

**CS FOR SENATE BILL NO. 130(FIN) am**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 4/12/05

Offered: 4/11/05

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to a special deposit for workers' compensation and employers' liability**  
2 **insurers; relating to assigned risk pools; relating to workers' compensation insurers;**  
3 **stating the intent of the legislature, and setting out limitations, concerning the**  
4 **interpretation, construction, and implementation of workers' compensation laws;**  
5 **relating to the Alaska Workers' Compensation Board; assigning certain Alaska**  
6 **Workers' Compensation Board functions to the division of workers' compensation in the**  
7 **Department of Labor and Workforce Development and to that department, and**  
8 **authorizing the board to delegate administrative and enforcement duties to the division;**  
9 **providing for workers' compensation hearing officers in workers' compensation**  
10 **proceedings; establishing a Workers' Compensation Appeals Commission; relating to**  
11 **workers' compensation medical benefits and to charges for and payment of fees for the**  
12 **medical benefits; relating to agreements that discharge workers' compensation liability;**

1 relating to workers' compensation awards; relating to reemployment benefits and job  
 2 dislocation benefits; relating to coordination of workers' compensation and certain  
 3 disability benefits; relating to division of workers' compensation records; relating to  
 4 release of treatment records; relating to an employer's failure to insure and keep  
 5 insured or provide security; providing for appeals from compensation orders; relating  
 6 to workers' compensation proceedings; providing for supreme court jurisdiction of  
 7 appeals from the Workers' Compensation Appeals Commission; providing for a  
 8 maximum amount for the cost-of-living adjustment for workers' compensation benefits;  
 9 relating to attorney fees with respect to workers' compensation; providing for the  
 10 department to enter into contracts with nonprofit organizations to provide information  
 11 services and legal representation to injured employees; providing for administrative  
 12 penalties for employers uninsured or without adequate security for workers'  
 13 compensation; relating to fraudulent acts or false or misleading statements in workers'  
 14 compensation and penalties for the acts or statements; providing for members of a  
 15 limited liability company to be included as an employee for purposes of workers'  
 16 compensation; establishing a workers' compensation benefits guaranty fund; making  
 17 conforming amendments; providing for a study and report by the medical services  
 18 review committee; establishing the Task Force on Workers' Compensation; and  
 19 providing for an effective date."

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

21 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
 22 to read:

23 **LEGISLATIVE INTENT.** It is the intent of the legislature by secs. 2 - 4 of this Act

24 (1) to reform the workers' compensation system in Alaska to ensure the

1 continued payment of benefits in the event of an insurer insolvency; and

2 (2) to reduce the overall costs of workers' compensation premiums to  
3 employers.

4 \* **Sec. 2.** AS 21.09.090 is amended by adding new subsections to read:

5 (e) In addition to and separate from the deposit required under (b) of this  
6 section, an insurer that is authorized to transact workers' compensation and employer's  
7 liability insurance as defined in AS 21.12.070(a)(3) shall deposit in this state, through  
8 the director, for the protection of persons in this state covered by workers'  
9 compensation insurance issued by the insurer, an amount not less than the greater of

10 (1) \$100,000; or

11 (2) an amount equal to the sum of the following less any credit for  
12 reinsurance that the insurer may take under (f) of this section:

13 (A) the aggregate of the present value at four percent interest of  
14 the total determined and estimated future loss and loss expense payment upon  
15 each claim incurred under a policy written in this state more than three years  
16 before the date of computation; and

17 (B) for each of the three years before the date of computation,  
18 65 percent of the earned premium for the year less each loss and loss expense  
19 payment made upon a claim incurred in the corresponding year, except that the  
20 amount for any year may not be less than the present value at four percent  
21 interest of the total determined and estimated future loss and loss expense  
22 payment upon each claim incurred under a policy written in this state that year.

23 (f) In calculating the deposit amount required under (e)(2) of this section, an  
24 insurer may take a credit for reinsurance if the reinsurer has deposited in trust in this  
25 state, through the director, an amount at least equal to the credit to be taken, and not  
26 less than the aggregate of all credits taken by each insurer under this subsection.

27 \* **Sec. 3.** AS 21.24.130 is amended by adding a new subsection to read:

28 (f) If an insurer is found to be insolvent by a proceeding under AS 21.78 or by  
29 a court of competent jurisdiction in another state, the director shall take control of the  
30 insurer's deposit made under AS 21.09.090(e). The deposit assets shall be released, at  
31 the discretion of the director, to the Alaska Insurance Guaranty Association

1 (AS 21.80) to reimburse for a valid loss and loss expense claim payment made by the  
 2 association that is within the purpose of the deposit. The director shall pay the  
 3 remaining deposit assets to the receiver, conservator, rehabilitator, or liquidator of the  
 4 insurer, or to another properly designated official who succeeds to the management  
 5 and control of the insurer's assets, after the director determines that all loss and loss  
 6 expense liabilities have been paid that were incurred on the insurer's policies written in  
 7 this state for which the deposit was required.

8 \* **Sec. 4.** AS 21.39.155(a) is amended to read:

9 (a) The director may require insurers, except a reciprocal insurer formed [BY  
 10 AND INSURING ONLY A GROUP OF MUNICIPALITIES OR NONPROFIT  
 11 PUBLIC UTILITIES] under AS 21.75 [OR A RECIPROCAL INSURER FORMED  
 12 UNDER AS 21.75 TO PROVIDE MARINE INSURANCE], as a condition of writing  
 13 a line of insurance dealing with medical malpractice or workers' compensation, to  
 14 participate in an assigned risk pool if the director finds that mandatory carrier  
 15 participation is in the public interest.

16 \* **Sec. 5.** AS 23.30 is amended by adding a new section to read:

17 **Sec. 23.30.001. Intent of the legislature and construction of chapter.** It is  
 18 the intent of the legislature that

19 (1) this chapter be interpreted so as to ensure the quick, efficient, fair,  
 20 and predictable delivery of indemnity and medical benefits to injured workers at a  
 21 reasonable cost to the employers who are subject to the provisions of this chapter;

22 (2) workers' compensation cases shall be decided on their merits  
 23 except where otherwise provided by statute;

24 (3) this chapter may not be construed by the courts in favor of a party;

25 (4) hearings in workers' compensation cases shall be impartial and fair  
 26 to all parties and that all parties shall be afforded due process and an opportunity to be  
 27 heard and for their arguments and evidence to be fairly considered.

28 \* **Sec. 6.** AS 23.30.005(a) is amended to read:

29 (a) The Alaska Workers' Compensation Board consists of a southern panel of  
 30 three members sitting for the first judicial district, a northern panel of three members  
 31 sitting for the second and fourth judicial districts, four southcentral panels of three

1 members each sitting for the third judicial district, and one panel of three members  
 2 that may sit in any judicial district. Each panel must include the commissioner of  
 3 labor and workforce development or **a hearing officer designated to represent** [THE  
 4 DESIGNATED REPRESENTATIVE OF] the commissioner, a representative of  
 5 industry, and a representative of labor. The latter two members of each panel shall be  
 6 appointed by the governor and are subject to confirmation by a majority of the  
 7 members of the legislature in joint session. **The board shall by regulation provide**  
 8 **procedures to avoid conflicts and the appearance of impropriety in hearings.**

9 \* **Sec. 7.** AS 23.30.005(b) is amended to read:

10 (b) The commissioner shall act as **chair** [CHAIRMAN] and executive officer  
 11 of the board and **chair** [CHAIRMAN] of each panel. **The commissioner may**  
 12 **designate a representative to act for the commissioner as chair and executive**  
 13 **officer of the board. The commissioner may designate hearing officers to serve as**  
 14 **chairs of panels for hearing claims** [IF THE COMMISSIONER DESIGNATES A  
 15 REPRESENTATIVE TO ACT FOR THE COMMISSIONER, THE  
 16 REPRESENTATIVE SHALL SERVE IN THAT CAPACITY ON THE BOARD  
 17 AND ON EACH PANEL].

18 \* **Sec. 8.** AS 23.30.005 is amended by adding new subsections to read:

19 (m) The department may, in its discretion, contract with a nonprofit  
 20 organization to provide information services and legal representation to employees in  
 21 proceedings under this chapter.

22 (n) The board may by regulation delegate authority to the director to assist the  
 23 board in administering and enforcing this chapter.

24 \* **Sec. 9.** AS 23.30 is amended by adding new sections to read:

25 **Sec. 23.30.007. Workers' Compensation Appeals Commission.** (a) There  
 26 is established in the Department of Labor and Workforce Development the Workers'  
 27 Compensation Appeals Commission. The commission has jurisdiction to hear appeals  
 28 from final decisions and orders of the board under this chapter. Jurisdiction of the  
 29 commission is limited to administrative appeals arising under this chapter.

30 (b) The commission consists of five members appointed by the governor and  
 31 confirmed by a majority of the members of the legislature in joint session. The

1 members shall be appointed as follows:

2 (1) a member appointed as chair who meets the requirements of (c)(2)  
3 of this section;

4 (2) two members who, because of their employment or affiliations,  
5 may be classified as a representative of employees covered by this chapter;

6 (3) two members who, because of their employment or affiliations,  
7 may be classified as a representative of employers covered by this chapter.

8 (c) To be eligible for appointment under this section

9 (1) the member must

10 (A) be a citizen of the United States;

11 (B) be a resident of the state for the five years preceding the  
12 appointment; and

13 (C) have not been convicted of either a

14 (i) felony; or

15 (ii) misdemeanor related to workers' compensation;

16 (2) the chair must

17 (A) meet the criteria specified in (1) of this subsection;

18 (B) be licensed to practice law in this state and be a member in  
19 good standing with the Alaska Bar Association; and

20 (C) have engaged in the active practice of law for at least five  
21 years with experience in workers' compensation in this state.

22 (d) A member may act and receive compensation under this section from the  
23 date of appointment until confirmation or rejection by the legislature.

24 (e) The term of service on the commission is five years. A member may be  
25 reappointed so long as the reappointment complies with the provisions of this section.

