

**HOUSE BILL NO. 238**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

**BY THE HOUSE STATE AFFAIRS COMMITTEE**

**Introduced: 3/30/05**

**Referred: State Affairs, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to contribution rates for employers and members in the defined benefit**  
2 **plans of the teachers' retirement system and the public employees' retirement system**  
3 **and to the ad-hoc post-retirement pension adjustment in the teachers' retirement**  
4 **system; requiring insurance plans provided to members of the teachers' retirement**  
5 **system, the judicial retirement system, the public employees' retirement system, and the**  
6 **former elected public officials retirement system to provide a list of preferred drugs;**  
7 **relating to defined contribution plans for members of the teachers' retirement system**  
8 **and the public employees' retirement system; and providing for an effective date."**

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

10 **\* Section 1.** AS 14.25 is amended by adding a new section to read:

11 **Article 1. Teachers First Hired before July 1, 2005.**

12 **Sec. 14.25.005. Applicability of AS 14.25.005 - 14.25.012, 14.25.040 -**

1       **14.25.169, 14.25.173, 14.25.175, and 14.25.220.** The provisions of AS 14.25.005 -  
 2       14.25.012, 14.25.040 - 14.25.169, 14.25.173, 14.25.175, and 14.25.220 apply only to  
 3       members first hired before July 1, 2005.

4       \* **Sec. 2.** AS 14.25.050(a) is amended to read:

5               (a) Except as provided in (c) of this section, beginning January 1, 1991, each  
 6       member shall contribute to the **plan** [SYSTEM] an amount equal to **the percentage**  
 7       [8.65 PERCENT] of the member's base salary accrued from July 1 to the following  
 8       June 30 **as determined under AS 14.25.072.** The employer shall deduct the  
 9       contribution from the member's salary at the end of each payroll period, and the  
 10       contribution shall be credited by the **plan** [SYSTEM] to the member contribution  
 11       account. The contributions shall be deducted from employee compensation before the  
 12       computation of applicable federal taxes and shall be treated as employer contributions  
 13       under 26 U.S.C. 414(h)(2). A member may not have the option of making the payroll  
 14       deduction directly in cash instead of having the contribution picked up by the  
 15       employer.

16       \* **Sec. 3.** AS 14.25.070 is amended to read:

17               **Sec. 14.25.070. Contributions by employer.** An employer shall contribute to  
 18       the **plan** [SYSTEM] an amount equal to the percentage, as certified by the  
 19       administrator **under AS 14.25.072** [, OF THE SUM TOTAL OF THE BASE  
 20       SALARIES OF ALL MEMBERS THAT IS REQUIRED IN ADDITION TO  
 21       MEMBER CONTRIBUTIONS TO PROVIDE THE BENEFITS OF THIS CHAPTER  
 22       TIMES THE SUM TOTAL OF THE BASE SALARIES PAID TO MEMBERS,  
 23       INCLUDING ANY ADJUSTMENTS TO CONTRIBUTIONS REQUIRED BY  
 24       AS 14.25.173(a), BY THE EMPLOYER].

25       \* **Sec. 4.** AS 14.25 is amended by adding a new section to read:

26               **Sec. 14.25.072. Contribution rates.** (a) The board shall annually establish  
 27       the employer and member contribution rates under this section. The employer and  
 28       member contribution rates shall be established with the goal of fully funding the  
 29       normal cost of the plan and paying as much of the past service cost as possible within  
 30       the limitations imposed in this section. The sum of the employer and member  
 31       contribution rates may not be less than the normal cost rate.

1 (b) Employer and member contribution rates must be equal, subject to (c) of  
2 this section.

3 (c) Notwithstanding (a) and (b) of this section,

4 (1) the maximum member contribution rate is 14 percent, and the  
5 minimum rate is zero percent;

6 (2) the minimum employer contribution rate is 11 percent, regardless  
7 of the member contribution rate; and

8 (3) neither the employer contribution rate nor the member contribution  
9 rate may increase more than five percentage points annually.

10 (d) In this section,

11 (1) "accrued liability" means the present value of all member benefits  
12 accrued by member service before the valuation date;

13 (2) "actuarially computed rate" is the sum of the normal cost rate and  
14 the past service cost rate;

15 (3) "employer contribution rate" is that portion of the actuarially  
16 computed rate to be contributed by employers;

17 (4) "member contribution rate" is that portion of the actuarially  
18 computed rate to be contributed by members;

19 (5) "normal cost" means the value of member benefits expected to be  
20 earned by active members during the fiscal year following the valuation date;

21 (6) "normal cost rate" means the percentage of member salaries  
22 required to pay the normal cost during the fiscal year following the valuation date;

23 (7) "past service cost" means the annual payment to be made over a  
24 stipulated number of years to amortize the unfunded liability; in this paragraph,  
25 "unfunded liability" means the amount by which the accrued liability exceeds the  
26 assets of the fund;

27 (8) "past service cost rate" means the percentage of member salaries  
28 required to fully pay the annual past service cost;

29 (9) "valuation date" means the beginning of the fiscal year for which  
30 the normal cost is determined.

31 \* **Sec. 5.** AS 14.25.143(a), as that subsection read following amendment by sec. 3, ch. 146,

1 SLA 1980, until amended by sec. 12, ch. 106, SLA 1988, is amended to read:

2 (a) When the administrator determines that the cost of living has increased and  
3 that the financial condition of the retirement fund permits, the administrator shall  
4 increase benefit payments to persons receiving benefits under this system. **The value**  
5 **of assets of the retirement fund must be equal to or exceed the accrued liability of**  
6 **the retirement fund before benefit payments are increased. In this subsection,**  
7 **"accrued liability" means the present value of all member benefits accrued by**  
8 **member service in this system.**

9 \* **Sec. 6.** AS 14.25.143(a), as that subsection read following amendment by sec. 12, ch.  
10 106, SLA 1988, until amended by sec. 12, ch. 97, SLA 1990, is amended to read:

11 (a) When the administrator determines that the cost of living has increased and  
12 that the financial condition of the system permits, the administrator shall increase  
13 benefit payments to persons receiving benefits under this system. **The value of assets**  
14 **of the system must be equal or exceed the accrued liability of the system before**  
15 **benefit payments are increased. In this subsection, "accrued liability" means the**  
16 **present value of all member benefits accrued by member service in this system.**

17 \* **Sec. 7.** AS 14.25.220(37) is amended to read:

18 (37) "retirement fund" or "fund" means the fund in which the assets of  
19 the **defined benefit retirement plans** [SYSTEM], including income and interest  
20 derived from the investment of money, are deposited and held;

21 \* **Sec. 8.** AS 14.25.220(41) is amended to read:

22 (41) "system" means the Teachers' Retirement System of Alaska,  
23 **which includes all retirement plans in this chapter;**

24 \* **Sec. 9.** AS 14.25.220 is amended by adding a new paragraph to read:

25 (46) "defined benefit retirement plans" means the retirement plans  
26 provided to members in AS 14.25.005 - 14.25.012, 14.25.040 - 14.25.169, 14.25.173,  
27 14.25.175, and 14.25.220.

28 \* **Sec. 10.** AS 14.25 is amended by adding new sections to read:

29 **Article 2. Teachers First Hired on or after July 1, 2005.**

30 **Sec. 14.25.310. Applicability of AS 14.25.310 - 14.25.495.** The provisions of  
31 AS 14.25.310 - 14.25.495 apply only to members first hired on or after July 1, 2005.

1 For purposes of AS 14.25.310 - 14.25.495, a teacher is considered to be first hired on  
2 the first day of employment as a teacher.

3 **Sec. 14.25.320. Defined contribution retirement plan established; federal**  
4 **qualification requirements.** (a) A defined contribution retirement plan for teachers  
5 of the state is created.

6 (b) The retirement plan established by AS 14.25.310 - 14.25.495 is intended to  
7 qualify under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified  
8 retirement plan established and maintained by the state for its employees, for the  
9 employees of school districts and regional educational attendance areas in the state,  
10 and for the employees of other employers whose participation is authorized by  
11 AS 14.25.310 - 14.25.495 and who participate in this plan.

12 (c) An amendment to AS 14.25.310 - 14.25.495 does not provide a person  
13 with a vested right to a benefit if the Internal Revenue Service determines that the  
14 amendment will result in disqualification of the plan under the Internal Revenue Code.

15 **Sec. 14.25.330. Purpose and effective date.** (a) The purpose of  
16 AS 14.25.310 - 14.25.495 is to encourage qualified teachers to enter and remain in  
17 service with participating employers by establishing a defined contribution retirement  
18 plan on behalf of the members.

19 (b) All eligible employees first hired on or after July 1, 2005, shall participate  
20 in the plan set out in AS 14.25.310 - 14.25.495.

21 **Sec. 14.25.340. Contributions by members.** (a) Each member shall  
22 contribute to the plan an amount equal to 11 percent of the member's salary base  
23 accrued from July 1 to the following June 30. The employer shall deduct the  
24 contribution from the member's salary at the end of each payroll period, and the  
25 contribution shall be credited by the plan to the member contribution account. The  
26 contributions shall be deducted from employee compensation before the computation  
27 of applicable federal taxes and shall be treated as employer contributions under 26  
28 U.S.C. 414(h)(2). A member may not have the option of making the payroll deduction  
29 directly in cash instead of having the contribution picked up by the employer.

30 (b) Each member shall make an election within the first 30 days of  
31 employment with an employer regarding the salary base upon which the member and

1 employer contribution to the member's contribution account will be calculated. A  
 2 member must choose as a salary base for purposes of this section either the member's  
 3 basic salary or the member's total salary. If a member fails to make an election a  
 4 member's basic salary shall be used as the salary base to calculate member and  
 5 employer contributions. A member's salary base may not be changed during the  
 6 member's employment with the employer.

7 (c) In this section,

8 (1) "basic salary" means the total remuneration payable under contract  
 9 for a full year of membership service, including addenda to the contract;

10 (2) "salary base" means either the member's basic salary or total salary  
 11 as determined under (b) of this section; and

12 (3) "total salary" means the total remuneration paid under contract to a  
 13 member for services rendered during a school year, including cost-of-living  
 14 differentials, payments for leave that is actually used by the member, the amount by  
 15 which the member's wages are reduced under AS 39.30.150(c), and the amount  
 16 deferred under an employer-sponsored deferred compensation plan or the tax shelter  
 17 annuity plan approved by the Department of Education and Early Development, but  
 18 does not include retirement benefits, welfare benefits, per diem, expense allowances,  
 19 workers' compensation payments, or payments for leave not used by the member,  
 20 whether those leave payments are scheduled payments, lump-sum payments,  
 21 donations, or cash-ins; compensation paid includes any payment made after June 30 of  
 22 a school year for services rendered before the end of the school year.

23 **Sec. 14.25.350. Contributions by employer.** (a) An employer shall  
 24 contribute an amount equal to 11 percent of each member's salary base as provided in  
 25 (b) - (d) of this section.

26 (b) An employer shall contribute to the member contribution account an  
 27 amount equal to 5.75 percent of each member's salary base determined under  
 28 AS 14.25.340 from July 1 to the following June 30.

29 (c) An employer shall also contribute an amount equal to 3.75 percent of each  
 30 member's salary base determined under AS 14.25.340 from July 1 to the following  
 31 June 30 to pay for retiree major medical insurance. This contribution shall be paid

1 into the group health and life benefits fund established by the commissioner of  
 2 administration under AS 39.30.095 and shall be accounted for in accordance with  
 3 regulations established by the commissioner.

4 (d) An employer shall also contribute an amount equal to 1.5 percent of each  
 5 member's salary base determined under AS 14.25.340 to each member's health  
 6 reimbursement account plan under AS 39.30.300.

7 **Sec. 14.25.360. Transmittal of contributions.** (a) All contributions  
 8 deducted in accordance with AS 14.25.340(a) shall be transmitted to the plan for  
 9 deposit in the retirement fund not later than 15 days following the close of the payroll  
 10 period, with the final contributions due for any school year transmitted not later than  
 11 July 15.

12 (b) The contributions of employers under AS 14.25.350 must be transmitted to  
 13 the plan for deposit in the appropriate fund at the close of each pay period. If the  
 14 contributions are not submitted within 15 days after the close of each payroll period,  
 15 interest must be assessed on the outstanding contributions at one and one-half times  
 16 the most recent actuarially determined rate of earnings for the plan from the date that  
 17 contributions were originally due. In addition, the amount of the contributions and  
 18 interest may be deducted by the Department of Education and Early Development  
 19 from the state funds due the school district and the amount so deducted transmitted to  
 20 the plan for deposit in the retirement fund. Amounts due from the University of  
 21 Alaska and interest as prescribed in this section may be deducted by the commissioner  
 22 of administration from any state funds due the University of Alaska and the amount  
 23 deducted transmitted to the administrator for deposit in the retirement fund.

24 **Sec. 14.25.370. Retirement benefits and vesting.** A participating member is  
 25 immediately and fully vested in that member's contributions and in the employer  
 26 contributions made on that member's behalf to an account under AS 14.25.310 -  
 27 14.25.495.

28 **Sec. 14.25.380. Investment of individual accounts.** (a) The Alaska State  
 29 Pension Investment Board shall provide a range of investment options and permit a  
 30 participant to exercise investment control over the participant's assets in the member  
 31 contribution account as provided in this section. If a participant exercises control over

1 the assets in the account, the participant is not considered a fiduciary for any reason on  
2 the basis of exercising that control.

3 (b) A participant may direct investment of plan funds held in an account  
4 among available investment funds in accordance with rules established by the board.

5 (c) To the extent that a member contribution account has been divided as  
6 provided in a qualified domestic relations order between participants, each participant  
7 shall be treated as the holder of a separate individual account for purposes of  
8 investment yields, decisions, and transfers under this section.

