
 21 surviving spouse of a member;

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

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

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

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



(D) the portion of any distribution that is not includable in gross income;

(E) a distribution made on or after January 1, 2002, that is on account of hardship; and

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

\* **Sec. 10.** AS 14.25 is amended by adding a new section to read:

**Sec. 14.25.165. Distribution requirements.** (a) The entire interest of a member must be distributed or must begin to be distributed not later than the member's required beginning date.

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

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

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

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

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

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

(h) Unless otherwise specified, the provisions of this section apply to calendar years beginning on or after January 1, 1989.

(i) In this section,

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

(2) "required beginning date" means the first day of April of the calendar year following the calendar year in which the member either attains 70 1/2

years of age or actually retires, whichever is later.

\* **Sec. 11.** AS 14.25.173(a) is amended to read:

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

\* **Sec. 12.** AS 14.25 is amended by adding a new section to read:

**Sec. 14.25.181. Exclusive benefit.** (a) The corpus or income of the assets held in trust as required by the system may not be diverted to or used for other than the exclusive benefit of the members or their beneficiaries.

(b) If, upon termination of the system, all liabilities are satisfied, any excess assets arising from erroneous actuarial computation shall revert to the employers on a pro rata basis.

\* **Sec. 13.** AS 14.25 is amended by adding a new section to read:

**Sec. 14.25.195. Special rules for treatment of qualified military service.** Notwithstanding any contrary provisions of this chapter, with respect to qualified military service, contributions shall be made and benefits and service credit shall be provided in accordance with 26 U.S.C. 414(u).

\* **Sec. 14.** AS 14.25.220(2) is amended to read:

(2) "actuarial adjustment" means **the adjustment necessary to obtain**

equality in value of the aggregate expected payments under two different forms of pension payments, considering expected mortality and interest earnings on the basis of tables **referred to in the information handbook published under AS 14.25.030(5)**

[ADOPTED FROM TIME TO TIME BY THE BOARD];

\* **Sec. 15.** AS 14.25.220(31) is amended to read:

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

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

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

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

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

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

**(F)** does not require any type or form of benefit or any option not otherwise provided by this chapter;

**(G)** [(F)] does not require an increase of benefits in excess of the amount provided by this chapter, determined on the basis of actuarial value; and

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

\* **Sec. 16.** AS 14.25.220 is amended by adding new paragraphs to read:

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

(45) "fiscal year" means the period beginning on July 1 and ending on

June 30 of the following calendar year.

\* **Sec. 17.** AS 22.25.011 is amended to read:

**Sec. 22.25.011. Contributions of judges and justices.** Each justice and judge appointed after July 1, 1978, shall contribute seven percent of the base annual salary received by the justice or judge to the judicial retirement system. Contributions shall be made for all creditable service under this chapter up to a maximum of 15 years. This contribution is made in the form of a deduction from compensation, at the end of each payroll period, and is made even if the compensation paid in cash to the justice or judge is reduced below the minimum prescribed by law. The contributions shall be deducted from justice's or judge's compensation before the computation of applicable federal taxes and shall be treated as employer contributions under 26 U.S.C. 414(h)(2). A member may not have the option of making the payroll deduction directly in cash instead of having the contribution picked up by the employer. Each justice and judge is considered to consent to the deduction from compensation. Payment of compensation less the deduction constitutes a full discharge of all claims and demands for the services rendered by the justice or judge during the period covered by the payment, except as to the benefits provided for under this chapter. The contributions shall be credited to the judicial retirement fund established in accordance with AS 22.25.048.

\* **Sec. 18.** AS 22.25.020 is amended to read:

**Sec. 22.25.020. Retirement pay.** Except as provided in AS 22.25.023(b), a [A] retired justice or judge eligible for retirement pay shall receive from the date of eligibility until death monthly retirement pay [COMPENSATION] equal to five percent per year of service, to a maximum of 75 percent, of the monthly salary authorized for justices and judges, respectively, at the time each retirement payment is made. For a justice or judge who was first employed in this retirement system on or after July 1, 1996, base annual salary does not include remuneration in excess of the limitations set out in 26 U.S.C. 401(a)(17) (Internal Revenue Code).

\* **Sec. 19.** AS 22.25 is amended by adding new sections to read:

**Sec. 22.25.021. Distribution requirements.** (a) The entire interest of a member must be distributed or must begin to be distributed not later than the member's

1 required beginning date.