26 (f) The chair of the commission is in the exempt service under AS 39.25.110  
27 and shall receive a monthly salary that is not less than Step A nor more than Step F of  
28 Range 27 of the salary schedule in AS 39.27.011(a) for Anchorage, Alaska.

29 (g) A vacancy arising in the commission shall be filled by appointment by the  
30 governor and confirmed by a majority of the members of the legislature in joint  
31 session. Except as provided in AS 39.05.080(4), an appointee selected to fill a

1 vacancy shall hold office for the unexpired term of the member whose vacancy is  
 2 filled. A vacancy in the commission does not impair the authority of a quorum of  
 3 members to exercise all the powers and perform all the duties of the commission.

4 (h) An appeal to the commission shall be heard and decided by a three-  
 5 member panel of the commission. An appeal panel shall consist of the chair of the  
 6 commission and two members of the commission assigned by the chair, one member  
 7 classified as representing employees, and one member classified as representing  
 8 employers. At other meetings to conduct commission business, the number of  
 9 commission members classified as representing employees must equal the number of  
 10 commission members classified as representing employers. The chair of the  
 11 commission and two representative members of the commission, one classified as  
 12 representing employees and one classified as representing employers, constitutes a  
 13 quorum.

14 (i) A member of the commission may be removed from office by the governor  
 15 for good cause. To be removed for cause, a member of the commission shall be given  
 16 a copy of the charges and afforded an opportunity to be heard in person or by counsel  
 17 in the member's own defense upon not less than 10 days' notice. If the member is  
 18 removed for cause, the governor shall file with the lieutenant governor a complete  
 19 statement of all charges made against the member, the governor's findings on the  
 20 charges, and the record of any proceedings. In this subsection, "good cause" includes

21 (1) misconduct in office or violation of AS 39.52;

22 (2) conviction of a felony;

23 (3) conviction of a misdemeanor related to workers' compensation;

24 (4) inability to serve, neglect of duty, incompetence, unjustified failure  
 25 to handle the caseload assigned, or similar nonfeasance of office; and

26 (5) failure to continue to meet the requirements of this section relating  
 27 to qualification for office.

28 (j) Representative members are entitled to compensation in the amount of  
 29 \$200 a day for each day spent in actual hearing of appeals or on authorized official  
 30 business incidental to their duties, and to transportation and per diem as provided by  
 31 law. Compensation shall be paid pro rata for each portion of a day spent in actual

1 hearing of appeals or on authorized official business.

2 (k) A member of the commission may not hear an appeal under this chapter if

3 (1) a party is an employee or was, in the past seven years, an employee  
4 of the commission member or of a business that employs the commission member;  
5 this paragraph does not apply to the chair of the commission when the State of Alaska  
6 is or was the employer of a party;

7 (2) a party is a member or was, in the past seven years, a member of  
8 the same union or employee association as the commission member;

9 (3) a party has a contractual relationship with the commission member,  
10 a business that employs the commission member, or a union or employee association  
11 of which the commission member is a member;

12 (4) the commission member is unable to be fair, impartial, and  
13 unbiased toward the appeal participants; or

14 (5) participation in the appeal is a violation of AS 39.52.

15 (l) If the chair of the commission is unable to hear an appeal for reasons of  
16 absence or illness in excess of 10 days, or for reasons set out in (k) of this section, the  
17 commissioner of the department shall appoint a person who meets the qualifications of  
18 this section to serve as chair to hear the appeal as chair pro tem. The person shall  
19 receive the compensation provided in (j) of this section. Appointment of a chair pro  
20 tem does not require legislative confirmation.

21 (m) Each member of the commission, before entering upon the duties of  
22 office, shall take and subscribe to the oath prescribed for principal officers of the state.

23 (n) The offices of the commission shall be physically separate from the offices  
24 of the division.

25 **Sec. 23.30.008. Powers and duties of the commission.** (a) The commission  
26 shall be the exclusive and final authority for the hearing and determination of all  
27 questions of law and fact arising under this chapter in those matters that have been  
28 appealed to the commission, except for an appeal to the Alaska Supreme Court. The  
29 commission does not have jurisdiction in any case that does not arise under this  
30 chapter or in any criminal case. On any matter taken to the commission, the decision  
31 of the commission is final and conclusive, unless appealed to the Alaska Supreme

1 Court, and shall stand in lieu of the order of the board from which the appeal was  
 2 taken. Unless reversed by the Alaska Supreme Court, decisions of the commission  
 3 have the force of legal precedent.

4 (b) The commission, in its administrative capacity, shall maintain, index, and  
 5 make available for public inspection the final administrative decisions and orders of  
 6 the commission and of the board. The chair of the commission may review and  
 7 circulate among the other members of the relevant commission appeal panel the drafts  
 8 of the panel's formal decisions and decisions upon reconsideration. The drafts are  
 9 confidential documents and are not subject to disclosure.

10 (c) The chair of the commission shall draft and propose, and the commission  
 11 in its administrative capacity may adopt, regulations implementing the commission's  
 12 authority and duties under this chapter, including rules of procedure and evidence for  
 13 proceedings before the commission under this chapter. The provisions of AS 44.62  
 14 (Administrative Procedure Act) apply to the adoption of regulations by the  
 15 commission.

16 (d) In an appeal, the commission shall award a successful party reasonable  
 17 costs and, if the party is represented by an attorney, attorney fees that the commission  
 18 determines to be fully compensatory and reasonable. However, the commission may  
 19 not make an award of attorney fees against an injured worker unless the commission  
 20 finds that the worker's position on appeal was frivolous or unreasonable or the appeal  
 21 was taken in bad faith.

22 (e) The commission, in its administrative capacity, may adopt and alter an  
 23 official seal and do all things necessary, convenient, or desirable to carry out the  
 24 powers expressly granted or necessarily implied in this chapter.

25 **Sec. 23.30.009. Powers and duties of the chair of the commission.** (a) The  
 26 chair of the commission shall exercise general supervision over the office of the  
 27 commission and over appeals, and shall direct the administrative functions of the  
 28 commission. The chair of the commission shall serve as the executive officer of the  
 29 commission and shall have authority in all administrative matters relating to the  
 30 members. The chair may

31 (1) employ and supervise commission staff and appoint a commission

1 clerk;

2 (2) establish and implement a time management system for the  
3 commission members and staff and manage the calendar of appeals;

4 (3) assign the work of the commission members and staff so that  
5 appeals are resolved as expeditiously and competently as possible;

6 (4) advise and cooperate with the board to develop appropriate  
7 procedures for maintenance and transfer of hearing files and the preservation and  
8 transfer of records on appeal; and

9 (5) prepare an annual budget of the commission.

10 (b) The chair of the commission shall preside over hearings and arguments on  
11 appeals. The chair of the commission shall ensure that all functions of the commission  
12 are performed with due regard for the rights of all parties and consistent with the  
13 orderly and prompt resolution of appeals. The chair of the commission shall rule on  
14 questions of procedure and advise the representative members of the commission on  
15 matters of law.

16 (c) The chair of the commission shall, not later than March 15 of each year,  
17 make available to the public and file with the lieutenant governor, a report regarding  
18 the commission, including data regarding time periods between initial receipt and final  
19 decisions on appeals.

20 (d) The chair of the commission shall devote full time to the duties of the chair  
21 of the commission and may not engage in any other employment or business. The  
22 chair of the commission may not hold any other office or position under the United  
23 States, this state, any municipality or political subdivision of this state, or any tribal  
24 government or corporation. The chair of the commission may not hold office or  
25 position in a partisan political organization or party.

26 \* **Sec. 10.** AS 23.30.012 is amended to read:

27 **Sec. 23.30.012. Agreements in regard to claims.** (a) At any time after  
28 death, or after 30 days subsequent to the date of the injury, the employer and the  
29 employee or the beneficiary or beneficiaries, as the case may be, have the right to  
30 reach an agreement in regard to a claim for injury or death under this chapter [IN  
31 ACCORDANCE WITH THE APPLICABLE SCHEDULE IN THIS CHAPTER], but

1 a memorandum of the agreement in a form prescribed by the **director** [BOARD] shall  
 2 be filed with the **division** [BOARD]. Otherwise, the agreement is void for any  
 3 purpose. **Except as provided in (b) of this section, an agreement filed with the**  
 4 **division discharges the liability of the employer for the compensation,**  
 5 **notwithstanding the provisions of AS 23.30.130, 23.30.160, and 23.30.245, and is**  
 6 **enforceable as a compensation order.**

7 **(b) If the claimant or beneficiary is not represented by an attorney**  
 8 **licensed to practice in this state or the beneficiary is a minor or incompetent, the**  
 9 **agreement shall be reviewed by a panel of the board.** If approved by the board, the  
 10 agreement is enforceable the same as an order or award of the board and discharges  
 11 the liability of the employer for the compensation notwithstanding the provisions of  
 12 AS 23.30.130, 23.30.160, and 23.30.245. The agreement shall be approved by the  
 13 board only when the terms conform to the provisions of this chapter, and, if it involves  
 14 or is likely to involve permanent disability, the board may require an impartial medical  
 15 examination and a hearing in order to determine whether or not to approve the  
 16 agreement. **A** [THE BOARD MAY APPROVE] lump-sum **settlement may be**  
 17 **approved** [SETTLEMENTS] when it appears to be to the best interest of the  
 18 employee or beneficiary or beneficiaries.

19 \* **Sec. 11.** AS 23.30.041(a) is amended to read:

20 (a) The **director** [BOARD] shall select and employ a reemployment benefits  
 21 administrator. The **director** [BOARD] may authorize the administrator to select and  
 22 employ additional staff. The administrator is in the partially exempt service under  
 23 AS 39.25.120.

