

**HOUSE BILL NO. 179**

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

**BY REPRESENTATIVE KELLY**

**Introduced: 3/5/07**

**Referred: State Affairs, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to insurance for public employees, teachers, and certain retired public**  
2 **employees and teachers and to supplemental employee benefits; relating to teachers' and**  
3 **public employees' defined benefit retirement plans, to teachers' and public employees'**  
4 **defined contribution retirement plans, to employee and employer contributions to the**  
5 **teachers' retirement system and the public employees' retirement system, and to the**  
6 **administration of the Public Employees' Retirement System of Alaska and the deferred**  
7 **compensation program for state employees; establishing in the Department of Revenue**  
8 **the teachers' retirement system past service cost liability account and the public**  
9 **employees' retirement system past service cost liability account; relating to benefits of,**  
10 **references to federal law in, and investments in the teachers' retirement system and the**  
11 **public employees' retirement system; modifying the jurisdiction of the independent**  
12 **office of administrative hearings as related to retirement and related personnel benefits;**

1 **and providing for an effective date."**

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

3 \* **Section 1.** AS 14.25.050 is amended by adding a new subsection to read:

4 (e) Beginning with the payroll for the first pay period in July 2007, a member  
5 shall contribute to the plan, in addition to the amount calculated in (a) of this section,  
6 an amount equal to five percent of the member's base salary.

7 \* **Sec. 2.** AS 14.25.070(a) is amended to read:

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

19 \* **Sec. 3.** AS 14.25.070 is amended by adding new subsections to read:

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

26 (e) In (a) of this section, "past service rate" means the percentage of  
27 compensation of all active members in the system necessary to provide the annual  
28 amount required to amortize the unfunded obligations of the employers for benefits  
29 earned by members in the plan before the date of the last actuarial valuation over a  
30 period not to exceed the maximum period allowed by generally accepted accounting

1 principles of the Governmental Accounting Standards Board. This percentage is  
2 uniformly determined for all employers and is applicable to each employer.

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

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

12 \* **Sec. 5.** AS 14.25.310 is amended to read:

13 **Sec. 14.25.310. Applicability of AS 14.25.310 - 14.25.590.** The provisions of  
14 AS 14.25.310 - 14.25.590 apply only to teachers who first become members on or  
15 after July 1, 2006, to members who are employed by employers that do not  
16 participate in the retirement benefit plan established under AS 14.25.009 -  
17 14.25.220, to former members as that term is defined under AS 14.25.220, or to  
18 members who transfer into the defined contribution plan under AS 14.25.540.

19 \* **Sec. 6.** AS 14.25.320(c) is amended to read:

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

24 \* **Sec. 7.** AS 14.25.350 is amended by adding a new subsection to read:

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

30 \* **Sec. 8.** AS 14.25.380 is amended to read:

31 **Sec. 14.25.380. Limitations on contributions and benefits.** Notwithstanding

1 any other provisions of this plan, the annual additions to each member's individual  
 2 account under this plan and under all defined contribution plans of the employer  
 3 required to be aggregated with the contributions from this plan under the provisions of  
 4 26 U.S.C. 415 may not exceed, for any limitation year, the amount permitted under 26  
 5 U.S.C. 415(c) at any time. If the amount of a member's **individual account**  
 6 [DEFINED CONTRIBUTION PLAN] contributions exceeds the limitation of 26  
 7 U.S.C. 415(c) for any limitation year, the administrator shall take any necessary  
 8 remedial action to correct an excess contribution. **A fixed benefit provided under**  
 9 **this plan may not exceed, for or during a limitation year, the amount permitted**  
 10 **under 26 U.S.C. 415(b). If a fixed benefit provided under this plan exceeds, for or**  
 11 **during a limitation year, the amount permitted under 26 U.S.C. 415(b), the**  
 12 **administrator shall take remedial action necessary to comply with the limits on**  
 13 **the benefit amount in 26 U.S.C. 415(b).** The provisions of 26 U.S.C. 415, and the  
 14 regulations adopted under that statute, as applied to qualified [DEFINED  
 15 CONTRIBUTION] plans of governmental employees are incorporated as part of the  
 16 terms and conditions of the plan.

17 \* **Sec. 9.** AS 14.25.400(b) is amended to read:

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

21 \* **Sec. 10.** AS 14.25.485(b) is amended to read:

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

28 (1) dies;

29 (2) recovers from the disability;

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

31 section; or

1 (4) reaches normal retirement age.

2 \* **Sec. 11.** AS 14.25.485(d) is amended to read:

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

11 While a member is receiving disability benefits, based on the disabled member's gross  
 12 monthly compensation at the time of termination due to disability, the employer shall  
 13 make contributions to the

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

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

18 \* **Sec. 12.** AS 14.25.485(g) is amended to read:

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

26 \* **Sec. 13.** AS 14.25.485(i) is amended to read:

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

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

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

9 \* **Sec. 14.** AS 14.25.485(j) is repealed and reenacted to read:

10 (j) For the purposes of this section, a condition qualifies as an occupational  
 11 disability if

12 (1) the condition is a physical or mental condition that the  
 13 administrator determines presumably permanently prevents an employee from  
 14 satisfactorily performing the employee's usual duties or the duties of another  
 15 comparable position or job available to the employee and for which the employee is  
 16 qualified by training or education; and

17 (2) the proximate cause of the condition is a bodily injury sustained, or  
 18 a hazard undergone, while in the performance and within the scope of the employee's  
 19 duties and is not the proximate result of the wilful negligence of the employee.