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

6 (c) If a member has made a distribution election and dies before the  
7 distribution of the member's interest begins, distribution of the member's entire interest  
8 shall be completed by December 31 of the calendar year containing the fifth  
9 anniversary of the member's death. However, if any portion of the member's interest  
10 is payable to a designated beneficiary, distributions may be made over the life of the  
11 designated beneficiary or over a period certain not greater than the life expectancy of  
12 the designated beneficiary, commencing on or before December 31 of the calendar  
13 year immediately following the calendar year in which the member died, and, if the  
14 designated beneficiary is the member's surviving spouse, the date distributions are  
15 required to begin may not be earlier than the later of December 31 of the calendar year  
16 (1) immediately following the calendar year in which the member died, or (2) in which  
17 the member would have attained 70 1/2 years of age, whichever is earlier. If the  
18 surviving spouse dies after the member but before payments to the spouse have begun,  
19 the provisions of this subsection apply as if the surviving spouse were the member.  
20 An amount paid to a child of the member will be treated as if it were paid to the  
21 surviving spouse if the amount becomes payable to the surviving spouse when the  
22 child reaches the age of majority.

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

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

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

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

(h) Unless otherwise specified, the provisions of this section apply to calendar years beginning on or after January 1, 1989.

(i) In this section,

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

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

**Sec. 22.25.022. Rollover distributions and rollover contributions.** (a) A distributee may elect, at the time and in the manner prescribed by the administrator, to have all or part of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in the direct rollover.

(b) The system does not accept contributions of eligible rollover distributions.

(c) In this section,

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

1 is eligible to elect a direct rollover;

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

4 (3) "eligible retirement plan"

5 (A) means

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

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

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

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

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

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

16 (B) notwithstanding (A) of this paragraph, means, with respect  
17 to distributions made before January 1, 2002, an individual retirement account  
18 or an individual retirement annuity account described or defined in 26 U.S.C.  
19 408 in the case of an eligible rollover distribution to a beneficiary who is the  
20 surviving spouse of a member;

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

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

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

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

31 (D) the portion of any distribution that is not includable in



gross income;

(E) a distribution made on or after January 1, 2002, that is on account of hardship; and

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

**Sec. 22.25.023. Limitation on benefits; maximum annual compensation.**

(a) Notwithstanding any other provisions of this chapter, the projected annual benefit provided by this chapter and the benefit from all other defined benefit plans required to be aggregated with the benefits from this system under the provisions of 26 U.S.C. 415 may not increase to an amount in excess of the amount permitted under 26 U.S.C. 415 at any time. In the event that any accrued benefit of a member exceeds the limitation of 26 U.S.C. 415 for a limitation year, the system shall make any necessary remedial action to correct an excess accrued benefit. The provisions of 26 U.S.C. 415, and the regulations adopted under that statute, as applied to qualified defined benefit plans of governmental employers are incorporated as part of the terms and conditions of the system. This subsection shall apply to any member of this system.

(b) In this subsection, for system fiscal years beginning on or after January 1, 1998, and for purposes of 26 U.S.C. 415(b)(3) and the regulations adopted under that statute, "salary" includes any amount that is contributed by the employer under a salary reduction agreement and that is not includable in the member's gross income under 26 U.S.C. 125, 132(f)(4), 402(e)(3), 402(h), or 403(b) and is limited to compensation that is actually paid to a member during the determination period, which is the fiscal year of the system.

\* **Sec. 20.** AS 22.25.025 is amended to read:

**Sec. 22.25.025. Administration.** The commissioner of administration is responsible for the administration of the judicial retirement system. **The system is intended to qualify as a governmental plan established and maintained by the government of this state for the state's employees, as permitted under 26 U.S.C. 414(d). The commissioner shall publish an information handbook for the system at intervals as the commissioner considers appropriate.**

\* **Sec. 21.** AS 22.25.030(a) is amended to read:

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

\* **Sec. 22.** AS 22.25.048(a) is amended to read:

(a) The commissioner of administration shall establish a judicial retirement trust fund for the judicial retirement system in which the assets of the system are deposited and held. **The trust fund is subject to the restrictions of (h) of this section.** The commissioner shall maintain accounts and records for the system.

\* **Sec. 23.** AS 22.25.048 is amended by adding new subsections to read:

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

(i) If, upon termination of the system, all liabilities are satisfied, any excess assets arising from erroneous actuarial computation shall revert to the employer.