9 **Sec. 14.25.390. Distributions.** (a) A participating member is eligible to  
10 receive distribution of that person's accumulated balance in the plan upon becoming a  
11 former participating member.

12 (b) Upon the death of a participating member or former participating member,  
13 the accumulated balance of that deceased participant is considered to belong to the  
14 refund beneficiary, if any, of that deceased participant. If a valid nomination of refund  
15 beneficiary is not on file with the board, the board, in a lump sum distribution, shall  
16 distribute the accumulated balance to a legal representative, if any, of the deceased  
17 participant's estate.

18 (c) A former participating member or refund beneficiary may elect one or a  
19 combination of several of the following methods of distribution of the accumulated  
20 balance:

21 (1) a lump sum distribution to the recipient;

22 (2) a lump sum direct rollover to another qualified plan, to the extent  
23 allowed by federal law;

24 (3) periodic distributions, as authorized by the board;

25 (4) no current distribution, in which case the accumulated balance  
26 must remain in the plan until the former participating member or refund beneficiary  
27 elects a method or methods of distribution under this section, to the extent allowed by  
28 federal law.

29 (d) If the former participating member's vested account balance is less than  
30 \$5,000, the board shall automatically refund the member's vested account balance  
31 upon termination of employment. The member may waive the refund if the member

1 submits a written statement to the board, within 120 days after termination, requesting  
2 that the member's vested account balance remain in the plan.

3 **Sec. 14.25.400. Refund upon termination.** (a) Except as provided in (b) of  
4 this section, a terminated member is entitled to a refund of the balance of the member  
5 contribution account.

6 (b) A member who is terminated and who is married at the time of application  
7 for a refund or whose rights to a refund are subject to a qualified domestic relations  
8 order is entitled to receive a refund of the balance of the member contribution account  
9 only if the member's present spouse and each person entitled under the order consent  
10 to the refund in writing on a form provided by the administrator. The administrator  
11 may waive written consent from the person entitled under the order if the  
12 administrator determines that the person cannot be located or for other reasons  
13 established by regulation. The administrator may waive written consent from the  
14 spouse if the administrator determines that

15 (1) the member was not married to the spouse during any period of the  
16 member's employment with an employer;

17 (2) the spouse has no rights to benefits under AS 14.25.310 -  
18 14.25.495 because of the terms of a qualified domestic relations order;

19 (3) the spouse cannot be located;

20 (4) the member and spouse have been married for less than one year  
21 and the member establishes that they are not cohabiting; or

22 (5) another reason established by regulation exists.

23 **Sec. 14.25.410. Rights under qualified domestic relations order.** A former  
24 spouse shall be treated as a spouse or surviving spouse under AS 14.25.310 -  
25 14.25.495 to the extent required by a qualified domestic relations order. Rights under  
26 the order do not take effect until the order is filed with the administrator.

27 **Sec. 14.25.420. Rollover distributions and rollover contributions.** (a) A  
28 teacher entering the plan may elect, at the time and in the manner prescribed by the  
29 administrator, to have all or part of a direct rollover distribution from an eligible  
30 retirement plan owned by the member paid directly into the member's contribution  
31 account.

1 (b) Rollover contributions do not count as a purchase of membership service  
2 for the purpose of determining years of service.

3 (c) A distributee may elect, at the time and in the manner prescribed by the  
4 administrator, to have all or part of an eligible rollover distribution paid directly to an  
5 eligible retirement plan specified by the distributee in the direct rollover.

6 (d) In this section,

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

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

12 (3) "eligible retirement plan" means

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

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

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

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

19 (E) an annuity plan described in 26 U.S.C. 403(b); or

20 (F) a governmental plan described in 26 U.S.C. 457(b);

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

1 gross income;

2 (E) a distribution that is on account of hardship; and

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

5 **Sec. 14.25.430. Distribution requirements.** (a) The entire interest of a  
6 member must be distributed or must begin to be distributed not later than the member's  
7 required beginning date.

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

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

29 (d) If a member has not made a distribution election before the member's  
30 death, the member's designated beneficiary must elect the method of distribution not  
31 later than December 31 of the calendar year (1) in which distributions would be

1 required to begin under this section, or (2) that contains the fifth anniversary of the  
 2 date of death of the member, whichever is earlier. If the member does not have a  
 3 designated beneficiary or if the designated beneficiary does not elect a method of  
 4 distribution, distribution of the member's entire interest must be completed by  
 5 December 31 of the calendar year containing the fifth anniversary of the member's  
 6 death.

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

15 (f) Notwithstanding any contrary provisions of AS 14.25.310 - 14.25.495, the  
 16 requirements of this section apply to all distributions of a member's interest and take  
 17 precedence over any inconsistent provisions of AS 14.25.310 - 14.25.495.

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

21 (h) In this section,

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

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

28 **Sec. 14.25.440. Designation of beneficiary.** (a) Each member shall  
 29 designate the beneficiary or beneficiaries to whom the administrator shall distribute  
 30 benefits payable under AS 14.25.310 - 14.25.495 as a consequence of the member's  
 31 death. Notwithstanding a previous designation of beneficiary, a person who is the

1 spouse of a member at the time of the member's death automatically becomes the  
 2 designated beneficiary if the spouse was married to the member during part of the  
 3 member's employment for an employer

4 (1) except to the extent a qualified domestic relations order filed with  
 5 the administrator provides for payment to a former spouse or other dependent of the  
 6 member; or

7 (2) unless the member filed a revocation of beneficiary accompanied  
 8 by a written consent to the revocation from the present spouse and each person entitled  
 9 under the order; however, consent of the present spouse is not required if the member  
 10 and the present spouse had been married for less than one year on the date of the  
 11 member's death and if the member established when filing the revocation that the  
 12 member and the present spouse were not cohabiting.

13 (b) Except as provided in (a) of this section, the member may change or  
 14 revoke the designation without notice to the beneficiary or beneficiaries at any time.  
 15 If a member designates more than one beneficiary, each shares equally unless the  
 16 member specifies a different allocation or preference. The designation of a  
 17 beneficiary, a change or revocation of a beneficiary, and a consent to revocation of a  
 18 beneficiary shall be made on a form provided by the administrator and is not effective  
 19 until filed with the administrator.

20 (c) If a member fails to designate a beneficiary, or if no designated beneficiary  
 21 survives the member, the death benefit shall be paid

22 (1) to the surviving spouse or, if there is none surviving;

23 (2) to the surviving children in equal parts or, if there are none  
 24 surviving;

25 (3) to the surviving parents in equal parts or, if there are none  
 26 surviving;

27 (4) to the estate.

28 (d) A person claiming entitlement to benefits payable under AS 14.25.310 -  
 29 14.25.495 as a consequence of a member's death shall provide the administrator with a  
 30 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.  
 31 Documents establishing entitlement may be filed with the administrator immediately

1 after a change in the member's marital status. If the administrator does not receive  
 2 notification of a claim before the date 60 days after the member's death, the person  
 3 claiming entitlement is not entitled to receive from the division of retirement and  
 4 benefits any benefit already paid by the administrator.

5 **Sec. 14.25.450. Adjustments.** (a) When a change or error is made in the  
 6 records maintained by the plan or in the contributions made on behalf of an employee  
 7 or an error is made in computing a benefit, and, as a result, a teacher or member or  
 8 beneficiary is entitled to receive from the plan more or less than the teacher or member  
 9 or beneficiary would have been entitled to receive had the records or contributions  
 10 been correct or had the error not been made, the records, contributions, or error shall  
 11 be corrected. An adjustment to contributions shall be picked up by the employer in  
 12 accordance with AS 14.25.360 or treated as an adjustment to the employer's  
 13 contributions in accordance with this section, depending upon the nature of the  
 14 adjustment. If no future benefit payments are due, a person who was paid any amount  
 15 to which the person was not entitled is liable for repayment of that amount, and a  
 16 person who was not paid the full amount to which the person was entitled shall be paid  
 17 that amount.

18 (b) An adjustment that requires the recovery of benefits may not be made  
 19 under this section if

20 (1) the incorrect benefit was first paid two years or more before the  
 21 member or beneficiary was notified of the error;

22 (2) the error was not the result of erroneous information supplied by  
 23 the member or beneficiary; and

24 (3) the member or beneficiary did not have reasonable grounds to  
 25 believe that the amount of the benefit was in error.

26 (c) At each regularly scheduled meeting of the Alaska Teachers' Retirement  
 27 Board, the administrator shall report to the board on all situations since the  
 28 administrator's last report in which an adjustment has been prohibited under (b) of this  
 29 section. If the board finds that there is reason to believe that one or more of the  
 30 conditions set out in (b) of this section have not been met, the administrator shall  
 31 notify the member or beneficiary that an adjustment will be made to recover the

1 overpayment. A member or beneficiary who receives notice of adjustment under this  
 2 subsection may appeal to the board for a waiver of the adjustment under  
 3 AS 14.25.460. An adjustment that requires the repayment of benefits may not be  
 4 required while the appeal is pending.

5 (d) The plan shall pay interest on amounts owed to a member or beneficiary.  
 6 Interest shall be charged on amounts owed to the plan by a member or beneficiary if  
 7 the amount owed is the result of erroneous information supplied by the member or  
 8 beneficiary, or the member or beneficiary had reasonable grounds to believe the  
 9 amount of the benefit was in error. The interest paid under this subsection is at the  
 10 rate established by regulation for indebtedness contributions owed. Interest accrues  
 11 from the date on which the correct payment was due and continues until an actuarial  
 12 adjustment to the benefit is effective or the amount owed is paid. Accrued interest for  
 13 periods less than 60 days or in amounts less than the limit established in regulation for  
 14 writing off small indebtedness and refund balances may not be collected or paid under  
 15 this subsection.

16 **Sec. 14.25.460. Waiver of adjustments.** (a) Upon appeal by an affected  
 17 member or beneficiary under (b) of this section, the board may waive an adjustment or  
 18 a portion of an adjustment made under AS 14.25.450 if, in the opinion of the board,

19 (1) the adjustment or portion of the adjustment will cause undue  
 20 hardship to the member or beneficiary;

21 (2) the adjustment was not the result of erroneous information supplied  
 22 by the member or beneficiary;

23 (3) before the adjustment was made, the member or beneficiary  
 24 received confirmation from the administrator that the member's or beneficiary's  
 25 records were correct; and

26 (4) the member or beneficiary had no reasonable grounds to believe  
 27 the records were incorrect before the adjustment was made.

28 (b) In order to obtain consideration of a waiver under this section, the affected  
 29 member or beneficiary must appeal to the board in writing within 30 days after receipt  
 30 of notice that the records have been adjusted. The ruling of the board shall be in  
 31 writing.

1 (c) The board may conduct a hearing on an appeal under this section.

2 (d) The board may impose conditions on granting a waiver that it considers  
3 equitable. These conditions may include requiring the member or beneficiary to make  
4 additional contributions to the plan.

5 (e) The board may reconsider a ruling under this section upon request of the  
6 member or beneficiary or the administrator if the request is received within 30 days  
7 after the initial ruling. Any modification of the initial ruling must be made within 30  
8 days after receipt of a request for reconsideration.

9 **Sec. 14.25.470. Retirement.** (a) In order to obtain medical benefits under  
10 AS 14.25.480 and access to the health reimbursement account plan under  
11 AS 39.30.300, a member must retire directly from the plan. A member is eligible to  
12 retire from the plan if the member has been an active member for at least 12 months  
13 before application for retirement and

14 (1) the member has at least 30 years of service; or

15 (2) the member reaches the normal retirement age and has at least 10  
16 years of service.

17 (b) The normal retirement age is 60 years of age; however, whenever the  
18 board adopts a new table of actuarial factors, if those factors include an increase in life  
19 expectancy, the normal retirement age shall be increased by the same number of years  
20 or portions of years as the increase in life expectancy from the previously adopted  
21 table of actuarial factors.

22 (c) A member must apply to the administrator for appointment to retirement.  
23 Application shall be made on forms and in the manner prescribed by the administrator.

24 (d) A member who continues in the employ of the employer after reaching  
25 normal retirement age shall continue to participate in the plan and to have  
26 contributions allocated to the member's account.

27 **Sec. 14.25.480. Medical benefits.** (a) The medical benefits available to  
28 eligible persons are access to the retiree major medical insurance plan and to the  
29 health reimbursement account. Access to the retiree major medical insurance plan  
30 means that an eligible person may not be denied insurance coverage except for failure  
31 to pay the required premium.

1 (b) The following persons are eligible for the retiree major medical insurance  
2 plan provided under this section and the health reimbursement account:

3 (1) a member with at least 30 years of service and who retires directly  
4 from the plan;

5 (2) the surviving spouse of a member who elected coverage under (1)  
6 of this subsection;

7 (3) a member who reaches the normal retirement age as provided in  
8 AS 14.25.470, has at least 10 years of service, and retires directly from the plan;

9 (4) the surviving spouse of a member who elected coverage under (3)  
10 of this subsection.

11 (c) Retiree major medical insurance plan coverage elected by an eligible  
12 member under this section covers the eligible member, the spouse of the eligible  
13 member, and the dependent children of the eligible member.

14 (d) Retiree major medical insurance plan coverage elected by a surviving  
15 spouse of a eligible member under this section covers the surviving spouse and the  
16 dependent children of the surviving spouse.

17 (e) Major medical insurance coverage takes effect on the first day of the  
18 month following the date of the election and stops when the person who elects  
19 coverage under (b) of this section dies or fails to make a required premium payment.

20 (f) The coverage for persons who are eligible for Medicare is the same as that  
21 available for persons who are not yet eligible for Medicare. The benefits payable to  
22 those Medicare eligible persons supplement any benefits provided under the Medicare  
23 program.