20 \* **Sec. 15.** AS 14.25 is amended by adding a new section to read:

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

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

30 (c) An increase in benefit payments under this section is effective July 1 of  
 31 each year and is based on the percentage increase in the Consumer Price Index for

1 urban wage earners and clerical workers for Anchorage, Alaska, during the previous  
2 calendar year, as determined by the United States Department of Labor, Bureau of  
3 Labor Statistics.

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

7 \* **Sec. 16.** AS 14.25.487(b) is amended to read:

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

15 \* **Sec. 17.** AS 14.25.487(c) is amended to read:

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

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

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

30 \* **Sec. 18.** AS 14.25.487(e) is amended to read:

31 (e) On the date the **member would have first qualified for** normal retirement

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

25 \* **Sec. 19.** AS 14.25 is amended by adding new sections to read:

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

31 (b) The amount of the increase is a percentage of the current survivor's

1 pension equal to the lesser of 50 percent of the increase in the cost of living in the  
2 preceding calendar year or six percent.

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

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

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

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

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

28 \* **Sec. 20.** AS 14.25.510 is amended to read:

29 **Sec. 14.25.510. Nonguarantee of returns, rates, or benefit amounts.** The  
30 plan created by AS 14.25.310 - 14.25.590 is, **with respect to individual accounts,**  
31 **treated as** a defined contribution **plan and** [PLAN,] not **as** a defined benefit plan. The

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

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

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

12 \* **Sec. 21.** AS 14.25.540(c) is amended to read:

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

22 \* **Sec. 22.** AS 14.25.540(d) is amended to read:

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

31 \* **Sec. 23.** AS 14.25.540(h) is amended to read:

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

23 \* **Sec. 24.** AS 14.25.590(7) is amended to read:

24                           (7) "compensation"

25                                   (A) means

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

30   (ii) the member contribution to the teachers' retirement  
 31 system under AS 14.25.340;

1 (B) does not include retirement benefits, severance pay or other  
 2 separation bonuses, welfare benefits, per diem, expense allowances, workers'  
 3 compensation payments, payments for leave not used whether those leave  
 4 payments are scheduled payments, lump-sum payments, donations, or cash-ins,  
 5 any remuneration contributed by the employer for or on account of the  
 6 employee under this plan or under any other qualified or nonqualified  
 7 employee benefit plan, or any remuneration not specifically included above  
 8 that would have been excluded under 26 U.S.C. 3121(a) (Internal Revenue  
 9 Code) if the employer had remained in the Federal Social Security System [,  
 10 OR ANY REMUNERATION PAID BY THE EMPLOYER IN EXCESS OF  
 11 THE SOCIAL SECURITY TAXABLE WAGE BASE FOR THE  
 12 CALENDAR YEAR];

13 (C) notwithstanding (B) of this paragraph, includes any amount  
 14 that is contributed by the employer under a salary reduction agreement and that  
 15 is not includible in the gross income of the employee under 26 U.S.C. 125,  
 16 132(f)(4), 402(e)(3), 402(h)(1)(B), or 403(b) (Internal Revenue Code); the  
 17 annual compensation limitation for the member, which is so taken into account  
 18 for those purposes, may not exceed \$200,000, as adjusted for the cost of living  
 19 in accordance with 26 U.S.C. 401(a)(17)(B) (Internal Revenue Code), with the  
 20 limitation for a fiscal year being the limitation in effect for the calendar year  
 21 within which the fiscal year begins;

22 \* **Sec. 25.** AS 37.10 is amended by adding new sections to read

23 **Article 4A. Teachers' and Public Employees' Retirement System Past Service Cost**  
 24 **Liability Accounts.**

25 **Sec. 37.10.200. Teachers' retirement system past service cost liability**  
 26 **account.** (a) There is established in the Department of Revenue the teachers'  
 27 retirement system past service cost liability account, consisting of appropriations to  
 28 the account. The commissioner of revenue shall develop and adopt regulations  
 29 necessary to accomplish the requirements of this section and shall manage the account  
 30 according to the requirements of AS 37.10.071.

31 (b) At the end of each fiscal year, after all distributions under (c) of this

1 section are completed, money appropriated for use in that fiscal year reverts to the  
2 general fund and all income earned on the money shall be paid to the general fund.

3 (c) During each fiscal year, the commissioner of revenue shall distribute from  
4 the account established in (a) of this section, to each employer other than the state that  
5 is a member of the Teachers' Retirement System of Alaska, a payment that the  
6 employer shall pay to the state for that fiscal year toward eliminating the employer's  
7 past service cost liability to the Teachers' Retirement System of Alaska.

8 (d) A payment to an employer under (c) of this section must be based on 80  
9 percent of the payroll on which employer contributions to the Teachers' Retirement  
10 System of Alaska were required and that the employer reported to the Department of  
11 Administration for the fiscal year preceding by three fiscal years the fiscal year for  
12 which a distribution is made under this section, and the past service cost rate of the  
13 system for the fiscal year preceding by three fiscal years the fiscal year for which a  
14 distribution is made under this section.

15 (e) For any fiscal year that the money available for distribution from the  
16 account is insufficient to pay every eligible employer the amount due under this  
17 section, the amount distributed in that fiscal year to every eligible employer shall be  
18 decreased pro rata.

19 (f) An employer who receives an overpayment in excess of a distribution  
20 authorized by this section or in excess of the employer's past service cost liability shall  
21 immediately return the overpayment to the commissioner of revenue, who shall cause  
22 it to be returned to the account.

