

SENATE BILL NO. 111

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Introduced: 2/11/93  
Referred: Finance

A BILL

FOR AN ACT ENTITLED

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

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

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

9 CHAPTER 38. DEFINED CONTRIBUTION RETIREMENT PLAN.

10 ARTICLE 1. ADMINISTRATION.

11 Sec. 39.38.010. PURPOSE AND EFFECTIVE DATE. (a) The purpose of this  
12 chapter is to encourage qualified personnel to enter and remain in the service of the  
13 state or a political subdivision or public organization of the state by establishing a plan

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

2 (b) The program created becomes effective on July 1, 1993, at which time  
3 contributions by the state and its employees begin.

4 **Sec. 39.38.020. DEFINED CONTRIBUTION RETIREMENT PLAN BOARD.**

5 (a) The Defined Contribution Retirement Plan Board composed of five members is  
6 established.

7 (b) Three board members shall be members of the personnel board of the  
8 Department of Administration. Two board members shall be members of the plan,  
9 elected by a majority of votes cast by members of the plan. Elections shall be  
10 conducted by the board. The term of office of an elected member is six years. A  
11 vacancy in an unexpired elective term shall be filled by election for a new six-year  
12 term.

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

16 (d) Members of the board are subject to AS 39.50 (Conflict of Interest).

17 **Sec. 39.38.030. DEFINED CONTRIBUTION RETIREMENT PLAN.** The  
18 board shall establish a defined contribution retirement plan for employees in which  
19 retirement and death benefits are provided through the purchase of annuity contracts,  
20 either fixed, variable, or a combination of fixed and variable, shares of a mutual fund,  
21 guaranteed investment contracts, or other suitable pension savings investments.  
22 Participation in the plan is in place of participation in a state retirement system.

23 **Sec. 39.38.040. POWERS AND DUTIES OF THE BOARD.** The board shall

24 (1) appoint an administrator of the plan and provide for the  
25 administration of the plan, including procedures for resolving complaints from  
26 participating employees;

27 (2) act as an appeals board, hold hearings at the request of an  
28 employer, employee, surviving spouse or a beneficiary on decisions made by the  
29 administrator, and submit its findings to the administrator;

30 (3) establish policies for the proper operation of the plan in consultation  
31 with the Alaska State Pension Investment Board and carry on other activities necessary

1 to carry out the intent and purpose of this chapter.

2 **Sec. 39.38.050. RESPONSIBILITIES OF THE ALASKA STATE PENSION**  
3 **INVESTMENT BOARD.** (a) The Alaska State Pension Investment Board is the  
4 fiduciary of the fund. The investment board has the same powers and duties  
5 established under this chapter in regard to the assets of the defined contribution  
6 retirement plan as are provided in AS 14.25.035(d) and 14.25.180 for the teachers'  
7 retirement fund. The first priority for investment of the assets is with the investment  
8 entities designated under (b) of this section.

9 (b) The State Investment Board shall designate the company or other entity to  
10 which payment of the contributions required under AS 39.38.210 may be made, after  
11 considering the

12 (1) nature and extent of the rights and benefits that the contracts will  
13 provide to employees who participate and to their beneficiaries;

14 (2) relation of the contractual rights and benefits to the contributions  
15 to be made under this chapter;

16 (3) suitability of the contractual rights and benefits to the needs and  
17 interests of participating employees and to the interest of the employer in the  
18 employment and retention of employees;

19 (4) ability of the designated company or other entity to provide rights  
20 and benefits under the contracts; and

21 (5) efficacy of the contracts in the recruitment and retention of  
22 employees.

23 **Sec. 39.38.060. DUTY OF EMPLOYERS TO FURNISH RECORDS.** Each  
24 employer shall furnish the administrator with records concerning the periods of service,  
25 dates of birth, compensation, new entrants into service, death, withdrawals, and other  
26 employee data necessary for the proper and effective operation of the plan.

27 **Sec. 39.38.070. ATTORNEY GENERAL.** The attorney general of the state  
28 is the attorney for the plan and shall represent it in a legal proceeding.

