

**CONFERENCE CS FOR SENATE BILL NO. 130(fld H)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SPECIAL SESSION

BY THE CONFERENCE COMMITTEE

Amended: 5/17/05

Offered: 5/13/05

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

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to workers' compensation and to assigned risk pools; relating to the**  
2 **Alaska Insurance Guaranty Association; establishing the Task Force on Workers'**  
3 **Compensation; amending Rule 45, Alaska Rules of Civil Procedure; and providing for**  
4 **an effective date."**

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

6 \* **Section 1.** AS 21.24.130 is amended by adding a new subsection to read:

7 (f) If an insurer is found to be insolvent by a proceeding under AS 21.78 or by  
8 a court of competent jurisdiction in another state, the director shall take control of the  
9 insurer's deposit made under AS 21.09.090(b). The deposit assets shall be released, at  
10 the discretion of the director, to the Alaska Insurance Guaranty Association  
11 (AS 21.80) to reimburse for a valid loss and loss expense claim payment made by the  
12 association that is within the purpose of the deposit. The director shall pay the  
13 remaining deposit assets to the receiver, conservator, rehabilitator, or liquidator of the  
14 insurer, or to another properly designated official who succeeds to the management

1 and control of the insurer's assets, after the director determines that all loss and loss  
 2 expense liabilities have been paid that were incurred on the insurer's policies written in  
 3 this state for which the deposit was required.

4 \* **Sec. 2.** AS 21.39.155(a) is amended to read:

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

12 \* **Sec. 3.** AS 23.30 is amended by adding a new section to read:

13 **Sec. 23.30.001. Intent of the legislature and construction of chapter.** It is  
 14 the intent of the legislature that

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

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

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

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

24 \* **Sec. 4.** AS 23.30.005(a) is amended to read:

25 (a) The Alaska Workers' Compensation Board consists of a southern panel of  
 26 three members sitting for the first judicial district, **two** [A] northern **panels** [PANEL]  
 27 of three members sitting for the second and fourth judicial districts, **five** [FOUR]  
 28 southcentral panels of three members each sitting for the third judicial district, and one  
 29 panel of three members that may sit in any judicial district. Each panel must include  
 30 the commissioner of labor and workforce development or **a hearing officer**  
 31 **designated to represent** [THE DESIGNATED REPRESENTATIVE OF] the

1 commissioner, a representative of industry, and a representative of labor. The latter  
 2 two members of each panel shall be appointed by the governor and are subject to  
 3 confirmation by a majority of the members of the legislature in joint session. **The**  
 4 **board shall by regulation provide procedures to avoid conflicts and the**  
 5 **appearance of impropriety in hearings.**

6 \* **Sec. 5.** AS 23.30.005(b) is amended to read:

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

15 \* **Sec. 6.** AS 23.30.005(h) is amended to read:

16 (h) The department shall adopt rules for all panels, and procedures for the  
 17 periodic selection, retention, and removal of both rehabilitation specialists and  
 18 physicians under AS 23.30.041 and 23.30.095, and shall adopt regulations to carry out  
 19 the provisions of this chapter. **The department may by regulation provide for**  
 20 **procedural, discovery, or stipulated matters to be heard and decided by the**  
 21 **commissioner or a hearing officer designated to represent the commissioner**  
 22 **rather than a panel. If a procedural, discovery, or stipulated matter is heard and**  
 23 **decided by the commissioner or a hearing officer designated to represent the**  
 24 **commissioner, the action taken is considered the action of the full board on that**  
 25 **aspect of the claim.** Process and procedure under this chapter shall be as summary  
 26 and simple as possible. The department, the board or a member of it may for the  
 27 purposes of this chapter subpoena witnesses, administer or cause to be administered  
 28 oaths, and may examine or cause to have examined the parts of the books and records  
 29 of the parties to a proceeding that relate to questions in dispute. The superior court, on  
 30 application of the department, the board or any members of it, shall enforce the  
 31 attendance and testimony of witnesses and the production and examination of books,

1 papers, and records.

2 \* **Sec. 7.** AS 23.30.005 is amended by adding a new subsection to read:

3 (m) The board may by regulation delegate authority to the director to assist the  
4 board in administering and enforcing this chapter.

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

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

11 (b) The commission consists of five members appointed by the governor and  
12 confirmed by a majority of the members of the legislature in joint session. The  
13 members shall be appointed as follows:

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

16 (2) two members who meet the qualifications in (c)(1) of this section  
17 and, because of their employment or affiliations, may be classified as a representative  
18 of employees covered by this chapter;

19 (3) two members who meet the qualifications in (c)(1) of this section  
20 and, because of their employment or affiliations, may be classified as a representative  
21 of employers covered by this chapter.

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

23 (1) a member must

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

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

27 (C) have not been convicted of either a

28 (i) felony; or

29 (ii) misdemeanor related to workers' compensation;

30 (D) have served for a total of not less than 18 months as a  
31 member of the Alaska Workers' Compensation Board;

1 (2) the chair must

2 (A) meet the criteria specified in (1) of this subsection, except  
3 for the requirement in (1)(D) of this subsection;

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

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

8 (d) An individual seeking appointment as a member or as chair shall submit an  
9 application to the chief administrative law judge appointed under AS 44.64.010. The  
10 application must show that the applicant meets requirements in (c) of this section that  
11 are applicable to the position for which the application is submitted. For each vacant  
12 position, other than the chair, the chief administrative law judge shall select not less  
13 than two eligible individuals and submit the names of those individuals to the  
14 governor. For the chair, the chief administrative law judge shall select not less than  
15 three for submission to the governor.

16 (e) The term of service on the commission is five years. A member may be  
17 reappointed so long as the reappointment complies with the provisions of this section,  
18 including the application and appointment process described in (d) of this section.

19 (f) A vacancy arising in the commission shall be filled by appointment by the  
20 governor and confirmed by a majority of the members of the legislature in joint  
21 session. Except as provided in AS 39.05.080(4), an appointee selected to fill a  
22 vacancy shall hold office for the unexpired term of the member whose vacancy is  
23 filled. A vacancy in the commission does not impair the authority of a quorum of  
24 members to exercise all the powers and perform all the duties of the commission.

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

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

30 (i) An appeal to the commission shall be heard and decided by a three-member  
31 panel of the commission. An appeal panel shall consist of the chair of the commission

1 and two members of the commission assigned by the chair, one member classified as  
 2 representing employees, and one member classified as representing employers. At  
 3 other meetings to conduct commission business, the number of commission members  
 4 classified as representing employees must equal the number of commission members  
 5 classified as representing employers. The chair of the commission and two  
 6 representative members of the commission, one classified as representing employees  
 7 and one classified as representing employers, constitutes a quorum.

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

- 15 (1) misconduct in office or violation of AS 39.52;
- 16 (2) conviction of a felony;
- 17 (3) conviction of a misdemeanor related to workers' compensation;
- 18 (4) inability to serve, neglect of duty, incompetence, unjustified failure  
 19 to handle the caseload assigned, or similar nonfeasance of office; and
- 20 (5) failure to continue to meet the requirements of this section relating  
 21 to qualification for office.

22 (k) Representative members are entitled to compensation in the amount of  
 23 \$400 a day for each day spent in actual hearing of appeals or on authorized official  
 24 business incidental to their duties, and to transportation and per diem as provided by  
 25 law. Compensation shall be paid pro rata for each portion of a day spent in actual  
 26 hearing of appeals or on authorized official business.

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

- 28 (1) a party is an employee or was, in the past seven years, an employee  
 29 of the commission member or of a business that employs the commission member;  
 30 this paragraph does not apply to the chair of the commission when the State of Alaska  
 31 is or was the employer of a party;

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

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

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

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

9 (m) If the chair of the commission is unable to hear an appeal for reasons of  
10 absence or illness in excess of 10 days, or for reasons set out in (l) of this section, the  
11 chief administrative law judge appointed under AS 44.64.010 shall appoint a person  
12 who meets the qualifications of this section to serve as chair to hear the appeal as chair  
13 pro tem. The person shall receive the compensation provided in (k) of this section.  
14 Appointment of a chair pro tem does not require legislative confirmation.

15 (n) Each member of the commission, before entering upon the duties of office,  
16 shall take and subscribe to the oath prescribed for principal officers of the state. A  
17 member of the commission, during tenure, may not

18 (1) hold or campaign for elective office;

19 (2) be an officer of a political party, political committee, or group;

20 (3) permit the member's name to be used, or make any contributions  
21 whatsoever, in support of or in opposition to a candidate or proposition or question  
22 that appears on any ballot in the state including but not limited to that of a  
23 municipality; however, contributions may be made to a candidate for the office of  
24 President of the United States;

25 (4) participate in any way in an election campaign or participate in or  
26 contribute to any political party; or

27 (5) lobby, employ, or assist a lobbyist.

28 (o) The offices of the commission shall be physically separate from the offices  
29 of the division.