23 **Sec. 37.10.202. Public employees' retirement system past service cost**  
24 **liability account.** (a) There is established in the Department of Revenue the public  
25 employees' retirement system past service cost liability account, consisting of  
26 appropriations to the account. The commissioner of revenue shall develop and adopt  
27 regulations necessary to accomplish the requirements of this section and shall manage  
28 the account according to the requirements of AS 37.10.071.

29 (b) At the end of each fiscal year, after all distributions under (c) and (d) of  
30 this section are completed, money appropriated for use in that fiscal year reverts to the  
31 general fund and all income earned on the money shall be paid to the general fund.

1 (c) During each fiscal year, the commissioner of revenue shall distribute from  
2 the account established in (a) of this section, to each municipal employer or school  
3 district employer member of the Public Employees' Retirement System of Alaska, a  
4 payment that the employer shall pay to the state for that fiscal year toward eliminating  
5 the employer's past service cost liability to the Public Employees' Retirement System  
6 of Alaska.

7 (d) A payment to an employer under (c) of this section must be based on the  
8 payroll on which employer contributions to the Public Employees' Retirement System  
9 of Alaska were required and that the employer reported to the Department of  
10 Administration for the fiscal year preceding by three fiscal years the fiscal year for  
11 which a distribution is made under (c) of this section and 80 percent of the employer's  
12 past service cost rate during the fiscal year that precedes the distribution fiscal year  
13 under (c) of this section by three fiscal years.

14 (e) In addition to the distribution under (c) of this section, an employer that  
15 paid to the Public Employees' Retirement System of Alaska in excess of the amount  
16 the employer was required to pay for the fiscal year preceding by three fiscal years the  
17 fiscal year that a distribution is made under this section shall receive, in unrestricted  
18 funds, an incentive distribution from the account in an amount equal to 50 percent of  
19 the excess.

20 (f) For any fiscal year that the money available for distribution from the  
21 account is insufficient to pay every eligible employer the amount due under this  
22 section, the amount distributed in that fiscal year to every eligible employer shall be  
23 decreased pro rata.

24 (g) An employer who receives an overpayment in excess of a distribution or  
25 incentive distribution authorized by this section shall immediately return the  
26 overpayment to the commissioner of revenue, who shall cause it to be returned to the  
27 account.

28 **Sec. 37.10.204. Definition.** In AS 37.10.200 - AS 37.10.204, "past service cost  
29 rate" means the annual payment required to eliminate an employer's unfunded liability  
30 over the amortization period, divided by the payroll for which employer contributions  
31 are required and that is reported by the employer to the Department of Administration

1 for the fiscal year preceding by three fiscal years the fiscal year that a distribution is  
2 made under AS 37.10.200 or 37.10.202.

3 \* **Sec. 26.** AS 39.30 is amended by adding a new section to read:

4 **Sec. 39.30.097. Regulations.** The administrator may adopt regulations to  
5 administer AS 39.30.090 - 39.30.095. Regulations adopted under this section relate to  
6 the internal management of a state agency and are not subject to AS 44.62  
7 (Administrative Procedure Act).

8 \* **Sec. 27.** AS 39.30.154 is amended to read:

9 **Sec. 39.30.154. Powers and duties of the administrator.** The administrator  
10 has the same powers and duties with regard to the plan as those set out in  
11 **AS 14.25.003 and 14.25.004** [AS 14.25.004].

12 \* **Sec. 28.** AS 39.30.160(a) is amended to read:

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

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

22 \* **Sec. 29.** AS 39.30.160(e) is amended to read:

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

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

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

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

30 **Sec. 39.30.335. Appeals.** A final decision made under AS 39.30.300 -  
31 39.30.495 is subject to appeal under AS 44.64.

1 \* **Sec. 32.** AS 39.30.340 is amended to read:

2           **Sec. 39.30.340. Powers and duties of the administrator.** The administrator  
3 shall establish a teachers' and public employees' retiree health reimbursement  
4 arrangement plan trust fund in which the assets of the plan shall be deposited and held.  
5 The administrator has the same powers and duties with regard to the plan and the trust  
6 fund as provided in AS 14.25.003 and 14.25.004 [AS 14.25.004].

7 \* **Sec. 33.** AS 39.30.370 is amended to read:

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

16 \* **Sec. 34.** AS 39.35.160 is amended by adding a new subsection to read:

17           (e) Beginning with the payroll for the first pay period in July 2007, a member  
18 shall contribute to the plan, in addition to the amount calculated in (a) of this section,  
19 an amount equal to five percent of the member's base salary.

20 \* **Sec. 35.** AS 39.35.250 is amended to read:

21           **Sec. 39.35.250. Calculation of employer's contribution rate.** (a) An  
22 employer shall make contributions to the plan in amounts determined in accordance  
23 with this section. For the purposes of this section and AS 39.35.270, the [PAST  
24 SERVICE DATE FOR EACH EMPLOYER IS THE ENTRY DATE OF THE  
25 EMPLOYER OR DECEMBER 31, 1972, WHICHEVER IS LATER. AFTER  
26 DECEMBER 31, 1972, IF AMENDMENTS TO AS 39.35.095 - 39.35.680 ARE  
27 ENACTED THAT SUBSTANTIALLY AFFECT BENEFITS ACCRUED BEFORE  
28 THE EFFECTIVE DATE OF THE AMENDMENT, THE PAST SERVICE DATE  
29 WILL BE CHANGED TO DECEMBER 31 OF THE YEAR IMMEDIATELY  
30 PRECEDING THAT IN WHICH THE AMENDMENT IS ENACTED. THE]  
31 contribution rate is the sum of the consolidated employer normal cost rate and the

