

SENATE CS FOR CS FOR HOUSE BILL NO. 475(CRA)(efd fld S)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Amended: 5/7/06

Offered: 5/5/06

Sponsor(s): REPRESENTATIVES SEATON, Kelly

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the supplemental employee benefit program; relating to teachers'**
2 **and public employees' defined benefit retirement plans; relating to teachers' and public**
3 **employees' defined contribution retirement plans; relating to the health reimbursement**
4 **arrangement plan for certain teachers and public employees; clarifying eligibility for**
5 **membership in the health reimbursement arrangement plan; relating to waiver of**
6 **adjustments under the teachers' defined benefit retirement plan and the public**
7 **employees' defined benefit retirement plan; relating to the administrator of the Public**
8 **Employees' Retirement System of Alaska; relating to employer contributions for**
9 **occupational disability and death benefits; repealing participation in the teachers'**
10 **defined contribution and defined benefit retirement plans by certain employees of the**
11 **National Education Association of Alaska; relating to requirements for employer**
12 **minimum contributions to the teachers' and the public employees' defined benefit**

1 retirement systems; and relating to the public employees' defined benefit deferred
2 compensation program."

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

4 * **Section 1.** AS 14.25.070(a) is amended to read:

5 (a) An employer shall make contributions to the plan in accordance with this
6 section and as certified by the board in an amount sufficient, after subtracting
7 member contributions, to provide the benefits of AS 14.25.009 - 14.25.220. The
8 amount shall be calculated by applying the employer normal cost rate to the sum
9 total of the base salaries paid to members in the plan and by applying the past
10 service rate to the sum total of the base salaries paid to members in the system
11 [AN EMPLOYER CONTRIBUTION RATE, CERTIFIED BY THE BOARD,
12 AGAINST THE SUM TOTAL OF THE BASE SALARIES PAID TO MEMBERS],
13 including any adjustments to contributions required by AS 14.25.173(a). The
14 employer shall remit this amount to the administrator in accordance with
15 AS 14.25.065.

16 * **Sec. 2.** AS 14.25.070 is amended by adding new subsections to read:

17 (d) In (a) of this section, "employer normal cost rate" means the percentage of
18 compensation of all active members in the plan that, when combined with the member
19 contribution rate of active members in the plan, is sufficient to provide the benefits
20 that are expected to be credited with respect to service during the year beginning after
21 the last valuation date. This percentage is uniformly determined for all employers and
22 is applicable to each employer.

23 (e) In (a) of this section, "past service rate" means the percentage of
24 compensation of all active members in the system necessary to provide the annual
25 amount required to amortize the unfunded obligations of the employers for benefits
26 earned by members in the plan before the date of the last actuarial valuation over a
27 period not to exceed the maximum period allowed by generally accepted accounting
28 principles of the Governmental Accounting Standards Board. This percentage is
29 uniformly determined for all employers and is applicable to each employer.

30 * **Sec. 3.** AS 14.25.070 is amended by adding a new subsection to read:

1 (f) The employer contribution rate may not be less than the rate required, after
 2 subtracting the member contribution rate, to fully fund the actuarially calculated
 3 benefits expected to be earned by active members during the fiscal year.

4 * **Sec. 4.** AS 14.25.125(c) is amended to read:

5 (c) Membership service for which contributions were refunded is not
 6 creditable under this section [UNLESS THE REFUNDED CONTRIBUTIONS HAVE
 7 BEEN REPAID. FOR PURPOSES OF THIS SECTION, A MEMBER OR FORMER
 8 MEMBER DOES NOT HAVE TO BE REEMPLOYED UNDER THIS PLAN IN
 9 ORDER TO REPAY REFUNDED CONTRIBUTIONS. COMPOUND INTEREST
 10 AT THE RATE PRESCRIBED BY REGULATION MUST BE ADDED TO THE
 11 REINSTATEMENT INDEBTEDNESS FROM THE DATE OF THE REFUND TO
 12 THE DATE OF REPAYMENT].

13 * **Sec. 5.** AS 14.25.320(b), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

14 (b) The defined contribution retirement plan includes a plan in which savings
 15 are accumulated in an individual account for the exclusive benefit of the member or
 16 beneficiaries, and certain fixed occupational death and disability benefits are
 17 paid. The plan is established effective July 1, 2006, at which time contributions by
 18 employers and members begin.

19 * **Sec. 6.** AS 14.25.320(c), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

20 (c) The defined contribution retirement plan is intended to qualify under 26
 21 U.S.C. 401(a), [AND] 414(d), and 414(k) (Internal Revenue Code) as a qualified
 22 retirement plan established and maintained by the state for its employees and for the
 23 employees of school districts and regional educational attendance areas in the state.

24 * **Sec. 7.** AS 14.25.340(c), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

25 (c) The employer shall deduct the contribution from the member's
 26 compensation at the end of each payroll period, and the contribution shall be credited
 27 by the administrator to the member's individual account. To the extent permitted by
 28 federal law, the [THE] contributions shall be deducted from the member's
 29 compensation before the computation of applicable federal taxes and shall be treated
 30 as employer contributions under 26 U.S.C. 414(h)(2). A member may not have the
 31 option of making the payroll deduction directly in cash instead of having the

1 contribution picked up by the employer.

2 * **Sec. 8.** AS 14.25.350(e), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended by adding
3 a new subsection to read:

4 (e) An employer shall make annual contributions to a trust account in the plan,
5 applied as a percentage of each member's compensation from July 1 to the following
6 June 30, in an amount determined by the board to be actuarially required to fully fund
7 the cost of providing occupational disability and occupational death benefits under
8 AS 14.25.310 - 14.25.590.

9 * **Sec. 9.** AS 14.25.380, as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

10 **Sec. 14.25.380. Limitations on contributions and benefits.** Notwithstanding
11 any other provisions of this plan, the annual additions to each member's individual
12 account under this plan and under all defined contribution plans of the employer
13 required to be aggregated with the contributions from this plan under the provisions of
14 26 U.S.C. 415 may not exceed, for any limitation year, the amount permitted under 26
15 U.S.C. 415(c) at any time. If the amount of a member's **individual account**
16 [DEFINED CONTRIBUTION PLAN] contributions exceeds the limitation of 26
17 U.S.C. 415(c) for any limitation year, the administrator shall take any necessary
18 remedial action to correct an excess contribution. **A fixed benefit provided under**
19 **this plan may not exceed, for or during a limitation year, the amount permitted**
20 **under 26 U.S.C. 415(b). If a fixed benefit provided under this plan exceeds, for or**
21 **during a limitation year, the amount permitted under 26 U.S.C. 415(b), the**
22 **administrator shall take remedial action necessary to comply with the limits on**
23 **the benefit amount in 26 U.S.C. 415(b).** The provisions of 26 U.S.C. 415, and the
24 regulations adopted under that statute, as applied to qualified [DEFINED
25 CONTRIBUTION] plans of governmental employees are incorporated as part of the
26 terms and conditions of the plan.

27 * **Sec. 10.** AS 14.25.400(b), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

28 (b) A participant may direct investment of plan funds held in an **individual**
29 account among available investment funds in accordance with rules established by the
30 board.

31 * **Sec. 11.** AS 14.25.470(g), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

1 (g) An eligible person shall make the irrevocable election to participate or not
 2 participate in the retiree major medical insurance plan by reaching 70 1/2 years of age,
 3 or upon application for retirement and medical benefits, whichever is later. **The**
 4 **administrator may require an eligible person who deferred participation in the**
 5 **retiree major medical insurance plan at the time the person applied for**
 6 **retirement to show evidence of insurability or provide a letter of coverage when**
 7 **the person later applies to participate in the retiree major medical insurance**
 8 **plan. If the person does not establish insurability or provide a letter of coverage,**
 9 **the administrator may deny participation by the person in the retiree major**
 10 **medical insurance plan.**

11 * **Sec. 12.** AS 14.25.485(b), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

12 (b) The occupational disability benefits accrue beginning the first day of the
 13 month following termination of employment as a result of the disability and are
 14 payable the last day of the month. If a final determination granting the benefit is not
 15 made in time to pay the benefit when due, a retroactive payment shall be made to
 16 cover the period of deferment. The last payment shall be for the first month in which
 17 the disabled member

18 (1) dies;

19 (2) recovers from the disability;

20 (3) fails to meet the requirements under (f), **(h)**, or **(j)** [(h)] of this
 21 section; or

22 (4) reaches normal retirement age.