30 (p) Notwithstanding (e) of this section, the terms of the individuals appointed  
31 to the commissions shall be as follows:

- 1 (1) the chair, five years;
- 2 (2) one member, four years;
- 3 (3) one member, three years;
- 4 (4) one member, two years;
- 5 (5) one member, one year.

6 **Sec. 23.30.008. Powers and duties of the commission.** (a) The commission  
 7 shall be the exclusive and final authority for the hearing and determination of all  
 8 questions of law and fact arising under this chapter in those matters that have been  
 9 appealed to the commission, except for an appeal to the Alaska Supreme Court. The  
 10 commission does not have jurisdiction in any case that does not arise under this  
 11 chapter or in any criminal case. On any matter taken to the commission, the decision  
 12 of the commission is final and conclusive, unless appealed to the Alaska Supreme  
 13 Court, and shall stand in lieu of the order of the board from which the appeal was  
 14 taken. Unless reversed by the Alaska Supreme Court, decisions of the commission  
 15 have the force of legal precedent.

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

22 (c) The chair of the commission shall draft and propose, and the commission  
 23 in its administrative capacity may adopt, regulations implementing the commission's  
 24 authority and duties under this chapter, including rules of procedure and evidence for  
 25 proceedings before the commission under this chapter. The provisions of AS 44.62  
 26 (Administrative Procedure Act) apply to the adoption of regulations by the  
 27 commission.

28 (d) In an appeal, the commission shall award a successful party reasonable  
 29 costs and, if the party is represented by an attorney, attorney fees that the commission  
 30 determines to be fully compensatory and reasonable. However, the commission may  
 31 not make an award of attorney fees against an injured worker unless the commission

1 finds that the worker's position on appeal was frivolous or unreasonable or the appeal  
2 was taken in bad faith.

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

6 **Sec. 23.30.009. Powers and duties of the chair of the commission.** (a) The  
7 chair of the commission shall exercise general supervision over the office of the  
8 commission and over appeals, and shall direct the administrative functions of the  
9 commission. The chair of the commission shall serve as the executive officer of the  
10 commission and shall have authority in all administrative matters relating to the  
11 members. The chair may

12 (1) employ and supervise commission staff and appoint a commission  
13 clerk;

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

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

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

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

22 (b) The chair of the commission shall preside over hearings and arguments on  
23 appeals. The chair of the commission shall ensure that all functions of the commission  
24 are performed with due regard for the rights of all parties and consistent with the  
25 orderly and prompt resolution of appeals. The chair of the commission shall rule on  
26 questions of procedure and advise the representative members of the commission on  
27 matters of law.

28 (c) The chair of the commission shall, not later than March 15 of each year,  
29 make available to the public and file with the lieutenant governor, a report regarding  
30 the commission for the prior calendar year, including data regarding time periods  
31 between initial receipt and final decisions on appeals.

1 (d) The chair of the commission shall devote full time to the duties of  
 2 the chair of the commission and may not engage in any other employment or  
 3 business. The chair of the commission may not hold any other office or  
 4 position under the United States, this state, any municipality or political  
 5 subdivision of this state, or any tribal government or corporation. The chair of  
 6 the commission may not hold office or position in a partisan political  
 7 organization or party.

8 \* **Sec. 9.** AS 23.30.012 is amended to read:

9 **Sec. 23.30.012. Agreements in regard to claims. (a)** At any time after  
 10 death, or after 30 days subsequent to the date of the injury, the employer and the  
 11 employee or the beneficiary or beneficiaries, as the case may be, have the right to  
 12 reach an agreement in regard to a claim for injury or death under this chapter [IN  
 13 ACCORDANCE WITH THE APPLICABLE SCHEDULE IN THIS CHAPTER], but  
 14 a memorandum of the agreement in a form prescribed by the **director** [BOARD] shall  
 15 be filed with the **division** [BOARD]. Otherwise, the agreement is void for any  
 16 purpose. **Except as provided in (b) of this section, an agreement filed with the**  
 17 **division discharges the liability of the employer for the compensation,**  
 18 **notwithstanding the provisions of AS 23.30.130, 23.30.160, and 23.30.245, and is**  
 19 **enforceable as a compensation order.**

20 **(b) The agreement shall be reviewed by a panel of the board if the**  
 21 **claimant or beneficiary is not represented by an attorney licensed to practice in**  
 22 **this state, the beneficiary is a minor or incompetent, or the claimant is waiving**  
 23 **future medical benefits.** If approved by the board, the agreement is enforceable the  
 24 same as an order or award of the board and discharges the liability of the employer for  
 25 the compensation notwithstanding the provisions of AS 23.30.130, 23.30.160, and  
 26 23.30.245. The agreement shall be approved by the board only when the terms  
 27 conform to the provisions of this chapter, and, if it involves or is likely to involve  
 28 permanent disability, the board may require an impartial medical examination and a  
 29 hearing in order to determine whether or not to approve the agreement. **A** [THE  
 30 BOARD MAY APPROVE] lump-sum **settlement may be approved**  
 31 [SETTLEMENTS] when it appears to be to the best interest of the employee or

1 beneficiary or beneficiaries.

2 \* **Sec. 10.** AS 23.30.015(e) is amended to read:

3 (e) An amount recovered by the employer under an assignment, whether by  
4 action or compromise, shall be distributed as follows:

5 (1) the employer shall retain an amount equal to

6 (A) the expenses incurred by the employer with respect to the  
7 action or compromise, including a reasonable attorney fee determined by the  
8 board;

9 (B) the cost of all benefits actually furnished by the employer  
10 under this chapter;

11 (C) all amounts paid as compensation and second-injury fund  
12 payments, and [,] if the employer is self-insured or uninsured, all service fees  
13 paid under AS 23.05.067;

14 (D) the present value of all amounts payable later as  
15 compensation, computed from a schedule prepared by the board, [;] and the  
16 present value of the cost of all benefits to be furnished later under  
17 AS 23.30.095 as estimated by the board; the amounts so computed and  
18 estimated **shall** [TO] be retained by the employer as a trust fund to pay  
19 compensation and the cost of benefits as they become due and to pay any  
20 finally remaining excess sum to the person entitled to compensation or to the  
21 representative; and

22 (2) the employer shall pay any excess to the person entitled to  
23 compensation or to the representative of that person.

24 \* **Sec. 11.** AS 23.30.015(j) is amended to read:

25 (j) Notice of the commencement of an action against a third party shall be  
26 given to the **division** [BOARD] and to all interested parties within 30 days.

27 \* **Sec. 12.** AS 23.30.025(a) is amended to read:

28 (a) An insurer may not enter into or issue a policy of insurance under this  
29 chapter until its policy form has been submitted to and approved by the director of the  
30 division of insurance. The director of the division of insurance may not approve the  
31 policy form of an insurance company until the company files with it the certificate of

1 the director of the division of insurance showing that the company is authorized to  
 2 transact the business of workers' compensation insurance in the state. The filing of a  
 3 policy form by an insurance company with the **division of workers' compensation**  
 4 [BOARD] for approval constitutes, on the part of the company, a conclusive and  
 5 unqualified acceptance of the provisions of this chapter, and an agreement by it to be  
 6 bound by them.

7 \* **Sec. 13.** AS 23.30.030(5) is amended to read:

8 (5) A termination of the policy by cancellation is not effective as to the  
 9 employees of the insured employer covered by it until 20 days after written notice of  
 10 the termination has been received by the **division** [BOARD]. If the employer has a  
 11 contract with the state or a home rule or other political subdivision of the state, and the  
 12 employer's policy is cancelled due to nonpayment of a premium, the termination of the  
 13 policy is not effective as to the employees of the insured employer covered by it until  
 14 20 days after written notice of the termination has been received by the contracting  
 15 agency, and the agency has the option of continuing the payments on behalf of the  
 16 employer in order to keep the policy in force. If, however, the employer has secured  
 17 insurance with another insurance carrier, cancellation is effective as of the date of the  
 18 new coverage.

