

ALASKA LEGISLATURE

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1 plan: however, a teacher or administrative person at the university who is  
2 participating in a university retirement program under AS 14.40.661 -  
3 14.40.799 is not a member under this plan;

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

6 (A) during any school year,

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

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

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

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

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

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

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

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

15 years;

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

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

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

19 (B) service performed on a part-time basis of half time or more  
20 shall be credited in proportion to the amount of credit that would have been  
21 received for service performed on a full-time basis.

22 \* Sec. 30. AS 14.40.280(c) is amended to read:

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

30 \* Sec. 31. AS 14.40.400(b) is amended to read:

31 (b) The Board of Regents is the fiduciary of the fund. The Board of Regents

1 shall account for and invest the fund. In carrying out its investment responsibilities  
2 under this subsection, the Board of Regents has the same powers and duties with  
3 respect to the fund as are provided to and required of the Alaska Retirement  
4 Management [STATE PENSION INVESTMENT] Board under AS 37.10.210  
5 [AS 14.25.180].

6 \* Sec. 32. AS 14.40.661 is amended to read:

7 Sec. 14.40.661. Authority of board. (a) The board may establish and  
8 maintain [AN OPTIONAL] university retirement programs [PROGRAM] for  
9 eligible employees in which retirement, health, and death benefits are provided  
10 through the purchase of annuity contracts, either fixed, variable, or a combination of  
11 fixed and variable. Participation in a university retirement [THE] program is in  
12 place of participation in a state retirement system. The university may establish  
13 retirement programs for new employees in a participating position at any time.  
14 Retirement programs may be optional or mandatory.

15 (b) The board shall

16 (1) provide for the administration of the retirement programs  
17 [PROGRAM], including procedures for resolving complaints from participating  
18 employees;

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

21 (A) nature and extent of the rights and benefits that the  
22 contracts will provide to employees who elect to participate and to their  
23 beneficiaries;

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

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

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

31 (E) efficacy of the contracts in the recruitment and retention of

1 faculty and administrators;

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

6 \* Sec. 33. AS 14.40.661 is amended by adding a new subsection to read:

7 (c) The university retirement programs established under this section are not  
8 subject to bargaining under AS 23.40.070 - 23.40.260 (Public Employment Relations  
9 Act).

10 \* Sec. 34. AS 14.40.671(b) is amended to read:

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

19 \* Sec. 35. AS 14.40.671(c) is amended to read:

20 (c) Participation in a university retirement [THE ELECTION TO  
21 PARTICIPATE IN THE] program constitutes a waiver of all rights and benefits under  
22 the state retirement systems earned on or after the effective date of the election if the  
23 participation is optional, or the effective date of the participation if the  
24 participation is mandatory, and while the employee is participating in a university  
25 retirement [THE] program.

26 \* Sec. 36. AS 14.40.671(d) is amended to read:

27 (d) Except as provided in (e) of this section, if a nonvested member of a state  
28 retirement system participates [ELECTS TO PARTICIPATE] in a university  
29 retirement [THE] program, the employee may choose to transfer the amount in the  
30 employee's contribution account to a university retirement [THE] program. If the  
31 employee chooses to transfer the account, the appropriate state retirement system shall

1 pay to the university on behalf of the employee an amount equal to the balance in the  
2 account. The payment must be made within 45 days after notice of the employee's  
3 decision to transfer the employee's contribution account to a university  
4 retirement program [THE ELECTION] is received by the state retirement system.  
5 The financial officer of the university shall [IMMEDIATELY] pay the amount  
6 received to the designated company or companies for the benefit of the employee as  
7 soon as possible. An employee who transfers assets under this subsection may not  
8 reclaim the corresponding service in the state retirement system if the employee is  
9 reemployed under the state retirement system.

10 \* Sec. 37. AS 14.40.671(e) is amended to read:

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

16 \* Sec. 38. AS 14.40.671(f) is amended to read:

17 (f) If a vested member of a state retirement system participates [ELECTS TO  
18 PARTICIPATE] in a university retirement [THE] program, the employee ceases to  
19 be an active member of the state retirement system on the effective date of the  
20 participation in a university retirement [THE] program. The employee retains all  
21 benefits accrued in the state retirement system.

22 \* Sec. 39. AS 14.40.671(g) is amended to read:

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

26 \* Sec. 40. AS 14.40.671 is amended by adding new subsections to read:

27 (h) Notwithstanding (a) of this section, the university may establish a  
28 mandatory retirement program for new employees.

29 (i) Notwithstanding (b) of this section, the university may offer an employee  
30 who made an election not to participate in an optional university retirement program at  
31 the time the employee was eligible to participate in the program an option to enroll in

1 a different university retirement program first established by the university after the  
2 effective date of this subsection.