24 (g) The medical and optional insurance premiums owed by the person who  
25 elects coverage under (b) of this section shall be deducted from the health  
26 reimbursement account. If the amount of the health reimbursement account becomes  
27 insufficient to pay the premiums, the person who elects coverage under (a) of this  
28 section shall pay the premiums directly.

29 (h) The portion of the cost of premiums payable by the employee for retiree  
30 major medical insurance coverage for an eligible member or surviving spouse who is

31 (1) younger than the normal retirement age set in AS 14.25.470 is the

1 amount equal to the full monthly group premium for retiree major medical insurance  
2 coverage;

3 (2) the normal retirement age set in AS 14.25.470 or older is the  
4 following percentage of the premium amount established for retirees who are the  
5 normal retirement age or older: 70 percent if the member had 10 years of service; for  
6 each additional year of service after the member's tenth year of service, the cost of  
7 premiums decreases by three percentage points; however, the minimum employee  
8 portion of the premiums is 10 percent if the member had 30 or more years of service.

9 (i) The eligibility for and cost of premiums for retiree major medical insurance  
10 coverage for an alternate payee under a qualified domestic relations order shall be  
11 determined based on the years of service of the member to which the alternate payee is  
12 entitled under the order.

13 (j) The monthly group premiums for retiree major medical insurance coverage  
14 are established by the administrator in accordance with AS 39.30.095. Nothing in  
15 AS 14.25.310 - 14.25.495 guarantees a person who elects coverage under (a) of this  
16 section a monthly group premium rate for retiree major medical insurance coverage  
17 other than the premium in effect for the month in which the premium is due for  
18 coverage for that month.

19 (k) In this section,

20 (1) "health reimbursement account" means the plan established in  
21 AS 39.30.300;

22 (2) "retires directly from the plan" means that the member is an active  
23 member at the time that the member applies to the administrator for appointment to  
24 retirement and that the member continues as an active member up through the day  
25 before the day the member is appointed to retirement.

26 **Sec. 14.25.495. Definitions.** In AS 14.25.310 - 14.25.495, unless the context  
27 requires otherwise,

28 (1) "administrator" has the meaning given in AS 14.25.220;

29 (2) "beneficiary" has the meaning given in AS 14.25.220;

30 (3) "board" has the meaning given in AS 14.25.220;

31 (4) "compensation" has the meaning given in AS 14.25.220;

- 1 (5) "employer" has the meaning given in AS 14.25.220;
- 2 (6) "former participating member" means a terminated member;
- 3 (7) "fund" or "retirement fund" means the assets of the defined  
4 contribution plan established in AS 14.25.310 - 14.25.495;
- 5 (8) "Internal Revenue Code" has the meaning given in AS 14.25.220;
- 6 (9) "member" has the meaning given "teacher" in AS 14.25.220;
- 7 (10) "member contribution account" means the total maintained by the  
8 plan of the member's mandatory contributions, employer contributions on behalf of the  
9 employee, indebtedness principal and interest payments, interest credited to each of  
10 those accounts, and adjustments to the account in accordance with AS 14.25.450;
- 11 (11) "qualified domestic relations order" has the meaning given in  
12 AS 14.25.220;
- 13 (12) "school year" has the meaning given in AS 14.25.220;
- 14 (13) "teacher" has the meaning given in AS 14.25.220;
- 15 (14) "terminated" means a person no longer employed by an employer  
16 participating in the plan;
- 17 (15) "year of service" has the meaning given in AS 14.25.220.

18 \* **Sec. 11.** AS 14.40.671(e) is amended to read:

19 (e) An employee whose rights to transfer assets out of a state retirement  
20 system are subject to a qualified domestic relations order is entitled to transfer assets  
21 from the state retirement system to the program only if the requirements for receiving  
22 a refund under AS 14.25.150(b), 14.25.400, [OR] AS 39.35.200(c), or 39.35.790, as  
23 appropriate, are met.

24 \* **Sec. 12.** AS 39.30.090(a) is amended to read:

25 (a) The Department of Administration may obtain a policy or policies of group  
26 insurance covering state employees, persons entitled to coverage under AS 14.25.168,  
27 14.25.480, AS 22.25.090, AS 39.35.535, 39.35.870, or former AS 39.37.145,  
28 employees of other participating governmental units, or persons entitled to coverage  
29 under AS 23.15.136, subject to the following conditions:

- 30 (1) A group insurance policy **must**  
31 **(A)** [SHALL] provide one or more of the following benefits:

1 life insurance, accidental death and dismemberment insurance, weekly  
 2 indemnity insurance, hospital expense insurance, surgical expense insurance,  
 3 dental expense insurance, audiovisual insurance, or other medical care  
 4 insurance; and

5 **(B) require the insurance plan to provide a preferred drug**  
 6 **list or formulary and must provide that beneficiaries use the appropriate**  
 7 **medication on the preferred drug list or pay the difference in cost between**  
 8 **the medication listed on the preferred drug list and the cost of a**  
 9 **nonformulary medication; however, if a medication is not on the**  
 10 **preferred drug list as a generic or nongeneric drug, the insurance plan**  
 11 **shall cover the cost of the medication. For purposes of this subparagraph,**  
 12 **a nonformulary medication is one that is not listed on the formulary, such**  
 13 **as a nongeneric form of the medication when a generic form of the**  
 14 **medication is in the formulary.**

15 (2) Each eligible employee of the state, the spouse and the unmarried  
 16 children chiefly dependent on the eligible employee for support, and each eligible  
 17 employee of another participating governmental unit shall be covered by the group  
 18 policy, unless exempt under regulations adopted by the commissioner of  
 19 administration.

20 (3) A governmental unit may participate under a group policy if

21 (A) its governing body adopts a resolution authorizing  
 22 participation, and payment of required premiums;

23 (B) a certified copy of the resolution is filed with the  
 24 Department of Administration; and

25 (C) the commissioner of administration approves the  
 26 participation in writing.

27 (4) In procuring a policy of group health or group life insurance as  
 28 provided under this section or excess loss insurance as provided in AS 39.30.091, the  
 29 Department of Administration shall comply with the dual choice requirements of  
 30 AS 21.86.310, and shall obtain the insurance policy from an insurer authorized to  
 31 transact business in the state under AS 21.09, a hospital or medical service corporation

1 authorized to transact business in this state under AS 21.87, or a health maintenance  
2 organization authorized to operate in this state under AS 21.86. An excess loss  
3 insurance policy may be obtained from a life or health insurer authorized to transact  
4 business in this state under AS 21.09 or from a hospital or medical service corporation  
5 authorized to transact business in this state under AS 21.87.

6 (5) The Department of Administration shall make available bid  
7 specifications for desired insurance benefits or for administration of benefit claims and  
8 payments to (A) all insurance carriers authorized to transact business in this state  
9 under AS 21.09 and all hospital or medical service corporations authorized to transact  
10 business under AS 21.87 who are qualified to provide the desired benefits; and (B) to  
11 insurance carriers authorized to transact business in this state under AS 21.09, hospital  
12 or medical service corporations authorized to transact business under AS 21.87, and  
13 third-party administrators licensed to transact business in this state and qualified to  
14 provide administrative services. The specifications shall be made available at least  
15 once every five years. The lowest responsible bid submitted by an insurance carrier,  
16 hospital or medical service corporation, or third-party administrator with adequate  
17 servicing facilities shall govern selection of a carrier, hospital or medical service  
18 corporation, or third-party administrator under this section or the selection of an  
19 insurance carrier or a hospital or medical service corporation to provide excess loss  
20 insurance as provided in AS 39.30.091.

21 (6) If the aggregate of dividends payable under the group insurance  
22 policy exceeds the governmental unit's share of the premium, the excess shall be  
23 applied by the governmental unit for the sole benefit of the employees.

24 (7) A person receiving benefits under AS 14.25.110, AS 22.25,  
25 AS 39.35, or former AS 39.37 may continue the life insurance coverage that was in  
26 effect under this section at the time of termination of employment with the state or  
27 participating governmental unit.

28 (8) A person electing to have insurance under (7) of this subsection  
29 shall pay the cost of this insurance.

30 (9) For each permanent part-time employee electing coverage under  
31 this section, the state shall contribute one-half the state contribution rate for permanent

1 full-time state employees, and the permanent part-time employee shall contribute the  
2 other one-half.

3 (10) A person receiving benefits under AS 14.25, AS 22.25, AS 39.35,  
4 or former AS 39.37 may obtain auditory, visual, and dental insurance for that person  
5 and eligible dependents under this section. The level of coverage for persons over 65  
6 shall be the same as that available before reaching age 65 except that the benefits  
7 payable shall be supplemental to any benefits provided under the federal old age,  
8 survivors, and disability insurance program. A person electing to have insurance  
9 under this paragraph shall pay the cost of the insurance. The commissioner of  
10 administration shall adopt regulations implementing this paragraph.

11 (11) A person receiving benefits under AS 14.25, AS 22.25, AS 39.35,  
12 or former AS 39.37 may obtain long-term care insurance for that person and eligible  
13 dependents under this section. A person who elects insurance under this paragraph  
14 shall pay the cost of the insurance premium. The commissioner of administration  
15 shall adopt regulations to implement this paragraph.

16 (12) Each licensee holding a current operating agreement for a vending  
17 facility under AS 23.15.010 - 23.15.210 shall be covered by the group policy that  
18 applies to governmental units other than the state.

19 \* **Sec. 13.** AS 39.30 is amended by adding new sections to read:

20 **Article 5. State of Alaska Teachers' and Public Employees' Retiree Health**  
21 **Reimbursement Account Plan.**

22 **Sec. 39.30.300. State of Alaska Teachers' and Public Employees' Retiree**  
23 **Health Reimbursement Account Plan established.** The State of Alaska Teachers'  
24 and Public Employees' Retiree Health Reimbursement Account Plan is established for  
25 teachers and teachers' spouses and dependants who first become members of the  
26 defined contribution plan under AS 14.25.310 - 14.25.495 on or after July 1, 2005, and  
27 members and spouses and dependents of members of the state, political subdivisions  
28 of the state, and public organizations of the state who first become members of the  
29 defined contribution plan under AS 39.35.700 - 39.35.895 on or after July 1, 2005.

30 **Sec. 39.30.310. Purpose and effective date.** (a) The purpose of the plan is to  
31 allow medical care expenses to be reimbursed from individual savings accounts

1 established for qualified participants.

2 (b) The plan becomes effective July 1, 2005, at which time contributions by  
3 employers begin.

4 **Sec. 39.30.320. Attorney general.** The attorney general of the state is the  
5 legal counsel for the plan and shall advise the administrator and represent the plan in a  
6 legal proceeding.

7 **Sec. 39.30.330. Administrator.** The commissioner of administration or the  
8 commissioner's designee is the administrator of the plan.

9 **Sec. 39.30.340. Powers and duties of the administrator; fund.** The  
10 administrator shall establish a teachers' and public employees' retiree health  
11 reimbursement account plan trust fund in which the assets of the plan shall be  
12 deposited and held. The administrator has the same powers and duties with regard to  
13 the plan and the trust fund as provided in AS 14.25.020.

14 **Sec. 39.30.350. Employer contribution fund.** The fund established under  
15 AS 39.30.340 is an employer contribution fund. The value of the fund reflects  
16 employer contributions, expenses, and investment gains and losses. Employee  
17 contributions to the fund are not permitted.

18 **Sec. 39.30.360. Management and investment of the fund.** The Alaska State  
19 Pension Investment Board is the fiduciary of the fund and has the same powers and  
20 duties under this section in regard to the fund as are provided under AS 37.10.220.

21 **Sec. 39.30.370. Termination of employment.** A person who terminates  
22 employment before appointment to normal retirement loses any right to the  
23 contributions made on behalf of the person to the teachers' and public employees'  
24 retiree health reimbursement account trust fund. If a person returns to employment  
25 with a participating employer, the person's account balance shall be restored in the  
26 amount recorded on the date of termination from the trust, without interest or other  
27 adjustment.

28 **Sec. 39.30.380. Eligibility and enrollment.** A qualified participant is eligible  
29 for reimbursement from the appropriate individual account established for a member  
30 under the plan when the member becomes eligible for medical benefits under  
31 AS 14.25.480 or AS 39.35.870. The administrator shall enroll a participant in the plan

1 upon receipt of the member's request for appointment to retirement.

2 **Sec. 39.30.390. Benefits payable from the individual account.** (a) The  
3 administrator shall pay the cost of monthly premiums for retiree major medical  
4 insurance on behalf of a participant if the participant elected retiree major medical  
5 insurance under AS 14.25.480 or AS 39.35.870.

6 (b) Upon application of a participant, the administrator shall reimburse to a  
7 participant the costs for medical care expenses as defined in 26 U.S.C. 213(d).

8 (c) When the member's individual account balance is exhausted, the insurance  
9 premium payments under (a) of this section and the reimbursement of medical care  
10 expenses under (b) of this section end.

11 (d) If a participant dies before exhausting the participant's individual account,  
12 the surviving spouse and the surviving spouse's dependent children are eligible to be  
13 reimbursed for medical care expenses as defined in 26 U.S.C. 213(d) until the  
14 individual account is exhausted. If any amount remains in an individual account after  
15 the death of the surviving spouse and the death or nondependency of the surviving  
16 spouse's dependent children, the account balance shall revert to the trust.

