

BY THE FINANCE COMMITTEE

1 IN THE HOUSE

2

HOUSE BILL NO. 579

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act establishing the defined contribution plan for retirement for public employees; requiring the preparation of certain actuarial valuations and actuarial and financial experience analyses of the teachers' retirement system; requiring the teachers' retirement system and the public employees' retirement system to be fully funded before granting a post retirement pension adjustment; and providing for an effective date."

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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\* Section 1. AS 39 is amended by adding new sections to read:

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CHAPTER 38. RETIREMENT DEFINED CONTRIBUTION PLAN.

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ARTICLE 1. ADMINISTRATION.

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Sec. 39.38.010. PURPOSE AND EFFECTIVE DATE. (a) The purpose of

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this chapter is to encourage qualified personnel to enter and remain

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in the service of the state or a political subdivision or public

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organization of the state by establishing a plan for the payment of

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retirement and death benefits to or on behalf of the employees.

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(b) The program created becomes effective on July 1, 1990, at

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which time contributions by the state and its employees begin.

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Sec. 39.38.020. RETIREMENT BOARD. (a) The Retirement Board

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composed of five members is established.

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(b) Three board members shall be members of the personnel board

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of the Department of Administration. Two board members shall be

1 members of the plan, elected by a majority of votes cast by members of  
2 the plan. Elections shall be conducted by the board. The term of  
3 office of an elected member is six years. A vacancy in an unexpired  
4 elective term shall be filled by election for a new six-year term.

5 (c) Members of the board serve without compensation, but are  
6 entitled to per diem and transportation expenses authorized for boards  
7 under AS 39.20.180 to carry out the duties set out in this chapter.

8 Sec. 39.38.030. DEFINED CONTRIBUTION PLAN. The board shall  
9 establish a defined contribution plan for employees in which retire-  
10 ment and death benefits are provided through the purchase of annuity  
11 contracts, either fixed, variable, or a combination of fixed and  
12 variable, shares of a mutual fund, guaranteed investment contracts, or  
13 other investment vehicles that are determined by the board to be  
14 suitable pension savings investments. Participation in the plan is in  
15 place of participation in a state retirement system.

16 Sec. 39.38.040. POWERS AND DUTIES OF THE BOARD. (a) The board  
17 shall

18 (1) appoint an administrator of the plan and provide for  
19 the administration of the plan, including procedures for resolving  
20 complaints from participating employees;

21 (2) act as an appeals board, hold hearings at the request  
22 of an employer, employee, surviving spouse or a beneficiary on deci-  
23 sions made by the administrator, and submit its findings to the admin-  
24 istrator;

25 (3) prescribe the policies for the proper operation of the  
26 plan and carry on other activities that are considered necessary to  
27 carry out the intent and purpose of the plan under this chapter;

28 (4) designate the company or other entity to which payment  
29 of the contributions required under AS 39.38.210 may be made, after

1 considering the

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

5 (B) relation of the contractual rights and benefits to  
6 the contributions to be made under this chapter;

7 (C) suitability of the contractual rights and benefits  
8 to the needs and interests of participating employees and to the  
9 interest of the employer in the employment and retention of  
10 employees;

11 (D) ability of the designated company or other entity  
12 to provide rights and benefits under the contracts; and

13 (E) efficacy of the contracts in the recruitment and  
14 retention of employees;

15 (5) take other actions required to ensure that the plan  
16 qualifies as a qualified trust under 26 U.S.C. 401(a) (Internal Re-  
17 nue Code).

18 (b) The board may

19 (1) hold regular meetings and special meetings considered  
20 necessary; all meetings are open to the public and the board shall  
21 keep a full record of all its proceedings;

22 (2) adopt, with modifications it considers proper, regula-  
23 tions recommended by the administrator for carrying out this chapter;

24 (3) consider and adopt resolutions on matters referred to  
25 it by the administrator in connection with changes in policy and  
26 revisions of this chapter.

27 Sec. 39.38.050. DUTY OF EMPLOYERS TO FURNISH RECORDS. Each  
28 employer shall furnish the administrator with records concerning the  
29 periods of service, dates of birth, compensation, new entrants into

1 service, death, withdrawals, and other employee data necessary for the  
2 proper and effective operation of the plan.

3 Sec. 39.38.060. ATTORNEY GENERAL. The attorney general of the  
4 state is the attorney for the plan and shall represent it in a legal  
5 proceeding.