29 **ARTICLE 2. PARTICIPATION.**

30 **Sec. 39.38.100. PARTICIPATION.** (a) An employee of the state first hired  
31 on or after July 1, 1993, shall be included in the plan upon commencement of

1 employment with the state. Unless the employee has elected to participate in the  
2 optional university retirement program, or was first hired before July 1, 1993, an  
3 employee of a political subdivision, including a school district, regional educational  
4 attendance area, and the University of Alaska, or a public organization that becomes  
5 an employer shall be included in the plan on the effective date of the employer's  
6 participation or the date of the employee's commencement of employment with the  
7 employer, whichever is later.

8 (b) Inclusion in the plan is a condition of employment for an employee first  
9 hired on or after July 1, 1993, except as otherwise provided for an elected official and  
10 for an employee of the university who has elected to participate in the optional  
11 university retirement program.

12 Sec. 39.38.110. PARTICIPATION BY MEMBERS OF A STATE  
13 RETIREMENT SYSTEM. (a) A person who is a member of a state retirement  
14 system may elect to participate in the defined contribution retirement plan. An  
15 election to participate in the plan is irrevocable. The election shall be made in writing  
16 on a form provided by the board and approved for the state by the commissioner of  
17 administration. The form must be filed with the board and a copy of the form shall  
18 be delivered to the appropriate state retirement system. The election becomes  
19 irrevocable on the date it is received by the board. The election to participate in the  
20 plan constitutes a waiver of all rights and benefits under the state retirement systems  
21 earned on or after the effective date of the election.

22 (b) Except as provided in (d) of this section, if a member of a state retirement  
23 system elects to participate in the plan, the member may choose to transfer the amount  
24 in the employee's contribution account to the plan. If the member chooses to transfer  
25 the account, the appropriate state retirement system shall pay to the plan on behalf of  
26 the employee an amount equal to the balance in the account. The payment must be  
27 made within 45 days after the election is received by the state retirement system. The  
28 administrator of the plan shall immediately pay the amount received to the company  
29 or other entity designated by the board for the benefit of the employee.

30 (c) If a vested member of a state retirement system elects to participate in the  
31 plan without electing to transfer the amount in the employee's contribution account to

1 the plan, the employee ceases to be an active member of the retirement system on the  
2 effective date of the participation in the plan. The employee retains all benefits  
3 accrued in the state retirement system.

4 (d) An employee whose right to transfer assets out of a state retirement system  
5 is subject to a qualified domestic relations order is entitled to transfer assets from the  
6 state retirement system to the plan only if the requirements for receiving a refund  
7 under AS 14.25.150(b) or AS 39.35.200(c), as appropriate, are met.

8 (e) An employee first hired before July 1, 1993, who does not elect to  
9 participate in the plan under this section remains a member of the appropriate state  
10 retirement system.

11 Sec. 39.38.120. PARTICIPATION OF ELECTED OFFICIALS. (a) Service  
12 as an elected official with an employer constitutes employment as a member in the  
13 plan as long as a written waiver of coverage has not been filed with the administrator.  
14 A waiver under this subsection waives coverage of future employment as an elected  
15 official, regardless of any change of employer. An elected official may file a waiver  
16 under this subsection at any time after election to office, including the period before  
17 taking the oath of office. An elected official may revoke a waiver under this  
18 subsection by filing a written revocation with the administrator. A revocation under  
19 this subsection operates prospectively only, and the elected official may not receive  
20 coverage in the plan for service as an elected official while the waiver was in effect.  
21 There is no limit on the number of times an elected official may file a waiver or  
22 revocation under this subsection.

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

26 Sec. 39.38.130. PARTICIPATION BY OTHER EMPLOYEES. (a) A regular  
27 full-time civilian employee of the Alaska Army National Guard or Alaska Air National  
28 Guard, whose entire salary is paid from allotted federal funds, is included in the plan  
29 if the federal or state government pays the employer's contributions. If the amount  
30 that the federal government may legally contribute to the plan is less than the required  
31 employer's contribution, the state government may contribute the difference. If the

1 state chooses not to pay the difference, the employee's participation shall be based on  
2 the amount paid by the federal government.