24 \* **Sec. 12.** AS 23.30.041(b) is amended to read:

25 (b) The administrator shall  
 26 (1) enforce regulations adopted by the board to implement this section;  
 27 (2) recommend regulations for adoption by the board that establish  
 28 performance and reporting criteria for rehabilitation specialists;  
 29 (3) enforce the quality and effectiveness of reemployment benefits  
 30 provided for under this section;  
 31 (4) review on an annual basis the performance of rehabilitation

1 specialists to determine continued eligibility for delivery of rehabilitation services;

2 (5) submit to the department, on or before May 1 of each year, a report  
3 of reemployment benefits provided under this section for the previous calendar year;  
4 the report must include a general section, sections related to each rehabilitation  
5 specialist employed under this section, and a statistical summary of all rehabilitation  
6 cases, including

7 (A) the estimated and actual cost of each active rehabilitation  
8 plan;

9 (B) the estimated and actual time of each rehabilitation plan;

10 (C) a status report on all individuals **requesting, waiving,**  
11 **beginning,** completing, or terminating a reemployment benefits program  
12 including

13 **(i) reasons for denial, waiver, suspension, or**  
14 **termination;**

15 **(ii) dates of completion and [A] return to work; and**

16 **(iii) other information required by the director**

17 [DATE];

18 (D) the cost of reemployment benefits;

19 **(E) status reports of all individuals who successfully**  
20 **completed a reemployment plan that includes**

21 **(i) the plan's occupational goal and whether the**  
22 **individual obtained work after completion in the planned or**  
23 **another occupation; and**

24 **(ii) the individual's employment status six months,**  
25 **one year, and two years after reemployment plan completion;**

26 (6) maintain a list of rehabilitation specialists who meet the  
27 qualifications established under this section;

28 (7) promote awareness among physicians, adjusters, injured workers,  
29 employers, employees, attorneys, training providers, and rehabilitation specialists of  
30 the reemployment program established in this subsection.

31 \* **Sec. 13.** AS 23.30.041(c) is repealed and reenacted to read:

1 (c) An employee and an employer may stipulate to the employee's eligibility  
 2 for reemployment benefits at any time. If an employee suffers a compensable injury  
 3 and, as a result of the injury, the employee is totally unable, for 45 consecutive days,  
 4 to return to the employee's employment at the time of injury, the administrator shall  
 5 notify the employee of the employee's rights under this section within 14 days after the  
 6 45th day. If the employee is totally unable to return to the employee's employment for  
 7 60 consecutive days as a result of the injury, the employee or employer may request an  
 8 eligibility evaluation. The administrator may approve the request if the employee's  
 9 injury may permanently preclude the employee's return to the employee's occupation  
 10 at the time of the injury. If the employee is totally unable to return to the employee's  
 11 employment at the time of the injury for 90 consecutive days as a result of the injury,  
 12 the administrator shall, without a request, order an eligibility evaluation unless a  
 13 stipulation of eligibility was submitted. If the administrator approves a request or  
 14 orders an evaluation, the administrator shall, on a rotating and geographic basis, select  
 15 a rehabilitation specialist from the list maintained under (b)(6) of this section to  
 16 perform the eligibility evaluation. If the person that employs a rehabilitation specialist  
 17 selected by the administrator to perform an eligibility evaluation under this subsection  
 18 is performing any other work on the same workers' compensation claim involving the  
 19 injured employee, the administrator shall select a different rehabilitation specialist.

20 \* **Sec. 14.** AS 23.30.041(f) is amended to read:

21 (f) An employee is not eligible for reemployment benefits if

22 (1) the employer offers employment within the employee's predicted  
 23 post-injury physical capacities at a wage equivalent to at least the state minimum wage  
 24 under AS 23.10.065 or 75 percent of the worker's gross hourly wages at the time of  
 25 injury, whichever is greater, and the employment prepares the employee to be  
 26 employable in other jobs that exist in the labor market;

27 (2) **the employee previously declined the development of a**  
 28 **reemployment benefits plan under (g) of this section, received a job dislocation**  
 29 **benefit under (g)(2) of this section, and returned to work in the same or similar**  
 30 **occupation in terms of physical demands required of the employee at the time of**  
 31 **the previous injury;**

1                   **(3)** the employee has been previously rehabilitated in a former  
 2 worker's compensation claim and returned to work in the same or similar occupation  
 3 in terms of physical demands required of the employee at the time of the previous  
 4 injury; or

5                   **(4)** [(3)] at the time of medical stability, no permanent impairment is  
 6 identified or expected.

7 \* **Sec. 15.** AS 23.30.041(g) is amended to read:

8                   (g) Within **30** [15] days after the employee receives the administrator's  
 9 notification of eligibility for benefits, an employee [WHO DESIRES TO USE THESE  
 10 BENEFITS] shall give written notice **under oath, on a form provided by the**  
 11 **division, to the administrator and the employer of the employee's election to**  
 12 **either use the reemployment benefits or to accept a job dislocation benefit under**  
 13 **(2) of this subsection. The following apply to an election under this subsection:**

14                   **(1) an employee who elects to use the reemployment benefits also**  
 15 **shall notify the** employer of the employee's selection of a rehabilitation specialist who  
 16 shall provide a complete reemployment benefits plan; **failure** [ . FAILURE] to give  
 17 notice **of selection of a rehabilitation specialist** required by this **paragraph**  
 18 [SUBSECTION] constitutes noncooperation under (n) of this section; **if** [ . IF] the  
 19 employer disagrees with the employee's choice of rehabilitation specialist to develop  
 20 the plan and the disagreement cannot be resolved, then the administrator shall assign a  
 21 rehabilitation specialist; **the** [ . THE] employer and employee each have one right of  
 22 refusal of a rehabilitation specialist;

23                   **(2) an employee who elects to accept a job dislocation benefit in**  
 24 **place of reemployment benefits and who has been given a permanent partial**  
 25 **impairment rating by a physician shall be paid**

26                   **(A) \$5,000 if the employee's permanent partial impairment**  
 27 **rating is greater than zero and less than 15 percent;**

28                   **(B) \$8,000 if the employee's permanent partial impairment**  
 29 **rating is 15 percent or greater but less than 30 percent; or**

30                   **(C) \$13,500 if the employee's permanent partial**  
 31 **impairment rating is 30 percent or greater;**

1                   **(3) the form provided by the division for election must specify that**  
 2                   **the employee understands the scope of the benefits and rights being waived by**  
 3                   **the election; the administrator shall serve a copy of the executed election form on**  
 4                   **the parties within 10 days after receiving the form from the employee; the**  
 5                   **election and waiver of unchosen benefits is effective upon service to the parties; a**  
 6                   **waiver and election effective under this subsection discharges the employer's**  
 7                   **liability for the benefits or rights under this section that were not elected; a**  
 8                   **waiver may not be modified under AS 23.30.130; the administrator may not**  
 9                   **accept an election to accept a job dislocation benefit by an employee who has not**  
 10                   **signed a form that conspicuously notes the benefit being waived.**

11 \* **Sec. 16.** AS 23.30.041(j) is amended to read:

12                   (j) The employee, rehabilitation specialist, and [THE] employer shall sign the  
 13                   reemployment benefits plan. If the employer and employee fail to agree on a  
 14                   reemployment plan, either party may submit a reemployment plan for approval to the  
 15                   administrator. **The** [; THE] administrator shall approve or deny a plan within 14 days  
 16                   after the plan is submitted. **Within** [; WITHIN] 10 days **after** [OF] the decision,  
 17                   either party may seek review of the decision by requesting a hearing under  
 18                   AS 23.30.110. **The** [; THE] board shall uphold the decision of the administrator  
 19                   unless evidence is submitted supporting an allegation of abuse of discretion on the part  
 20                   of the administrator. **The** [; THE] board shall render a decision within 30 days after  
 21                   completion of the hearing.

22 \* **Sec. 17.** AS 23.30.041(k) is amended to read:

23                   (k) Benefits related to the reemployment plan may not extend past two years  
 24                   from date of plan approval or acceptance, whichever date occurs first, at which time  
 25                   the benefits expire. If an employee reaches medical stability before completion of the  
 26                   plan, temporary total disability benefits shall cease, and permanent impairment  
 27                   benefits shall then be paid at the employee's temporary total disability rate. If the  
 28                   employee's permanent impairment benefits are exhausted before the completion or  
 29                   termination of the reemployment **process** [PLAN], the employer shall provide  
 30                   compensation equal to 70 percent of the employee's spendable weekly wages, but not  
 31                   to exceed 105 percent of the average weekly wage, until the completion or termination

1 of the **process** [PLAN], except that any compensation paid under this subsection is  
 2 reduced by wages earned by the employee while participating in the **process** [PLAN]  
 3 to the extent that the wages earned, when combined with the compensation paid under  
 4 this subsection, exceed the employee's temporary total disability rate. If permanent  
 5 partial disability **or permanent partial impairment** benefits have been paid in a lump  
 6 sum before the employee requested or was found eligible for reemployment benefits,  
 7 payment of benefits under this subsection is suspended until permanent partial  
 8 disability **or permanent partial impairment** benefits would have ceased, had those  
 9 benefits been paid at the employee's temporary total disability rate, notwithstanding  
 10 the provisions of AS 23.30.155(j). A permanent impairment benefit remaining unpaid  
 11 upon the completion or termination of the plan shall be paid to the employee in a  
 12 single lump sum. An employee may not be considered permanently totally disabled so  
 13 long as the employee is involved in the rehabilitation process under this chapter. The  
 14 fees of the rehabilitation specialist or rehabilitation professional shall be paid by the  
 15 employer and may not be included in determining the cost of the reemployment plan.

16 \* **Sec. 18.** AS 23.30.041(n) is amended to read:

17 (n) After the employee has elected to participate in reemployment benefits, if  
 18 the employer believes the employee has not cooperated, the employer may terminate  
 19 reemployment benefits on the date of noncooperation. Noncooperation means

20 (1) unreasonable failure to

21 (A) keep appointments;

22 (B) maintain passing grades;

23 (C) attend designated programs;

24 (D) maintain contact with the rehabilitation specialist;

25 (E) cooperate with the rehabilitation specialist in developing a  
 26 reemployment plan and participating in activities relating to reemployability on  
 27 a full-time basis;

28 (F) comply with the employee's responsibilities outlined in the  
 29 reemployment plan; or

30 (G) participate in any planned reemployment activity as  
 31 determined by the administrator; or

1 (2) failure to give written notice to the employer of the employee's  
 2 choice of rehabilitation specialists within **30** [15] days after receiving notice of  
 3 eligibility for benefits from the administrator as required by (g) of this section.