6 ARTICLE 2. PARTICIPATION.

7 Sec. 39.38.110. PARTICIPATION. (a) An employee of the state  
8 first hired on or after July 1, 1990, shall be included in the plan  
9 upon commencement of employment with the state. Unless the employee  
10 has elected to participate in the optional university retirement  
11 program under AS 14.40.661 - 14.40.799 or was first hired before  
12 July 1, 1990, an employee of a political subdivision, including a  
13 school district, regional educational attendance area, and the Univer-  
14 sity of Alaska, or a public organization that becomes an employer  
15 shall be included in the plan on the effective date of the employer's  
16 participation or the date of the employee's commencement of employment  
17 with the employer, whichever is later.

18 (b) Inclusion in the plan is a condition of employment for an  
19 employee first hired on or after July 1, 1990, except as otherwise  
20 provided for an elected official and for an employee of the university  
21 who has elected to participate in the optional university retirement  
22 program under AS 14.40.661 - 14.40.799.

23 Sec. 39.38.120. PARTICIPATION BY MEMBERS OF A STATE RETIREMENT  
24 SYSTEM. (a) A person who is a member of a state retirement system  
25 may elect to participate in the defined contribution plan. An elec-  
26 tion to participate in the plan is irrevocable. The election shall be  
27 made in writing on a form provided by the board and approved for the  
28 state by the commissioner of administration. The form must be filed  
29 with the board and a copy of the form shall be delivered to the

1 appropriate state retirement system. The election becomes irrevocable  
2 on the date it is received by the board. The election to participate  
3 in the plan constitutes a waiver of all rights and benefits under the  
4 state retirement systems earned on or after the effective date of the  
5 election.

6 (b) Except as provided in (c) of this section, if a nonvested  
7 member of a state retirement system elects to participate in the plan,  
8 the member may choose to transfer the amount in the employee's contri-  
9 bution account to the plan. If the member chooses to transfer the  
10 account, the appropriate state retirement system shall pay to the plan  
11 on behalf of the employee an amount equal to the balance in the ac-  
12 count. The payment must be made within 45 days after the election is  
13 received by the state retirement system. The administrator of the  
14 plan shall immediately pay the amount received to the company or other  
15 entity designated by the board for the benefit of the employee.

16 (c) An employee whose right to transfer assets out of a state  
17 retirement system is subject to a qualified domestic relations order  
18 is entitled to transfer assets from the state retirement system to the  
19 plan only if the requirements for receiving a refund under AS 14.-  
20 25.150(b) or AS 39.35.200(c), as appropriate, are met.

21 (d) If a vested member of a state retirement system elects to  
22 participate in the plan, the employee ceases to be an active member of  
23 the retirement system on the effective date of the participation in  
24 the plan. The employee retains all benefits accrued in the state  
25 retirement system.

26 (e) An employee first hired before July 1, 1990, who does not  
27 elect to participate in the plan under this section remains a member  
28 of the appropriate state retirement system.

29 Sec. 39.38.130. PARTICIPATION OF ELECTED OFFICIALS. (a)

1 Service as an elected official with an employer constitutes employment  
2 as a member in the plan as long as a written waiver of coverage has  
3 not been filed with the administrator. A waiver under this subsection  
4 waives coverage of future employment as an elected official, regard-  
5 less of any change of employer. An elected official may file a waiver  
6 under this subsection at any time after election to office, including  
7 the period before taking the oath of office. An elected official may  
8 revoke a waiver under this subsection by filing a written revocation  
9 with the administrator. A revocation under this subsection operates  
10 prospectively only, and the elected official may not receive coverage  
11 in the plan for service as an elected official while the waiver was in  
12 effect. There is no limit on the number of times an elected official  
13 may file a waiver or revocation under this subsection.

14 (b) An elected official included in the plan and that person's  
15 employer are liable for contributions whenever that person is an  
16 elected official unless a waiver of coverage under (a) of this section  
17 is in effect.

18 Sec. 39.38.140. PARTICIPATION BY OTHER EMPLOYEES. (a) A regu-  
19 lar full-time civilian employee of the Alaska Army National Guard and  
20 Air National Guard, whose entire salary is paid from allotted federal  
21 funds, is included in the plan if the federal or state government pays  
22 the employer's contributions. If the amount that the federal govern-  
23 ment may legally contribute to the plan is less than the required  
24 employer's contribution, the state government may contribute the  
25 difference. If the state chooses not to pay the difference, the  
26 employee's participation shall be based on the amount paid by the  
27 federal government.

28 (b) An employee of the North Pacific Fishery Management Council  
29 appointed under 16 U.S.C. 1852(f)(1) (Sec. 302(f)(1) of P. L. 94-265),

1 whose compensation is paid from allotted federal funds, is included in  
2 the plan if the council pays the employer's contributions.