3 (b) An employee of the North Pacific Fishery Management Council appointed  
4 under 16 U.S.C. 1852(f)(1) (Sec. 302(f)(1) of P. L. 94-265), whose compensation is  
5 paid from allotted federal funds, is included in the plan if the council pays the  
6 employer's contributions.

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

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

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

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

20 **ARTICLE 3. CONTRIBUTIONS, RIGHTS, AND BENEFITS.**

21 **Sec. 39.38.200. EMPLOYMENT CONTRIBUTIONS MANDATORY.**

22 Contributions of employees shall be made by payroll deductions. Every included  
23 employee is considered to consent to payroll deductions. It is of no consequence that  
24 a payroll deduction may cause the compensation paid in cash to an employee to be  
25 reduced below the minimum required by law. Payment of an employee's  
26 compensation, less payroll deductions, is a full and complete discharge and satisfaction  
27 of all claims and demands by the employee relating to remuneration of services during  
28 the period covered by the payment.

29 **Sec. 39.38.210. CONTRIBUTIONS.** (a) Except as provided in  
30 AS 39.38.130(a), the employer shall contribute to the plan on behalf of each employee  
31 participating in the plan an amount equal to 9.65 percent of the employee's

1 compensation.

2 (b) An employee participating in the plan shall contribute to the plan an  
3 amount set by the administrator. The amount may not be less than one-half of the  
4 amount of the employer contribution. The administrator may increase or decrease the  
5 contributions required of employees under this subsection during the course of a  
6 person's employment.

7 (c) The administrator may specify that contributions required by this section  
8 are made by a reduction in salary under 26 U.S.C. 414(h)(2) (Internal Revenue Code).

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

12 Sec. 39.38.220. BENEFITS. (a) Payment of benefits to participants of the  
13 plan is the responsibility of the company or other entity designated by the Alaska State  
14 Pension Investment Board and is not the responsibility of the investment board, the  
15 retirement board, the employer, or the state. The benefits are payable to participants  
16 or their beneficiaries under the terms of the annuity contract or contracts or other  
17 investments.

18 (b) The retirement board shall purchase and offer participation in a group  
19 health plan to members who have retired. The participating members shall pay the  
20 cost of the health plan.

21 Sec. 39.38.230. RIGHTS UNDER QUALIFIED DOMESTIC RELATIONS  
22 ORDER. A former spouse shall be treated as a spouse or surviving spouse to the  
23 extent required by a qualified domestic relations order. Rights under the order do not  
24 take effect until the order is filed with the administrator.

25 Sec. 39.38.240. SAFEGUARD OF EMPLOYEE FUNDS HELD BY THE  
26 PLAN. Employee contributions and other amounts held in the plan are exempt from  
27 Alaska state and local taxes. Amounts held on behalf of, or payable to, any employee  
28 or other person who is or may become eligible for benefits under the plan are not  
29 subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or  
30 charge of any kind, either voluntary or involuntary, before being received by the  
31 person entitled to the amount under the terms of the plan. An attempt to anticipate,

1 alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of a right  
2 to amounts held under the plan is void. However, an employee's right to receive  
3 benefits may be assigned under a qualified domestic relations order.

4 **Sec. 39.38.260. EXEMPTION OF EMPLOYEE FUNDS AND BENEFITS.**  
5 Employee contributions and other amounts held in the plan and retirement benefits  
6 payable under the plan are exempt from levy to enforce the collection of a debt as  
7 provided in AS 09.38 (exemptions).

8 **ARTICLE 4. POLITICAL SUBDIVISIONS AND PUBLIC ORGANIZATIONS.**

9 **Sec. 39.38.300. REQUEST TO PARTICIPATE.** (a) A municipality or other  
10 political subdivision of the state may request to become an employer in the plan. The  
11 request shall be made after adoption of a resolution by the legislative body of the  
12 political subdivision and after approval of the resolution by the person required by law  
13 to approve it. A certified copy of the resolution shall be filed with the administrator.  
14 If the administrator approves the request for participation, the political subdivision is  
15 an employer of the plan.