4 \* **Sec. 19.** AS 23.30.041(p) is amended to read:

5 (p) When the United States Department of Labor publishes a new edition,  
 6 revision, or replacement for the "Selected Characteristics of Occupations Defined in  
 7 the Revised Dictionary of Occupational Titles" referred to in (e) of this section, the  
 8 **director** [BOARD] shall, not later than 90 days after the last day of the month in  
 9 which the new edition, revision, or replacement standard is published, hold an open  
 10 meeting under AS 44.62.310 to select the **proposed** date on which the new edition,  
 11 revision, or replacement standard will be implemented to make all eligibility  
 12 determinations required under (e) of this section. The date selected by the  
 13 **department** [BOARD] for implementing the new edition, revision, or replacement  
 14 standard may not be later than 90 days after the last day of the month in which the new  
 15 edition, revision, or replacement standard is published. After the meeting, the  
 16 **director** [BOARD] shall issue a public notice announcing the date selected **by the**  
 17 **department**. The requirements of AS 44.62.010 - 44.62.300 do not apply to the  
 18 selection or announcement of the date under this subsection.

19 \* **Sec. 20.** AS 23.30.041(q) is amended to read:

20 (q) Notwithstanding AS 23.30.012, after medical stability has been determined  
 21 and a physician has predicted that the employee may have a permanent impairment  
 22 that may cause the employee to have permanent physical capacities that are less than  
 23 the physical demands of the employee's job at the time of injury, an employee may  
 24 waive any benefits or rights under this section, including an eligibility evaluation and  
 25 benefits related to a reemployment plan. To waive any benefits or rights under this  
 26 section, an employee must file a statement under oath with the **division** [BOARD] to  
 27 notify the parties of the waiver and to specify the scope of benefits or rights that the  
 28 employee seeks to waive. The statement must be on a form prescribed or approved by  
 29 the **director** [BOARD]. The **division** [BOARD] shall serve the notice of waiver on  
 30 all parties to the claim within 10 days after filing. The waiver is effective upon service  
 31 to the party. A waiver effective under this subsection discharges the liability of the

1 employer for the benefits or rights contained in this section. The waiver may not be  
2 modified under AS 23.30.130.

3 \* **Sec. 21.** AS 23.30.080(d) is amended to read:

4 (d) If an employer fails to insure or provide security as required by  
5 AS 23.30.075, the board may issue a stop order **at the request of the division**  
6 prohibiting the use of employee labor by the employer until the employer insures or  
7 provides security as required by AS 23.30.075. The failure of an employer to file  
8 evidence of compliance as required by AS 23.30.085 creates a rebuttable presumption  
9 that the employer has failed to insure or provide security as required by AS 23.30.075.  
10 If an employer fails to comply with a stop order issued under this section, the board  
11 shall assess a civil penalty of \$1,000 a [PER] day. The employer may not obtain a  
12 public contract with the state or a political subdivision of the state for three years  
13 following the violation of the stop order.

14 \* **Sec. 22.** AS 23.30.080 is amended by adding new subsections to read:

15 (e) If a representative of the department investigates an employer's failure to  
16 file the evidence of compliance required by AS 23.30.085 and, after investigation,  
17 there is substantial evidence that the employer failed to insure or provide security as  
18 required by AS 23.30.075, the representative shall inform the employer. The  
19 representative may request the director to issue a stop order prohibiting the use of  
20 employee labor by the employer until the employer insures or provides security as  
21 required by AS 23.30.075. The director may issue a stop order, without a hearing,  
22 based on the representative's investigation. The director shall dissolve a stop order  
23 issued under this subsection upon receipt of substantial evidence that the employer is  
24 insured or has provided security as required by AS 23.30.075(a). If an employer fails  
25 to comply with a stop order issued under this subsection, the division may petition the  
26 board to assess a civil penalty. The board may assess a civil penalty of \$1,000 a day.  
27 An employer who is assessed a penalty under this subsection may not obtain a public  
28 contract with the state or a political subdivision of the state for the three years  
29 following violation of the stop order.

30 (f) If an employer fails to insure or provide security as required by  
31 AS 23.30.075, the division may petition the board to assess a civil penalty of up to

1 \$1,000 for each employee for each day an employee is employed while the employer  
 2 failed to insure or provide the security required by AS 23.30.075. The failure of an  
 3 employer to file evidence of compliance as required by AS 23.30.085 creates a  
 4 rebuttable presumption that the employer failed to insure or provide security as  
 5 required by AS 23.30.075.

6 (g) If an employer fails to pay a civil penalty order issued under (d), (e), or (f)  
 7 of this section within seven days after the date of service of the order upon the  
 8 employer, the director may declare the employer in default. The director shall file a  
 9 certified copy of the penalty order and declaration of default with the clerk of the  
 10 superior court. The court shall, upon the filing of the copy of the order and  
 11 declaration, enter judgment for the amount declared in default if it is in accordance  
 12 with law. Anytime after a declaration of default, the attorney general shall, when  
 13 requested to do so by the director, take appropriate action to ensure collection of the  
 14 defaulted payment. Review of the judgment may be had as provided under the Alaska  
 15 Rules of Civil Procedure. Final proceedings to execute the judgment may be had by  
 16 writ of execution.

17 \* **Sec. 23.** AS 23.30 is amended by adding a new section to read:

18 **Sec. 23.30.082. Workers' compensation benefits guaranty fund.** (a) The  
 19 workers' compensation benefits guaranty fund is established in the general fund to  
 20 carry out the purposes of this section. The fund is composed of civil penalty payments  
 21 made by employers under AS 23.30.080, income earned on investment of the money  
 22 in the fund, money deposited in the fund by the department, and appropriations to the  
 23 fund. Money appropriated to the fund does not lapse. Amounts in the fund may be  
 24 appropriated for claims against the fund, for expenses directly related to fund  
 25 operations and claims, and for legal expenses.

26 (b) Every three months, the Department of Revenue shall provide the division  
 27 with a statement of the activities of, balances in, interest earned on, and interest  
 28 returned to the fund.

29 (c) Subject to the provisions of this section, an employee employed by an  
 30 employer who fails to meet the requirements of AS 23.30.075 and who fails to pay  
 31 compensation and benefits due to the employee under this chapter, may file a claim for

1 payment by the fund. In order to be eligible for payment, the claim form must be filed  
2 within the same time, and in the same manner, as a workers' compensation claim. The  
3 fund may assert the same defenses as an insured employer under this chapter.

4 (d) If the fund pays benefits to an employee under this section, the fund shall  
5 be subrogated to all of the rights of the employee to the amount paid, and the  
6 employee shall assign all right, title, and interest in that portion of the employee's  
7 workers' compensation claim and any recovery under AS 23.30.015 to the fund.  
8 Money collected by the division on the claim or recovery shall be deposited in the  
9 fund.

10 (e) If the money deposited in the fund is insufficient at a given time to satisfy  
11 a duly authorized claim against the fund, the fund shall, when sufficient money has  
12 been deposited in the fund and appropriated, satisfy unpaid claims in the order in  
13 which the claims were originally filed, without interest.

14 (f) The division may contract under AS 36.30 (State Procurement Code) with  
15 a person for the person to adjust claims against the fund. The contract may cover one  
16 or more claims.

17 (g) In this section, "fund" means the workers' compensation benefits guaranty  
18 fund.

19 \* **Sec. 24.** AS 23.30.095(c) is amended to read:

20 (c) A claim for medical or surgical treatment, or treatment requiring  
21 continuing and multiple treatments of a similar nature is not valid and enforceable  
22 against the employer unless, within 14 days following treatment, the physician or  
23 health care provider giving the treatment or the employee receiving it furnishes to the  
24 employer and the board notice of the injury and treatment, preferably on a form  
25 prescribed by the board. The board shall, however, excuse the failure to furnish notice  
26 within 14 days when it finds it to be in the interest of justice to do so, and it may, upon  
27 application by a party in interest, make an award for the reasonable value of the  
28 medical or surgical treatment so obtained by the employee. When a claim is made for  
29 a course of treatment requiring continuing and multiple treatments of a similar nature,  
30 in addition to the notice, the physician or health care provider shall furnish a written  
31 treatment plan if the course of treatment will require more frequent outpatient visits

1 than the standard treatment frequency for the nature and degree of the injury and the  
 2 type of treatments. The treatment plan shall be furnished to the employee and the  
 3 employer within 14 days after treatment begins. The treatment plan must include  
 4 objectives, modalities, frequency of treatments, and reasons for the frequency of  
 5 treatments. If the treatment plan is not furnished as required under this subsection,  
 6 neither the employer nor the employee may be required to pay for treatments that  
 7 exceed the frequency standard. The board shall adopt regulations establishing  
 8 standards for frequency of treatment. **Notwithstanding (a) of this section, a claim**  
 9 **for palliative care or treatment provided after the employee's conditions**  
 10 **medically stable is not valid and enforceable against the employer unless the**  
 11 **employee's attending physician certifies that the palliative care or treatment is**  
 12 **required to enable the employee to continue in the employee's employment at the**  
 13 **time of treatment or to enable the employee to continue to participate in an**  
 14 **agreed upon or approved reemployment plan. Palliative care or treatment is also**  
 15 **subject to the requirements of this subsection if the palliative care or treatment**  
 16 **involves continuing and multiple treatments of a similar nature. Limitations**  
 17 **described in this subsection do not apply if the physician certifies that the**  
 18 **treatment is needed to treat chronic debilitating pain.**

19 \* **Sec. 25.** AS 23.30.095(j) is amended to read:

20 (j) The **commissioner shall** [BOARD MAY] appoint a medical services  
 21 review committee, or contract with an existing organization in the state or another  
 22 state, to assist and advise **the department and** the board in matters involving the  
 23 appropriateness, necessity, and cost of medical and related services provided under  
 24 this chapter.