23 * **Sec. 13.** AS 14.25.485(c), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

24 (c) If the disabled member becomes ineligible to receive occupational
 25 disability benefits before the normal retirement date, the disabled member shall then
 26 be entitled to receive retirement benefits if the member would have been eligible for
 27 the benefit had employment continued during the period of disability. The period of
 28 disability constitutes membership service **for the purposes of** [IN REGARD TO]
 29 determining eligibility for retirement **and medical benefits under this chapter and**
 30 **AS 39.30.300 - 39.30.495.**

31 * **Sec. 14.** AS 14.25.485(d), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

1 (d) The monthly amount of an occupational disability benefit is 40 percent of
 2 the disabled member's gross monthly compensation at the time of termination due to
 3 disability. **Notwithstanding AS 14.25.390(b), at the time a member is appointed to**
 4 **disability, the member becomes fully vested in the employer contributions made**
 5 **under AS 14.25.350(a). A disabled member is fully vested in the contributions to**
 6 **the member's individual account made under this subsection. A member is not**
 7 **entitled to elect distributions from the member's individual contribution account**
 8 **under AS 14.25.410 while the member is receiving disability benefits under this**
 9 **section.** While a member is receiving disability benefits, based on the disabled
 10 member's gross monthly compensation at the time of termination due to disability, the
 11 employer shall make contributions to the

12 (1) member's individual account under AS 14.25.340 on behalf of the
 13 member, without deduction from the member's disability payments; and

14 (2) appropriate accounts and funds on behalf of the member under
 15 AS 14.25.350.

16 * **Sec. 15.** AS 14.25.485(g), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

17 (g) A disabled member's occupational disability benefit terminates **the last**
 18 **day of the month following the date** [WHEN] the disabled member first **qualifies**
 19 [ATTAINS ELIGIBILITY] for normal retirement. At that time, the member's
 20 retirement benefit shall be determined under the provisions of AS 14.25.420 -
 21 14.25.440, 14.25.470, and 14.25.480. A member **whose occupational disability**
 22 **benefit terminates under this subsection** [RECEIVING DISABILITY BENEFITS
 23 UP UNTIL ELIGIBILITY FOR RETIREMENT] shall be considered to have retired
 24 directly from the plan.

25 * **Sec. 16.** AS 14.25.485(i), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

26 (i) Upon the death of a disabled member who is receiving or is entitled to
 27 receive an occupational disability benefit, the administrator shall pay the surviving
 28 spouse a surviving spouse's pension, equal to 40 percent of the member's monthly
 29 compensation at the termination of employment because of occupational disability. If
 30 there is no surviving spouse, the administrator shall pay the survivor's pension in equal
 31 parts to the dependent children of the member. **While the monthly survivor's**

1 **pension is being paid, the survivor is not entitled to elect distributions from the**
2 **employee's individual contribution account under AS 14.25.410.** The first payment
3 of the surviving spouse's pension or of a dependent child's pension shall accrue from
4 the first day of the month following the member's death and is payable the last day of
5 the month. The last payment shall be made **the last day of** [FOR] the last month in
6 which there is an eligible surviving spouse or **dependent child, or the last day of the**
7 **month following the earliest date the member would have first qualified for**
8 **normal retirement if the member had survived, whichever day comes sooner. A**
9 **retirement benefit shall be determined under the provisions of AS 14.25.420 -**
10 **14.25.440, 14.25.470, and 14.25.480 based on** [. ON] the date the **member would**
11 **have first qualified for** normal retirement [OF THE MEMBER WOULD HAVE
12 OCCURRED] if the member had **survived. In addition to the payment of the**
13 **member's individual account, the surviving spouse or, if there is no surviving**
14 **spouse, the surviving dependent children of the member, shall receive an**
15 **additional benefit in an amount equal to the accumulated contributions that**
16 **would have been made to the deceased member's individual account under**
17 **AS 14.25.340(a) and 14.25.350(a), based on the deceased member's gross monthly**
18 **compensation at the time of occupational disability, from the time of the**
19 **member's death to the date the member would have first qualified for normal**
20 **retirement if the member had survived. Earnings shall be allocated to the**
21 **additional benefit calculated under this subsection based on the actual rate of**
22 **return, net of expenses, of the trust account established under AS 14.25.350(e)**
23 **over the period that the contributions would have been made. This additional**
24 **amount shall be paid in the same manner as determined for the member's**
25 **individual account under AS 14.25.420 – 14.25.460. For the purpose of**
26 **determining eligibility of a survivor who is receiving a benefit under this**
27 **subsection for medical benefits under AS 14.25.470 - 14.25.480, a** [LIVED, THE
28 RETIREMENT BENEFIT SHALL BE DETERMINED UNDER THE PROVISIONS
29 OF AS 14.25.420 - 14.25.440, 14.25.470, AND 14.25.480. A] member who died
30 while receiving disability benefits shall be considered to have retired directly from the
31 plan on the date the **member would have first qualified for** normal retirement [OF

1 THE MEMBER WOULD HAVE OCCURRED] if the member had survived. The
 2 period during which the member was eligible for a disability benefit and the
 3 period during which a survivor's pension is paid to a survivor under this
 4 subsection each constitute membership service for the purposes of determining
 5 vesting in employer contributions under AS 14.25.390(b) and eligibility for
 6 retirement and medical benefits under this chapter and AS 39.30.300 - 39.30.495
 7 [LIVED].

8 * **Sec. 17.** AS 14.25.485(j), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

9 (j) In this section, "occupational disability" means a physical or mental
 10 condition that the administrator determines presumably permanently prevents
 11 an employee from satisfactorily performing the employee's usual duties or the
 12 duties of another comparable position or job available to the employee and for
 13 which the employee is qualified by training or education; however, the proximate
 14 cause of the condition must be a bodily injury sustained, or a hazard undergone,
 15 while in the performance and within the scope of the employee's duties and not
 16 the proximate result of the wilful negligence of the employee [HAS THE
 17 MEANING GIVEN IN AS 39.35.680].

18 * **Sec. 18.** AS 14.25 is amended by adding a new section to read:

19 **Sec. 14.25.486. Disability benefit adjustment.** (a) Once each year, the
 20 administrator shall increase disability benefits. The amount of the increase is a
 21 percentage of the current disability benefit equal to the lesser of 75 percent of the
 22 increase in the cost of living in the preceding calendar year or nine percent.

23 (b) If a disabled member was not receiving a benefit during the entire
 24 preceding calendar year, the increase in the benefit under this section shall be adjusted
 25 by multiplying it by a fraction, the numerator of which is the number of months for
 26 which the benefit was received in the preceding calendar year and the denominator of
 27 which is 12.

28 (c) An increase in benefit payments under this section is effective July 1 of
 29 each year and is based on the percentage increase in the Consumer Price Index for
 30 urban wage earners and clerical workers for Anchorage, Alaska, during the previous
 31 calendar year, as determined by the United States Department of Labor, Bureau of

1 Labor Statistics.

2 (d) Benefit adjustments under this section shall terminate the last day of the
3 month following the date on which a disabled member is no longer receiving a
4 disability benefit under AS 14.25.485.

5 * **Sec. 19.** AS 14.25.487(b), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

6 (b) The first payment of the surviving spouse's pension or of a dependent
7 child's pension shall be made for the month following the month in which the member
8 dies. **Payments** [, AND PAYMENT] shall cease **on the last day of the month in**
9 **which there is no longer an eligible spouse or eligible dependent child, or the last**
10 **day of the month following the earliest date** [TO BE MADE BEGINNING WITH
11 THE MONTH IN WHICH] the member would have first qualified for **normal**
12 retirement **if the member had survived, whichever day is sooner.**

13 * **Sec. 20.** AS 14.25.487(c), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

14 (c) The monthly survivor's pension in (b) of this section for survivors of
15 members is 40 percent of the member's monthly compensation in the month in which
16 the member dies. **While the monthly survivor's pension is being paid, the survivor**
17 **is not entitled to elect distributions from the member's individual contribution**
18 **account under AS 14.25.410, except as required by AS 14.25.440.** While the
19 monthly survivor's pension is being paid, the employer shall make contributions on
20 behalf of the member's **surviving spouse and member's surviving dependent**
21 **children** [BENEFICIARIES BASED ON THE DECEASED MEMBER'S GROSS
22 MONTHLY COMPENSATION AT THE TIME OF OCCUPATIONAL DEATH

23 (1) TO THE MEMBER'S INDIVIDUAL ACCOUNT UNDER
24 AS 14.25.340, WITHOUT DEDUCTION FROM THE SURVIVOR'S PENSION;
25 AND

26 (2) to the appropriate accounts and funds [ON BEHALF OF THE
27 MEMBER] under AS 14.25.350**(b) - (e).**