3 (c) An administrative director of the Alaska court system who  
4 withdraws from the judicial retirement system under AS 22.25.012 is  
5 eligible for membership in the plan.

6 (d) An employee of the National Education Association of Alaska  
7 may participate in the plan if the employee possesses or is eligible  
8 to possess a teacher certificate under AS 14.20.020.

9 (e) An employee of the Special Education Service Agency may  
10 participate in the plan if the employee possesses or is eligible to  
11 possess a teacher certificate under AS 14.20.020.

12 (f) If an employer of an employee required or permitted to  
13 participate in the plan under this section does not pay the employer's  
14 contributions when due, coverage in the plan for the period of the  
15 delinquency may not be granted until the contributions are paid.

16 ARTICLE 3. CONTRIBUTIONS, RIGHTS, AND BENEFITS.

17 Sec. 39.38.200. EMPLOYMENT CONTRIBUTIONS MANDATORY. Contribu-  
18 tions of employees shall be made by payroll deductions. Every includ-  
19 ed employee shall be considered to consent to payroll deductions. It  
20 is of no consequence that a payroll deduction may cause the compen-  
21 sation paid in cash to an employee to be reduced below the minimum  
22 required by law. Payment of an employee's compensation, less payroll  
23 deductions, is a full and complete discharge and satisfaction of all  
24 claims and demands by the employee relating to remuneration of ser-  
25 vices during the period covered by the payment.

26 Sec. 39.38.210. CONTRIBUTIONS. (a) Except as provided in  
27 AS 39.38.140(a), the employer shall contribute to the plan on behalf  
28 of each employee participating in the plan an amount equal to 9.65  
29 percent of the employee's compensation.

1 (b) An employee participating in the plan shall contribute to  
2 the plan an amount set by the administrator. The amount may not be  
3 less than one-half the amount of the employer contribution.

4 (c) The administrator may increase or decrease the contributions  
5 required of employees under this section during the course of a per-  
6 son's employment. The administrator may specify that contributions  
7 required by this section are made by a reduction in salary under 26  
8 U.S.C. 414(h)(2) (Internal Revenue Code).

9 (d) The administrator shall pay the contributions required by  
10 this section to the designated investment entities, company, or com-  
11 panies for the benefit of each participant.

12 Sec. 39.38.220. INVESTMENT BY PERMANENT FUND BOARD OF TRUSTEES.  
13 If investment entities have not been designated to receive the contri-  
14 butions, the board may request the Board of Trustees of the Alaska  
15 Permanent Fund Corporation, under AS 37.13.125 to manage and invest  
16 the contributions for a limited period of time.

17 Sec. 39.38.230. BENEFITS. (a) Payment of benefits to partici-  
18 pants of the plan is the responsibility of the company or other entity  
19 designated by the board and is not the responsibility of the board,  
20 the employer, or the state. The benefits are payable to participants  
21 or their beneficiaries in accordance with the terms of the annuity  
22 contract or contracts or other investments.

23 (b) The board may purchase and offer participation in a group  
24 health plan to members who have retired.

25 Sec. 39.38.240. RIGHTS UNDER QUALIFIED DOMESTIC RELATIONS ORDER.  
26 A former spouse shall be treated as a spouse or surviving spouse to  
27 the extent required by a qualified domestic relations order. Rights  
28 under the order do not take effect until the order is filed with the  
29 administrator.

1           Sec. 39.38.250. SAFEGUARD OF EMPLOYEE FUNDS HELD BY THE PLAN.  
2           Employee contributions and other amounts held in the plan are exempt  
3           from Alaska state and local taxes. Amounts held on behalf of, or  
4           payable to, any employee or other person who is or may become eligible  
5           for benefits under the plan are not subject to anticipation, aliena-  
6           tion, sale, transfer, assignment, pledge, encumbrance, or charge of  
7           any kind, either voluntary or involuntary, before being received by  
8           the person entitled to the amount under the terms of the plan. An  
9           attempt to anticipate, alienate, sell, transfer, assign, pledge,  
10          encumber, charge, or otherwise dispose of a right to amounts held  
11          under the plan is void. However, an employee's right to receive  
12          benefits may be assigned under a qualified domestic relations order.

13           Sec. 39.38.260. EXEMPTION OF EMPLOYEE FUNDS AND BENEFITS.  
14          Employee contributions and other amounts held in the plan and retire-  
15          ment benefits payable under the plan are exempt from levy to enforce  
16          the collection of a debt as provided in AS 09.38 (exemptions).