25 \* **Sec. 26.** AS 23.30.095 is amended by adding new subsections to read:

26 (n) A generic drug product must be used when dispensing a drug product to an  
 27 employee under this chapter unless the attending physician provides justification in  
 28 writing explaining the medical necessity for the name-brand drug product. The  
 29 department, by regulation, shall establish a preferred drug list and a procedure for  
 30 establishing medical necessity to depart from the list and to use a name-brand drug  
 31 product. In this subsection, "generic drug product" has the meaning given the term

1 "equivalent drug product" in AS 08.80.480.

2 (o) For purposes of this chapter, the medical treatment or service that the  
 3 nature of the injury or the process of recovery requires under (a) of this section means  
 4 treatment or service that is within the recommended guidelines set out in the American  
 5 College of Occupational and Environmental Medicine's Occupational Medicine  
 6 Practice Guidelines in effect at the time the treatment or service is provided. The  
 7 American College of Occupational and Environmental Medicine's Occupational  
 8 Medicine Practice Guidelines shall be presumed correct on the issue of the nature,  
 9 extent, and scope of medical treatment or services. For an injury not covered by the  
 10 American College of Occupational and Environmental Medicine's Occupational  
 11 Medicine Practice Guidelines, the treatment or service shall be in accordance with  
 12 standards based on other scientific, evidence-based medical treatment guidelines  
 13 generally recognized by the national medical community and adopted by the board by  
 14 regulation, and those standards shall also be presumed correct on the issue of the  
 15 nature, extent, and scope of medical treatment or services. Treatment may not be  
 16 denied based on American College of Occupational and Environmental Medicine's  
 17 Occupational Medicine Practice Guidelines if the treatment for the injury is not  
 18 specifically addressed by the American College of Occupational and Environmental  
 19 Medicine's Occupational Medicine Practice Guidelines.

20 (p) The presumptions established under (o) of this section may be rebutted by  
 21 an employee's physician's written certification explaining

22 (1) the nature, extent, and scope of provided medical treatment or  
 23 service that is at variance with the applicable guidelines or standards; and

24 (2) the basis for the physician's conclusion that the provided medical  
 25 treatment or service at variance was reasonably required by the nature of the injury or  
 26 process of recovery.

27 \* **Sec. 27.** AS 23.30 is amended by adding a new section to article 2 to read:

28 **Sec. 23.30.097. Fees for medical treatment and services; payment of bills.**

29 (a) All fees and other charges for medical treatment or service are subject to  
 30 regulation by the board consistent with this section. A fee or other charge for medical  
 31 treatment or service may not exceed the lesser of

1 (1) the usual, customary, and reasonable fees for the treatment or  
 2 service in the community in which it is rendered, not to exceed the fees in the fee  
 3 schedule specified by the board in its published bulletin in effect on December 15,  
 4 2003; or

5 (2) the payment made by the employer as negotiated by the provider  
 6 and the employer under (c) of this section.

7 (b) An employer, or group of employers, may establish a list of preferred  
 8 physicians and treatment service providers to provide medical, surgical, and other  
 9 attendance or treatment services to the employer's employees under this chapter;  
 10 however,

11 (1) the employee's right to chose the employee's attending physician  
 12 under AS 23.30.095(a) is not impaired;

13 (2) when given to the employee, the employer's preferred physician list  
 14 must clearly state that the list is voluntary, that the employee's choice is not restricted  
 15 to the list, that the employee's rights under this chapter are not impaired by choosing  
 16 an attending physician from the list, and that, if the employee chooses an attending  
 17 physician from the list, the employee may, in the manner provided in AS 23.30.095,  
 18 make one change of attending physician, from the list or otherwise; and

19 (3) establishment of a list of preferred physicians does not affect the  
 20 employer's choice of physician for an employer medical examination under  
 21 AS 23.30.095.

22 (c) An employer or group of employers may negotiate with physicians and  
 23 other treatment service providers under this chapter to obtain reduced fees and service  
 24 charges and may take the fees and charges into account when forming a list of  
 25 preferred physicians and providers. In no event may an employer or group of  
 26 employers attempt to influence the treatment, medical decisions, or permanent  
 27 impairment ratings by physicians in the course of the negotiations regarding a  
 28 preferred physician and provider fee list.

29 (d) An employer shall pay an employee's bills for medical treatment under this  
 30 chapter, excluding prescription charges or transportation for medical treatment, within  
 31 30 days after the date that the employer receives the provider's bill or a completed

1 report as required by AS 23.30.095(c), whichever is later.

2 (e) Unless the employer controverts a charge, an employer shall reimburse an  
 3 employee's prescription charges under this chapter within 30 days after the employer  
 4 received the health care provider's completed report and an itemization of the  
 5 prescription charges for the employee. Unless the employer controverts a charge, an  
 6 employer shall reimburse transportation expenses for medical treatment under this  
 7 chapter within 30 days after the employer received the health care provider's  
 8 completed report and an itemization of the date, destination, and transportation  
 9 expenses for each date of travel for medical treatment. If the employer does not plan  
 10 to make or does not make payment or reimbursement in full as required by this  
 11 subsection, the employer shall notify in writing the employee and the employee's  
 12 health care provider that payment will not be timely made and the reason for the  
 13 nonpayment. The notification must be provided on or before the date that payment is  
 14 due under this subsection or (d) of this section.

15 (f) An employee may not be required to pay a fee or charge for medical  
 16 treatment or service provided under this chapter.

17 \* **Sec. 28.** AS 23.30.100(b) is amended to read:

18 (b) The notice must be in writing, contain the name and address of the  
 19 employee, [AND] a statement of the time, place, nature, and cause of the injury or  
 20 death, **and authority to release records of medical treatment for the injury or**  
 21 **death,** and be signed by the employee or by a person on behalf of the employee, or, in  
 22 case of death, by a person claiming to be entitled to compensation for the death or by a  
 23 person on behalf of that person.

24 \* **Sec. 29.** AS 23.30.107(b) is amended to read:

25 (b) Medical or rehabilitation records in an employee's file maintained by the  
 26 **division or held by the** board are not public records subject to public inspection and  
 27 copying under AS 40.25. This subsection does not prohibit

28 (1) the reemployment benefits administrator, **the division,** the board,  
 29 or the department from releasing medical or rehabilitation records in an employee's  
 30 file, without the employee's consent, to a physician providing medical services under  
 31 AS 23.30.095(k) or 23.30.110(g), a party to a claim filed by the employee, or a

1 governmental agency; or

2 (2) the quoting or discussing of medical or rehabilitation records  
3 contained in an employee's file during a hearing on a claim for compensation [,] or in  
4 a decision and order of the board.

5 \* **Sec. 30.** AS 23.30.107 is amended by adding a new subsection to read:

6 (c) The division may not assemble, or provide information respecting,  
7 individual records for commercial purposes that are outside the scope of this chapter.

8 \* **Sec. 31.** AS 23.30.122 is repealed and reenacted to read:

9 **Sec. 23.30.122. Credibility of witnesses.** The board has the sole power to  
10 determine the credibility of testimony presented by a witness. When credibility is  
11 disputed in a proceeding before the board, the board's determination of credibility  
12 must be supported by specific findings.

13 \* **Sec. 32.** AS 23.30.125 is repealed and reenacted to read:

14 **Sec. 23.30.125. Administrative review of compensation order.** (a) A  
15 compensation order becomes effective when filed with the office of the board as  
16 provided in AS 23.30.110, and, unless proceedings to reconsider, suspend, or set aside  
17 the order are instituted as provided in this chapter, the order becomes final on the 31st  
18 day after it is filed.

19 (b) Notwithstanding other provisions of law, a decision or order of the board is  
20 subject to review by the commission as provided in this chapter.

21 (c) If a compensation order is not in accordance with law or fact, the order  
22 may be suspended or set aside, in whole or in part, through proceedings in the  
23 commission brought by a party in interest against all other parties to the proceedings  
24 before the board. The payment of the amounts required by an award may not be  
25 stayed pending a final decision in the proceeding unless, upon application for a stay,  
26 the commission, on hearing, after not less than three days' notice to the parties in  
27 interest, allows the stay of payment, in whole or in part, where the party filing the  
28 application would otherwise suffer irreparable damage. Continuing future periodic  
29 compensation payments may not be stayed without a showing by the appellant of  
30 irreparable damage and the existence of the probability of the merits of the appeal  
31 being decided adversely to the recipient of the compensation payments. The order of

1 the commission allowing a stay must contain a specific finding, based upon evidence  
2 submitted to the commission and identified by reference to the evidence, that  
3 irreparable damage would result to the party applying for a stay and specifying the  
4 nature of the damage.

5 (d) Proceedings for reconsidering, suspending, setting aside, or enforcing a  
6 compensation order, whether rejecting a claim or making an award, may not be  
7 instituted, except as provided in this chapter.

8 \* **Sec. 33.** AS 23.30 is amended by adding new sections to read:

9 **Sec. 23.30.127. Appeals to commission.** (a) A party in interest may appeal a  
10 compensation order issued by the board to the commission within 30 days after the  
11 compensation order is filed with the office of the board under AS 23.30.110. The  
12 director may intervene in an appeal. If a party in interest is not represented by counsel  
13 and the compensation order concerns an unsettled question of law, the director may  
14 file an appeal to obtain a ruling on the question by the commission.

15 (b) An appeal is initiated by filing with the office of the commission

16 (1) a signed notice of appeal specifying the compensation order  
17 appealed from;

18 (2) a statement of the grounds upon which the appeal is taken; and

19 (3) other material the commission may by regulation require.

20 (c) A cross-appeal may be initiated by filing with the office of the commission  
21 a signed notice of cross-appeal within 30 days after the decision is filed or within 15  
22 days after service of notice of an appeal, whichever is later. The notice of cross-  
23 appeal shall specify the compensation order appealed from and the grounds upon  
24 which the cross-appeal is taken.

25 (d) The office of the commission may charge a fee, not to exceed \$100, for  
26 filing appeals and cross-appeals, except that the office of the commission may not  
27 charge a fee if the appellant is the state or a political subdivision of the state. The  
28 commission may require an appellant to pay the costs of the transcript of hearing and  
29 the preparation of the record on appeal. The commission may require cross-appellants  
30 or intervenors to share in the costs.