\* **Sec. 24.** AS 22.25 is amended by adding a new section to read:

**Sec 22.25.110. Special rules for treatment of qualified military service.**

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

\* **Sec. 25.** AS 22.25.900 is repealed and reenacted to read:

**Sec. 22.25.900. Definitions.** In this chapter, unless the context otherwise requires,

(1) "actuarial equivalent" means equality in value of the aggregate expected payments under two different forms of pension payments, considering expected mortality and interest earnings on the basis of tables referred to in the

1 information handbook published under AS 22.25.025;

2 (2) "judge" means a judge of the court of appeals, a superior court  
3 judge, or a district court judge;

4 (3) "justice" means a supreme court justice;

5 (4) "member" means an administrative director of the Alaska Court  
6 System who is eligible to participate in the system, a justice, or a judge;

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

9 (A) creates or recognizes the existence of an alternate payee's  
10 right to, or assigns to an alternate payee the right to, receive all or a portion of  
11 the member contributions and interest or benefits payable with respect to a  
12 justice or judge;

13 (B) sets out the name and last known mailing address, if any, of  
14 the justice or judge and of each alternate payee covered by the order;

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

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

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

21 (F) does not require any type or form of benefit or any option  
22 not otherwise provided by this chapter;

23 (G) does not require an increase of benefits in excess of the  
24 amount provided by this chapter, determined on the basis of actuarial value;

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

28 \* **Sec. 26.** AS 37.05.180 is amended to read:

29 **Sec. 37.05.180. Two-year limitation on payment of warrants.** A warrant  
30 upon the state treasury may not be paid unless presented at the office of the  
31 commissioner of revenue within two years of the date of its issuance. A warrant not

presented within that time is considered paid, and money held at the expiration of that time in a special fund or account for the payment of the warrant shall be transferred to the general fund, except where the warrant is for the payment of a permanent fund dividend, a benefit payment or refund under AS 14.25, AS 22.25, AS 26.05, AS 39.30, AS 39.35, AS 39.37, or AS 39.45, or where transfer is prohibited by the federal government for state participation in a federal program.

\* **Sec. 27.** AS 39.35.010 is repealed and reenacted to read:

**Sec. 39.35.010. Purpose and effective date.** (a) The purpose of this chapter is to encourage qualified personnel to enter and remain in the service of the state or a political subdivision or public organization of the state by establishing a system for the payment of retirement, disability, and death benefits to or on behalf of the employees.

(b) The Public Employees' Retirement System of Alaska is hereby created. The system created becomes effective as of January 1, 1961, at which time contributions by the state and its employees begin.

(c) The retirement system established by this chapter is intended to qualify under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified retirement plan established and maintained by the state for its employees and for the employees of political subdivisions, public corporations, and public organizations of the state, and for the employees of other employers whose participation is authorized by this chapter and who participate in this system.

\* **Sec. 28.** AS 39.35 is amended by adding a new section to read:

**Sec. 39.35.011. Exclusive benefit.** The corpus or income of the assets held in trust as required by the system may not be diverted to or used for other than the exclusive benefit of the members or their beneficiaries.

\* **Sec. 29.** AS 39.35.060 is amended to read:

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

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

(2) maintain records of the employees included in the system that are necessary for the proper administration of the system and furnish information

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

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

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

5 (5) remit to the Department of Revenue, for deposit in the pension  
6 fund, assets received for the account of the system;

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

9 (7) formulate and recommend to the board regulations to govern the  
10 operation of the supplemental employee benefit program under AS 39.30.150 -  
11 39.30.180;

12 **(8) publish an information handbook for the system at intervals as**  
13 **the administrator considers appropriate.**

14 \* **Sec. 30.** AS 39.35.160(a) is amended to read:

15 (a) Beginning January 1, 1987, each peace officer or fire fighter shall  
16 contribute to the system an amount equal to seven and one-half percent of the peace  
17 officer's or fire fighter's compensation. Except as provided in (d) of this section,  
18 beginning January 1, 1987, each other employee shall contribute to the system an  
19 amount equal to six and three-quarters percent of the employee's compensation. The  
20 contributions shall be deducted by the employer at the end of each payroll period. The  
21 contributions shall be deducted from employee compensation before computation of  
22 applicable federal taxes, and the contributions shall be treated as employer  
23 contributions under 26 U.S.C. 414(h)(2). **A member may not have the option of**  
24 **making the payroll deduction directly instead of having the contribution picked**  
25 **up by the employer.**