28 * **Sec. 21.** AS 14.25.487(e), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

29 (e) On the date the **member would have first qualified for** normal retirement
30 [OF THE MEMBER WOULD HAVE OCCURRED] if the member had **survived**
31 [LIVED], the retirement benefit shall be determined under the provisions of

1 AS 14.25.420 - 14.25.440, 14.25.470, and 14.25.480. In addition to payment of the
 2 member's individual account, the surviving spouse or, if there is no surviving
 3 spouse, the surviving dependent children of the member, shall receive an
 4 additional benefit in an amount equal to the accumulated contributions that
 5 would have been made to the deceased member's individual account under
 6 AS 14.25.340(a) and 14.25.350(a), based on the deceased member's gross monthly
 7 compensation at the time of the member's occupational death, from the time of
 8 the member's death to the date the member would have first qualified for normal
 9 retirement if the member had survived. Earnings shall be allocated to the
 10 additional benefit calculated under this subsection based on the actual rate of
 11 return, net of expenses, of the trust account established under AS 14.25.350(e)
 12 over the period that the contributions would have been made. This additional
 13 amount shall be paid in the same manner as determined for the member's
 14 individual account under AS 14.25.420 – 14.25.460. A member who died and whose
 15 survivors receive occupational death benefits under this section shall be considered to
 16 have retired directly from the plan on the date the [NORMAL RETIREMENT OF
 17 THE] member would have first qualified for normal retirement [OCCURRED] if
 18 the member had survived. The period of time during which a survivor's pension is
 19 paid under this section constitutes membership service for the purposes of
 20 determining vesting in employer contributions under AS 14.25.390(b) and
 21 eligibility for retirement and medical benefits under this chapter and
 22 AS 39.30.300 - 39.30.495 [LIVED].

23 * **Sec. 22.** AS 14.25 is amended by adding new sections to read:

24 **Sec. 14.25.488. Survivor's pension adjustment.** (a) Once each year, the
 25 administrator shall increase payments to a person 60 years of age or older receiving a
 26 survivor's pension under AS 14.25.485(i) or 14.25.487(c) and to a person who has
 27 received a survivor's pension under AS 14.25.485(i) or 14.25.487(c) for at least eight
 28 years, who is not otherwise eligible for an increase under this section.

29 (b) The amount of the increase is a percentage of the current survivor's
 30 pension equal to the lesser of 50 percent of the increase in the cost of living in the
 31 preceding calendar year or six percent.

1 (c) If a survivor was not receiving a pension during the entire preceding
 2 calendar year, the increase in the survivor's pension under this section shall be
 3 adjusted by multiplying it by a fraction, the numerator of which is the number of
 4 months for which the pension was received in the preceding calendar year and the
 5 denominator of which is 12.

6 (d) The administrator shall increase the initial survivor's pension paid to a
 7 survivor of a member who died while receiving disability benefits by a percentage
 8 equal to the total cumulative percentage that has been applied to the member's
 9 disability benefit under AS 14.25.486.

10 (e) An increase in benefit payments under this section is effective July 1 of
 11 each year and is based on the percentage increase in the Consumer Price Index for
 12 urban wage earners and clerical workers for Anchorage, Alaska, during the previous
 13 calendar year, as determined by the United States Department of Labor, Bureau of
 14 Labor Statistics.

15 (f) Pension adjustments under this section shall terminate the last day of the
 16 month following the date on which a survivor is no longer receiving a survivor's
 17 pension under AS 14.25.485(i) or 14.25.487(c).

18 **Sec. 14.25.489. Premiums for retiree major medical insurance coverage**
 19 **upon termination of disability benefits or survivor's pension.** The premium for
 20 retiree major medical insurance coverage payable by a member whose disability
 21 benefit is terminated under AS 14.25.485(g) or by an eligible survivor whose survivor
 22 pension is terminated under AS 14.25.485(i) or 14.25.487(e) when the member would
 23 have been eligible for normal retirement if the member had survived shall be
 24 determined under AS 14.25.480(g)(2) as if the member or survivor were eligible for
 25 Medicare.

26 * **Sec. 23.** AS 14.25.510, as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

27 **Sec. 14.25.510. Nonguarantee of returns, rates, or benefit amounts.** The
 28 plan created by AS 14.25.310 - 14.25.590 is, with respect to individual accounts,
 29 treated as a defined contribution plan and [PLAN,] not a defined benefit plan. The
 30 amount of money in the individual account of a participant depends on the amount of
 31 contributions and the rate of return from investments of the account that varies over

1 time. If benefits are paid in the form of an annuity, the benefit amount payable is
 2 dependent on the amount of money in the account and the interest rates applied and
 3 service fees charged by the annuity payor at the time **the annuity is purchased from**
 4 **the carrier and** benefits are first paid. Nothing in this plan guarantees a participant

5 (1) a rate of return or interest rate other than that actually earned by the
 6 account of the participant, less applicable administrative expenses; or

7 (2) an annuity based on interest rates or service charges other than
 8 interest rates available from and service charges by the annuity payor in effect at the
 9 time the annuity is paid.

10 * **Sec. 24.** AS 14.25.540(c), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

11 (c) Each eligible member who elects to participate in the defined contribution
 12 retirement plan shall have transferred to a new account the member contribution
 13 account balance held in trust for the member under the defined benefit retirement plan
 14 of the teachers' retirement system. A matching employer contribution shall be made on
 15 behalf of that employee to the new account. The employer shall make the matching
 16 contribution from funds other than the trust funds of the defined benefit retirement
 17 plan. **The amount of the matching employer contribution shall be subject to, and**
 18 **may not exceed, the limitation of 26 U.S.C. 415(c) during the applicable limitation**
 19 **year in which the contribution is made.**

20 * **Sec. 25.** AS 14.25.540(d), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

21 (d) Upon a transfer, all membership service previously earned under the
 22 defined benefit retirement plan shall be nullified for purposes of entitlement to a future
 23 benefit under the defined benefit retirement plan but shall be credited for purposes of
 24 **determining vesting in employer contributions under AS 14.25.390(b) and**
 25 eligibility to elect medical benefits under AS 14.25.470. Membership service allowed
 26 for credit toward medical benefits does not include any service credit purchased under
 27 AS 14.25.075 for employment by an employer who is not a participating employer in
 28 this chapter.

29 * **Sec. 26.** AS 14.25.540(h), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

30 (h) **A member who is eligible to elect transfer to the defined contribution**
 31 **plan must make the election not later than 12 months after the member's**

1 **employer notifies the administrator that the member's employer consents to**
 2 **transfers of its members under (i) of this section.** The election to participate in the
 3 defined contribution retirement plan must be made in writing on forms and in the
 4 manner prescribed by the administrator. Before accepting an election to participate in
 5 the defined contribution retirement plan, the administrator must provide the employee
 6 planning on making an election to participate in the defined contribution retirement
 7 plan with information, including calculations to illustrate the effect of moving the
 8 employee's retirement plan from the defined benefit retirement plan to the defined
 9 contribution retirement plan as well as other information to clearly inform the
 10 employee of the potential consequences of the employee's election. An election made
 11 under this subsection to participate in the defined contribution retirement plan is
 12 irrevocable. Upon making the election, the participant shall be enrolled as a member
 13 of the defined contribution retirement plan, the member's participation in the plan shall
 14 be governed by the provisions of AS 14.25.310 - 14.25.590, and the member's
 15 participation in the defined benefit retirement plan under AS 14.25.009 - 14.25.220
 16 shall terminate. The participant's enrollment in the defined contribution retirement
 17 plan shall be effective the first day of the month after the administrator receives the
 18 completed enrollment forms. An election made by an eligible member who is married
 19 is not effective unless the election is signed by the individual's spouse.

20 * **Sec. 27.** AS 14.25.540(i), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

21 (i) A member may make an election under this section only if the member's
 22 employer participates in both the defined benefit retirement plan and the defined
 23 contribution retirement plan and consents to transfers under this section. The employer
 24 shall notify the administrator if the employer consents to allowing the employer's
 25 members to choose to transfer from the defined benefit retirement plan to the defined
 26 contribution retirement plan under this section. **The initial period during which the**
 27 **employer's members may choose to transfer commences on the first day of the**
 28 **month following the administrator's receipt of notice under this subsection and**
 29 **continues for 12 months. An employer may consent to a second period of 12**
 30 **months during which the employer's members may choose to transfer from the**
 31 **defined benefit retirement plan to the defined contribution retirement plan under**

1 this section. The second period commences on the first day of the month
 2 following the administrator's receipt of notice under this subsection and
 3 continues for 12 months. An employer's initial notice to allow transfers is
 4 irrevocable and applicable to all eligible employees of the employer. An employer's
 5 second notice to allow transfers under this section is irrevocable and applicable
 6 only to those eligible employees to whom the initial period of transfer was not
 7 available.