19 \* **Sec. 14.** 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. 15.** 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. 16.** 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. 17.** 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. 18.** 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 board,**  
 11 to the **administrator and the employer of the employee's election to either use the**  
 12 **reemployment benefits or to accept a job dislocation benefit under (2) of this**  
 13 **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. 19.** AS 23.30.041(k) is amended to read:

12                   (k) Benefits related to the reemployment plan may not extend past two years  
 13                   from date of plan approval or acceptance, whichever date occurs first, at which time  
 14                   the benefits expire. If an employee reaches medical stability before completion of the  
 15                   plan, temporary total disability benefits shall cease, and permanent impairment  
 16                   benefits shall then be paid at the employee's temporary total disability rate. If the  
 17                   employee's permanent impairment benefits are exhausted before the completion or  
 18                   termination of the reemployment **process** [PLAN], the employer shall provide  
 19                   compensation equal to 70 percent of the employee's spendable weekly wages, but not  
 20                   to exceed 105 percent of the average weekly wage, until the completion or termination  
 21                   of the **process** [PLAN], except that any compensation paid under this subsection is  
 22                   reduced by wages earned by the employee while participating in the **process** [PLAN]  
 23                   to the extent that the wages earned, when combined with the compensation paid under  
 24                   this subsection, exceed the employee's temporary total disability rate. If permanent  
 25                   partial disability **or permanent partial impairment** benefits have been paid in a lump  
 26                   sum before the employee requested or was found eligible for reemployment benefits,  
 27                   payment of benefits under this subsection is suspended until permanent partial  
 28                   disability **or permanent partial impairment** benefits would have ceased, had those  
 29                   benefits been paid at the employee's temporary total disability rate, notwithstanding  
 30                   the provisions of AS 23.30.155(j). A permanent impairment benefit remaining unpaid  
 31                   upon the completion or termination of the plan shall be paid to the employee in a

1 single lump sum. An employee may not be considered permanently totally disabled so  
 2 long as the employee is involved in the rehabilitation process under this chapter. The  
 3 fees of the rehabilitation specialist or rehabilitation professional shall be paid by the  
 4 employer and may not be included in determining the cost of the reemployment plan.

5 \* **Sec. 20.** AS 23.30.041(n) is amended to read:

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

9 (1) unreasonable failure to

10 (A) keep appointments;

11 (B) maintain passing grades;

12 (C) attend designated programs;

13 (D) maintain contact with the rehabilitation specialist;

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

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

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

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

24 \* **Sec. 21.** AS 23.30.041(p) is amended to read:

25 (p) When the United States Department of Labor publishes a new edition,  
 26 revision, or replacement for the "Selected Characteristics of Occupations Defined in  
 27 the Revised Dictionary of Occupational Titles" referred to in (e) of this section, the  
 28 **director** [BOARD] shall, not later than 90 days after the last day of the month in  
 29 which the new edition, revision, or replacement standard is published, hold an open  
 30 meeting under AS 44.62.310 to select the **proposed** date on which the new edition,  
 31 revision, or replacement standard will be implemented to make all eligibility

1 determinations required under (e) of this section. The date selected by the  
 2 **department** [BOARD] for implementing the new edition, revision, or replacement  
 3 standard may not be later than 90 days after the last day of the month in which the new  
 4 edition, revision, or replacement standard is published. After the meeting, the  
 5 **director** [BOARD] shall issue a public notice announcing the date selected **by the**  
 6 **department**. The requirements of AS 44.62.010 - 44.62.300 do not apply to the  
 7 selection or announcement of the date under this subsection.

8 \* **Sec. 22.** AS 23.30.041(q) is amended to read:

9 (q) Notwithstanding AS 23.30.012, after medical stability has been determined  
 10 and a physician has predicted that the employee may have a permanent impairment  
 11 that may cause the employee to have permanent physical capacities that are less than  
 12 the physical demands of the employee's job at the time of injury, an employee may  
 13 waive any benefits or rights under this section, including an eligibility evaluation and  
 14 benefits related to a reemployment plan. To waive any benefits or rights under this  
 15 section, an employee must file a statement under oath with the **division** [BOARD] to  
 16 notify the parties of the waiver and to specify the scope of benefits or rights that the  
 17 employee seeks to waive. The statement must be on a form prescribed or approved by  
 18 the **director** [BOARD]. The **division** [BOARD] shall serve the notice of waiver on  
 19 all parties to the claim within 10 days after filing. The waiver is effective upon service  
 20 to the party. A waiver effective under this subsection discharges the liability of the  
 21 employer for the benefits or rights contained in this section. The waiver may not be  
 22 modified under AS 23.30.130.

23 \* **Sec. 23.** AS 23.30.065 is amended to read:

24 **Sec. 23.30.065. Employer's record of injuries.** An employer shall keep a  
 25 record **with** [IN] respect of an injury to an employee. The record must contain the  
 26 information of disease, other disability, or death **with** [IN] respect to an injury that the  
 27 **division** [BOARD] requires, and must be available to inspection by the **division**  
 28 [BOARD] or by a state authority at the times and under the conditions that the  
 29 **department** [BOARD] prescribes by regulation.

30 \* **Sec. 24.** AS 23.30.070(a) is amended to read:

31 (a) Within 10 days from the date the employer has knowledge of an injury or

1 death or from the date the employer has knowledge of a disease or infection, alleged  
 2 by the employee or on behalf of the employee to have arisen out of and in the course  
 3 of the employment, the employer shall send to the **division** [BOARD] a report setting  
 4 out

5 (1) the name, address, and business of the employer;

6 (2) the name, address, and occupation of the employee;

7 (3) the cause and nature of the alleged injury or death;

8 (4) the year, month, day, and hour when and the particular locality  
 9 where the alleged injury or death occurred; and

10 (5) the other information that the **division** [BOARD] may require.

11 \* **Sec. 25.** AS 23.30.070(b) is amended to read:

12 (b) Additional reports **with** [IN] respect to the injury and to the condition of  
 13 the employee shall be sent by the employer to the **division** [BOARD] at the times and  
 14 in the manner that the **director** [BOARD] prescribes.

15 \* **Sec. 26.** AS 23.30.070(d) is amended to read:

16 (d) Mailing of the report and copy to the **division** [BOARD] in a stamped  
 17 envelope, within the time prescribed in (a) or (b) of this section, is compliance with  
 18 this section.

19 \* **Sec. 27.** AS 23.30.075 is amended to read:

20 **Sec. 23.30.075. Employer's liability to pay.** (a) An employer under this  
 21 chapter, unless exempted, shall either insure and keep insured for the employer's  
 22 liability under this chapter in an insurance company or association duly authorized to  
 23 transact the business of workers' compensation insurance in this state, or shall furnish  
 24 the **division** [BOARD] satisfactory proof of the employer's financial ability to pay  
 25 directly the compensation provided for. If an employer elects to pay directly, the  
 26 board may, in its discretion, require the deposit of an acceptable security, indemnity,  
 27 or bond to secure the payment of compensation liabilities as they are incurred.

28 (b) If an employer fails to insure and keep insured employees subject to this  
 29 chapter or fails to obtain a certificate of self-insurance from the **division** [BOARD],  
 30 upon conviction, the court shall impose a fine of \$10,000 and may impose a sentence  
 31 of imprisonment for not more than one year. If an employer is a corporation, all

1 persons who, at the time of the injury or death, had authority to insure the corporation  
 2 or apply for a certificate of self-insurance, and the person actively in charge of the  
 3 business of the corporation shall be subject to the penalties prescribed in this  
 4 subsection and shall be personally, jointly, and severally liable together with the  
 5 corporation for the payment of all compensation or other benefits for which the  
 6 corporation is liable under this chapter if the corporation at that time is not insured or  
 7 qualified as a self-insurer.

8 \* **Sec. 28.** AS 23.30.080(d) is amended to read:

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

19 \* **Sec. 29.** AS 23.30.080 is amended by adding new subsections to read:

20 (e) If a representative of the department investigates an employer's failure to  
 21 file the evidence of compliance required by AS 23.30.085 and, after investigation,  
 22 there is substantial evidence that the employer failed to insure or provide security as  
 23 required by AS 23.30.075, the representative shall inform the employer. The  
 24 representative may request the director to issue a stop order prohibiting the use of  
 25 employee labor by the employer until the employer insures or provides security as  
 26 required by AS 23.30.075. The director may issue a stop order, without a hearing,  
 27 based on the representative's investigation. The director shall dissolve a stop order  
 28 issued under this subsection upon receipt of substantial evidence that the employer is  
 29 insured or has provided security as required by AS 23.30.075(a). If an employer fails  
 30 to comply with a stop order issued under this subsection, the division may petition the  
 31 board to assess a civil penalty. The board may assess a civil penalty of \$1,000 a day.

1 An employer who is assessed a penalty under this subsection may not obtain a public  
 2 contract with the state or a political subdivision of the state for the three years  
 3 following violation of the stop order.

4 (f) If an employer fails to insure or provide security as required by  
 5 AS 23.30.075, the division may petition the board to assess a civil penalty of up to  
 6 \$1,000 for each employee for each day an employee is employed while the employer  
 7 failed to insure or provide the security required by AS 23.30.075. The failure of an  
 8 employer to file evidence of compliance as required by AS 23.30.085 creates a  
 9 rebuttable presumption that the employer failed to insure or provide security as  
 10 required by AS 23.30.075.

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

22 \* **Sec. 30.** AS 23.30 is amended by adding a new section to read:

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

31 (b) Every three months, the Department of Revenue shall provide the division

1 with a statement of the activities of, balances in, interest earned on, and interest  
2 returned to the fund.