3 \* Sec. 41. AS 14.40.681 is amended to read:

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

11 \* Sec. 42. AS 14.40.691(c) is amended to read:

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

15 \* Sec. 43. AS 14.40.701 is amended to read:

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

24 \* Sec. 44. AS 14.40.799(3) is amended to read:

25 (3) "contribution account" means the member contribution account  
26 under AS 14.25.009 - 14.25.220, the individual account under AS 14.25.310 -  
27 14.25.590, [AS 14.25 OR] the employee contribution account under AS 39.35.095 -  
28 39.35.680, or the individual account under AS 39.35.700 - 39.35.990 [AS 39.35].  
29 whichever is appropriate;

30 \* Sec. 45. AS 14.40.799(5) is amended to read:

31 (5) "participating position" means a position that is a permanent

1 position that is at least a .5 full-time appointment and is included in the applicable  
2 retirement plan document [AS

3 (A) A FACULTY APPOINTMENT; OR

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

7 \* Sec. 46. AS 14.40.799(6) is amended to read:

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

10 \* Sec. 47. AS 14.40.799 is amended by adding a new paragraph to read:

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

12 \* Sec. 48. AS 22.25.048(c) is amended to read:

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

17 \* Sec. 49. AS 22.25.900(1) is amended to read:

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

26 \* Sec. 50. AS 26.05.226(a) is amended to read:

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

31 (1) fund the system based on the actuarial requirements of the system

1 as established by the Alaska Retirement Management Board [COMMISSIONER  
2 OF ADMINISTRATION]; and

3 (2) administer the system.

4 \* Sec. 51. AS 26.05.228(c) is amended to read:

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

9 \* Sec. 52. AS 36.30.015(f) is amended to read:

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

24 \* Sec. 53. AS 36.30.990(1) is amended to read:

25 (1) "agency"

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

30 (B) does not include

31 (i) the University of Alaska;

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- (ii) the Alaska Railroad Corporation;
- (iii) the Alaska Housing Finance Corporation;
- (iv) a regional Native housing authority created under AS 18.55.996 or a regional electrical authority created under AS 18.57.020;
- (v) the Department of Transportation and Public Facilities, in regard to the repair, maintenance, and reconstruction of vessels, docking facilities, and passenger and vehicle transfer facilities of the Alaska marine highway system;
- (vi) the Alaska Aerospace Development Corporation;
- (vii) the Alaska Retirement Management [STATE PENSION INVESTMENT] Board;
- (viii) the Alaska Seafood Marketing Institute;

\* Sec. 54. AS 37.10.071(d) is amended to read:

(d) In exercising investment, custodial, or depository powers or duties under this section, the fiduciary or the fiduciary's designee is liable for a breach of a duty that is assigned or delegated under this section, or under [AS 14.25.180,] AS 14.40.255, 14.40.280(c), 14.40.400(b), AS 37.10.070, AS 37.14.110(c), 37.14.160, or 37.14.170 [, OR AS 39.35.080]. However, the fiduciary or the designee is not liable for a breach of a duty that has been delegated to another person if the delegation is prudent under the applicable standard of prudence set out in statute or if the duty is assigned by law to another person, except to the extent that the fiduciary or designee

(1) knowingly participates in, or knowingly undertakes to conceal, an act or omission of another person knowing that the act or omission is a breach of that person's duties under this chapter;

(2) by failure to comply with this section in the administration of specific responsibilities, enables another person to commit a breach of duty; or

(3) has knowledge of a breach of duty by another person, unless the fiduciary or designee makes reasonable efforts under the circumstances to remedy the breach.

\* Sec. 55. AS 37.10.071(f) is amended to read:

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

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

3 or

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

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

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

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

13 \* Sec. 56. AS 37.10.210 is repealed and reenacted to read:

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

26 (b) The Alaska Retirement Management Board consists of nine trustees. The  
27 commissioner of administration and the commissioner of revenue shall serve on the  
28 board. The governor shall appoint seven additional trustees who meet the eligibility  
29 requirements for an Alaska permanent fund dividend and who are professionally  
30 credentialed or have recognized competence in investment management, finance,  
31 banking, economics, accounting, pension administration, or actuarial analysis as

1 follows:

2 (1) three trustees shall be appointed from the general public; a trustee  
3 appointed under this paragraph may not hold another state office, position, or  
4 employment and may not be a member or beneficiary of a retirement system managed  
5 by the board;

6 (2) one trustee shall be employed as a finance officer for a political  
7 subdivision participating in the public employees' retirement system;

8 (3) one trustee shall be employed as a finance officer for a political  
9 subdivision participating in the teachers' retirement system;

10 (4) one trustee shall be a member of the public employees' retirement  
11 system who may be selected from a list of nominees submitted by public employees'  
12 retirement system bargaining units;

13 (5) one trustee shall be a member of the teachers' retirement system  
14 who may be selected from a list of nominees submitted by teachers' retirement system  
15 bargaining units.

16 (c) The trustees, other than the two commissioners, shall serve for staggered  
17 terms of four years and may be reappointed to the board for a total of two consecutive  
18 terms. A person who has served two consecutive terms may not be reappointed to the  
19 board for at least one year.

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

24 (e) A vacancy on the board of trustees shall be promptly filled. A person  
25 filling a vacancy holds office for the balance of the unexpired term of the person's  
26 predecessor, and the balance of the unexpired term served is not included in the three-  
27 term limitation under (c) of this section. A vacancy on the board does not impair the  
28 authority of a quorum of the board to exercise all the powers and perform all the duties  
29 of the board.

30 (f) Five trustees constitute a quorum for the transaction of business and the  
31 exercise of the powers and duties of the board.