16 (b) A public organization may request to become an employer in the plan.  
17 The request shall be made after adoption of a resolution by the governing body of the  
18 public organization. A certified copy of the resolution shall be filed with the  
19 administrator. If the administrator approves the request for participation, the public  
20 organization is an employer of the plan.

21 **Sec. 39.38.310. SURVEY TO DETERMINE ESTIMATED COST.** A political  
22 subdivision or public organization contemplating participation in the plan may request  
23 a preliminary survey to determine the estimated cost of participation, the benefits  
24 derived, and other information that is appropriate. The political subdivision or public  
25 organization requesting the survey shall pay the cost of it.

26 **Sec. 39.38.320. PARTICIPATION.** (a) The effective date of participation in  
27 the plan by a political subdivision or public organization is the first day of any month  
28 acceptable to the governing body of the political subdivision or public organization and  
29 to the board.

30 (b) The political subdivision or public organization shall designate the  
31 departments, groups, or other classifications of employees eligible to participate in the

1 plan, and shall agree to make the contributions each year that are required by the  
2 administrator.

3 (c) The eligible employees of a participating political subdivision or public  
4 organization are bound by the provisions of this plan and are entitled to the benefits  
5 provided under it.

6 Sec. 39.38.330. CONTRIBUTIONS AND TERMINATION OF  
7 PARTICIPATION FOR NONPAYMENT. (a) The contributions of an employer that  
8 is a participating political subdivision or public organization and the contributions of  
9 its employees shall be transmitted to the administrator as soon as practicable after the  
10 close of the payroll period for which the contributions are made. If the employer is  
11 delinquent in transferring the contributions for more than 15 days, interest and other  
12 penalties shall be assessed on the outstanding contributions at the rate and in the  
13 amount established by the board.

14 (b) If the contributions are not transmitted to the administrator within the  
15 prescribed time limit, the administrator may grant an extension. If the political  
16 subdivision or public organization is in default at the end of the extension,  
17 participation in the plan is terminated, and the employer shall be sent notice of  
18 termination.

19 (c) Termination of an employer's participation in the plan does not bar future  
20 participation in the plan by that employer.

21 Sec. 39.38.350. EFFECT OF TERMINATION BY AMENDMENT OF  
22 AGREEMENT. (a) A political subdivision or public organization may request that  
23 its participation agreement be amended. The request may be made only after adoption  
24 of a resolution by the legislative body of the political subdivision and approval of the  
25 resolution by the person required by law to approve the resolution, or, in the case of  
26 a public organization, after adoption of a resolution by the governing body of that  
27 public organization. A certified copy of the resolution shall be filed with the  
28 administrator.

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

31 ARTICLE 5. GENERAL PROVISIONS.

1           **Sec. 39.38.450. NONGUARANTEE OF EMPLOYMENT.** This chapter is not  
2 a contract of employment between an employer and an employee, nor does it confer  
3 a right of an employee to be continued in the employment of an employer, nor is it a  
4 limitation of the right of an employer to discharge an employee with or without cause.

5           **Sec. 39.38.460. FRAUD.** A person who knowingly makes a false statement,  
6 or knowingly falsifies or permits to be falsified a record of this plan, in an attempt to  
7 defraud the plan, is guilty of a Class A misdemeanor.