3 (c) Subject to the provisions of this section, an employee employed by an  
4 employer who fails to meet the requirements of AS 23.30.075 and who fails to pay  
5 compensation and benefits due to the employee under this chapter, may file a claim for  
6 payment by the fund. In order to be eligible for payment, the claim form must be filed  
7 within the same time, and in the same manner, as a workers' compensation claim. The  
8 fund may assert the same defenses as an insured employer under this chapter.

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

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

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

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

24 \* **Sec. 31.** AS 23.30.085(a) is amended to read:

25 (a) An employer subject to this chapter, unless exempted, shall initially file  
26 evidence of compliance with the insurance provisions of this chapter with the **division**  
27 [BOARD], in the form prescribed by **the director** [IT]. The employer shall also give  
28 evidence of compliance within 10 days after the termination of the employer's  
29 insurance by expiration or cancellation. These requirements do not apply to an  
30 employer who has certification from the board of the employer's financial ability to  
31 pay compensation directly without insurance.

1 \* **Sec. 32.** AS 23.30.095(c) is amended to read:

2 (c) A claim for medical or surgical treatment, or treatment requiring  
 3 continuing and multiple treatments of a similar nature is not valid and enforceable  
 4 against the employer unless, within 14 days following treatment, the physician or  
 5 health care provider giving the treatment or the employee receiving it furnishes to the  
 6 employer and the board notice of the injury and treatment, preferably on a form  
 7 prescribed by the board. The board shall, however, excuse the failure to furnish notice  
 8 within 14 days when it finds it to be in the interest of justice to do so, and it may, upon  
 9 application by a party in interest, make an award for the reasonable value of the  
 10 medical or surgical treatment so obtained by the employee. When a claim is made for  
 11 a course of treatment requiring continuing and multiple treatments of a similar nature,  
 12 in addition to the notice, the physician or health care provider shall furnish a written  
 13 treatment plan if the course of treatment will require more frequent outpatient visits  
 14 than the standard treatment frequency for the nature and degree of the injury and the  
 15 type of treatments. The treatment plan shall be furnished to the employee and the  
 16 employer within 14 days after treatment begins. The treatment plan must include  
 17 objectives, modalities, frequency of treatments, and reasons for the frequency of  
 18 treatments. If the treatment plan is not furnished as required under this subsection,  
 19 neither the employer nor the employee may be required to pay for treatments that  
 20 exceed the frequency standard. The board shall adopt regulations establishing  
 21 standards for frequency of treatment. **Notwithstanding (a) of this section, a claim**  
 22 **for palliative care or treatment provided after the employee's condition is**  
 23 **medically stable is not valid and enforceable against the employer unless the**  
 24 **employee's attending physician certifies that the palliative care or treatment is**  
 25 **required to enable the employee to continue in the employee's employment at the**  
 26 **time of treatment or to enable the employee to continue to participate in an**  
 27 **agreed upon or approved reemployment plan. Limitations described in this**  
 28 **subsection do not apply if the physician certifies that the treatment is needed to**  
 29 **treat chronic debilitating pain.**

30 \* **Sec. 33.** AS 23.30.095(h) is amended to read:

31 (h) Upon the filing with the **division** [BOARD] by a party in interest of **a**

1 **claim** [AN APPLICATION] or other pleading, all parties to the proceeding must  
 2 immediately, or in any event within five days after service of the pleading, send to the  
 3 **division** [BOARD] the original signed reports of all physicians relating to the  
 4 proceedings **that** [WHICH] they may have in their possession or under their control,  
 5 and copies of the reports shall be served by the party immediately on **any** [THE]  
 6 adverse party. There is a continuing duty on **all** [THE] parties to [SO] file and serve  
 7 all the reports during the pendency of the proceeding.

8 \* **Sec. 34.** AS 23.30.095(j) is amended to read:

9 (j) The **commissioner shall** [BOARD MAY] appoint a medical services  
 10 review committee [, OR CONTRACT WITH AN EXISTING ORGANIZATION IN  
 11 THE STATE OR ANOTHER STATE,] to assist and advise **the department and** the  
 12 board in matters involving the appropriateness, necessity, and cost of medical and  
 13 related services provided under this chapter. **The medical services review committee**  
 14 **shall consist of nine members to be appointed by the commissioner as follows:**

15 **(1) one member who is a member of the Alaska State Medical**  
 16 **Association;**

17 **(2) one member who is a member of the Alaska Chiropractic**  
 18 **Association;**

19 **(3) one member who is a member of the Alaska State Hospital and**  
 20 **Nursing Home Association;**

21 **(4) one member who is a health care provider, as defined in**  
 22 **AS 09.55.560;**

23 **(5) four public members who are not within the definition of**  
 24 **"health care provider" in AS 09.55.560; and**

25 **(6) one member who is the designee of the commissioner and who**  
 26 **shall serve as chair.**

27 \* **Sec. 35.** AS 23.30.095 is amended by adding a new subsection to read:

28 (n) A generic drug product must be used when dispensing a drug product to an  
 29 employee under this chapter unless the prescribing physician provides justification in  
 30 writing explaining the medical necessity for the name-brand drug product. The  
 31 department, by regulation, shall establish a preferred drug list and a procedure for

1 establishing medical necessity to depart from the list and to use a name-brand drug  
 2 product. In this subsection, "generic drug product" has the meaning given the term  
 3 "equivalent drug product" in AS 08.80.480.

4 \* **Sec. 36.** AS 23.30 is amended by adding a new section to article 2 to read:

5 **Sec. 23.30.097. Fees for medical treatment and services.** (a) All fees and  
 6 other charges for medical treatment or service are subject to regulation by the board  
 7 consistent with this section. A fee or other charge for medical treatment or service  
 8 may not exceed the lesser of

9 (1) the usual, customary, and reasonable fees for the treatment or  
 10 service in the community in which it is rendered, not to exceed the fees in the fee  
 11 schedule specified by the board in its published bulletin dated December 1, 2004;

12 (2) the fee or charge for the service when provided to the general  
 13 public; or

14 (3) the fee or charge negotiated by the provider and the employer  
 15 under (c) of this section.

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

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

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

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

31 (c) An employer, or group of employers, may negotiate with physicians and

1 other treatment service providers under this chapter to obtain reduced fees and service  
2 charges and may take the fees and charges into account when forming a list of  
3 preferred physicians and providers. In no event may an employer, or group of  
4 employers, attempt to influence the treatment, medical decisions, or ratings by the  
5 physicians in the course of the negotiations of such a preferred physician and provider  
6 fee plans.

7 (d) An employer shall pay an employee's bills for medical treatment under this  
8 chapter, excluding prescription charges or transportation for medical treatment, within  
9 30 days after the date that the employer receives the provider's bill or a completed  
10 report as required by AS 23.30.095(c), whichever is later.

11 (e) A physician or other provider of treatment services under this chapter,  
12 including hospital services, that submits a bill for medical treatment to the insurer or  
13 self-insured employer shall also submit a copy of the bill to the employee to whom the  
14 treatment was provided. An employee who notifies the insurer or self-insured  
15 employer's adjuster in writing of an overcharge in the bill that was not previously  
16 identified by the insurer or self-insured employer's adjuster shall be entitled to a  
17 reward equal to 25 percent of the billing reduction or reimbursement achieved due to  
18 the employee's report. This reward does not apply to overcharges of an amount under  
19 \$100 if the insurer or self-insured employer's adjuster elects not to pursue correction  
20 of the bill.

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

23 (g) Unless the employer controverts a charge, the employer shall reimburse an  
24 employee's prescription charges under this chapter within 30 days after the employer  
25 receives the health care provider's completed report and an itemization of the  
26 prescription charges for the employee. Unless the employer controverts a charge, an  
27 employer shall reimburse any transportation expenses for medical treatment under this  
28 chapter within 30 days after the employer receives the health care provider's  
29 completed report and an itemization of the dates, destination, and transportation  
30 expenses for each date of travel for medical treatment. If the employer does not plan  
31 to make or does not make payment or reimbursement in full as required by this

1 subsection, the employer shall notify the employee and the employee's health care  
 2 provider in writing that payment will not be made timely and the reason for the  
 3 nonpayment. The notification must be provided not later than the date that the  
 4 payment is due under this subsection.

5 \* **Sec. 37.** AS 23.30.100(b) is amended to read:

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

12 \* **Sec. 38.** AS 23.30.107 is amended to read:

13 **Sec. 23.30.107. Release of information.** (a) Upon written request, an  
 14 employee shall provide written authority to the employer, carrier, rehabilitation  
 15 specialist, or reemployment benefits administrator to obtain medical and rehabilitation  
 16 information relative to the employee's injury. The request must include notice of the  
 17 employee's right to file a petition for a protective order with the **division** [BOARD]  
 18 and must be served by certified mail to the employee's address on the notice of injury  
 19 or by hand delivery to the employee. This subsection may not be construed to  
 20 authorize an employer, carrier, rehabilitation specialist, or reemployment benefits  
 21 administrator to request medical or other information that is not applicable to the  
 22 employee's injury.