1 past service rate **as certified by the board.**

2 (b) In (a) of this section, "consolidated employer **normal cost** rate" means the  
 3 percentage of compensation of all active **members** [EMPLOYEES] in the plan which,  
 4 [IF PAID OVER THE PERIOD OF THEIR CREDITED SERVICE AFTER THEIR  
 5 PAST SERVICE DATE AND] when combined with all employee contributions **to the**  
 6 **plan**, is sufficient to provide the benefits earned **during the year beginning after the**  
 7 **last valuation date** [AFTER SUCH PAST SERVICE DATES]. This percentage is  
 8 [UNIFORMLY] determined **at the plan level** for all employers and is applicable to  
 9 each employer.

10 (c) In (a) of this section, "past service rate" means the percentage of  
 11 compensation of all active **members** [EMPLOYEES] in the **system** [PLAN]  
 12 necessary to provide the annual amount required to amortize the unfunded obligations  
 13 of the **plan** [EMPLOYER] for benefits earned **by members in the plan** before the  
 14 **date of the last actuarial valuation** [EMPLOYER'S PAST SERVICE DATE] over a  
 15 period not to exceed **the maximum allowed by generally accepted accounting**  
 16 **principles of the Governmental Accounting Standards Board** [40 YEARS. THE  
 17 PERIOD OF AMORTIZATION BEGINS AT THE PAST SERVICE DATE OF  
 18 EACH EMPLOYER. THE PERCENTAGE IS SEPARATELY DETERMINED FOR  
 19 EACH EMPLOYER.]

20 \* **Sec. 36.** AS 39.35.270(a) is amended to read:

21 (a) The amount of each employer's contributions shall be determined by  
 22 applying the **consolidated employer normal cost** [EMPLOYER'S  
 23 CONTRIBUTION] rate [, AS CERTIFIED BY THE BOARD,] to the total  
 24 compensation paid to the **employer's active members** [EMPLOYEES] of the **plan**  
 25 **and by applying the employer's past service rate to the total compensation paid**  
 26 **to the employer's active members in the system** [EMPLOYER] for each payroll  
 27 period, [AND BY] including any adjustments to contributions required by  
 28 AS 39.35.520(a). This amount shall be remitted by the employer to the administrator  
 29 in accordance with AS 39.35.610.

30 \* **Sec. 37.** AS 39.35.375(a) is amended to read:

31 (a) An active or inactive member who has never been vested in this plan or in

1 the teachers' retirement plan under AS 14.25.009 - 14.25.220, who has at least two  
 2 years of credited service in this plan, and who has membership service in the teachers'  
 3 retirement system may claim credited service in this plan in an amount equal to the  
 4 membership service the member has in the teachers' retirement system. The claimed  
 5 credited service may be added to service earned under AS 39.35.095 - 39.35.680 to  
 6 enable the member to qualify for a public service benefit under this section. The  
 7 member may not claim credited service for membership service for which the member  
 8 has received a refund under AS 14.25.150 [UNLESS THE MEMBER FULLY PAYS  
 9 THE INDEBTEDNESS AS ESTABLISHED UNDER AS 14.25.063]. The member  
 10 may not claim credited service in this plan based on unused sick leave under  
 11 AS 14.25.115.

12 \* **Sec. 38.** AS 39.35.385(c) is amended to read:

13 (c) Credited service for which contributions were refunded is not creditable  
 14 under this section [UNLESS THE REFUNDED CONTRIBUTIONS HAVE BEEN  
 15 REPAID. FOR PURPOSES OF (a) AND (b) OF THIS SECTION, A MEMBER OR  
 16 FORMER MEMBER DOES NOT HAVE TO BE REEMPLOYED UNDER THIS  
 17 PLAN IN ORDER TO PAY REFUNDED CONTRIBUTIONS. COMPOUND  
 18 INTEREST AT THE RATE PRESCRIBED BY REGULATION SHALL BE ADDED  
 19 TO THE REINSTATEMENT INDEBTEDNESS FROM THE DATE OF THE  
 20 REFUND TO THE DATE OF REPAYMENT].

21 \* **Sec. 39.** AS 39.35.522(d) is amended to read:

22 (d) A ruling of the [THE] commissioner of administration denying a waiver  
 23 under this section may be appealed under AS 44.64. The administrative law  
 24 judge may reverse the ruling of the commissioner and may impose conditions on  
 25 the granting of a waiver that the administrative law judge [WHICH IT] considers  
 26 equitable. These conditions may include requiring the member or beneficiary to make  
 27 additional contributions to the plan.

28 \* **Sec. 40.** AS 39.35.680(3) is amended to read:

29 (3) "administrator" means [THE PERSON APPOINTED BY] the  
 30 commissioner of administration or the commissioner's designee appointed  
 31 AS 39.35.003 [AS 39.35.050];

1 \* **Sec. 41.** AS 39.35.700 is amended to read:

2           **Sec. 39.35.700. Applicability of AS 39.35.700 - 39.35.990.** The provisions of  
3 AS 39.35.700 - 39.35.990 apply only to members first hired on or after July 1, 2006,  
4 **to members who are employed by employers that do not participate in the**  
5 **retirement benefit plan established under AS 39.35.095 - 39.35.680, to former**  
6 **members as that term is defined under AS 39.35.680,** or to members who transfer  
7 into the defined contribution plan under AS 39.35.940.