8 * **Sec. 28.** AS 14.25.540(j), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended by adding
 9 a new paragraph to read:

10 (3) "membership service" has the meaning given in AS 14.25.220 and
 11 does not include any service for which reinstatement indebtedness has not been fully
 12 paid.

13 * **Sec. 29.** AS 39.30.160(a) is amended to read:

14 (a) The Department of Administration shall, in accordance with policies
 15 prescribed by regulations adopted by the commissioner [OF THE ALASKA
 16 RETIREMENT MANAGEMENT BOARD], provide to employees for whom special
 17 individual employee benefit accounts are established under AS 39.30.150(c) the
 18 following benefit options:

- 19 (1) supplemental health benefits;
- 20 (2) supplemental death benefits;
- 21 (3) supplemental disability benefits; and
- 22 (4) supplemental dependent care benefits.

23 * **Sec. 30.** AS 39.30.160(e) is amended to read:

24 (e) Regulations adopted by the commissioner [BOARD] implementing
 25 AS 39.30.150 and this section are not subject to AS 44.62 (Administrative Procedure
 26 Act).

27 * **Sec. 31.** AS 39.30 is amended by adding a new section to read:

28 **Sec. 39.30.165. Appeals.** A final decision made under AS 39.30.150 -
 29 39.30.180 is subject to appeal under AS 44.64.

30 * **Sec. 32.** AS 39.30 is amended by adding a new section to read:

31 **Sec. 39.30.335. Appeals.** A final decision made under AS 39.30.300 -

1 39.30.495 is subject to appeal under AS 44.64.

2 * **Sec. 33.** AS 39.30.370, as enacted by sec. 80, ch. 9, FSSLA 2005, is amended to read:

3 **Sec. 39.30.370. Contributions by employers.** For each member of the plan,
4 an employer shall contribute to the teachers' and public employees' retiree health
5 reimbursement arrangement plan trust fund an amount equal to three percent of the
6 average annual compensation of all employees of employers in the plan
7 [EMPLOYER'S AVERAGE ANNUAL EMPLOYEE COMPENSATION]. The
8 administrator shall maintain a record for each member to account for employer
9 contributions on behalf of that member. The board shall establish by regulation the
10 rate of interest to be applied annually to the amount in a member's individual account.

11 * **Sec. 34.** AS 39.30.380, as enacted by sec. 80, ch. 9, FSSLA 2005, is amended to read:

12 **Sec. 39.30.380. Termination of employment.** A person who terminates
13 employment before meeting the eligibility requirements of AS 39.30.390
14 [AS 14.25.470 OR AS 39.35.870] loses any right to the contributions made on behalf
15 of the person to the teachers' and public employees' retiree health reimbursement
16 arrangement trust fund. If a person returns to employment with a participating
17 employer by December 31 of the year in which the person reaches 65 years of age, the
18 person's account balance shall be restored in the amount recorded on the date of
19 termination from the trust, adjusted for inflation at the rate of the Consumer Price
20 Index for Anchorage, Alaska. The earlier period of employment with a participating
21 employer shall be credited toward eligibility for medical benefits.

22 * **Sec. 35.** AS 39.30.390, as enacted by sec. 80, ch. 9, FSSLA 2005, is amended to read:

23 **Sec. 39.30.390. Eligibility and reimbursement.** Persons who meet the
24 eligibility requirements of AS 14.25.470 or [AND] AS 39.35.870 are eligible for
25 reimbursements from the individual account established for a member under the plan,
26 except members do not have to retire directly from the system. A person who is the
27 dependent child of an eligible member is eligible for reimbursements if the eligible
28 member and surviving spouse have both died so long as the person meets the
29 definition of dependent child.

30 * **Sec. 36.** AS 39.35.250 is amended to read:

31 **Sec. 39.35.250. Calculation of employer's contribution rate.** (a) An

1 employer shall make contributions to the plan in amounts determined in accordance
 2 with this section. For the purposes of this section **and AS 39.35.270**, the [PAST
 3 SERVICE DATE FOR EACH EMPLOYER IS THE ENTRY DATE OF THE
 4 EMPLOYER OR DECEMBER 31, 1972, WHICHEVER IS LATER. AFTER
 5 DECEMBER 31, 1972, IF AMENDMENTS TO AS 39.35.095 - 39.35.680 ARE
 6 ENACTED THAT SUBSTANTIALLY AFFECT BENEFITS ACCRUED BEFORE
 7 THE EFFECTIVE DATE OF THE AMENDMENT, THE PAST SERVICE DATE
 8 WILL BE CHANGED TO DECEMBER 31 OF THE YEAR IMMEDIATELY
 9 PRECEDING THAT IN WHICH THE AMENDMENT IS ENACTED. THE]
 10 contribution rate is the sum of the consolidated employer **normal cost** rate and the
 11 past service rate **as certified by the board**.

12 (b) In (a) of this section, "consolidated employer **normal cost** rate" means the
 13 percentage of compensation of all active employees in the plan which, [IF PAID
 14 OVER THE PERIOD OF THEIR CREDITED SERVICE AFTER THEIR PAST
 15 SERVICE DATE AND] when combined with all employee contributions **to the plan**,
 16 is sufficient to provide the benefits earned **during the year beginning after the last**
 17 **valuation date** [AFTER SUCH PAST SERVICE DATES]. This percentage is
 18 [UNIFORMLY] determined **at the plan level** for all employers and is applicable to
 19 each employer.

20 (c) In (a) of this section, "past service rate" means the percentage of
 21 compensation of all active employees in the **system** [PLAN] necessary to provide the
 22 annual amount required to amortize the unfunded obligations of the employer for
 23 benefits earned **by the employer's members in the plan** before the **date of the last**
 24 **actuarial valuation** [EMPLOYER'S PAST SERVICE DATE] over a period not to
 25 exceed **the maximum allowed by generally accepted accounting principles of the**
 26 **Governmental Accounting Standards Board** [40 YEARS. THE PERIOD OF
 27 AMORTIZATION BEGINS AT THE PAST SERVICE DATE OF EACH
 28 EMPLOYER]. The percentage is separately determined for each employer.

29 * **Sec. 37.** AS 39.35.270(a) is amended to read:

30 (a) The amount of each employer's contributions shall be determined by
 31 applying the **consolidated employer normal cost** [EMPLOYER'S

1 CONTRIBUTION] rate [, AS CERTIFIED BY THE BOARD,] to the total
 2 compensation paid to the employer's active employees of the plan and by applying
 3 the employer's past service rate to the total compensation paid to the employer's
 4 active employees in the system [EMPLOYER] for each payroll period, [AND BY]
 5 including any adjustments to contributions required by AS 39.35.520(a). This amount
 6 shall be remitted by the employer to the administrator in accordance with
 7 AS 39.35.610.

8 * **Sec. 38.** AS 39.35.270 is amended by adding a new subsection to read:

9 (d) The employer contribution rate may not be less than the rate required, after
 10 subtracting the member contribution rate, to fully fund the actuarially calculated
 11 benefits expected to be earned by active members during a fiscal year.

12 * **Sec. 39.** AS 39.35.375(a) is amended to read:

13 (a) An active or inactive member who has never been vested in this plan or in
 14 the teachers' retirement plan under AS 14.25.009 - 14.25.220, who has at least two
 15 years of credited service in this plan, and who has membership service in the teachers'
 16 retirement system may claim credited service in this plan in an amount equal to the
 17 membership service the member has in the teachers' retirement system. The claimed
 18 credited service may be added to service earned under AS 39.35.095 - 39.35.680 to
 19 enable the member to qualify for a public service benefit under this section. The
 20 member may not claim credited service for membership service for which the member
 21 has received a refund under AS 14.25.150 [UNLESS THE MEMBER FULLY PAYS
 22 THE INDEBTEDNESS AS ESTABLISHED UNDER AS 14.25.063]. The member
 23 may not claim credited service in this plan based on unused sick leave under
 24 AS 14.25.115.