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

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

31 (2) the quoting or discussing of medical or rehabilitation records

1 contained in an employee's file during a hearing on a claim for compensation [,] or in  
2 a decision and order of the board.

3 \* **Sec. 39.** AS 23.30.107 is amended by adding a new subsection to read:

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

6 \* **Sec. 40.** AS 23.30.125 is repealed and reenacted to read:

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

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

14 (c) If a compensation order is not in accordance with law or fact, the order  
15 may be suspended or set aside, in whole or in part, through proceedings in the  
16 commission brought by a party in interest against all other parties to the proceedings  
17 before the board. The payment of the amounts required by an award may not be  
18 stayed pending a final decision in the proceeding unless, upon application for a stay,  
19 the commission, on hearing, after not less than three days' notice to the parties in  
20 interest, allows the stay of payment, in whole or in part, where the party filing the  
21 application would otherwise suffer irreparable damage. Continuing future periodic  
22 compensation payments may not be stayed without a showing by the appellant of  
23 irreparable damage and the existence of the probability of the merits of the appeal  
24 being decided adversely to the recipient of the compensation payments. The order of  
25 the commission allowing a stay must contain a specific finding, based upon evidence  
26 submitted to the commission and identified by reference to the evidence, that  
27 irreparable damage would result to the party applying for a stay and specifying the  
28 nature of the damage.

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

1 \* **Sec. 41.** AS 23.30 is amended by adding new sections to read:

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

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

9 (1) a signed notice of appeal specifying the compensation order  
10 appealed from;

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

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

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

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

24 (e) If a request for reconsideration of a board decision was timely filed with  
25 the office of the board, the notice of appeal must be filed within 30 days after the  
26 reconsideration decision is mailed to the parties, or the date the request for  
27 reconsideration is considered denied in the absence of any action on the request,  
28 whichever is earlier.

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

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

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

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

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

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

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

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

29                   (1) 31st day after the date of service of a decision if reconsideration is  
 30 not requested;

31                   (2) 61st day after the date of service of a decision if reconsideration is

1 requested but an order for reconsideration is not issued; or

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

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

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

15 \* **Sec. 42.** AS 23.30.140 is amended to read:

16 **Sec. 23.30.140. Appointment of guardian by court.** The **director**  
17 [BOARD] may require the appointment of a guardian or other representative by a  
18 competent court for any person who is mentally incompetent or a minor to receive  
19 compensation payable to the person under this chapter and to exercise the powers  
20 granted to or to perform the duties required of the person under this chapter. If the  
21 **director** [BOARD] does not require the appointment of a guardian to receive the  
22 compensation of a minor, appointment for this purpose is not necessary.

23 \* **Sec. 43.** 23.30.145(b) is amended to read:

24 (b) If an employer fails to file timely notice of controversy or fails to pay  
25 compensation or medical and related benefits within 15 days after it becomes due or  
26 otherwise resists the payment of compensation or medical and related benefits and if  
27 the claimant has employed an attorney in the successful prosecution of the claim, the  
28 board shall make an award to reimburse the claimant for the costs in the proceedings,  
29 including [A] reasonable attorney **fees** [FEE]. The award is in addition to the  
30 compensation or medical and related benefits ordered.

31 \* **Sec. 44.** AS 23.30.155(a) is amended to read:

1 (a) Compensation under this chapter shall be paid periodically, promptly, and  
 2 directly to the person entitled to it, without an award, except where liability to pay  
 3 compensation is controverted by the employer. To controvert a claim, the employer  
 4 must file a notice, on a form prescribed by the **director** [BOARD], stating

5 (1) that the right of the employee to compensation is controverted;

6 (2) the name of the employee;

7 (3) the name of the employer;

8 (4) the date of the alleged injury or death; and

9 (5) the type of compensation and all grounds upon which the right to  
 10 compensation is controverted.

11 \* **Sec. 45.** AS 23.30.155(c) is amended to read:

12 (c) The insurer or adjuster shall notify the **division** [BOARD] and the  
 13 employee on a form prescribed by the **director** [BOARD] that the payment of  
 14 compensation has begun or has been increased, decreased, suspended, terminated,  
 15 resumed, or changed in type. An initial report shall be filed with the **division**  
 16 [BOARD] and sent to the employee within 28 days after the date of issuing the first  
 17 payment of compensation. If at any time 21 days or more pass and no compensation  
 18 payment is issued, a report notifying the **division** [BOARD] and the employee of the  
 19 termination or suspension of compensation shall be filed with the **division** [BOARD]  
 20 and sent to the employee within 28 days after the date the last compensation payment  
 21 was issued. A report shall also be filed with the **division** [BOARD] and sent to the  
 22 employee within 28 days after the date of issuing a payment increasing, decreasing,  
 23 resuming, or changing the type of compensation paid. If the **division** [BOARD] and  
 24 the employee are not notified within the 28 days prescribed by this subsection for  
 25 reporting, the insurer or adjuster shall pay a civil penalty of \$100 for the first day plus  
 26 \$10 for each day **after the first day** [THEREAFTER] that the notice was not given.  
 27 Total penalties under this subsection may not exceed \$1,000 for a failure to file a  
 28 required report. Penalties assessed under this subsection are eligible for reduction  
 29 under (m) of this section. A penalty assessed under this subsection after penalties have  
 30 been reduced under (m) of this section shall be increased by 25 percent and shall bear  
 31 interest at the rate established under AS 45.45.010.

1 \* **Sec. 46.** AS 23.30.155(d) is amended to read:

2 (d) If the employer controverts the right to compensation the employer shall  
 3 file with the **division** [BOARD] and send to the employee a notice of controversion on  
 4 or before the 21st day after the employer has knowledge of the alleged injury or death.  
 5 If the employer controverts the right to compensation after payments have begun, the  
 6 employer shall file with the **division** [BOARD] and send to the employee a notice of  
 7 controversion within seven days after an installment of compensation payable without  
 8 an award is due. When payment of temporary disability benefits is controverted solely  
 9 on the grounds that another employer or another insurer of the same employer may be  
 10 responsible for all or a portion of the benefits, the most recent employer or insurer  
 11 who is party to the claim and who may be liable shall make the payments during the  
 12 pendency of the dispute. When a final determination of liability is made, any  
 13 reimbursement required, including interest at the statutory rate, and all costs and  
 14 **attorney** [ATTORNEYS'] fees incurred by the prevailing employer, shall be made  
 15 within 14 days **after** [OF] the determination.

16 \* **Sec. 47.** AS 23.30.155(e) is amended to read:

17 (e) If any installment of compensation payable without an award is not paid  
 18 within seven days after it becomes due, as provided in (b) of this section, there shall be  
 19 added to the unpaid installment an amount equal to 25 percent of **the installment** [IT].  
 20 This additional amount shall be paid at the same time as, and in addition to, the  
 21 installment, unless notice is filed under (d) of this section or unless the nonpayment is  
 22 excused by the board after a showing by the employer that owing to conditions over  
 23 which the employer had no control the installment could not be paid within the period  
 24 prescribed for the payment. **The additional amount shall be paid directly to the**  
 25 **recipient to whom the unpaid installment was to be paid.**

26 \* **Sec. 48.** AS 23.30.155(f) is amended to read:

27 (f) If compensation payable under the terms of an award is not paid within 14  
 28 days after it becomes due, there shall be added to that unpaid compensation an amount  
 29 equal to 25 percent of **the unpaid installment. The additional amount** [IT,  
 30 WHICH] shall be paid at the same time as, but in addition to, the compensation, unless  
 31 review of the compensation order making the award [IS HAD] as provided **under**

1        **AS 23.30.008** [IN AS 23.30.125] and an interlocutory injunction staying payments is  
 2        allowed by the court. **The additional amount shall be paid directly to the recipient**  
 3        **to whom the unpaid compensation was to be paid.**

4        \* **Sec. 49.** AS 23.30.155(i) is amended to read:

5                (i) When the **director** [BOARD] considers it advisable, **the director** [IT] may  
 6        require an employer to make a deposit with the Department of Revenue to secure the  
 7        prompt and convenient payment of the compensation, and payments from the deposit  
 8        upon an award shall be made upon order of the **director** [BOARD].

9        \* **Sec. 50.** AS 23.30.155(k) is amended to read:

10               (k) An injured employee [,] or, in case of death, the employee's dependents or  
 11        personal representative [,] shall give receipts for payment of compensation to the  
 12        employer paying **the compensation**, [IT] and the employer shall produce **the receipts**  
 13        [THEM] for inspection by the **director** [BOARD], whenever required.

