

SENATE BILL NO. 1001

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SPECIAL SESSION

BY THE SENATE FINANCE COMMITTEE

Introduced: 5/18/05

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the teachers' and public employees' retirement systems and creating**
2 **defined contribution and health reimbursement plans for members of the teachers'**
3 **retirement system and the public employees' retirement system who are first hired after**
4 **July 1, 2005; relating to university retirement programs; establishing the Alaska**
5 **Retirement Management Board to replace the Alaska State Pension Investment Board,**
6 **the Alaska Teachers' Retirement Board, and the Public Employees' Retirement Board;**
7 **adding appeals of the decisions of the administrator of the teachers' and public**
8 **employees' retirement systems to the jurisdiction of the office of administrative**
9 **hearings; providing for nonvested members of the teachers' retirement system defined**
10 **benefit plans to transfer into the teachers' retirement system defined contribution plan**
11 **and for nonvested members of the public employees' retirement system defined benefit**
12 **plans to transfer into the public employees' retirement system defined contribution**

1 **plan; providing for political subdivisions and public organizations to request to**
 2 **participate in the public employees' defined contribution retirement plan; and providing**
 3 **for an effective date."**

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

5 * **Section 1.** AS 14.25 is amended by adding new sections to read:

6 **Article 1. Administration of the Teachers' Retirement System.**

7 **Sec. 14.25.001. Purpose.** The purpose of this chapter is to encourage
 8 qualified teachers to enter and remain in service with participating employers by
 9 establishing plans for the payment of retirement and death benefits to or on behalf of
 10 the members.

11 **Sec. 14.25.002. Attorney general.** The attorney general of the state is the
 12 legal counsel for the system and shall advise the administrator and represent the
 13 system in a legal proceeding.

14 **Sec. 14.25.003. Administrator.** (a) The commissioner of administration or
 15 the commissioner's designee is the administrator of the system.

16 (b) The commissioner of administration shall adopt regulations to govern the
 17 operation of the system.

18 **Sec. 14.25.004. Powers and duties of the administrator.** (a) The
 19 administrator shall

- 20 (1) establish and maintain an adequate system of accounts;
 21 (2) transmit the funds deposited in the system to the retirement fund
 22 established and maintained by the Alaska Retirement Management Board;
 23 (3) approve or disapprove claims for retirement benefits;
 24 (4) make payments for the various purposes specified;
 25 (5) submit periodic reports or statements of account that are needed;
 26 (6) issue a statement of account to an employee not less than once each
 27 year showing the amount of the employee's contributions to the applicable plan in the
 28 system;
 29 (7) formulate and recommend to the commissioner of administration
 30 regulations to govern the operation of the system;

1 (8) as soon as possible after the close of each fiscal year, and not later
 2 than six months after the close of each fiscal year, send to the governor and the
 3 legislature an annual statement on the operations of each of the plans in the system
 4 containing

5 (A) a balance sheet;

6 (B) a statement of income and expenditures for the previous
 7 fiscal year;

8 (C) a report on valuation of trust fund assets;

9 (D) a summary of assets held in the trust fund listed by the
 10 categories of investment, as provided by the Alaska Retirement Management
 11 Board;

12 (E) other statistical financial data that are necessary for proper
 13 understanding of the financial condition of the system as a whole and each plan
 14 in the system and the result of its operations;

15 (9) engage an independent certified public accountant to conduct an
 16 annual audit of each plan's accounts and the annual report of the system's financial
 17 condition and activity;

18 (10) report to the Legislative Budget and Audit Committee concerning
 19 the condition and administration of each plan and distribute the report to the members
 20 of each plan in the system;

21 (11) publish an information handbook for each plan in the system at
 22 intervals that the administrator considers appropriate;

23 (12) meet at least annually with the board to review the condition and
 24 management of the retirement systems and to review significant changes to policies,
 25 regulations, or benefits; and

26 (13) do whatever else may be necessary to carry out the purposes of
 27 each plan in the system.

28 (b) The administrator is authorized to charge fees necessary to members'
 29 accounts to cover the ongoing cost of operating each plan in the system.

30 (c) The administrator is authorized to contract with public and private entities
 31 to provide record keeping, benefits payments, and other functions necessary for the

1 administration of each plan in the system.

2 **Sec. 14.25.005. Regulations.** (a) Regulations adopted by the commissioner
3 of administration under this chapter relate to the internal management of a state
4 agency, and the adoption of the regulations is not subject to AS 44.62 (Administrative
5 Procedure Act).

6 (b) Notwithstanding (a) of this section, a regulation adopted under this chapter
7 shall be published in the Alaska Administrative Register and Code for informational
8 purposes.

9 (c) Each regulation adopted under this chapter must conform to the style and
10 format requirements of the drafting manual for administrative regulations that is
11 published under AS 44.62.050.

12 (d) At least 30 days before the adoption, amendment, or repeal of a regulation
13 under this chapter, the commissioner of administration shall provide notice of the
14 action that is being considered. The notice shall be

15 (1) posted in public buildings throughout the state;

16 (2) published in one or more newspapers of general circulation in each
17 judicial district of the state;

18 (3) mailed to each person or group that has filed a request for notice of
19 proposed action with the commissioner of administration; and

20 (4) furnished to each member of the legislature and to the Legislative
21 Affairs Agency.

22 (e) Failure to mail notice to a person as required under (d)(3) of this section
23 does not invalidate an action taken by the commissioner of administration.

24 (f) The commissioner of administration may hold a hearing on a proposed
25 regulation.

26 (g) A regulation adopted under this chapter takes effect 30 days after adoption
27 by the commissioner of administration.

28 (h) Notwithstanding the other provisions of this section, a regulation may be
29 adopted, amended, or repealed, effective immediately, as an emergency regulation by
30 the commissioner of administration. For an emergency regulation to be effective the
31 commissioner must find that the adoption, amendment, or repeal of the regulation is

1 necessary for the immediate preservation of the orderly operation of the system. The
 2 commissioner shall, within 10 days after adoption of an emergency regulation, give
 3 notice of the adoption under (d) of this section.

4 (i) In this section, "regulation" has the meaning given in AS 44.62.640(a).

5 **Sec. 14.25.006. Appeals.** An employer, member, annuitant, or beneficiary
 6 may appeal a decision made by the administrator to the office of administrative
 7 hearings established under AS 44.64. An aggrieved party may appeal a final decision
 8 to the superior court.

9 **Sec. 14.25.007. Investment management of retirement system funds.** The
 10 Alaska Retirement Management Board established under AS 37.10.210 is the
 11 fiduciary of the system funds.

12 **Sec. 14.25.008. Definitions.** In AS 14.25.001 - 14.24.008,

13 (1) "plan" means the retirement plan established in AS 14.25.009 -
 14 14.25.220 or the retirement plan established in AS 14.25.310 - 14.25.590;

15 (2) "system" means all retirement plans established under the teachers'
 16 retirement system.

17 **Article 2. Teachers' Defined Benefit Retirement Plan.**

18 **Sec. 14.25.009. Applicability of AS 14.25.009 - 14.25.220.** The provisions of
 19 AS 14.25.009 - 14.25.220 apply only to members first hired before July 1, 2005.

20 * **Sec. 2.** AS 14.25.010 is amended to read:

21 **Sec. 14.25.010. Retirement plan [SYSTEM] established; federal**
 22 **qualification requirements.** (a) A joint-contributory retirement plan [SYSTEM] for
 23 teachers of the state is created.

24 (b) The retirement plan [SYSTEM] established by AS 14.25.009 - 14.25.220
 25 [THIS CHAPTER] is intended to qualify under 26 U.S.C. 401(a) and 414(d) (Internal
 26 Revenue Code) as a qualified retirement plan established and maintained by the state
 27 for its employees, for the employees of school districts and regional educational
 28 attendance areas in the state, and for the employees of other employers whose
 29 participation is authorized by AS 14.25.009 - 14.25.220 [THIS CHAPTER] and who
 30 participate in this plan [SYSTEM].

31 (c) An amendment to AS 14.25.009 - 14.25.220 [THIS CHAPTER] does not

1 provide a person with a vested right to a benefit if the Internal Revenue Service
 2 determines that the amendment will result in disqualification of the plan under the
 3 Internal Revenue Code.

4 * **Sec. 3.** AS 14.25.012(b) is amended to read:

5 (b) The **plan** [SYSTEM] created **in AS 14.25.009 - 14.25.220** became
 6 effective as of July 1, 1955, at which time contributions by the participating employers
 7 and members began.

8 * **Sec. 4.** AS 14.25.012 is amended by adding a new subsection to read:

9 (c) Employees first hired after June 30, 2005, are not eligible to participate in
 10 the plan established in AS 14.25.009 - 14.25.220.

11 * **Sec. 5.** AS 14.25.040(a) is amended to read:

12 (a) Unless a teacher or member **participates in a** [HAS ELECTED TO
 13 PARTICIPATE IN THE OPTIONAL] university retirement program under
 14 AS 14.40.661 - 14.40.799, [OR] has filed an election under AS 14.25.043(b), **or has**
 15 **elected under AS 14.25.540 to participate in the plan established in AS 14.25.310 -**
 16 **14.25.590,** a teacher or member contracting for service with a participating employer
 17 is subject to **AS 14.25.009 - 14.25.220** [THIS CHAPTER].

18 * **Sec. 6.** AS 14.25.040(d) is amended to read:

19 (d) A person who is employed at least half-time in the **plan** [SYSTEM] during
 20 the same period that the person is employed at least half-time in a position in the
 21 public employees' retirement **plan** [SYSTEM] under **AS 39.35.095 - 39.35.680**
 22 [AS 39.35] shall receive credited service under each **plan** [SYSTEM] for half-time
 23 employment. However, the amount of credited service a person receives under the
 24 public employees' retirement **plan** [SYSTEM] during a school year may not exceed
 25 the amount necessary, when added to the amount of credited service earned during the
 26 school year under the **plan** [SYSTEM], to equal one year of credited service. A
 27 person who was employed at least half-time in a position in the public employees'
 28 retirement **plan** [SYSTEM] under **AS 39.35.095 - 39.35.680** [AS 39.35] in the same
 29 period that the person was employed at least half-time in a position in this **plan**
 30 [SYSTEM] may claim credited service in both **plans** [SYSTEMS] for employment
 31 before May 31, 1989. To obtain this credited service, the person shall claim the

1 service and verify the period of half-time employment. When eligibility for half-time
 2 service credit has been established, an indebtedness shall be determined to the
 3 retirement **plan** [SYSTEM] in which the person did not participate. The amount of
 4 the indebtedness is the full actuarial cost of providing benefits for the credited service
 5 claimed. Interest as prescribed by regulation accrues on that indebtedness beginning
 6 on the later of July 1, 1989, or the date on which the member is first eligible to claim
 7 the service. Any outstanding indebtedness existing at the time the person retires will
 8 require an actuarial adjustment to the benefits payable based on that service.

9 * **Sec. 7.** AS 14.25.070 is repealed and reenacted to read:

10 **Sec. 14.25.070. Contributions by employer.** An employer shall make
 11 contributions to the plan in an amount sufficient, after subtracting member
 12 contributions, to provide the benefits of AS 14.25.009 - 14.25.220. The amount shall
 13 be calculated by applying an employer contribution rate, certified by the board, against
 14 the sum total of the base salaries paid to members, including any adjustments to
 15 contributions required by AS 14.25.173(a).

16 * **Sec. 8.** AS 14.25.070 is amended by adding a new subsection to read:

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

20 * **Sec. 9.** AS 14.25.075(a) is amended to read:

21 (a) An employee who is eligible to purchase credited service under
 22 AS 14.25.047 or 14.25.048, a member who is eligible to purchase credited service
 23 under AS 14.25.048, 14.25.050, 14.25.060, 14.25.061, [14.25.062,] 14.25.100, or
 24 14.25.107, or a teacher who is eligible to purchase credited service under
 25 AS 14.20.345, AS 14.25.050, [14.25.062,] or 14.25.105, in lieu of making payments
 26 directly to the plan, may elect to have the member's employer make payments as
 27 provided in this section.

28 * **Sec. 10.** AS 14.25.075(b) is amended to read:

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

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

5 (2) the member shall make an irrevocable election under this
 6 subsection to purchase credited service as permitted in AS 14.20.345, AS 14.25.047,
 7 14.25.048, 14.25.050, 14.25.060, 14.25.061, [14.25.062,] 14.25.100, 14.25.105, or
 8 14.25.107 before the member's termination of employment; the irrevocable election
 9 must specify the number of payroll periods that deductions will be made from the
 10 member's compensation and the dollar amount of deductions for each payroll period
 11 during the specified number of payroll periods; the deductions made under this
 12 paragraph cease upon the earlier of the member's termination of employment with the
 13 employer or the member's death; amounts paid by an employer under (f) of this
 14 section may not be applied toward the payment of the dollar amount of the deductions
 15 representing the portion of the credited service that is being purchased by the member
 16 through payroll deduction in accordance with the member's irrevocable election under
 17 this paragraph;

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

23 * **Sec. 11.** AS 14.25.075(e) is amended to read:

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

28 * **Sec. 12.** AS 14.25.075(f) is amended to read:

29 (f) The administrator may accept rollover contributions from a member [,
 30 AND DIRECT TRANSFERS AS DESCRIBED IN THIS SUBSECTION, FOR THE
 31 PURCHASE, IN WHOLE OR IN PART, OF FORFEITED CREDITED SERVICE

1 UNDER THIS SECTION FOR THE REINSTATEMENT, IN WHOLE OR IN PART,
 2 OF FORFEITED CREDITED SERVICE UNDER AS 14.25.062]. Contributions
 3 made under this subsection may not be applied to purchase service being paid under
 4 (b) of this section. A rollover contribution [OR TRANSFER] as described in this
 5 subsection shall be treated as employer contributions for the purpose of determining
 6 tax treatment under the Internal Revenue Code and may be made by any one or a
 7 combination of the following methods:

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

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

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

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

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

27 * **Sec. 13.** AS 14.25.075(i) is amended to read:

28 (i) On satisfaction of the eligibility requirements of AS 14.20.345,
 29 AS 14.25.047, 14.25.048, 14.25.050, 14.25.060, 14.25.061, [14.25.062,] 14.25.100,
 30 14.25.105, or 14.25.107, the requirements of this section, and the administrative filing
 31 requirements specified by the administrator, the plan shall adjust the member's

1 credited service history and add any additional service credits acquired.

2 * **Sec. 14.** AS 14.25.115(a) is amended to read:

3 (a) A teacher in membership service on or after July 1, 1977, who is appointed
4 to retirement on or after July 1, 1978, may elect to apply unused sick leave credit in
5 computing the total number of years of credited service under AS 14.25.110(d) except
6 for sick leave earned while participating in a [THE OPTIONAL] university retirement
7 program under AS 14.40.661 - 14.40.799. To obtain service credit for unused sick
8 leave, a teacher must apply to the administrator **not** [NO] later than one year after
9 appointment to retirement. Unused sick leave shall be credited on a day-for-day basis
10 in accordance with the table for service after July 1, 1969, contained in
11 AS 14.25.220(45). Teacher contributions may not be required for credited unused sick
12 leave.

13 * **Sec. 15.** AS 14.25.143(a), as that subsection read following amendment by sec. 3, ch.
14 146, SLA 1980, until amended by sec. 12, ch. 106, SLA 1988, is amended to read:

15 (a) When the administrator determines that the cost of living has increased and
16 that the financial condition of the retirement fund permits, the administrator shall
17 increase benefit payments to persons receiving benefits under this **plan. For**
18 **purposes of this subsection, the financial condition of the fund would only permit**
19 **an increase in benefits when the ratio of total fund assets to the accrued liability**
20 **meets or exceeds 105 percent. In this subsection, "accrued liability" means the**
21 **present value of all member benefits accrued by member service in this plan**
22 [SYSTEM].

23 * **Sec. 16.** AS 14.25.143(a), as that subsection read following amendment by sec. 12, ch.
24 106, SLA 1988, until amended by sec. 12, ch. 97, SLA 1990, is amended to read:

25 (a) When the administrator determines that the cost of living has increased and
26 that the financial condition of the **retirement fund** [SYSTEM] permits, the
27 administrator shall increase benefit payments to persons receiving benefits under this
28 **plan. For purposes of this subsection, the financial condition of the fund would**
29 **only permit an increase in benefits when the ratio of total fund assets to the**
30 **accrued liability meets or exceeds 105 percent. In this subsection, "accrued**
31 **liability" means the present value of all member benefits accrued by member**

1 service in this plan [SYSTEM].

2 * **Sec. 17.** AS 14.25.145 is amended to read:

3 **Sec. 14.25.145. Interest on individual accounts.** Interest shall be credited to
4 each teacher's account at the end of each school year at the rate prescribed by **the**
5 **board** [REGULATION] for that year.

6 * **Sec. 18.** AS 14.25.150 is amended by adding a new subsection to read:

7 (c) A member who has received a refund of contributions in accordance with
8 this section forfeits corresponding credited service under AS 14.25.009 - 14.25.220.

9 * **Sec. 19.** AS 14.25.168(a) is repealed and reenacted to read:

10 (a) Except as provided in (c) of this section, the following persons are entitled
11 to major medical insurance coverage under this section:

12 (1) for teachers first hired before July 1, 1990,

13 (A) a teacher who is receiving a monthly benefit from the plan
14 and who has elected coverage;

15 (B) the spouse and dependent children of the teacher described
16 in (A) of this paragraph;

17 (C) the surviving spouse of a deceased teacher who is receiving
18 a monthly benefit from the plan and who has elected coverage;

19 (D) the dependent children of a deceased teacher who are
20 dependent on the surviving spouse described in (C) of this paragraph;

21 (2) for teachers first hired on or after July 1, 1990,

22 (A) a teacher who is receiving a monthly benefit from the plan
23 and who has elected coverage for the teacher;

24 (B) the spouse of the teacher described in (A) of this paragraph
25 if the teacher elected coverage for the spouse;

26 (C) the dependent children of the teacher described in (A) of
27 this paragraph if the teacher elected coverage for the dependent children;

28 (D) the surviving spouse of a deceased teacher who is receiving
29 a monthly benefit from the plan and who has elected coverage;

30 (E) the dependent children of a deceased teacher who are
31 dependent on the surviving spouse described in (D) of this paragraph if the

1 surviving spouse has elected coverage for the dependent children.

2 * **Sec. 20.** AS 14.25.173(c) is amended to read:

3 (c) **At least quarterly,** [AT EACH REGULARLY SCHEDULED MEETING
4 OF THE TEACHERS' RETIREMENT BOARD,] the administrator shall report to the
5 **commissioner of administration** [BOARD] on all situations since the administrator's
6 last report in which an adjustment has been prohibited under (b) of this section. If the
7 **commissioner of administration** [BOARD] finds that there is reason to believe that
8 one or more of the conditions set out in (b) of this section have not been met, the
9 administrator shall notify the member or beneficiary that an adjustment will be made
10 to recover the overpayment. A member or beneficiary who receives notice of
11 adjustment under this subsection may **file a request with the commissioner of**
12 **administration** [APPEAL TO THE BOARD] for a waiver of the adjustment under
13 AS 14.25.175. An adjustment that requires the repayment of benefits may not be
14 required while the **waiver request** [APPEAL] is pending.

15 * **Sec. 21.** AS 14.25.175(a) is amended to read:

16 (a) Upon **request** [APPEAL] by an affected member or beneficiary under (b)
17 of this section, the **commissioner of administration** [BOARD] may waive an
18 adjustment or a portion of an adjustment made under AS 14.25.173 if, in the opinion
19 of the **commissioner of administration** [BOARD],

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

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

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

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

29 * **Sec. 22.** AS 14.25.175(b) is amended to read:

30 (b) In order to obtain consideration of a waiver under this section, the affected
31 member or beneficiary **shall file a request with** [MUST APPEAL TO] the

1 **commissioner of administration** [BOARD] in writing within 30 days after receipt of
 2 notice that the records have been adjusted. The ruling of the **commissioner of**
 3 **administration** [BOARD] shall be in writing.

4 * **Sec. 23.** AS 14.25.175(c) is repealed and reenacted to read:

5 (c) A ruling of the commissioner of administration to deny a waiver under (b)
 6 of this section may be appealed to the office of administrative hearings.

7 * **Sec. 24.** AS 14.25.175(d) is amended to read:

8 (d) The **office of administrative hearings** [BOARD] may **reverse the**
 9 **commissioner of administration's decision to deny a waiver and may** impose
 10 conditions on granting a waiver that it considers equitable. These conditions may
 11 include requiring the member or beneficiary to make additional contributions to the
 12 **plan** [SYSTEM].

13 * **Sec. 25.** AS 14.25.210(a) is amended to read:

14 (a) A person who knowingly makes a false statement, or falsifies or permits to
 15 be falsified any record of this **plan** [SYSTEM], in an attempt to defraud this **plan**
 16 [SYSTEM], is guilty of a class A misdemeanor [AND FORFEITS ALL RIGHTS
 17 UNDER THIS CHAPTER].

18 * **Sec. 26.** AS 14.25.220(2) is amended to read:

19 (2) "actuarial adjustment" means the adjustment necessary to obtain
 20 equality in value of the aggregate expected payments under two different forms of
 21 pension payments, considering expected mortality and interest earnings on the basis of
 22 assumptions, factors, and methods specified in regulations issued under the **plan**
 23 [SYSTEM] that are formally adopted [UNDER AS 14.25.022] by the board and that
 24 clearly preclude employer discretion in the determination of the amount of any
 25 member's benefit;

26 * **Sec. 27.** AS 14.25.220(3) is amended to read:

27 (3) "administrator" means the [PERSON APPOINTED BY THE]
 28 commissioner of administration **or the commissioner's designee** under **AS 14.25.003**
 29 [AS 14.25.015];

30 * **Sec. 28.** AS 14.25.220(9) is amended to read:

31 (9) "board" means the **Alaska Retirement Management** [ALASKA

TEACHERS' RETIREMENT] Board established under AS 37.10.210 [AS 14.25.035];

* **Sec. 29.** AS 14.25.220(40) is amended to read:

(40) "supplemental contribution account" means the account maintained by the plan [SYSTEM] to record the supplemental contributions of each member, including interest and adjustments to the account [IN ACCORDANCE WITH AS 14.25.170];

* **Sec. 30.** AS 14.25.220(42) is amended to read:

(42) "teacher" and "member" are used interchangeably under this chapter and mean a person eligible to participate in the system and who is covered by the system, limited to

(A) a certificated full-time or part-time elementary or secondary teacher, a certificated school nurse, or a certificated person in a position requiring a teaching certificate as a condition of employment in a public school of the state, the Department of Education and Early Development, or the Department of Labor and Workforce Development;

(B) a full-time or part-time teacher of the University of Alaska or a person occupying a full-time administrative position at the University of Alaska that requires academic standing; the approval of the administrator must be obtained before an administrative position qualifies for membership in the system; however, a teacher or administrative person at the university who is participating in a [THE OPTIONAL] university retirement program under AS 14.40.661 - 14.40.799 is not a member under this system;

(C) a state legislator who elects membership under AS 14.25.040(b);

* **Sec. 31.** AS 14.25.220 is amended by adding a new paragraph to read:

(46) "plan" means the retirement benefit plan established under AS 14.25.009 - 14.25.220.

* **Sec. 32.** AS 14.25 is amended by adding new sections to read:

Article 3. Teachers First Hired on or after July 1, 2005.

Sec. 14.25.310. Applicability of AS 14.25.310 - 14.25.590. The provisions of AS 14.25.310 - 14.25.590 apply only to teachers who first become members on or

1 after July 1, 2005, or to members who transfer into the defined contribution plan under
2 AS 14.25.540.

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

5 (b) The defined contribution retirement plan includes a plan in which savings
6 are accumulated in an individual account for the exclusive benefit of the member or
7 beneficiaries. The plan is established effective July 1, 2005, at which time
8 contributions by employers and members begin.

9 (c) The defined contribution retirement plan is intended to qualify under 26
10 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified retirement plan
11 established and maintained by the state for its employees and for the employees of
12 school districts and regional educational attendance areas in the state.

13 (d) An amendment to the defined contribution retirement plan does not
14 provide a person with a vested right to a benefit if the Internal Revenue Service
15 determines that the amendment will result in disqualification of the plan under the
16 Internal Revenue Code.