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

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

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

9 \* Sec. 57. AS 37.10 is amended by adding a new section to read:

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

12 \* Sec. 58. AS 37.10.220 is repealed and reenacted to read:

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

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

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

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

22 (4) provide a range of investment options and establish the rules by  
23 which participants can direct their investments among those options with respect to  
24 accounts established under

25 (A) AS 14.25.340 and 14.25.350 (teachers' retirement system  
26 defined contribution individual accounts);

27 (B) AS 39.30.150 - 39.30.180 (State of Alaska Supplementary  
28 Annuity Plan);

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

31 (D) AS 39.45.010 - 39.45.060 (public employees' deferred

1 compensation program);

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

8 (6) adopt a contribution surcharge as necessary under AS 39.35.160(c);

9 (7) coordinate with the retirement system administrator to have an  
10 annual actuarial valuation of each retirement system prepared to determine system  
11 assets, accrued liabilities, and funding ratios and to certify to the appropriate  
12 budgetary authority of each employer in the system

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

14 (B) an appropriate contribution rate for liquidating any past  
15 service liability;

16 (8) review annually the status of the retiree health insurance fund  
17 established for members of the defined contribution plans under AS 14.25.310 -  
18 14.25.590 and AS 39.35.700 - 39.35.990 to ensure the medical cost rate established for  
19 employers under AS 14.25.350(b) and AS 39.35.750(b) is sufficient to fully fund the  
20 employers' required share of the premiums established for the retiree major medical  
21 insurance plan; the board shall notify the legislature immediately if the board  
22 determines the rates established by statute are insufficient;

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

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

31 (11) contract for an independent audit of the state's performance

1 consultant not less than once every four years;

2 (12) obtain an external performance review to evaluate the investment  
3 policies of each fund entrusted to the board and report the results of the review to the  
4 appropriate fund fiduciary;

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

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

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

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

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

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

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

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

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

20 (15) develop an annual operating budget.

21 (b) The board may

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

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

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

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

31 (c) Expenses for the board and the operations of the board shall be paid from

1 the retirement fund.

2 \* Sec. 59. AS 37.10.250 is amended to read:

3 Sec. 37.10.250. Compensation of trustees. Trustees, other than trustees who  
4 are employees of the state, [OR] a political subdivision of the state, or a school  
5 district or regional educational attendance area in the state, receive an honorarium  
6 of \$400 [\$150] for each day spent at a meeting of the board or at a meeting of a  
7 subcommittee of the board or at a public meeting as a representative of the board.  
8 Trustees who are state employees are entitled to administrative leave for service as a  
9 trustee. Trustees who are employees of a political subdivision of the state or a school  
10 district or regional educational attendance area in the state are entitled to leave  
11 benefits provided by their employers comparable to those provided to state employees  
12 for service as a trustee. Trustees are entitled to per diem and travel expenses  
13 authorized for boards and commissions under AS 39.20.180.

14 \* Sec. 60. AS 37.10.270(a) is amended to read:

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

20 \* Sec. 61. AS 37.10.390 is amended to read:

21 Sec. 37.10.390. Definitions. In AS 37.10.210 - 37.10.390, unless the context  
22 otherwise requires,

23 (1) "board" means the board of trustees of the Alaska Retirement  
24 Management [STATE PENSION INVESTMENT] Board:

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

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

31 (4) "retirement systems" or "systems" means the teachers' retirement

1 system, the judicial retirement system, the Alaska National Guard and Alaska Naval  
2 Militia retirement system, [AND] the public employees' retirement system, the State  
3 of Alaska teachers' and public employees' retiree health reimbursement  
4 arrangement plan, and the elected public officers' retirement system under  
5 former AS 39.37.

6 \* Sec. 62. AS 37.14.160 is amended to read:

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

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

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

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

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

18 \* Sec. 63. AS 37.14.210(4) is amended to read:

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

22 \* Sec. 64. AS 37.14.520(4) is amended to read:

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

26 \* Sec. 65. AS 37.14.610 is amended to read:

27 **Sec. 37.14.610. Duties of the commissioner.** The commissioner of revenue  
28 has the power and duty to

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

1 (2) exercise the same powers and duties as those established for the  
2 Alaska Retirement Management [STATE PENSION INVESTMENT] Board in  
3 AS 37.10.210 [AS 14.25.180(b) AND (c)];

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

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

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

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

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

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

16 \* Sec. 66. AS 39.30.090(a) is amended to read:

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

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

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

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

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

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

5 (C) the commissioner of administration approves the  
6 participation in writing.

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

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

1 (6) If the aggregate of dividends payable under the group insurance  
2 policy exceeds the governmental unit's share of the premium, the excess shall be  
3 applied by the governmental unit for the sole benefit of the employees.

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

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

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

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

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

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

30 \* Sec. 67. AS 39.30.095(d) is amended to read:

31 (d) If the commissioner of administration determines that there is more money

1 in the fund than the amount needed to pay premiums, benefits, and administrative  
2 costs for the current fiscal year, the surplus, or so much of it as the commissioner of  
3 administration considers advisable, may be invested by the commissioner of revenue  
4 in the same manner as retirement funds are invested under AS 37.10.210 and  
5 37.10.220 [AS 14.25.180].

6 \* Sec. 68. AS 39.30.150(b) is amended to read:

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

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

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

19 (3) funds contributed under (a) of this section on behalf of employees  
20 who are not covered by maritime union contracts may not be obligated or expended to  
21 pay any costs associated with the inclusion of marine transportation employees in  
22 AS 39.35.095 - 39.35.680 [THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM].

23 \* Sec. 69. AS 39.30 is amended by adding a new section to read:

24 **Sec. 39.30.151. Administrator.** The commissioner of administration or the  
25 commissioner's designee is the administrator of the plan described in AS 39.30.150 -  
26 39.30.180.

27 \* Sec. 70. AS 39.30 is amended by adding a new section to read:

28 **Sec. 39.30.154. Powers and duties of the administrator.** The administrator  
29 has the same powers and duties with regard to the plan described in AS 39.30.150 -  
30 39.30.180 as those set out for the administrator of the teachers' retirement system in  
31 AS 14.25.004.