26 \* **Sec. 31.** AS 39.35 is amended by adding a new section to read:

27 **Sec. 39.35.165. Purchase of credited service.** (a) An employee who is  
28 eligible to purchase credited service under AS 39.35.310, 39.35.330, 39.35.340,  
29 39.35.342, 39.35.345, 39.35.350, 39.35.360, 39.35.370, a member who is eligible to  
30 purchase credited service under AS 39.35.375, or an elected public official who is  
31 eligible to purchase credited service under AS 39.35.381 is an employee for purposes

1 of this section. An employee may, in lieu of making payments directly to the system,  
2 elect to have the employee's employer make payments as provided in this section.

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

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

10 (2) the employee shall make an election under this section to purchase  
11 credited service as permitted in AS 39.35.310, 39.35.330, 39.35.340, 39.35.342,  
12 39.35.345, 39.35.350, 39.35.360, 39.35.370, 39.35.375, or 39.35.381 and before the  
13 employee's termination of employment; the election must specify the number of  
14 payroll periods that deductions will be made from the employee's compensation and  
15 the dollar amount of deductions for each payroll period during the specified number of  
16 payroll periods;

17 (3) an employee who makes an election under this section to have the  
18 employer make payments for less than all of the amounts payable for the employee's  
19 purchase of credited service may subsequently elect to have the employer make  
20 payments for all or any portion of the remaining amounts payable for the employee's  
21 purchase of credited service;

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

27 (c) Unless otherwise provided, employee contributions paid by the employer  
28 under this section are treated for all other purposes under the system in the same  
29 manner and to the same extent as employee contributions that are not paid by an  
30 employer under this section and AS 39.35.160. The system may assess interest or  
31 administrative charges attributable to any salary reduction election made under this

1 section. The interest or administrative charges shall be added to the contribution that  
 2 is made to the system by the employee each payroll period, and that is paid by the  
 3 employer. The interest or administrative charges may not be treated as employee  
 4 contributions for any purposes under this chapter, and an employee or an employee's  
 5 beneficiary does not have a right to the return of the interest or administrative charges.  
 6 Interest assessed under this section shall be at the rate specified by regulations adopted  
 7 by the board.

8 (d) For system fiscal years beginning on or after July 1, 2001, the  
 9 requirements of AS 39.35.370(i) may not be applied to reduce the amount of credited  
 10 service that may be purchased, under this section by an employee who first becomes  
 11 an employee of the system before July 1, 2001, to an amount that is less than the  
 12 amount of credited service allowed to be purchased with the application of any of the  
 13 limits prescribed in 26 U.S.C. 415.

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

18 (f) To the extent that a payment under this section does not alter, amend, or  
 19 revoke any one or more currently effective elections made by the employee, the board  
 20 may accept employee contributions, which shall also be treated as employer  
 21 contributions for the purpose of determining tax treatment under the Internal Revenue  
 22 Code, for the payment for credited service purchases made under this section in whole  
 23 or in part, by any one or a combination of the following methods:

24 (1) subject to the limitations prescribed in 26 U.S.C. 401(a)(3) and 26  
 25 U.S.C. 402(c), accepting eligible rollover distributions directly from one or more  
 26 retirement programs of another employer that are qualified under 26 U.S.C. 401(a) or  
 27 accepting rollovers directly from an employee;

28 (2) subject to the limitations prescribed in 26 U.S.C. 408(d)(3)(A)(ii),  
 29 accepting from an employee conduit rollover contributions that are received by the  
 30 employee from one or more conduit rollover individual retirement accounts previously  
 31 established by the employee;

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

5 (4) subject to the limitations prescribed in 26 U.S.C. 457(e)(17),  
 6 accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the  
 7 employee, on and after January 1, 2002, from an eligible deferred compensation plan  
 8 of a tax-exempt organization or a state or local government described in 26 U.S.C.  
 9 457(b);

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

13 (g) Payments made under this section shall be applied to reduce the  
 14 employee's outstanding indebtedness described in AS 39.35.310, 39.35.330,  
 15 39.30.340, 39.35.342, 39.35.345, 39.35.350, 39.35.360, 39.35.370, 39.35.375, or  
 16 39.35.381 at the time that the contributions are received by the system.