17 **Sec. 14.25.330. Membership.** (a) A teacher who first becomes a member on
18 or after July 1, 2005, shall participate in the plan as a member of the defined
19 contribution retirement plan.

20 (b) A teacher who is participating in a university retirement program under
21 AS 14.40.661 - 14.40.799 may not participate as a member of the defined contribution
22 retirement plan.

23 **Sec. 14.25.340. Contributions by members.** (a) Each member shall
24 contribute to the member's individual account an amount equal to eight percent of the
25 member's compensation from July 1 to the following June 30.

26 (b) Subject to the limitations on contributions under AS 14.25.380, a member
27 may elect to make additional contributions to the member's individual account.

28 (c) The employer shall deduct the contribution from the member's
29 compensation at the end of each payroll period, and the contribution shall be credited
30 by the administrator to the member's individual account. The contributions shall be
31 deducted from member's compensation before the computation of applicable federal

1 taxes and shall be treated as employer contributions under 26 U.S.C. 414(h)(2). A
 2 member may not have the option of making the payroll deduction directly in cash
 3 instead of having the contribution picked up by the employer.

4 **Sec. 14.25.345. Employment contributions mandatory.** (a) Contributions
 5 of members shall be made by payroll deductions. Each member shall be considered to
 6 consent to payroll deductions. It is of no consequence that a payroll deduction may
 7 cause the compensation paid in cash to a member to be reduced below the minimum
 8 required by law.

9 (b) Payment of a member's compensation, less payroll deductions, is a full and
 10 complete discharge and satisfaction of all claims and demands by the member relating
 11 to remuneration of services during the period covered by the payment, except with
 12 respect to the benefits provided under the plan.

13 **Sec. 14.25.350. Contributions by employers.** (a) An employer shall
 14 contribute to each member's individual account an amount equal to five percent of the
 15 member's compensation from July 1 to the following June 30.

16 (b) An employer shall also contribute an amount equal to a percentage, as
 17 certified by the board, of each member's compensation from July 1 to the following
 18 June 30 to pay for retiree major medical insurance. This contribution shall be paid
 19 into the group health and life benefits fund established by the commissioner of
 20 administration under AS 39.30.095 and shall be accounted for in accordance with
 21 regulations established by the commissioner.

22 (c) Notwithstanding (b) of this section, the employer contribution for retiree
 23 major medical insurance for fiscal year 2006 shall be 1.75 percent of each member's
 24 compensation from July 1 to the following June 30.

25 (d) An employer shall also make contributions to the health reimbursement
 26 arrangement plan under AS 39.30.300.

27 **Sec. 14.25.360. Rollover contributions and distributions.** (a) A teacher
 28 entering the plan may elect, at the time and in the manner prescribed by the
 29 administrator, to have all or part of a direct rollover distribution from an eligible
 30 retirement plan owned by the member paid directly into the member's individual
 31 account.

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

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

6 (d) In this section,

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

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

12 (3) "eligible retirement plan" means

13 (A) a conduit individual retirement account described in 26
14 U.S.C. 408(d)(3)(A);

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

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

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

18 (E) a governmental plan described in 26 U.S.C. 457(b);

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

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

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

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

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

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

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

3 **Sec. 14.25.370. Transmittal of contributions.** All contributions deducted in
4 accordance with AS 14.25.310 - 14.25.590 shall be transmitted to the plan for deposit
5 in the trust fund as soon as administratively feasible, but in no event later than 15 days
6 following the close of the payroll period.

7 **Sec. 14.25.380. Limitations on contributions.** Notwithstanding any other
8 provisions of this plan, the annual additions to each member's individual account
9 under this plan and under all defined contribution plans of the employer required to be
10 aggregated with the contributions from this plan under the provisions of 26 U.S.C. 415
11 may not exceed, for any limitation year, the amount permitted under 26 U.S.C. 415 at
12 any time. If the amount of a member's defined contribution plan contributions exceeds
13 the limitation of 26 U.S.C. 415(c) for any limitation year, the administrator shall take
14 any necessary remedial action to correct an excess contribution. The provisions of 26
15 U.S.C. 415, and the regulations adopted under that statute, as applied to qualified
16 defined contribution plans of governmental employees are incorporated as part of the
17 terms and conditions of the plan.

18 **Sec. 14.25.390. Vesting.** (a) A participating member is immediately and
19 fully vested in that member's contributions and related earnings.

20 (b) A member is fully vested in the employer contributions made on that
21 member's behalf, and related earnings, after five years of service. A member is
22 partially vested in the employer contributions made on that member's behalf, and the
23 related earnings, in the ratio of

- 24 (1) 25 percent with two years of service;
25 (2) 50 percent with three years of service; and
26 (3) 75 percent with four years of service.

27 **Sec. 14.25.400. Investment of individual accounts.** (a) The board shall
28 provide a range of investment options and permit a participant to exercise investment
29 control over the participant's assets in the member's individual account as provided in
30 this section. If a participant exercises control over the assets in the individual account,
31 the participant is not considered a fiduciary for any reason on the basis of exercising

1 that control.

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

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

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

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

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

21 **Sec. 14.25.410. Distribution election at termination.** (a) A member is
22 eligible to elect distribution of the member's account in accordance with this section
23 60 days after termination of employment.

24 (b) Notwithstanding (a) of this section, distribution of all or a portion of the
25 individual account of a member may take place before the 60th day after the
26 termination of employment with the approval of the administrator if the member
27 makes a written request for a distribution under this subsection. The member's spouse
28 must consent to the request in writing if the member is married. Distribution of an
29 individual account may only be made on account of an immediate and heavy financial
30 need of the member for the following reasons and in the amount the need is
31 demonstrated for

1 (1) medical care described in 26 U.S.C. 213(d) incurred by the
2 member, the member's spouse, or the member's dependent, or necessary to obtain that
3 medical care;

4 (2) the purchase of a principal residence for the member;

5 (3) postsecondary education tuition and related educational fees for the
6 next 12-month period for the member, the member's spouse, or a dependent of the
7 member; in this paragraph, "dependent" has the meaning given in 26 U.S.C. 152;

8 (4) prevention of the eviction of the member from the member's
9 principal residence or foreclosure on the mortgage of the member's principal
10 residence; or

11 (5) any need prescribed by the United States Department of the
12 Treasury, Internal Revenue Service, in a revenue ruling, notice, or other document of
13 general applicability that satisfies the safe harbor definition of hardship under
14 regulations adopted under 26 U.S.C. 401(k).

15 (c) If a member dies before benefits commence, the member's beneficiary is
16 immediately eligible to elect distribution of the member's share of the member's
17 individual account.

18 (d) Distributions are payable to an alternate payee in accordance with the
19 terms and conditions of a qualified domestic relations order that is received and
20 approved by the administrator as specified in AS 14.25.460.

21 (e) Distributions that are being paid to a member may not be affected by the
22 member's subsequent reemployment with the employer. Upon reemployment, a new
23 individual account shall be established for the member to which any future
24 contributions shall be allocated. Upon subsequent termination of employment, the
25 member's new individual account shall be distributed in accordance with this section.

26 **Sec. 14.25.420. Forms of distribution.** (a) A participant may elect to receive
27 distribution of the participant's share of the individual account in a

28 (1) lump sum payment, which is a single payment of the entire balance
29 in the account;

30 (2) periodic lump sum payment, which is a payment of a portion of the
31 balance in the account, not more than twice each year;

1 (3) period certain annuity payment, which is an annuity payable in a
2 fixed number of monthly installments for a duration of 60, 120, or 180 months;

3 (4) life annuity with a period certain payment, which is an annuity
4 payable until the later of the first day of the month in which the annuitant's death
5 occurs, or the date on which the payment of a fixed number of monthly installments is
6 completed; the period certain for installments is 120 or 180 months;

7 (5) single life annuity payment, which is an annuity payable monthly
8 until the first of the month in which the annuitant's death occurs; or

9 (6) joint and survivor annuity payment, which is an annuity payable
10 monthly to the member until the first of the month in which the member's death
11 occurs; after the member's death, a survivor annuity equal to 50 percent or 100 percent
12 of the member's benefit, as previously elected by the member, shall be paid monthly to
13 the joint annuitant for the remainder of the survivor's lifetime.

14 (b) Upon the death of an annuitant whose payments have commenced, an
15 annuitant's beneficiary shall receive further payments only to the extent provided in
16 accordance with the form of payment that was being made to the annuitant. The
17 remaining portion of the interest shall continue to be distributed at least as rapidly as
18 under the method of distribution being used before the annuitant's death.

19 (c) If a participant dies before the distribution commencement date,
20 distribution of the participant's entire interest to a beneficiary shall be payable in any
21 form other than a joint and survivor annuity.

22 (d) If an unmarried member or other participant fails to elect a form of
23 payment before the distribution commencement date, the account shall be paid to a
24 beneficiary in the form of a lump sum to the extent required by the minimum
25 distribution requirements set out in the Internal Revenue Code. If a married member
26 fails to elect a form of payment before the distribution commencement date, the
27 account shall be paid in the form of a 50 percent joint and survivor annuity, with the
28 member's spouse as the joint annuitant.

29 **Sec. 14.25.430. Manner of electing distributions.** (a) Any election or any
30 alteration or revocation of a prior election by a participant for any purpose under this
31 plan shall be on forms or made in a manner prescribed for that purpose by the plan

1 administrator. To be effective, the forms required or the required action for any
 2 purpose under this plan must be completed and received in accordance with
 3 regulations adopted by the commissioner of administration.

4 (b) At any time, but not less than seven days before the distribution
 5 commencement date, a member, alternate payee, or beneficiary may change

6 (1) the form of payment election;

7 (2) an election to commence benefits; or

8 (3) the joint annuitant designation.

9 (c) Changes in elections are not allowed on or after seven days before the
 10 distribution commencement date.

11 **Sec. 14.25.440. Distribution requirements.** (a) Payments to a participant
 12 shall commence as soon as administratively feasible following the distribution
 13 commencement date. The distribution commencement date is the first date on which
 14 one of the following occurs:

15 (1) a member meets the requirements of AS 14.25.410 and has made a
 16 complete application for payment under AS 14.25.430;

17 (2) a participant has elected to defer receipt of the account to a date
 18 specified, the date has been attained, and the participant has made a complete
 19 application for payment;

20 (3) a member attains normal retirement age and has not made an
 21 application for payment or elected to defer receipt of the account to a date later than
 22 normal retirement age;

23 (4) a member's beneficiary does not make an application for benefits
 24 and five years have elapsed since the member's death;

25 (5) notwithstanding (a) of this section, a participant whose account has
 26 a balance of \$1,000 or less meets the requirements of AS 14.25.410, at which time the
 27 participant must take payment of the participant's account.

28 (b) The entire interest of a participant must be distributed or must begin to be
 29 distributed not later than the member's required beginning date.

30 (c) If a member dies after the distribution of the member's interest has begun
 31 but before the distribution has been completed, the remaining portion of the interest

1 shall continue to be distributed at least as rapidly as under the method of distribution
2 being used before the member's death.

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

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

29 (f) For purposes of (b) of this section, distribution of a member's interest is
30 considered to begin (1) on the member's required beginning date, or (2) if the
31 designated beneficiary is the member's surviving spouse and the surviving spouse dies

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

6 (g) Notwithstanding any contrary provisions of AS 14.25.310 - 14.25.590, the
 7 requirements of this section apply to all distributions of a member's interest and take
 8 precedence over any inconsistent provisions of AS 14.25.310 - 14.25.590.

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

12 (i) In this section,

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

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

19 **Sec. 14.25.450. Designation of beneficiary.** (a) Each participant shall have
 20 the right to designate a beneficiary and shall have the right, at any time, to revoke the
 21 designation or to substitute another beneficiary, subject to the following limitation: if
 22 a married member elects a nonspouse beneficiary, the value of the benefit payable to
 23 the beneficiary may not exceed 50 percent of the member's portion of the account
 24 balance, and the member's spouse shall automatically be considered the beneficiary for
 25 the remaining 50 percent of the account balance, unless the spouse consents to the
 26 beneficiary designation in a writing that is notarized or witnessed by the administrator.
 27 If the spouse consents in this manner, a married member may designate a nonspouse
 28 beneficiary for the entire benefit or any portion of the benefit as part of an available
 29 form of payment contained in this plan,

30 (1) except to the extent a qualified domestic relations order filed with
 31 the administrator provides for payment to a former spouse or other dependent of the

1 member; or

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

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

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

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

18 (2) to the surviving children of the member in equal parts or, if there
19 are none surviving;

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

22 (4) to the estate.

23 (d) A person claiming entitlement to benefits payable under AS 14.25.310 -
24 14.25.590 as a consequence of a member's death shall provide the administrator with a
25 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.
26 Documents establishing entitlement may be filed with the administrator immediately
27 after a change in the member's marital status. If the administrator does not receive
28 notification of a claim before the date 10 days after the member's death, the person
29 claiming entitlement is not entitled to receive from the division of retirement and
30 benefits any benefit already paid by the administrator.

31 **Sec. 14.25.460. Rights under qualified domestic relations order. (a)**

1 Notwithstanding the nonalienation provisions in AS 14.25.500(a), the administrator
 2 may direct that benefits be paid to someone other than a member or beneficiary under
 3 a valid qualified domestic relations order that is executed by the judge of a competent
 4 court in accordance with applicable state law and that has been accepted by the
 5 administrator.

6 (b) The administrator shall determine whether an order meets the requirements
 7 of this section within a reasonable period after receiving an order. The administrator
 8 shall notify the member and any alternate payee that an order has been received and
 9 indicate to the member and any alternate payee when the order is accepted. A separate
 10 account for the alternate payee portion shall be established as soon as administratively
 11 feasible after the order has been accepted by the administrator.

12 **Sec. 14.25.470. Eligibility for retirement and medical benefits.** (a) In
 13 order to obtain medical benefits under AS 14.25.480 a member must retire directly
 14 from the plan. A member is eligible to retire from the plan if the member has been an
 15 active member for at least 12 months before application for retirement and

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

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

19 (b) The normal retirement age is the age set for Medicare eligibility at the time
 20 the member retires.

21 (c) A member's surviving spouse is eligible to elect medical benefits under
 22 AS 14.25.480 if the member had retired, or was eligible for retirement and medical
 23 benefits, at the time of the member's death.

24 (d) A member shall apply for retirement and medical benefits on the forms
 25 and in the manner prescribed by the administrator.

26 (e) Participation in the retiree major medical insurance plan is not required in
 27 order to participate in the health reimbursement arrangement.

28 (f) A person eligible for retirement and medical benefits is not required to
 29 participate in the health reimbursement arrangement in order to participate in the
 30 retiree major medical insurance plan.

31 (g) An eligible person shall make the irrevocable election to participate or not

1 participate in the retiree major medical insurance plan by reaching 70 1/2 years of age,
2 or upon application for retirement and medical benefits, whichever is later.

3 **Sec. 14.25.480. Medical benefits.** (a) The medical benefits available to
4 eligible persons are access to the retiree major medical insurance plan and to the
5 health reimbursement arrangement under AS 39.30.300. Access to the retiree major
6 medical insurance plan means that an eligible person may not be denied insurance
7 coverage except for failure to pay the required premium.

8 (b) Retiree major medical insurance plan coverage elected by an eligible
9 member under this section covers the eligible member, the spouse of the eligible
10 member, and the dependent children of the eligible member.

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

14 (d) Major medical insurance coverage takes effect on the first day of the
15 month following the date of the administrator's approval of the election and stops
16 when the person who elects coverage dies or fails to make a required premium
17 payment.

18 (e) The coverage for persons 65 years of age or older is the same as that
19 available for persons under 65 years of age. The benefits payable to those persons 65
20 years of age or older supplement any benefits provided under the federal old age,
21 survivors and disability insurance program.

22 (f) The medical and optional insurance premiums owed by the person who
23 elects coverage may be deducted from the health reimbursement arrangement. If the
24 amount of the health reimbursement arrangement becomes insufficient to pay the
25 premiums, the person who elects coverage under (a) of this section shall pay the
26 premiums directly.

27 (g) The cost of premiums for retiree major medical insurance coverage for an
28 eligible member or surviving spouse who is

29 (1) not eligible for Medicare is an amount equal to the full monthly
30 group premiums for retiree major medical insurance coverage;

31 (2) eligible for Medicare, is the following percentage of the premium

1 amounts established for retirees who are eligible for Medicare:

2 (A) 50 percent if the member had 10 or more, but less than 15,
3 years of service;

4 (B) 40 percent if the member had 15 or more, but less than 20,
5 years of service;

6 (C) 30 percent if the member had 20 or more, but less than 25,
7 years of service;

8 (D) 20 percent if the member had 25 or more, but less than 30,
9 years of service;

10 (E) 10 percent if the member had 30 or more years of service.

11 (h) The eligibility for retiree major medical insurance coverage for an
12 alternate payee under a qualified domestic relations order shall be determined based
13 on the eligibility of the member to elect coverage. The alternate payee shall pay the
14 full monthly premium for retiree major medical insurance coverage.

15 (i) A person who is entitled to retiree major medical insurance coverage shall

16 (1) be informed by the administrator in writing

17 (A) that the health insurance coverage available to retired
18 members may be different from the health insurance coverage provided to
19 employees;

20 (B) of time limits for selecting optional health insurance
21 coverage and whether the election is irrevocable; and

22 (2) indicate in writing on a form provided by the administrator that the
23 person has received the information required by this subsection and whether the
24 person has chosen to receive optional health insurance coverage.

25 (j) The monthly group premiums for retiree major medical insurance coverage
26 are established by the administrator in accordance with AS 39.30.095. Nothing in
27 AS 14.25.310 - 14.25.590 guarantees a person who elects coverage under (a) of this
28 section a monthly group premium rate for retiree major medical insurance coverage
29 other than the premium in effect for the month in which the premium is due for
30 coverage for that month.

31 (k) In this section, "health reimbursement arrangement" means the plan

1 established in AS 39.30.300.

2 **Sec. 14.25.490. Amendment and termination of plan.** (a) The state has the
3 right to amend the plan at any time and from time to time, in whole or in part,
4 including the right to make retroactive amendments referred to in 26 U.S.C. 401(b).

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

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

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

16 **Sec. 14.25.500. Exclusive benefit.** (a) The corpus or income of the assets
17 held in trust as required by the plan may not be diverted or used for other than the
18 exclusive benefit of the participants.

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

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

25 **Sec. 14.25.510. Nonguarantee of returns, rates, or benefit amounts.** The
26 plan created by AS 14.25.310 - 14.25.590 is a defined contribution plan, not a defined
27 benefit plan. The amount of money in the account of a participant depends on the
28 amount of contributions and the rate of return from investments of the account that
29 varies over time. If benefits are paid in the form of an annuity, the benefit amount
30 payable is dependent on the amount of money in the account and the interest rates
31 applied and service fees charged by the annuity payor at the time benefits are first

1 paid. Nothing in this plan guarantees a participant

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

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

7 **Sec. 14.25.520. Nonguarantee of employment.** The provisions of
8 AS 14.25.310 - 14.25.590 are not a contract of employment between an employer and
9 an employee, nor do they confer a right of an employee to be continued in the
10 employment of an employer, nor are they a limitation of the right of an employer to
11 discharge an employee with or without cause.

12 **Sec. 14.25.530. Fraud.** (a) A person who knowingly makes a false statement
13 or falsifies or permits to be falsified a record of this plan in an attempt to defraud the
14 plan is guilty of a class A misdemeanor.

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

16 **Sec. 14.25.540. Transfer into defined contribution retirement plan by**
17 **nonvested members of defined benefit retirement plan.** (a) Subject to (i) of this
18 section, an active member of the defined benefit retirement plan of the teachers'
19 retirement system is eligible to participate in the defined contribution retirement plan
20 established under AS 14.25.310 - 14.25.590 if that member has not vested.
21 Participation in the defined contribution retirement plan is in lieu of participation in
22 the defined benefit retirement plan established under AS 14.25.009 - 14.25.220.

23 (b) A member who has vested in a defined benefit retirement plan is not
24 eligible to transfer under this section.

25 (c) Each eligible member who elects to participate in the defined contribution
26 retirement plan shall have transferred to a new account the member contribution
27 account balance held in trust for the member under the defined benefit retirement plan
28 of the teachers' retirement system. A matching employer contribution shall be made
29 on behalf of that employee to the new account. The employer shall make the
30 matching contribution from funds other than the trust funds of the defined benefit
31 retirement plan.

1 (d) Upon a transfer, all membership service previously earned under the
2 defined benefit retirement plan shall be nullified for purposes of entitlement to a future
3 benefit under the defined benefit retirement plan but shall be credited for purposes of
4 eligibility for retirement and medical benefits under AS 14.25.470. Membership
5 service allowed for credit toward eligibility for retirement and medical benefits does
6 not include any service credit purchased under AS 14.25.075 for employment by an
7 employer who is not a participating employer in this chapter.

8 (e) An eligible member whose accounts are subject to a qualified domestic
9 relations order may not make an election to participate in the defined contribution
10 retirement plan under this subsection unless the qualified domestic relations order is
11 amended or vacated and court-certified copies of the order are received by the
12 administrator.

13 (f) As directed by the participant, the board shall transfer or cause to be
14 transferred the appropriate amounts to the designated account. The board shall
15 establish transfer procedures by regulation, but the actual transfer may not be later
16 than 30 days after the effective date of the member's participation in the defined
17 contribution retirement plan unless the major financial markets for securities available
18 for a transfer are seriously disrupted by an unforeseen event that also causes the
19 suspension of trading on any national securities exchange in the country where the
20 securities were issued. In that event, the 30-day period of time may be extended by a
21 resolution of the board of trustees. Transfers are not commissionable or subject to
22 other fees and may be in the form of securities or cash as determined by the board.
23 Securities shall be valued as of the date of receipt in the participant's account.

24 (g) If the board or the administrator receives notification from the United
25 States Department of the Treasury, Internal Revenue Service, that this section or a
26 portion of this section will cause the retirement system under this chapter, or a portion
27 of the retirement system under this chapter, to be disqualified for tax purposes under
28 the Internal Revenue Code, the portion that will cause the disqualification does not
29 apply, and the board and the administrator shall notify the presiding officers of the
30 legislature.

31 (h) The election to participate in the defined contribution retirement plan must

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

18 (i) A member may make an election under this section only if the member's
 19 employer participates in both the defined benefits retirement plan and the defined
 20 contribution retirement plan and consents to transfers under this section. The
 21 employer shall notify the administrator if the employer consents to allowing the
 22 employer's members to choose to transfer from the defined benefits retirement plan to
 23 the defined contribution retirement plan under this section. An employer's notice to
 24 allow transfers is irrevocable and applicable to all eligible employees of the employer.

25 (j) In this section,

26 (1) "defined benefit retirement plan" means the retirement plan
 27 established in AS 14.25.009 - 14.25.220;

28 (2) "defined contribution retirement plan" means the retirement plan
 29 established in AS 14.25.310 - 14.25.590.

30 **Sec. 14.25.550. Membership in teachers' and public employees'**
 31 **retirement systems.** A person who is employed at least half-time in the public

1 employees' defined contribution retirement plan (AS 39.35.700 - 39.35.990) during the
 2 same period that the person is employed at least half-time in a position in the teachers'
 3 defined contribution retirement plan (AS 14.25.310 - 14.25.590) shall receive credited
 4 service under each plan for half-time employment. However, the amount of credited
 5 service a person receives under the public employees' defined contribution retirement
 6 plan during a school year may not exceed the amount necessary, when added to the
 7 amount of credited service earned during the school year under the teachers' defined
 8 contribution retirement plan, to equal one year of credited service.

9 **Sec. 14.25.560. Legislators who have been teachers.** (a) A state legislator
 10 who was an active member of the defined contribution plan under other sections of
 11 AS 14.25.310 - 14.25.590 within the 12 months immediately preceding election to
 12 office may, subject to the requirements of (b) of this section, elect to be an active
 13 member of the teachers' defined contribution retirement plan for as long as the state
 14 legislator serves continuously as a state legislator if, within 90 days after taking the
 15 oath of office,

16 (1) the state legislator directs the employer in writing to

17 (A) pay into this plan the employer contributions required for a
 18 member under AS 14.25.310 - 14.25.590; and

19 (B) deduct from the state legislator's salary and pay into this
 20 plan

21 (i) the employee contributions required for a member
 22 under AS 14.25.310 - 14.25.590; and

23 (ii) an amount equal to the difference between the total
 24 employer and state contributions required for a member under
 25 AS 14.25.310 - 14.25.590 and the employer contributions that would be
 26 required under the public employees' defined contribution retirement
 27 plan (AS 39.35.700 - 39.35.990) if the legislator were covered under
 28 that plan; and

29 (2) notice is given the administrator in writing.