8           **Sec. 39.38.900. DEFINITIONS.** In this chapter,

9                   (1) "administrator" means the administrator of the defined contribution  
10 retirement plan;

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

13                   (3) "board" means the Defined Contribution Retirement Plan Board  
14 established under AS 39.38.020;

15                   (4) "compensation" means the total remuneration earned by an  
16 employee for personal services rendered to an employer, including employee  
17 contributions under AS 39.38.210, cost-of-living differentials, payments for leave that  
18 is actually used by the employee, the amount by which the employee's wages are  
19 reduced under AS 39.30.150(c), and any amount deferred under an employer-sponsored  
20 deferred compensation plan, but does not include retirement benefits, severance pay  
21 or other separation bonuses, welfare benefits, per diem, expense allowances, workers'  
22 compensation payments, incentive cash awards, or payments for leave not used by the  
23 employee whether those leave payments are scheduled payments, lump-sum payments,  
24 donations, or cash-ins;

25                   (5) "contribution account" means the member contribution account  
26 under AS 14.25, the employee contribution account under AS 39.35, or, for an  
27 administrative director of the Alaska court system electing to participate in the plan,  
28 the total maintained by the judicial retirement system of the administrative director's  
29 mandatory contributions, indebtedness principal, contributions of interest on  
30 indebtedness, interest credited to each of those accounts, and adjustments to the  
31 accounts, whichever is appropriate;

1 (6) "elected official" means a person whose compensation results from  
2 personal services rendered to an employer as an elected representative;

3 (7) "employer" means the State of Alaska, a political subdivision or  
4 public organization of the state that participates in the plan, or an employer under  
5 AS 39.38.120 or 39.38.130 that participates in the plan;

6 (8) "member" or "employee"

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

9 (B) includes an elected public officer under AS 39.38.120 and  
10 other employees participating under AS 39.38.130;

11 (C) does not include

12 (i) former members;

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

14 (iii) casual or emergency workers or nonpermanent  
15 employees as defined in AS 39.25.200;

16 (iv) except as provided in AS 39.38.110, members of the  
17 Alaska teachers' retirement system (AS 14.25), the judicial retirement  
18 system (AS 22.25), the public employees' retirement system  
19 (AS 39.35), the elected public officers' retirement system (former  
20 AS 39.37), or the optional university retirement program;

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

24 (vi) the administrative director of courts appointed under  
25 art. IV, sec. 16 of the state constitution unless the director becomes a  
26 member under AS 39.38.130(c);

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

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

31 (ii) no collective bargaining agreement has the effect of

1 obligating contributions made by the state under AS 39.30.150 in the  
2 event the state resumes participation in the federal social security  
3 system;

4 (9) "optional university retirement program" means the program  
5 established under AS 14.40.661 - 14.40.799;

6 (10) "plan" means the defined contribution retirement plan established  
7 in this chapter;

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

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

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

13 (C) whose employees are not required by law to participate in  
14 the plan;

15 (12) "qualified domestic relations order" has the meaning given in  
16 AS 39.35.680;

17 (13) "state retirement system" means the teachers' retirement system  
18 under AS 14.25, the public employees' retirement system under AS 39.35, or, for an  
19 administrative director of the Alaska court system who elects to participate in the plan  
20 under AS 22.25.012, the judicial retirement system under AS 22.25.

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

22 (c) The board shall

23 (1) confer with the commissioner of administration regarding the  
24 administration of the system and may make recommendations that it considers  
25 necessary;

26 (2) have prepared, at least biennially, an actuarial valuation of the  
27 total obligations under the system of each employer and, on the basis of the  
28 valuation, shall certify to the appropriate budgetary authorities of each employer:

29 (A) an appropriate contribution rate for all employers; and

30 (B) an amount appropriate for each employer to liquidate  
31 the employee's past service liability; the board shall have an actuarial and

1 financial experience analysis of the system conducted at appropriate  
2 intervals, but no less frequently than once every six years; the actuarial  
3 valuations and the actuarial and financial experience analysis shall be  
4 prepared and certified by a member of the American Academy of  
5 Actuaries.

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

7 (a) Unless a teacher or member has elected to participate in the optional  
8 university retirement program under AS 14.40.661 - 14.40.799 or the defined  
9 contribution retirement plan under AS 39.38, a teacher or member contracting for  
10 service with a participating employer who became a member of this system before  
11 July 1, 1993, is subject to this chapter.