1 \* Sec. 71. AS 39.30.155 is repealed and reenacted to read:

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

5 \* Sec. 72. AS 39.30.160(a) is amended to read:

6           (a) The Department of Administration shall, in accordance with policies  
7 prescribed by regulations of the Alaska Retirement Management [PUBLIC  
8 EMPLOYEES RETIREMENT] Board, provide to employees for whom special  
9 individual employee benefit accounts are established under AS 39.30.150 the  
10 following benefit options:

- 11                   (1) supplemental health benefits; [,]
- 12                   (2) supplemental death benefits; [,]
- 13                   (3) supplemental disability benefits; [,] and
- 14                   (4) supplemental dependent care benefits.

15 \* Sec. 73. AS 39.30.160(e) is amended to read:

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

19 \* Sec. 74. AS 39.30.175(a) is amended to read:

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

25 \* Sec. 75. AS 39.30.180 is amended by adding a new paragraph to read:

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

28 \* Sec. 76. AS 39.30 is amended by adding new sections to read:

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

31           **Sec. 39.30.300. State of Alaska Teachers' and Public Employees' Retiree**

1 Health Reimbursement Arrangement Plan established. The State of Alaska  
2 Teachers' and Public Employees' Retiree Health Reimbursement Arrangement Plan is  
3 established for teachers who first become members of the defined contribution plan of  
4 the teachers' retirement system under AS 14.25.310 - 14.25.590 on or after July 1,  
5 2005, and employees of the state, political subdivisions of the state, and public  
6 organizations of the state who first become members of the defined contribution plan  
7 of the public employees' retirement system under AS 59.35.700 - 39.35.990 on or after  
8 July 1, 2005.

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

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

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

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

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

24 **Sec. 39.30.350. Employer contribution fund.** The fund established under  
25 AS 39.30.340 is an employer contribution fund. The value of the fund reflects  
26 employer contributions, expenses, and investment gains and losses. Employee  
27 contributions to the fund are not permitted.

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

31 **Sec. 39.30.370. Contributions by employers.** For each member of the plan,

1 an employer shall contribute to the teachers' and public employees' retiree health  
2 reimbursement arrangement plan trust fund an amount equal to three percent of the  
3 employer's average annual employee compensation. The administrator shall maintain  
4 a record for each member to account for employer contributions on behalf of that  
5 member. The board shall establish by regulation the rate of interest to be applied  
6 annually to the amount in a member's individual account.

7 **Sec. 39.30.380. Termination of employment.** A person who terminates  
8 employment before meeting the eligibility requirements of AS 14.25.470 or  
9 AS 39.35.870 loses any right to the contributions made on behalf of the person to the  
10 teachers' and public employees' retiree health reimbursement arrangement trust fund.  
11 If a person who has not met the eligibility requirements of AS 14.25.470 or  
12 AS 39.35.870 returns to employment with a participating employer within 10 years  
13 after the date of termination, the person's account balance shall be restored in the  
14 amount recorded on the date of termination from the trust, without interest or other  
15 adjustment.

16 **Sec. 39.30.390. Eligibility and reimbursement.** Persons who meet the  
17 eligibility requirements of AS 14.25.470 and AS 39.35.870 are eligible for  
18 reimbursements from the individual account established for a member under the plan.  
19 A person who is the dependent child of an eligible member is eligible for  
20 reimbursements if the eligible member and surviving spouse have both died so long as  
21 the person meets the definition of dependent child.

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

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

29 (1) an eligible member, the spouse of an eligible member, and the  
30 dependent children of an eligible member; or

31 (2) a surviving spouse and the dependent children of an eligible

1 member dependent on the surviving spouse.

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

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

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

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

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

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

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

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

31 (c) The state may, in its discretion, terminate the plan in whole or part at any

1 time without liability for the termination. If the plan is terminated, all investments  
2 remain in force until all individual accounts have been completely distributed under  
3 the plan, and, after all plan liabilities are satisfied, excess assets revert to the employer.

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

7 **Sec. 39.30.430. Exclusive benefit; credits of unvested amounts.** (a) The  
8 corpus or income of the assets held in trust as required by the plan may not be diverted  
9 or used for other than the exclusive benefit of the participants.

10 (b) Employer contributions to employee individual accounts, and any related  
11 earnings, in which terminated employees have not vested shall be credited back to the  
12 employer that made the contributions.

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

15 **Sec. 39.30.495. Definitions.** Unless the context requires otherwise, in  
16 AS 39.30.300 - 39.30.495

17 (1) "administrator" means the commissioner of administration or the  
18 commissioner's designee;

19 (2) "board" means the Alaska Retirement Management Board  
20 established under AS 37.10.210;

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

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

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

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

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

31 (8) "individual account" means the record established by the

1 administrator for individual employees under the teachers' and public employees'  
2 retiree health reimbursement arrangement plan;

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

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

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

10 \* Sec. 77. AS 39.35 is amended by adding new sections to read:

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

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

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

19 **Sec. 39.35.003. Administrator.** (a) The commissioner of administration or  
20 the commissioner's designee is the administrator of the system.