30 (b) A state legislator is not entitled to elect membership under (a) of this
 31 section if the state legislator is covered for the same period of service under the public

1 employees' defined contribution retirement plan (AS 39.35.700 - 39.35.990). An
 2 election of membership under (a) of this section is retroactive to the date the state
 3 legislator took the oath of office. A state legislator may not receive membership credit
 4 under (a) of this section for legislative service performed before the legislative session
 5 during which the state legislator elected membership under (a) of this section. In order
 6 to continue in membership service under (a) of this section, the state legislator must
 7 earn at least 0.3 years of membership service under other sections of AS 14.25.310 -
 8 14.25.590 during each five-year period.

9 **Sec. 14.25.570. Participation by National Education Association**
 10 **employees.** An employee or former employee of the National Education Association
 11 of Alaska may participate in the teachers' defined contribution retirement plan under
 12 AS 14.25.310 - 14.25.590 if the employee or former employee possesses or is eligible
 13 to possess a teacher certificate under AS 14.20.020.

14 **Sec. 14.25.580. Participation by Special Education Service Agency**
 15 **employees.** An employee of the Special Education Service Agency may participate in
 16 the system under this chapter if the employee possesses or is eligible to possess a
 17 teacher certificate under AS 14.20.020.

18 **Sec. 14.25.590. Definitions.** In AS 14.25.310 - 14.25.590, unless the context
 19 requires otherwise,

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

21 (2) "alternate payee" means a person entitled to a portion of the
 22 distribution from an individual account under a qualified domestic relations order;

23 (3) "annuitant" means a member, beneficiary or alternate payee who is
 24 receiving a benefit under this plan;

25 (4) "beneficiary" means the person or persons entitled to receive
 26 benefits that may be due from the plan upon the death of the member or alternate
 27 payee;

28 (5) "board" has the meaning given in AS 14.25.220;

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

30 (7) "compensation"

31 (A) means

1 (i) the total remuneration earned by an employee for
 2 personal services rendered, including cost-of-living differentials, as
 3 reported on the employee's Federal Income Tax Withholding Statement
 4 (Form W-2) from the employer for the calendar year;

5 (ii) the member contribution to the teachers' retirement
 6 system under AS 14.25.340;

7 (B) does not include retirement benefits, severance pay or other
 8 separation bonuses, welfare benefits, per diem, expense allowances, workers'
 9 compensation payments, payments for leave not used whether those leave
 10 payments are scheduled payments, lump-sum payments, donations, or cash-ins,
 11 any remuneration contributed by the employer for or on account of the
 12 employee under this plan or under any other qualified or nonqualified
 13 employee benefit plan, any remuneration not specifically included above
 14 which would have been excluded under 26 U.S.C. 3121(a) (Internal Revenue
 15 Code) if the employer had remained in the Federal Social Security System, or
 16 any remuneration paid by the employer in excess of the Social Security
 17 Taxable Wage Base for the calendar year;

18 (C) notwithstanding (B) of this paragraph, includes any amount
 19 that is contributed by the employer under a salary reduction agreement and that
 20 is not includible in the gross income of the employee under 26 U.S.C. 125,
 21 132(f)(4), 402(e)(3), 402(h)(1)(B) or 403(b) (Internal Revenue Code); the
 22 annual compensation limitation for the member, which is so taken into account
 23 for those purposes, may not exceed \$200,000, as adjusted for the cost of living
 24 in accordance with 26 U.S.C. 401(a)(17)(B) (Internal Revenue Code), with the
 25 limitation for a fiscal year being the limitation in effect for the calendar year
 26 within which the fiscal year begins;

27 (8) "dependent child" has the meaning given in AS 14.25.220;

28 (9) "distribution commencement date" has the meaning given in
 29 AS 14.25.440(a);

30 (10) "employer" means a public school district, the Board of Regents
 31 of the University of Alaska, the Department of Education and Early Development, or

1 the regional resource centers;

2 (11) "fund" means the assets of the plan;

3 (12) "individual account" means the total maintained by the plan in an
4 investment account within the trust fund, established for each member for the purposes
5 of allocation of the member's contributions, employer contributions on behalf of the
6 member, and earnings credited to each of those contributions, investment gains and
7 losses, and expenses, as well as reporting of the member's benefit under the plan;

8 (13) "Internal Revenue Code" has the meaning given in AS 14.25.220;

9 (14) "investment funds" means those separate funds that are provided
10 within and that make up the trust fund and that are established for the purpose of
11 directing investment through the exercise of the sole control of a member, beneficiary,
12 or alternate payee under the terms of the plan and trust agreement;

13 (15) "limitation year" means the year for which contributions are made
14 to a member's individual account as reported to the Internal Revenue Service under the
15 limits described in 26 U.S.C. 415(c);

16 (16) "member" means an employee of an employer or a former
17 employee of an employer who retains a right to benefits under the plan;

18 (17) "membership service" means full-time or part-time employment
19 with an employer in the plan;

20 (18) "normal retirement age" means the age set for Medicare eligibility
21 at the time the member retires;

22 (19) "participant" means the person who has a vested right to an
23 individual account, such as a member, an alternate payee if the account is subject to a
24 qualified domestic relations order, the member's beneficiary if the member is
25 deceased, or an alternate payee's beneficiary if the alternate payee is deceased;

26 (20) "plan" means the retirement benefit plan established under
27 AS 14.25.310 - 14.25.590;

28 (21) "prudent investment standard" means the degree of care, skill,
29 prudence, and diligence under the circumstances then prevailing that a prudent person
30 acting in a like capacity and familiar with such matters would use in the conduct of an
31 enterprise of a like character and with like aims;

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

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

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

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

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

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

15 (F) does not require any type or form of benefit or any option
 16 not otherwise provided by AS 14.25.310 - 14.25.590;

17 (G) does not require an increase of benefits in excess of the
 18 amount provided by AS 14.25.310 - 14.25.590; and

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

22 (23) "retiree" means an eligible person who has elected to receive the
 23 medical benefits under AS 14.25.480;

24 (24) "retirement fund" or "fund" means the fund in which the assets of
 25 the plan, including income and interest derived from the investment of money, are
 26 deposited and held;

27 (25) "school year" has the meaning given in AS 14.25.220;

28 (26) "system" has the meaning given in AS 14.25.220;

29 (27) "teacher" and "member" are used interchangeably under
 30 AS 14.25.310 - 14.25.590 and mean a person eligible to participate in the plan and
 31 who is covered by the plan, limited to

1 (A) a certificated full-time or part-time elementary or
 2 secondary teacher, a certificated school nurse, or a certificated person in a
 3 position requiring a teaching certificate as a condition of employment in a
 4 public school of the state, the Department of Education and Early
 5 Development, or the Department of Labor and Workforce Development;

6 (B) a full-time or part-time teacher of the University of Alaska
 7 or a person occupying a full-time administrative position at the University of
 8 Alaska that requires academic standing; the approval of the administrator must
 9 be obtained before an administrative position qualifies for membership in the
 10 plan; however, a teacher or administrative person at the university who is
 11 participating in a university retirement program under AS 14.40.661 -
 12 14.40.799 is not a member under this plan;

13 (C) a full-time or part-time instructor of the Department of
 14 Labor and Workforce Development;

15 (28) "year of service" means service during the dates set for the school
 16 year; partial-year service credit is given for membership service as follows:

17 (A) during any school year,

18 (i) less than nine days, no credit;

19 (ii) nine days or more but less than 27 days, 0.1 years;

20 (iii) 27 days or more but less than 45 days, 0.2 years;

21 (iv) 45 days or more but less than 63 days, 0.3 years;

22 (v) 63 days or more but less than 81 days, 0.4 years;

23 (vi) 81 days or more but less than 100 days, 0.5 years;

24 (vii) 100 days or more but less than 118 days, 0.6 years;

25 (viii) 118 days or more but less than 136 days, 0.7

26 years;

27 (ix) 136 days or more but less than 154 days, 0.8 years;

28 (x) 154 days or more but less than 172 days, 0.9 years;

29 (xi) 172 days or more, 1.0 years;

30 (B) service performed on a part-time basis of half time or more
 31 shall be credited in proportion to the amount of credit that would have been

1 received for service performed on a full-time basis.

2 * **Sec. 33.** AS 14.40.280(c) is amended to read:

3 (c) Except as provided by (b) of this section, the monetary gifts, bequests, or
4 endowments that are made to the University of Alaska shall be managed and invested
5 by the Board of Regents. In carrying out its management and investment
6 responsibilities under this subsection, the Board of Regents has the same power and
7 obligations to carry out duties with respect to the endowments of the University of
8 Alaska as are provided to and required of the Alaska **Retirement Management**
9 [STATE PENSION INVESTMENT] Board under **AS 37.10.210** [AS 14.25.180].

10 * **Sec. 34.** AS 14.40.400(b) is amended to read:

11 (b) The Board of Regents is the fiduciary of the fund. The Board of Regents
12 shall account for and invest the fund. In carrying out its investment responsibilities
13 under this subsection, the Board of Regents has the same powers and duties with
14 respect to the fund as are provided to and required of the Alaska **Retirement**
15 **Management** [STATE PENSION INVESTMENT] Board under **AS 37.10.210**
16 [AS 14.25.180].

17 * **Sec. 35.** AS 14.40.661 is amended to read:

18 **Sec. 14.40.661. Authority of board.** (a) The board may establish **and**
19 **maintain** [AN OPTIONAL] university retirement **programs** [PROGRAM] for
20 eligible employees in which retirement and death benefits are provided through the
21 purchase of annuity contracts, either fixed, variable, or a combination of fixed and
22 variable. Participation in **a university retirement** [THE] program is in place of
23 participation in a state retirement system. **The university may establish retirement**
24 **programs for new employees in a participating position at any time. Retirement**
25 **programs must be optional.**

26 (b) The board shall

27 (1) provide for the administration of the **retirement programs**
28 [PROGRAM], including procedures for resolving complaints from participating
29 employees;

30 (2) designate the company or companies to which payment of the
31 contributions required under AS 14.40.691 may be made, after considering the

1 (A) nature and extent of the rights and benefits that the
2 contracts will provide to employees who elect to participate and to their
3 beneficiaries;

4 (B) relation of the contractual rights and benefits to the
5 contributions to be made under AS 14.40.661 - 14.40.799;

6 (C) suitability of the contractual rights and benefits to the needs
7 and interests of employees who [ELECTING TO] participate and to the
8 interest of the university in the employment and retention of employees;

9 (D) ability of the designated company or companies to provide
10 rights and benefits under the contracts; and

11 (E) efficacy of the contracts in the recruitment and retention of
12 faculty and administrators;

13 (3) take other actions required to ensure that the retirement programs
14 comply with applicable provisions of 26 U.S.C. 401 - 417 [PROGRAM
15 QUALIFIES AS A QUALIFIED TRUST UNDER 26 U.S.C. 401(a)] (Internal
16 Revenue Code).

17 * **Sec. 36.** AS 14.40.671 is amended to read:

18 **Sec. 14.40.671. Participation.** (a) An employee in a participating position
19 may elect to participate in a [THE OPTIONAL] university retirement program or to
20 participate in the appropriate state retirement system. Eligibility to participate in a
21 [THE] program begins on an employee's appointment to a participating position.

22 (b) An election under (a) of this section to participate in a university
23 retirement [THE] program is irrevocable. The election shall be made in writing on a
24 form provided by the board and approved for the state by the commissioner of
25 administration. The form must be filed with the university not [BOARD NO] later
26 than 30 days after the date on which the employee is notified by the university that
27 the employee is [FIRST BECOMES] eligible to participate in the program. A copy of
28 the form shall be delivered to the appropriate state retirement system. The election
29 becomes irrevocable on the date it is received by the board.

30 (c) Participation in a university retirement [THE ELECTION TO
31 PARTICIPATE IN THE] program constitutes a waiver of all rights and benefits under

1 the state retirement systems earned on or after the effective date of the election while
2 the employee is participating in **a university retirement** [THE] program.

3 (d) Except as provided in (e) of this section, if a nonvested member of a state
4 retirement system **participates** [ELECTS TO PARTICIPATE] in **a university**
5 **retirement** [THE] program, the employee may choose to transfer the amount in the
6 employee's contribution account to **a university retirement** [THE] program. If the
7 employee chooses to transfer the account, the appropriate state retirement system shall
8 pay to the university on behalf of the employee an amount equal to the balance in the
9 account. The payment must be made within 45 days after **notice of the employee's**
10 **decision to transfer the employee's contribution account to a university**
11 **retirement program** [THE ELECTION] is received by the state retirement system.
12 The financial officer of the university shall immediately pay the amount received to
13 the designated company or companies for the benefit of the employee. An employee
14 who transfers assets under this subsection may not reclaim the corresponding service
15 in the state retirement system if the employee is reemployed under the state retirement
16 system.

17 (e) An employee whose rights to transfer assets out of a state retirement
18 system are subject to a qualified domestic relations order is entitled to transfer assets
19 from the state retirement system to **a university retirement** [THE] program only if
20 the requirements for receiving a refund under AS 14.25.150(b), **14.25.360**, [OR]
21 AS 39.35.200(c), **or 39.35.760**, as appropriate, are met.

22 (f) If a vested member of a state retirement system elects to participate in **a**
23 **university retirement** [THE] program, the employee ceases to be an active member
24 of the **state** retirement system on the effective date of the participation in **a university**
25 **retirement** [THE] program. The employee retains all benefits accrued in the state
26 retirement system.

27 (g) An employee who does not [ELECT TO] participate in **a university**
28 **retirement** [THE] program under this section becomes or remains a member of the
29 appropriate state retirement system.

30 * **Sec. 37.** AS 14.40.671 is amended by adding a new subsection to read:

31 (h) Notwithstanding (b) of this section, the university may offer an employee

1 who made an election not to participate in an optional university retirement program at
 2 the time the employee was eligible to participate in the program an option to enroll in
 3 a different university retirement program.

4 * **Sec. 38.** AS 14.40.681 is amended to read:

5 **Sec. 14.40.681. Retirement system membership.** An [ELIGIBLE] employee
 6 **participating** [ELECTING TO PARTICIPATE] in **a university retirement** [THE]
 7 program may not participate in a state retirement system during the time the employee
 8 is employed in a participating position. If the employee is later employed in a position
 9 covered by a state retirement system that is not a participating position, the employee
 10 may not continue to participate in **a university retirement** [THE] program and shall
 11 begin to participate in the state retirement system.

12 * **Sec. 39.** AS 14.40.691(c) is amended to read:

13 (c) The board may specify that contributions required by this section are made
 14 by a reduction in salary under **26 U.S.C. 403(b) or** 26 U.S.C. 414(h)(2) (Internal
 15 Revenue Code).

16 * **Sec. 40.** AS 14.40.701 is amended to read:

17 **Sec. 14.40.701. Benefits.** Payment of benefits to participants of the program
 18 is the responsibility of the company or companies designated by the board and is not
 19 the responsibility of the board, the university, or the state. The benefits are payable to
 20 participants or their beneficiaries in accordance with the terms of the **applicable**
 21 **retirement plan document** [ANNUITY CONTRACT OR CONTRACTS.
 22 HOWEVER, RETIREMENT BENEFITS MUST BE PAID IN THE FORM OF A
 23 LIFETIME INCOME. EXCEPT FOR DEATH BENEFITS, A SINGLE-SUM CASH
 24 PAYMENT IS NOT PERMITTED UNDER THIS SECTION].

25 * **Sec. 41.** AS 14.40.799(3) is amended to read:

26 (3) "contribution account" means the member contribution account
 27 under **AS 14.25.009 - 14.25.220, the individual account under AS 14.25.310 -**
 28 **14.25.590,** [AS 14.25 OR] the employee contribution account under **AS 39.35.095 -**
 29 **39.35.680, or the individual account under AS 39.35.700 - 39.39.990** [AS 39.35],
 30 whichever is appropriate;

31 * **Sec. 42.** AS 14.40.799(5) is amended to read:

1 (5) "participating position" means a position that is a permanent
 2 position that is at least a .5 full-time appointment **and is included in the applicable**
 3 **retirement plan document** [AS

4 (A) A FACULTY APPOINTMENT; OR

5 (B) AN ADMINISTRATOR AND THE POSITION HAS
 6 BEEN DESIGNATED BY THE BOARD FOR INCLUSION IN THE
 7 PROGRAM];

8 * **Sec. 43.** AS 14.40.799(6) is amended to read:

9 (6) "program" means **a** [THE OPTIONAL] university retirement
 10 program;

11 * **Sec. 44.** AS 14.40.799 is amended by adding a new paragraph to read:

12 (8) "university" means the University of Alaska.

13 * **Sec. 45.** AS 22.25.048(c) is amended to read:

14 (c) The Alaska **Retirement Management** [STATE PENSION
 15 INVESTMENT] Board is the fiduciary of the fund and has the same powers and
 16 duties under this section in regard to the judicial retirement trust fund as are provided
 17 in **AS 37.10.210** [AS 14.25.180].

18 * **Sec. 46.** AS 22.25.900(1) is amended to read:

19 (1) "actuarial equivalent" means the adjustment necessary to obtain
 20 equality in value of the aggregate expected payments under two different forms of
 21 pension payments, considering expected mortality and interest earnings on the basis of
 22 assumptions, factors, and methods specified in regulations issued under the system
 23 that are formally adopted [UNDER AS 22.25.027] by the **Alaska Retirement**
 24 **Management Board** [COMMISSIONER OF ADMINISTRATION] that clearly
 25 preclude employer discretion in the determination of the amount of any justice's,
 26 judge's, or member's benefit;

27 * **Sec. 47.** AS 26.05.226(a) is amended to read:

28 (a) The Department of Military and Veterans' Affairs shall contribute to the
 29 Alaska National Guard and Alaska Naval Militia retirement system the amounts
 30 determined by the **Alaska Retirement Management Board** [COMMISSIONER OF
 31 ADMINISTRATION] as necessary to

1 (1) fund the system based on the actuarial requirements of the system
 2 as established by the **Alaska Retirement Management Board** [COMMISSIONER
 3 OF ADMINISTRATION]; and

4 (2) administer the system.

5 * **Sec. 48.** AS 26.05.228(c) is amended to read:

6 (c) The Alaska **Retirement Management** [STATE PENSION
 7 INVESTMENT] Board is the fiduciary of the fund and has the same powers and
 8 duties under this section in regard to the fund as are provided under **AS 37.10.220**
 9 [AS 14.25.180].

10 * **Sec. 49.** AS 36.30.015(f) is amended to read:

11 (f) The board of directors of the Alaska Housing Finance Corporation,
 12 notwithstanding AS 18.56.088, and the board of directors of the Knik Arm Bridge and
 13 Toll Authority under AS 19.75.111, shall adopt regulations under AS 44.62
 14 (Administrative Procedure Act) and the board of trustees of the Alaska **Retirement**
 15 **Management** [STATE PENSION INVESTMENT] Board shall adopt regulations
 16 under AS 37.10.240 to govern the procurement of supplies, services, professional
 17 services, and construction for the respective public corporation and board. The
 18 regulations must reflect competitive bidding principles and provide vendors
 19 reasonable and equitable opportunities to participate in the procurement process and
 20 must include procurement methods to meet emergency and extraordinary
 21 circumstances. Notwithstanding the other provisions of this subsection, the Alaska
 22 Housing Finance Corporation, the Knik Arm Bridge and Toll Authority, and the
 23 Alaska **Retirement Management** [STATE PENSION INVESTMENT] Board shall
 24 comply with AS 36.30.170(b).

25 * **Sec. 50.** AS 36.30.990(1) is amended to read:

26 (1) "agency"

27 (A) means a department, institution, board, commission,
 28 division, authority, public corporation, the Alaska Pioneers' Home, the Alaska
 29 Veterans' Home, or other administrative unit of the executive branch of state
 30 government;

31 (B) does not include

- 1 (i) the University of Alaska;
- 2 (ii) the Alaska Railroad Corporation;
- 3 (iii) the Alaska Housing Finance Corporation;
- 4 (iv) a regional Native housing authority created under
- 5 AS 18.55.996 or a regional electrical authority created under
- 6 AS 18.57.020;
- 7 (v) the Department of Transportation and Public
- 8 Facilities, in regard to the repair, maintenance, and reconstruction of
- 9 vessels, docking facilities, and passenger and vehicle transfer facilities
- 10 of the Alaska marine highway system;
- 11 (vi) the Alaska Aerospace Development Corporation;
- 12 (vii) the Alaska **Retirement Management** [STATE
- 13 PENSION INVESTMENT] Board;
- 14 (viii) the Alaska Seafood Marketing Institute;

15 * **Sec. 51.** AS 37.10.071(d) is amended to read:

16 (d) In exercising investment, custodial, or depository powers or duties under

17 this section, the fiduciary or the fiduciary's designee is liable for a breach of a duty

18 that is assigned or delegated under this section, or under [AS 14.25.180,]

19 AS 14.40.255, 14.40.280(c), 14.40.400(b), AS 37.10.070, AS 37.14.110(c), 37.14.160,

20 **or** 37.14.170 [, OR AS 39.35.080]. However, the fiduciary or the designee is not

21 liable for a breach of a duty that has been delegated to another person if the delegation

22 is prudent under the applicable standard of prudence set out in statute or if the duty is

23 assigned by law to another person, except to the extent that the fiduciary or designee

24 (1) knowingly participates in, or knowingly undertakes to conceal, an

25 act or omission of another person knowing that the act or omission is a breach of that

26 person's duties under this chapter;

27 (2) by failure to comply with this section in the administration of

28 specific responsibilities, enables another person to commit a breach of duty; or

29 (3) has knowledge of a breach of duty by another person, unless the

30 fiduciary or designee makes reasonable efforts under the circumstances to remedy the

31 breach.

1 * **Sec. 52.** AS 37.10.071(f) is amended to read:

2 (f) In this section, "fiduciary of a state fund" or "fiduciary" means

3 (1) the commissioner of revenue for investments under AS 37.10.070;

4 **or**

5 (2) with respect to the Alaska **Retirement Management** [STATE
6 PENSION INVESTMENT] Board, for investments **of the collective funds that it**
7 **manages and administers** [UNDER OR SUBJECT TO AS 14.25.180],

8 (A) each trustee who serves on the board of trustees; and

9 (B) any other person who exercises control or authority with
10 respect to management or disposition of assets for which the board is
11 responsible or who gives investment advice to the board; or

12 (3) the person or body provided by law to manage the investments for
13 investments not subject to [AS 14.25.180 OR] AS 37.10.070.

14 * **Sec. 53.** AS 37.10.210 is repealed and reenacted to read:

15 **Sec. 37.10.210. Alaska Retirement Management Board.** (a) The Alaska
16 Retirement Management Board is established in the Department of Revenue. The
17 board's primary mission is to serve as the trustee of the assets of the state's retirement
18 systems, the State of Alaska Supplemental Annuity Plan, and the deferred
19 compensation program for state employees. Consistent with standards of prudence,
20 the board has the fiduciary obligation to manage and invest these assets in a manner
21 that is sufficient to meet the liabilities and pension obligations of the systems, plan,
22 and program. The board may, with the approval of the commissioner of revenue and
23 upon agreement with the responsible fiduciary, manage and invest other state funds so
24 long as the activity does not interfere with the board's primary mission. In making
25 investments, the board shall exercise the powers and duties of a fiduciary of a state
26 fund under AS 37.10.071.