17 (h) If an employee retires before all payments are made under this section, the  
 18 system shall calculate the employee's benefits based only on the payments actually  
 19 made with respect to the credited service purchased.

20 (i) On satisfaction of the eligibility requirements of AS 39.35.310, 39.35.330,  
 21 39.35.340, 39.35.341, 39.35.345, 39.35.350, 39.35.360, 39.35.370, 39.35.375, or  
 22 39.35.381, the requirements of this section and the administrative filing requirements  
 23 specified by the board, the system shall adjust the employee's credited service history  
 24 and add any additional service credits acquired.

25 (j) After an election is made under this section, the election is binding on and  
 26 irrevocable for the employee and the employee's employer during the employee's  
 27 remaining period of current employment, and the employee does not have the option  
 28 of choosing to receive the contributed amounts directly in cash.

29 \* **Sec. 32.** AS 39.35 is amended by adding a new section to read:

30 **Sec. 39.35.195. Rollover distributions and rollover contributions.** (a) A  
 31 distributee may elect, at the time and in the manner prescribed by the administrator, to



1 have all or part of an eligible rollover distribution paid directly to an eligible  
2 retirement plan specified by the distributee in the direct rollover.

3 (b) Except as provided by AS 39.35.165(f)(5), the system does not accept  
4 contributions of eligible rollover distributions.

5 (c) In this section,

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

9 (2) "distributee" means a member or a beneficiary who is the surviving  
10 spouse of the member;

11 (3) "eligible retirement plan"

12 (A) means

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

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

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

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

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

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

23 (B) notwithstanding (A) of this paragraph, means, with respect  
24 to distributions made before January 1, 2002, an individual retirement account  
25 or an individual retirement annuity account described or defined in 26 U.S.C.  
26 408 in the case of an eligible rollover distribution to a beneficiary who is the  
27 surviving spouse of a member;

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

30 (A) a distribution that is one of a series of substantially equal  
31 installments payable not less frequently than annually over the life expectancy

1 of the distributee or the joint and last survivor life expectancy of the distributee  
2 and the distributee's designated beneficiary, as defined in 26 U.S.C. 401(a)(9);

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

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

7 (D) the portion of any distribution that is not includable in  
8 gross income;

9 (E) a distribution made on or after January 1, 2002, that is on  
10 account of hardship; and

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

13 \* **Sec. 33.** AS 39.35.270 is amended to read:

14 **Sec. 39.35.270. Amount of employer's contributions.** The amount of each  
15 employer's contributions shall be determined by applying the employer's contribution  
16 rate to the total compensation paid to the active employees of the employer for each  
17 payroll period **and by including any adjustments to contributions required by**  
18 **AS 39.35.520(a).** This amount shall be remitted by the employer to the administrator  
19 in accordance with AS 39.35.610.

20 \* **Sec. 34.** AS 39.35.360(g) is amended to read:

21 (g) An employee is eligible to receive up to 10 years of credited service for  
22 service rendered before July 1, 1979, as a temporary employee of the legislature of the  
23 state or territory during legislative sessions. To receive retroactive credited service  
24 under this subsection, an employee shall claim the service before July 1, **2003, or**  
25 **before retiring, whichever occurs first** [1980]. When the employee claims the  
26 service, an indebtedness of the employee to the system shall be established. **For**  
27 **benefits that do not vary based on the** [THE] amount of **retroactive credited**  
28 **service, the** [THIS] indebtedness **shall be established on the date** [IS EQUAL TO  
29 THE CONTRIBUTIONS] the employee **claims the credit, with interest accruing on**  
30 **the** [WOULD HAVE MADE IF THE EMPLOYEE HAD BEEN ELIGIBLE FOR  
31 MEMBERSHIP IN THE SYSTEM. THE RATE USED TO CALCULATE THESE

CONTRIBUTIONS MAY NOT BE LESS THAN THE RATE IN EFFECT ON JANUARY 1, 1961. INTEREST AS PRESCRIBED BY REGULATION ACCRUES ON THIS] indebtedness beginning July 1, 2003. For benefits that vary based on the amount of retroactive credited service, the indebtedness shall be established on the date the employee retires, with interest accruing on the indebtedness beginning on the date of retirement [1980]. Any outstanding indebtedness that exists at the time the employee retires requires an actuarial adjustment to the benefits that are based upon retroactive credited service under this subsection.