17 **Sec. 39.30.400. Exemption from taxation and process.** (a) Contributions  
18 and other amounts held in the plan on behalf of a member or other person who is or  
19 may become eligible for benefits under the plan may be used only to reimburse  
20 eligible medical expenses, are exempt from Alaska state and municipal taxes, and are  
21 not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance,  
22 or charge of any kind, either voluntary or involuntary, before they are received by the  
23 person entitled to the amount under the terms of the plan. Any attempt to anticipate,  
24 alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any  
25 right to amounts accrued in the plan is void. However, a member's right to receive  
26 benefits may be assigned

27 (1) under a qualified domestic relations order; or

28 (2) to a trust or similar legal device that meets the requirements for a  
29 Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C. 1396p(d)(4).

30 (b) Notwithstanding AS 09.38.065, contributions and other amounts held in  
31 the plan and benefits payable under this plan are exempt from garnishment, execution,

1 or levy.

2 **Sec. 39.30.410. Amendment and termination of plan.** (a) The state has the  
3 right to amend the plan at any time and from time to time, in whole or in part,  
4 including the right to make retroactive amendments referred to in 26 U.S.C. 401(b).

5 (b) The plan administrator may not modify or amend the plan retroactively in  
6 such a manner as to reduce the benefits of any member accrued to date under the plan  
7 by reason of contributions made before the modification or amendment except to the  
8 extent that the reduction is permitted by the Internal Revenue Code.

9 (c) The state may, in its discretion, terminate the plan in whole or part at any  
10 time without liability for the termination. If the plan is terminated, all investments  
11 remain in force until all individual accounts have been completely distributed under  
12 the plan, and, after all plan liabilities are satisfied, excess assets revert to the employer.

13 (d) Any contribution made by an employer to the plan because of a mistake of  
14 fact must be returned to the employer by the administrator within one year after the  
15 contribution or discovery, whichever is later.

16 **Sec. 39.30.420. Exclusive benefit.** (a) The corpus or income of the assets  
17 held in trust as required by the plan may not be diverted or used for other than the  
18 exclusive benefit of the participants.

19 (b) If plan benefits are provided through the distribution of annuity or  
20 insurance contracts, any refunds or credits in excess of plan benefits due to dividends,  
21 earnings, or other experience rating credits, or surrender or cancellation credits, shall  
22 be paid to the trust fund.

23 (c) The assets of the plan may not be used to pay premiums or contributions of  
24 the employer under another plan maintained by the employer.

25 **Sec. 39.30.495. Definitions.** Unless the context requires otherwise, in  
26 AS 39.30.300 - 39.30.495,

27 (1) "administrator" means the commissioner of administration or the  
28 commissioner's designee;

29 (2) "board" means the Alaska State Pension Investment Board  
30 established under AS 37.10.210;

31 (3) "dependent child" has the meaning given in AS 14.25.220;

1 (4) "employer" has the meaning given in AS 14.25.495 for employers  
 2 of teachers in the defined contribution plan established in AS 14.25.310 - 14.25.495  
 3 and has the meaning given in AS 39.35.895 for employers of public employees in the  
 4 defined contribution plan established in AS 39.35.700 - 39.35.895;

5 (5) "fund" means the assets of the teachers' and public employees'  
 6 retiree health reimbursement account plan trust fund;

7 (6) "individual account" means the record established by the  
 8 administrator for individual employees under the teachers' and public employees'  
 9 retiree health reimbursement account plan;

10 (7) "member" means a member of the teachers' retirement system  
 11 defined contribution plan in AS 14.25.310 - 14.25.495 or a member of the public  
 12 employees' retirement plan in AS 39.35.700 - 39.35.895;

13 (8) "participant" means a member, spouse of a member, dependent  
 14 child of a member, dependent child of a spouse of a member, or former spouse under a  
 15 qualified domestic relations order;

16 (9) "qualified domestic relations order" has the meaning given in  
 17 AS 14.25.495.

18 \* **Sec. 14.** AS 39.30 is amended by adding new sections to read:

19 **Article 6. Past Service Cost Offset Account.**

20 **Sec. 39.30.500. Past service cost offset account established.** The past  
 21 service cost offset account is established for employers in the defined contribution  
 22 plans established in AS 14.25.310 - 14.25.495 and employers in the defined  
 23 contribution plans established in AS 39.35.700 - 39.35.895.

24 **Sec. 39.30.510. Purpose and effective date.** (a) The purpose of the account  
 25 is to assist employers in paying past service cost obligations to each employer's  
 26 respective retirement plan. The account consists of legislative appropriations and  
 27 investment gains and losses.

28 (b) The plan becomes effective July 1, 2005, at which time contributions from  
 29 the account into the appropriate retirement fund on behalf of an employer shall begin.

30 **Sec. 39.30.520. Attorney general.** The attorney general of the state is the  
 31 legal counsel for the account and shall advise the administrator and represent the plan

1 in a legal proceeding.

2 **Sec. 39.30.530. Administrator.** The commissioner of administration or the  
3 commissioner's designee is the administrator of the account.

4 **Sec. 39.30.540. Powers and duties of the administrator.** The administrator  
5 has the same powers and duties with regard to the plan and the trust fund as provided  
6 in AS 14.25.020.

7 **Sec. 39.30.550. Management and investment of the fund.** The Alaska State  
8 Pension Investment Board is the fiduciary of the fund and has the same powers and  
9 duties under this section in regard to the fund as are provided under AS 37.10.220.

10 **Sec. 39.30.560. Contributions on behalf of employers in the teachers'**  
11 **retirement plan.** The administrator shall pay into the teachers' retirement fund on the  
12 employer's behalf the employer's past service cost for each member in the employer's  
13 defined contribution plan.

14 **Sec. 39.30.570. Contributions on behalf of employers in the public**  
15 **employees' retirement plan.** The administrator shall pay into the public employees'  
16 retirement fund on each employer's behalf, that employer's past service cost for each  
17 member in the employer's defined contribution plan, up to the blended past service  
18 cost rate for all employers in the plan.

19 **Sec. 39.30.595. Definitions.** Unless the context requires otherwise, in  
20 AS 39.30.500 - 39.30.595,

21 (1) "accrued liability" means the present value of all member benefits  
22 in all plans accrued by member service;

23 (2) "administrator" means the commissioner of administration or the  
24 commissioner's designee;

25 (3) "blended employer past service cost rate" means the average past  
26 service cost rate of all employers in the public employees' retirement plan established  
27 in AS 39.35.010 - 39.35.690;

28 (4) "member" means a member of the defined contribution plan in  
29 AS 14.25.310 - 14.25.495 or a member of the defined contribution plan in  
30 AS 39.35.700 - 39.35.895;

31 (5) "past service cost" means the annual payment amount needed to

1 pay for benefits that were not funded by past contributions into the retirement plan, as  
2 apportioned over a stipulated number of years;

3 (6) "past service cost rate" means the annual payment as a percentage  
4 of employee salary required to pay the past service cost as an amortized contribution  
5 in percentage over a stipulated number of years.

6 \* **Sec. 15.** AS 39.35 is amended by adding a new section to article 1 to read:

7 **Sec. 39.35.005. Applicability of AS 39.35.010 - 39.35.690 to employees first**  
8 **hired before July 1, 2005.** The following provisions of this chapter apply only to the  
9 defined benefit plans established for members first hired before July 1, 2005:  
10 AS 39.35.010, 39.35.120 - 39.35.165, 39.35.180 - 39.35.650, and 39.35.675 -  
11 39.35.680.

12 \* **Sec. 16.** AS 39.35.010 is amended to read:

13 **Sec. 39.35.010. Purpose and effective date; federal qualification**  
14 **requirements.** (a) The purpose of AS 39.35.010 - 39.35.680 [THIS CHAPTER] is to  
15 encourage qualified personnel to enter and remain in the service of the state or a  
16 political subdivision or public organization of the state by establishing a **plan**  
17 [SYSTEM] for the payment of retirement, disability, and death benefits to or on behalf  
18 of the employees.

19 (b) [THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF ALASKA  
20 IS HEREBY CREATED.] The **plan** [SYSTEM] created becomes effective as of  
21 January 1, 1961, at which time contributions by the state and its employees begin.

22 (c) The retirement **plan** [SYSTEM] established by AS 39.35.010 - 39.35.680  
23 [THIS CHAPTER] is intended to qualify under 26 U.S.C. 401(a) and 414(d) (Internal  
24 Revenue Code) as a qualified retirement plan established and maintained by the state  
25 for its employees and for the employees of political subdivisions, public corporations,  
26 and public organizations of the state, and for the employees of other employers whose  
27 participation is authorized by AS 39.35.010 - 39.35.680 [THIS CHAPTER] and who  
28 participate in this **plan** [SYSTEM].

29 (d) An amendment to AS 39.35.010 - 39.35.680 [THIS CHAPTER] does not  
30 provide a person with a vested right to a benefit if the Internal Revenue Service  
31 determines that the amendment will result in disqualification of the plan under the

1 Internal Revenue Code.

2 \* **Sec. 17.** AS 39.35.158 is amended to read:

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

9 (1) the amount the director would have contributed if the director had  
10 been a member during the director's period of membership in the judicial retirement  
11 system; and

12 (2) any contributions for services as administrative director refunded  
13 by the **plan** [SYSTEM] at the time the director became a member of the judicial  
14 retirement system.

15 \* **Sec. 18.** AS 39.35.160(a) is amended to read:

16 (a) **Each member shall contribute to the plan an amount equal to the**  
17 **percentage of the member's compensation as determined under AS 39.35.272**  
18 [BEGINNING JANUARY 1, 1987, EACH PEACE OFFICER OR FIRE FIGHTER  
19 SHALL CONTRIBUTE TO THE SYSTEM AN AMOUNT EQUAL TO SEVEN  
20 AND ONE-HALF PERCENT OF THE PEACE OFFICER'S OR FIRE FIGHTER'S  
21 COMPENSATION. EXCEPT AS PROVIDED IN (d) OF THIS SECTION,  
22 BEGINNING JANUARY 1, 1987, EACH OTHER EMPLOYEE SHALL  
23 CONTRIBUTE TO THE SYSTEM AN AMOUNT EQUAL TO SIX AND THREE-  
24 QUARTERS PERCENT OF THE EMPLOYEE'S COMPENSATION]. The  
25 contributions shall be deducted by the employer at the end of each payroll period. The  
26 contributions shall be deducted from employee compensation before computation of  
27 applicable federal taxes, and the contributions shall be treated as employer  
28 contributions under 26 U.S.C. 414(h)(2). A member may not have the option of  
29 making the payroll deduction directly instead of having the contribution picked up by  
30 the employer.

31 \* **Sec. 19.** AS 39.35.250 is repealed and reenacted to read:

1           **Sec. 39.35.250. Contributions by employer.** An employer shall contribute to  
 2           the plan an amount equal to the percentage, as certified by the board under  
 3           AS 39.35.272.

4           \* **Sec. 20.** AS 39.35 is amended by adding a new section to read:

5           **Sec. 39.35.272. Contribution rates.** (a) The board shall annually establish  
 6           the employer and member contribution rates under this section. The employer and  
 7           member contribution rates shall be established with the goal of fully funding the  
 8           normal cost of the plan and paying as much of the past service cost as possible within  
 9           the limitations imposed in this section. The sum of the employer and member  
 10          contribution rates may not be less than the normal cost rate.

11          (b) Employer and member contribution rates must be equal, subject to (c) of  
 12          this section.

13          (c) Notwithstanding (a) and (b) of this section,

14                  (1) the maximum member contribution rate is 13 percent, and the  
 15          minimum rate is zero percent;

16                  (2) the minimum employer contribution rate is 10 percent, regardless  
 17          of the member contribution rate; and

18                  (3) neither the employer contribution rate nor the member contribution  
 19          rate may increase more than five percentage points annually.

20          (d) In this section,

21                  (1) "accrued liability" means the present value of all member benefits  
 22          accrued by member service before the valuation date;

23                  (2) "actuarially computed rate" is the sum of the normal cost rate and  
 24          the past service cost rate;

25                  (3) "employer contribution rate" is that portion of the actuarially  
 26          computed rate to be contributed by employers;

27                  (4) "member contribution rate" is that portion of the actuarially  
 28          computed rate to be contributed by members;

29                  (5) "normal cost" means the value of member benefits expected to be  
 30          earned by active members during the fiscal year following the valuation date;

31                  (6) "normal cost rate" means the percentage of member salaries

1 required to pay the normal cost during the fiscal year following the valuation date;

2 (7) "past service cost" means the annual payment to be made over a  
3 stipulated number of years to amortize the unfunded liability; in this paragraph,  
4 "unfunded liability" means the amount by which the accrued liability exceeds the  
5 assets of the fund;

6 (8) "past service cost rate" means the percentage of member salaries  
7 required to fully pay the annual past service cost;

8 (9) "valuation date" means the beginning of the fiscal year for which  
9 the normal cost is determined.

10 \* **Sec. 21.** AS 39.35.300(a) is amended to read:

11 (a) An active employee is entitled to credited service for periods of  
12 employment with the state after January 1, 1961, regardless of the office, department,  
13 division, or agency of the state in which the person was employed. For purposes of  
14 AS 39.35.010 - 39.35.680 [THIS CHAPTER], the University of Alaska is not an  
15 office, department, division, or agency of the state. Service credit may not be granted  
16 under AS 39.35.010 - 39.35.680 [THIS CHAPTER] for service that is creditable under  
17 the teachers' retirement **plan under AS 14.25.010 - 14.25.220** [SYSTEM, AS 14.25].