27 (b) The Alaska Retirement Management Board consists of nine trustees, as
28 follows:

29 (1) two members, consisting of the commissioner of administration
30 and the commissioner of revenue;

31 (2) seven trustees appointed by the governor who meet the eligibility

1 requirements for an Alaska permanent fund dividend and who are professionally
 2 credentialed or have recognized competence in investment management, finance,
 3 banking, economics, accounting, pension administration, or actuarial analysis as
 4 follows:

5 (A) two trustees who are members of the general public; the
 6 trustees appointed under this subparagraph may not hold another state office,
 7 position, or employment and may not be members or beneficiaries of a
 8 retirement system managed by the board;

9 (B) one trustee who is employed as a finance officer for a
 10 political subdivision participating in either the public employees' retirement
 11 system or the teachers' retirement system;

12 (C) two trustees who are members of the public employees'
 13 retirement system, selected from a list of four nominees submitted from among
 14 the public employees' retirement system bargaining units;

15 (D) two trustees who are members of the teachers' retirement
 16 system selected from a list of four nominees submitted from among the
 17 teachers' retirement system bargaining units;

18 (E) the lists of the nominees shall be submitted to the governor
 19 under (C) and (D) of this paragraph within the time period specified in
 20 regulations adopted under AS 37.10.240(a).

21 (c) The trustees, other than the two commissioners, shall serve for staggered
 22 terms of four years and may be reappointed to the board.

23 (d) The governor may, by written notice to the trustee, remove an appointed
 24 trustee for cause. After an appointed trustee receives written notice of removal, the
 25 trustee may not participate in board business and may not be counted for purposes of
 26 establishing a quorum.

27 (e) A vacancy on the board of trustees shall be promptly filled. A person
 28 filling a vacancy holds office for the balance of the unexpired term of the person's
 29 predecessor. A vacancy on the board does not impair the authority of a quorum of the
 30 board to exercise all the powers and perform all the duties of the board.

31 (f) Five trustees constitute a quorum for the transaction of business and the

1 exercise of the powers and duties of the board.

2 (g) A trustee may not designate another person to serve on the board in the
3 absence of the trustee.

4 (h) The board shall provide annual training to its members on the duties and
5 powers of a fiduciary of a state fund and other training as necessary to keep the
6 members of the board educated about pension management and investment.

7 (i) The board shall elect a trustee to serve as chair and a trustee to serve as
8 vice-chair for one-year terms. A trustee may be reelected to serve additional terms as
9 chair or vice-chair.

10 * **Sec. 54.** AS 37.10 is amended by adding a new section to read:

11 **Sec. 37.10.215. Attorney general.** The attorney general is the legal counsel
12 for the board and shall advise the board and represent it in a legal proceeding.

13 * **Sec. 55.** AS 37.10.220 is repealed and reenacted to read:

14 **Sec. 37.10.220. Powers and duties of the board.** (a) The board shall

15 (1) hold regular and special meetings at the call of the chair or of at
16 least five members; meetings are open to the public, and the board shall keep a full
17 record of all its proceedings;

18 (2) after reviewing recommendations from the Department of
19 Revenue, adopt investment policies for each of the funds entrusted to the board;

20 (3) determine the appropriate investment objectives for the defined
21 benefit plans established under the teachers' retirement system under AS 14.25 and the
22 public employees' retirement system under AS 39.35;

23 (4) assist in prescribing the policies for the proper operation of the
24 systems and take other actions necessary to carry out the intent and purpose of the
25 systems in accordance with AS 37.10.210 - 37.10.390;

26 (5) provide a range of investment options and establish the rules by
27 which participants can direct their investments among those options with respect to
28 accounts established under

29 (A) AS 14.25.340 - 14.25.350 (teachers' retirement system
30 defined contribution individual accounts);

31 (B) AS 39.30.150 - 39.30.180 (State of Alaska Supplementary

1 Annuity Plan);

2 (C) AS 39.35.730 - 39.35.750 (public employees' retirement
3 system defined contribution individual accounts); and

4 (D) AS 39.45.010 - 39.45.060 (public employees' deferred
5 compensation program);

6 (6) establish the rate of interest that shall be annually credited to each
7 member's individual contribution account in accordance with AS 14.25.145 and
8 AS 39.35.100 and the rate of interest that shall be annually credited to each member's
9 account in the health reimbursement management plan under AS 39.30.300 -
10 39.30.495; the rate of interest shall be adopted on the basis of the probable effective
11 rate of interest on a long-term basis, and the rate may be changed from time to time;

12 (7) adopt a contribution surcharge as necessary under AS 39.35.160(c);

13 (8) coordinate with the retirement system administrator to have an
14 annual actuarial valuation of each retirement system prepared to determine system
15 assets, accrued liabilities, and funding ratios and to certify to the appropriate
16 budgetary authority of each employer in the system

17 (A) an appropriate contribution rate for normal costs; and

18 (B) an appropriate contribution rate for liquidating any past
19 service liability;

20 (9) review actuarial assumptions prepared and certified by a member
21 of the American Academy of Actuaries and conduct experience analyses of the
22 retirement systems not less than once every four years, except for health cost
23 assumptions, which shall be reviewed annually; the results of all actuarial assumptions
24 prepared under this paragraph shall be reviewed and certified by a second member of
25 the American Academy of Actuaries before presentation to the board;

26 (10) contract for an independent audit of the state's actuary not less
27 than once every four years;

28 (11) contract for an independent audit of the state's performance
29 consultant not less than once every four years;

30 (12) obtain an external performance review to evaluate the investment
31 policies of each fund entrusted to the board and report the results of the review to the

1 appropriate fund fiduciary;

2 (13) by the first day of each regular legislative session, report to the
3 governor, the legislature, and the individual employers participating in the state's
4 retirement systems on the financial condition of the systems in regard to

5 (A) the valuation of trust fund assets and liabilities;

6 (B) current investment policies adopted by the board;

7 (C) a summary of assets held in trust listed by the categories of
8 investment;

9 (D) the income and expenditures for the previous fiscal year;

10 (E) the return projections for the next calendar year;

11 (F) one-year, three-year, five-year, and 10-year investment
12 performance for each of the funds entrusted to the board; and

13 (G) other statistical data necessary for a proper understanding
14 of the financial status of the systems;

15 (14) submit quarterly updates of the investment performance reports to
16 the Legislative Budget and Audit Committee; and

17 (15) develop an annual operating budget.

18 (b) The board may

19 (1) employ outside investment advisors to review investment policies;

20 (2) enter into an agreement with the fiduciary of another state fund in
21 order to assume the management and investment of those assets;

22 (3) contract for other services necessary to execute the board's powers
23 and duties;

24 (4) enter into confidentiality agreements that would exempt records
25 from AS 40.25.110 and 40.25.120 if the records contain information that could affect
26 the value of investment by the board or that could impair the ability of the board to
27 acquire, maintain, or dispose of investments.

28 (c) Expenses for the board and the operations of the board shall be paid from
29 the retirement fund.

30 * **Sec. 56.** AS 37.10.250 is amended to read:

31 **Sec. 37.10.250. Compensation of trustees.** Trustees, other than trustees who

1 are employees of the state, [OR] a political subdivision of the state, **or a school**
 2 **district or regional educational attendance area in the state,** receive an honorarium
 3 of **\$400** [\$150] for each day spent at a meeting of the board or at a meeting of a
 4 subcommittee of the board or at a public meeting as a representative of the board,
 5 **including a day in which a trustee travels to or from a meeting.** Trustees who are
 6 state employees are entitled to administrative leave for service as a trustee. Trustees
 7 who are employees of a political subdivision of the state **or a school district or**
 8 **regional educational attendance area in the state** are entitled to leave benefits
 9 provided by their employers comparable to those provided to state employees for
 10 service as a trustee. Trustees are entitled to per diem and travel expenses authorized
 11 for boards and commissions under AS 39.20.180.

12 * **Sec. 57.** AS 37.10.270(a) is amended to read:

13 (a) The board **may** [SHALL] appoint an investment advisory council
 14 composed of at least three and not more than five members. Members of the council
 15 shall possess experience and expertise in financial investments and management of
 16 investment portfolios for public, corporate, or union pension benefit funds,
 17 foundations, or endowments.

18 * **Sec. 58.** AS 37.10.390 is amended to read:

19 **Sec. 37.10.390. Definitions.** In AS 37.10.210 - 37.10.390, unless the context
 20 otherwise requires,

21 (1) "board" means the board of trustees of the Alaska **Retirement**
 22 **Management** [STATE PENSION INVESTMENT] Board;

23 (2) **"fund" means the fund or funds composed of the assets of each**
 24 **of the retirement systems administered and managed by the board;**

25 (3) **"recognized competence" means a minimum of 10 years'**
 26 **professional experience working or teaching in the field of investment**
 27 **management, finance, banking, economics, accounting, pension administration,**
 28 **or actuarial analysis;**

29 (4) "retirement systems" **or "systems"** means the teachers' retirement
 30 system, the judicial retirement system, the Alaska National Guard and Alaska Naval
 31 Militia retirement system, [AND] the public employees' retirement system, **the State**

1 of Alaska teachers' and public employees' retiree health reimbursement
 2 arrangement plan, and the elected public officers' retirement system under
 3 former AS 39.37.

4 * **Sec. 59.** AS 37.14.160 is amended to read:

5 **Sec. 37.14.160. Duties of the commissioner of revenue.** The commissioner
 6 of revenue is the treasurer of the trust fund created in AS 37.14.110 and shall

7 (1) in carrying out investment duties under this section, exercise the
 8 same powers and duties established for the Alaska **Retirement Management** [STATE
 9 PENSION INVESTMENT] Board in **AS 37.10.210** [AS 14.25.180(c)];

10 (2) deposit the principal and income from investments in separate
 11 principal and income accounts for the fund;

12 (3) invest and maintain accounting records that distinguish between the
 13 principal and income of the fund;

14 (4) provide reports to the board established under AS 37.14.120 on the
 15 condition and investment performance of the fund.

16 * **Sec. 60.** AS 37.14.210(4) is amended to read:

17 (4) invest and reinvest the assets of the trust as provided in this section
 18 and as provided for the investment of funds under [AS 14.25.180(c) AND]
 19 AS 37.14.170;

20 * **Sec. 61.** AS 37.14.520(4) is amended to read:

21 (4) invest and reinvest the assets of the fund as provided in this section
 22 and as provided for the investment of funds under [AS 14.25.180(c) AND]
 23 AS 37.14.170;

24 * **Sec. 62.** AS 37.14.610 is amended to read:

25 **Sec. 37.14.610. Duties of the commissioner.** The commissioner of revenue
 26 has the power and duty to

27 (1) act as official custodian of the cash and investments belonging to
 28 the Arctic Winter Games Team Alaska trust by securing adequate and safe custodial
 29 facilities;

30 (2) exercise the same powers and duties as those established for the
 31 Alaska **Retirement Management** [STATE PENSION INVESTMENT] Board in

1 **AS 37.10.210** [AS 14.25.180(b) AND (c)];

2 (3) invest the assets of the trust in a manner likely to yield at least five
3 percent real rate of return over time;

4 (4) maintain accounting records of the trust in accordance with
5 investment accounting principles;

6 (5) enter into and enforce contracts or agreements considered
7 necessary for the investment purposes of the trust;

8 (6) report annually to the board of directors of the Arctic Winter
9 Games Team Alaska the condition and performance of the trust;

10 (7) monitor use of trust money by the Arctic Winter Games Team
11 Alaska; and

12 (8) do all acts that the commissioner of revenue considers necessary or
13 proper in administering the assets of the trust.

14 * **Sec. 63.** AS 39.30.090(a) is amended to read:

15 (a) The Department of Administration may obtain a policy or policies of group
16 insurance covering state employees, persons entitled to coverage under AS 14.25.168,
17 **14.25.480**, AS 22.25.090, AS 39.35.535, **39.35.880**, or former AS 39.37.145,
18 employees of other participating governmental units, or persons entitled to coverage
19 under AS 23.15.136, subject to the following conditions:

20 (1) A group insurance policy shall provide one or more of the
21 following benefits: life insurance, accidental death and dismemberment insurance,
22 weekly indemnity insurance, hospital expense insurance, surgical expense insurance,
23 dental expense insurance, audiovisual insurance, or other medical care insurance.

24 (2) Each eligible employee of the state, the spouse and the unmarried
25 children chiefly dependent on the eligible employee for support, and each eligible
26 employee of another participating governmental unit shall be covered by the group
27 policy, unless exempt under regulations adopted by the commissioner of
28 administration.

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

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

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

3 (C) the commissioner of administration approves the
4 participation in writing.

5 (4) In procuring a policy of group health or group life insurance as
6 provided under this section or excess loss insurance as provided in AS 39.30.091, the
7 Department of Administration shall comply with the dual choice requirements of
8 AS 21.86.310, and shall obtain the insurance policy from an insurer authorized to
9 transact business in the state under AS 21.09, a hospital or medical service corporation
10 authorized to transact business in this state under AS 21.87, or a health maintenance
11 organization authorized to operate in this state under AS 21.86. An excess loss
12 insurance policy may be obtained from a life or health insurer authorized to transact
13 business in this state under AS 21.09 or from a hospital or medical service corporation
14 authorized to transact business in this state under AS 21.87.

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

30 (6) If the aggregate of dividends payable under the group insurance
31 policy exceeds the governmental unit's share of the premium, the excess shall be

1 applied by the governmental unit for the sole benefit of the employees.

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

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

8 (9) For each permanent part-time employee electing coverage under
9 this section, the state shall contribute one-half the state contribution rate for permanent
10 full-time state employees, and the permanent part-time employee shall contribute the
11 other one-half.

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

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

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

28 * **Sec. 64.** AS 39.30.090 is amended by adding a new subsection to read:

29 (c) The Department of Administration shall implement by regulation cost-
30 saving measures appropriate applicable to group insurance obtained under (a) of this
31 section. This includes using manufacturer's rebates, copay levels, and multi-tiered

1 copayment structures; mandating the use of generic drugs; determining the type of
 2 drug classes in a formulary; dispensing fees; mandating or providing incentives for
 3 mail order pharmaceuticals; using a reduction in the average wholesale price;
 4 providing case management services for certain users of pharmaceuticals; capping the
 5 number of prescriptions filled each month; and restricting the number of refills that
 6 users may have at one time. The Department of Administration shall provide an
 7 annual report to the legislature regarding the cost-saving measures it has implemented
 8 by regulation as described in this subsection.

9 * **Sec. 65.** AS 39.30.095(d) is amended to read:

10 (d) If the commissioner of administration determines that there is more money
 11 in the fund than the amount needed to pay premiums, benefits, and administrative
 12 costs for the current fiscal year, the surplus, or so much of it as the commissioner of
 13 administration considers advisable, may be invested by the commissioner of revenue
 14 in the same manner as retirement funds are invested under **AS 37.10.210 and**
 15 **37.10.220** [AS 14.25.180].

16 * **Sec. 66.** AS 39.30.150(b) is amended to read:

17 (b) Employees of the division of marine transportation included in
 18 **AS 39.35.095 - 39.35.680** [THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM]
 19 through the process of collective bargaining under AS 39.35.680(21)(D) may, under
 20 the terms of a collective bargaining agreement, utilize contributions made under (a) of
 21 this section on their behalf to offset the costs of inclusion in the public employees'
 22 retirement system; however,

23 (1) the state is placed under no obligation to continue making
 24 contributions under this section if the state resumes participation in the federal social
 25 security system;

26 (2) the bargaining agreement must provide a mechanism for satisfying
 27 any residual liabilities that might exist if the state resumes participation in the federal
 28 social security system; and

29 (3) funds contributed under (a) of this section on behalf of employees
 30 who are not covered by maritime union contracts may not be obligated or expended to
 31 pay any costs associated with the inclusion of marine transportation employees in

1 **AS 39.35.095 - 39.35.680** [THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM].

2 * **Sec. 67.** AS 39.30 is amended by adding a new section to read:

3 **Sec. 39.30.151. Administrator.** The commissioner of administration or the
4 commissioner's designee is the administrator of the system.

5 * **Sec. 68.** AS 39.30 is amended by adding a new section to read:

6 **Sec. 39.30.154. Powers and duties of the administrator.** The administrator
7 has the same powers and duties with regard to the plan as those set out in
8 AS 14.25.004.

9 * **Sec. 69.** AS 39.30.155 is repealed and reenacted to read:

10 **Sec. 39.30.155. Management and investment of fund.** The Alaska
11 Retirement Management Board is the fiduciary of the fund and has the same powers
12 and duties under this section in regard to the fund as are provided under AS 37.10.210.

13 * **Sec. 70.** AS 39.30.160(a) is amended to read:

14 (a) The Department of Administration shall, in accordance with policies
15 prescribed by regulations of the **Alaska Retirement Management** [PUBLIC
16 EMPLOYEES RETIREMENT] Board, provide to employees for whom special
17 individual employee benefit accounts are established under **AS 39.30.150(c)**
18 [AS 39.30.150] the following benefit options:

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

23 * **Sec. 71.** AS 39.30.160(b) is amended to read:

24 (b) An employee may select the types and amounts of supplemental benefits to
25 be purchased with the money deposited in the employee's special individual employee
26 benefit accounts under AS 39.30.150. The selection **for employees described in**
27 **AS 39.30.150(a)** must be from the benefit options listed in (a) of this section.

28 * **Sec. 72.** AS 39.30.160(e) is amended to read:

29 (e) Regulations adopted by the **board** [PUBLIC EMPLOYEES
30 RETIREMENT BOARD] implementing AS 39.30.150 and this section are not subject
31 to AS 44.62 (Administrative Procedure Act).

1 * **Sec. 73.** AS 39.30.175(a) is amended to read:

2 (a) The **board** [ALASKA STATE PENSION INVESTMENT BOARD] is the
3 fiduciary of the mandatory receipts, under AS 39.30.150(a), of the employee benefits
4 program established under AS 39.30.150 - 39.30.180 and has the same powers and
5 duties concerning the management and investment in regard to those receipts as are
6 provided under **AS 37.10.210** [AS 14.25.180].

7 * **Sec. 74.** AS 39.30.180 is amended by adding a new paragraph to read:

8 (3) "board" means the board of trustees of the Alaska Retirement
9 Management Board established under AS 37.10.210.

10 * **Sec. 75.** AS 39.30 is amended by adding new sections to read:

11 **Article 5. State of Alaska Teachers' and Public Employees' Retiree Health**
12 **Reimbursement Arrangement Plan.**

13 **Sec. 39.30.300. State of Alaska Teachers' and Public Employees' Retiree**
14 **Health Reimbursement Arrangement Plan established.** The State of Alaska
15 Teachers' and Public Employees' Retiree Health Reimbursement Arrangement Plan is
16 established for teachers who first become members of the defined contribution plan of
17 the teachers' retirement system under AS 14.25.310 - 14.25.590 on or after July 1,
18 2005, and employees of the state, political subdivisions of the state, and public
19 organizations of the state who first become members of the defined contribution plan
20 of the public employees' retirement system under AS 39.35.700 - 39.35.990 on or after
21 July 1, 2005.

22 **Sec. 39.30.310. Purpose and effective date.** (a) The purpose of the plan is to
23 allow medical care expenses to be reimbursed from individual savings accounts
24 established for eligible persons.

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

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

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

1 **Sec. 39.30.340. Powers and duties of the administrator.** The administrator
 2 shall establish a teachers' and public employees' retiree health reimbursement
 3 arrangement plan trust fund in which the assets of the plan shall be deposited and held.
 4 The administrator has the same powers and duties with regard to the plan and the trust
 5 fund as provided in AS 14.25.004.

6 **Sec. 39.30.350. Employer contribution fund.** The fund established under
 7 AS 39.30.340 is an employer contribution fund. The value of the fund reflects
 8 employer contributions, expenses, and investment gains and losses. Employee
 9 contributions to the fund are not permitted.

10 **Sec. 39.30.360. Management and investment of the fund.** The Alaska
 11 Retirement Management Board is the fiduciary of the fund and has the same powers
 12 and duties under this section in regard to the fund as are provided under AS 37.10.220.

13 **Sec. 39.30.370. Contributions by employers.** For each member of the plan,
 14 an employer shall contribute to the teachers' and public employees' retiree health
 15 reimbursement arrangement plan trust fund an amount equal to three percent of the
 16 employer's average annual employee compensation. The administrator shall maintain
 17 a record for each member to account for employer contributions on behalf of that
 18 member. The board shall establish by regulation the rate of interest to be applied
 19 annually to the amount in a member's individual account.

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

30 **Sec. 39.30.390. Eligibility and reimbursement.** Persons who meet the
 31 eligibility requirements of AS 14.25.470 and AS 39.35.870 are eligible for

1 reimbursements from the individual account established for a member under the plan,
 2 except members do not have to retire directly from the system. A person who is the
 3 dependent child of an eligible member is eligible for reimbursements if the eligible
 4 member and surviving spouse have both died so long as the person meets the
 5 definition of dependent child.

6 **Sec. 39.30.400. Benefits payable from the individual account.** (a) The
 7 administrator may deduct the cost of monthly premiums from the individual account
 8 for retiree major medical insurance on behalf of an eligible person who elected retiree
 9 major medical insurance under AS 14.25.480 or AS 39.35.880.

10 (b) Upon application of an eligible person, the administrator shall reimburse to
 11 the eligible person the costs for medical care expenses as defined in 26 U.S.C. 213(d).
 12 Reimbursement is limited to the medical expenses of

13 (1) an eligible member, the spouse of an eligible member, and the
 14 dependent children of an eligible member; or

15 (2) a surviving spouse and the dependent children of an eligible
 16 member dependent on the surviving spouse.

17 (c) When the member's individual account balance is exhausted, the insurance
 18 premium deductions under (a) of this section and the reimbursement of medical care
 19 expenses under (b) of this section end.

20 (d) If all eligible persons die before exhausting the member's individual
 21 account, the account balance shall revert to the plan.

22 **Sec. 39.30.410. Exemption from taxation and process.** (a) Contributions
 23 and other amounts held in the plan on behalf of a member or other person who is or
 24 may become eligible for benefits under the plan may be used only to reimburse
 25 eligible medical expenses, are exempt from Alaska state and municipal taxes and
 26 federal taxes to the extent allowed under the Internal Revenue Code, and are not
 27 subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or
 28 charge of any kind, either voluntary or involuntary, before they are received by the
 29 person entitled to the amount under the terms of the plan. Any attempt to anticipate,
 30 alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any
 31 right to amounts accrued in the plan is void. However, a member's right to receive

1 benefits may be assigned

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

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

5 (b) Notwithstanding AS 09.38.065, contributions and other amounts held in
6 the plan and benefits payable under this plan are exempt from garnishment, execution,
7 or levy.

8 **Sec. 39.30.420. Amendment and termination of plan.** (a) The state has the
9 right to amend the plan at any time and from time to time, in whole or in part,
10 including the right to make retroactive amendments referred to in 26 U.S.C. 401(b).

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

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

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

22 **Sec. 39.30.430. Exclusive benefit.** (a) The corpus or income of the assets
23 held in trust as required by the plan may not be diverted or used for other than the
24 exclusive benefit of the participants.

25 (b) The assets of the plan may not be used to pay premiums or contributions of
26 the employer under another plan maintained by the employer.

27 **Sec. 39.30.495. Definitions.** Unless the context requires otherwise, in
28 AS 39.30.300 - 39.30.495

29 (1) "administrator" means the commissioner of administration or the
30 commissioner's designee;

31 (2) "board" means the Alaska Retirement Management Board

1 established under AS 37.10.210;

2 (3) "compensation" has the meaning given in AS 14.25.590;

3 (4) "eligible person" means a person who meets the eligibility
4 requirements of AS 14.25.470 or AS 39.35.870;

5 (5) "dependent child" has the meaning given in AS 39.35.680;

6 (6) "employer" has the meaning given in AS 14.25.590 for employers
7 of teachers in the defined contribution plan established in AS 14.25.310 - 14.25.590
8 and has the meaning given in AS 39.35.990 for employers of public employees in the
9 defined contribution plan established in AS 39.35.700 - 39.35.990;

10 (7) "fund" means the assets of the teachers' and public employees'
11 retiree health reimbursement arrangement plan trust fund;

12 (8) "individual account" means the record established by the
13 administrator for individual employees under the teachers' and public employees'
14 retiree health reimbursement arrangement plan;

15 (9) "member" means a member of the defined contribution plan of the
16 teachers' retirement system in AS 14.25.310 - 14.25.590 or a member of the public
17 employees' retirement system in AS 39.35.700 - 39.35.990;

18 (10) "plan" means the State of Alaska Teachers' and Public Employees'
19 Retiree Health Reimbursement Arrangement Plan established in AS 39.30.300;

20 (11) "qualified domestic relations order" has the meaning given in
21 AS 14.25.220.