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

23 **Sec. 39.35.004. Powers and duties of the administrator.** (a) The  
24 administrator shall

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

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

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

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

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

31 (6) issue a statement of account to an employee not less than once each

1 year showing the amount of the employee's contributions to the applicable plan in the  
2 system;

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

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

9 (A) a balance sheet;

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

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

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

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

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

21 (10) report to the Legislative Budget and Audit Committee concerning  
22 the condition and administration of each plan and distribute the report to the members  
23 of each plan in the system;

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

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

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

31 (b) The administrator is authorized to charge uniform fees to members'

1 accounts to cover the ongoing cost of operating each plan in the system.

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

5 Sec. 35.005. Regulations. (a) Regulations adopted by the commissioner  
6 of administration under this chapter relate to the internal management of state  
7 agencies, and the adoption of these regulations is not subject to AS 44.62  
8 (Administrative Procedure Act).

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

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

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

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

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

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

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

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

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

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

30 (h) Notwithstanding the other provisions of this section, a regulation may be  
31 adopted, amended, or repealed, effective immediately, as an emergency regulation by

1 the commissioner. For an emergency regulation to be effective the commissioner  
2 must find that the adoption, amendment, or repeal of the regulation is necessary for the  
3 immediate preservation of the orderly operation of the system. The commissioner  
4 shall, within 10 days after adoption of an emergency regulation, give notice of the  
5 adoption under (d) of this section.

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

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

11 **Sec. 39.35.007. Investment management of retirement system funds.** The  
12 Alaska Retirement Management Board established under 37.10.210 is the fiduciary of  
13 the system funds.

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

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

16 (2) "plan" means the retirement plan established in AS 39.35.095 -  
17 39.35.680 or the retirement plan established in AS 39.35.700 - 39.35.990;

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

20 \* **Sec. 78.** AS 39.35 is amended by adding a new section to read:

21 **Article 2. Public Employees First Hired before July 1, 2005.**

22 **Sec. 39.35.095. Applicability of AS 39.35.095 - 39.35.680 to employees first**  
23 **hired before July 1, 2005.** The following provisions of this chapter apply only to  
24 members first hired before July 1, 2005: AS 39.35.095 - 39.35.680.

25 \* **Sec. 79.** AS 39.35.100 is amended to read:

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

31 (b) All income of the pension fund and all disbursements made by the fund

1 shall be credited or charged, whichever is appropriate, to the following accounts:

2 (1) An individual account shall be maintained for each employee to  
3 record the amount of the employee's mandatory contributions collected under  
4 AS 39.35.160(a). As of the last day of each calendar year and each fiscal year  
5 beginning with June 30, 1969, this account shall be credited with interest, by applying  
6 [ONE HALF OF] the prescribed rate of interest as determined by the board to the  
7 balance in the account as of that date. Within one year following retirement, the  
8 amount actuarially determined as necessary to fully fund the benefits to be received  
9 shall be transferred first from the employee contribution account and, after the  
10 employee contribution account has been exhausted, then from the employer  
11 contribution account into the retirement reserve account.

12 (2) An individual account shall be maintained for each employee to  
13 record the amount of the employee's voluntary contributions. As of the last day of  
14 each calendar year and each fiscal year beginning with June 30, 1969, this account  
15 shall be credited with interest, by applying [ONE HALF OF] the prescribed rate of  
16 interest as determined by the board to the balance in the account as of that date.  
17 Amounts that, before termination of employment, are withdrawn by an employee from  
18 the employee's savings account shall be charged to that account. Upon retirement, the  
19 amount actuarially determined as necessary to fully fund the benefits to be received  
20 shall be transferred first from the employee savings account and, after the employee  
21 savings account has been exhausted, then from the employer contribution account into  
22 the retirement reserve account.

23 (3) A separate account for each employer shall be maintained. The  
24 account shall be credited with contributions of the employer. This account shall be  
25 charged with the employer's actuarial charge for pension, death benefits, and other  
26 benefits paid under this plan [SYSTEM] to or on behalf of the employee of the  
27 employer. After an allowance for interest credited to employee contribution accounts  
28 and employee savings accounts, the investment income of the pension fund shall be  
29 allocated to the retirement reserve account and to each employer asset share account  
30 according to the ratio that the average of the assets in the account as of the beginning  
31 and as of the end of the fiscal year bears to the total of the average balance of the

1 retirement reserve account and all employer accounts.

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

8 \* Sec. 80. AS 39.35 is amended by adding a new section to article 2 to read:

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

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

19 (c) An amendment to AS 39.35.095 - 39.35.680 does not provide a person  
20 with a vested right to a benefit if the Internal Revenue Service determines that the  
21 amendment will result in disqualification of the plan under the Internal Revenue Code.

22 \* Sec. 81. AS 39.35.120 is amended to read:

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

31 (b) Inclusion in the system is a condition of employment for an employee

1 except as otherwise provided for

2 (1) an elected official;

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

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

7 \* Sec. 82. AS 39.35.131 is amended to read:

8 Sec. 39.35.131. Membership in teachers' and public employees'  
9 retirement systems. (a) A person who is employed at least half-time in the plan  
10 [SYSTEM] during the same period that the person is employed at least half-time in a  
11 position in the teachers' retirement plan [SYSTEM] under AS 14.25.009 - 14.25.220  
12 [AS 14.25] shall receive credited service under each plan [SYSTEM] for half-time  
13 employment. However, the amount of credited service a person receives under the  
14 plan [SYSTEM] during a school year may not exceed the amount necessary, when  
15 added to the amount of credited service earned during the school year under the  
16 teachers' retirement system, to equal one year of credited service.