17           ARTICLE 4. POLITICAL SUBDIVISIONS AND PUBLIC ORGANIZATIONS.

18           Sec. 39.38.300. REQUEST TO PARTICIPATE. (a) A municipality or  
19          other political subdivision of the state may request to become an  
20          employer in the plan. The request shall be made after adoption of a  
21          resolution by the legislative body of the political subdivision and  
22          after approval of the resolution by the person required by law to  
23          approve it. A certified copy of the resolution shall be filed with  
24          the administrator. If the administrator approves the request for  
25          participation, the political subdivision is an employer of the plan.

26           (b) A public organization may request to become an employer in  
27          the plan. The request shall be made after adoption of a resolution by  
28          the governing body of the public organization. A certified copy of  
29          the resolution shall be filed with the administrator. If the

1 administrator approves the request for participation, the public  
2 organization is an employer of the plan.

3 Sec. 39.38.310. SURVEY TO DETERMINE ESTIMATED COST. A political  
4 subdivision or public organization contemplating participation in the  
5 plan may request a preliminary survey to determine the estimated cost  
6 of participation, the benefits derived, and other information that is  
7 appropriate. The political subdivision or public organization re-  
8 questing the survey shall pay the cost of it.

9 Sec. 39.38.320. PARTICIPATION. (a) The effective date of  
10 participation in the plan by a political subdivision or public orga-  
11 nization is the first day of any month acceptable to the governing  
12 body of the political subdivision or public organization and to the  
13 Retirement Board.

14 (b) The political subdivision or public organization shall  
15 designate the departments, groups, or other classifications of employ-  
16 ees eligible to participate in the plan, and shall agree to make the  
17 contributions each year that are required by the administrator.

18 (c) The eligible employees of a participating political subdivi-  
19 sion or public organization are bound by the provisions of this plan  
20 and are entitled to the benefits provided under it.

21 Sec. 39.38.330. TRANSMITTAL OF CONTRIBUTIONS TO ADMINISTRATOR.  
22 The contributions of an employer and the contributions of its employ-  
23 ees shall be transmitted to the administrator as soon as practicable  
24 after the close of the payroll period for which the contributions are  
25 made. If an employer is delinquent in transferring the contributions  
26 for more than 15 days, interest and other penalties shall be assessed  
27 on the outstanding contributions at the rate and in the amount estab-  
28 lished by the board.

29 Sec. 39.38.340. TERMINATION OF PARTICIPATION. (a) If the

1 contributions are not transmitted to the administrator within the pre-  
2 scribed time limit, the administrator may grant an extension. If the  
3 political subdivision or public organization is in default at the end  
4 of the extension, participation in the plan is terminated, and the  
5 employer shall be sent notice of termination.

6 (b) Termination of an employer's participation in the plan does  
7 not bar future participation in the plan by that employer.

8 Sec. 39.38.350. EFFECT OF TERMINATION BY AMENDMENT OF AGREEMENT.

9 (a) A political subdivision or public organization may request that  
10 its participation agreement be amended. The request may be made only  
11 after adoption of a resolution by the legislative body of the politi-  
12 cal subdivision and approval of the resolution by the person required  
13 by law to approve the resolution, or, in the case of a public organi-  
14 zation, after adoption of a resolution by the governing body of that  
15 public organization. A certified copy of the resolution shall be  
16 filed with the administrator.

17 (b) Termination of coverage of a department, group, or other  
18 classification of employees does not bar future coverage of that  
19 department, group, or classification.

20 ARTICLE 5. GENERAL PROVISIONS.

21 Sec. 39.38.450. NONGUARANTEE OF EMPLOYMENT. This chapter is not  
22 a contract of employment between an employer and an employee, nor does  
23 it confer a right of an employee to be continued in the employment of  
24 an employer, nor is it a limitation of the right of an employer to  
25 discharge an employee with or without cause.

26 Sec. 39.38.460. FRAUD. A person who knowingly makes a false  
27 statement, or falsifies or permits to be falsified a record of this  
28 plan, in an attempt to defraud the plan, is guilty of a misdemeanor,  
29 and upon conviction is punishable by a fine of not more than \$500, or

1 by imprisonment for not more than 12 months, or by both.