22 * **Sec. 76.** AS 39.35 is amended by adding new sections to read:

23 **Article 1. Administration of the Public Employees' Retirement System of Alaska.**

24 **Sec. 39.35.001. Purpose.** The purpose of this chapter is to encourage
25 qualified personnel to enter and remain in service with participating employers by
26 establishing plans for the payment of retirement, disability, and death benefits to or on
27 behalf of the members.

28 **Sec. 39.35.002. Attorney general.** The attorney general of the state is the
29 legal counsel for the system and shall advise the administrator and represent the
30 system in a legal proceeding.

31 **Sec. 39.35.003. Administrator.** (a) The commissioner of administration or

1 the commissioner's designee is the administrator of the system.

2 (b) The commissioner of administration shall adopt regulations to govern the
3 operation of the system.

4 **Sec. 39.35.004. Powers and duties of the administrator.** (a) The
5 administrator shall

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

7 (2) transmit the funds deposited in the system to the retirement fund
8 established and maintained by the Alaska Retirement Management Board;

9 (3) approve or disapprove claims for retirement benefits;

10 (4) make payments for the various purposes specified;

11 (5) submit periodic reports or statements of account that are needed;

12 (6) issue a statement of account to an employee not less than once each
13 year showing the amount of the employee's contributions to the applicable plan in the
14 system;

15 (7) formulate and recommend to the commissioner of administration
16 regulations to govern the operation of the system;

17 (8) as soon as possible after the close of each fiscal year, and not later
18 than six months after the close of each fiscal year, send to the governor and the
19 legislature an annual statement on the operations of each of the plans in the system
20 containing

21 (A) a balance sheet;

22 (B) a statement of income and expenditures for the year;

23 (C) a report on valuation of trust fund assets;

24 (D) a summary of assets held in the trust fund listed by the
25 categories of investment, as provided by the Alaska Retirement Management
26 Board;

27 (E) other statistical financial data that are necessary for proper
28 understanding of the financial condition of the system as a whole and each plan
29 in the system and the result of its operations;

30 (9) engage an independent certified public accountant to conduct an
31 annual audit of each plan's accounts and the annual report of the system's financial

1 condition and activity;

2 (10) report to the Legislative Budget and Audit Committee concerning
3 the condition and administration of each plan and distribute the report to the members
4 of each plan in the system;

5 (11) publish an information handbook for each plan in the system at
6 intervals that the administrator considers appropriate;

7 (12) meet at least annually with the board to review the condition and
8 management of the retirement systems and to review significant changes to policies,
9 regulations or benefits; and

10 (13) do whatever else may be necessary to carry out the purposes of
11 each plan in the system.

12 (b) The administrator is authorized to charge uniform fees to members'
13 accounts to cover the ongoing cost of operating each plan in the system.

14 (c) The administrator is authorized to contract with public and private entities
15 to provide record keeping, benefits payments, and other functions necessary for the
16 administration of each plan in the system.

17 **Sec. 39.35.005. Regulations.** (a) Regulations adopted by the commissioner
18 of administration under this chapter relate to the internal management of state
19 agencies, and the adoption of these regulations is not subject to AS 44.62
20 (Administrative Procedure Act).

21 (b) Notwithstanding (a) of this section, a regulation adopted under this chapter
22 shall be published in the Alaska Administrative Register and Code for informational
23 purposes.

24 (c) Each regulation adopted under this chapter must conform to the style and
25 format requirements of the drafting manual for administrative regulations that is
26 published under AS 44.62.050.

27 (d) At least 30 days before the adoption, amendment, or repeal of a regulation
28 under this chapter, the commissioner shall provide notice of the action that is being
29 considered. The notice shall be

30 (1) posted in public buildings throughout the state;

31 (2) published in one or more newspapers of general circulation in each

1 judicial district of the state;

2 (3) mailed to each person or group that has filed a request for notice of
3 proposed action with the commissioner; and

4 (4) furnished to each member of the legislature and to the Legislative
5 Affairs Agency.

6 (e) Failure to mail notice to a person as required under (d)(3) of this section
7 does not invalidate an action taken by the commissioner.

8 (f) The commissioner may hold a public hearing on a proposed regulation.

9 (g) A regulation adopted under this chapter takes effect 30 days after adoption
10 by the commissioner.

11 (h) Notwithstanding the other provisions of this section, a regulation may be
12 adopted, amended, or repealed, effective immediately, as an emergency regulation by
13 the commissioner. For an emergency regulation to be effective the commissioner
14 must find that the adoption, amendment, or repeal of the regulation is necessary for the
15 immediate preservation of the orderly operation of the system. The commissioner
16 shall, within 10 days after adoption of an emergency regulation, give notice of the
17 adoption under (d) of this section.

18 (i) In this section, "regulation" has the meaning given in AS 44.62.640(a).

19 **Sec. 39.35.006. Appeals.** An employer, member, annuitant, or beneficiary
20 may appeal a decision made by the administrator to the office of administrative
21 hearings established under AS 44.64. An aggrieved party may appeal a final decision
22 to the superior court.

23 **Sec. 39.35.007. Investment management of retirement system funds.** The
24 Alaska Retirement Management Board established under 37.10.210 is the fiduciary of
25 the system funds.

26 **Sec. 39.35.008. Definitions.** In AS 39.35.001 - 39.35.008,

27 (1) "commissioner" means the commissioner of administration;

28 (2) "plan" means the retirement plan established in AS 39.35.095 -
29 39.35.680 or the retirement plan established in AS 39.35.700 - 39.35.990;

30 (3) "system" means all retirement plans established under the public
31 employees' retirement system.

1 * **Sec. 77.** AS 39.35 is amended by adding a new section to read:

2 **Article 2. Public Employees' Defined Benefit Retirement Plan.**

3 **Sec. 39.35.095. Applicability of AS 39.35.095 - 39.35.680.** The following
4 provisions of this chapter apply only to members first hired before July 1, 2005:
5 AS 39.35.095 - 39.35.680.

6 * **Sec. 78.** AS 39.35.100 is amended to read:

7 **Sec. 39.35.100. Accounting.** (a) The commissioner of administration shall
8 establish and maintain an adequate system of accounts and records for the **plan**
9 [SYSTEM]. The accounts and records shall be integrated with the accounts, records,
10 and procedures of the employers to the end that they operate most effectively and at
11 minimum expense, and that duplication of records and accounts is avoided.

12 (b) All income of the pension fund and all disbursements made by the fund
13 shall be credited or charged, whichever is appropriate, to the following accounts:

14 (1) An individual account shall be maintained for each employee to
15 record the amount of the employee's mandatory contributions collected under
16 AS 39.35.160(a). As of the last day of each calendar year and each fiscal year
17 beginning with June 30, 1969, this account shall be credited with interest, by applying
18 [ONE HALF OF] the prescribed rate of interest **as determined by the board** to the
19 balance in the account as of that date. Within one year following retirement, the
20 amount actuarially determined as necessary to fully fund the benefits to be received
21 shall be transferred first from the employee contribution account and, after the
22 employee contribution account has been exhausted, then from the employer
23 contribution account into the retirement reserve account.

24 (2) An individual account shall be maintained for each employee to
25 record the amount of the employee's voluntary contributions. As of the last day of
26 each calendar year and each fiscal year beginning with June 30, 1969, this account
27 shall be credited with interest, by applying [ONE HALF OF] the prescribed rate of
28 interest **as determined by the board** to the balance in the account as of that date.
29 Amounts that, before termination of employment, are withdrawn by an employee from
30 the employee's savings account shall be charged to that account. Upon retirement, the
31 amount actuarially determined as necessary to fully fund the benefits to be received

1 shall be transferred first from the employee savings account and, after the employee
2 savings account has been exhausted, then from the employer contribution account into
3 the retirement reserve account.

4 (3) A separate account for each employer shall be maintained. The
5 account shall be credited with contributions of the employer. This account shall be
6 charged with the employer's actuarial charge for pension, death benefits, and other
7 benefits paid under this plan [SYSTEM] to or on behalf of the employee of the
8 employer. After an allowance for interest credited to employee contribution accounts
9 and employee savings accounts, the investment income of the pension fund shall be
10 allocated to the retirement reserve account and to each employer asset share account
11 according to the ratio that the average of the assets in the account as of the beginning
12 and as of the end of the fiscal year bears to the total of the average balance of the
13 retirement reserve account and all employer accounts.

14 (4) An expense account shall be maintained for the plan [SYSTEM].
15 This account shall be charged with all disbursements representing administrative
16 expenses incurred by the plan [SYSTEM]. At the end of the year the expense account
17 shall be allocated to each employer in accordance with (3) of this subsection.
18 Expenditures from this account shall be included in the governor's budget for each
19 fiscal year and are subject to approval by the legislature.

20 * **Sec. 79.** AS 39.35 is amended by adding a new section to article 1 to read:

21 **Sec. 39.35.115. Defined benefit retirement plan.** (a) A defined benefit
22 retirement plan for employees of the state, political subdivisions, and public
23 organizations is created. The plan becomes effective January 1, 1961, at which time
24 contributions by the employers and members begin.

25 (b) The retirement plan established by AS 39.35.095 - 39.35.680 is intended to
26 qualify under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified
27 retirement plan established and maintained by the state for its employees and for the
28 employees of political subdivisions, public corporations, and public organizations of
29 the state, and for the employees of other employers whose participation is authorized
30 by AS 39.35.095 - 39.35.680 and who participate in this plan.

31 (c) An amendment to AS 39.35.095 - 39.35.680 does not provide a person

1 with a vested right to a benefit if the Internal Revenue Service determines that the
2 amendment will result in disqualification of the plan under the Internal Revenue Code.

3 * **Sec. 80.** AS 39.35.120 is amended to read:

4 **Sec. 39.35.120. Commencement of participation.** (a) An employee of the
5 state shall be included in this system upon commencement of employment with the
6 state, or on January 1, 1961, whichever is later. Unless an employee **participates in a**
7 **[HAS ELECTED TO PARTICIPATE IN THE OPTIONAL]** university retirement
8 program under AS 14.40.661 - 14.40.799, an employee of a political subdivision or
9 public organization that becomes an employer shall be included in the system on the
10 effective date of the employer's participation or the date of the employee's
11 commencement of employment with the employer, whichever is later.

12 (b) Inclusion in the system is a condition of employment for an employee
13 except as otherwise provided for

14 (1) an elected official;

15 (2) an employee making an election under AS 39.35.150(b); and

16 (3) an employee of the university who **participates in a** **[HAS**
17 **ELECTED TO PARTICIPATE IN THE OPTIONAL]** university retirement program
18 under AS 14.40.661 - 14.40.799.

19 * **Sec. 81.** AS 39.35.131 is amended to read:

20 **Sec. 39.35.131. Membership in teachers' and public employees'**
21 **retirement systems.** (a) A person who is employed at least half-time in the **plan**
22 **[SYSTEM]** during the same period that the person is employed at least half-time in a
23 position in the teachers' retirement **plan** **[SYSTEM]** under **AS 14.25.009 - 14.25.220**
24 **[AS 14.25]** shall receive credited service under each **plan** **[SYSTEM]** for half-time
25 employment. However, the amount of credited service a person receives under the
26 **plan** **[SYSTEM]** during a school year may not exceed the amount necessary, when
27 added to the amount of credited service earned during the school year under the
28 teachers' retirement system, to equal one year of credited service.

29 (b) A person who was employed at least half-time in a position in the teachers'
30 retirement **plan** **[SYSTEM]** under **AS 14.25.009 - 14.25.220** **[AS 14.25]** in the same
31 period that the person was employed at least half-time in a position in this **plan**

1 [SYSTEM] may claim credited service in both plan [SYSTEMS] for employment
 2 before May 31, 1989. To obtain this credited service, the person shall claim the
 3 service and verify the period of half-time employment. When eligibility for half-time
 4 service credit has been established, an indebtedness shall be determined to the
 5 retirement plan [SYSTEM] in which the person did not participate. The amount of
 6 the indebtedness is the full actuarial cost of providing benefits for the credited service
 7 claimed. Interest as prescribed by regulation accrues on that indebtedness beginning
 8 on the later of July 1, 1989, or the date on which the member is first eligible to claim
 9 the service. Any outstanding indebtedness existing at the time the person retires will
 10 require an actuarial adjustment to the benefits payable based on that service.

11 * **Sec. 82.** AS 39.35.158 is amended to read:

12 **Sec. 39.35.158. Administrative director of courts.** An administrative
 13 director of the Alaska court system who withdraws from the judicial retirement system
 14 under AS 22.25.012 is eligible for membership in the plan [SYSTEM] and shall
 15 receive credited service in the plan [SYSTEM] for service rendered as administrative
 16 director. To be eligible for membership in the plan [SYSTEM] under this subsection,
 17 the administrative director must contribute to the plan [SYSTEM]

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

21 (2) any contributions for services as administrative director refunded
 22 by the plan [SYSTEM] at the time the director became a member of the judicial
 23 retirement system.

24 * **Sec. 83.** AS 39.35.165(a) is amended to read:

25 (a) An employee who is eligible to purchase credited service under
 26 AS 39.35.310, 39.35.330, 39.35.340, 39.35.342, 39.35.345, [39.35.350,] 39.35.360, or
 27 39.35.370, a member who is eligible to purchase credited service under AS 39.35.375,
 28 or an elected public official who is eligible to purchase credited service under
 29 AS 39.35.381 is an employee for purposes of this section. An employee may, in lieu
 30 of making payments directly to the plan, elect to have the employee's employer make
 31 payments as provided in this section.

1 * **Sec. 84.** AS 39.35.165(b) is amended to read:

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

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

9 (2) the employee shall make an irrevocable election under this section
10 to purchase credited service as permitted in AS 39.35.310, 39.35.330, 39.35.340,
11 39.35.342, 39.35.345, [39.35.350,] 39.35.360, 39.35.370, 39.35.375, or 39.35.381 and
12 before the employee's termination of employment; the irrevocable election must
13 specify the number of payroll periods that deductions will be made from the
14 employee's compensation and the dollar amount of deductions for each payroll period
15 during the specified number of payroll periods; the deductions made under this
16 paragraph cease upon the earlier of the member's termination of employment with the
17 employer or the member's death; amounts paid by an employer under (f) of this
18 section may not be applied toward the payment of the dollar amount of the deductions
19 representing the portion of the credited service that is being purchased by the member
20 through payroll deduction in accordance with the member's irrevocable election under
21 this subsection;

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

27 * **Sec. 85.** AS 39.35.165(f) is amended to read:

28 (f) The commissioner may accept rollover contributions from a member [AND
29 DIRECT TRANSFERS, AS DESCRIBED IN THIS SUBSECTION, FOR THE
30 PURCHASE, IN WHOLE OR IN PART, OF CREDITED SERVICE FOR THE
31 REINSTATEMENT, IN WHOLE OR IN PART, OF FORFEITED CREDITED

1 SERVICE UNDER AS 39.35.350]. A rollover contribution [OR TRANSFER] as
 2 described in this subsection shall also be treated as employer contributions for the
 3 purpose of determining tax treatment under the Internal Revenue Code and may be
 4 made by any one or a combination of the following methods:

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

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

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

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

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

24 * **Sec. 86.** AS 39.35.165(g) is amended to read:

25 (g) Payments made under this section shall be applied to reduce the
 26 employee's outstanding indebtedness described in AS 39.35.310, 39.35.330,
 27 39.35.340, 39.35.342, 39.35.345, [39.35.350,] 39.35.360, 39.35.370, 39.35.375, or
 28 39.35.381 at the time that the contributions are received by the plan.

29 * **Sec. 87.** AS 39.35.165(i) is amended to read:

30 (i) On satisfaction of the eligibility requirements of AS 39.35.310, 39.35.330,
 31 39.35.340, 39.35.341, 39.35.345, [39.35.350,] 39.35.360, 39.35.370, 39.35.375, or

1 39.35.381, the requirements of this section, and the administrative filing requirements
 2 specified by the commissioner, the plan shall adjust the employee's credited service
 3 history and add any additional service credits acquired.

4 * **Sec. 88.** AS 39.35.200 is amended by adding a new subsection to read:

5 (d) An employee who receives a refund of contributions in accordance with
 6 this section forfeits corresponding credited service under AS 39.35.095 - 39.35.680.

7 * **Sec. 89.** AS 39.35.270 is amended to read:

8 **Sec. 39.35.270. Amount of employer's contributions.** The amount of each
 9 employer's contributions shall be determined by applying the employer's contribution
 10 rate, **as certified by the board,** to the total compensation paid to the active employees
 11 of the employer for each payroll period and by including any adjustments to
 12 contributions required by AS 39.35.520(a). This amount shall be remitted by the
 13 employer to the administrator in accordance with AS 39.35.610.

14 * **Sec. 90.** AS 39.35.270 is amended by adding a new subsection to read:

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

18 * **Sec. 91.** AS 39.35.340(f) is amended to read:

19 (f) An employee **may not** [CANNOT] be credited with a period of active
 20 military service in the armed forces of the United States under this section if credit for
 21 that military service was granted under **AS 14.25.009 - 14.25.220** [AS 14.25].

22 * **Sec. 92.** AS 39.35.340(h) is amended to read:

23 (h) The combined period of military service claimed under this section and
 24 under **AS 14.25.009 - 14.25.220** [AS 14.25] may not exceed five years.

25 * **Sec. 93.** AS 39.35.360(i) is amended to read:

26 (i) An employee who completes three years of credited service with an
 27 employer, for which the employee makes contributions required by **AS 39.35.095 -**
 28 **39.35.680** [THIS CHAPTER], is entitled to credited service on a year-for-year basis
 29 for service credited in the Civil Service Retirement System, rendered as an employee
 30 of an Alaska Bureau of Indian Affairs (BIA) school, other than service as a teacher.
 31 When eligibility for retroactive credited service under this subsection has been

1 established, an indebtedness of the employee to the **plan** [SYSTEM] shall be
 2 determined as follows: (1) the employee's actual annual compensation, or the
 3 calculated annual compensation for an employee who works fewer than 12 months, for
 4 the most recent calendar year in which service is rendered to an employer before the
 5 calendar year in which the employee first becomes eligible to claim service under this
 6 subsection, multiplied by (2) the number of years of service in Alaska BIA schools
 7 that is credited under this subsection, and this product multiplied by (3) six percent for
 8 employees first eligible to claim this service before January 1, 1987, or eight and one-
 9 half percent for employees first eligible to claim this service on or after January 1,
 10 1987. Interest as prescribed by regulation accrues on the indebtedness beginning on
 11 the date the employee may first claim the retroactive credited service. Any
 12 outstanding indebtedness that exists at the time the employee retires requires an
 13 actuarial adjustment to the benefits that are based on retroactive credited service under
 14 this subsection. A retirement benefit payable under this subsection for Alaska BIA
 15 service shall be reduced by an amount equal to the retirement benefits paid to the
 16 member by the United States government for the same service.

17 * **Sec. 94.** AS 39.35.360(*l*) is amended to read:

18 (l) An administrative director of the Alaska Court System who withdraws
 19 from the judicial retirement system under AS 22.25.012(b) is eligible for membership
 20 in the **plan** [PUBLIC EMPLOYEES' RETIREMENT SYSTEM] and shall receive
 21 credited service in this **plan** [SYSTEM] for service rendered as administrative
 22 director. To be eligible for membership in this **plan** [SYSTEM] under this subsection,
 23 the administrative director must contribute to the **plan** [SYSTEM]

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

27 (2) any contributions for service as administrative director refunded
 28 from the **plan** [PUBLIC EMPLOYEES' RETIREMENT SYSTEM] at the time the
 29 administrative director became a member of the judicial retirement system.

30 * **Sec. 95.** AS 39.35.370(*g*) is amended to read:

31 (g) When an employee who was employed as a dispatcher in a state trooper

1 office or in a police or fire department in the **plan** [PUBLIC EMPLOYEES'
 2 RETIREMENT SYSTEM] applies for appointment to retirement, the employee may
 3 convert the credited service for that position to credited service as a peace officer by
 4 claiming the service as peace officer service. An employee who has converted
 5 credited service to peace officer service under this subsection shall be treated as a
 6 peace officer for purposes of **AS 39.35.095 - 39.35.680** [THIS CHAPTER]. When the
 7 member claims this credited service as peace officer service, an indebtedness of the
 8 member to the **plan** [SYSTEM] shall be established. The indebtedness is equal to the
 9 full actuarial cost of the conversion of the credited service to treatment as peace
 10 officer service. Any outstanding indebtedness that exists at the time the member is
 11 appointed to retirement **shall** [WILL] require an actuarial adjustment to the benefits
 12 payable based upon the conversion of the credited service.

13 * **Sec. 96.** AS 39.35.375(a) is amended to read:

14 (a) An active or inactive member who has never been vested in this **plan**
 15 [SYSTEM] or in the teachers' retirement **plan** [SYSTEM] under **AS 14.25.009 -**
 16 **14.25.220** [AS 14.25], who has at least two years of credited service in this **plan**
 17 [SYSTEM], and who has membership service in the teachers' retirement system may
 18 claim credited service in this **plan** [SYSTEM] in an amount equal to the membership
 19 service the member has in the teachers' retirement system. The claimed credited
 20 service may be added to service earned under **AS 39.35.095 - 39.35.680** [THIS
 21 CHAPTER] to enable the member to qualify for a public service benefit under this
 22 section. The member may not claim credited service for membership service for
 23 which the member has received a refund under AS 14.25.150 unless the member fully
 24 pays the indebtedness as established under AS 14.25.063. The member may not claim
 25 credited service in this **plan** [SYSTEM] based on unused sick leave under
 26 AS 14.25.115.

27 * **Sec. 97.** AS 39.35.375(b) is amended to read:

28 (b) To claim credited service under this section, the member shall file a
 29 written request with the administrator when the member applies to retire. The
 30 administrator shall determine the full actuarial cost of benefits based on the member's
 31 total credited service and shall transfer from the teachers' retirement system to this

1 **plan** [SYSTEM] an amount equal to the sum of the member contributions and any
 2 indebtedness payments to the teachers' retirement system and the employer
 3 contributions to the teachers' retirement system made on behalf of the employee
 4 together with interest earned on those contributions and indebtedness payments. If the
 5 amount to be transferred, when combined with the amount of employee contributions
 6 and indebtedness payments to this **plan** [SYSTEM] and the amount of employer
 7 contributions on behalf of the employee in this **plan** [SYSTEM], and interest earned
 8 on contributions and indebtedness payments for the employee, is less than the full
 9 actuarial cost computed under this subsection, an indebtedness to the **plan** [SYSTEM]
 10 equal to the amount of the difference is established. Interest as prescribed by
 11 regulation accrues on the indebtedness. The member must pay any outstanding
 12 indebtedness existing at the time the member applies for retirement in full before the
 13 member is appointed to retirement under this section.

14 * **Sec. 98.** AS 39.35.375(c) is amended to read:

15 (c) A member is entitled to receive a public service benefit under this section
 16 if the member has at least a total of five years credited service under **AS 39.35.095 -**
 17 **39.35.680** [THIS CHAPTER] and credited service from the teachers' retirement **plan**
 18 **under AS 14.25.009 - 14.25.220** [SYSTEM] claimed under this section. A public
 19 service benefit shall be calculated using the higher of the average monthly
 20 compensation for service in this **plan** [SYSTEM] or the average base salary for
 21 service in the teachers' retirement **plan under AS 14.25.009 - 14.25.220** [SYSTEM].
 22 The amount of the benefit shall be calculated in accordance with AS 39.35.370(c).

23 * **Sec. 99.** AS 39.35.375(d) is amended to read:

24 (d) Credited service earned under either this **plan** [SYSTEM] or the teachers'
 25 retirement system that has been claimed for a public service benefit under this section
 26 may not be used for any other purpose. A member who claims credited service under
 27 this section loses all rights to benefits under AS 14.25 based on the claimed credited
 28 service. A member may not claim credited service under this section unless the
 29 member claims all of the membership service the member has in the teachers'
 30 retirement system. A public service benefit does not constitute a normal or early
 31 retirement benefit for purposes of qualifying for a conditional service retirement

1 benefit under AS 14.25.125 or AS 39.35.385.