25 * **Sec. 40.** AS 39.35.385(c) is amended to read:

26 (c) Credited service for which contributions were refunded is not creditable
 27 under this section [UNLESS THE REFUNDED CONTRIBUTIONS HAVE BEEN
 28 REPAYED. FOR PURPOSES OF (a) AND (b) OF THIS SECTION, A MEMBER OR
 29 FORMER MEMBER DOES NOT HAVE TO BE REEMPLOYED UNDER THIS
 30 PLAN IN ORDER TO PAY REFUNDED CONTRIBUTIONS. COMPOUND
 31 INTEREST AT THE RATE PRESCRIBED BY REGULATION SHALL BE ADDED

1 TO THE REINSTATEMENT INDEBTEDNESS FROM THE DATE OF THE
2 REFUND TO THE DATE OF REPAYMENT].

3 * **Sec. 41.** AS 39.35.522(d) is amended to read:

4 (d) **A ruling of the** [THE] commissioner of administration **denying a waiver**
5 **under this section may be appealed under AS 44.64. The administrative law**
6 **judge may reverse the ruling of the commissioner and** may impose **equitable**
7 conditions on the granting of a waiver [WHICH IT CONSIDERS EQUITABLE].
8 These conditions may include requiring the member or beneficiary to make additional
9 contributions to the plan.

10 * **Sec. 42.** AS 39.35.680(3) is amended to read:

11 (3) "administrator" means [THE PERSON APPOINTED BY] the
12 commissioner of administration **or the commissioner's designee appointed** under
13 **AS 39.35.003** [AS 39.35.050];

14 * **Sec. 43.** AS 39.35.710(b), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

15 (b) The defined contribution retirement plan **includes** [IS] a plan in which
16 savings are accumulated in an individual retirement account for the exclusive benefit
17 of the member or beneficiaries, **certain fixed occupational death and disability**
18 **benefits are paid, and certain fixed retirement and survivor benefits for peace**
19 **officers and fire fighters are paid.** The plan is established effective July 1, 2006, at
20 which time contributions by employers and members begin.

21 * **Sec. 44.** AS 39.35.710(c), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

22 (c) The retirement plan established by AS 39.35.700 - 39.35.990 is intended to
23 qualify under 26 U.S.C. 401(a), [AND] 414(d), **and 414(k)** (Internal Revenue Code)
24 as a qualified retirement plan established and maintained by the state for its
25 employees, for the employees of political subdivisions, public corporations, and public
26 organizations of the state, and for the employees of other employers whose
27 participation is authorized by AS 39.35.700 - 39.35.990 and who participate in the
28 plan set out in AS 39.35.700 - 39.35.990.

29 * **Sec. 45.** AS 39.35.730(c), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

30 (c) The employer shall deduct the contribution from the member's
31 compensation at the end of each payroll period, and the contribution shall be credited

1 by the plan to the member's individual account. **To the extent permitted by federal**
 2 **law, the** [THE] contributions shall be deducted from the member's compensation
 3 before the computation of applicable federal taxes and shall be treated as employer
 4 contributions under 26 U.S.C. 414(h)(2). A member may not have the option of
 5 making the payroll deduction directly in cash instead of having the contribution picked
 6 up by the employer.

7 * **Sec. 46.** AS 39.35.750(e), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

8 (e) An employer shall make annual contributions to **a trust account in** the
 9 plan, **applied as a percentage of each member's compensation from July 1 to the**
 10 **following June 30,** in an amount determined by the board to be actuarially required to
 11 fully fund the cost of providing occupational disability and occupational death benefits
 12 under **AS 39.35.700 - 39.35.990 and retirement benefits elected by disabled peace**
 13 **officers and fire fighters under AS 39.35.890(h)(2)** [AS 39.35.890 AND 39.35.892].
 14 The contribution required under this subsection for peace officers and fire fighters and
 15 the contribution required under this subsection for other employees shall be separately
 16 calculated based on the actuarially calculated costs for each group of employees.

17 * **Sec. 47.** AS 39.35.780, as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

18 **Sec. 39.35.780. Limitations on contributions and benefits.** Notwithstanding
 19 any other provisions of this plan, the annual additions to each member's individual
 20 account under this plan and under all defined contribution plans of the employer
 21 required to be aggregated with the contributions from this plan under the provisions of
 22 26 U.S.C. 415 may not exceed, for any limitation year, the amount permitted under 26
 23 U.S.C. 415(c) at any time. If the amount of a member's **individual account**
 24 [DEFINED CONTRIBUTION PLAN] contributions exceeds the limitation of 26
 25 U.S.C. 415(c) for any limitation year, the administrator shall take any necessary
 26 remedial action to correct an excess contribution. **A fixed benefit provided under**
 27 **this plan may not exceed, for or during a limitation year, the amount permitted**
 28 **under 26 U.S.C. 415(b). If a fixed benefit provided under this plan exceeds, for or**
 29 **during a limitation year, the amount permitted under 26 U.S.C. 415(b), the**
 30 **administrator shall take remedial action necessary to comply with the limits on**
 31 **the benefit amount in 26 U.S.C. 415(b).** The provisions of 26 U.S.C. 415, and the

1 regulations adopted under that statute, as applied to qualified [DEFINED
2 CONTRIBUTION] plans of governmental employees are incorporated as part of the
3 terms and conditions of the plan.

4 * **Sec. 48.** AS 39.35.800(b), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

5 (b) A participant may direct investment of plan funds held in an **individual**
6 account among available investment funds in accordance with rules established by the
7 board.

8 * **Sec. 49.** AS 39.35.870(g), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

9 (g) An eligible person must make the irrevocable election to participate or not
10 participate in the retiree major medical insurance plan by reaching 70 1/2 years of age,
11 or upon application for retirement and medical benefits, whichever is later. **The**
12 **administrator may require an eligible person who deferred participation in the**
13 **retiree major medical insurance plan at the time the person applied for**
14 **retirement to show evidence of insurability or provide a letter of coverage when**
15 **the person later applies to participate in the retiree major medical insurance**
16 **plan. If the person does not establish insurability or provide a letter of coverage,**
17 **the administrator may prohibit participation by the person in the retiree major**
18 **medical insurance plan.**

19 * **Sec. 50.** AS 39.35.890(b), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

20 (b) The occupational disability benefits accrue beginning the first day of the
21 month following termination of employment as a result of the disability and are
22 payable the last day of the month. If a final determination granting the benefit is not
23 made in time to pay the benefit when due, a retroactive payment shall be made to
24 cover the period of deferment. The last payment shall be for the first month in which
25 the disabled employee

26 (1) dies;

27 (2) recovers from the disability;

28 (3) fails to meet the requirements under (f), **(j)**, or **(D)** [(j)] of this

29 section; or

30 (4) reaches normal retirement age.

31 * **Sec. 51.** AS 39.35.890(c), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

1 (c) If the disabled employee becomes ineligible to receive occupational
 2 disability benefits before the normal retirement date, the disabled employee shall then
 3 be entitled to receive retirement benefits if the employee would have been eligible for
 4 the benefit had employment continued during the period of disability. The period of
 5 disability constitutes membership service **for the purposes of** [IN REGARD TO]
 6 determining eligibility for retirement **and medical benefits under this chapter and**
 7 **AS 39.30.300 - 39.30.495.**

8 * **Sec. 52.** AS 39.35.890(d), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

9 (d) The monthly amount of an occupational disability benefit is 40 percent of
 10 the disabled employee's gross monthly compensation at the time of termination due to
 11 disability. **Notwithstanding AS 39.35.790(b), at the time a member is appointed to**
 12 **disability, the member becomes fully vested in the employer contributions made**
 13 **under AS 39.35.750(a). A disabled member is fully vested in the contributions to**
 14 **the member's individual account made under this subsection. An employee is not**
 15 **entitled to elect distributions from the employee's individual contribution**
 16 **account under AS 39.35.810 while the employee is receiving disability benefits**
 17 **under this section.** While an employee is receiving disability benefits, based on the
 18 disabled employee's gross monthly compensation at the time of termination due to
 19 disability, the employer shall make contributions

20 (1) to the employee's individual account under AS 39.35.730 on behalf
 21 of the employee, without deduction from the employee's disability payments; and

22 (2) on behalf of the employee under AS 39.35.750.