31 (e) If a request for reconsideration of a board decision was timely filed with

1 the office of the board, the notice of appeal must be filed within 30 days after the  
2 reconsideration decision is mailed to the parties, or the date the request for  
3 reconsideration is considered denied in the absence of any action on the request,  
4 whichever is earlier.

5 (f) The commission may require written briefs and make other rules and  
6 orders to facilitate the business of the commission and advance the prompt, fair, and  
7 just disposition of appeals.

8 **Sec. 23.30.128. Commission proceedings.** (a) An appeal from a decision of  
9 the board under this chapter, and other proceedings under this section, shall be heard  
10 and decided by a three-member panel of the commission. An appeal panel of the  
11 commission must include the chair of the commission. The chair of the commission  
12 shall assign two members to each appeal, including one commission member  
13 classified as representing employees and one commission member classified as  
14 representing employers. Acts, decisions, and orders of the commission panel in the  
15 appeal or related proceeding shall be considered the acts, decisions, and orders of the  
16 full commission. The matter on appeal shall be decided on the record made before the  
17 board, a transcript or recording of the proceedings before the board, and oral argument  
18 and written briefs allowed by the commission. Except as provided in (c) of this  
19 section, new or additional evidence may not be received with respect to the appeal.

20 (b) The commission may review discretionary actions, findings of fact, and  
21 conclusions of law by the board in hearing, determining, or otherwise acting on a  
22 compensation claim or petition. The board's findings regarding the credibility of  
23 testimony of a witness before the board are binding on the commission. The board's  
24 findings of fact shall be upheld by the commission if supported by substantial  
25 evidence in light of the whole record. In reviewing questions of law and procedure,  
26 the commission shall exercise its independent judgment.

27 (c) The commission may hold hearings and receive evidence on applications  
28 for (1) stays under AS 23.30.125; (2) attorney fees and costs of appeal; (3) waiver of  
29 fees by indigent appellants; or (4) dismissal of appeals for failure to prosecute or upon  
30 settlement. The commission may rely on new or additional evidence presented during  
31 the hearing in making its decision on the application.

1 (d) The commission may affirm, reverse, or modify a decision or order upon  
2 review and issue other orders as appropriate. The commission may remand matters it  
3 determines were improperly, incompletely, or otherwise insufficiently developed. The  
4 commission may remand for further proceedings and appropriate action with or  
5 without relinquishing the commission's jurisdiction of the appeal. The administrative  
6 adjudication procedures of AS 44.62 (Administrative Procedure Act) do not apply to  
7 the proceedings of the commission.

8 (e) Within 90 days after written briefing on the appeal is completed or oral  
9 argument is held, whichever is later, the commission shall issue a decision in writing.  
10 The decision must contain a concise statement of reasons for the decision, including  
11 findings of fact, if required, and conclusions of law. The commission shall serve each  
12 party and the director with a copy of the decision. Appeals may be expedited for good  
13 cause by the commission. Unless reconsideration is ordered under (f) of this section, a  
14 decision under this subsection is the final commission decision.

15 (f) A party or the director may request reconsideration of a decision issued  
16 under (e) of this section within 30 days after the date of service shown in the  
17 certificate of service of the decision. The request must state specific grounds for  
18 reconsideration. Reconsideration may be granted if, in reaching the decision, the  
19 commission (1) overlooked, misapplied, or failed to consider a statute, regulation,  
20 court or administrative decision, or legal principle directly controlling; (2) overlooked  
21 or misconceived a material fact; (3) misconceived a material question in the case; or  
22 (4) applied law in the ruling that has subsequently changed. The panel of the  
23 commission hearing the request for reconsideration shall consist of the same members  
24 of the panel that issued the decision. The commission may issue an order for  
25 reconsideration of all or part of the decision upon request of a party or the director.  
26 Reconsideration is based on the record, unless the commission allows additional  
27 argument. The power to order reconsideration expires 60 days after the date of  
28 service, as shown on the certificate of service, of a decision issued under (e) of this  
29 section. If the commission does not issue an order for reconsideration within the time  
30 allowed for ordering reconsideration, a request for reconsideration is considered  
31 denied. If reconsideration is ordered, the commission shall issue a decision within 30

1 days after the close of the record on reconsideration. The commission shall serve each  
 2 party in the case with a copy of the decision upon reconsideration. The decision upon  
 3 reconsideration is the final commission decision.

4 (g) A decision of the commission becomes final on the

5 (1) 31st day after the date of service of a decision if reconsideration is  
 6 not requested;

7 (2) 61st day after the date of service of a decision if reconsideration is  
 8 requested but an order for reconsideration is not issued; or

9 (3) date of service of the commission decision upon reconsideration  
 10 under (f) of this section if reconsideration is requested and an order for reconsideration  
 11 is issued.

12 **Sec. 23.30.129. Judicial review of commission orders.** (a) Notwithstanding  
 13 the provisions of AS 44.62.560, orders of the commission may not be appealed to the  
 14 superior court. Consistent with AS 22.05.010(b), final decisions of the commission  
 15 may be appealed to the supreme court, and other orders may be reviewed by the  
 16 supreme court as provided by the Alaska Rules of Appellate Procedure.

17 (b) A finding by the commission concerning the weight to be accorded a  
 18 witness's testimony, including medical testimony and reports, is conclusive even if the  
 19 evidence is conflicting or susceptible to contrary conclusions. The commission's  
 20 findings of fact may be reversed on appeal if not supported by substantial evidence in  
 21 light of the whole record.

22 \* **Sec. 34.** AS 23.30.175(b) is amended to read:

23 (b) The following rules apply to benefits payable to recipients not residing in  
 24 the state at the time compensation benefits are payable:

25 (1) the weekly rate of compensation shall be calculated by multiplying  
 26 the recipient's weekly compensation rate calculated under AS 23.30.180, 23.30.185,  
 27 23.30.190, 23.30.200, or 23.30.215 [,] by the ratio of the cost of living of the area in  
 28 which the recipient resides to the cost of living in this state;

29 (2) the calculation required by (1) of this subsection does not apply if  
 30 the recipient is absent from the state for medical or rehabilitation services not  
 31 reasonably available in the state;

1 (3) if the gross weekly earnings of the recipient and the resulting  
 2 compensation rate are determined under AS 23.30.220(a)(6), (7), or (10), the  
 3 calculation required by this subsection applies only to the portion of the recipient's  
 4 weekly compensation rate attributable to wages earned in the state;

5 (4) application of this subsection may not reduce the weekly  
 6 compensation rate to less than \$154 a week, except as provided in (a) of this section;

7 **(5) application of (1) - (4) of this subsection may not result in**  
 8 **raising a recipient's weekly compensation rate to an amount that exceeds the**  
 9 **weekly compensation rate that the recipient would have received if the recipient**  
 10 **had been residing in the state.**

11 \* **Sec. 35.** AS 23.30.175(c) is amended to read:

12 (c) The **department** [BOARD] shall provide by regulation for the  
 13 determination and comparison of living costs for this state and the other areas in which  
 14 recipients reside and for the [ANNUAL] redetermination and comparison of these  
 15 costs **every three years.**

16 \* **Sec. 36.** AS 23.30.205(e) is amended to read:

17 (e) The second injury fund may not be bound as to any question of law or fact  
 18 by reason of an award or an adjudication to which it was not a party or in relation to  
 19 which the **director** [COMMISSIONER] was not notified at least three weeks before  
 20 the award or adjudication [,] that the fund might be subject to liability for the injury or  
 21 death.

22 \* **Sec. 37.** AS 23.30 is amended by adding a new section to read:

23 **Sec. 23.30.224. Coordination of benefits.** (a) Notwithstanding other  
 24 provisions of this chapter, an employer's liability for payment of weekly compensation  
 25 under AS 23.30.180 or 23.30.185 to an employee eligible for a disability benefit under  
 26 AS 14.25.130, AS 39.35.400, or 39.35.410 may not exceed the lesser of

27 (1) the difference between the disability benefit payable to the  
 28 employee under AS 14.25.130, AS 39.35.400, or 39.35.410, converted to a weekly  
 29 basis, and 100 percent of the employee's spendable weekly wage as calculated under  
 30 AS 23.30.220; or

31 (2) the maximum compensation rate calculated under AS 23.30.175.

1 (b) An employer's liability for payment of compensation under  
2 AS 23.30.041(k) to an employee eligible for a disability benefit payable under  
3 AS 14.25.130, AS 39.35.400, or 39.35.410 may not exceed the lesser of

4 (1) the difference between the disability benefit payable to the  
5 employee under AS 14.25.130, AS 39.35.400, or 39.35.410, converted to a weekly  
6 basis, and 80 percent of the employee's spendable weekly wage as calculated under  
7 AS 23.30.220; or

8 (2) 105 percent of the average weekly wage calculated under  
9 AS 23.30.175(d).

10 (c) Notwithstanding other provisions of this chapter, the liability of an  
11 employer for payment of compensation for an injury or illness under AS 23.30.180 or  
12 23.30.185 to an employee who is covered by a union or group retirement system to  
13 which the employer makes contributions under a collective bargaining agreement or  
14 by membership in a welfare or pension plan or trust may not exceed the lesser of

15 (1) the difference between 100 percent of the employee's spendable  
16 weekly wage and an amount equal to the disability benefit, disability pension, or  
17 medical retirement benefit that the employee is eligible to receive as a result of the  
18 injury or illness, as calculated on a weekly basis, under the retirement system or  
19 welfare or pension plan or trust; or

20 (2) the maximum compensation rate calculated under AS 23.30.175.

21 (d) If the union or group retirement system, pension plan, or trust referred to in  
22 (c) of this section provides by its terms that its benefits are precluded or reduced if  
23 benefits are awarded under this chapter, the limitation provided in (c)(1) of this section  
24 is not applicable to the extent of the amount precluded or reduced.