18 \* **Sec. 22.** AS 39.35.360(i) is amended to read:

19 (i) An employee who completes three years of credited service with an  
20 employer, for which the employee makes contributions required by AS 39.35.010 -  
21 39.35.680 [THIS CHAPTER], is entitled to credited service on a year-for-year basis  
22 for service credited in the Civil Service Retirement System, rendered as an employee  
23 of an Alaska Bureau of Indian Affairs (BIA) school, other than service as a teacher.  
24 When eligibility for retroactive credited service under this subsection has been  
25 established, an indebtedness of the employee to the **plan** [SYSTEM] shall be  
26 determined as follows: (1) the employee's actual annual compensation, or the  
27 calculated annual compensation for an employee who works fewer than 12 months, for  
28 the most recent calendar year in which service is rendered to an employer before the  
29 calendar year in which the employee first becomes eligible to claim service under this  
30 subsection, multiplied by (2) the number of years of service in Alaska BIA schools  
31 that is credited under this subsection, and this product multiplied by (3) six percent for

1 employees first eligible to claim this service before January 1, 1987, or eight and one-  
 2 half percent for employees first eligible to claim this service on or after January 1,  
 3 1987. Interest as prescribed by regulation accrues on the indebtedness beginning on  
 4 the date the employee may first claim the retroactive credited service. Any outstanding  
 5 indebtedness that exists at the time the employee retires requires an actuarial  
 6 adjustment to the benefits that are based on retroactive credited service under this  
 7 subsection. A retirement benefit payable under this subsection for Alaska BIA service  
 8 shall be reduced by an amount equal to the retirement benefits paid to the member by  
 9 the United States government for the same service.

10 \* **Sec. 23.** AS 39.35.360(l) is amended to read:

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

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

20 (2) any contributions for service as administrative director refunded  
 21 from the public employees' retirement plan [SYSTEM] at the time the administrative  
 22 director became a member of the judicial retirement system.

23 \* **Sec. 24.** AS 39.35.375(a) is amended to read:

24 (a) An active or inactive member who has never been vested in this plan  
 25 [SYSTEM] or in the teachers' retirement plan under AS 14.25.010 - 14.25.220  
 26 [SYSTEM UNDER AS 14.25], who has at least two years of credited service in this  
 27 system, and who has membership service in the teachers' retirement plan [SYSTEM]  
 28 may claim credited service in this plan [SYSTEM] in an amount equal to the  
 29 membership service the member has in the teachers' retirement plan [SYSTEM]. The  
 30 claimed credited service may be added to service earned under AS 39.35.010 -  
 31 39.35.680 [THIS CHAPTER] to enable the member to qualify for a public service

1 benefit under this section. The member may not claim credited service for  
 2 membership service for which the member has received a refund under AS 14.25.150  
 3 unless the member fully pays the indebtedness as established under AS 14.25.063.  
 4 The member may not claim credited service in this **plan** [SYSTEM] based on unused  
 5 sick leave under AS 14.25.115.

6 \* **Sec. 25.** AS 39.35.375(b) is amended to read:

7 (b) To claim credited service under this section, the member shall file a  
 8 written request with the administrator when the member applies to retire. The  
 9 administrator shall determine the full actuarial cost of benefits based on the member's  
 10 total credited service and shall transfer from the teachers' retirement **plan** [SYSTEM]  
 11 to this **plan** [SYSTEM] an amount equal to the sum of the member contributions and  
 12 any indebtedness payments to the teachers' retirement **plan** [SYSTEM] and the  
 13 employer contributions to the teachers' retirement **plan** [SYSTEM] made on behalf of  
 14 the employee together with interest earned on those contributions and indebtedness  
 15 payments. If the amount to be transferred, when combined with the amount of  
 16 employee contributions and indebtedness payments to this **plan** [SYSTEM] and the  
 17 amount of employer contributions on behalf of the employee in this **plan** [SYSTEM],  
 18 and interest earned on contributions and indebtedness payments for the employee, is  
 19 less than the full actuarial cost computed under this subsection, an indebtedness to the  
 20 **plan** [SYSTEM] equal to the amount of the difference is established. Interest as  
 21 prescribed by regulation accrues on the indebtedness. The member must pay any  
 22 outstanding indebtedness existing at the time the member applies for retirement in full  
 23 before the member is appointed to retirement under this section.

24 \* **Sec. 26.** AS 39.35.375(c) is amended to read:

25 (c) A member is entitled to receive a public service benefit under this section  
 26 if the member has at least a total of five years credited service under **AS 39.35.010 -**  
 27 **39.35.680** [THIS CHAPTER] and credited service from the teachers' retirement **plan**  
 28 [SYSTEM] claimed under this section. A public service benefit shall be calculated  
 29 using the higher of the average monthly compensation for service in this **plan**  
 30 [SYSTEM] or the average base salary for service in the teachers' retirement **plan**  
 31 [SYSTEM]. The amount of the benefit shall be calculated in accordance with

1 AS 39.35.370(c).

2 \* **Sec. 27.** AS 39.35.375(d) is amended to read:

3 (d) Credited service earned under either this **plan** [SYSTEM] or the teachers'  
4 retirement **plan** [SYSTEM] that has been claimed for a public service benefit under  
5 this section may not be used for any other purpose. A member who claims credited  
6 service under this section loses all rights to benefits under **AS 14.25.010 - 14.25.220**  
7 [AS 14.25] based on the claimed credited service. A member may not claim credited  
8 service under this section unless the member claims all of the membership service the  
9 member has in the teachers' retirement **plan** [SYSTEM]. A public service benefit  
10 does not constitute a normal or early retirement benefit for purposes of qualifying for a  
11 conditional service retirement benefit under AS 14.25.125 or AS 39.35.385.

12 \* **Sec. 28.** AS 39.35.375(f) is amended to read:

13 (f) Notwithstanding AS 14.25.063 and AS 39.35.350, a former member of the  
14 teachers' retirement **plan** [SYSTEM] who is an active member or inactive member of  
15 this **plan** [SYSTEM] may reinstate, under this section, membership service earned  
16 under **AS 14.25.010 - 14.25.220** [AS 14.25] for which the member received a refund  
17 of contributions.

18 \* **Sec. 29.** AS 39.35.375(g) is amended to read:

19 (g) If a member retires under this section and subsequently returns to work for  
20 an employer under this **plan** [SYSTEM] or the teachers' retirement **plan** [SYSTEM],  
21 benefits under this section shall cease during the period of reemployment and shall  
22 recommence when the reemployment is ended. The credited service earned during the  
23 period of reemployment may not be added to the credited service claimed for a public  
24 service benefit under this section. If a member vests and meets the other eligibility  
25 requirements under this **plan** [SYSTEM] or the teachers' retirement **plan** [SYSTEM]  
26 during the reemployment, the member is entitled to a benefit under **AS 14.25.010 -**  
27 **14.25.220** [AS 14.25] or **AS 39.35.010 - 39.35.680** [AS 39.35], as appropriate.

28 \* **Sec. 30.** AS 39.35.381(a) is amended to read:

29 (a) An elected public officer is eligible for a public officer benefit if the officer  
30 is retired under **AS 14.25.010 - 14.25.220** [AS 14.25] (teachers' retirement **plan**  
31 [SYSTEM]). Only fully paid credited service as an elected public officer of a

1 municipality or other political subdivision, earned while the municipality or political  
 2 subdivision was an employer under this plan [SYSTEM] and while the person was  
 3 employed full-time under AS 14.25, may be counted under this section.

4 \* **Sec. 31.** AS 39.35.680(21) is amended to read:

5 (21) "member" or "employee"

6 (A) means a person eligible to participate in the plan  
 7 [SYSTEM] and who is covered by the plan [SYSTEM];

8 (B) includes

9 (i) an active member;

10 (ii) an inactive member;

11 (iii) a vested member;

12 (iv) a deferred vested member;

13 (v) a nonvested member;

14 (vi) a disabled member;

15 (vii) a retired member;

16 (viii) an elected public officer under AS 39.35.381;

17 (C) does not include

18 (i) former members;

19 (ii) persons compensated on a contractual or fee basis;

20 (iii) casual or emergency workers or nonpermanent  
 21 employees as defined in AS 39.25.200;

22 (iv) persons covered by the Alaska Teachers'  
 23 Retirement System except as provided under AS 39.35.131 and  
 24 39.35.381, or persons covered by the optional university retirement  
 25 program;

26 (v) employees of the division of marine transportation  
 27 engaged in operating the state ferry system who are covered by a union  
 28 or group retirement system to which the state makes contributions;

29 (vi) justices of the supreme court or judges of the court  
 30 of appeals or of the superior or district courts of Alaska;

31 (vii) the administrative director of courts appointed

1 under art. IV, sec. 16 of the state constitution unless the director  
2 becomes a member under AS 39.35.158;

3 (viii) members of the elected public officers' retirement  
4 system (former AS 39.37); and

5 (ix) contractual employees of the legislative branch of  
6 state government under AS 24.10.060(f);

7 (D) may include employees of the division of marine  
8 transportation excluded under (C)(v) of this paragraph provided that

9 (i) the State of Alaska formally agrees to their inclusion  
10 through the process of collective bargaining; and

11 (ii) no collective bargaining agreement has the effect of  
12 obligating contributions made by the state under AS 39.30.150 in the  
13 event the state resumes participation in the federal social security  
14 system;

15 \* **Sec. 32.** AS 39.35.680 is amended by adding a new paragraph to read:

16 (41) "plan" means the retirement plan established in AS 39.35.010 -  
17 39.35.680.

18 \* **Sec. 33.** AS 39.35 is amended by adding new sections to read:

19 **Article 9. Employees First Hired on or after July 1, 2005.**

20 **Sec. 39.35.700. Applicability of AS 39.35.700 - 39.35.895.** The provisions of  
21 AS 39.35.700 - 39.35.895 apply only to members first hired on or after July 1, 2005.

22 **Sec. 39.35.710. Defined contribution retirement plan established; federal**  
23 **qualification requirements.** (a) A defined contribution retirement plan is established  
24 for employees of the state or a political subdivision or public organization of the state.

25 (b) The retirement plan established by AS 39.35.700 - 39.35.895 is intended to  
26 qualify under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified  
27 retirement plan established and maintained by the state for its employees and for the  
28 employees of political subdivisions, public corporations, and public organizations of  
29 the state, and for the employees of other employers whose participation is authorized  
30 by AS 39.35.700 - 39.35.895 and who participate in the plan set out in AS 39.35.700 -  
31 39.35.895.

1 (c) An amendment to AS 39.35.700 - 39.35.895 does not provide a person  
2 with a vested right to a benefit if the Internal Revenue Service determines that the  
3 amendment will result in disqualification of the plan under the Internal Revenue Code.

4 **Sec. 39.35.720. Purpose and effective date.** (a) The purpose of  
5 AS 39.35.700 - 39.35.895 is to encourage qualified personnel to enter and remain in  
6 the service of the state or a political subdivision or public organization of the state by  
7 establishing a plan for the payment of defined contribution retirement benefits to or on  
8 behalf of the employees.

9 (b) All eligible employees first hired on or after July 1, 2005, shall participate  
10 in the plan set out in AS 39.35.700 - 39.35.895.

11 **Sec. 39.35.730. Contributions by members.** (a) Each member shall  
12 contribute to the plan an amount equal to 10 percent of the member's salary base. The  
13 contributions shall be deducted by the employer at the end of each payroll period. The  
14 contributions shall be deducted from employee compensation before computation of  
15 applicable federal taxes, and the contributions shall be treated as employer  
16 contributions under 26 U.S.C. 414(h)(2). A member may not have the option of  
17 making the payroll deduction directly instead of having the contribution picked up by  
18 the employer.

19 (b) Each member shall make an election within the first 30 days of  
20 employment with an employer regarding the salary base upon which the member and  
21 employer contribution to the member's contribution account will be calculated. A  
22 member must choose as a salary base for purposes of this section either the member's  
23 basic salary or the member's total salary. If a member fails to make an election, a  
24 member's basic salary shall be used as the salary base to calculate member and  
25 employer contributions. A member's salary base may not be changed during the  
26 member's employment with the employer.

27 (c) In this section,

28 (1) "basic salary" means the total remuneration payable under an  
29 employment contract but does not include extra payments;

30 (2) "extra payments" means cost-of-living differentials, payments for  
31 leave that is actually used by the member, the amount by which the member's wages

1 are reduced under AS 39.30.150(c), and the amount deferred under an employer-  
2 sponsored deferred compensation plan;

3 (3) "salary base" means either the member's basic salary or total salary  
4 as determined under (b) of this section;

5 (4) "total salary" means the total remuneration paid under contract to a  
6 member for services, including extra payments, but does not include retirement  
7 benefits, welfare benefits, per diem, expense allowances, workers' compensation  
8 payments, or payments for leave not used by the member, whether those leave  
9 payments are scheduled payments, lump-sum payments, donations, or cash-ins.

10 **Sec. 39.35.740. Contributions by employers.** (a) An employer shall  
11 contribute an amount equal to 10 percent of each member's salary base as provided in  
12 (b) - (d) of this section.

13 (b) An employer shall contribute to each member contribution account an  
14 amount equal to 5.5 percent of the member's salary base from July 1 to the following  
15 June 30.

16 (c) An employer shall also contribute an amount equal to 3.5 percent of each  
17 member's salary base to pay for retiree major medical insurance. This contribution  
18 shall be paid into the group health and life benefits fund established by the  
19 commissioner of administration under AS 39.30.095 and shall be accounted for in  
20 accordance with regulations established by the commissioner.

21 (d) An employer shall also contribute an amount equal to one percent of each  
22 member's salary base to each member's health reimbursement account plan under  
23 AS 39.30.300.

24 (e) In this section, "salary base" is the salary base determined under  
25 AS 39.35.730.

26 **Sec. 39.35.750. Transmittal of contributions.** The contributions of an  
27 employer and the contributions of its employees shall be transmitted to the  
28 administrator as soon as practicable after the close of the payroll period for which the  
29 contributions are made. If an employer is delinquent in transferring the contributions  
30 for more than 15 days, interest shall be assessed on the outstanding contributions at  
31 one and one-half times the most recent actuarially determined rate of earnings for the

1 retirement system from the date that the contributions were originally due.