17 (b) A person who was employed at least half-time in a position in the teachers'  
18 retirement plan [SYSTEM] under AS 14.25.009 - 14.25.220 [AS 14.25] in the same  
19 period that the person was employed at least half-time in a position in this plan  
20 [SYSTEM] may claim credited service in both plan [SYSTEMS] for employment  
21 before May 31, 1989. To obtain this credited service, the person shall claim the  
22 service and verify the period of half-time employment. When eligibility for half-time  
23 service credit has been established, an indebtedness shall be determined to the  
24 retirement plan [SYSTEM] in which the person did not participate. The amount of  
25 the indebtedness is the full actuarial cost of providing benefits for the credited service  
26 claimed. Interest as prescribed by regulation accrues on that indebtedness beginning  
27 on the later of July 1, 1989, or the date on which the member is first eligible to claim  
28 the service. Any outstanding indebtedness existing at the time the person retires will  
29 require an actuarial adjustment to the benefits payable based on that service.

30 \* Sec. 83. AS 39.35.158 is amended to read:

31 Sec. 39.35.158. Administrative director of courts. An administrative

1 director of the Alaska court system who withdraws from the judicial retirement system  
2 under AS 22.25.012 is eligible for membership in the plan [SYSTEM] and shall  
3 receive credited service in the plan [SYSTEM] for service rendered as administrative  
4 director. To be eligible for membership in the plan [SYSTEM] under this subsection,  
5 the administrative director must contribute to the plan [SYSTEM]

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

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

12 \* Sec. 84. AS 39.35.165(a) is amended to read:

13 (a) An employee who is eligible to purchase credited service under  
14 AS 39.35.310, 39.35.330, 39.35.340, 39.35.342, 39.35.345, [39.35.350,] 39.35.360, or  
15 39.35.370, a member who is eligible to purchase credited service under AS 39.35.375,  
16 or an elected public official who is eligible to purchase credited service under  
17 AS 39.35.381 is an employee for purposes of this section. An employee may, in lieu  
18 of making payments directly to the plan, elect to have the employee's employer make  
19 payments as provided in this section.

20 \* Sec. 85. AS 39.35.165(b) is amended to read:

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

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

28 (2) the employee shall make an irrevocable election under this section  
29 to purchase credited service as permitted in AS 39.35.310, 39.35.330, 39.35.340,  
30 39.35.342, 39.35.345, [39.35.350,] 39.35.360, 39.35.370, 39.35.375, or 39.35.381 and  
31 before the employee's termination of employment; the irrevocable election must

1 specify the number of payroll periods that deductions will be made from the  
2 employee's compensation and the dollar amount of deductions for each payroll period  
3 during the specified number of payroll periods; the deductions made under this  
4 paragraph cease upon the earlier of the member's termination of employment with the  
5 employer or the member's death; amounts paid by an employer under (f) of this  
6 section may not be applied toward the payment of the dollar amount of the deductions  
7 representing the portion of the credited service that is being purchased by the member  
8 through payroll deduction in accordance with the member's irrevocable election under  
9 this subsection;

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

15 \* Sec. 86. AS 39.35.165(f) is amended to read:

16 (f) The commissioner may accept rollover contributions from a member [AND  
17 DIRECT TRANSFERS, AS DESCRIBED IN THIS SUBSECTION, FOR THE  
18 PURCHASE, IN WHOLE OR IN PART, OF CREDITED SERVICE FOR THE  
19 REINSTATEMENT, IN WHOLE OR IN PART, OF FORFEITED CREDITED  
20 SERVICE UNDER AS 39.35.350]. A rollover contribution [OR TRANSFER] as  
21 described in this subsection shall also be treated as employer contributions for the  
22 purpose of determining tax treatment under the Internal Revenue Code and may be  
23 made by any one or a combination of the following methods:

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

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

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

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

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

12 \* Sec. 87. AS 39.35.165(g) is amended to read:

13 (g) Payments made under this section shall be applied to reduce the  
14 employee's outstanding indebtedness described in AS 39.35.310, 39.35.330,  
15 39.35.340, 39.35.342, 39.35.345, [39.35.350,] 39.35.360, 39.35.370, 39.35.375, or  
16 39.35.381 at the time that the contributions are received by the plan.

17 \* Sec. 88. AS 39.35.165(i) is amended to read:

18 (i) On satisfaction of the eligibility requirements of AS 39.35.310, 39.35.330,  
19 39.35.340, 39.35.341, 39.35.345, [39.35.350,] 39.35.360, 39.35.370, 39.35.375, or  
20 39.35.381, the requirements of this section, and the administrative filing requirements  
21 specified by the commissioner, the plan shall adjust the employee's credited service  
22 history and add any additional service credits acquired.

23 \* Sec. 89. AS 39.35.200 is amended by adding a new subsection to read:

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

26 \* Sec. 90. AS 39.35.250 is amended to read:

27 Sec. 39.35.250. Calculation of employer's contribution rate. (a) An  
28 employer shall make contributions to the plan [SYSTEM] in amounts determined by  
29 the board in accordance with this section. For the purposes of this section, the past  
30 service date for each employer is the entry date of the employer or December 31,  
31 1972, whichever is later. After December 31, 1972, if amendments to AS 39.35.095 -

1        39.35.680 [THIS CHAPTER] are enacted that substantially affect benefits accrued  
2        before the effective date of the amendment, the past service date will be changed to  
3        December 31 of the year immediately preceding that in which the amendment is  
4        enacted. The contribution rate is the sum of the consolidated employer rate and the  
5        past service rate.