25 (e) Notwithstanding other provisions of this chapter, the liability of an  
26 employer for payment of compensation for an injury or illness under AS 23.30.041(k)  
27 to an employee who is covered by a union or group retirement system to which the  
28 employer makes contributions under a collective bargaining agreement or by  
29 membership in a welfare or pension plan or trust may not exceed the lesser of

30 (1) the difference between 80 percent of the employee's spendable  
31 weekly wage and an amount equal to the disability benefit, disability pension, or

1 medical retirement benefit that the employee is eligible to receive as a result of the  
 2 injury or illness, calculated on a weekly basis, under the retirement system or welfare  
 3 or pension plan or trust; or

4 (2) 105 percent of the average weekly wage calculated under  
 5 AS 23.30.175(d).

6 (f) If the union or group retirement system, pension plan, or trust referred to in  
 7 (e) of this section provides by its terms that its benefits are precluded or reduced if  
 8 benefits are awarded under this chapter, the limitation provided in (e)(1) of this section  
 9 is not applicable to the extent of the amount precluded or reduced.

10 (g) If the employee receives a lump sum distribution of disability benefits,  
 11 disability pension, or medical retirement benefits, the combined workers'  
 12 compensation and weekly disability or medical retirement benefit specified in this  
 13 section shall be calculated by assuming that the employee received weekly disability  
 14 or medical retirement payments under the applicable plan from the date of eligibility  
 15 for the disability benefit or medical retirement until the total of the weekly payments  
 16 equals the amount of the lump sum, exclusive of that portion of the lump sum  
 17 specifically set aside under the applicable plan for retraining expenses, medical and  
 18 transportation expenses, and attorney fees or other legal costs.

19 \* **Sec. 38.** AS 23.30.240 is amended to read:

20 **Sec. 23.30.240. Officers of corporations, municipal corporations and**  
 21 **nonprofit corporations and members of limited liability companies as employees.**

22 An executive officer elected or appointed and empowered in accordance with the  
 23 charter and bylaws of a corporation, other than an official of a municipal corporation  
 24 or a charitable, religious, educational, or other nonprofit corporation, is an employee  
 25 of the corporation under this chapter. However, an executive officer of a corporation  
 26 may waive coverage under this chapter, subject to the approval of the **director**  
 27 [COMMISSIONER OF LABOR AND WORKFORCE DEVELOPMENT],  
 28 notwithstanding AS 23.30.245(b). Notwithstanding any other provision of this  
 29 chapter, an executive officer of a municipal corporation or of a charitable, religious,  
 30 educational, or other nonprofit corporation may be brought within the coverage of its  
 31 insurance contract by the corporation by specifically including the officer in the

1 contract of insurance. The election to bring an executive officer within the coverage  
2 continues in force for the period the contract of insurance is in effect. During that  
3 period, an executive officer brought within the coverage of the insurance contract is an  
4 employee of the corporation under this chapter.

5 \* **Sec. 39.** AS 23.30.240 is amended by adding a new subsection to read:

6 (b) Except as provided in this subsection, a member of a limited liability  
7 company organized under AS 10.50 is not an employee of the company under this  
8 chapter. Notwithstanding any other provision of this chapter, a limited liability  
9 company may bring a member of the company within the coverage of the company's  
10 insurance contract by specifically including the member in the contract of insurance.  
11 The election to bring the member within the company's coverage continues in force  
12 for the period the contract of insurance is in effect. During that period, a member  
13 brought within the coverage of the insurance contract is an employee of the company  
14 under this chapter.

15 \* **Sec. 40.** AS 23.30 is amended by adding a new section to read:

16 **Sec. 23.30.249. Fraudulent acts and false or misleading statements.** (a)  
17 An employer, insurer, or other person may petition for an order to reimburse a  
18 payment and the cost of compensation, medical treatment, or other benefit provided  
19 under this chapter obtained by a fraudulent act or false or misleading statement or  
20 representation. If the board, after a hearing as provided by AS 23.30.110, finds by a  
21 preponderance of the evidence that a person has obtained a payment, compensation,  
22 medical treatment, or another benefit provided under this chapter, or that a provider  
23 has received a payment, by a fraudulent act or by knowingly making a false or  
24 misleading statement or representation for the purpose of obtaining that benefit or  
25 payment, the board shall order that person to make full reimbursement of the payment  
26 or cost of all benefits obtained. Upon entry of an order authorized under this  
27 subsection, the board shall also order that person to pay all reasonable costs and  
28 attorney fees incurred in obtaining an order under this section and in defending a  
29 fraudulent claim made for benefits under this chapter. If a person fails to comply with  
30 an order requiring reimbursement of payment or cost of benefits and payment of costs  
31 and attorney fees, the employer, insurer, or other party may declare the person in

1 default and proceed to collect any sum due in the same manner as provided under  
2 AS 23.30.170(b) and (c).

3 (b) Except as provided in (c) of this section, a person is not liable for civil  
4 damages for filing a report concerning a suspected, anticipated, or completed  
5 fraudulent act or a false or misleading statement or representation with, or for  
6 furnishing other information, whether written or oral, concerning a suspected,  
7 anticipated, or completed fraudulent act or false or misleading statements or  
8 representation to

9 (1) law enforcement officials or their agents and employees;

10 (2) the division of workers' compensation, the division of insurance in  
11 the Department of Commerce, Community, and Economic Development, or an agency  
12 in another state that regulates insurance or workers' compensation;

13 (3) an insurer or adjuster or its agents, employees, or designees, or the  
14 risk manager of a self-insured employer under this chapter.

15 (c) The provisions of (b) of this section do not preclude liability for civil  
16 damages as described in (b) of this section if the liability arose as a result of reckless,  
17 wilful, or intentional misconduct.

18 (d) An insurer, an adjuster, or a risk manager of a self-insured employer that  
19 has reason to believe that a fraudulent workers' compensation demand or claim has  
20 been made against it shall send the director a report disclosing information that the  
21 director may require. An insurer or an adjuster or its employee or agent, or a risk  
22 manager of a self-employed employer, or another person acting in good faith is not  
23 civilly liable for damages resulting from the filing of the report or the furnishing of  
24 information required by this section or by the director.

25 (e) The director may investigate facts reported under this section and may  
26 refer facts indicating a possible violation of law to the appropriate prosecutor or  
27 agency. If the director determines that there is credible evidence that a person  
28 obtained a payment, compensation, medical treatment, or other benefit provided under  
29 this chapter by a fraudulent act or false or misleading statement or representation as  
30 provided in (a) of this section, the director shall notify the affected employer, insurer,  
31 and adjuster upon conclusion of the investigation. If the fraudulent act or false or

1 misleading statement or representation was perpetrated against the division, the  
 2 director may file a petition as provided in AS 23.30.110 for an order of forfeiture  
 3 against the person, precluding, in whole or in part, the person from future payment,  
 4 compensation, medical treatment, or other benefit provided under this chapter.

5 (f) The papers, reports, documents, and evidence received under this section or  
 6 in an investigation arising from information received under this section are not subject  
 7 to public inspection for so long as the director considers confidentiality to be in the  
 8 public interest or reasonably necessary to complete an investigation or protect the  
 9 person investigated from unwarranted injury. Papers, reports, documents, and  
 10 evidence relative to an investigation under this section are confidential and not subject  
 11 to subpoena unless, after notice to the director and a hearing, a court determines that  
 12 the director would not be unduly hindered by public inspection.

13 (g) If the material that the director seeks to obtain is located outside the state,  
 14 the material may be made available to the director to examine at the place where the  
 15 material is located. The director may designate representatives, including officials of  
 16 the state in which the material is located, to inspect the material on behalf of the  
 17 director. The director may respond to a request from an official of another state for  
 18 similar material.

19 (h) In this section, "fraudulent act" includes

20 (1) to knowingly pretend injury or disability with intent to defraud or  
 21 obtain a benefit under this chapter;

22 (2) to knowingly conceal, suppress, destroy, remove, or alter records  
 23 with intent to defraud or obtain a benefit under this chapter;

24 (3) to knowingly assist or prepare another person to submit a false or  
 25 misleading statement in support of a claim for benefits under this chapter with reckless  
 26 disregard that the person is not entitled to benefits under this chapter;

27 (4) to use force against a person, damage the property of a person, or  
 28 threaten a person with intent to improperly influence the opinion of a witness, a  
 29 physician, or other health care provider;

30 (5) except as otherwise authorized under this chapter, to knowingly  
 31 confer, offer to confer, solicit, agree to accept, or accept property, services, or a

1 benefit

2 (A) to refer an employee to a physician or other health care  
3 provider; or

4 (B) for providing medical treatment, services, medicines, or  
5 supplies to an employee if the property, services, or benefit is in addition to  
6 payment by the employer, insurer, or adjuster allowed under this chapter.

7 \* **Sec. 41.** AS 23.30.250(a) is amended to read:

8 (a) A person, including an employee, employer, physician, medical  
9 provider, or the representative of a person who (1) knowingly makes a false or  
10 misleading statement, representation, or submission related to a benefit under this  
11 chapter; (2) knowingly assists, abets, solicits, or conspires in making a false or  
12 misleading submission affecting the payment, coverage, or other benefit under this  
13 chapter; (3) knowingly misclassifies employees or engages in deceptive leasing  
14 practices for the purpose of evading full payment of workers' compensation insurance  
15 premiums; or (4) employs or contracts with a person or firm to coerce or encourage an  
16 individual to file a fraudulent compensation claim is civilly liable to a person  
17 adversely affected by the conduct, is guilty of theft by deception as defined in  
18 AS 11.46.180, and may be punished as provided by AS 11.46.120 - 11.46.150.

19 \* **Sec. 42.** AS 23.30.250(b) is repealed and reenacted to read:

20 (b) To the extent allowed by law, in a civil action under (a) of this section, an  
21 award of damages by a court or jury may include compensatory damages, subject to  
22 AS 09.17. Attorney fees may be awarded to a prevailing party as allowed by law.

23 \* **Sec. 43.** AS 23.30.260 is amended by adding a new subsection to read:

24 (b) Notwithstanding AS 23.30.145 and (a) of this section, approval of a fee is  
25 not required if the fee does not exceed \$300 and is a one-time-only charge to an  
26 employee by an attorney licensed in this state who performed legal services with  
27 respect to the employee's claim but did not enter an appearance.