8 \* **Sec. 42.** AS 39.35.710(c) is amended to read:

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

16 \* **Sec. 43.** AS 39.35.750(e) is amended to read:

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

26 \* **Sec. 44.** AS 39.35.780 is amended to read:

27           **Sec. 39.35.780. Limitations on contributions and benefits.** Notwithstanding  
28 any other provisions of this plan, the annual additions to each member's individual  
29 account under this plan and under all defined contribution plans of the employer  
30 required to be aggregated with the contributions from this plan under the provisions of  
31 26 U.S.C. 415 may not exceed, for any limitation year, the amount permitted under 26

1 U.S.C. 415(c) at any time. If the amount of a member's **individual account**  
 2 [DEFINED CONTRIBUTION PLAN] contributions exceeds the limitation of 26  
 3 U.S.C. 415(c) for any limitation year, the administrator shall take any necessary  
 4 remedial action to correct an excess contribution. **A fixed benefit provided under**  
 5 **this plan may not exceed, for or during a limitation year, the amount permitted**  
 6 **under 26 U.S.C. 415(b). If a fixed benefit provided under this plan exceeds, for or**  
 7 **during a limitation year, the amount permitted under 26 U.S.C. 415(b), the**  
 8 **administrator shall take remedial action necessary to comply with the limits on**  
 9 **the benefit amount in 26 U.S.C. 415(b).** The provisions of 26 U.S.C. 415, and the  
 10 regulations adopted under that statute, as applied to qualified [DEFINED  
 11 CONTRIBUTION] plans of governmental employees are incorporated as part of the  
 12 terms and conditions of the plan.

13 \* **Sec. 45.** AS 39.35.890(b) is amended to read:

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

20 (1) dies;

21 (2) recovers from the disability;

22 (3) fails to meet the requirements under (f), (i), or (l) [(j)] of this  
 23 section; or

24 (4) reaches normal retirement age.

25 \* **Sec. 46.** AS 39.35.890(d) is amended to read:

26 (d) The monthly amount of an occupational disability benefit is 40 percent of  
 27 the disabled employee's gross monthly compensation at the time of termination due to  
 28 disability. **Notwithstanding AS 39.35.790(b), at the time a member is appointed to**  
 29 **disability, the member becomes fully vested in the employer contributions made**  
 30 **under AS 39.35.750(a). A disabled member is fully vested in the contributions to**  
 31 **the member's individual account made under this subsection. An employee is not**

1 **entitled to elect distributions from the employee's individual account under**  
 2 **AS 39.35.810 while the employee is receiving disability benefits under this section.**

3 While an employee is receiving disability benefits, based on the disabled employee's  
 4 gross monthly compensation at the time of termination due to disability, the employer  
 5 shall make contributions

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

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

9 \* **Sec. 47.** AS 39.35.890(g) is amended to read:

10 (g) A disabled employee's occupational disability benefit terminates **the last**  
 11 **day of the month in which** [WHEN] the disabled employee first **qualifies**  
 12 [ATTAINS ELIGIBILITY] for normal retirement. At that time, the employee's  
 13 retirement benefit shall be determined under the provisions of AS 39.35.820 -  
 14 39.35.840, 39.35.870, and 39.35.880. An employee **whose occupational disability**  
 15 **benefit terminates under this subsection** [RECEIVING DISABILITY BENEFITS  
 16 UP UNTIL ELIGIBILITY FOR RETIREMENT] shall be considered to have retired  
 17 directly from the plan.

18 \* **Sec. 48.** AS 39.35.890(h) is amended to read:

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

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

25 (2) employee's retirement benefit calculated as if the provisions of  
 26 AS 39.35.370(c) were to apply; however, retirement benefits paid under this paragraph  
 27 **must be paid first from the peace officer's or fire fighter's individual account,**  
 28 **and the remaining benefits must be paid from the trust account established under**  
 29 **AS 39.35.750(e); the peace officer or fire fighter may not elect other distributions**  
 30 **from the peace officer's or fire fighter's individual account under AS 39.35.810**  
 31 **while receiving retirement benefits under this paragraph** [MAY NOT BE MADE

1 FROM THE TRUST FUND OF THE PUBLIC EMPLOYEES' DEFINED BENEFIT  
2 RETIREMENT PLAN].

3 \* **Sec. 49.** AS 39.35.890(k) is amended to read:

4 (k) Upon the death of a disabled employee who is receiving or is entitled to  
5 receive an occupational disability benefit, the administrator shall pay the surviving  
6 spouse a surviving spouse's pension, equal to 40 percent of the employee's monthly  
7 compensation at the termination of employment because of occupational disability. If  
8 there is no surviving spouse, the administrator shall pay the survivor's pension in equal  
9 parts to the dependent children of the employee. **While the monthly survivor's**  
10 **pension is being paid, the survivor is not entitled to elect distributions from the**  
11 **employee's individual account under AS 39.35.810.** The first payment of the  
12 surviving spouse's pension or of a dependent child's pension shall accrue from the first  
13 day of the month following the employee's death and is payable the last day of the  
14 month. The last payment shall be made **the last day of** [FOR] the last month in which  
15 there is an eligible surviving spouse or **dependent** child, **or the last day of the month**  
16 **in which the employee would have first qualified for normal retirement if the**  
17 **employee had survived, whichever day comes sooner. A retirement benefit shall**  
18 **be determined under the provisions of AS 39.35.820 - 39.35.840, 39.35.870, and**  
19 **39.35.880 based on** [. ON] the date the **employee would have first qualified for**  
20 normal retirement [OF THE EMPLOYEE WOULD HAVE OCCURRED] if the  
21 employee had **survived. In addition to payment of the member's individual**  
22 **account, the surviving spouse or, if there is no surviving spouse, the surviving**  
23 **dependent children of the member, shall receive an additional benefit in an**  
24 **amount equal to the accumulated contributions that would have been made to the**  
25 **deceased member's individual account under AS 39.35.730(a) and 39.35.750(a),**  
26 **based on the deceased member's gross monthly compensation at the time of**  
27 **occupational disability, from the time of the member's death to the date the**  
28 **member would have first qualified for normal retirement if the member had**  
29 **survived. Earnings shall be allocated to the additional benefit calculated under**  
30 **this subsection based on the actual rate of return, net of expenses, of the trust**  
31 **account established under AS 39.35.750(e) over the period that the contributions**

1 would have been made. This additional amount shall be paid in the same manner  
 2 as determined for the member's individual account under AS 39.35.820 –  
 3 39.35.860. For the purpose of determining eligibility of an employee's survivor  
 4 who is receiving a benefit under this subsection for medical benefits under  
 5 AS 39.35.870 - 39.35.880, an employee [LIVED, THE RETIREMENT BENEFIT  
 6 SHALL BE DETERMINED UNDER THE PROVISIONS OF AS 39.35.820 -  
 7 39.35.840, 39.35.870, AND 39.35.880. AN EMPLOYEE] who died while receiving  
 8 disability benefits shall be considered to have retired directly from the plan on the date  
 9 the employee would have first qualified for normal retirement if the employee  
 10 had survived. The period during which the employee was eligible for a disability  
 11 benefit and the period during which a survivor's pension is paid to a survivor  
 12 under this subsection each constitute membership service for the purposes of  
 13 determining vesting in employer contributions under AS 39.35.790(b) and  
 14 eligibility for retirement and medical benefits under this chapter and  
 15 AS 39.30.300 - 39.30.495 [NORMAL RETIREMENT OF THE EMPLOYEE  
 16 WOULD HAVE OCCURRED IF THE EMPLOYEE HAD LIVED].

17 \* **Sec. 50.** AS 39.35.890(l) is repealed and reenacted to read:

18 (l) For the purposes of this section, a condition qualifies an occupational  
 19 disability if

20 (1) the condition is a physical or mental condition that the  
 21 administrator determines presumably permanently prevents an employee from  
 22 satisfactorily performing the employee's usual duties or the duties of another  
 23 comparable position or job available to the employee and for which the employee is  
 24 qualified by training or education; and

25 (2) the proximate cause of the condition is a bodily injury sustained, or  
 26 a hazard undergone, while in the performance and within the scope of the employee's  
 27 duties and not the proximate result of the wilful negligence of the employee.

28 \* **Sec. 51.** AS 39.35 is amended by adding a new section to read:

29 **Sec. 39.35.891. Disability benefit and disabled peace officer or fire fighter**  
 30 **retirement benefit adjustment.** (a) Once each year, the administrator shall increase  
 31 disability benefits and retirement benefits elected by disabled peace officers or fire

1 fighters under AS 39.35.890(h)(2). The amount of the increase is a percentage of the  
 2 current disability benefit or retirement benefit equal to the lesser of 75 percent of the  
 3 increase in the cost of living in the preceding calendar year or nine percent.

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

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

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

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

24 \* **Sec. 52.** AS 39.35.892(b) is amended to read:

25 (b) The first payment of the surviving spouse's pension or of a dependent  
 26 child's pension shall be made for the month following the month in which the  
 27 employee dies. Payments [, AND PAYMENT] shall cease on the last day of the  
 28 month in which there is no longer an eligible spouse or eligible dependent child,  
 29 or the last day of the month following the earliest date [TO BE MADE  
 30 BEGINNING WITH THE MONTH IN WHICH] the employee would have first  
 31 qualified for normal retirement if the employee had survived, whichever day is

1 earlier.

2 \* **Sec. 53.** AS 39.35.892(c) is amended to read:

3 (c) The monthly survivor's pension in (b) of this section for survivors of  
4 employees who were not peace officers or fire fighters is 40 percent of the employee's  
5 monthly compensation in the month in which the employee dies. The monthly  
6 survivor's pension in (b) of this section for survivors of employees who were peace  
7 officers or fire fighters is 50 percent of the monthly compensation in the month in  
8 which the employee dies. **While the monthly survivor's pension is being paid, the**  
9 **survivor is not entitled to elect distributions from the employee's individual**  
10 **contribution account under AS 39.35.810, except as required by AS 39.35.840.**

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

16 (1) TO THE EMPLOYEE'S INDIVIDUAL ACCOUNT UNDER  
17 AS 39.35.730, WITHOUT DEDUCTION FROM THE SURVIVOR'S PENSION;  
18 AND

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

20 \* **Sec. 54.** AS 39.35.892(e) is amended to read:

21 (e) On the date the **employee would have first qualified for** normal  
22 retirement [OF THE EMPLOYEE WOULD HAVE OCCURRED] if the employee  
23 had **survived** [LIVED], the retirement benefit shall be determined under the  
24 provisions of AS 39.35.820 - 39.35.840, 39.35.870, and 39.35.880. **In addition to**  
25 **payment of the member's individual account, the surviving spouse or, if there is**  
26 **no surviving spouse, the surviving dependent children of the member, shall**  
27 **receive an additional benefit in an amount equal to the accumulated**  
28 **contributions that would have been made to the deceased member's individual**  
29 **account under AS 39.35.730(a) and 39.35.750(a), based on the deceased member's**  
30 **gross monthly compensation at the time of occupational death, from the time of**  
31 **the member's death to the date the member would have first qualified for normal**

1 retirement if the member had survived. Earnings shall be allocated to the  
 2 additional benefit calculated under this subsection based on the actual rate of  
 3 return, net of expenses, of the trust account established under AS 39.35.750(e)  
 4 over the period that such contributions would have been made. This additional  
 5 amount shall be paid in the same manner as determined for the member's  
 6 individual account under AS 39.35.820 – 39.35.860. An employee who died and  
 7 whose survivors receive occupational death benefits under this section shall be  
 8 considered to have retired directly from the plan on the date the [NORMAL  
 9 RETIREMENT OF THE] employee would have first qualified for normal  
 10 retirement [OCCURRED] if the employee had survived. The period of time during  
 11 which a survivor's pension is paid under this section constitutes membership  
 12 service for the purposes of determining vesting in employer contributions under  
 13 AS 39.35.790(b) and eligibility for retirement and medical benefits under this  
 14 chapter and AS 39.30.300 - 39.30.495 [LIVED].

15 \* **Sec. 55.** AS 39.35 is amended by adding new sections to read:

16 **Sec. 39.35.893. Survivor's pension adjustment.** (a) Once each year, the  
 17 administrator shall increase payments to a person 60 years of age or older receiving a  
 18 survivor's pension under AS 39.35.890(k) or 39.35.892(c), and to a person who has  
 19 received a survivor's pension under AS 39.35.890(k) or 39.35.892(c) for at least five  
 20 years if the person who is not otherwise eligible for an increase under this section.

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

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

29 (d) The administrator shall increase the initial survivor's pension paid to a  
 30 survivor of a member who died while receiving disability benefits by a percentage  
 31 equal to the total cumulative percentage that has been applied to the member's

1 disability benefit under AS 39.35.891.

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

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

10 **Sec. 39.35.894. Premiums for retiree major medical insurance coverage**  
11 **upon termination of disability benefits or survivor's pension.** The premium for  
12 retiree major medical insurance coverage payable by an employee or survivor shall be  
13 determined under AS 39.35.880(g)(2) as if the employee or survivor were eligible for  
14 Medicare

15 (1) if the employee's disability benefit is terminated under  
16 AS 39.35.890(g);

17 (2) if the survivor pension paid to an eligible survivor under  
18 AS 39.35.892(e) is terminated;

19 (3) if the survivor pension paid to an eligible survivor is terminated  
20 under AS 39.35.890(k).

21 \* **Sec. 56.** AS 39.35.910 is amended to read:

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

31 (1) a rate of return or interest rate other than that actually earned by the

1 account of the participant, less applicable administrative expenses; or

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

5 \* **Sec. 57.** AS 39.35.940(c) is amended to read:

6 (c) Each eligible member who elects to participate in the defined contribution  
7 retirement plan shall have transferred to a new account the employee contribution  
8 account balance held in trust for the member under the defined benefit retirement plan  
9 of the public employees' retirement system. A matching employer contribution shall  
10 be made on behalf of that employee to the new account. The employer shall make the  
11 matching contribution from funds other than the trust funds of the defined benefit  
12 retirement plan established under AS 39.35.095 - 39.35.680. **The amount of the**  
13 **matching employer contribution shall be subject to, and may not exceed, the**  
14 **limitation of 26 U.S.C. 415(c) during the applicable limitation year.**

15 \* **Sec. 58.** AS 39.35.940(d) is amended to read:

16 (d) Upon a transfer, all membership service previously earned under the  
17 defined benefit retirement plan shall be nullified for purposes of entitlement to a future  
18 benefit under the defined benefit retirement plan but shall be credited for purposes of  
19 **determining vesting in employer contributions under AS 39.35.790(b) and**  
20 eligibility to elect medical benefits under AS 39.35.870. Membership service allowed  
21 for credit toward medical benefits does not include any service credit purchased for  
22 employment by an employer who is not a participating employer in this chapter.

23 \* **Sec. 59.** AS 39.35.940(h) is amended to read:

24 (h) **An employee who is eligible to elect transfer to the defined**  
25 **contribution plan must make the election not later than 12 months after the first**  
26 **day of the month that follows the administrators receipt of the notification that**  
27 **the employee's employer consents to transfers of its employees under (i) of this**  
28 **section.** The election to participate in the defined contribution retirement plan must be  
29 made in writing on forms and in the manner prescribed by the administrator. Before  
30 accepting an election to participate in the defined contribution retirement plan, the  
31 administrator must provide the employee planning on making an election to participate

1 in the defined contribution retirement plan with information, including calculations to  
 2 illustrate the effect of moving the employee's retirement plan from the defined benefit  
 3 retirement plan to the defined contribution retirement plan as well as other information  
 4 to clearly inform the employee of the potential consequences of the employee's  
 5 election. An election made under this subsection to participate in the defined  
 6 contribution retirement plan is irrevocable. Upon making the election, the participant  
 7 shall be enrolled as a member of the defined contribution retirement plan, the  
 8 member's participation in the plan shall be governed by the provisions of  
 9 AS 39.35.700 - 39.35.990, and the member's participation in the defined benefit  
 10 retirement plan under AS 39.35.115 shall terminate. The participant's enrollment in the  
 11 defined contribution retirement plan shall be effective the first day of the month after  
 12 the administrator receives the completed enrollment forms. An election made by an  
 13 eligible member who is married is not effective unless the election is signed by the  
 14 individual's spouse.