6                (b) In (a) of this section, "consolidated employer rate" means the percentage  
7        of compensation of all active employees in the plan that [SYSTEM WHICH], if paid  
8        over the period of their credited service after their past service date and when  
9        combined with all employee contributions, is sufficient to provide the benefits earned  
10       after such past service dates. This percentage is uniformly determined for all  
11       employers and is applicable to each employer, but may not be less than 10 percent.

12                (c) In (a) of this section, "past service rate" means the percentage of  
13        compensation of all active employees in the plan [SYSTEM] necessary to provide the  
14        annual amount required to amortize the unfunded obligations of the employer for  
15        benefits earned before the employer's past service date over a period not to exceed 40  
16        years. The period of amortization begins at the past service date of each employer.  
17        The percentage is separately determined for each employer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 benefit under AS 14.25.125 or AS 39.35.385.

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

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

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

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

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

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

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

23 (h) In this section,

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

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

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

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

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

6 \* Sec. 105. AS 39.35.385(f) is amended to read:

7 (f) Subject to AS 39.35.450, an employee is eligible for a normal retirement  
8 benefit at age 60 or an early retirement benefit at age 55 if the employee was first  
9 hired as a legislative employee before May 30, 1987, and has at least 120 [60] days of  
10 credited service as an employee of the legislature, other than as an employee of the  
11 Office of the Ombudsman or the office of victims' rights, during each of five  
12 legislative sessions. An employee who was first hired as a legislative employee on or  
13 after May 30, 1987, and is otherwise eligible under this subsection must have at least  
14 120 [80] days of credited service during each of five legislative sessions to receive  
15 benefits under this subsection.

16 \* Sec. 106. AS 39.35.410(f) is amended to read:

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

25 \* Sec. 107. AS 39.35.475(a), as that subsection read following amendment by sec. 34, ch.  
26 146, SLA 1980, until amended by sec. 41, ch. 82, SLA 1986, is amended to read:

27 (a) When the administrator determines that the cost of living has increased and  
28 that the financial condition of the retirement fund permits, the administrator [HE]  
29 shall increase benefit payments to persons receiving benefits under this plan. For  
30 purposes of this subsection, the financial condition of the fund would only permit  
31 an increase in benefits when the ratio of total fund assets to the accrued liability

1 meets or exceeds 110 percent. In this subsection, "accrued liability" means the  
2 present value of all member benefits accrued by member service in this plan  
3 [SYSTEM].

4 \* Sec. 108. AS 39.35.485(a) is amended to read:

5 (a) An employee who is eligible for a benefit calculated in accordance with  
6 AS 39.35.370(c) is entitled to a benefit of at least \$25 a month for each year of  
7 credited service, not including adjustments made under AS 39.35.340 for military  
8 service. [AS 39.35.350 FOR REINSTATEMENT OF CREDITED SERVICE,]  
9 AS 39.35.360 for credit for earlier service, AS 39.35.370(c) for early retirement,  
10 AS 39.35.420 for nonoccupational death benefits, AS 39.35.450 for the survivor's  
11 option, former AS 39.35.460 for the level income option, AS 39.35.475 for the post-  
12 retirement pension adjustment, and AS 39.35.480 for the cost of living.

13 \* Sec. 109. AS 39.35.520(c) is amended to read:

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

26 \* Sec. 110. AS 39.35.522(a) is amended to read:

27 (a) Upon request [APPEAL BY] an affected member or beneficiary under (b)  
28 of this section, the commissioner of administration [BOARD] may waive an  
29 adjustment or any portion of an adjustment made under AS 39.35.520 if, in the  
30 opinion of the commissioner of administration [BOARD],

31 (1) the adjustment or portion of the adjustment will cause undue

1 hardship to the member or beneficiary;

2 (2) [REPEALED.

3 (3) REPEALED.

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

6 (3) [(5)] before the adjustment was made, the member or beneficiary  
7 received confirmation from the administrator that the employee's or beneficiary's  
8 records were correct; and

9 (4) [(6)] the member or beneficiary had no reasonable grounds to  
10 believe the employee's or beneficiary's records were incorrect before the adjustment  
11 was made.

12 \* Sec. 111. AS 39.35.522(b) is amended to read:

13 (b) In order to obtain consideration of a waiver under this section, the affected  
14 member or beneficiary must file a request with the commissioner of administration  
15 [APPEAL TO THE BOARD] in writing within 30 days after receipt of notice that the  
16 records have been adjusted.

17 \* Sec. 112. AS 39.35.522(c) is repealed and reenacted to read:

18 (c) A ruling of the commissioner of administration to deny a waiver under (b)  
19 of this section may be appealed to the office of administrative hearings established  
20 under AS 44.64.

21 \* Sec. 113. AS 39.35.522(d) is amended to read:

22 (d) The office of administrative hearings [BOARD] may reverse the  
23 commissioner of administration's decision to deny a waiver and may impose  
24 conditions on the granting of a waiver that the office [WHICH IT] considers  
25 equitable. These conditions may include requiring the member or beneficiary to make  
26 additional contributions to the plan [SYSTEM].