2 Sec. 39.38.900. DEFINITIONS. In this chapter,

3 (1) "administrator" means the administrator of the retire-  
4 ment defined contribution plan;

5 (2) "appropriate state retirement system" means the state  
6 retirement system that includes the employee's position;

7 (3) "board" means the Retirement Board established under  
8 AS 39.38.020;

9 (4) "compensation" means the total remuneration earned by  
10 an employee for personal services rendered to an employer, including  
11 employee contributions under AS 39.38.210, cost-of-living differen-  
12 tials, payments for leave that is actually used by the employee, the  
13 amount by which the employee's wages are reduced under AS 39.30.-  
14 150(c), and any amount deferred under an employer-sponsored deferred  
15 compensation plan, but does not include retirement benefits, severance  
16 pay or other separation bonuses, welfare benefits, per diem, expense  
17 allowances, workers' compensation payments, incentive cash awards  
18 under AS 39.51.120, or payments for leave not used by the employee  
19 whether those leave payments are scheduled payments, lump-sum pay-  
20 ments, donations, or cash-ins;

21 (5) "contribution account" means the member contribution  
22 account under AS 14.25, the employee contribution account under  
23 AS 39.35, or, for an administrative director of the Alaska Court  
24 System electing to participate in the plan, the total maintained by  
25 the judicial retirement system of the administrative director's manda-  
26 tory contributions, indebtedness principal, contributions of interest  
27 on indebtedness, interest credited to each of those accounts, and  
28 adjustments to the accounts, whichever is appropriate;

29 (6) "elected official" means a person whose compensation

1 results from personal services rendered to an employer as an elected  
2 representative;

3 (7) "employer" means the State of Alaska, a political  
4 subdivision or public organization of the state that participates in  
5 the plan, or an employer under AS 39.38.130 or 39.38.140 that partici-  
6 pates in the plan;

7 (8) "member" or "employee"

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

10 (B) includes an elected public officer under AS 39.-  
11 38.130 and other employees participating under AS 39.38.140;

12 (C) does not include

13 (i) former members;

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

16 (iii) casual or emergency workers or nonpermanent  
17 employees as defined in AS 39.25.200;

18 (iv) members of the Alaska teachers' retirement  
19 system, the judicial retirement system, the public employ-  
20 ees' retirement system, the elected public officers' retire-  
21 ment system (former AS 39.37), or the optional university  
22 retirement program;

23 (v) employees of the division of marine transpor-  
24 tation engaged in operating the state ferry system who are  
25 covered by a union or group retirement system to which the  
26 state makes contributions; and

27 (vi) the administrative director of courts ap-  
28 pointed under art. IV, sec. 16 of the state constitution  
29 unless the director becomes a member under AS 39.38.120;

1 (D) may include employees of the division of marine  
2 transportation excluded under (C)(v) of this paragraph provided  
3 that

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

6 (ii) no collective bargaining agreement has the  
7 effect of obligating contributions made by the state under  
8 AS 39.30.150 in the event the state resumes participation in  
9 the federal social security system;

10 (9) "plan" means the defined contribution plan;

11 (10) "public organization" means an organization or entity

12 (A) created by the constitution or laws of the state  
13 for the purpose of administering state programs;

14 (B) whose officers and employees are paid by a method  
15 other than by the state payroll prepared by the Department of  
16 Administration; and

17 (C) whose employees are not required by law to partic-  
18 ipate in the plan;

19 (11) "qualified domestic relations order" has the meaning  
20 given in AS 39.35.680;

21 (12) "state retirement system" means the teachers' retire-  
22 ment system under AS 14.25, the public employees' retirement system  
23 under AS 39.35, or, for an administrative director of the Alaska Court  
24 System who elects to participate in the plan under AS 22.25.012, the  
25 judicial retirement system.

26 \* Sec. 2. AS 14.25.035(c) is amended to read:

27 (c) The board shall

28 (1) confer with the commissioner of administration regard-  
29 ing the administration of the system and may make recommendations that

1 it considers necessary;

2 (2) have prepared, at least biennially, an actuarial val-  
3 uation of the total obligations under the system of each employer and,  
4 on the basis of the valuation, shall certify to the appropriate bud-  
5 getary authorities of each employer:

6 (A) an appropriate contribution rate for all employ-  
7 ers; and

8 (B) an amount appropriate for each employer to liqui-  
9 date the employee's past service liability; the board shall have  
10 an actuarial and financial experience analysis of the system  
11 conducted at appropriate intervals, but no less frequently than  
12 once every six years; the actuarial valuations and the actuarial  
13 and financial experience analysis shall be prepared and certified  
14 by a member of the American Academy of Actuaries.