\* **Sec. 35.** AS 39.35.360 is amended by adding a new subsection to read:

(l) An administrative director of the Alaska Court System who withdraws from the judicial retirement system under AS 22.25.012(b) is eligible for membership in the public employees' retirement system and shall receive credited service in this system for service rendered as administrative director. To be eligible for membership in this system under this subsection, the administrative director must contribute to the system

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

(2) any contributions for service as administrative director refunded from the public employees' retirement system at the time the administrative director became a member of the judicial retirement system.

\* **Sec. 36.** AS 39.35.370 is amended by adding new subsections to read:

(i) Notwithstanding any other provision of this chapter, the projected annual benefit provided by this chapter and the benefit from all other defined benefit plans required to be aggregated with the benefits from this system under the provisions of 26 U.S.C. 415 may not increase to an amount in excess of the amount permitted under 26 U.S.C. 415 at any time. In the event that any projected annual benefit of a member exceeds the limitation of 26 U.S.C. 415(g) for a limitation year, the system shall take any necessary remedial action to correct an excess accrued benefit. The provisions of 26 U.S.C. 415, and the regulations adopted under that statute, as applied to qualified defined benefit plans of governmental employers are incorporated as part of the terms

1 and conditions of the system. This subsection applies to any member of this system.

2 (j) Notwithstanding (c) of this section,

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

8 (2) for the system fiscal years beginning on or after January 1, 2002,  
9 the annual compensation limitation for such a member, which is so taken into account  
10 for such a member which is so taken into account for such purposes, may not exceed  
11 \$200,000, as adjusted for the cost of living in accordance with 26 U.S.C.  
12 401(a)(17)(B).

13 (3) the cost of living adjustment in effect for a calendar year applies in  
14 this subsection to a determination period beginning in the calendar year.

15 (k) Notwithstanding the definition of "compensation" in AS 39.35.680, in (j)  
16 of this section, for system fiscal years beginning on or after January 1, 1998, and for  
17 purposes of 26 U.S.C. 415(b)(3) and the regulations adopted under that statute,

18 (1) "annual compensation"

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

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

24 (2) "determination period" means the system fiscal year.

25 \* **Sec. 37.** AS 39.35 is amended by adding a new section to read:

26 **Sec. 39.35.371. Distribution requirements.** (a) The entire interest of a  
27 member must be distributed or must begin to be distributed not later than the member's  
28 required beginning date.

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

1 being used before the member's death.

2 (c) If a member has made a distribution election and dies before the  
3 distribution of the member's interest begins, distribution of the member's entire interest  
4 shall be completed by December 31 of the calendar year containing the fifth  
5 anniversary of the member's death. However, if any portion of the member's interest  
6 is payable to a designated beneficiary, distributions may be made over the life of the  
7 designated beneficiary or over a period not greater than the life expectancy of the  
8 designated beneficiary, commencing on or before December 31 of the calendar year  
9 immediately following the calendar year in which the member died; and if the  
10 designated beneficiary is the member's surviving spouse, the date distributions are  
11 required to begin may not be earlier than the later of December 31 of the calendar year  
12 (1) immediately following the calendar year in which the member died, or (2) in which  
13 the member would have attained 70 1/2 years of age, whichever is earlier. If the  
14 surviving spouse dies after the member but before payments to the spouse have begun,  
15 the provisions of this subsection apply as if the surviving spouse were the member.  
16 An amount paid to a child of the member will be treated as if it were paid to the  
17 surviving spouse if the amount becomes payable to the surviving spouse when the  
18 child reaches the age of majority.

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

28 (e) For purposes of (c) of this section, distribution of a member's interest is  
29 considered to begin (1) on the member's required beginning date, or (2) if the  
30 designated beneficiary is the member's surviving spouse and the surviving spouse dies  
31 after the member but before payments to the spouse have begun, on the date

1 distribution is required to begin to the surviving spouse. If distribution in the form of  
 2 an annuity irrevocably commences to the member before the required beginning date,  
 3 the date distribution is considered to begin is the date that the distribution actually  
 4 commences.

5 (f) Notwithstanding any contrary provisions of this chapter, the requirements  
 6 of this section apply to all distributions of a member's interest and take precedence  
 7 over any inconsistent provisions of this chapter.

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

11 (h) Unless otherwise specified, the provisions of this section apply to calendar  
 12 years beginning on or after January 1, 1989.