23 * **Sec. 53.** AS 39.35.890(g), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

24 (g) A disabled employee's occupational disability benefit terminates **the last**
 25 **day of the month** [WHEN] the disabled employee first **qualifies** [ATTAINS
 26 ELIGIBILITY] for normal retirement. At that time, the employee's retirement benefit
 27 shall be determined under the provisions of AS 39.35.820 - 39.35.840, 39.35.870, and
 28 39.35.880. An employee **whose occupational disability benefit terminates under**
 29 **this subsection** [RECEIVING DISABILITY BENEFITS UP UNTIL ELIGIBILITY
 30 FOR RETIREMENT] shall be considered to have retired directly from the plan.

31 * **Sec. 54.** AS 39.35.890(h), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

1 (h) Notwithstanding (g) of this section, at the time a peace officer or fire
 2 fighter receiving occupational disability benefits under this section first attains
 3 eligibility for normal retirement, the employee shall irrevocably elect to receive
 4 retirement benefits in the amount calculated as the

5 (1) employee's retirement benefit calculated under the provisions of
 6 AS 39.35.820 - 39.35.840; or

7 (2) employee's retirement benefit calculated as if the provisions of
 8 AS 39.35.370(c) were to apply; however, retirement benefits paid under this paragraph
 9 **must be paid first from the peace officer's or fire fighter's individual contribution**
 10 **account, and the remaining benefits must be paid from the trust account**
 11 **established under AS 39.35.750(e); the peace officer or fire fighter may not elect**
 12 **other distributions from the peace officer's or fire fighter's individual**
 13 **contribution account under AS 39.35.810 while receiving retirement benefits**
 14 **under this paragraph** [MAY NOT BE MADE FROM THE TRUST FUND OF THE
 15 PUBLIC EMPLOYEES' DEFINED BENEFIT RETIREMENT PLAN].

16 * **Sec. 55.** AS 39.35.890(k), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

17 (k) Upon the death of a disabled employee who is receiving or is entitled to
 18 receive an occupational disability benefit, the administrator shall pay the surviving
 19 spouse a surviving spouse's pension, equal to 40 percent of the employee's monthly
 20 compensation at the termination of employment because of occupational disability. If
 21 there is no surviving spouse, the administrator shall pay the survivor's pension in equal
 22 parts to the dependent children of the employee. **While the monthly survivor's**
 23 **pension is being paid, the survivor is not entitled to elect distributions from the**
 24 **employee's individual contribution account under AS 39.35.810.** The first payment
 25 of the surviving spouse's pension or of a dependent child's pension shall accrue from
 26 the first day of the month following the employee's death and is payable the last day of
 27 the month. The last payment shall be made **the last day of** [FOR] the last month in
 28 which there is an eligible surviving spouse or **dependent child, or the last day of the**
 29 **month following the earliest date the employee would have first qualified for**
 30 **normal retirement if the employee had survived, whichever day comes sooner. A**
 31 **retirement benefit shall be determined under the provisions of AS 39.35.820 -**

1 **39.35.840, 39.35.870, and 39.35.880 based on** [. ON] the date the **employee would**
2 **have first qualified for** normal retirement [OF THE EMPLOYEE WOULD HAVE
3 OCCURRED] if the employee had **survived. In addition to payment of the**
4 **member's individual account, the surviving spouse or, if there is no surviving**
5 **spouse, the surviving dependent children of the member, shall receive an**
6 **additional benefit in an amount equal to the accumulated contributions that**
7 **would have been made to the deceased member's individual account under**
8 **AS 39.35.730(a) and 39.35.750(a), based on the deceased member's gross monthly**
9 **compensation at the time of occupational disability, from the time of the**
10 **member's death to the date the member would have first qualified for normal**
11 **retirement if the member had survived. Earnings shall be allocated to the**
12 **additional benefit calculated under this subsection based on the actual rate of**
13 **return, net of expenses, of the trust account established under AS 39.35.750(e)**
14 **over the period that the contributions would have been made. This additional**
15 **amount shall be paid in the same manner as determined for the member's**
16 **individual account under AS 39.35.820 – 39.35.860. For the purpose of**
17 **determining eligibility of an employee's survivor who is receiving a benefit under**
18 **this subsection for medical benefits under AS 39.35.870 - 39.35.880, an employee**
19 [LIVED, THE RETIREMENT BENEFIT SHALL BE DETERMINED UNDER THE
20 PROVISIONS OF AS 39.35.820 - 39.35.840, 39.35.870, AND 39.35.880. AN
21 EMPLOYEE] who died while receiving disability benefits shall be considered to have
22 retired directly from the plan on the date the **employee would have first qualified for**
23 **normal retirement if the employee had survived. The period during which the**
24 **employee was eligible for a disability benefit and the period during which a**
25 **survivor's pension is paid to a survivor under this subsection each constitute**
26 **membership service for the purposes of determining vesting in employer**
27 **contributions under AS 39.35.790(b) and eligibility for retirement and medical**
28 **benefits under this chapter and AS 39.30.300 - 39.30.495** [NORMAL
29 RETIREMENT OF THE EMPLOYEE WOULD HAVE OCCURRED IF THE
30 EMPLOYEE HAD LIVED].

31 * **Sec. 56.** AS 39.35.890(l), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

1 (l) In this section, "occupational disability" means a physical or mental
 2 condition that the administrator determines presumably permanently prevents
 3 an employee from satisfactorily performing the employee's usual duties or the
 4 duties of another comparable position or job available to the employee and for
 5 which the employee is qualified by training or education; however, the proximate
 6 cause of the condition must be a bodily injury sustained, or a hazard undergone,
 7 while in the performance and within the scope of the employee's duties and not
 8 the proximate result of the wilful negligence of the employee [HAS THE
 9 MEANING GIVEN IN AS 39.35.680].

10 * **Sec. 57.** AS 39.35 is amended by adding a new section to read:

11 **Sec. 39.35.891. Disability benefit and disabled peace officer or fire fighter**
 12 **retirement benefit adjustment.** (a) Once each year, the administrator shall increase
 13 disability benefits and retirement benefits elected by disabled peace officers or fire
 14 fighters under AS 39.35.890(h)(2). The amount of the increase is a percentage of the
 15 current disability benefit or retirement benefit equal to the lesser of 75 percent of the
 16 increase in the cost of living in the preceding calendar year or nine percent.

17 (b) If a disabled member was not receiving a benefit during the entire
 18 preceding calendar year, the increase in the benefit under this section shall be adjusted
 19 by multiplying it by a fraction, the numerator of which is the number of months for
 20 which the benefit was received in the preceding calendar year and the denominator of
 21 which is 12.

22 (c) If a disabled peace officer or fire fighter elects to receive a retirement
 23 benefit in the amount calculated under AS 39.35.890(h)(2), the administrator shall, at
 24 the time the disabled peace officer or fire fighter is appointed to retirement, increase
 25 the retirement benefit by a percentage equal to the total cumulative percentage that has
 26 been applied to the disabled peace officer's or fire fighter's disability benefit under this
 27 section.

28 (d) An increase in benefit payments under this section is effective July 1 of
 29 each year and is based on the percentage increase in the Consumer Price Index for
 30 urban wage earners and clerical workers for Anchorage, Alaska, during the previous
 31 calendar year, as determined by the United States Department of Labor, Bureau of

1 Labor Statistics.

2 (e) Benefit adjustments under this section shall terminate the last day of the
3 month following the date on which a disabled member is no longer receiving a
4 disability benefit under AS 39.35.890, unless the member is a disabled peace officer or
5 fire fighter and has chosen a retirement benefit under AS 39.35.890(h)(2).

6 * **Sec. 58.** AS 39.35.892(b), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

7 (b) The first payment of the surviving spouse's pension or of a dependent
8 child's pension shall be made for the month following the month in which the
9 employee dies. **Payments** [, AND PAYMENT] shall cease **on the last day of the**
10 **month in which there is no longer an eligible spouse or eligible dependent child,**
11 **or the last day of the month following the earliest date** [TO BE MADE
12 BEGINNING WITH THE MONTH IN WHICH] the employee would have first
13 qualified for **normal** retirement **if the employee had survived, whichever day is**
14 **sooner.**

15 * **Sec. 59.** AS 39.35.892(c), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

16 (c) The monthly survivor's pension in (b) of this section for survivors of
17 employees who were not peace officers or fire fighters is 40 percent of the employee's
18 monthly compensation in the month in which the employee dies. The monthly
19 survivor's pension in (b) of this section for survivors of employees who were peace
20 officers or fire fighters is 50 percent of the monthly compensation in the month in
21 which the employee dies. **While the monthly survivor's pension is being paid, the**
22 **survivor is not entitled to elect distributions from the employee's individual**
23 **contribution account under AS 39.35.810, except as required by AS 39.35.840.**

24 While the monthly survivor's pension is being paid, the employer shall make
25 contributions on behalf of the employee's **surviving spouse and employee's**
26 **surviving dependent children** [BENEFICIARIES BASED ON THE DECEASED
27 EMPLOYEE'S GROSS MONTHLY COMPENSATION AT THE TIME OF
28 OCCUPATIONAL DEATH

29 (1) TO THE EMPLOYEE'S INDIVIDUAL ACCOUNT UNDER
30 AS 39.35.730, WITHOUT DEDUCTION FROM THE SURVIVOR'S PENSION;
31 AND

1 (2)] to the appropriate accounts and funds under AS 39.35.750**(b) - (e)**.