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

13 (a) An employee or former employee of the National Education Association  
14 of Alaska may participate in the system under this chapter if the employee or former  
15 employee elects to participate before July 1, 1993, and if the employee or former  
16 employee

17 (1) [THE EMPLOYEE OR FORMER EMPLOYEE] possesses or is  
18 eligible to possess a teacher certificate under AS 14.20.020; and

19 (2) [THE EMPLOYEE OR FORMER EMPLOYEE] of the National  
20 Education Association of Alaska pays all retroactive contributions required to be made  
21 under this chapter.

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

23 Sec. 14.25.047. PARTICIPATION BY SPECIAL EDUCATION SERVICE  
24 AGENCY EMPLOYEES. An employee of the Special Education Service Agency first  
25 hired before July 1, 1993, may participate in the system under this chapter if

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

28 (2) the employee pays all retroactive contributions required to be made  
29 under this chapter.

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

31 (a) A teacher in membership service on or after July 1, 1977, and before

1 July 1, 1993, who is appointed to retirement on or after July 1, 1978, may elect to  
2 apply unused sick leave credit in computing the total number of years of credited  
3 service under AS 14.25.110(d) except for sick leave earned while participating in the  
4 optional university retirement program under AS 14.40.661 - 14.40.799 or in the  
5 defined contribution retirement plan under AS 39.38. To obtain service credit for  
6 unused sick leave, a teacher must apply to the administrator no later than one year  
7 after appointment to retirement. Unused sick leave shall be credited on a day-for-day  
8 basis in accordance with the table for service after July 1, 1969, contained in  
9 AS 14.25.220(43). Teacher contributions may not be required for credited unused sick  
10 leave.

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

12 (a) If the administrator determines that the system will be 100 percent  
13 actuarially funded after granting an increase to benefits for the [ONCE EACH]  
14 year, the administrator shall increase benefit payments to eligible disabled members,  
15 to persons age 60 or older receiving benefits under this system in the preceding  
16 calendar year, and to persons who have received benefits under this system for at least  
17 eight years who are not otherwise eligible for an increase under this section.

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

19 (40) "teacher" or "member" means a person first hired before July 1,  
20 1993, who is eligible to participate in the system, [AND] who is covered by the  
21 system, and who has not chosen to participate in the defined contribution  
22 retirement plan, limited to

23 (A) a certificated full-time or part-time elementary or secondary  
24 teacher, a certificated school nurse, or a certificated person in a position  
25 requiring a teaching certificate as a condition of employment in a public school  
26 of the state;

27 (B) the commissioner of education and all supervisory positions  
28 in the Department of Education;

29 (C) a full-time or part-time teacher of the University of Alaska  
30 or a person occupying a full-time administrative position at the University of  
31 Alaska that requires academic standing; the approval of the administrator must

1 be obtained before an administrative position qualifies for membership in the  
2 system; however, a teacher or administrative person at the university who is  
3 participating in the optional university retirement program under  
4 AS 14.40.661 - 14.40.799 is not a member under this system;

5 (D) a state legislator who elects membership under  
6 AS 14.25.040(b);

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

8 (c) An administrative director first hired before July 1, 1993, who withdraws  
9 from the judicial retirement system under (b) of this section is eligible for membership  
10 in the public employees' retirement system (AS 39.35) and shall receive credited  
11 service in that system for service rendered as administrative director. An  
12 administrative director hired on or after July 1, 1993, who withdraws from the  
13 judicial retirement system is eligible for membership in the defined contribution  
14 retirement plan (AS 39.38) from the date of withdrawal. To be eligible for  
15 membership in the public employees' retirement system under this subsection, the  
16 administrative director must contribute to the public employees' retirement system

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

20 (2) any contributions for service as administrative director refunded  
21 from the public employees' retirement system at the time the administrative director  
22 became a member of the judicial retirement system.

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

24 (d) An administrative director who chooses to withdraw from the judicial  
25 retirement system and participate in the defined contribution retirement plan must  
26 contribute to the plan the amount required under (c) of this section for participation  
27 in the public employees' retirement system. The judicial retirement system shall  
28 transfer to the defined contribution retirement plan the amount in the employee  
29 contribution account, the amount of the employer contributions, and interest earned on  
30 both employee and employer contributions as required of the public employees'  
31 retirement system for members of that system.