2 * **Sec. 100.** AS 39.35.375(f) is amended to read:

3 (f) Notwithstanding AS 14.25.063 and AS 39.35.350, a former member of the
4 teachers' retirement system who is an active member or inactive member of this **plan**
5 [SYSTEM] may reinstate, under this section, membership service earned under
6 AS 14.25 for which the member received a refund of contributions.

7 * **Sec. 101.** AS 39.35.375(f) is amended to read:

8 (f) Notwithstanding AS 14.25.063 [AND AS 39.35.350], a former member of
9 the teachers' retirement system who is an active member or inactive member of this
10 plan may reinstate, under this section, membership service earned under AS 14.25 for
11 which the member received a refund of contributions.

12 * **Sec. 102.** AS 39.35.375(g) is amended to read:

13 (g) If a member retires under this section and subsequently returns to work for
14 an employer under this **plan** [SYSTEM] or the teachers' retirement system, benefits
15 under this section shall cease during the period of reemployment and shall
16 recommence when the reemployment is ended. The credited service earned during the
17 period of reemployment may not be added to the credited service claimed for a public
18 service benefit under this section. If a member vests and meets the other eligibility
19 requirements under this system or the teachers' retirement system during the
20 reemployment, the member is entitled to a benefit under **AS 14.25.009 - 14.25.220**
21 [AS 14.25] or **39.35.095 - 39.35.680** [AS 39.35], as appropriate.

22 * **Sec. 103.** AS 39.35.375 is amended by adding a new subsection to read:

23 (h) In this section,

24 (1) "teachers' retirement system" and "teachers' retirement system
25 under AS 14.25" means the teachers' retirement plan established in AS 14.25.009 -
26 14.25.220;

27 (2) "membership service earned under AS 14.25" means membership
28 service earned under AS 14.25.009 - 14.25.220.

29 * **Sec. 104.** AS 39.35.381(a) is amended to read:

30 (a) An elected public officer is eligible for a public officer benefit if the officer
31 is retired under **AS 14.25.009 - 14.25.220** [AS 14.25 (TEACHERS' RETIREMENT

1 SYSTEM)]. Only fully paid credited service as an elected public officer of a
 2 municipality or other political subdivision, earned while the municipality or political
 3 subdivision was an employer under this **plan** [SYSTEM] and while the person was
 4 employed full-time under **AS 14.25.009 - 14.25.220** [AS 14.25], may be counted
 5 under this section.

6 * **Sec. 105.** AS 39.35.410(f) is amended to read:

7 (f) An employee is not entitled to an occupational disability benefit unless the
 8 employee files an application for it with the administrator within 90 days of the date of
 9 terminating employment. If the employee is unable to meet a filing requirement of
 10 this subsection, it may be waived by the **commissioner** [PUBLIC EMPLOYEES'
 11 RETIREMENT BOARD] if there are extraordinary circumstances that resulted in the
 12 employee's inability to meet the filing requirement. [THE BOARD MAY
 13 DELEGATE THE AUTHORITY TO WAIVE A FILING DEADLINE UNDER THIS
 14 SUBSECTION TO THE ADMINISTRATOR.]

15 * **Sec. 106.** AS 39.35.475(a), as that subsection read following amendment by sec. 34, ch.
 16 146, SLA 1980, until amended by sec. 41, ch. 82, SLA 1986, is amended to read:

17 (a) When the administrator determines that the cost of living has increased and
 18 that the financial condition of the retirement fund permits, **the administrator** [HE]
 19 shall increase benefit payments to persons receiving benefits under this **plan**. **For**
 20 **purposes of this subsection, the financial condition of the fund would only permit**
 21 **an increase in benefits when the ratio of total fund assets to the accrued liability**
 22 **meets or exceeds 105 percent. In this subsection, "accrued liability" means the**
 23 **present value of all member benefits accrued by member service in this plan**
 24 [SYSTEM].

25 * **Sec. 107.** AS 39.35.485(a) is amended to read:

26 (a) An employee who is eligible for a benefit calculated in accordance with
 27 AS 39.35.370(c) is entitled to a benefit of at least \$25 a month for each year of
 28 credited service, not including adjustments made under AS 39.35.340 for military
 29 service, [AS 39.35.350 FOR REINSTATEMENT OF CREDITED SERVICE,]
 30 AS 39.35.360 for credit for earlier service, AS 39.35.370(c) for early retirement,
 31 AS 39.35.420 for nonoccupational death benefits, AS 39.35.450 for the survivor's

1 option, former AS 39.35.460 for the level income option, AS 39.35.475 for the post-
2 retirement pension adjustment, and AS 39.35.480 for the cost of living.

3 * **Sec. 108.** AS 39.35.520(c) is amended to read:

4 (c) **At least quarterly,** [AT EACH REGULARLY SCHEDULED MEETING
5 OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD,] the administrator shall
6 report to the **commissioner of administration** [BOARD] on all situations since the
7 administrator's last report in which an adjustment has been prohibited under (b) of this
8 section. If the **commissioner of administration** [BOARD] finds that there is reason
9 to believe that one or more of the conditions set out in (b) of this section have not been
10 met, the administrator shall notify the member or beneficiary that an adjustment will
11 be made to recover the overpayment. A member or beneficiary who receives notice of
12 adjustment under this subsection may **file a request with the commissioner of**
13 **administration** [APPEAL TO THE BOARD] for a waiver of the adjustment under
14 AS 39.35.522. An adjustment may not be required while the **waiver request**
15 [APPEAL] is pending.

16 * **Sec. 109.** AS 39.35.522(a) is amended to read:

17 (a) Upon **request** [APPEAL] by an affected member or beneficiary under (b)
18 of this section, the **commissioner of administration** [BOARD] may waive an
19 adjustment or any portion of an adjustment made under AS 39.35.520 if, in the
20 opinion of the **commissioner of administration** [BOARD],

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

23 (2) [REPEALED

24 (3) REPEALED

25 (4)] the adjustment was not the result of erroneous information
26 supplied by the member or beneficiary;

27 **(3)** [(5)] before the adjustment was made, the member or beneficiary
28 received confirmation from the administrator that the employee's or beneficiary's
29 records were correct; and

30 **(4)** [(6)] the member or beneficiary had no reasonable grounds to
31 believe the employee's or beneficiary's records were incorrect before the adjustment

1 was made.

2 * **Sec. 110.** AS 39.35.535(a) is repealed and reenacted to read:

3 (a) Except as provided in (d) of this section, the following persons are entitled
4 to major medical insurance coverage under this section:

5 (1) for employees first hired before July 1, 1986,

6 (A) an employee who is receiving a monthly benefit from the
7 plan and who has elected coverage;

8 (B) the spouse and dependent children of the employee
9 described in (A) of this paragraph;

10 (C) the surviving spouse of a deceased employee who is
11 receiving a monthly benefit from the plan and who has elected coverage;

12 (D) the dependent children of a deceased employee who are
13 dependent on the surviving spouse described in (C) of this paragraph;

14 (2) for members first hired on or after July 1, 1986,

15 (A) an employee who is receiving a monthly benefit from the
16 plan and who has elected coverage for the employee;

17 (B) the spouse of the employee described in (A) of this
18 paragraph if the employee elected coverage for the spouse;

19 (C) the dependent children of the employee described in (A) of
20 this paragraph if the employee elected coverage for the dependent children;

21 (D) the surviving spouse of a deceased employee who is
22 receiving a monthly benefit from the plan and who has elected coverage;

23 (E) the dependent children of a deceased employee who are
24 dependent on the surviving spouse described in (D) of this paragraph if the
25 surviving spouse has elected coverage for the dependent children.

26 * **Sec. 111.** AS 39.35.680(2) is amended to read:

27 (2) "actuarial adjustment" means the adjustment necessary to obtain
28 equality in value of the aggregate expected payments under two different forms of
29 pension payments, considering expected mortality and interest earnings on the basis of
30 assumptions, factors, and methods specified in regulations issued under this **plan**
31 [SYSTEM] that are formally adopted [UNDER AS 39.35.042] by the board that

1 clearly preclude employer discretion in the determination of the amount of any
2 member's benefit;

3 * **Sec. 112.** AS 39.35.680(6) is amended to read:

4 (6) "board" means the Alaska Retirement Management [PUBLIC
5 EMPLOYEES RETIREMENT] Board;

6 * **Sec. 113.** AS 39.35.680(21) is amended to read:

7 (21) "member" or "employee"

8 (A) means a person eligible to participate in the system and
9 who is covered by the system;

10 (B) includes

11 (i) an active member;

12 (ii) an inactive member;

13 (iii) a vested member;

14 (iv) a deferred vested member;

15 (v) a nonvested member;

16 (vi) a disabled member;

17 (vii) a retired member;

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

19 (C) does not include

20 (i) former members;

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

22 (iii) casual or emergency workers or nonpermanent
23 employees as defined in AS 39.25.200;

24 (iv) persons covered by the Alaska Teachers'
25 Retirement System except as provided under AS 39.35.131 and
26 39.35.381, or persons covered by a [THE OPTIONAL] university
27 retirement program;

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

31 (vi) justices of the supreme court or judges of the court

1 of appeals or of the superior or district courts of Alaska;

2 (vii) the administrative director of courts appointed
3 under art. IV, sec. 16 of the state constitution unless the director
4 becomes a member under AS 39.35.158;

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

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

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

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

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

17 * **Sec. 114.** AS 39.35.680(34) is amended to read:

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

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

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

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

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

1 (E) sets out the **retirement plan** [SYSTEM] to which the order
2 applies;

3 (F) does not require any type or form of benefit or any option
4 not otherwise provided by **AS 39.35.095 - 39.35.680** [THIS CHAPTER];

5 (G) does not require an increase of benefits in excess of the
6 amount provided by **AS 39.35.095 - 39.35.680** [THIS CHAPTER], determined
7 on the basis of actuarial value; and

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

11 * **Sec. 115.** AS 39.35.680 is amended by adding new paragraphs to read:

12 (41) "commissioner" means the commissioner of administration;

13 (42) "plan" means the retirement plan established in AS 39.35.095 -
14 39.35.680.

15 * **Sec. 116.** AS 39.35 is amended by adding new sections to read:

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

17 **Sec. 39.35.700. Applicability of AS 39.35.700 - 39.35.990.** The provisions of
18 AS 39.35.700 - 39.35.990 apply only to members first hired on or after July 1, 2005,
19 or to members who transfer into the defined contribution plan under AS 39.35.940.

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

23 (b) The defined contribution retirement plan is a plan in which savings are
24 accumulated in an individual retirement account for the exclusive benefit of the
25 member or beneficiaries. The plan is established effective July 1, 2005, at which time
26 contributions by employers and members begin.

27 (c) The retirement plan established by AS 39.35.700 - 39.35.990 is intended to
28 qualify under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified
29 retirement plan established and maintained by the state for its employees, for the
30 employees of political subdivisions, public corporations, and public organizations of
31 the state, and for the employees of other employers whose participation is authorized

1 by AS 39.35.700 - 39.35.990 and who participate in the plan set out in AS 39.35.700 -
2 39.35.990.

3 (d) An amendment to AS 39.35.700 - 39.35.990 does not provide a person
4 with a vested right to a benefit if the Internal Revenue Service determines that the
5 amendment will result in disqualification of the plan under the Internal Revenue Code.

6 **Sec. 39.35.720. Membership.** An employee who becomes a member on or
7 after July 1, 2005, shall participate in the plan set out in AS 39.35.700 - 39.35.990.

8 **Sec. 39.35.730. Contributions by members.** (a) Each member shall
9 contribute to the member's individual account an amount equal to eight percent of the
10 member's compensation from July 1 to the following June 30.

11 (b) Subject to the limitations on contributions under AS 39.35.780, a member
12 may elect to make additional contributions to the member's individual account.

13 (c) The employer shall deduct the contribution from the member's
14 compensation at the end of each payroll period, and the contribution shall be credited
15 by the plan to the member's individual account. The contributions shall be deducted
16 from member's compensation before the computation of applicable federal taxes and
17 shall be treated as employer contributions under 26 U.S.C. 414(h)(2). A member may
18 not have the option of making the payroll deduction directly in cash instead of having
19 the contribution picked up by the employer.

20 **Sec. 39.35.740. Employment contributions mandatory.** Contributions of
21 employees shall be made by payroll deductions. Every included employee shall be
22 considered to consent to payroll deductions. It is of no consequence that a payroll
23 deduction may cause the compensation paid in cash to an employee to be reduced
24 below the minimum required by law. Payment of an employee's compensation, less
25 payroll deductions, is a full and complete discharge and satisfaction of all claims and
26 demands by the employee relating to remuneration of services during the period
27 covered by the payment, except with respect to the benefits provided under the plan.

28 **Sec. 39.35.750. Contributions by employers.** (a) An employer shall
29 contribute to each member's individual account an amount equal to five percent of the
30 member's compensation from July 1 to the following June 30.

31 (b) An employer shall also contribute an amount equal to a percentage, as

1 certified by the board, of each member's compensation from July 1 to the following
 2 June 30 to pay for retiree major medical insurance. This contribution shall be paid
 3 into the group health and life benefits fund established by the commissioner of
 4 administration under AS 39.30.095 and shall be accounted for in accordance with
 5 regulations established by the commissioner.

6 (c) Notwithstanding (b) of this section, the employer contribution for retiree
 7 major medical insurance for fiscal year 2006 shall be 1.75 percent of each member's
 8 compensation from July 1 to the following June 30.

9 (d) An employer shall also make contributions to the health reimbursement
 10 arrangement plan under AS 39.30.300.

11 (e) An employer shall make annual contributions to the plan in an amount
 12 determined by the board to be actuarially required to fully fund the cost of providing
 13 occupational disability and occupational death benefits under AS 39.35.890 and
 14 39.35.892. The contribution required under this subsection for peace officers and fire
 15 fighters and the contribution required under this subsection for other employees shall
 16 be separately calculated based on the actuarially calculated costs for each group of
 17 employees.

18 **Sec. 39.35.760. Rollover contributions and distributions.** (a) An employee
 19 entering the plan may elect, at the time and in the manner prescribed by the
 20 administrator, to have all or part of a direct rollover distribution from an eligible
 21 retirement plan owned by the member paid directly into the member's individual
 22 account.

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

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

28 (d) In this section,

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

1 (2) "distributee" means a member, or a beneficiary who is the
2 surviving spouse of the member, or an alternate payee;

3 (3) "eligible retirement plan" means

4 (A) a conduit individual retirement account described in 26
5 U.S.C. 408(d)(3)(A);

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

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

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

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

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

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

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

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

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

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

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

25 **Sec. 39.35.770. Transmittal of contributions.** All contributions deducted in
26 accordance with AS 39.35.700 - 39.35.990 shall be transmitted to the plan for deposit
27 in the trust fund as soon as administratively feasible, but in no event later than 15 days
28 following the close of the payroll period.

29 **Sec. 39.35.780. Limitations on contributions.** Notwithstanding any other
30 provisions of this plan, the annual additions to each member's individual account
31 under this plan and under all defined contribution plans of the employer required to be

1 aggregated with the contributions from this plan under the provisions of 26 U.S.C. 415
 2 may not exceed, for any limitation year, the amount permitted under 26 U.S.C. 415 at
 3 any time. If the amount of a member's defined contribution plan contributions exceeds
 4 the limitation of 26 U.S.C. 415(c) for any limitation year, the administrator shall take
 5 any necessary remedial action to correct an excess contribution. The provisions of 26
 6 U.S.C. 415, and the regulations adopted under that statute, as applied to qualified
 7 defined contribution plans of governmental employees are incorporated as part of the
 8 terms and conditions of the plan.

9 **Sec. 39.35.790. Vesting.** (a) A participating member is immediately and
 10 fully vested in that member's contributions and related earnings.

11 (b) A member shall be fully vested in the employer contributions made on that
 12 member's behalf, and related earnings, after five years of service. A member is
 13 partially vested in the employer contributions made on that member's behalf, and the
 14 related earnings, in the ratio of

- 15 (1) 25 percent with two years of service;
- 16 (2) 50 percent with three years of service; and
- 17 (3) 75 percent with four years of service.

18 **Sec. 39.35.800. Investment of individual accounts.** (a) The board shall
 19 provide a range of investment options and permit a participant to exercise investment
 20 control over the participant's assets in the member's individual account as provided in
 21 this section. If a participant exercises control over the assets in the individual account,
 22 the participant is not considered a fiduciary for any reason on the basis of exercising
 23 that control.

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

26 (c) A participant may elect to change or transfer all or a portion of the
 27 participant's existing account balance among available investment funds not more
 28 often than once each day in accordance with the rules established by the administrator.
 29 Only the last election received by the administrator before the transmittal of
 30 contributions to the trust fund for allocation to the individual account shall be used to
 31 direct the investment of the contributions received.

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

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

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

12 **Sec. 39.35.810. Distribution election at termination.** (a) A member is
 13 eligible to elect distribution of the member's account in accordance with this section
 14 60 days after termination of employment.

15 (b) Notwithstanding (a) of this section, distribution of all or a portion of the
 16 individual account of a member may take place before the 60th day after the
 17 termination of employment with the approval of the administrator if the member
 18 makes a written request for a distribution under this subsection. The member's spouse
 19 must consent to the request in writing if the member is married. Distribution of an
 20 individual account may only be made on account of an immediate and heavy financial
 21 need of the member for the following reasons and in the amount the need is
 22 demonstrated for

23 (1) medical care described in 26 U.S.C. 213(d) incurred by the
 24 member, the member's spouse, or the member's dependent, or necessary to obtain that
 25 medical care;

26 (2) the purchase of a principal residence for the member;

27 (3) postsecondary education tuition and related educational fees for the
 28 next 12-month period for the member, the member's spouse, or a dependent of the
 29 member; in this paragraph, "dependent" has the meaning given in 26 U.S.C. 152;

30 (4) prevention of the eviction of the member from the member's
 31 principal residence or foreclosure on the mortgage of the member's principal

1 residence; or

2 (5) any need prescribed by the United States Department of the
3 Treasury, Internal Revenue Service, in a revenue ruling, notice, or other document of
4 general applicability that satisfies the safe harbor definition of hardship under
5 regulations adopted under 26 U.S.C. 401(k).

6 (c) If a member dies before benefits commence, the member's beneficiary is
7 immediately eligible to elect distribution of the member's share of the member's
8 individual account.

9 (d) Distributions are payable to an alternate payee in accordance with the
10 terms and conditions of a qualified domestic relations order that is received and
11 approved by the administrator as specified in AS 39.35.860.

12 (e) Distributions that are being paid to a member may not be affected by the
13 member's subsequent reemployment with the employer. Upon reemployment, a new
14 individual account shall be established for the member to which any future
15 contributions shall be allocated. Upon subsequent termination of employment, the
16 member's new individual account shall be distributed in accordance with this section.

17 **Sec. 39.35.820. Forms of distribution.** (a) A participant may elect to receive
18 the participant's share of the individual account in a

19 (1) lump sum payment, which is a single payment of the entire balance
20 in the account;

21 (2) periodic lump sum payment, which is a payment of a portion of the
22 balance in the account, not more than twice each year;

23 (3) period certain annuity payment, which is an annuity payable in a
24 fixed number of monthly installments for a duration of 60, 120, or 180 months;

25 (4) life annuity with a period certain payment, which is an annuity
26 payable until the later of the first day of the month in which the annuitant's death
27 occurs, or the date on which the payment of a fixed number of monthly installments is
28 completed; the period certain for installments is 120 or 180 months;

29 (5) single life annuity payment, which is an annuity payable monthly
30 until the first of the month in which the annuitant's death occurs; or

31 (6) joint and survivor annuity payment, which is an annuity payable

1 monthly to the member until the first of the month in which the member's death
 2 occurs; after the member's death, a survivor annuity equal to 50 percent or 100 percent
 3 of the member's benefit, as previously elected by the member, shall be paid monthly to
 4 the joint annuitant for the remainder of the survivor's lifetime.

5 (b) Upon the death of an annuitant whose payments have commenced, an
 6 annuitant's beneficiary shall receive further payments only to the extent provided in
 7 accordance with the form of payment that was being made to the annuitant. The
 8 remaining portion of the interest shall continue to be distributed at least as rapidly as
 9 under the method of distribution being used before the annuitant's death.

10 (c) If a participant dies before the distribution commencement date,
 11 distribution of the participant's entire interest to a beneficiary shall be payable in any
 12 form other than a joint and survivor annuity.

13 (d) If an unmarried member or other participant fails to elect a form of
 14 payment before the distribution commencement date, the account shall be paid to a
 15 beneficiary in the form of a lump sum to the extent required by the minimum
 16 distribution requirements set out in the Internal Revenue Code. If a married member
 17 fails to elect a form of payment before the distribution commencement date, the
 18 account shall be paid in the form of a 50 percent joint and survivor annuity, with the
 19 member's spouse as the joint annuitant.

20 **Sec. 39.35.830. Manner of electing distributions.** (a) Any election or any
 21 alteration or revocation of a prior election by a participant for any purpose under this
 22 plan shall be on forms or made in a manner prescribed for that purpose by the plan
 23 administrator. To be effective, the forms required or the required action for any
 24 purpose under this plan must be completed and received in accordance with
 25 regulations adopted by the commissioner of administration.

26 (b) At any time, but not less than seven days before the benefit
 27 commencement date, a member, alternate payee, or beneficiary may change

- 28 (1) the form of payment election;
- 29 (2) an election to commence benefits; or
- 30 (3) the joint annuitant designation.

31 (c) Changes in elections are not allowed on or after seven days before the

1 benefit commencement date.

2 **Sec. 39.35.840. Distribution requirements.** (a) Payments to a participant
3 shall commence as soon as administratively feasible following the distribution
4 commencement date. The distribution commencement date is the first date on which
5 one of the following occurs:

6 (1) a member meets the requirements of AS 39.35.810 and has made a
7 complete application for payment under AS 39.35.830;

8 (2) a participant has elected to defer receipt of the account to a date
9 specified, the date has been attained, and the participant has made a complete
10 application for payment;

11 (3) a member attains normal retirement age and has not made an
12 application for payment or elected to defer receipt of the account to a date later than
13 normal retirement age;

14 (4) a member's beneficiary does not make an application for benefits
15 and five years have elapsed since the member's death;

16 (5) notwithstanding (a) of this section, a participant whose account has
17 a balance of \$1,000 or less meets the requirements of AS 39.35.810, at which time the
18 participant must take payment of the participant's account.

19 (b) The entire interest of a member must be distributed or must begin to be
20 distributed not later than the member's required beginning date.

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

25 (d) If a member has made a distribution election and dies before the
26 distribution of the member's interest begins, distribution of the member's entire interest
27 shall be completed by December 31 of the calendar year containing the fifth
28 anniversary of the member's death. However, if any portion of the member's interest
29 is payable to a designated beneficiary, distributions may be made over the life of the
30 designated beneficiary or over a period certain not greater than the life expectancy of
31 the designated beneficiary, commencing on or before December 31 of the calendar

1 year immediately following the calendar year in which the member died, and, if the
2 designated beneficiary is the member's surviving spouse, the date distributions are
3 required to begin may not be earlier than the later of December 31 of the calendar year
4 (1) immediately following the calendar year in which the member died, or (2) in which
5 the member would have attained 70 1/2 years of age, whichever is earlier. If the
6 surviving spouse dies after the member but before payments to the spouse have begun,
7 the provisions of this subsection apply as if the surviving spouse were the member.
8 An amount paid to a child of the member shall be treated as if it were paid to the
9 surviving spouse if the amount becomes payable to the surviving spouse when the
10 child reaches the age of majority.

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

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

28 (g) Notwithstanding any contrary provisions of AS 39.35.700 - 39.35.990, the
29 requirements of this section apply to all distributions of a member's interest and take
30 precedence over any inconsistent provisions of AS 39.35.700 - 39.35.990.

31 (h) All distributions required under this section are determined and made in

1 accordance with 26 U.S.C. 401(a)(9) and regulations adopted under that statute,
2 including any minimum distribution incidental benefit requirement.