2 **Sec. 39.35.760. Retirement benefits and vesting.** A participating member is  
3 immediately and fully vested in that member's contributions and in the employer  
4 contributions made on that member's behalf to an account under AS 39.35.700 -  
5 39.35.895.

6 **Sec. 39.35.770. Investment of individual accounts.** (a) The Alaska State  
7 Pension Investment Board shall provide a range of investment options and permit a  
8 participant to exercise investment control over the participant's assets in the member  
9 contribution account as provided in this section. If a participant exercises control over  
10 the assets in the account, the participant is not considered a fiduciary for any reason on  
11 the basis of exercising that control.

12 (b) A participant may direct investment of plan funds held in an account  
13 among available investment funds in accordance with rules established by the board.

14 (c) A participant may elect to change or transfer all or a portion of the  
15 participant's existing account balance among available investment funds not more  
16 often than once each day in accordance with the rules established by the administrator.  
17 Only the last election received by the administrator before the transmittal of  
18 contributions to the trust fund for allocation to the individual account will be used to  
19 direct the investment of the contributions received.

20 (d) Except to the extent clearly set out in the terms of the investment plans  
21 offered by the employer to the employee, the employer is not liable to the participant  
22 for investment losses if the prudent investment standard has been met.

23 (e) The employer, administrator, state, board, or a person or entity who is  
24 otherwise a fiduciary is not liable by reason for any participant's investment loss that  
25 results from the participant's directing the investment of plan assets allocated to the  
26 participant's account.

27 (f) To the extent that a member contribution account has been divided as  
28 provided in a qualified domestic relations order between participants, each participant  
29 shall be treated as the holder of a separate individual account for purposes of  
30 investment yields, decisions, transfers, and time limitations imposed by this section.

31 **Sec. 39.35.780. Distributions.** (a) A member is eligible to receive

1 distribution of that person's accumulated balance in the plan upon becoming a former  
2 participating member.

3 (b) Upon the death of a member or former member, the accumulated balance  
4 of that deceased member is considered to belong to the refund beneficiary, if any, of  
5 that deceased participant. If a valid nomination of refund beneficiary is not on file  
6 with the board, the board, in a lump sum distribution, shall distribute the accumulated  
7 balance to a legal representative, if any, of the deceased participant's estate.

8 (c) A former member or refund beneficiary may elect one or a combination of  
9 several of the following methods of distribution of the accumulated balance:

10 (1) lump sum distribution to the recipient;

11 (2) lump sum direct rollover to another qualified plan, to the extent  
12 allowed by federal law;

13 (3) periodic distributions, as authorized by the board;

14 (4) no current distribution, in which case the accumulated balance  
15 must remain in the plan until the former participating member or refund beneficiary  
16 elects a method or methods of distribution under this section, to the extent allowed by  
17 federal law.

18 (d) If the former member's vested account balance is less than \$5,000, the  
19 board shall automatically refund the member's vested account balance upon  
20 termination of employment. The member may waive the refund if the member  
21 submits a written statement to the board, within 120 days after termination, requesting  
22 that the member's vested account balance remain in the plan.

23 **Sec. 39.35.790. Refund upon termination.** (a) Except as provided in (b) of  
24 this section, a terminated member is entitled to a refund of the balance of the member  
25 contribution account.

26 (b) A member who is terminated and who is married at the time of application  
27 for a refund or whose rights to a refund are subject to a qualified domestic relations  
28 order is entitled to receive a refund of the balance of the member contribution account  
29 only if the member's present spouse and each person entitled under the order consent  
30 to the refund in writing on a form provided by the administrator. The administrator  
31 may waive written consent from the person entitled under the order if the

1 administrator determines that the person cannot be located or for other reasons  
 2 established by regulation. The administrator may waive written consent from the  
 3 spouse if the administrator determines that

4 (1) the member was not married to the spouse during any period of the  
 5 member's employment with an employer;

6 (2) the spouse has no rights to benefits under AS 39.35.700 -  
 7 39.35.895 because of the terms of a qualified domestic relations order;

8 (3) the spouse cannot be located;

9 (4) the member and spouse have been married for less than one year  
 10 and the member establishes that they are not cohabiting; or

11 (5) another reason established by regulation exists.

12 **Sec. 39.35.800. Rights under qualified domestic relations order.** A former  
 13 spouse shall be treated as a spouse or surviving spouse under AS 39.35.700 -  
 14 39.35.895 to the extent required by a qualified domestic relations order. Rights under  
 15 the order do not take effect until the order is filed with the administrator.

16 **Sec. 39.35.810. Rollover distributions and rollover contributions.** (a) An  
 17 employee may elect, at the time and in the manner prescribed by the administrator, to  
 18 have all or part of a direct rollover distribution from an eligible retirement plan owned  
 19 by the member paid directly into the member's contribution account established under  
 20 AS 39.35.770.

21 (b) Rollover contributions do not count as a purchase of membership service  
 22 for the purpose of determining years of service.

23 (c) A distributee may elect, at the time and in the manner prescribed by the  
 24 administrator, to have all or part of an eligible rollover distribution paid directly to an  
 25 eligible retirement plan specified by the distributee in the direct rollover.

26 (d) In this section,

27 (1) "direct rollover" means the payment of an eligible rollover  
 28 distribution by the plan to an eligible retirement plan specified by a distributee who is  
 29 eligible to elect a direct rollover;

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

1 (3) "eligible retirement plan" means

2 (A) an individual retirement account described in 26 U.S.C.  
3 408(a);

4 (B) an individual retirement annuity defined in 26 U.S.C.  
5 408(b);

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

7 (D) a qualified trust described in 26 U.S.C. 401(a);

8 (E) an annuity plan described in 26 U.S.C. 403(b); or

9 (F) a governmental plan described in 26 U.S.C. 457(b);

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

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

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

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

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

22 (E) a distribution that is on account of hardship; and

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

25 **Sec. 39.35.820. Distribution requirements.** (a) The entire interest of a  
26 member must be distributed or must begin to be distributed not later than the member's  
27 required beginning date.

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

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

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

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

1 an annuity irrevocably commences to the member before the required beginning date,  
 2 the date distribution is considered to begin is the date that the distribution actually  
 3 commences.

4 (f) Notwithstanding any contrary provisions of AS 39.35.700 - 39.35.895, the  
 5 requirements of this section apply to all distributions of a member's interest and take  
 6 precedence over any inconsistent provisions of AS 39.35.700 - 39.35.895.

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

10 (h) In this section,

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

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

17 **Sec. 39.35.830. Designation of beneficiary.** (a) Each member shall  
 18 designate the beneficiary or beneficiaries to whom the administrator shall distribute  
 19 benefits payable under AS 39.35.700 - 39.35.895 as a consequence of the member's  
 20 death. Notwithstanding a previous designation of beneficiary, a person who is the  
 21 spouse of a member at the time of the member's death automatically becomes the  
 22 designated beneficiary if the spouse was married to the member during part of the  
 23 member's employment for an employer

24 (1) except to the extent a qualified domestic relations order filed with  
 25 the administrator provides for payment to a former spouse or other dependent of the  
 26 member; or

27 (2) unless the member filed a revocation of beneficiary accompanied  
 28 by a written consent to the revocation from the present spouse and each person entitled  
 29 under the order; however, consent of the present spouse is not required if the member  
 30 and the present spouse had been married for less than one year on the date of the  
 31 member's death and if the member established when filing the revocation that the

1 member and the present spouse were not cohabiting.

2 (b) Except as provided in (a) of this section, the member may change or  
 3 revoke the designation without notice to the beneficiary or beneficiaries at any time.  
 4 If a member designates more than one beneficiary, each shares equally unless the  
 5 member specifies a different allocation or preference. The designation of a  
 6 beneficiary, a change or revocation of a beneficiary, and a consent to revocation of a  
 7 beneficiary shall be made on a form provided by the administrator and is not effective  
 8 until filed with the administrator.

9 (c) If a member fails to designate a beneficiary, or if no designated beneficiary  
 10 survives the member, the death benefit shall be paid

11 (1) to the surviving spouse or, if there is none surviving;

12 (2) to the surviving children in equal parts or, if there are none  
 13 surviving;

14 (3) to the surviving parents in equal parts or, if there are none  
 15 surviving;

16 (4) to the estate.

17 (d) A person claiming entitlement to benefits payable under AS 39.35.700 -  
 18 39.35.895 as a consequence of a member's death shall provide the administrator with a  
 19 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.  
 20 Documents establishing entitlement may be filed with the administrator immediately  
 21 after a change in the member's marital status. If the administrator does not receive  
 22 notification of a claim before the date 60 days after the member's death, the person  
 23 claiming entitlement is not entitled to receive from the division of retirement and  
 24 benefits any benefit already paid by the administrator.

25 **Sec. 39.35.840. Adjustments.** (a) When a change or error is made in the  
 26 records maintained by the plan or in the contributions made on behalf of an employee  
 27 or an error is made in computing a benefit, and, as a result, a member or beneficiary is  
 28 entitled to receive from the plan more or less than the member or beneficiary would  
 29 have been entitled to receive had the records or contributions been correct or had the  
 30 error not been made, the records, contributions, or error shall be corrected. An  
 31 adjustment to contributions shall be picked up by the employer in accordance with

1 AS 39.35.740 or treated as an adjustment to the employer's contributions in  
 2 accordance with this section, depending upon the nature of the adjustment. If no  
 3 future benefit payments are due, a person who was paid any amount to which the  
 4 person was not entitled is liable for repayment of that amount, and a person who was  
 5 not paid the full amount to which the person was entitled shall be paid that amount.

6 (b) An adjustment that requires the recovery of benefits may not be made  
 7 under this section if

8 (1) the incorrect benefit was first paid two years or more before the  
 9 member or beneficiary was notified of the error;

10 (2) the error was not the result of erroneous information supplied by  
 11 the member or beneficiary; and

12 (3) the member or beneficiary did not have reasonable grounds to  
 13 believe that the amount of the benefit was in error.

14 (c) At each regularly scheduled meeting of the board, the administrator shall  
 15 report to the board on all situations since the administrator's last report in which an  
 16 adjustment has been prohibited under (b) of this section. If the board finds that there  
 17 is reason to believe that one or more of the conditions set out in (b) of this section  
 18 have not been met, the administrator shall notify the member or beneficiary that an  
 19 adjustment will be made to recover the overpayment. A member or beneficiary who  
 20 receives notice of adjustment under this subsection may appeal to the board for a  
 21 waiver of the adjustment under AS 39.35.850. An adjustment that requires the  
 22 repayment of benefits may not be required while the appeal is pending.

23 (d) The plan shall pay interest on amounts owed to a member or beneficiary.  
 24 Interest shall be charged on amounts owed to the plan by a member or beneficiary if  
 25 the amount owed is the result of erroneous information supplied by the member or  
 26 beneficiary, or the member or beneficiary had reasonable grounds to believe the  
 27 amount of the benefit was in error. The interest paid under this subsection is at the  
 28 rate established by regulation for indebtedness contributions owed. Interest accrues  
 29 from the date on which the correct payment was due and continues until an actuarial  
 30 adjustment to the benefit is effective or the amount owed is paid. Accrued interest for  
 31 periods less than 60 days or in amounts less than the limit established in regulation for

1 writing off small indebtedness and refund balances may not be collected or paid under  
2 this subsection.

3 **Sec. 39.35.850. Waiver of adjustments.** (a) Upon appeal by an affected  
4 member or beneficiary under (b) of this section, the board may waive an adjustment or  
5 a portion of an adjustment made under AS 39.35.840 if, in the opinion of the board,

6 (1) the adjustment or portion of the adjustment will cause undue  
7 hardship to the member or beneficiary;

8 (2) the adjustment was not the result of erroneous information supplied  
9 by the member or beneficiary;

10 (3) before the adjustment was made, the member or beneficiary  
11 received confirmation from the administrator that the member's or beneficiary's  
12 records were correct; and

13 (4) the member or beneficiary had no reasonable grounds to believe  
14 the records were incorrect before the adjustment was made.

15 (b) In order to obtain consideration of a waiver under this section, the affected  
16 member or beneficiary must appeal to the board in writing within 30 days after receipt  
17 of notice that the records have been adjusted. The ruling of the board shall be in  
18 writing.

19 (c) The board may conduct a hearing on an appeal under this section.

20 (d) The board may impose conditions on granting a waiver that it considers  
21 equitable. These conditions may include requiring the member or beneficiary to make  
22 additional contributions to the plan.

23 (e) The board may reconsider a ruling under this section upon request of the  
24 member or beneficiary or the administrator if the request is received within 30 days  
25 after the initial ruling. Any modification of the initial ruling must be made within 30  
26 days after receipt of a request for reconsideration.

27 **Sec. 39.35.860. Retirement.** (a) In order to obtain medical benefits under  
28 AS 39.35.870 and access to the health reimbursement account plan under  
29 AS 39.30.300, an active member must retire directly from the plan. A member is  
30 eligible to retire from the plan if the member has been an active member for at least 12  
31 months before application for retirement and

1 (1) the member has at least 25 years of service as a peace officer or fire  
2 fighter or 30 years of membership service for all other employees; or

3 (2) the member reaches the normal retirement age and has at least 10  
4 years of membership service.

5 (b) The normal retirement age is 60 years of age; however, whenever the  
6 board adopts a new table of actuarial factors, if those factors include an increase in life  
7 expectancy, the normal retirement age shall be increased by the same number of years  
8 or portions of years as the increase in life expectancy from the previously adopted  
9 table of actuarial factors.