1 \* **Sec. 11.** AS 37.10.220(c) is amended to read:

2 (c) The board shall meet annually, either jointly or separately, with the Public  
3 Employees' Retirement Board, the Teachers' Retirement Board, the Defined  
4 Contribution Retirement Plan Board and the Department of Administration to  
5 review benefit administration of each of the retirement systems and of the employee  
6 benefits program established under AS 39.30.150 - 39.30.180 and the deferred  
7 compensation program under AS 39.45. The Department of Administration and each  
8 retirement board shall report to the investment board on benefit administration and  
9 other issues for that retirement system or program that may affect the investment and  
10 management of the fund.

11 \* **Sec. 12.** AS 37.10.390(2) is amended to read:

12 (2) "retirement systems" means the teachers' retirement system, the  
13 judicial retirement system, the Alaska National Guard and Alaska Naval Militia  
14 retirement system, the defined contribution retirement plan, and the public  
15 employees' retirement system.

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

17 Sec. 39.35.120. COMMENCEMENT OF PARTICIPATION. (a) Unless the  
18 employee has elected to participate in the defined contribution retirement plan  
19 under AS 39.38, an [AN] employee of the state who was first hired before July 1,  
20 1993, shall be included in this system upon commencement of employment with the  
21 state, or on January 1, 1961, whichever is later. Unless an employee has elected to  
22 participate in the optional university retirement program under AS 14.40.661 -  
23 14.40.799 or the defined contribution retirement plan under AS 39.38, an employee  
24 of a political subdivision or public organization that becomes an employer who was  
25 first hired before July 1, 1993, shall be included in the system on the effective date  
26 of the employer's participation or the date of the employee's commencement of  
27 employment with the employer, whichever is later.

28 (b) Inclusion in the system is a condition of employment for an employee who  
29 was first hired before July 1, 1993, except as otherwise provided for an elected  
30 official, an employee who has elected to participate in the defined contribution  
31 retirement plan under AS 39.38, and for an employee of the university who has

1 elected to participate in the optional university retirement program under  
2 AS 14.40.661 - 14.40.799.

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

4 Sec. 39.35.158. ADMINISTRATIVE DIRECTOR OF COURTS. An  
5 administrative director of the Alaska court system first hired before July 1, 1993,  
6 who withdraws from the judicial retirement system under AS 22.25.012 and who has  
7 not elected to participate in the defined contribution retirement plan is eligible for  
8 membership in the system and shall receive credited service in the system for service  
9 rendered as administrative director. To be eligible for membership in the system under  
10 this subsection, the administrative director must contribute to the system

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

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

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

18 (a) If the administrator determines that the system will be 100 percent  
19 actuarially funded after granting an increase to benefits for the year, [ONCE  
20 EACH YEAR] the administrator shall increase benefit payments to eligible disabled  
21 members, to persons age 60 or older receiving benefits under this system in the  
22 preceding calendar year, and to persons who have received benefits under this system  
23 for at least five years who are not otherwise eligible for an increase under this section.

24 \* Sec. 16. AS 39.35.550 is amended to read:

25 Sec. 39.35.550. REQUEST BY POLITICAL SUBDIVISION TO  
26 PARTICIPATE AND ADOPTION OF RESOLUTION. A municipality or other  
27 political subdivision of the state may, before July 1, 1993, request to become an  
28 employer in this system. The request shall be made after adoption of a resolution by  
29 the legislative body of the political subdivision and after approval of the resolution by  
30 the person required by law to approve the resolution. A certified copy of the  
31 resolution shall be filed with the administrator. If the administrator approves the

1 request for participation, the political subdivision is an employer of the system.

2 \* Sec. 17. AS 39.35.560 is amended to read:

3 Sec. 39.35.560. REQUEST BY PUBLIC ORGANIZATION TO  
4 PARTICIPATE AND ADOPTION OF RESOLUTION. A public organization may,  
5 before July 1, 1993, request to become an employer in this system. The request shall  
6 be made after adoption of a resolution by the governing body of the public  
7 organization. A certified copy of the resolution shall be filed with the administrator.  
8 If the administrator approves the request for participation, the public organization is  
9 an employer of the system.