15 \* **Sec. 60.** AS 39.35 is amended by adding new sections to read:

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

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

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

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

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

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

21           (d) An employee whose coverage under the plan is terminated as a result of  
 22 termination of an employer's participation under this section or amendment of the  
 23 employer's agreement under AS 39.35.957(c) shall be considered fully vested in  
 24 employer contributions under AS 39.35.790(b) and in the individual account  
 25 established for the employee under AS 39.30.370. If the employee is later employed  
 26 with a participating employer, the employee's membership service earned under the  
 27 plan during employment with a terminated employer shall be credited for purposes of  
 28 determining vesting in employer contributions under AS 39.35.790(b) and eligibility  
 29 for retirement and medical benefits under this chapter and AS 39.30.300 - 39.30.495.

30 \* **Sec. 61.** AS 39.35.990(7) is amended to read:

31           (7) "compensation"

1 (A) means

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

6 (ii) the member contribution to the public employees'  
7 retirement system under AS 39.35.730, employee deferrals under  
8 AS 39.45.010, the wage reduction amount contributed to the Alaska  
9 Supplemental Annuity Plan under AS 39.30.150(a), and the wage  
10 reduction amount contributed to the Alaska Supplemental Benefit Plan  
11 under AS 39.30.150(c), as those statutes may be amended from time to  
12 time;

13 (B) does not include retirement benefits, severance pay or other  
14 separation bonuses, welfare benefits, per diem, expense allowances, workers'  
15 compensation payments, payments for leave not used whether those leave  
16 payments are scheduled payments, lump-sum payments, donations, or cash-ins,  
17 any remuneration contributed by the employer for or on account of the  
18 employee under this plan or under any other qualified or nonqualified  
19 employee benefit plan, or any remuneration not specifically included above  
20 which would have been excluded under 26 U.S.C. 3121(a) (Internal Revenue  
21 Code) if the employer had remained in the Federal Social Security System [,  
22 OR ANY REMUNERATION PAID BY THE EMPLOYER IN EXCESS OF  
23 THE SOCIAL SECURITY TAXABLE WAGE BASE FOR THE  
24 CALENDAR YEAR];

25 (C) notwithstanding (B) of this paragraph, includes any amount  
26 that is contributed by the employer under a salary reduction agreement and that  
27 is not includible in the gross income of the employee under 26 U.S.C. 125,  
28 132(f)(4), 402(e)(3), 402(h)(1)(B),2 or 403(b) (Internal Revenue Code); the  
29 annual compensation limitation for the member, which is so taken into account  
30 for those purposes, may not exceed \$200,000, as adjusted for the cost of living  
31 in accordance with 26 U.S.C. 401(a)(17)(B) (Internal Revenue Code), with the

1 limitation for a fiscal year being the limitation in effect for the calendar year  
2 within which the fiscal year begins;

3 \* **Sec. 62.** AS 39.35.990(16) is amended to read:

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

12 \* **Sec. 63.** AS 39.35.990(20) is amended to read:

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

19 \* **Sec. 64.** AS 39.45.020(a) is amended to read:

20 (a) The administration of the deferred compensation program for state  
21 employees is under the direction of the Department of Administration, and the  
22 administrator has the same powers and duties with regard to the plan and the  
23 program as those set out in AS 14.25.003. A political subdivision coming under the  
24 provisions of this chapter shall designate the office or official to manage  
25 [ADMINISTER] its program.

26 \* **Sec. 65.** AS 39.45.020(c) is amended to read:

27 (c) The manager [ADMINISTRATOR] of a deferred compensation program  
28 may contract with a private person for providing consolidated billing and other  
29 administrative services [. THE ADMINISTRATOR] may contract with an insurance  
30 carrier to reimburse the state or political subdivision of the state for the cost of  
31 administering the [DEFERRED COMPENSATION] program.

1 \* **Sec. 66.** AS 39.45 is amended by adding a new section to read:

2 **Sec. 39.45.055. Appeals.** A final decision made under AS 39.45.010 -  
3 39.45.060 is subject to appeal under AS 44.64.

4 \* **Sec. 67.** AS 44.64.030(a) is amended by adding new paragraphs to read:

5 (35) AS 14.25.175 (waiver of adjustments under teachers' defined  
6 benefit plan);

7 (36) AS 39.30.165 (supplemental benefits system);

8 (37) AS 39.30.335 (teachers' and public employees' health  
9 reimbursement arrangement plan);

10 (38) AS 39.35.522 (waiver of adjustments under public employees'  
11 defined benefit plan);

12 (39) AS 39.45.055 (public employees' deferred compensation  
13 program).

14 \* **Sec. 68.** AS 14.25.045, 14.25.340(b), 14.25.570; AS 39.35.050(a), 39.35.375(f), and  
15 39.35.730(b) are repealed.

16 \* **Sec. 69.** Section 107, ch. 9, FSSLA 2005, is repealed.

17 \* **Sec. 70.** Sections 4, 37, and 38 of this Act take effect July 1, 2010.

18 \* **Sec. 71.** Except as provided in sec. 70 of this Act, this Act takes effect July 1, 2007.