10 (c) A member must apply to the administrator for appointment to retirement.  
11 Application shall be made on forms and in the manner prescribed by the administrator.

12 (d) A member who continues in the employ of the employer after reaching  
13 normal retirement age shall continue to participate in the plan and to have  
14 contributions allocated to the member's account.

15 **Sec. 39.35.870. Medical benefits.** (a) The medical benefits available to  
16 eligible persons are access to the retiree major medical insurance plan and to the  
17 health reimbursement account. Access to the retiree major medical insurance plan  
18 means that an eligible person may not be denied insurance coverage except for failure  
19 to pay the required premium.

20 (b) The following persons are eligible for the retiree major medical insurance  
21 plan provided under this section and the health reimbursement account:

22 (1) a member with at least 30 years of service and who retires directly  
23 from the plan;

24 (2) the surviving spouse of a member who elected coverage under (1)  
25 of this subsection;

26 (3) a member who reaches the normal retirement age as provided in  
27 AS 39.35.860, has at least 10 years of service, and retires directly from the plan;

28 (4) the surviving spouse of a member who elected coverage under (3)  
29 of this subsection.

30 (c) Retiree major medical insurance plan coverage elected by an eligible  
31 member under this section covers the eligible member, the spouse of the eligible

1 member, and the dependent children of the qualified member.

2 (d) Retiree major medical insurance plan coverage elected by a surviving  
3 spouse of a eligible member under this section covers the surviving spouse and the  
4 dependent children of the surviving spouse.

5 (e) Major medical insurance coverage takes effect on the first day of the  
6 month following the date of the election and stops when the person who elects  
7 coverage under (b) of this section dies or fails to make a required premium payment.

8 (f) The coverage for persons who are eligible for Medicare is the same as that  
9 available for persons who are not yet eligible for Medicare. The benefits payable to  
10 those Medicare eligible persons supplement any benefits provided under the Medicare  
11 program.

12 (g) The medical and optional insurance premiums owed by the person who  
13 elects coverage under (b) of this section shall be deducted from the health  
14 reimbursement account. If the amount of the health reimbursement account becomes  
15 insufficient to pay the premiums, the person who elects coverage under (a) of this  
16 section shall pay the premiums directly.

17 (h) The portion of the cost of premiums payable by the employee for retiree  
18 major medical insurance coverage for an eligible member or surviving spouse who is

19 (1) younger than the normal retirement age set in AS 39.35.860 is the  
20 amount equal to the full monthly group premium for retiree major medical insurance  
21 coverage;

22 (2) the normal retirement age set in AS 39.35.860 or older is the  
23 following percentage of the premium amount established for retirees normal  
24 retirement age or older: 70 percent if the member had 10 years of service; for each  
25 additional year of service after the member's tenth year of service, the cost of  
26 premiums decreases by three percentage points; however, the minimum employee  
27 portion of the premium is 10 percent if the member had 30 or more years of service.

28 (i) The eligibility for and cost of premiums for retiree major medical insurance  
29 coverage for an alternate payee under a qualified domestic relations order shall be  
30 determined based on the years of service of the member to which the alternate payee is  
31 entitled under the order.

1 (j) The monthly group premiums for retiree major medical insurance coverage  
 2 are established by the administrator in accordance with AS 39.30.095. Nothing in  
 3 AS 39.35.700 - 39.35.895 guarantees a person who elects coverage under (a) of this  
 4 section a monthly group premium rate for retiree major medical insurance coverage  
 5 other than the premium in effect for the month in which the premium is due for  
 6 coverage for that month.

7 (k) In this section,

8 (1) "health reimbursement account" means the plan established in  
 9 AS 39.30.300;

10 (2) "retires directly from the plan" means that the member is an active  
 11 member at the time that the member applies to the administrator for appointment to  
 12 retirement and that the member continues as an active member up through the day  
 13 before the day the member is appointed to retirement.

14 **Sec. 39.35.880. Management and investment of fund.** (a) The Alaska State  
 15 Pension Investment Board is the fiduciary of the fund. In managing the fund, the  
 16 Alaska State Pension Investment Board shall

17 (1) consider the status of the fund's investments and the plan's  
 18 liabilities on both a current and a probable future basis;

19 (2) determine the appropriate investment objectives for the fund;

20 (3) establish investment policies aimed at achieving the objectives; and

21 (4) act only in regard to the best financial interests of the plan and  
 22 beneficiaries.

23 (b) The Alaska State Pension Investment Board may invest the fund on the  
 24 basis of probable total rate of return without regard to the distinction between principal  
 25 and income or to the generation of income.

26 (c) In carrying out investment duties under AS 39.35.700 - 39.35.895, the  
 27 Alaska State Pension Investment Board has the same powers and duties in regard to  
 28 the teacher's retirement trust fund as are provided in AS 37.10.071, except that the  
 29 standard of prudence that the board must obey under AS 37.10.071(c) shall be in  
 30 regard to the management of large trust investments rather than large investments.

31 **Sec. 39.35.884. Special rules for treatment of qualified military service.**

1 Notwithstanding any contrary provisions of AS 39.35.700 - 39.35.895, with respect to  
 2 qualified military service, contributions shall be made and benefits and service credit  
 3 shall be provided in accordance with 26 U.S.C. 414(u).

4 **Sec. 39.35.888. Exemption from taxation and process.** (a) Except as  
 5 provided in AS 29.45.030(a)(1) or in (c) of this section, member contributions and  
 6 other amounts held in the plan on behalf of a member or other person who is or may  
 7 become eligible for benefits under the plan are exempt from Alaska state and  
 8 municipal taxes and are not subject to anticipation, alienation, sale, transfer,  
 9 assignment, pledge, encumbrance, or charge of any kind, either voluntary or  
 10 involuntary, before they are received by the person entitled to the amount under the  
 11 terms of the plan. Any attempt to anticipate, alienate, sell, transfer, assign, pledge,  
 12 encumber, charge, or otherwise dispose of any right to amounts accrued in the plan is  
 13 void. However, a member's right to receive benefits or the member contribution  
 14 account may be assigned

15 (1) under a qualified domestic relations order;

16 (2) to a trust or similar legal device that meets the requirements for a  
 17 Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C. 1396p(d)(4); or

18 (3) as provided in (c) of this section.

19 (b) Member contributions and other amounts held in the plan and benefits  
 20 payable under AS 39.35.700 - 39.35.895 are exempt from garnishment, execution, or  
 21 levy as provided in AS 09.38.

22 (c) An inactive member may elect to have the taxable portion of the member  
 23 contribution account transferred directly to another plan or an individual retirement  
 24 arrangement that is qualified under the federal Internal Revenue Code and that accepts  
 25 the transfer.

26 **Sec. 39.35.890. Time limit for application.** If an application for benefits or  
 27 for refund has not been filed with the administrator by July 1 following the date on  
 28 which an inactive member (except a member on leave of absence without pay) would  
 29 attain age 75, or if an application for benefits or for refund has not been filed with the  
 30 administrator within the 50 years following the most recent date on which the person  
 31 was an active member, benefits or refunds may not be paid under AS 39.35.700 -

1 39.35.895 and the member's records may be destroyed.

2 **Sec. 39.35.892. Penalty for false statements.** (a) A person who knowingly  
3 makes a false statement, or falsifies or permits to be falsified any record of this plan,  
4 in an attempt to defraud this plan, is guilty of a class A misdemeanor and forfeits all  
5 rights under AS 39.35.700 - 39.35.895.

6 (b) In this section, "knowingly" has the meaning given in AS 11.81.900(a).

7 **Sec. 39.35.895. Definitions.** In AS 39.35.700 - 39.35.895, unless the context  
8 requires otherwise,

9 (1) "active member" means an employee who is employed by an  
10 employer, is receiving compensation for seasonal, permanent full-time, or permanent  
11 part-time services, and is making contributions to the plan;

12 (2) "actuarial adjustment" means the adjustment necessary to obtain  
13 equality in value of the aggregate expected payments under two different forms of  
14 pension payments, considering expected mortality and interest earnings on the basis of  
15 assumptions, factors, and methods specified in regulations issued under this plan that  
16 are formally adopted by the board that clearly preclude employer discretion in the  
17 determination of the amount of any member's benefit;

18 (3) "administrator" has the meaning given in AS 39.35.680;

19 (4) "beneficiary" means a person designated by an employee to receive  
20 benefits that may be due from the plan upon the employee's death;

21 (5) "board" has the meaning given in AS 39.35.680;

22 (6) "calendar year" has the meaning given in AS 39.35.680;

23 (7) "compensation" means the remuneration earned by an employee  
24 for personal services rendered to an employer, payments for leave that is actually used  
25 by the employee, and any amount deferred under an employer-sponsored deferred  
26 compensation plan, but does not include retirement benefits, severance pay or other  
27 separation bonuses, welfare benefits, per diem, expense allowances, workers'  
28 compensation payments, or payments for leave not used by the employee whether  
29 those leave payments are scheduled payments, lump-sum payments, donations, or  
30 cash-ins; for a member first hired on or after July 1, 1996, compensation does not  
31 include remuneration in excess of the limitations set out in 26 U.S.C. 401(a)(17)

1 (Internal Revenue Code);

2 (8) "employee contribution account" means the total maintained by the  
3 plan of the employer's contributions, employee's mandatory contributions, voluntary  
4 contributions, indebtedness principal, and interest contributions, interest credited to  
5 each of those accounts, and adjustments to the accounts in accordance with  
6 AS 39.35.840;

7 (9) "employer" has the meaning given in AS 39.35.680;

8 (10) "former member" means a terminated member;

9 (11) "fund" means the assets of the retirement plan established in  
10 AS 39.35.700 - 39.35.895;

11 (12) "inactive member" means an employee who is terminated and  
12 who has not received a refund from the plan or an employee on leave-without-pay  
13 status or layoff status;

14 (13) "member" or "employee"

15 (A) means a person eligible to participate in the plan and who  
16 is covered by the plan;

17 (B) includes

18 (i) an active member;

19 (ii) an inactive member;

20 (iii) a vested member;

21 (iv) a deferred vested member;

22 (v) a nonvested member;

23 (vi) a retired member;

24 (C) does not include

25 (i) former members;

26 (ii) persons compensated on a contractual or fee basis;

27 (iii) casual or emergency employees or nonpermanent  
28 employees as defined in AS 39.25.200;

29 (iv) persons covered by the teachers' retirement system  
30 or persons covered by the optional university retirement program;

31 (v) employees of the division of marine transportation

1 engaged in operating the state ferry system who are covered by a union  
2 or group retirement system to which the state makes contributions;

3 (vi) justices of the supreme court or judges of the court  
4 of appeals or of the superior or district courts of Alaska;

5 (vii) the administrative director of courts appointed  
6 under art. IV, sec. 16, Constitution of the State of Alaska, unless the  
7 director becomes a member under AS 39.35.158;

8 (viii) members of the elected public officers' retirement  
9 system (former AS 39.37); and

10 (ix) contractual employees of the legislative branch of  
11 state government under AS 24.10.060(f);

12 (D) may include employees of the division of marine  
13 transportation excluded under (C)(v) of this paragraph if

14 (i) the State of Alaska formally agrees to their inclusion  
15 through the process of collective bargaining; and

16 (ii) no collective bargaining agreement has the effect of  
17 obligating contributions made by the state under AS 39.30.150 in the  
18 event the state resumes participation in the federal social security  
19 system;

20 (14) "military service" has the meaning given in AS 39.35.680;

21 (15) "peace officer" or "fire fighter" has the meaning given in  
22 AS 39.35.680;

23 (16) "plan" means the defined contribution retirement plan in  
24 AS 39.35.700 - 39.35.895;

25 (17) "public organization" means an organization or entity

26 (A) created by the constitution or laws of the state for the  
27 purpose of administering state programs;

28 (B) whose officers and employees are paid by a method other  
29 than by the state payroll prepared by the Department of Administration; and

30 (C) whose employees are not required by law to participate in  
31 the plan;

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

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

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

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

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

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

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

18                  (G) does not require an increase of benefits in excess of the  
19 amount provided by this plan, determined on the basis of actuarial value; and

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

23                  (19) "retired member" means an employee who is terminated, who has  
24 not received a refund from the plan, and who is receiving a retirement benefit from the  
25 plan;

26                  (20) "retirement" means that period of time from the first day of the  
27 month following (A) the date of termination, and (B) application for retirement, in  
28 which a person is appointed to receive a retirement benefit;

29                  (21) "surviving spouse" means the spouse of an employee who has  
30 been married to the employee for at least one year at the time of the employee's death;

31                  (22) "terminated" means a person no longer employed by an employer

1 participating in the plan.

2 \* **Sec. 34.** AS 39.35.680(39) is repealed.

3 \* **Sec. 35.** The uncodified law of the State of Alaska is amended by adding a new section to  
4 read:

5 OPTION TO PARTICIPATE IN DEFINED CONTRIBUTION RETIREMENT  
6 PLAN AND ENROLLMENT PERIOD FOR NONVESTED, ACTIVE MEMBERS OF THE  
7 TEACHERS' RETIREMENT DEFINED BENEFIT PLAN. (a) Notwithstanding  
8 AS 14.25.310, added by sec. 10 of this Act, an active member of the defined benefits  
9 retirement plan of the teachers' retirement system is eligible to participate in the defined  
10 contribution retirement plan established under AS 14.25.310 - 14.25.495, added by sec. 10 of  
11 this Act if that member has not vested. Participation in the defined contribution retirement  
12 plan is in lieu of participation in the defined benefits plan established under AS 14.25.012.

13 (b) A member who has vested in a defined benefits retirement plan is not eligible to  
14 transfer under this section. An active member who is on a leave of absence during the entire  
15 90-day enrollment period is not eligible.