13 (i) In this section,

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

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

20 \* **Sec. 38.** AS 39.35.410 is amended by adding new subsections to read:

21 (i) Notwithstanding (h) of this section, at the time a peace officer or fire  
 22 fighter receiving occupational disability benefits under this section first attains  
 23 eligibility for normal retirement, the employee shall irrevocably elect to receive  
 24 retirement benefits in the amount calculated as the

25 (1) monthly occupational disability benefit calculated under (d) of this  
 26 section; or

27 (2) employee's retirement benefit calculated under the provisions of  
 28 AS 39.35.370(c).

29 (j) Notwithstanding (b)(3) of this section, a peace officer or fire fighter who  
 30 retires under (i) of this section is not subject to the requirements of (g) of this section  
 31 or AS 39.35.415 during retirement.

1     \* **Sec. 39.** AS 39.35.430(b) is amended to read:

2             (b) If (1) the death of an employee occurs before the employee's retirement  
3             and before the employee's normal retirement date, and (2) the proximate cause of  
4             death is a bodily injury sustained or a hazard undergone while in the performance and  
5             within the scope of the employee's duties, and (3) the injury or hazard is not the  
6             proximate result of wilful negligence of the employee, a monthly survivor's pension  
7             [EQUAL TO 40 PERCENT OF THE EMPLOYEE'S MONTHLY COMPENSATION  
8             IN THE MONTH IN WHICH THE EMPLOYEE DIES] shall be paid to the surviving  
9             spouse. If there is no surviving spouse or if the spouse later dies, the monthly  
10            survivor's pension shall be paid in equal parts to the dependent children of the  
11            employee. On the date the normal retirement of the employee would have occurred if  
12            the employee had lived, monthly payments shall equal the monthly amount of the  
13            normal retirement benefit to which the employee, had the employee lived and  
14            continued employment until the employee's normal retirement date, would have been  
15            entitled with an average monthly compensation as existed at death and the credited  
16            service to which the employee would have been entitled.

17    \* **Sec. 40.** AS 39.35.430 is amended by adding a new subsection to read:

18            (g) The monthly survivor's pension in (b) of this section for survivors of  
19            employees who were not peace officers or fire fighters is 40 percent of the employee's  
20            monthly compensation in the month in which the employee dies. The monthly  
21            survivor's pension in (b) of this section for survivors of employees who were peace  
22            officers or fire fighters is the greater of

23                   (1) 50 percent of the monthly compensation in the month in which the  
24                   employee dies; or

25                   (2) 75 percent of the employee's retirement benefit calculated under  
26                   the provisions of AS 39.35.370(c) if the employee had survived to normal retirement  
27                   age.

28    \* **Sec. 41.** AS 39.35.520(a) is amended to read:

29            (a) When a change or error is made in the records maintained by the system **or**  
30            **in the contributions made on behalf of an employee** [,] or an error is made in  
31            computing a benefit, and, as a result, an employee or beneficiary **is entitled to receive**

[RECEIVES] from the system more or less than the employee would have been entitled to receive had the records or contributions been correct or had the error not been made, (1) the records, contributions, or error shall be corrected, and (2) as far as practicable, future payments or benefit entitlement shall be adjusted so that the actuarial equivalent of the pension or benefit to which the employee or beneficiary was correctly entitled shall be paid. An adjustment to contributions shall be picked up by the employer under AS 39.35.160 or treated as an adjustment to the employer's contributions under AS 39.35.270, depending upon the nature of the adjustment. If no future payment is due, a person who was paid any amount to which the person was not entitled is liable for repayment of that amount, and a person who was not paid the full amount to which the person was entitled shall be paid the balance of that amount.

\* **Sec. 42.** AS 39.35.546 is amended by adding a new subsection to read:

(b) Benefits paid under this chapter may be subject to federal income taxes as provided in 26 U.S.C. 72.