15 \* Sec. 3. AS 14.25.040(a) is amended to read:

16 (a) Unless a teacher or member has elected to participate in the  
17 optional university retirement program under AS 14.40.661 - 14.40.799  
18 or the defined contribution plan under AS 39.38, a teacher or member  
19 contracting for service with a participating employer who became a  
20 member of this system before July 1, 1990, is subject to this chapter.

21 \* Sec. 4. AS 14.25.045(a) is amended to read:

22 (a) An employee or former employee of the National Education  
23 Association of Alaska first hired before July 1, 1990, may participate  
24 in the system under this chapter if

25 (1) the employee or former employee possesses or is eligi-  
26 ble to possess a teacher certificate under AS 14.20.020; and

27 (2) the employee or former employee of the National Educa-  
28 tion Association of Alaska pays all retroactive contributions required  
29 to be made under this chapter.

1 \* Sec. 5. AS 14.25.047 is amended to read:

2           Sec. 14.25.047.    PARTICIPATION BY SPECIAL EDUCATION SERVICE  
3 AGENCY EMPLOYEES. An employee of the Special Education Service Agency  
4 first hired before July 1, 1990, may participate in the retirement  
5 fund under this chapter if

6           (1) the employee possesses or is eligible to possess a  
7 teacher certificate under AS 14.20.020; and

8           (2) the employee pays all retroactive contributions re-  
9 quired to be made under this chapter.

10 \* Sec. 6. AS 14.25.115(a) is amended to read:

11           (a) A teacher in membership service on or after July 1, 1977,  
12 and before July 1, 1990, who is appointed to retirement on or after  
13 July 1, 1978, may elect to apply unused sick leave credit in computing  
14 the total number of years of credited service under AS 14.25.110(d)  
15 except for sick leave earned while participating in the optional  
16 university retirement program under AS 14.40.661 - 14.40.799 or in the  
17 defined contribution plan under AS 39.38. To obtain service credit  
18 for unused sick leave, a teacher must apply to the administrator no  
19 later than one year after appointment to retirement. Unused sick  
20 leave shall be credited on a day-for-day basis in accordance with the  
21 table for service after July 1, 1969, contained in AS 14.25.220(43).  
22 Teacher contributions may not be required for credited unused sick  
23 leave.

24 \* Sec. 7. AS 14.25.143(a) is amended to read:

25           (a) If the system is determined to be fully funded for the year  
26 and if [WHEN] the administrator determines that the cost of living has  
27 increased and that the financial condition of the system permits, the  
28 administrator shall increase benefit payments to persons receiving  
29 benefits under this system.

1 \* Sec. 8. AS 14.25.220(40) is amended to read:

2 (40) "teacher" or "member" means a person first hired before  
3 July 1, 1990, who is eligible to participate in the system and who is  
4 covered by the system, other than a person who is participating in the  
5 defined contribution plan, limited to

6 (A) a certificated full-time or part-time elementary  
7 or secondary teacher, a certificated school nurse, or a certifi-  
8 cated person in a position requiring a teaching certificate as a  
9 condition of employment in a public school of the state;

10 (B) the commissioner of education and all supervisory  
11 positions in the Department of Education;

12 (C) a full-time or part-time teacher of the University  
13 of Alaska or a person occupying a full-time administrative posi-  
14 tion at the University of Alaska which requires academic stand-  
15 ing; the approval of the administrator must be obtained before an  
16 administrative position qualifies for membership in the system;  
17 however, a teacher or administrative person at the university who  
18 is participating in the optional university retirement program  
19 under AS 14.40.661 - 14.40.799 is not a member under this system;

20 (D) a state legislator who elects membership under  
21 AS 14.25.040(b);

22 \* Sec. 9. AS 22.25.012(c) is amended to read:

23 (c) An administrative director first hired before July 1, 1990,  
24 who withdraws from the judicial retirement system under (b) of this  
25 section is eligible for membership in the public employees' retirement  
26 system (AS 39.35) and shall receive credited service in that system  
27 for service rendered as administrative director. An administrative  
28 director hired on or after July 1, 1990, who withdraws from the judi-  
29 cial retirement system is eligible for membership in the defined

1 contribution plan (AS 39.38) from the date of withdrawal. To be  
2 eligible for membership in the public employees' retirement system  
3 under this subsection, the administrative director must contribute to  
4 the public employees' retirement system

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

8 (2) any contributions for service as administrative director  
9 refunded from the public employees' retirement system at the time  
10 the administrative director became a member of the judicial retirement  
11 system.