28 \* **Sec. 44.** AS 23.30.395(17) is amended to read:

29 (17) "injury" means accidental injury or death arising out of and in the  
30 course of employment, and an occupational disease or infection that [WHICH] arises  
31 naturally out of the employment or that [WHICH] naturally or unavoidably results

1 from an accidental injury; "injury" includes breakage or damage to eyeglasses, hearing  
 2 aids, dentures, or any prosthetic devices **that** [WHICH] function as part of the body  
 3 and further includes an injury caused by the wilful act of a third person directed  
 4 against an employee because of the employment; "injury" **does not include**  
 5 **aggravation, acceleration, or combination with a preexisting condition, unless the**  
 6 **employment is the major contributing cause of the disability or need for medical**  
 7 **treatment, and** does not include mental injury caused by mental stress, unless it is  
 8 established that (A) the work stress was extraordinary and unusual in comparison to  
 9 pressures and tensions experienced by individuals in a comparable work environment,  
 10 and (B) the work stress was the predominant cause of the mental injury; the amount of  
 11 work stress shall be measured by actual events; a mental injury is not considered to  
 12 arise out of and in the course of employment if it results from a disciplinary action,  
 13 work evaluation, job transfer, layoff, demotion, termination, or similar action, taken in  
 14 good faith by the employer;

15 \* **Sec. 45.** AS 23.30.395 is amended by adding new paragraphs to read:

16 (35) "attending physician" means one of the following designated by  
 17 the employee under AS 23.30.095(a) or (b):

18 (A) a licensed medical doctor;

19 (B) a licensed doctor of osteopathy;

20 (C) a licensed dentist or dental surgeon;

21 (D) a licensed physician assistant acting under supervision of a  
 22 licensed medical doctor or doctor of osteopathy;

23 (E) a licensed advanced nurse practitioner; or

24 (F) a licensed chiropractor;

25 (36) "commission" means the Workers' Compensation Appeals  
 26 Commission;

27 (37) "commissioner" means the commissioner of labor and workforce  
 28 development;

29 (38) "department" means the Department of Labor and Workforce  
 30 Development;

31 (39) "director" means the director of the division of workers'

1 compensation in the department;

2 (40) "division" means the division of workers' compensation in the  
3 department.

4 \* **Sec. 46.** AS 37.05.146(c) is amended by adding a new paragraph to read:

5 (78) workers' compensation benefits guaranty fund (AS 23.30.082).

6 \* **Sec. 47.** AS 39.25.110 is amended by adding a new paragraph to read:

7 (40) the chair of the Workers' Compensation Appeals Commission  
8 (AS 23.30.007).

9 \* **Sec. 48.** AS 39.25.120(c)(14) is amended to read:

10 (14) the rehabilitation administrator of the **division of workers'**  
11 **compensation** [WORKERS' COMPENSATION BOARD];

12 \* **Sec. 49.** AS 39.50.200(b)(31) is amended to read:

13 (31) Workers' Compensation Board (AS 23.30.005) **and Workers'**  
14 **Compensation Appeals Commission (AS 23.30.007)**;

15 \* **Sec. 50.** AS 23.30.095(f), 23.30.095(l), and 23.30.095(m) are repealed.

16 \* **Sec. 51.** AS 23.30.097, enacted in sec. 27 of this Act, is repealed June 30, 2007.

17 \* **Sec. 52.** The uncodified law of the State of Alaska is amended by adding a new section to  
18 read:

19 TASK FORCE ON WORKERS' COMPENSATION. (a) There is established in the  
20 legislative branch the Task Force on Workers' Compensation to address the improvement of  
21 the Alaska workers' compensation system, including

22 (1) a review of workers' compensation and insurance reform measures  
23 throughout the United States and an assessment of the effects of those reforms;

24 (2) an analysis and assessment of proposals for workers' compensation and  
25 workers' compensation liability insurance reform in Alaska;

26 (3) a review of current Alaskan workers' compensation benefits and costs and  
27 an assessment of needed changes;

28 (4) a review of compliance with current Alaska workers' compensation laws;

29 (5) a consideration of other issues determined to be relevant by members of  
30 the task force.

31 (b) The task force established under (a) of the section shall consist of 11 voting

1 members. One member shall be a state senator appointed by the president of the senate, one  
 2 member shall be a state representative appointed by the speaker of the house of  
 3 representatives, and one member shall be a member of the minority in either house jointly  
 4 selected by the president of the senate and the speaker of the house of representatives. Eight  
 5 members shall be appointed jointly by the president of the senate and speaker of the house of  
 6 representatives as follows:

- 7 (1) a representative of the Alaska State Medical Association;
- 8 (2) an attorney who represents employees in workers' compensation cases;
- 9 (3) an attorney who represents employers in workers' compensation cases;
- 10 (4) a representative of the insurance industry that provides workers'  
 11 compensation insurance;
- 12 (5) a representative from organized labor;
- 13 (6) a person representing employees not represented by organized labor;
- 14 (7) a person representing small businesses; and
- 15 (8) a person representing larger businesses.

16 (c) The task force established under (a) of this section

- 17 (1) may begin work immediately upon the appointment of its full voting  
 18 membership and shall meet at least three times telephonically or in person;
- 19 (2) shall hold public hearings and may perform research related to its work;
- 20 (3) may meet in the interim and vote telephonically;
- 21 (4) shall report its written findings and give a copy of proposed legislation and  
 22 other recommendations to the president of the senate and the speaker of the house of  
 23 representatives before December 1, 2005; and
- 24 (5) is terminated on February 1, 2006.

25 \* **Sec. 53.** The uncodified law of the State of Alaska is amended by adding a new section to  
 26 read:

27 **APPLICABILITY.** The amendment to AS 23.30.175(b) made by sec. 34 of this Act  
 28 applies to an injury occurring on or after the effective date of sec. 34 of this Act.

29 \* **Sec. 54.** The uncodified law of the State of Alaska is amended by adding a new section to  
 30 read:

31 **TRANSITION: INITIAL TERMS OF MEMBERS OF WORKERS'**

1 COMPENSATION APPEALS COMMISSION. Notwithstanding AS 23.30.007(e), enacted  
 2 by sec. 9 of this Act, the terms of the initially appointed representative members of the  
 3 Workers' Compensation Appeals Commission, established by AS 23.30.007, enacted by sec. 9  
 4 of this Act, shall be set by the governor to achieve staggered terms in the manner provided in  
 5 AS 39.05.055.

6 \* **Sec. 55.** The uncodified law of the State of Alaska is amended by adding a new section to  
 7 read:

8 TRANSITION: STAFF. (a) In order to ensure the smooth assumption of duties in  
 9 the shortest possible time, for a period of six months after the effective date of this section, the  
 10 director may, with the approval of the commissioner of labor and workforce development and  
 11 the chair of the commission, temporarily assign division employees to the commission and the  
 12 commission may reimburse the division for the temporarily assigned employees. Division  
 13 employees temporarily assigned to the commission shall continue in the same position and  
 14 rate of pay for the duration of the temporary assignment as the employees held at the division.

15 (b) In this section,

16 (1) "commission" means the Workers' Compensation Appeals Commission  
 17 established by AS 23.30.007, enacted by sec. 9 of this Act;

18 (2) "director" means the director of the division of workers' compensation in  
 19 the Department of Labor and Workforce Development;

20 (3) "division" means the division of workers' compensation in the Department  
 21 of Labor and Workforce Development.

22 \* **Sec. 56.** The uncodified law of the State of Alaska is amended by adding a new section to  
 23 read:

24 TRANSITIONAL PROVISIONS. (a) Litigation, investigations, and other  
 25 proceedings pending under a law amended or repealed by this Act or in connection with  
 26 functions transferred by this Act continue in effect and may be continued and completed,  
 27 notwithstanding a transfer or amendment or repeal provided for in this Act.

28 (b) Certificates, decisions, and orders issued under authority of a law amended or  
 29 repealed by this Act remain in effect for the term issued, or until revoked, vacated, or  
 30 otherwise modified under the provisions of this Act. Contracts, rights, liabilities, and  
 31 obligations created by or under a law amended or repealed by this Act and in effect on the day

1 before the effective date of this section remain in effect, notwithstanding this Act's taking  
2 effect.

3 \* **Sec. 57.** The uncodified law of the State of Alaska is amended by adding a new section to  
4 read:

5 TRANSITION: REGULATIONS. (a) The Department of Labor and Workforce  
6 Development and the director of insurance in the Department of Commerce, Community, and  
7 Economic Development may proceed to adopt regulations necessary to implement the  
8 respective provisions for which each is responsible under this Act. The regulations take effect  
9 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the  
10 statutory changes.

11 (b) In order to provide for the procedures and other administrative matters necessary  
12 to ensure the ongoing implementation of the state's workers' compensation laws to meet the  
13 urgent needs of injured workers, and thus ensure the preservation of the public peace, health,  
14 safety, or general welfare, the Workers' Compensation Appeals Commission established by  
15 AS 23.30.007, enacted by sec. 9 of this Act, may adopt under AS 23.30.008, enacted by sec. 9  
16 of this Act, as emergency regulations, the regulations necessary to implement the changes  
17 made by this Act.

18 \* **Sec. 58.** The uncodified law of the State of Alaska is amended by adding a new section to  
19 read:

20 TRANSITION: MEDICAL SERVICES REVIEW COMMITTEE STUDY AND  
21 REPORT. The medical services review committee appointed by the commissioner of labor  
22 and workforce development under AS 23.30.095(j), as amended by sec. 25 of this Act, shall  
23 proceed to study medical and related benefits provided under AS 23.30 to determine the  
24 appropriateness, necessity, delivery, and cost of the benefits and shall, before the end of the  
25 first week of the First Regular Session of the Twenty-Fifth Alaska State Legislature, provide  
26 to the legislature and the commissioner of labor and workforce development a report of the  
27 results of the study.

28 \* **Sec. 59.** Section 57(a) of this Act takes effect immediately under AS 01.10.070(c).

29 \* **Sec. 60.** Sections 1 - 4, 34, and 58 of this Act take effect September 1, 2005.

30 \* **Sec. 61.** Except as provided in secs. 59 and 60 of this Act, this Act takes effect August 1,  
31 2005.