14        \* **Sec. 51.** AS 23.30.155(m) is amended to read:

15               (m) On or before March 1 of each year, the insurer or adjuster shall file a  
 16        verified annual report on a form prescribed by the **director** [BOARD] stating the total  
 17        amount of all compensation by type, the number of claims received and the percentage  
 18        controverted, medical [,] and related benefits, vocational rehabilitation expenses, legal  
 19        fees, including a separate total of fees paid to attorneys and fees paid for the other  
 20        costs of litigation, and penalties paid on all claims during the preceding calendar year.  
 21        If the annual report is timely and complete when received by the **division** [BOARD]  
 22        and provides accurate information about each category of payments, the **director**  
 23        [COMMISSIONER] shall review the timeliness of the insurer's or adjuster's reports  
 24        filed during the preceding year under (c) of this section. If, during the preceding year,  
 25        the insurer or adjuster filed at least 99 percent of the reports on time, the penalties  
 26        assessed under (c) of this section shall be waived. If, during the preceding year, the  
 27        insurer or adjuster filed at least 97 percent of the reports on time, 75 percent of the  
 28        penalties assessed under (c) of this section shall be waived. If, during the preceding  
 29        year, the insurer or adjuster filed 95 percent of the reports on time, 50 percent of the  
 30        penalties assessed under (c) of this section shall be waived. If, during the preceding  
 31        year, the insurer's or adjuster's reports have not been filed on time at least 95 percent

1 of the time, none of the penalties assessed under (c) of this section shall be waived.  
 2 The penalties that are not waived are due and payable when the insurer or adjuster  
 3 receives notification from the **director** [COMMISSIONER] regarding the timeliness  
 4 of the reports. If the annual report is not filed by March 1 of each year, the insurer or  
 5 adjuster shall pay a civil penalty of \$100 for the first day the annual report is late [,]  
 6 and \$10 for each additional day the report is late. If the annual report is incomplete  
 7 when filed, the insurer or adjuster shall pay a civil penalty of \$1,000.

8 \* **Sec. 52.** AS 23.30.155(o) is amended to read:

9 (o) The **director** [BOARD] shall promptly notify the division of insurance if  
 10 the board determines that the employer's insurer has frivolously or unfairly  
 11 controverted compensation due under this chapter. After receiving notice from the  
 12 **director** [BOARD], the division of insurance shall determine if the insurer has  
 13 committed an unfair claim settlement practice under AS 21.36.125.

14 \* **Sec. 53.** AS 23.30.175(b) is amended to read:

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

17 (1) the weekly rate of compensation shall be calculated by multiplying  
 18 the recipient's weekly compensation rate calculated under AS 23.30.180, 23.30.185,  
 19 23.30.190, 23.30.200, or 23.30.215 [,] by the ratio of the cost of living of the area in  
 20 which the recipient resides to the cost of living in this state;

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

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

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

30 **(5) application of (1) - (4) of this subsection may not result in**  
 31 **raising a recipient's weekly compensation rate to an amount that exceeds the**

1        **weekly compensation rate that the recipient would have received if the recipient**  
 2        **had been residing in the state.**

3        \* **Sec. 54.** AS 23.30.175(c) is amended to read:

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

8        \* **Sec. 55.** AS 23.30.175 is amended by adding a new subsection to read:

9                (e) If the commissioner fails to determine the average weekly wage in the state  
 10               as required in (d) of this section until after January 1, but before April 1, of the year  
 11               following the date the determination was to be made, an employer is not required to  
 12               make a retroactive adjustment of compensation.

13        \* **Sec. 56.** AS 23.30.205(e) is amended to read:

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

19        \* **Sec. 57.** AS 23.30.220(a) is amended to read:

20               (a) Computation of compensation under this chapter shall be on the basis of an  
 21               employee's spendable weekly wage at the time of injury. An employee's spendable  
 22               weekly wage is the employee's gross weekly earnings minus payroll tax deductions.  
 23               An employee's gross weekly earnings shall be calculated as follows:

24                        (1) if at the time of injury the employee's earnings are calculated by the  
 25                        week, the weekly amount is the employee's gross weekly earnings;

26                        (2) if at the time of injury the employee's earnings are calculated by the  
 27                        month, the employee's gross weekly earnings are the monthly earnings multiplied by  
 28                        12 and divided by 52;

29                        (3) if at the time of injury the employee's earnings are calculated by the  
 30                        year, the employee's gross weekly earnings are the yearly earnings divided by 52;

31                        (4) if at the time of injury the [(A)] employee's earnings are calculated

1 by the day, **by the** hour, or by the output of the employee, **then** the employee's gross  
 2 weekly earnings are **1/50 of the total wages that the employee earned from all**  
 3 **occupations during either of the two calendar years immediately preceding the**  
 4 **injury, whichever is** [THE EMPLOYEE'S EARNINGS] most favorable to the  
 5 employee [COMPUTED BY DIVIDING BY 13 THE EMPLOYEE'S EARNINGS,  
 6 INCLUDING OVERTIME OR PREMIUM PAY, EARNED DURING ANY PERIOD  
 7 OF 13 CONSECUTIVE CALENDAR WEEKS WITHIN THE 52 WEEKS  
 8 IMMEDIATELY PRECEDING THE INJURY;

9 (B) EMPLOYEE HAS BEEN EMPLOYED FOR LESS THAN  
 10 13 CALENDAR WEEKS IMMEDIATELY PRECEDING THE INJURY,  
 11 THEN, NOTWITHSTANDING (1) - (3) OF THIS SUBSECTION AND (A)  
 12 OF THIS PARAGRAPH, THE EMPLOYEE'S GROSS WEEKLY  
 13 EARNINGS ARE COMPUTED BY DETERMINING THE AMOUNT THAT  
 14 THE EMPLOYEE WOULD HAVE EARNED, INCLUDING OVERTIME  
 15 OR PREMIUM PAY, HAD THE EMPLOYEE BEEN EMPLOYED BY THE  
 16 EMPLOYER FOR 13 CALENDAR WEEKS IMMEDIATELY PRECEDING  
 17 THE INJURY AND DIVIDING THIS SUM BY 13];

18 (5) if at the time of injury the employee's earnings have not been fixed  
 19 or cannot be ascertained, the employee's earnings for the purpose of calculating  
 20 compensation are the usual wage for similar services when the services are rendered  
 21 by paid employees;

22 (6) if at the time of injury **the employee's earnings are calculated by**  
 23 **the week under (a)(1) of this section or by the month under (a)(2) of this section**  
 24 **and** the employment is exclusively seasonal or temporary, then [,  
 25 NOTWITHSTANDING (1) - (5) OF THIS SUBSECTION,] the gross weekly  
 26 earnings are 1/50 of the total wages that the employee has earned from all occupations  
 27 during the 12 calendar months immediately preceding the injury;

28 (7) when the employee is working under concurrent contracts with two  
 29 or more employers, the employee's earnings from all employers is considered as if  
 30 earned from the employer liable for compensation;

31 (8) if an employee when injured is a minor, an apprentice, or a trainee

1 in a **formalized** [FORMAL] training program, as determined by the board, whose  
 2 wages under normal conditions would increase during the period of disability, the  
 3 projected increase may be considered by the board in computing the gross weekly  
 4 earnings of the employee; **if the minor, apprentice, or trainee would have likely**  
 5 **continued that training program, then the compensation shall be the average**  
 6 **weekly wage at the time of injury rather than that based on the individual's prior**  
 7 **earnings;**

8 (9) if the employee is injured while performing duties as a volunteer  
 9 ambulance attendant, volunteer police officer, or volunteer fire fighter, then,  
 10 notwithstanding (1) - (6) of this subsection, the gross weekly earnings for calculating  
 11 compensation shall be the minimum gross weekly earnings paid a full-time ambulance  
 12 attendant, police officer, or fire fighter employed in the political subdivision where the  
 13 injury occurred, or, if the political subdivision has no full-time ambulance attendants,  
 14 police officers, or fire fighters, at a reasonable figure previously set by the political  
 15 subdivision to make this determination, but in no case may the gross weekly earnings  
 16 for calculating compensation be less than the minimum wage computed on the basis of  
 17 40 hours work per week;

18 (10) if an employee is entitled to compensation under AS 23.30.180  
 19 and the board determines that calculation of the employee's gross weekly earnings  
 20 under (1) - (7) of this subsection does not fairly reflect the employee's earnings during  
 21 the period of disability, the board shall determine gross weekly earnings by  
 22 considering the nature of the employee's work, work history, and resulting disability,  
 23 but compensation calculated under this paragraph may not exceed the employee's  
 24 gross weekly earnings at the time of injury.

25 \* **Sec. 58.** AS 23.30 is amended by adding a new section to read:

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

30 (1) the difference between the disability benefit payable to the  
 31 employee under AS 14.25.130, AS 39.35.400, or 39.35.410, converted to a weekly

1 basis, and 100 percent of the employee's spendable weekly wage as calculated under  
2 AS 23.30.220; or

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

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

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

11 (2) 105 percent of the average weekly wage calculated under  
12 AS 23.30.175(d).