10 \* Sec. 18. AS 39.35.680(21) is amended to read:

11 (21) "member" or "employee"

12 (A) means a person eligible to participate in the system who  
13 was first hired before July 1, 1993, and who is covered by the system;

14 (B) includes

- 15 (i) active member;  
16 (ii) inactive member;  
17 (iii) vested member;  
18 (iv) deferred vested member;  
19 (v) non-vested member;  
20 (vi) disabled member;  
21 (vii) retired member;  
22 (viii) an elected public officer under AS 39.35.381;

23 (C) does not include

- 24 (i) former members;  
25 (ii) persons compensated on a contractual or fee basis;  
26 (iii) casual or emergency workers or nonpermanent  
27 employees as defined in AS 39.25.200;  
28 (iv) persons covered by the Alaska Teachers' Retirement  
29 System except as provided under AS 39.35.131 and 39.35.381, persons  
30 covered by the defined contribution retirement plan, or persons  
31 covered by the optional university retirement program;

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

4 (vi) justices of the supreme court or judges of the court  
5 of appeals or of the superior or district courts of Alaska;

6 (vii) the administrative director of courts appointed  
7 under art. IV, sec. 16 of the state constitution unless the director  
8 becomes a member under AS 39.35.158; and

9 (viii) members of the elected public officers' retirement  
10 system (former AS 39.37);

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

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

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

19 \* Sec. 19. AS 39.50.200(b) is amended by adding a new paragraph to read:

20 (55) Defined Contribution Retirement Plan Board (AS 39.38.020).

21 \* Sec. 20. Section 7, ch. 26, SLA 1986, as amended by sec. 7, ch. 104, SLA 1989, is  
22 further amended to read:

23 Sec. 7. INDEBTEDNESS ON REEMPLOYMENT. If a participant in the  
24 retirement incentive program is reemployed as a member of the Public Employees'  
25 Retirement System under AS 39.35, the optional university retirement program under  
26 AS 14.40.661 - 14.40.799, the defined contribution retirement plan under  
27 AS 39.38, or the Teachers' Retirement System under AS 14.25 after appointment to  
28 retirement under the program, the participant loses the incentive credit received under  
29 sec. 5 (c) of this Act and is indebted to the system. The amount of the indebtedness  
30 is equal to 110 percent of the amount the participant received as a result of  
31 participation in the program for which the participant was not otherwise entitled, in-

1 including the cost of health insurance. The participant is entitled to a credit to be  
2 applied against the reemployment indebtedness in the amount the participant has paid  
3 under sec. 5 (d) of this Act. Interest accrues on the indebtedness at the rate established  
4 by regulation from the date of reemployment until the member is appointed to  
5 retirement and accepts an actuarial adjustment to the member's future benefits or until  
6 the amount is paid in full.

7 \* Sec. 21. Section 9(a), ch. 89, SLA 1989, as amended by sec. 6, ch. 18, SLA 1990, is  
8 amended to read:

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

22 \* Sec. 22. Notwithstanding AS 39.38.210, enacted by sec. 1 of this Act, the employee  
23 contribution rate in effect for a position on June 30, 1993, shall be the employee contribution  
24 rate for that position until the rate is amended by the Defined Contribution Retirement Plan  
25 Board.

26 \* Sec. 23. Notwithstanding AS 39.38.020, the initial Defined Contribution Retirement Plan  
27 Board shall consist of the three members of the personnel board of the Department of  
28 Administration. As soon as there are 300 members in the plan, the board shall conduct  
29 elections under AS 39.38.020(b) to add the two board members who are members of the plan.  
30 Notwithstanding AS 39.38.020(b), the initial two elected members shall serve staggered terms.  
31 The elected members are considered members of the board on the date that the initial board

1 accepts the final results of the election.

2 \* Sec. 24. This Act takes effect July 1, 1993.