3 (i) In this section,

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

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

10 **Sec. 39.35.850. Designation of beneficiary.** (a) Each participant shall have
11 the right to designate a beneficiary and shall have the right, at any time, to revoke the
12 designation or to substitute another beneficiary, subject to the following limitation: if a
13 married member elects a nonspouse beneficiary, the value of the benefit payable to the
14 beneficiary may not exceed 50 percent of the member's portion of the account balance,
15 and the member's spouse shall automatically be considered the beneficiary for the
16 remaining 50 percent of the account balance, unless the spouse consents to the
17 beneficiary designation in a writing that is notarized or witnessed by the administrator.
18 If the spouse consents in this manner, a married member may designate a nonspouse
19 beneficiary for the entire benefit or any portion the benefit as part of an available form
20 of payment contained in this plan,

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

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

30 (b) Except as provided in (a) of this section, the member may change or
31 revoke the designation without notice to the beneficiary or beneficiaries at any time.

1 If a member designates more than one beneficiary, each shares equally unless the
 2 member specifies a different allocation or preference. The designation of a
 3 beneficiary, a change or revocation of a beneficiary, and a consent to revocation of a
 4 beneficiary shall be made on a form provided by the administrator and is not effective
 5 until filed with the administrator.

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

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

9 (2) to the surviving children of the member in equal parts or, if there
 10 are none surviving;

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

13 (4) to the estate.

14 (d) A person claiming entitlement to benefits payable under AS 39.35.700 -
 15 39.35.990 as a consequence of a member's death shall provide the administrator with a
 16 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.
 17 Documents establishing entitlement may be filed with the administrator immediately
 18 after a change in the member's marital status. If the administrator does not receive
 19 notification of a claim before the date 10 days after the member's death, the person
 20 claiming entitlement is not entitled to receive from the division of retirement and
 21 benefits any benefit already paid by the administrator.

22 **Sec. 39.35.860. Rights under qualified domestic relations order.** (a)
 23 Notwithstanding the nonalienation provisions in AS 39.35.900(a), the plan
 24 administrator may direct that benefits be paid to someone other than a member or
 25 beneficiary under a valid qualified domestic relations order that is executed by the
 26 judge of a competent court in accordance with applicable state law and that has been
 27 accepted by the administrator.

28 (b) The administrator shall determine whether an order meets the requirements
 29 of this section within a reasonable period after receiving an order. The administrator
 30 shall notify the member and any alternate payee that an order has been received and
 31 indicate to the member and any alternate payee when the order is accepted. A separate

1 account for the alternate payee portion shall be established as soon as administratively
2 feasible after the order has been accepted by the administrator.

3 **Sec. 39.35.870. Eligibility for retirement and medical benefits.** (a) In
4 order to obtain medical benefits under AS 39.35.880, an active member must retire
5 directly from the plan. A member is eligible to retire from the plan if the member has
6 been an active member for at least 12 months before application for retirement and

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

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

12 (b) The normal retirement age is the age set for Medicare eligibility at the time
13 the member retires.

14 (c) A member's surviving spouse is eligible to elect medical benefits under
15 AS 39.35.880 if the member had retired, or was eligible for retirement and medical
16 benefits, at the time of the member's death.

17 (d) Members shall apply for retirement and medical benefits on the forms and
18 in the manner prescribed by the administrator.

19 (e) Participation in the retiree major medical insurance plan is not required in
20 order to participate in the health reimbursement arrangement.

21 (f) A person eligible for retirement and medical benefits is not required to
22 participate in the health reimbursement arrangement in order to participate in the
23 retiree major medical insurance plan.

24 (g) An eligible person must make the irrevocable election to participate or not
25 participate in the retiree major medical insurance plan by reaching 70 1/2 years of age,
26 or upon application for retirement and medical benefits, whichever is later.

27 **Sec. 39.35.880. Medical benefits.** (a) The medical benefits available to
28 eligible persons are access to the retiree major medical insurance plan and to the
29 health reimbursement arrangement under AS 39.30.300. Access to the retiree major
30 medical insurance plan means that an eligible person may not be denied insurance
31 coverage except for failure to pay the required premium.

1 (b) Retiree major medical insurance plan coverage elected by an eligible
2 member under this section covers the eligible member, the spouse of the eligible
3 member, and the dependent children of the eligible member.

4 (c) Retiree major medical insurance plan coverage elected by a surviving
5 spouse of an eligible member under this section covers the surviving spouse and the
6 dependent children of the eligible member who are dependent on the surviving spouse.

7 (d) Major medical insurance coverage takes effect on the first day of the
8 month following the date of the administrator's approval of the election and stops
9 when the person who elects coverage dies or fails to make a required premium
10 payment.

11 (e) The coverage for persons 65 years of age or older is the same as that
12 available for persons under 65 years of age. The benefits payable to those persons 65
13 years of age or older supplement any benefits provided under the federal old age,
14 survivors and disability insurance program.

15 (f) The medical and optional insurance premiums owed by the person who
16 elects coverage may be deducted from the health reimbursement arrangement. If the
17 amount of the health reimbursement arrangement becomes insufficient to pay the
18 premiums, the person who elects coverage under (a) of this section shall pay the
19 premiums directly.

20 (g) The cost of premiums for retiree major medical insurance coverage for an
21 eligible member or surviving spouse who is

22 (1) not eligible for Medicare is an amount equal to the full monthly
23 group premiums for retiree major medical insurance coverage;

24 (2) eligible for Medicare is the following percentage of the premium
25 amounts established for retirees who are eligible for Medicare:

26 (A) 50 percent if the member had 10 or more, but less than 15,
27 years of service;

28 (B) 40 percent if the member had 15 or more, but less than 20,
29 years of service;

30 (C) 30 percent if the member had 20 or more, but less than 25,
31 years of service;

1 (D) 20 percent if the member had 25 or more, but less than 30,
2 years of service;

3 (E) 10 percent if the member had 30 or more years of service.

4 (h) The eligibility for retiree major medical insurance coverage for an
5 alternate payee under a qualified domestic relations order shall be determined based
6 on the eligibility of the member to elect coverage. The alternate payee shall pay the
7 full monthly premium for retiree major medical insurance coverage.

8 (i) A person who is entitled to retiree major medical insurance coverage shall

9 (1) be informed by the administrator in writing

10 (A) that the health insurance coverage available to retired
11 members may be different from the health insurance coverage provided to
12 employees;

13 (B) of time limits for selecting optional health insurance
14 coverage and whether the election is irrevocable; and

15 (2) indicate in writing on a form provided by the administrator that the
16 person has received the information required by this subsection and whether the
17 person has chosen to receive optional health insurance coverage.

18 (j) The monthly group premiums for retiree major medical insurance coverage
19 are established by the administrator in accordance with AS 39.30.095. Nothing in
20 AS 39.35.700 - 39.35.990 guarantees a person who elects coverage under (a) of this
21 section a monthly group premium rate for retiree major medical insurance coverage
22 other than the premium in effect for the month in which the premium is due for
23 coverage for that month.

24 (k) In this section, "health reimbursement arrangement" means the plan
25 established in AS 39.30.300.

26 **Sec. 39.35.890. Occupational disability benefits and reemployment of**
27 **disabled employees.** (a) An employee is eligible for an occupational disability
28 benefit if employment is terminated because of a total and apparently permanent
29 occupational disability before the employee's normal retirement date.

30 (b) The occupational disability benefits accrue beginning the first day of the
31 month following termination of employment as a result of the disability and are

1 payable the last day of the month. If a final determination granting the benefit is not
 2 made in time to pay the benefit when due, a retroactive payment shall be made to
 3 cover the period of deferment. The last payment shall be for the first month in which
 4 the disabled employee

- 5 (1) dies;
- 6 (2) recovers from the disability;
- 7 (3) fails to meet the requirements under (f) or (j) of this section; or
- 8 (4) reaches normal retirement age.

9 (c) If the disabled employee becomes ineligible to receive occupational
 10 disability benefits before the normal retirement date, the disabled employee shall then
 11 be entitled to receive retirement benefits if the employee would have been eligible for
 12 the benefit had employment continued during the period of disability. The period of
 13 disability constitutes membership service in regard to determining eligibility for
 14 retirement.

15 (d) The monthly amount of an occupational disability benefit is 40 percent of
 16 the disabled employee's gross monthly compensation at the time of termination due to
 17 disability. While an employee is receiving disability benefits, based on the disabled
 18 employee's gross monthly compensation at the time of termination due to disability,
 19 the employer shall make contributions

- 20 (1) to the employee's individual account under AS 39.35.730 on behalf
- 21 of the employee, without deduction from the employee's disability payments; and
- 22 (2) on behalf of the employee under AS 39.35.750.

23 (e) An employee is not entitled to an occupational disability benefit unless the
 24 employee files an application for an occupational disability benefit with the
 25 administrator within 90 days after the date of terminating employment. If the
 26 employee is unable to meet a filing requirement of this subsection, the filing
 27 requirement may be waived by the administrator if there are extraordinary
 28 circumstances that resulted in the employee's inability to meet the filing requirement.

29 (f) A disabled employee receiving an occupational disability benefit shall
 30 undergo a medical examination as often as the administrator considers advisable, but
 31 not more frequently than once each year. The administrator shall determine the place

1 of the examination and engage the physician or physicians. If, in the judgment of the
 2 administrator, the examination indicates that the retired employee is no longer
 3 incapacitated because of a total and apparently permanent occupational disability, the
 4 administrator may not issue further disability benefits to the employee.

5 (g) A disabled employee's occupational disability benefit terminates when the
 6 disabled employee first attains eligibility for normal retirement. At that time, the
 7 employee's retirement benefit shall be determined under the provisions of
 8 AS 39.35.840 and 39.35.870. An employee receiving disability benefits up until
 9 eligibility for retirement shall be considered to have retired directly from the plan.

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

14 (1) employee's retirement benefit calculated under the provisions of
 15 AS 39.35.840; or

16 (2) employee's retirement benefit calculated as if the provisions of
 17 AS 39.35.370(c) were to apply; however, retirement benefits paid under this paragraph
 18 may not be made from the trust fund of the public employees' defined benefit
 19 retirement plan.

20 (i) Notwithstanding (b)(3) of this section, a peace officer or fire fighter who
 21 retires under (h) of this section is not subject to the requirements of (f) or (j) of this
 22 section during retirement.

23 (j) An employee appointed to disability benefits shall apply to the division of
 24 vocational rehabilitation within 30 days after the date disability benefits commence.
 25 The employee shall be enrolled in a rehabilitation program if the employee meets the
 26 eligibility requirements of the division of vocational rehabilitation. Unless the
 27 employee demonstrates cause, benefits shall terminate at the end of the first month in
 28 which a disabled employee

29 (1) fails to report to the division of vocational rehabilitation;

30 (2) is certified by the division of vocational rehabilitation as failing to
 31 cooperate in a vocational rehabilitation program;

1 (3) fails to interview for a job; or

2 (4) fails to accept a position offered.

3 (k) Upon the death of a disabled employee who is receiving or is entitled to
 4 receive an occupational disability benefit, the administrator shall pay the surviving
 5 spouse a surviving spouse's pension, equal to 40 percent of the employee's monthly
 6 compensation at the termination of employment because of occupational disability. If
 7 there is no surviving spouse, the administrator shall pay the survivor's pension in equal
 8 parts to the dependent children of the employee. The first payment of the surviving
 9 spouse's pension or of a dependent child's pension shall accrue from the first day of
 10 the month following the employee's death and is payable the last day of the month.
 11 The last payment shall be made for the last month in which there is an eligible
 12 surviving spouse or child. On the date the normal retirement of the employee would
 13 have occurred if the employee had lived, the retirement benefit shall be determined
 14 under the provisions of AS 39.35.840 and 39.35.870. An employee who died while
 15 receiving disability benefits shall be considered to have retired directly from the plan
 16 on the date the normal retirement of the employee would have occurred if the
 17 employee had lived.

18 (l) In this section, "occupational disability" has the meaning given in
 19 AS 39.35.680.

20 **Sec. 39.35.892. Occupational death benefit.** (a) If (1) the death of an
 21 employee occurs before the employee's retirement and before the employee's normal
 22 retirement date, (2) the proximate cause of death is a bodily injury sustained or a
 23 hazard undergone while in the performance and within the scope of the employee's
 24 duties, and (3) the injury or hazard is not the proximate result of wilful negligence of
 25 the employee, a monthly survivor's pension shall be paid to the surviving spouse. If
 26 there is no surviving spouse or if the spouse later dies, the monthly survivor's pension
 27 shall be paid in equal parts to the dependent children of the employee.

28 (b) The first payment of the surviving spouse's pension or of a dependent
 29 child's pension shall be made for the month following the month in which the
 30 employee dies, and payment shall cease to be made beginning with the month in
 31 which the employee would have first qualified for retirement.

1 (c) The monthly survivor's pension in (b) of this section for survivors of
 2 employees who were not peace officers or fire fighters is 40 percent of the employee's
 3 monthly compensation in the month in which the employee dies. The monthly
 4 survivor's pension in (b) of this section for survivors of employees who were peace
 5 officers or fire fighters is 50 percent of the monthly compensation in the month in
 6 which the employee dies. While the monthly survivor's pension is being paid, the
 7 employer shall make contributions on behalf of the employee's beneficiaries based on
 8 the deceased employee's gross monthly compensation at the time of occupational
 9 death

10 (1) to the employee's individual account under AS 39.35.730, without
 11 deduction from the survivor's pension; and

12 (2) to the appropriate accounts and funds under AS 39.35.750.

13 (d) If an employee's death is caused by an act of assault, assassination, or
 14 terrorism directly related to the person's status as an employee, whether the act occurs
 15 on or off the employee's job site, the death shall be considered to have occurred in the
 16 performance of and within the scope of the employee's duties for purposes of (a)(2) of
 17 this section. If the expressed or apparent motive and intent of the perpetrator of the
 18 harm inflicted upon the employee was due to the performance of the employee's job
 19 duties or employment, the death shall be considered to be directly related to the
 20 employee's status as an employee. An employee's job duties are those performed
 21 within the course and scope of the person's employment with an employer.

22 (e) On the date the normal retirement of the employee would have occurred if
 23 the employee had lived, the retirement benefit shall be determined under the
 24 provisions of AS 39.35.840 and 39.35.870. An employee who died and whose
 25 survivors receive occupational death benefits under this section shall be considered to
 26 have retired directly from the plan on the date the normal retirement of the employee
 27 would have occurred if the employee had lived.

28 **Sec. 39.35.895. Amendment and termination of plan.** (a) The state has the
 29 right to amend the plan at any time and from time to time, in whole or in part,
 30 including the right to make retroactive amendments referred to in 26 U.S.C. 401(b).

31 (b) The plan administrator may not modify or amend the plan retroactively in

1 such a manner as to reduce the benefits of any member accrued to date under the plan
 2 by reason of contributions made before the modification or amendment except to the
 3 extent that the reduction is permitted by the Internal Revenue Code.

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

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

11 **Sec. 39.35.900. Exclusive benefit.** (a) The corpus or income of the assets
 12 held in trust as required by the plan may not be diverted or used for other than the
 13 exclusive benefit of the participants.

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

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

20 **Sec. 39.35.910. Nonguarantee of returns, rates, or benefit amounts.** The
 21 plan created by AS 39.35.700 - 39.35.990 is a defined contribution plan, not a defined
 22 benefit plan. The amount of money in the account of a participant depends on the
 23 amount of contributions and the rate of return from investments of the account that
 24 varies over time. If benefits are paid in the form of an annuity, the benefit amount
 25 payable is dependent on the amount of money in the account and the interest rates
 26 applied and service fees charged by the annuity payor at the time benefits are first
 27 paid. Nothing in this plan guarantees a participant

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

30 (2) an annuity based on interest rates or service charges other than
 31 interest rates available from and service charges by the annuity payor in effect at the

1 time the annuity is paid.

2 **Sec. 39.35.920. Nonguarantee of employment.** The provisions of
3 AS 39.35.700 - 39.35.990 are not a contract of employment between an employer and
4 an employee, nor do they confer a right of an employee to be continued in the
5 employment of an employer, nor are they a limitation of the right of an employer to
6 discharge an employee with or without cause.

7 **Sec. 39.35.930. Fraud.** (a) A person who knowingly makes a false statement
8 or falsifies or permits to be falsified a record of this plan in an attempt to defraud the
9 plan is guilty of a class A misdemeanor.

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

11 **Sec. 39.35.940. Transfer into defined contribution plan by nonvested**
12 **members of defined benefit plan.** (a) Subject to (i) of this section, an active
13 member of the defined benefit retirement plan of the public employees' retirement
14 system is eligible to participate in the defined contribution retirement plan established
15 under AS 39.35.700 - 39.35.990, if that member has not vested. Participation in the
16 defined contribution retirement plan is in lieu of participation in the defined benefit
17 retirement plan established under AS 39.35.095 - 39.35.680.

18 (b) A member who has vested in a defined benefit retirement plan is not
19 eligible to transfer under this section.

20 (c) Each eligible member who elects to participate in the defined contribution
21 retirement plan shall have transferred to a new account the present value of the
22 member contribution account balance held in trust for the member under the defined
23 benefit retirement plan of the public employees' retirement system. A matching
24 employer contribution shall be made on behalf of that employee to the new account.
25 The employer shall make the matching contribution from funds other than the trust
26 funds of the defined benefit retirement plan established under AS 39.35.095 -
27 39.35.680.

28 (d) Upon a transfer, all membership service previously earned under the
29 defined benefit retirement plan shall be nullified for purposes of entitlement to a future
30 benefit under the defined benefit retirement plan but shall be credited for purposes of
31 eligibility for retirement and medical benefits under AS 39.35.870. Membership

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

4 (e) An eligible member whose accounts are subject to a qualified domestic
5 relations order may not make an election to participate in the defined contribution
6 retirement plan under this subsection unless the qualified domestic relations order is
7 amended or vacated and court-certified copies of the order are received by the
8 administrator.

9 (f) As directed by the participant, the board shall transfer or cause to be
10 transferred the appropriate amounts to the designated account. The board shall
11 establish transfer procedures by regulation, but the actual transfer may not be later
12 than 30 days after the effective date of the member's participation in the defined
13 contribution retirement plan unless the major financial markets for securities available
14 for a transfer are seriously disrupted by an unforeseen event that also causes the
15 suspension of trading on any national securities exchange in the country where the
16 securities were issued. In that event, the 30-day period of time may be extended by a
17 resolution of the board of trustees. Transfers are not commissionable or subject to
18 other fees and may be in the form of securities or cash as determined by the board.
19 Securities shall be valued as of the date of receipt in the participant's account.

20 (g) If the board or the administrator receives notification from the United
21 States Department of the Treasury, Internal Revenue Service, that this section or a
22 portion of this section will cause the retirement system under this chapter, or a portion
23 of the retirement system under this chapter, to be disqualified for tax purposes under
24 the Internal Revenue Code, the portion that will cause the disqualification does not
25 apply, and the board and the administrator shall notify the presiding officers of the
26 legislature.

27 (h) The election to participate in the defined contribution retirement plan must
28 be made in writing on forms and in the manner prescribed by the administrator.
29 Before accepting an election to participate in the defined contribution retirement plan,
30 the administrator must provide the employee planning on making an election to
31 participate in the defined contribution retirement plan with information, including

1 calculations to illustrate the effect of moving the employee's retirement plan from the
 2 defined benefit retirement plan to the defined contribution retirement plan as well as
 3 other information to clearly inform the employee of the potential consequences of the
 4 employee's election. An election made under this subsection to participate in the
 5 defined contribution retirement plan is irrevocable. Upon making the election, the
 6 participant shall be enrolled as a member of the defined contribution retirement plan,
 7 the member's participation in the plan shall be governed by the provisions of
 8 AS 39.35.700 - 39.35.990, and the member's participation in the defined benefit
 9 retirement plan under AS 39.35.115 shall terminate. The participant's enrollment in
 10 the defined contribution retirement plan shall be effective the first day of the month
 11 after the administrator receives the completed enrollment forms. An election made by
 12 an eligible member who is married is not effective unless the election is signed by the
 13 individual's spouse.

14 (i) A member may make an election under this section only if the member's
 15 employer participates in both the defined benefits retirement plan and the defined
 16 contribution retirement plan and consents to transfers under this section. The
 17 employer shall notify the administrator if the employer consents to allowing the
 18 employer's members to choose to transfer from the defined benefits retirement plan to
 19 the defined contribution retirement plan under this section. An employer's notice to
 20 allow transfers is irrevocable and applicable to all eligible employees of the employer.

21 (j) In this section,

22 (1) "defined benefit retirement plan" means the retirement plan
 23 established in AS 39.35.095 - 39.35.680;

24 (2) "defined contribution retirement plan" means the retirement plan
 25 established in AS 39.35.700 - 39.35.990.

26 **Sec. 39.35.950. Request by political subdivision to participate and**
 27 **adoption of resolution.** A municipality or other political subdivision of the state may
 28 request to become an employer in this plan. The request shall be made after adoption
 29 of a resolution by the legislative body of the political subdivision and after approval of
 30 the resolution by the person required by law to approve the resolution. A certified
 31 copy of the resolution shall be filed with the administrator. If the administrator

1 approves the request for participation, the political subdivision is an employer of the
2 plan.

3 **Sec. 39.35.955. Request by public organization to participate and**
4 **adoption of resolution.** A public organization may request to become an employer in
5 this plan. The request shall be made after adoption of a resolution by the governing
6 body of the public organization. A certified copy of the resolution shall be filed with
7 the administrator. If the administrator approves the request for participation, the
8 public organization is an employer of the plan.

9 **Sec. 39.35.960. Membership in teachers' and public employees'**
10 **retirement systems.** A person who is employed at least half-time in the public
11 employees' defined contribution retirement plan (AS 39.35.700 - 39.35.990) during the
12 same period that the person is employed at least half-time in a position in the teachers'
13 defined contribution retirement plan (AS 14.25.310 - 14.25.590) shall receive credited
14 service under each plan for half-time employment. However, the amount of credited
15 service a person receives under the public employees' defined contribution retirement
16 plan during a school year may not exceed the amount necessary, when added to the
17 amount of credited service earned during the school year under the teachers' defined
18 contribution retirement plan, to equal one year of credited service.

19 **Sec. 39.35.965. Army and air national guard employees.** A regular full-
20 time civilian employee of the Alaska Army National Guard and Air National Guard
21 whose entire salary is paid from allotted federal funds is included in the public
22 employees' defined contribution retirement plan (AS 39.35.700 - 39.35.990) if the
23 federal or state government pays the employer's contributions. If the amount that the
24 federal government may legally contribute to the plan is lower than the required
25 employer's contribution, the state government shall contribute the difference. If the
26 employer's contributions are not paid when due, service credit for the period of
27 delinquency may not be granted until the contributions are paid.

28 **Sec. 39.35.970. North Pacific Fishery Management Council employees.**
29 An employee of the North Pacific Fishery Management Council appointed under 16
30 U.S.C. 1852(f)(1) (Sec. 302(f)(1) of P.L. 94-265) whose compensation is paid from
31 allotted federal funds is included in the public employees' defined contribution

1 retirement plan (AS 39.35.700 - 39.35.990) if the council pays the employer's
 2 contributions. If the employer's contributions are not paid when due, credited service
 3 for the period of delinquency may not be granted until the contributions are paid.