\* **Sec. 43.** AS 39.35 is amended by adding a new section to read:

**Sec 39.35.677. Special rules for treatment of qualified military service.**

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

\* **Sec. 44.** AS 39.35.680(2) is amended to read:

(2) "actuarial adjustment" means the adjustment necessary to obtain equality in value of the aggregate expected payments under two different forms of pension payments, considering expected mortality and interest earnings on the basis of tables referred to in the information handbook published under AS 39.35.060(8) [ADOPTED FROM TIME TO TIME BY THE BOARD];

\* **Sec. 45.** AS 39.35.680(4) is amended to read:

(4) "average monthly compensation" means the result obtained by dividing the compensation earned by an employee during a considered period by the number of months, including fractional months, for which compensation was earned; an employee must have at least 115 days of credited service in the last payroll year in



1 order for that year to be used as part of the consecutive payroll years; the considered  
2 period consists of

3 (A) for employees first hired before July 1, 1996, the three  
4 consecutive payroll years during the period of credited service that yield the  
5 highest average;

6 (B) for employees first hired on or after July 1, 1996, the five  
7 consecutive payroll years during the period of credited service that yield the  
8 highest average;

9 (C) if the employee does not have the number of consecutive  
10 payroll years required by (A) or (B) of this paragraph, the actual number of  
11 months, including fractional months, that the employee worked;

12 (D) for an employee who has made an election under  
13 AS 39.35.300(c) or 39.35.310(c), the actual number of months, including  
14 fractional months, that the employee worked;

15 **(E) for a peace officer or fire fighter hired at any time, the**  
16 **three consecutive payroll years during the period of credited service that**  
17 **yield the highest average;**

18 \* **Sec. 46.** AS 39.35.680(34) is amended to read:

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

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

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

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

31 (D) sets out the number of payments or period to which the

order applies;

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

(F) does not require any type or form of benefit or any option not otherwise provided by this chapter;

(G) [(F)] does not require an increase of benefits in excess of the amount provided by this chapter, determined on the basis of actuarial value; and

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

\* **Sec. 47.** AS 14.25.110(f), 14.25.110(g), and 14.25.110(h); AS 22.25.010(g); and AS 39.35.451 are repealed.

\* **Sec. 48.** The uncoded law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY OF CERTAIN CREDITED SERVICE PURCHASES UNDER PUBLIC EMPLOYEES' AND TEACHERS' RETIREMENT SYSTEMS. (a) The provisions of this Act listed below shall apply only after the Department of Administration receives favorable rulings on each provision from the Internal Revenue Service that, under 26 U.S.C. 414(h)(2), the amounts paid by the employer will not be included in the member's gross income for income tax purposes until those amounts are distributable by refund or retirement benefit payment:

- (1) the provisions of AS 14.25.075(b)(4), added by sec. 5 of this Act;
- (2) the provisions of AS 39.35.165(b)(4), added by sec. 31 of this Act;
- (3) the provisions of AS 39.35.165(f)(5), added by sec. 31 of this Act.

(b) The commissioner of administration shall promptly notify the revisor of statutes of the dates that each of the rulings described in (a) of this section are received.

\* **Sec. 49.** The uncoded law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY. (a) The following provisions of this Act are retroactive to January 1, 1989:

- (1) AS 14.25.165, enacted by sec. 10 of this Act;

- 1           (2) AS 22.25.021, enacted by sec. 19 of this Act;
- 2           (3) AS 39.35.371, enacted by sec. 37 of this Act.
- 3       (b) The following provisions of this Act are retroactive to January 1, 1996:
- 4           (1) AS 14.25.110(l)(1), enacted by sec. 6 of this Act;
- 5           (2) AS 39.35.370(j)(1), enacted by sec. 36 of this Act.
- 6       (c) The following provisions of this Act are retroactive to January 1, 1998:
- 7           (1) AS 14.25.110(m), enacted by sec. 6 of this Act;
- 8           (2) AS 22.25.023(b), enacted by sec. 19 of this Act;
- 9           (3) AS 39.35.370(k), enacted by sec. 36 of this Act.
- 10       (d) The following provisions of this Act are retroactive to July 1, 2001:
- 11           (1) AS 14.25.075(d), enacted by sec. 5 of this Act;
- 12           (2) AS 39.35.165(d), enacted by sec. 31 of this Act.
- 13       (e) The following provisions of this Act are retroactive to January 1, 2002:
- 14           (1) AS 14.25.075(f)(3) and (4), enacted by sec. 5 of this Act;
- 15           (2) AS 14.25.110(l)(2), enacted by sec. 6 of this Act;
- 16           (3) AS 39.35.165(f)(3) and (4), enacted by sec. 31 of this Act;
- 17           (4) AS 39.35.370(j)(2), enacted by sec. 36 of this Act.
- 18       \* **Sec. 50.** This Act takes effect immediately under AS 01.10.070(c).