2 * **Sec. 60.** AS 39.35.892(e), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

3 (e) On the date the **employee would have first qualified for** normal
 4 retirement [OF THE EMPLOYEE WOULD HAVE OCCURRED] if the employee
 5 had **survived** [LIVED], the retirement benefit shall be determined under the
 6 provisions of AS 39.35.820 - 39.35.840, 39.35.870, and 39.35.880. **In addition to**
 7 **payment of the member's individual account, the surviving spouse or, if there is**
 8 **no surviving spouse, the surviving dependent children of the member, shall**
 9 **receive an additional benefit in an amount equal to the accumulated**
 10 **contributions that would have been made to the deceased member's individual**
 11 **account under AS 39.35.730(a) and 39.35.750(a), based on the deceased member's**
 12 **gross monthly compensation at the time of occupational death, from the time of**
 13 **the member's death to the date the member would have first qualified for normal**
 14 **retirement if the member had survived. Earnings shall be allocated to the**
 15 **additional benefit calculated under this subsection based on the actual rate of**
 16 **return, net of expenses, of the trust account established under AS 39.35.750(e)**
 17 **over the period that such contributions would have been made. This additional**
 18 **amount shall be paid in the same manner as determined for the member's**
 19 **individual account under AS 39.35.820 – 39.35.860.** An employee who died and
 20 whose survivors receive occupational death benefits under this section shall be
 21 considered to have retired directly from the plan on the date the [NORMAL
 22 RETIREMENT OF THE] employee would have **first qualified for normal**
 23 **retirement** [OCCURRED] if the employee had **survived. The period of time during**
 24 **which a survivor's pension is paid under this section constitutes membership**
 25 **service for the purposes of determining vesting in employer contributions under**
 26 **AS 39.35.790(b) and eligibility for retirement and medical benefits under this**
 27 **chapter and AS 39.30.300 - 39.30.495** [LIVED].

28 * **Sec. 61.** AS 39.35 is amended by adding new sections to read:

29 **Sec. 39.35.893. Survivor's pension adjustment.** (a) Once each year, the
 30 administrator shall increase payments to a person 60 years of age or older receiving a
 31 survivor's pension under AS 39.35.890(k) or 39.35.892(c) and to a person who has

1 received a survivor's pension under AS 39.35.890(k) or 39.35.892(c) for at least five
2 years, who is not otherwise eligible for an increase under this section.

3 (b) The amount of the increase is a percentage of the current survivor's
4 pension equal to the lesser of 50 percent of the increase in the cost of living in the
5 preceding calendar year or six percent.

6 (c) If a survivor was not receiving a pension during the entire preceding
7 calendar year, the increase in the survivor's pension under this section shall be
8 adjusted by multiplying it by a fraction, the numerator of which is the number of
9 months for which the pension was received in the preceding calendar year and the
10 denominator of which is 12.

11 (d) The administrator shall increase the initial survivor's pension paid to a
12 survivor of a member who died while receiving disability benefits by a percentage
13 equal to the total cumulative percentage that has been applied to the member's
14 disability benefit under AS 39.35.891.

15 (e) An increase in benefit payments under this section is effective July 1 of
16 each year and is based on the percentage increase in the Consumer Price Index for
17 urban wage earners and clerical workers for Anchorage, Alaska, during the previous
18 calendar year, as determined by the United States Department of Labor, Bureau of
19 Labor Statistics.

20 (f) Pension adjustments under this section shall terminate the last day of the
21 month following the date on which a survivor is no longer receiving a survivor's
22 pension under AS 39.35.890(k) or 39.35.892(c).

23 **Sec. 39.35.894. Premiums for retiree major medical insurance coverage**
24 **upon termination of disability benefits or survivor's pension.** The premium for
25 retiree major medical insurance coverage payable by an employee whose disability
26 benefit is terminated under AS 39.35.890(g) or by an eligible survivor whose survivor
27 pension is terminated under AS 39.35.890(k) or 39.35.892(e) when the employee
28 would have been eligible for normal retirement if the employee had survived shall be
29 determined under AS 39.35.880(g)(2) as if the employee or survivor were eligible for
30 Medicare.

31 * **Sec. 62.** AS 39.35.910, as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

1 **Sec. 39.35.910. Nonguarantee of returns, rates, or benefit amounts.** The
 2 plan created by AS 39.35.700 - 39.35.990 is, **with respect to individual accounts,**
 3 **treated as** a defined contribution **plan and** [PLAN,] not a defined benefit plan. The
 4 amount of money in the **individual** account of a participant depends on the amount of
 5 contributions and the rate of return from investments of the account that varies over
 6 time. If benefits are paid in the form of an annuity, the benefit amount payable is
 7 dependent on the amount of money in the account and the interest rates applied and
 8 service fees charged by the annuity payor at the time **the annuity is purchased from**
 9 **the carrier and** benefits are first paid. Nothing in this plan guarantees a participant

10 (1) a rate of return or interest rate other than that actually earned by the
 11 account of the participant, less applicable administrative expenses; or

12 (2) an annuity based on interest rates or service charges other than
 13 interest rates available from and service charges by the annuity payor in effect at the
 14 time the annuity is paid.

15 * **Sec. 63.** AS 39.35.940(c), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

16 (c) Each eligible member who elects to participate in the defined contribution
 17 retirement plan shall have transferred to a new account the employee contribution
 18 account balance held in trust for the member under the defined benefit retirement plan
 19 of the public employees' retirement system. A matching employer contribution shall
 20 be made on behalf of that employee to the new account. The employer shall make the
 21 matching contribution from funds other than the trust funds of the defined benefit
 22 retirement plan established under AS 39.35.095 - 39.35.680. **The amount of the**
 23 **matching employer contribution shall be subject to, and may not exceed, the**
 24 **limitation of 26 U.S.C. 415(c) during the applicable limitation year in which the**
 25 **contribution is made.**

26 * **Sec. 64.** AS 39.35.940(d), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

27 (d) Upon a transfer, all membership service previously earned under the
 28 defined benefit retirement plan shall be nullified for purposes of entitlement to a future
 29 benefit under the defined benefit retirement plan but shall be credited for purposes of
 30 **determining vesting in employer contributions under AS 39.35.790(b) and**
 31 eligibility to elect medical benefits under AS 39.35.870. Membership service allowed

1 for credit toward medical benefits does not include any service credit purchased for
2 employment by an employer who is not a participating employer in this chapter.

3 * **Sec. 65.** AS 39.35.940(h), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

4 (h) **An employee who is eligible to elect transfer to the defined**
5 **contribution plan must make the election not later than 12 months after the**
6 **employee's employer notifies the administrator that the employee's employer**
7 **consents to transfers of its employees under (i) of this section.** The election to

8 participate in the defined contribution retirement plan must be made in writing on
9 forms and in the manner prescribed by the administrator. Before accepting an election
10 to participate in the defined contribution retirement plan, the administrator must
11 provide the employee planning on making an election to participate in the defined
12 contribution retirement plan with information, including calculations to illustrate the
13 effect of moving the employee's retirement plan from the defined benefit retirement
14 plan to the defined contribution retirement plan as well as other information to clearly
15 inform the employee of the potential consequences of the employee's election. An
16 election made under this subsection to participate in the defined contribution
17 retirement plan is irrevocable. Upon making the election, the participant shall be
18 enrolled as a member of the defined contribution retirement plan, the member's
19 participation in the plan shall be governed by the provisions of AS 39.35.700 -
20 39.35.990, and the member's participation in the defined benefit retirement plan under
21 AS 39.35.115 shall terminate. The participant's enrollment in the defined contribution
22 retirement plan shall be effective the first day of the month after the administrator
23 receives the completed enrollment forms. An election made by an eligible member
24 who is married is not effective unless the election is signed by the individual's spouse.