16 (c) Each eligible member who elects to participate in the defined contribution  
17 retirement plan shall have transferred to a new account the present value of the member  
18 contribution account balance held in trust for the member under the defined benefits  
19 retirement plan of the teachers' retirement system. The employer contribution made on behalf  
20 of that employee shall also transfer and the appropriate percentage of the employer  
21 contribution shall be applied to the employee's health reimbursement account and to the  
22 employee's medical benefits. Upon a transfer, all service credit previously earned under the  
23 defined benefits plan shall be nullified for purposes of entitlement to a future benefit under the  
24 defined benefits plan, but shall be credited for purposes of vesting in the medical benefits  
25 under AS 14.25.480, added by sec. 10 of this Act. A participant is precluded from  
26 transferring the member contribution account balance from the defined benefits retirement  
27 plan upon the expiration of the period afforded to enroll in the defined contribution retirement  
28 plan. An eligible member whose accounts are subject to a qualified domestic relations order  
29 may not make an election under this subsection unless the qualified domestic relations order  
30 is amended or vacated and court-certified copies of the order are received by the  
31 administrator.

1 (d) As directed by the participant, the board shall transfer or cause to be transferred  
 2 the appropriate amounts to the designated account. The board shall establish transfer  
 3 procedures by regulation.

4 (e) The period of enrollment for eligible members electing to participate in the  
 5 defined contribution retirement plan is from the effective date of this Act until the 91st day  
 6 after the effective date of this Act. The election must be made in writing on forms and in the  
 7 manner prescribed by the administrator. Before accepting an election to participate in the  
 8 defined contribution plan, the administrator must provide the employee planning on making  
 9 an election to participate in the defined contribution plan with information including  
 10 calculations to illustrate the effect of moving the employee's retirement plan from the defined  
 11 benefit plan to the defined contribution plan as well as other information to clearly inform the  
 12 employee of the potential consequences of the employee's election. An election made under  
 13 this subsection to participate in the defined contribution retirement plan is irrevocable. Upon  
 14 making the election, the participant shall be enrolled as a member of the defined contribution  
 15 retirement plan, the member's participation in the plan shall be governed by the provisions of  
 16 AS 14.25.310 - 14.25.495, added by sec. 10 of this Act, and the member's participation in the  
 17 defined benefits retirement plan under AS 14.25.012 shall terminate. The participant's  
 18 enrollment in the defined retirement contribution plan shall be effective the first day of the  
 19 month after the administrator receives the completed enrollment forms. An election made by  
 20 an eligible member who is married is not effective unless the election is signed by the  
 21 individual's spouse.

22 (f) A member who fails to elect to participate in the defined retirement contribution  
 23 plan within the prescribed time period is considered to have elected to retain membership in  
 24 the defined benefits plan of the teachers' retirement system, and the member's option to elect  
 25 to participate in the defined contribution retirement plan is forfeited.

26 (g) In this section,

- 27 (1) "administrator" has the meaning given in AS 14.25.220;  
 28 (2) "board" has the meaning given in AS 14.25.220;  
 29 (3) "defined benefits retirement plan" means the retirement plan established in  
 30 AS 14.25.012;  
 31 (4) "defined contribution retirement plan" means the retirement plan

1 established in AS 14.25.320;

2 (5) "Internal Revenue Code" has the meaning given in AS 14.25.220;

3 (6) "member" has the meaning given in AS 14.25.220;

4 (7) "member contribution account" has the meaning given in AS 14.25.220;

5 (8) "qualified domestic relations order" has the meaning given in  
6 AS 14.25.220.

7 \* **Sec. 36.** The uncodified law of the State of Alaska is amended by adding a new section to  
8 read:

9 OPTION TO PARTICIPATE IN DEFINED CONTRIBUTION RETIREMENT  
10 PLAN AND ENROLLMENT PERIOD FOR NONVESTED, ACTIVE MEMBERS OF  
11 PUBLIC EMPLOYEES' RETIREMENT SYSTEM DEFINED BENEFIT PLAN. (a)  
12 Notwithstanding AS 39.35.700, added by sec. 33 of this Act, an active member of the defined  
13 benefits retirement plan of the public employees' retirement system is eligible to participate in  
14 the defined contribution retirement plan established under AS 39.35.700 - 39.35.895, added  
15 by sec. 33 of this Act. Participation in the defined contribution retirement plan is in lieu of  
16 participation in the defined benefits plan established under AS 39.35.115.

17 (b) A member who has vested in a defined benefits retirement plan is not eligible to  
18 transfer under this section. An active member who is on a leave of absence during the entire  
19 90-day enrollment period is not eligible.

20 (c) Each eligible member who elects to participate in the defined contribution  
21 retirement plan shall have transferred to a new account the present value of the employee  
22 contribution account and the employee savings account held in trust for the member under the  
23 defined benefits retirement plan of the public employees' retirement system. The employer  
24 contribution made on behalf of that employee shall also transfer and the appropriate  
25 percentage of the employer contribution shall be applied to the employee's health  
26 reimbursement account and to the employee's medical benefits. Upon a transfer, all service  
27 credit previously earned under the defined benefits plan shall be nullified for purposes of  
28 entitlement to a future benefit under the defined benefits plan, but shall be credited for  
29 purposes of vesting in the medical benefits under AS 39.35.870, added by sec. 33 of this Act.  
30 A participant is precluded from transferring the employee contribution account balance and  
31 the employee savings account balance from the defined benefits retirement plan upon the

1 expiration of the period afforded to enroll in the defined contribution retirement plan. An  
 2 eligible member whose accounts are subject to a qualified domestic relations order may not  
 3 make an election under this subsection unless the qualified domestic relations order is  
 4 amended or vacated and court-certified copies of the order are received by the administrator.

5 (d) As directed by the participant, the board shall transfer or cause to be transferred  
 6 the appropriate amounts to the designated account.

7 (e) The period of enrollment for eligible members electing to participate in the  
 8 defined contribution retirement plan is from the effective date of this Act until the 91st day  
 9 after the effective date of this Act. The election must be made in writing on forms and in the  
 10 manner prescribed by the administrator. Before accepting an election to participate in the  
 11 defined contribution plan, the administrator must provide the employee planning on making  
 12 an election to participate in the defined contribution plan with information including  
 13 calculations to illustrate the effect of moving the employee's retirement plan from the defined  
 14 benefit plan to the defined contribution plan as well as other information to clearly inform the  
 15 employee of the potential consequences of the employee's election. An election made under  
 16 this subsection to participate in the defined contribution retirement plan is irrevocable. Upon  
 17 making the election, the participant shall be enrolled as a member of the defined contribution  
 18 retirement plan, the member's participation in the plan shall be governed by the provisions of  
 19 AS 39.35.700 - 39.35.895, added by sec. 33 of this Act, and the member's participation in the  
 20 defined benefits retirement plan under AS 39.35.115 shall terminate. The participant's  
 21 enrollment in the defined retirement contribution plan shall be effective the first day of the  
 22 month after the administrator receives the completed enrollment forms. An election made by  
 23 an eligible member who is married is not effective unless the election is signed by the  
 24 individual's spouse.

25 (f) A member who fails to elect to participate in the defined retirement contribution  
 26 plan within the prescribed time period is considered to have elected to retain membership in  
 27 the defined benefits plan of the public employees' retirement system, and the member's option  
 28 to elect to participate in the defined contribution retirement plan is forfeited.

29 (g) In this section,

30 (1) "administrator" has the meaning given in AS 39.35.680;

31 (2) "board" has the meaning given in AS 39.35.680;

1 (3) "defined benefits retirement plan" means the retirement plan established in  
2 AS 39.35.005;

3 (4) "defined contribution retirement plan" means the retirement plan  
4 established in AS 39.35.710;

5 (5) "employee contribution account" has the meaning given in AS 39.35.680;

6 (6) "employee savings account" has the meaning given in AS 39.35.680;

7 (7) "Internal Revenue Code" has the meaning given in AS 39.35.680;

8 (8) "member" has the meaning given in AS 39.35.680;

9 (9) "member contribution account" has the meaning given in AS 39.35.680;

10 (10) "qualified domestic relations order" has the meaning given in  
11 AS 39.35.680.

12 \* **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to  
13 read:

14 LEGISLATIVE INTENT REGARDING INVESTMENT OPTIONS FOR  
15 INDIVIDUAL ACCOUNTS. It is the intent of the legislature that, under AS 14.25.380,  
16 added by sec. 10 of this Act, for teachers, and under AS 39.35.770, added by sec. 33 of this  
17 Act, for public employees, the administrator of the respective plans will provide investment  
18 options that are similar to the investment options provided for individual employee annuity  
19 accounts in the Department of Administration under the terms of the State of Alaska  
20 Supplemental Annuity Plan under AS 39.30.150 - 39.30.180.

21 \* **Sec. 38.** The uncodified law of the State of Alaska is amended by adding a new section to  
22 read:

23 REVISOR INSTRUCTION. (a) In the following statutes, the revisor of statutes shall  
24 substitute the spanned reference "AS 14.25.010 - 14.25.220" for references to "this chapter":  
25 AS 14.25.010, 14.25.012, 14.25.040, 14.25.045, 14.25.047, 14.25.048, 14.25.061, 14.25.062,  
26 14.25.063, 14.25.070, 14.25.075, 14.25.105, 14.25.107, 14.25.110, 14.25.142, 14.25.150,  
27 14.25.153, 14.25.160, 14.25.165, 14.25.166, and 14.25.220.

28 (b) In the following statute sections, the revisor of statutes shall substitute "the  
29 defined benefit retirement plans" for references to "the system": AS 14.25.012(b), 14.25.015,  
30 14.25.020(a), 14.25.022(g), 14.25.030, 14.25.035(c), 14.25.035(d), 14.25.035(e),  
31 14.25.035(j), 14.25.040(d), 14.25.045(a), 14.25.047, 14.25.048(a), 14.25.048(c), 14.25.055,

1 14.25.060(a), 14.25.060(b), 14.25.060(d), 14.25.061(a), 14.25.062, 14.25.065, 14.25.075(a),  
 2 14.25.075(c), 14.25.075(d), 14.25.075(e), 14.25.075(g), 14.25.075(h), 14.25.075(i),  
 3 14.25.107, 14.25.110(a), 14.25.110(k), 14.25.110(l), 14.25.110(m) 14.25.143(b),  
 4 14.25.163(b), 14.25.163(c), 14.25.165(i), 14.25.167(g), 14.25.168(a), 14.25.168(c),  
 5 14.25.173(a), 14.25.173(d), 14.25.175(d), 14.25.220(1), 14.25.220(2), 14.25.220(7),  
 6 14.25.220(14), 14.25.220(20), 14.25.220(22), 14.25.220(23), 14.25.220(31), 14.25.220(34),  
 7 14.25.220(36), 14.25.220(40), and 14.25.220(42).

8 (c) In the following statute sections, the revisor of statutes shall substitute "the plan"  
 9 for references to "the system": AS 39.35.010(a), 39.35.010(c), 39.35.011, 39.35.020,  
 10 39.35.030(c), 39.35.040, 39.35.042(g), 39.35.050(a), 39.35.060, 39.35.070, 39.35.090,  
 11 39.35.100, 39.35.120, 39.35.125, 39.35.131, 39.35.154, 39.35.160(a), 39.35.165(a),  
 12 39.35.165(c), 39.35.165(d), 39.35.165(e), 39.35.165(g), 39.35.165(h), 39.35.165(i),  
 13 39.35.170, 39.35.180, 39.35.195, 39.35.250, 39.35.280, 39.35.300(c), 39.35.310(a),  
 14 39.35.310(c), 39.35.340(a), 39.35.342(a), 39.35.342(d), 39.35.345(a), 39.35.345(d),  
 15 39.35.360(a), 39.35.360(g), 39.35.360(h), 39.35.360(i), 39.35.360(j), 39.35.360(k),  
 16 39.35.370(f), 39.35.370(g), 39.35.370(h), 39.35.370(i), 39.35.370(j), 39.35.370(k),  
 17 39.35.371(i), 39.35.381(b), 39.35.381(g), 39.35.385(c), 39.35.400(e), 39.35.450(g),  
 18 39.35.475(a), 39.35.475(b), 39.35.475(d), 39.35.500(a), 39.35.505, 39.35.520(a),  
 19 39.35.520(d), 39.35.522(d), 39.35.527(a), 39.35.527(b), 39.35.530, 39.35.535(a),  
 20 39.35.535(d), 39.35.550, 39.35.560, 39.35.570, 39.35.580, 39.35.590, 39.35.600, 39.35.610,  
 21 39.35.620(a), 39.35.620(h), 39.35.650, 39.35.670, 39.35.675(a), 39.35.680(1), 39.35.680(2),  
 22 39.35.680(5), 39.35.680(9), 39.35.680(12), 39.35.680(15), 39.35.680(16), 39.35.680(17),  
 23 39.35.680(20), 39.35.680(29), 39.35.680(32), 39.35.680(33), 39.35.680(34), and  
 24 39.35.680(35).

25 (d) In the following statutes, the revisor of statutes shall substitute the spanned  
 26 reference "AS 39.35.010 - 39.35.680" for references to "this chapter": AS 39.35.165,  
 27 39.35.200, 39.35.250, 39.35.300, 39.35.340, 39.35.350, 39.35.360(a), 39.35.360(b),  
 28 39.35.360(i), 39.35.360(j), 39.35.370, 39.35.371, 39.35.381, 39.35.480, 39.35.490, 39.35.495,  
 29 39.35.505, 39.35.530, 39.35.546, 39.35.547, 39.35.615, 39.35.620, 39.35.675, 39.35.677, and  
 30 39.35.680.

31 \* **Sec. 39.** This Act takes effect July 1, 2005.