12 \* Sec. 10. AS 22.25.012 is amended by adding a new subsection to read:

13 (d) An administrative director who chooses to withdraw from the  
14 judicial retirement system and participate in the defined contribution  
15 plan must contribute to the plan the amount required under (c) of this  
16 section for participation in the public employees' retirement system.  
17 The judicial retirement system shall transfer to the defined contribu-  
18 tion plan the amount in the employee contribution account, the amount  
19 of the employer contributions, and interest earned on both employee  
20 and employer contributions as required of the public employees' re-  
21 tirement system for members of that system.

22 \* Sec. 11. AS 37.13 is amended by adding a new section to read:

23 Sec. 37.13.125. ASSETS OF THE DEFINED CONTRIBUTION PLAN. If  
24 requested by the Retirement Board under AS 39.38.220, the board of  
25 trustees may manage and invest the assets of the defined contribution  
26 plan for a limited period of time. The board of trustees may impose  
27 conditions to its acceptance of the responsibility. The board of  
28 trustees shall comply with AS 37.13.120 in the investment of the  
29 assets and shall separately account for the earnings of the assets.

1 \* Sec. 12. AS 37.13.125 is repealed and reenacted to read:

2           Sec. 37.13.125. ASSETS OF THE DEFINED CONTRIBUTION PLAN. If  
3 requested by the State Investment Board under AS 39.38.220, the board  
4 of trustees may manage and invest the assets of the defined contribu-  
5 tion plan for a limited period of time. The board of trustees may  
6 impose conditions to its acceptance of the responsibility. The board  
7 of trustees shall comply with AS 37.13.120 in the investment of the  
8 assets and shall separately account for the earnings of the assets.

9 \* Sec. 13. AS 39.35.120 is amended to read:

10           Sec. 39.35.120. COMMENCEMENT OF PARTICIPATION. (a) Unless the  
11 employee has elected to participate in the defined contribution plan  
12 under AS 39.38, an [AN] employee of the state who was first hired  
13 before July 1, 1990, shall be included in this system upon commence-  
14 ment of employment with the state, or on January 1, 1961, whichever is  
15 later. Unless an employee has elected to participate in the optional  
16 university retirement program under AS 14.40.661 - 14.40.799 or the  
17 defined contribution plan under AS 39.38, an employee of a political  
18 subdivision or public organization that becomes an employer who was  
19 first hired before July 1, 1990, shall be included in the system on  
20 the effective date of the employer's participation or the date of the  
21 employee's commencement of employment with the employer, whichever is  
22 later.

23           (b) Inclusion in the system is a condition of employment for an  
24 employee who was first hired before July 1, 1990, except as otherwise  
25 provided for an elected official, an employee who has elected to  
26 participate in the defined contribution plan under AS 39.38, and for  
27 an employee of the university who has elected to participate in the  
28 optional university retirement program under AS 14.40.661 - 14.40.799.

29 \* Sec. 14. AS 39.35.158 is amended to read:

1           Sec. 39.35.158. ADMINISTRATIVE DIRECTOR OF COURTS. An adminis-  
2 trative director of the Alaska Court System first hired before July 1,  
3 1990, [COURT SYSTEM] who withdraws from the judicial retirement system  
4 under AS 22.25.012 and who has not elected to participate in the  
5 defined contribution plan is eligible for membership in the system  
6 and shall receive credited service in the system for service rendered  
7 as administrative director. To be eligible for membership in the  
8 system under this subsection, the administrative director must con-  
9 tribute to the system

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

13           (2) any contributions for services as administrative direc-  
14 tor refunded by the system at the time the director became a member of  
15 the judicial retirement system.

16 \* Sec. 15. AS 39.35.475(a) is amended to read:

17           (a) If the administrator determines that the system is fully  
18 funded for the year, [ONCE EACH YEAR] the administrator shall increase  
19 benefit payments to eligible disabled members, to persons age 60 or  
20 older receiving benefits under this system in the preceding calendar  
21 year, and to persons who have received benefits under this system for  
22 at least five years who are not otherwise eligible for an increase  
23 under this section.