4 **Sec. 39.35.990. Definitions.** In AS 39.35.700 - 39.35.990, unless the context
 5 requires otherwise,

6 (1) "administrator" means the commissioner of administration or the
 7 commissioner's designee;

8 (2) "alternate payee" means the person for whom an amount has been
 9 separated into an account under a qualified domestic relations order;

10 (3) "annuitant" means a member, beneficiary, or alternate payee who is
 11 receiving a benefit under this plan;

12 (4) "beneficiary" means the person or persons entitled under the
 13 provisions of this plan to receive benefits after the death of a member or alternate
 14 payee;

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

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

17 (7) "compensation"

18 (A) means

19 (i) the total remuneration earned by an employee for
 20 personal services rendered, including cost-of-living differentials, as
 21 reported on the employee's Federal Income Tax Withholding Statement
 22 (Form W-2) from the employer for the calendar year;

23 (ii) the member contribution to the public employees'
 24 retirement system under AS 39.35.730, employee deferrals under
 25 AS 39.45.010, the wage reduction amount contributed to the Alaska
 26 Supplemental Annuity Plan under AS 39.30.150(a), and the wage
 27 reduction amount contributed to the Alaska Supplemental Benefit Plan
 28 under AS 39.30.150(c), as those statutes may be amended from time to
 29 time;

30 (B) does not include retirement benefits, severance pay or other
 31 separation bonuses, welfare benefits, per diem, expense allowances, workers'

1 compensation payments, payments for leave not used whether those leave
 2 payments are scheduled payments, lump-sum payments, donations, or cash-ins,
 3 any remuneration contributed by the employer for or on account of the
 4 employee under this plan or under any other qualified or nonqualified
 5 employee benefit plan, any remuneration not specifically included above
 6 which would have been excluded under 26 U.S.C. 3121(a) (Internal Revenue
 7 Code) if the employer had remained in the Federal Social Security System, or
 8 any remuneration paid by the employer in excess of the Social Security
 9 Taxable Wage Base for the calendar year;

10 (C) notwithstanding (B) of this paragraph, includes any amount
 11 that is contributed by the employer under a salary reduction agreement and that
 12 is not includible in the gross income of the employee under 26 U.S.C. 125,
 13 132(f)(4), 402(e)(3), 402(h)(1)(B) or 403(b) (Internal Revenue Code); the
 14 annual compensation limitation for the member, which is so taken into account
 15 for those purposes, may not exceed \$200,000, as adjusted for the cost of living
 16 in accordance with 26 U.S.C. 401(a)(17)(B) (Internal Revenue Code), with the
 17 limitation for a fiscal year being the limitation in effect for the calendar year
 18 within which the fiscal year begins;

19 (8) "dependent child" has the meaning given in AS 39.35.680;

20 (9) "distribution commencement date" has the meaning given in
 21 AS 39.35.840(a);

22 (10) "employer" means

23 (A) the State of Alaska; or

24 (B) a political subdivision or public organization of the state
 25 that participates in the plan;

26 (11) "fund" means the assets of the plan;

27 (12) "individual account" means the total maintained by the plan in an
 28 investment account within the trust fund, established for each member for the purposes
 29 of allocation of the member's contributions, the employer's contributions on behalf of
 30 the member, and earnings credited to each of those contributions, investment gains
 31 and losses, and expenses; as well as reporting of the member's benefit under the plan;

1 (13) "Internal Revenue Code" means the Internal Revenue Code of
2 1986, as amended;

3 (14) "investment funds" means those separate funds that are provided
4 within and that make up the trust fund and that are established for the purpose of
5 directing investment through the exercise of the sole control of a member, beneficiary,
6 or alternate payee under the terms of the plan and trust agreement;

7 (15) "limitation year" means the year for which contributions are made
8 to a member's individual account as reported to the Internal Revenue Service and as
9 meets the limits described in 26 U.S.C. 415(c);

10 (16) "member" means an employee of an employer or former
11 employee of an employer who retains a right to benefits under the plan, but does not
12 include full-time or part-time instructors of the Department of Labor and Workforce
13 Development who have a teaching certificate, regardless of whether the position as
14 instructor requires a teaching certificate as a condition of employment and who have
15 earlier credited service under AS 14.25.310 - 14.25.590;

16 (17) "membership service" means full-time or part-time employment
17 with an employer in the plan;

18 (18) "normal retirement age" means the age set for Medicare eligibility
19 at the time the member retires;

20 (19) "participant" means the person who has a vested right to an
21 individual account, such as a member, an alternate payee if the account is subject to a
22 qualified domestic relations order, the member's beneficiary if the member is
23 deceased, or an alternate payee's beneficiary if the alternate payee is deceased;

24 (20) "peace officer" or "fire fighter" has the meaning given in
25 AS 39.35.680;

26 (21) "plan" means the retirement plan established in AS 39.35.700 -
27 39.35.990;

28 (22) "prudent investment standard" means the degree of care, skill,
29 prudence, and diligence under the circumstances then prevailing that a prudent person
30 acting in a like capacity and familiar with such matters would use in the conduct of an
31 enterprise of a like character and with like aims;

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

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

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

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

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

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

15 (F) does not require any type or form of benefit or any option
16 not otherwise provided by AS 39.35.700 - 39.35.990;

17 (G) does not require an increase of benefits in excess of the
18 amount provided by AS 39.35.700 - 39.35.990; and

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

22 (24) "retiree" means an eligible person who has elected to receive
23 medical benefits under AS 39.35.880;

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

26 (26) "system" has the meaning given in AS 39.35.680;

27 (27) "year of service" means the equivalent of 52 weeks of permanent
28 full-time employment, which may consist of a combination of permanent full-time or
29 permanent part-time membership service; in this paragraph, "permanent full-time" and
30 "permanent part-time" have the meanings given in AS 39.35.680.

31 * **Sec. 117.** AS 39.45.030(a) is amended to read:

1 (a) The Alaska **Retirement Management** [STATE PENSION
2 INVESTMENT] Board is authorized, subject to contracts with individual employees,
3 to invest the funds held under a deferred compensation program. The board has the
4 same powers and duties concerning the management and investment in regard to those
5 funds as are provided under **AS 37.10.220** [AS 14.25.180].

6 * **Sec. 118.** AS 39.45.030(g) is amended to read:

7 (g) In this section, "board" means the Alaska **Retirement Management**
8 [STATE PENSION INVESTMENT] Board.

9 * **Sec. 119.** AS 39.45.060 is amended by adding a new paragraph to read:

10 (2) "board" means the trustees of the Alaska Retirement Management
11 Board established under AS 37.10.210.

12 * **Sec. 120.** AS 39.50.200(a)(9) is amended to read:

13 (9) "public official" means

14 (A) a judicial officer;

15 (B) the governor or the lieutenant governor;

16 (C) a person hired or appointed in a department in the
17 executive branch as

18 (i) the head or deputy head of the department;

19 (ii) the director or deputy director of a division;

20 (iii) a special assistant to the head of the department;

21 (iv) a person serving as the legislative liaison for the
22 department;

23 (D) an assistant to the governor or the lieutenant governor;

24 (E) the chair or a member of a state commission or board
25 [OTHER THAN PHYSICIAN MEMBERS OR ALTERNATES OF THE
26 ALASKA TEACHERS' RETIREMENT BOARD APPOINTED UNDER
27 AS 14.25.035(a)(2) OR OF THE PUBLIC EMPLOYEES' RETIREMENT
28 BOARD APPOINTED UNDER AS 39.35.030(d);]

29 (F) state investment officers and the state comptroller in the
30 Department of Revenue;

31 (G) [REPEALED

1 (H)] the chief procurement officer appointed under
2 AS 36.30.010;

3 (H) [(I)] the executive director of the Alaska Workforce
4 Investment Board; and

5 (I) [(J)] each appointed or elected municipal officer;

6 * **Sec. 121.** AS 39.50.200(b)(54) is amended to read:

7 (54) Alaska **Retirement Management** [STATE PENSION
8 INVESTMENT] Board (AS 37.10.210);

9 * **Sec. 122.** AS 44.25.020(2) is amended to read:

10 (2) collect, account for, have custody of, invest, and manage all state
11 funds and all revenues of the state except revenues incidental to a program of licensing
12 and regulation carried on by another state department, funds managed and invested by
13 the Alaska **Retirement Management** [STATE PENSION INVESTMENT] Board,
14 and as otherwise provided by law;

15 * **Sec. 123.** AS 44.25.028(a) is amended to read:

16 (a) The commissioner of revenue may designate employees of the Department
17 of Revenue who are subject to the provisions of AS 39.50 because of their
18 responsibility for participating in the management or investment of the funds for
19 which the Alaska **Retirement Management** [STATE PENSION INVESTMENT]
20 Board is responsible.

21 * **Sec. 124.** AS 44.25.028(b) is amended to read:

22 (b) If an officer or employee of the Department of Revenue with responsibility
23 for funds for which the Alaska **Retirement Management** [STATE PENSION
24 INVESTMENT] Board is responsible acquires, owns, or controls an interest, direct or
25 indirect, in an entity or project in which assets under the control of the board are
26 invested, the officer or employee shall immediately disclose the interest to the board.
27 The disclosure is a matter of public record and shall be included in the minutes of the
28 board meeting next following the disclosure. The commissioner shall adopt
29 regulations to restrict officers and employees of the department from having a
30 substantial interest in an entity or project in which assets under the control of the board
31 are invested.

1 * **Sec. 125.** AS 44.64.030(a) is amended by adding new paragraphs to read:

2 (36) AS 14.25.006 (teachers' retirement system);

3 (37) AS 39.35.006 (public employees' retirement system).

4 * **Sec. 126.** AS 14.25.012(a), 14.25.015, 14.25.020, 14.25.022, 14.25.030, 14.25.035,
5 14.25.037, 14.25.170, 14.25.175(e), 14.25.180, 14.25.190, 14.25.220(41); AS 39.30.175(f);
6 AS 39.35.010, 39.35.020, 39.35.030, 39.35.040, 39.35.042, 39.35.047, 39.35.060, 39.35.080,
7 39.35.090, 39.35.520(c), 39.35.522(c), 39.35.522(e); AS 39.45.025; AS 39.50.200(b)(23), and
8 39.50.200(b)(29) are repealed.

9 * **Sec. 127.** AS 14.25.061(c), 14.25.062; and AS 39.35.350 are repealed.

10 * **Sec. 128.** The uncodified law of the State of Alaska is amended by adding a new section
11 to read:

12 EMPLOYER CONTRIBUTIONS FOR OCCUPATIONAL DISABILITY AND
13 DEATH BENEFITS IN THE PUBLIC EMPLOYEES' DEFINED CONTRIBUTION
14 RETIREMENT PLAN FOR THE FIRST FISCAL YEAR THE PLAN IS IN EFFECT.
15 Notwithstanding AS 39.35.750(e), added by sec. 116 of this Act, for the first fiscal year in
16 which the public employees' defined contribution retirement plan is in effect, the employer
17 contribution to fully fund the cost of providing occupational disability and occupational death
18 benefits under AS 39.35.890 and 39.35.892 shall be equal to

19 (1) 0.4 percent of the compensation for peace officers and fire fighters; and

20 (2) 0.3 percent of the compensation for all other employees.

21 * **Sec. 129.** The uncodified law of the State of Alaska is amended by adding a new section
22 to read:

23 TRANSITION: INITIAL STAGGERED TERMS OF TRUSTEES OF THE
24 ALASKA RETIREMENT MANAGEMENT BOARD. Notwithstanding AS 37.10.210(c), as
25 repealed and reenacted by sec. 53 of this Act, the terms of the initially appointed trustees of
26 the Alaska Retirement Management Board who are not commissioners shall be set by the
27 governor to achieve staggered terms in the manner provided for seven-member boards by
28 AS 39.05.055(5). Notwithstanding AS 39.05.055(5), the terms of each of the two members of
29 the two retirement systems appointed under AS 37.10.210(b)(2)(C) and 37.10.210(b)(2)(D),
30 as repealed and reenacted by sec. 53 of this Act, shall be set so that the term of one of each of
31 the members in each system expires two years apart from the term of the other member

1 representing that system.

2 * **Sec. 130.** The uncodified law of the State of Alaska is amended by adding a new section
3 to read:

4 TERMS OF MEMBERS OF THE ALASKA TEACHERS' RETIREMENT BOARD
5 AND THE PUBLIC EMPLOYEES' RETIREMENT BOARD. The terms of all board
6 members appointed to the Alaska Teachers' Retirement Board and the Public Employees'
7 Retirement Board expire on the effective date of this section.

8 * **Sec. 131.** The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 TERMS OF MEMBERS OF THE ALASKA STATE PENSION INVESTMENT
11 BOARD. The terms of all board members appointed to the Alaska State Pension Investment
12 Board expire on September 30, 2005.

13 * **Sec. 132.** The uncodified law of the State of Alaska is amended by adding a new section
14 to read:

15 TRANSITION OF DUTIES BETWEEN THE ALASKA STATE PENSION
16 INVESTMENT BOARD AND THE ALASKA RETIREMENT MANAGEMENT BOARD.

17 (a) After the effective date of this section and until September 30, 2005, the Alaska State
18 Pension Investment Board shall continue to exercise the powers and duties assigned in this
19 Act to the Alaska Retirement Management Board. The Alaska State Pension Investment
20 Board shall take actions to facilitate the transition of duties formerly assigned to the Alaska
21 State Pension Investment Board to the duties assigned in this Act to the Alaska Retirement
22 Management Board. A member of the Alaska Retirement Management Board appointed to
23 serve as a trustee before September 30, 2005, shall be invited to observe and train with the
24 Alaska State Pension Investment Board.

25 (b) The Alaska Retirement Management Board may not assume the duties and
26 responsibilities assigned to the Alaska Retirement Management Board in this Act until
27 October 1, 2005.

28 * **Sec. 133.** The uncodified law of the State of Alaska is amended by adding a new section
29 to read:

30 TRANSITION. Hearings and other proceedings pending under a law amended or
31 repealed by this Act or in connection with functions transferred by this Act continue in effect

1 and may be continued and completed notwithstanding a transfer or amendment or repeal
 2 provided for in this Act. Orders and regulations issued or adopted under authority of a law
 3 amended or repealed by this Act remain in effect for the term issued, or until revoked,
 4 vacated, or otherwise modified under the provisions of this Act. Contracts, rights, liabilities,
 5 and obligations created by or under a law amended or repealed by this Act, and in effect on
 6 the effective date of this section, remain in effect notwithstanding this Act's taking effect.
 7 Records, equipment, appropriations, funds, and other property of boards or agencies of the
 8 state whose functions are transferred under this Act shall be transferred to implement the
 9 provisions of this Act.

10 * **Sec. 134.** The uncodified law of the State of Alaska is amended by adding a new section
 11 to read:

12 **TRANSITION: REGULATIONS.** (a) The Department of Administration and the
 13 Department of Revenue may proceed to develop and adopt regulations required to implement
 14 this Act.

15 (b) Regulations adopted by the Department of Administration and the Department of
 16 Revenue under this Act relate to the internal management of a state agency, and the adoption
 17 of the regulations is not subject to AS 44.62 (Administrative Procedure Act).

18 * **Sec. 135.** The uncodified law of the State of Alaska is amended by adding a new section
 19 to read:

20 **REPORT TO THE LEGISLATURE BY ALASKA RETIREMENT MANAGEMENT**
 21 **BOARD.** It is the intent of the legislature that there will be a moratorium after the effective
 22 date of this section on legislation affecting all public employees' retirement plans until the
 23 Alaska Retirement Management Board can present a report to the legislature containing the
 24 board's assessment and recommendations as provided in this section. The Alaska Retirement
 25 Management Board shall report to the legislature 120 days after all members are appointed to
 26 the board, or 15 days after the first day of the first regular legislative session following the
 27 effective date of this section, whichever is first. The report must include the board's

- 28 (1) preliminary assessment of the financial health of all public employees'
 29 retirement plans and all teachers' retirement plans;
 30 (2) assessment of the actuarial services purchased by the board;
 31 (3) recommendations for additional legislative or administrative policy to

1 improve the financial health of the retirement plans;

2 (4) short-term and long-term recommendations for addressing the unfunded
3 liability of the retirement plans; and

4 (5) recommendations for legislative procedures regarding fiscal notes for new
5 legislation affecting the retirement plans.

6 * **Sec. 136.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 **DELAY IN TRANSMITTAL OF CONTRIBUTIONS.** Notwithstanding
9 AS 14.25.340, 14.25.350, 14.25.370, and 14.25.400, added by sec. 32 of this Act;
10 AS 39.30.370, added by sec. 75 of this Act; and AS 39.35.730, 39.35.750, 39.35.770, and
11 39.35.800, added by sec. 116 of this Act, employer and member contributions required by this
12 Act to the teachers' defined contribution retirement plan, to the public employees' defined
13 contribution retirement plan, to the State of Alaska Teachers' and Public Employees' Retiree
14 Health Reimbursement Arrangement Plan, and to the group health and life benefits fund for
15 payroll periods commencing on and after July 1, 2005, and before September 30, 2005, need
16 not be transmitted to the administrator or credited to the members' individual accounts or to
17 the group health and life benefits fund at the end of each payroll period but must be
18 transmitted and credited, with interest, as soon as administratively feasible, not later than
19 October 1, 2005. Upon allocation to the members' individual accounts or to the group health
20 and life benefits fund, the administrator shall credit the contributions with interest from the
21 date they were due under this Act through the date on which they are credited. The Alaska
22 Retirement Management Board shall establish a short-term interest rate based on market
23 conditions to be paid by employers and credited to members' individual accounts or deposited
24 in the group health and life benefits fund by the administrator under this section. Members
25 may not be permitted to exercise control over assets in their defined contribution retirement
26 plan individual accounts until those assets have been credited by the administrator to the
27 individual accounts, not later than October 1, 2005. In this section,

28 (1) "administrator" has the meaning given in AS 39.30.495, added by sec. 75
29 of this Act;

30 (2) "employer" has the meaning given in AS 39.30.495, added by sec. 75 of
31 this Act;

1 (3) "group health and life benefits fund" means the fund established under
2 AS 39.30.095, as amended by sec. 65 of this Act;

3 (4) "individual accounts" has the meaning given in AS 14.25.590, added by
4 sec. 32 of this Act; AS 39.30.495, added by sec. 75 of this Act; or AS 39.35.990, added by
5 sec. 116 of this Act, as appropriate;

6 (5) "member" has the meaning given in AS 39.30.495, added by sec. 75 of this
7 Act;

8 (6) "public employees' defined contribution retirement plan" means the plan
9 established in AS 39.35.700 - 39.35.990, added by sec. 116 of this Act;

10 (7) "State of Alaska Teachers' and Public Employees' Retiree Health
11 Reimbursement Arrangement Plan" means the plan established in AS 39.30.300 - 39.30.495,
12 added by sec. 75 of this Act;

13 (8) teachers' defined contribution retirement plan" means the plan established
14 in AS 14.25.310 - 14.25.590, added by sec. 32 of this Act.

15 * **Sec. 137.** The uncodified law of the State of Alaska is amended by adding a new section
16 to read:

17 INSTRUCTION REGARDING ALASKA TEACHERS' RETIREMENT SYSTEM
18 BOARD, ALASKA PUBLIC EMPLOYEES' RETIREMENT SYSTEM BOARD, AND
19 ALASKA STATE PENSION INVESTMENT BOARD. Wherever in the Alaska Statutes and
20 the Alaska Administrative Code the terms "Alaska Teachers' Retirement System Board,"
21 "Alaska Public Employees' Retirement System Board," or "Alaska State Pension Investment
22 Board" are used, they shall be read as "Alaska Retirement Management Board" when to do so
23 would be consistent with the changes made by this Act.

24 * **Sec. 138.** The uncodified law of the State of Alaska is amended by adding a new section
25 to read:

26 SPECIFIC INSTRUCTIONS TO REVISOR OF STATUTES CONCERNING
27 SPECIFIC REFERENCES. (a) The revisor of statutes shall change references to "this
28 chapter" to "AS 14.25.009 - 14.25.220" in the following statutes: AS 14.25.040(b),
29 14.25.040(c), 14.25.045(a), 14.25.047, 14.25.061(a), 14.25.062, 14.25.063(a), 14.25.075(c),
30 14.25.105, 14.25.107, 14.25.110(k), 14.25.142, 14.25.150(b), 14.25.153, 14.25.160(h),
31 14.25.165(f), 14.25.166, 14.25.177, 14.25.195, 14.25.200(b), 14.25.205, and 14.25.210, and

1 in 14.25.220 in each place that the phrase appears.

2 (b) The revisor of statutes shall change the reference to "board" to "administrator" in
3 the following statutes: AS 14.25.075 and 14.25.130(f).

4 (c) The revisor of statutes shall change the reference to "system" to "plan" in the
5 following statutes: AS 14.25.040(b), 14.25.040(c), 14.25.045, 14.25.047, 14.25.050(a),
6 14.25.055, 14.25.060, 14.25.061(a), 14.25.062, 14.25.063(a), 14.25.065, 14.25.070,
7 14.25.075(c), 14.25.075(d), 14.25.075(g), 14.25.075(h), 14.25.075(i), 14.25.100(a),
8 14.25.105(c), 14.25.107, 14.25.110, 14.25.125(c), 14.25.143, 14.25.163, 14.25.165(i),
9 14.25.167(g), 14.25.168, 14.25.169, 14.25.173(a), 14.25.173(d), 14.25.181, 14.25.200,
10 14.25.210, 14.25.220(1), 14.25.220(4), 14.25.220(7), 14.25.220(14), 14.25.220(20),
11 14.25.220(22), 14.25.220(23), 14.25.220(31), 14.25.220(34), 14.25.220(36), 14.25.220(37),
12 14.25.220(42); AS 39.35.011; AS 39.35.120, 39.35.125, 39.35.160, 39.35.165(a),
13 39.35.165(c), 39.35.165(d), 39.35.165(e), 39.35.165(g), 39.35.165(h), 39.35.165(i),
14 39.35.170, 39.35.180, 39.35.195(b), 39.35.195(c), 39.35.250, 39.35.280, 39.35.300(c),
15 39.35.310(a), 39.35.310(c), 39.35.340(a), 39.35.342(a), 39.35.342(d), 39.35.345(a),
16 39.35.345(d), 39.35.360(a), 39.35.360(g), 39.35.360(h), 39.35.360(k), 39.35.370(f),
17 39.35.370(h), 39.35.370(i), 39.35.370(j), 39.35.370(k), 39.35.371(i), 39.35.381(b),
18 39.35.381(g), 39.35.385(c), 39.35.400(e), 39.35.450(g), 39.35.475(a), 39.35.475(b),
19 39.35.475(d), 39.35.500(a), 39.35.505, 39.35.520(a), 39.35.520(d), 39.35.522(d),
20 39.35.527(a), 39.35.527(b), 39.35.530, 39.35.535(a), 39.35.535(d), 39.35.550, 39.35.560,
21 39.35.570, 39.35.580, 39.35.590, 39.35.600, 39.35.610, 39.35.620(a), 39.35.620(h),
22 39.35.650, 39.35.670, 39.35.675(a), 39.35.680(1), 39.35.680(5), 39.35.680(9), 39.35.680(12),
23 39.35.680(15), 39.35.680(16), 39.35.680(17), 39.35.680(20), 39.35.680(21)(A),
24 39.35.680(29), 39.35.680(32), 39.35.680(33), and 39.35.680(35).

25 (d) The revisor of statutes shall change the reference to "board" to "commissioner" in
26 the following statutes: AS 39.35.290, 39.35.522(a), 39.35.522(b), and 39.35.522(d).

27 (e) The revisor of statutes shall change references to "this chapter" to "AS 39.35.095 -
28 39.35.680" in the following statutes: AS 39.35.165, 39.35.200, 39.35.250, 39.35.300,
29 39.35.340, 39.35.350, 39.35.360, 39.35.370, 39.35.371, 39.35.375, 39.35.381, 39.35.480,
30 39.35.490, 39.35.495, 39.35.505, 39.35.530, 39.35.546, 39.35.547, 39.35.615(c),
31 39.35.620(e), 39.35.660, 39.35.675(b), 39.35.677, and 39.35.680.

1 (f) The revisor of statutes shall renumber AS 39.35.690 to follow AS 39.35.990.

2 * **Sec. 139.** The uncodified law of the State of Alaska is amended by adding a new section
3 to read:

4 IMPLEMENTATION OF SECTIONS 137 AND 138 OF THIS ACT. Under
5 AS 01.05.031, the revisor of statutes shall implement secs. 137 and 138 of this Act in the
6 Alaska Statutes, and, under AS 44.62.125(b)(6), the regulations attorney shall implement secs.
7 137 and 138 of this Act in the administrative code.

8 * **Sec. 140.** The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 CONDITIONAL RETROACTIVITY. If secs. 1 - 8, 11, 14 - 17, 20 - 82, 89 - 100,
11 102 - 106, 108, 109, and 111 - 126 of this Act take effect after July 1, 2005, secs. 1 - 8, 11, 14
12 - 17, 20 - 82, 89 - 100, 102 - 106, 108, 109, and 111 - 126 of this Act are retroactive to July 1,
13 2005.

14 * **Sec. 141.** Sections 19 and 110 of this Act take effect January 1, 2006.

15 * **Sec. 142.** Sections 9, 10, 12, 13, 18, 83 - 88, 101, 107, and 127 of this Act take effect
16 June 30, 2010.

17 * **Sec. 143.** Section 139 of this Act takes effect immediately under AS 01.10.070(c).

18 * **Sec. 144.** Except as provided in secs. 141 - 143 of this Act, this Act takes effect July 1,
19 2005.