25 * **Sec. 66.** AS 39.35.940(i), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

26 (i) A member may make an election under this section only if the member's
27 employer participates in both the defined benefit retirement plan and the defined
28 contribution retirement plan and consents to transfers under this section. The employer
29 shall notify the administrator if the employer consents to allowing the employer's
30 members to choose to transfer from the defined benefit retirement plan to the defined
31 contribution retirement plan under this section. **The initial period during which the**

1 employer's members may choose to transfer commences on the first day of the
 2 month following the administrator's receipt of notice under this subsection and
 3 continues for 12 months. An employer may consent to a second period of 12
 4 months during which the employer's members may choose to transfer from the
 5 defined benefit retirement plan to the defined contribution retirement plan under
 6 this section. The second period commences on the first day of the month
 7 following the administrator's receipt of notice under this subsection and
 8 continues for 12 months. An employer's **initial** notice to allow transfers is
 9 irrevocable and applicable to all eligible employees of the employer. **An employer's**
 10 **second notice to allow transfers under this section is irrevocable and applicable**
 11 **only to those eligible employees to whom the initial period of transfer was not**
 12 **available.**

13 * **Sec. 67.** AS 39.35.940(j), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended by
 14 adding a new paragraph to read:

15 (3) "membership service" means service with a participating employer
 16 under AS 39.35.095 - 39.35.680 for which contributions have been paid and does not
 17 include any service for which reinstatement indebtedness has not been fully paid.

18 * **Sec. 68.** AS 39.35 is amended by adding new sections to read:

19 **Sec. 39.35.957. Designation of eligible employees, agreement to contribute,**
 20 **and amendment of participation.** (a) A political subdivision or public organization
 21 participating in the defined contribution retirement plan under AS 39.35.700 -
 22 39.35.990 shall designate the departments, groups, or other classifications of
 23 employees eligible to participate in the plan and, by participating, shall legally be
 24 presumed to have agreed to make contributions each year in the amounts required for
 25 members of the plan under AS 39.35.750.

26 (b) If the employer does not participate in the defined benefit retirement plan
 27 under AS 39.35.095 - 39.35.680, an employee who is eligible under (a) of this section
 28 and who is a member of the defined benefit retirement plan under AS 39.35.095 -
 29 39.35.680 does not accrue credited service or make contributions under that defined
 30 benefit retirement plan, but shall be a member of the defined contribution retirement
 31 plan under AS 39.35.700 - 39.35.990 and make contributions under that plan.

1 (c) An employer may request to amend its participation in the plan to add or
2 exclude departments, groups, or other classifications of employees by filing a
3 resolution as provided by AS 39.35.950 or 39.35.955 with the administrator.

4 **Sec. 39.35.958. Termination of participation in the plan.** (a) A political
5 subdivision or public organization may request that its participation in the plan be
6 terminated. The request may be made only after adoption of a resolution by the
7 legislative body of the political subdivision and approval of the resolution by the
8 person required by law to approve the resolution, or, in the case of a public
9 organization, after adoption of a resolution by the governing body of that public
10 organization. A certified copy of the resolution shall be filed with the administrator.

11 (b) If contributions are not transmitted to the plan within the prescribed time
12 limit, the commissioner of administration may grant an extension and shall assess
13 interest on the outstanding contributions at the rate established under AS 39.35.610. If
14 the political subdivision or public organization is in default at the end of the extension,
15 participation in the plan is terminated, and it shall be sent notice of termination.

16 (c) When an employer's participation in the plan is terminated, or when an
17 employer terminates coverage of a department, group, or other classification of
18 employees under AS 39.35.957(c), the administrator shall assess the employer an
19 amount that the administrator determines is actuarially required to fully fund the costs
20 to the plan for employees whose coverage is terminated, including the cost of
21 providing the employer's share of retiree health benefits under AS 39.35.880,
22 occupational disability and occupational death benefits under AS 39.35.890 and
23 39.35.892, and retirement benefits elected under AS 39.35.890(h)(2).

24 (d) An employee whose coverage under the plan is terminated as a result of
25 termination of an employer's participation under this section or amendment of the
26 employer's agreement under AS 39.35.957(c) shall be considered fully vested in
27 employer contributions under AS 39.35.790(b) and in the individual account
28 established for the employee under AS 39.30.370. If the employee is later employed
29 with a participating employer, the employee's membership service earned under the
30 plan during employment with a terminated employer shall be credited for purposes of
31 determining vesting in employer contributions under AS 39.35.790(b) and eligibility

1 for retirement and medical benefits under this chapter and AS 39.30.300 - 39.30.495.

2 * **Sec. 69.** AS 39.35.990(16), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to
3 read:

4 (16) "member" or "employee" means a person who is eligible to
5 participate in the plan and who is covered by [AN EMPLOYEE OF AN
6 EMPLOYER OR FORMER EMPLOYEE OF AN EMPLOYER WHO RETAINS A
7 RIGHT TO BENEFITS UNDER] the plan, but does not include full-time or part-time
8 instructors of the Department of Labor and Workforce Development and the
9 Department of Education and Early Development in positions that require a
10 teaching certificate;

11 * **Sec. 70.** AS 39.35.990(20), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to
12 read:

13 (20) "peace officer" or "fire fighter" means an employee occupying a
14 position as a peace officer, chief of police, regional public safety officer,
15 correctional officer, correctional superintendent, fire fighter, fire chief, or
16 probation officer, but does not include a village public safety officer employed by
17 a village public safety officer program established under AS 18.65.670 [HAS THE
18 MEANING GIVEN IN AS 39.35.680];

19 * **Sec. 71.** AS 39.45 is amended by adding a new section to read:

20 **Sec. 39.45.055. Appeals.** A final decision made under AS 39.45.010 -
21 39.45.060 is subject to appeal under AS 44.64.

22 * **Sec. 72.** AS 44.64.030(a) is amended by adding new paragraphs to read:

23 (36) AS 14.25.175 (waiver of adjustments under teachers' defined
24 benefit plan);

25 (37) AS 39.30.165 (supplemental benefits system);

26 (38) AS 39.30.335 (teachers' and public employees' health
27 reimbursement arrangement plan);

28 (39) AS 39.35.522 (waiver of adjustments under public employees'
29 defined benefit plan);

30 (40) AS 39.45.055 (public employees' deferred compensation
31 program).

1 * **Sec. 73.** The uncodified law of the State of Alaska enacted in sec. 134, ch. 9, FSSLA
2 2005, is amended to read:

3 Sec. 134. EMPLOYER CONTRIBUTIONS FOR OCCUPATIONAL
4 DISABILITY AND DEATH BENEFITS IN THE PUBLIC EMPLOYEES' DEFINED
5 CONTRIBUTION RETIREMENT PLAN FOR THE FIRST FISCAL YEAR THE
6 PLAN IS IN EFFECT. Notwithstanding AS 39.35.750(e), added by sec. 122, **ch. 9,**
7 **FSSLA 2005** [OF THIS ACT], for the first fiscal year in which the public employees'
8 defined contribution retirement plan is in effect, the employer contribution to fully
9 fund the cost of providing occupational disability and occupational death benefits
10 under AS 39.35.890 and 39.35.892 shall be equal to

11 (1) **0.73** [0.4] percent of the compensation for peace officers and fire
12 fighters **who are members in the plan**; and

13 (2) **0.37** [0.3] percent of the compensation for all other employees **who**
14 **are members in the plan.**

15 * **Sec. 74.** AS 14.25.045, 14.25.570; and AS 39.35.050(a) are repealed.

16 * **Sec. 75.** AS 14.25.070(b) and AS 39.35.270(b) are repealed.

17 * **Sec. 76.** AS 39.35.375(f) is repealed July 1, 2010.

18 * **Sec. 77.** The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 EMPLOYER CONTRIBUTIONS FOR OCCUPATIONAL DISABILITY AND
21 OCCUPATIONAL DEATH BENEFITS IN THE TEACHERS' DEFINED CONTRIBUTION
22 RETIREMENT PLAN FOR THE FIRST FISCAL YEAR THE PLAN IS IN EFFECT.
23 Notwithstanding AS 14.25.350(e), added by sec. 8 of this Act, for the first fiscal year in which
24 the teachers' defined contribution retirement plan is in effect, the employer contribution to
25 fully fund the cost of providing occupational disability and occupational death benefits under
26 AS 14.25.485 and 14.25.487 shall be equal to 0.26 percent of the amount of compensation
27 paid to all teachers who work for the employer in that year and are members of the plan.

28 * **Sec. 78.** The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

30 RETROACTIVITY. Section 75 of this Act is retroactive to July 1, 2005.