24 \* Sec. 16. AS 39.35.680(21) is amended to read:

25           (21) "member" or "employee"

26           (A) means a person eligible to participate in the  
27 system who was first hired before July 1, 1990, and who is cov-  
28 ered by the system;

29           (B) includes

- 1 (i) active member;  
2 (ii) inactive member;  
3 (iii) vested member;  
4 (iv) deferred vested member;  
5 (v) non-vested member;  
6 (vi) disabled member;  
7 (vii) retired member;  
8 (C) does not include  
9 (i) former members;  
10 (ii) persons compensated on a contractual or fee  
11 basis;  
12 (iii) casual or emergency workers or nonpermanent  
13 employees as defined in AS 39.25.200;  
14 (iv) persons covered by the Alaska Teachers'  
15 Retirement System, the defined contribution plan, or the  
16 optional university retirement program;  
17 (v) employees of the division of marine transpor-  
18 tation engaged in operating the state ferry system who are  
19 covered by a union or group retirement system to which the  
20 state makes contributions;  
21 (vi) justices of the supreme court or judges of  
22 the court of appeals or of the superior or district courts  
23 of Alaska;  
24 (vii) the administrative director of courts ap-  
25 pointed under art. IV, sec. 16 of the state constitution  
26 unless the director becomes a member under AS 39.35.158; and  
27 (viii) members of the elected public officers'  
28 retirement system (former AS 39.37);  
29 (D) may include employees of the division of marine

1 transportation excluded under (C)(v) of this paragraph provided  
2 that

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

5 (ii) no collective bargaining agreement has the  
6 effect of obligating contributions made by the state under  
7 AS 39.30.150 in the event the state resumes participation in  
8 the federal social security system;

9 \* Sec. 17. AS 39.38.900(3) is repealed and reenacted to read:

10 (3) "board" means the State Investment Board;

11 \* Sec. 18. AS 39.50.200(b) is amended by adding a new paragraph to  
12 read:

13 (50) Defined Contribution Retirement Board (AS 39.38.020).

14 \* Sec. 19. Section 7, ch. 26, SLA 1986, as amended by sec. 7, ch. 104,  
15 SLA 1989, is further amended to read:

16 Sec. 7. INDEBTEDNESS ON REEMPLOYMENT. If a participant in the  
17 retirement incentive program is reemployed as a member of the Public  
18 Employees' Retirement System under AS 39.35, the optional university  
19 retirement program under AS 14.40.661 - 14.40.799, the defined contri-  
20 bution plan under AS 39.38, or the Teachers' Retirement System under  
21 AS 14.25 after appointment to retirement under the program, the par-  
22 ticipant loses the incentive credit received under sec. 5 (c) of this  
23 Act and is indebted to the system. The amount of the indebtedness is  
24 equal to 110 percent of the amount the participant received as a  
25 result of participation in the program for which the participant was  
26 not otherwise entitled, including the cost of health insurance. The  
27 participant is entitled to a credit to be applied against the re-  
28 employment indebtedness in the amount the participant has paid under  
29 sec. 5(d) of this Act. Interest accrues on the indebtedness at the

1 rate established by regulation from the date of reemployment until the  
2 member is appointed to retirement and accepts an actuarial adjustment  
3 to the member's future benefits or until the amount is paid in full.

4 \* Sec. 20. Section 9(a), ch. 89, SLA 1989, is amended to read:

5 (a) If a participant in the retirement incentive program is  
6 reemployed as a member of the public employees' retirement system  
7 under AS 39.35, [OR] the teachers' retirement system under AS 14.25,  
8 or the defined contribution plan under AS 39.38, after appointment to  
9 retirement under the retirement incentive program, the participant  
10 loses the incentive credit received under sec. 2(g) of this Act and is  
11 indebted to the system. The amount of the indebtedness is equal to  
12 110 percent of the amount the participant received as a result of par-  
13 ticipation in the program to which the participant was not otherwise  
14 entitled, including the cost of health insurance. The participant is  
15 entitled to a credit to be applied against the reemployment indebted-  
16 ness in the amount the participant has paid under sec. 2(e) or (f) of  
17 this Act. Interest accrues on the indebtedness at the rate estab-  
18 lished by regulation from the date of reemployment until the member is  
19 appointed to retirement and accepts an actuarial adjustment to the  
20 member's future benefits or until the amount is paid in full.

21 \* Sec. 21. AS 39.38.020 is repealed.

22 \* Sec. 22. Notwithstanding AS 39.38.210, enacted by sec. 1 of this Act,  
23 the employee contribution rate in effect for a position on June 30, 1990,  
24 shall be the employee contribution rate for that position until the rate is  
25 amended by the Retirement Board.

26 \* Sec. 23. Except for secs. 12, 17, and 21 of this Act, this Act takes  
27 effect July 1, 1990.

28 \* Sec. 24. Sections 12, 17, and 21 of this Act take effect only if an  
29 Act is enacted by the Sixteenth Alaska State Legislature that creates a

1 State Investment Board to manage and invest state retirement funds. If  
2 those sections take effect, they take effect on the later of July 1, 1990,  
3 and the date on which the State Investment Board assumes its duties to  
4 manage and invest the assets of the public employees' retirement system.