13 (c) Notwithstanding other provisions of this chapter, the liability of an  
14 employer for payment of compensation for an injury or illness under AS 23.30.180 or  
15 23.30.185 to an employee who is covered by a union or group retirement system to  
16 which the employer makes contributions under a collective bargaining agreement or  
17 by membership in a welfare or pension plan or trust may not exceed the lesser of

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

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

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

28 (e) Notwithstanding other provisions of this chapter, the liability of an  
29 employer for payment of compensation for an injury or illness under AS 23.30.041(k)  
30 to an employee who is covered by a union or group retirement system to which the  
31 employer makes contributions under a collective bargaining agreement or by

1 membership in a welfare or pension plan or trust may not exceed the lesser of

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

7 (2) 105 percent of the average weekly wage calculated under  
8 AS 23.30.175(d).

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

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

22 \* **Sec. 59.** AS 23.30.240 is amended to read:

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

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

1 chapter, an executive officer of a municipal corporation or of a charitable, religious,  
 2 educational, or other nonprofit corporation may be brought within the coverage of its  
 3 insurance contract by the corporation by specifically including the officer in the  
 4 contract of insurance. The election to bring an executive officer within the coverage  
 5 continues in force for the period the contract of insurance is in effect. During that  
 6 period, an executive officer brought within the coverage of the insurance contract is an  
 7 employee of the corporation under this chapter.

8 \* **Sec. 60.** AS 23.30.240 is amended by adding a new subsection to read:

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

18 \* **Sec. 61.** AS 23.30.250 is amended to read:

19 **Sec. 23.30.250. Penalties for fraudulent or misleading acts.** (a) A person,  
 20 including an employee, an employer, a representative of a person, a physician, or  
 21 a medical provider, who (1) knowingly makes a false or misleading statement,  
 22 representation, or submission related to a benefit under this chapter; (2) knowingly  
 23 assists, abets, solicits, or conspires in making a false or misleading submission  
 24 affecting the payment, coverage, or other benefit under this chapter; (3) knowingly  
 25 misclassifies employees or engages in deceptive leasing practices for the purpose of  
 26 evading full payment of workers' compensation insurance premiums; or (4) employs  
 27 or contracts with a person or firm to coerce or encourage an individual to file a  
 28 fraudulent compensation claim is civilly liable to a person adversely affected by the  
 29 conduct, is guilty of theft by deception as defined in AS 11.46.180, and may be  
 30 punished as provided by AS 11.46.120 - 11.46.150.

31 (b) If the board, after a hearing, finds that a person has obtained compensation,

1 medical treatment, or another benefit provided under this chapter, **or that a provider**  
 2 **has received a payment,** by knowingly making a false or misleading statement or  
 3 representation for the purpose of obtaining that benefit, the board shall order that  
 4 person to make full reimbursement of the cost of all benefits obtained. Upon entry of  
 5 an order authorized under this subsection, the board shall also order that person to pay  
 6 all reasonable costs and attorney fees incurred by the employer and the employer's  
 7 carrier in obtaining an order under this section and in defending any claim made for  
 8 benefits under this chapter. If a person fails to comply with an order of the board  
 9 requiring reimbursement of compensation and payment of costs and attorney fees, the  
 10 employer may declare the person in default and proceed to collect any sum due as  
 11 provided under AS 23.30.170(b) and (c).

12 \* **Sec. 62.** AS 23.30.250 is amended by adding a new subsection to read:

13 (c) To the extent allowed by law, in a civil action under (a) of this section, an  
 14 award of damages by a court or jury may include compensatory damages and an  
 15 award of three times the amount of damages sustained by the person, subject to  
 16 AS 09.17. Attorney fees may be awarded to a prevailing party as allowed by law.

17 \* **Sec. 63.** AS 23.30.260 is amended to read:

18 **Sec. 23.30.260. Penalty for receiving unapproved fees and soliciting.** A  
 19 person is guilty of a misdemeanor [,] and, upon conviction, is punishable for each  
 20 offense by a fine of not more than \$1,000 [,] or by imprisonment for not more than one  
 21 year, or by both, if the person

22 (1) receives a fee, other consideration, or a gratuity on account of **any**  
 23 services rendered **for representation or advice with** [IN] respect to a claim, unless  
 24 the consideration or gratuity is approved by the board or the court; or

25 (2) makes it a business to solicit employment for a lawyer or for **the**  
 26 **person making the solicitation with** [ONESELF IN] respect to a claim or award for  
 27 compensation.

28 \* **Sec. 64.** AS 23.30.260 is amended by adding a new subsection to read:

29 (b) Notwithstanding AS 23.30.145 and (a) of this section, approval of a fee is  
 30 not required if the fee does not exceed \$300 and is a one-time-only charge to an  
 31 employee by an attorney licensed in this state who performed legal services with

1 respect to the employee's claim but did not enter an appearance.

2 \* **Sec. 65.** AS 23.30 is amended by adding a new section to read:

3 **Sec. 23.30.280. Investigation of fraud; staffing.** (a) The director shall  
4 establish a section within the division for the investigation of fraudulent or misleading  
5 acts under AS 23.30.250 and other fraudulent acts relating to workers' compensation.

6 (b) The director may investigate facts reported under this section and may  
7 refer facts indicating a possible violation of law to the appropriate prosecutor or  
8 agency. If the director determines that there is credible evidence that a person  
9 obtained a payment, compensation, medical treatment, or other benefit provided under  
10 this chapter by a fraudulent act or false or misleading statement or representation as  
11 provided in AS 23.30.250(a), the director shall notify the affected employer, insurer,  
12 and adjuster upon conclusion of the investigation. If the fraudulent act or false or  
13 misleading statement or representation was perpetrated against the division, the  
14 director may file a petition as provided in AS 23.30.110 for an order of forfeiture  
15 against the person, precluding, in whole or in part, the person from future payment,  
16 compensation, medical treatment, or other benefit provided under this chapter.

17 (c) The director shall establish a toll-free fraud hotline to receive calls relating  
18 to fraudulent or misleading acts under this chapter. The director shall publicize the  
19 availability of the toll-free fraud hotline and encourage the public to provide  
20 information to the division relating to fraudulent or misleading acts relating to  
21 workers' compensation.

22 (d) The section established by the director under (a) of this section shall  
23 include not less than two full-time investigators with the primary responsibility of  
24 investigating fraudulent or misleading acts relating to workers' compensation. The  
25 director shall also ensure that there are sufficient personnel to staff the toll-free fraud  
26 hotline established under (c) of this section.

27 (e) Except as provided in (f) of this section, a person is not liable for civil  
28 damages for filing a report concerning a suspected, anticipated, or completed  
29 fraudulent act or a false or misleading statement or representation with, or for  
30 furnishing other information, whether written or oral, concerning a suspected,  
31 anticipated, or completed fraudulent act or false or misleading statements or

1 representation to

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

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

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

8 (f) The provisions of (e) of this section do not preclude liability for civil  
9 damages as described in (e) of this section if the liability arose as a result of gross  
10 negligence or reckless or intentional misconduct.

11 (g) The papers, reports, documents, and evidence received under this section  
12 or in an investigation arising from information received under this section are not  
13 subject to public inspection for so long as the director considers confidentiality to be  
14 in the public interest or reasonably necessary to complete an investigation or protect  
15 the person investigated from unwarranted injury. Papers, reports, documents, and  
16 other evidence related to an investigation under this section are confidential.

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

23 (i) Papers, reports, documents and other evidence related to an investigation  
24 under this section are not subject to subpoena unless, after notice to the director and a  
25 hearing, a court determines that the director would not be unduly hindered by public  
26 inspection.

27 \* **Sec. 66.** AS 23.30.395(17) is amended to read:

28 (17) "injury" means accidental injury or death arising out of and in the  
29 course of employment, and an occupational disease or infection that [WHICH] arises  
30 naturally out of the employment or that [WHICH] naturally or unavoidably results  
31 from an accidental injury; "injury" includes breakage or damage to eyeglasses, hearing

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

14 \* **Sec. 67.** AS 23.30.395 is amended by adding new paragraphs to read:

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

17 (A) a licensed medical doctor;

18 (B) a licensed doctor of osteopathy;

19 (C) a licensed dentist or dental surgeon;

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

22 (E) a licensed advanced nurse practitioner; or

23 (F) a licensed chiropractor;

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

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

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

30 (39) "director" means the director of the division of workers'  
 31 compensation in the department;

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

3 \* **Sec. 68.** AS 37.05.146(c) is amended by adding a new paragraph to read:

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

5 \* **Sec. 69.** AS 39.25.110 is amended by adding a new paragraph to read:

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

8 \* **Sec. 70.** AS 39.25.120(c)(14) is amended to read:

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

11 \* **Sec. 71.** AS 39.50.200(b)(31) is amended to read:

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

14 \* **Sec. 72.** AS 44.23.020 is amended by adding a new subsection to read:

15 (f) The attorney general shall designate not less than one-half attorney position  
16 in the Department of Law for the purpose of prosecuting actions for fraudulent acts  
17 related to workers' compensation under AS 23.30.

18 \* **Sec. 73.** AS 44.64.020(a) is amended to read:

19 (a) The chief administrative law judge shall

20 (1) supervise the office;

21 (2) employ administrative staff, who shall be in the classified service;

22 (3) employ administrative law judges, who shall be in the partially  
23 exempt service;

24 (4) preside over administrative hearings handled by the office or, based  
25 upon the qualifications and expertise of the administrative law judges, assign  
26 administrative law judges to preside over hearings, and protect, support, and enhance  
27 the decisional independence of the administrative law judges;

28 (5) establish and implement performance standards, including  
29 provision for timeliness, and peer review programs for administrative law judges  
30 employed or retained by the office;

31 (6) make available and facilitate training and continuing education

1 programs and services in administrative procedure, administrative adjudication,  
 2 substantive law, alternate dispute resolution, and technical matters for administrative  
 3 law judges and other administrative adjudicators;

4 (7) survey administrative hearing participants and use other methods to  
 5 monitor the quality of administrative hearings held by the office and other state  
 6 agencies, and submit to the governor and the legislature on January 31 of each year the  
 7 results of the survey along with a report that includes a description of the activities of  
 8 the office and recommendations for statutory changes that may be needed in relation  
 9 to the administrative hearings held by the office or other state agencies;

10 (8) review and comment on regulations proposed by state agencies to  
 11 govern procedures in administrative hearings;

12 (9) enter into contracts as necessary to carry out the functions of the  
 13 office;

14 (10) annually prepare and submit to the commissioner of  
 15 administration a budget for the office for the next fiscal year that shall include and  
 16 separately identify funding for training and continuing education; a copy of the budget  
 17 submitted to the commissioner under this paragraph shall also be submitted to the  
 18 Finance Committee of each house of the legislature; [AND]

19 (11) after consulting with affected agencies, adopt regulations under  
 20 AS 44.62 (Administrative Procedure Act) to carry out the duties of the office and  
 21 implement this chapter;

22 **(12) receive and review applications from individuals seeking**  
 23 **appointments to the Workers' Compensation Appeals Commission and submit**  
 24 **the names of individuals to the governor for appointment as provided in**  
 25 **AS 23.30.007(d); and**

26 **(13) appoint a chair pro tem for the Workers' Compensation**  
 27 **Appeals Commission as provided in AS 23.30.007(m).**

28 \* **Sec. 74.** AS 23.30.095(f), 23.30.095(l), and 23.30.095(m) are repealed.

29 \* **Sec. 75.** AS 23.30.097(a)(1) is repealed August 1, 2007.

30 \* **Sec. 76.** The uncodified law of the State of Alaska is amended by adding a new section to  
 31 read:

1           INDIRECT COURT RULE AMENDMENT. AS 23.30.280(i), as enacted by sec. 65  
2 of this Act, has the effect of changing Rule 45, Alaska Rules of Civil Procedure, by changing  
3 the procedure relating to subpoenas.

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

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

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

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

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

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

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

18           (b) The task force established under (a) of the section shall consist of 13 voting  
19 members. One member shall be a state senator appointed by the president of the senate who  
20 shall serve as co-chair, one member shall be a state representative appointed by the speaker of  
21 the house of representatives who shall serve as co-chair, and one member shall be a member  
22 of the minority in either house jointly selected by the president of the senate and the speaker  
23 of the house of representatives. Ten members shall be appointed jointly by the president of  
24 the senate and speaker of the house of representatives as follows:

25                   (1) a representative of the Alaska State Medical Association;

26                   (2) a representative of the Alaska State Hospital and Nursing Home  
27 Association;

28                   (3) an attorney who represents employees in workers' compensation cases;

29                   (4) an attorney who represents employers in workers' compensation cases;

30                   (5) a representative from organized labor;

31                   (6) a person representing employees not represented by organized labor;

1 (7) a representative of the insurance industry that provides workers'  
2 compensation insurance in the state;

3 (8) a representative of self-insured employers;

4 (9) a person representing businesses that employ less than 100 employees; and

5 (10) a person representing businesses that employ more than 99 employees.

6 (c) With the approval of the co-chairs, nonvoting members may be appointed to the  
7 task force. The nonvoting members may take part in discussions but shall defer to the voting  
8 members on the matters to be discussed.

9 (d) The task force established under (a) of this section

10 (1) may begin work immediately upon the appointment of its full voting  
11 membership and shall meet at least three times telephonically or in person;

12 (2) shall hold public hearings and may perform research related to its work;

13 (3) may meet in the interim and vote telephonically;

14 (4) shall report its written findings and give a copy of proposed legislation and  
15 other recommendations to the president of the senate and the speaker of the house of  
16 representatives before December 1, 2005; and

17 (5) is terminated on February 1, 2006.

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

20 **APPLICABILITY.** The amendment to AS 23.30.175(b) made by sec. 53 of this Act  
21 applies to an injury occurring on or after the effective date of sec. 53 of this Act.

22 \* **Sec. 79.** The uncodified law of the State of Alaska is amended by adding a new section to  
23 read:

24 **TRANSITION: INITIAL TERMS OF MEMBERS OF WORKERS'**  
25 **COMPENSATION APPEALS COMMISSION.** Notwithstanding AS 23.30.007(e), enacted  
26 by sec. 8 of this Act, the terms of the initially appointed representative members of the  
27 Workers' Compensation Appeals Commission, established by AS 23.30.007, enacted by sec. 8  
28 of this Act, shall be set by the governor to achieve staggered terms in the manner provided in  
29 AS 39.05.055.

30 \* **Sec. 80.** The uncodified law of the State of Alaska is amended by adding a new section to  
31 read:

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

8           (b) In this section,

9                   (1) "commission" means the Workers' Compensation Appeals Commission  
 10 established by AS 23.30.007, enacted by sec. 8 of this Act;

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

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

15       \* **Sec. 81.** The uncodified law of the State of Alaska is amended by adding a new section to  
 16 read:

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

21           (b) Certificates, decisions, and orders issued under authority of a law amended or  
 22 repealed by this Act remain in effect for the term issued, or until revoked, vacated, or  
 23 otherwise modified under the provisions of this Act. Contracts, rights, liabilities, and  
 24 obligations created by or under a law amended or repealed by this Act and in effect on the day  
 25 before the effective date of this section remain in effect, notwithstanding this Act's taking  
 26 effect.

27       \* **Sec. 82.** The uncodified law of the State of Alaska is amended by adding a new section to  
 28 read:

29           TRANSITION: REGULATIONS. (a) The Department of Labor and Workforce  
 30 Development and the director of insurance in the Department of Commerce, Community, and  
 31 Economic Development may proceed to adopt regulations necessary to implement the

1 respective provisions for which each is responsible under this Act. The regulations take effect  
 2 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the  
 3 statutory changes.

4 (b) In order to provide for the procedures and other administrative matters necessary  
 5 to ensure the ongoing implementation of the state's workers' compensation laws to meet the  
 6 urgent needs of injured workers, and thus ensure the preservation of the public peace, health,  
 7 safety, or general welfare, the Workers' Compensation Appeals Commission established by  
 8 AS 23.30.007, enacted by sec. 8 of this Act, may adopt under AS 23.30.008, enacted by sec. 8  
 9 of this Act, as emergency regulations, the regulations necessary to implement the changes  
 10 made by this Act.

11 \* **Sec. 83.** The uncodified law of the State of Alaska is amended by adding a new section to  
 12 read:

13 TRANSITION: MEDICAL SERVICES REVIEW COMMITTEE STUDY AND  
 14 REPORT. The medical services review committee appointed by the commissioner of labor  
 15 and workforce development under AS 23.30.095(j), as amended by sec. 34 of this Act, shall  
 16 proceed to study medical and related benefits provided under AS 23.30 to determine the  
 17 appropriateness, necessity, delivery, and cost of the benefits and shall, before the end of the  
 18 first week of the First Regular Session of the Twenty-Fifth Alaska State Legislature, provide  
 19 to the legislature and the commissioner of labor and workforce development a report of the  
 20 results of the study.

21 \* **Sec. 84.** The uncodified law of the State of Alaska is amended by adding a new section to  
 22 read:

23 CONDITIONAL EFFECT. AS 23.30.280(i), enacted by sec. 65 of this Act, takes  
 24 effect only if sec. 76 of this Act receives the two-thirds majority vote of each house required  
 25 by art. IV, sec. 15, Constitution of the State of Alaska.

26 \* **Sec. 85.** Sections 34, 77, and 82(a) of this Act take effect immediately under  
 27 AS 01.10.070(c).

28 \* **Sec. 86.** Sections 1, 2, 53, and 83 of this Act take effect September 1, 2005.

29 \* **Sec. 87.** Except as provided in secs. 85 and 86 of this Act, this Act takes effect August 1,  
 30 2005.