27 \* Sec. 114. AS 39.35.680(2) is amended to read:

28 (2) "actuarial adjustment" means the adjustment necessary to obtain  
29 equality in value of the aggregate expected payments under two different forms of  
30 pension payments, considering expected mortality and interest earnings on the basis of  
31 assumptions, factors, and methods specified in regulations issued under this plan

1 [SYSTEM] that are formally adopted [UNDER AS 39.35.042] by the board that  
2 clearly preclude employer discretion in the determination of the amount of any  
3 member's benefit;

4 \* Sec. 115. AS 39.35.680(6) is amended to read:

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

7 \* Sec. 116. AS 39.35.680(21) is amended to read:

8 (21) "member" or "employee"

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

11 (B) includes

12 (i) an active member;

13 (ii) an inactive member;

14 (iii) a vested member;

15 (iv) a deferred vested member;

16 (v) a nonvested member;

17 (vi) a disabled member;

18 (vii) a retired member;

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

20 (C) does not include

21 (i) former members;

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

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

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

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

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

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

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

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

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

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

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

18 \* Sec. 117. AS 39.35.680(34) is amended to read:

19 (34) "qualified domestic relations order" means a divorce or  
20 dissolution judgment under AS 25.24, including an order approving a property  
21 settlement, that

22 (A) creates or recognizes the existence of an alternate payee's  
23 right to, or assigns to an alternate payee the right to, receive all or a portion of  
24 employee contribution account or the benefits payable with respect to an  
25 employee;

26 (B) sets out the name and last known mailing address, if any, of  
27 the employee and of each alternate payee covered by the order;

28 (C) sets out the amount or percentage of the employee's benefit,  
29 or of any survivor's benefit, to be paid to the alternate payee, or sets out the  
30 manner in which that amount or percentage is to be determined;

31 (D) sets out the number of payments or period to which the

1 order applies;

2 (E) sets out the retirement plan [SYSTEM] to which the order  
3 applies;

4 (F) does not require any type or form of benefit or any option  
5 not otherwise provided by AS 39.35.095 - 39.35.680 [THIS CHAPTER];

6 (G) does not require an increase of benefits in excess of the  
7 amount provided by AS 39.35.095 - 39.35.680 [THIS CHAPTER], determined  
8 on the basis of actuarial value; and

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

12 \* Sec. 118. AS 39.35.680 is amended by adding new paragraphs to read:

13 (41) "commissioner" means the commissioner of administration;

14 (42) "plan" means the retirement plan established in AS 39.35.095 -  
15 39.35.680.

16 \* Sec. 119. AS 39.35 is amended by adding new sections to read:

17 **Article 9. Employees First Hired on or after July 1, 2005.**

18 **Sec. 39.35.700. Applicability of AS 39.35.700 - 39.35.990.** The provisions of  
19 AS 39.35.700 - 39.35.990 apply only to members first hired on or after July 1, 2005 or  
20 to members who transfer into the defined contribution plan under AS 39.35.940.

21 **Sec. 39.35.710. Defined contribution retirement plan established; federal**  
22 **qualification requirements.** (a) A defined contribution retirement plan is established  
23 for employees of the state or a political subdivision or public organization of the state.

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

28 (c) The retirement plan established by AS 39.35.700 - 39.35.990 is intended to  
29 qualify under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified  
30 retirement plan established and maintained by the state for its employees, for the  
31 employees of political subdivisions, public corporations, and public organizations of

1 the state, and for the employees of other employers whose participation is authorized  
2 by AS 39.35.700 - 39.35.990 and who participate in the plan set out in AS 39.35.700 -  
3 39.35.990.

4 (d) An amendment to AS 39.35.700 - 39.35.990 does not provide a person  
5 with a vested right to a benefit if the Internal Revenue Service determines that the  
6 amendment will result in disqualification of the plan under the Internal Revenue Code.

7 **Sec. 39.35.720. Membership.** An employee who becomes a member on or  
8 after July 1, 2005, shall participate in the plan set out in AS 39.35.700 - 39.35.990.

9 **Sec. 39.35.730. Contributions by members.** (a) Each member shall  
10 contribute to the member's individual account an amount equal to eight percent of the  
11 member's compensation from July 1 to the following June 30.

12 (b) Subject to the limitations on contributions under AS 39.35.780, a member  
13 may elect to make additional contributions to the member's individual account.

14 (c) The employer shall deduct the contribution from the member's  
15 compensation at the end of each payroll period, and the contribution shall be credited  
16 by the plan to the member's individual account. The contributions shall be deducted  
17 from member's compensation before the computation of applicable federal taxes and  
18 shall be treated as employer contributions under 26 U.S.C. 414(h)(2). A member may  
19 not have the option of making the payroll deduction directly in cash instead of having  
20 the contribution picked up by the employer.

21 **Sec. 39.35.740. Employment contributions mandatory.** Contributions of  
22 employees shall be made by payroll deductions. Every included employee shall be  
23 considered to consent to payroll deductions. It is of no consequence that a payroll  
24 deduction may cause the compensation paid in cash to an employee to be reduced  
25 below the minimum required by law. Payment of an employee's compensation, less  
26 payroll deductions, is a full and complete discharge and satisfaction of all claims and  
27 demands by the employee relating to remuneration of services during the period  
28 covered by the payment, except with respect to the benefits provided under the plan.

29 **Sec. 39.35.750. Contributions by employers.** (a) An employer shall  
30 contribute to each member's individual account an amount equal to 4.5 percent of the  
31 member's compensation from July 1 to the following June 30.

1 (b) An employer shall also contribute an amount equal to 1.75 percent of each  
2 member's compensation from July 1 to the following June 30 to pay for retiree major  
3 medical insurance. This contribution shall be paid into the group health and life  
4 benefits fund established by the commissioner of administration under AS 39.30.095  
5 and shall be accounted for in accordance with regulations established by the  
6 commissioner.

7 (c) An employer shall also make contributions to the health reimbursement  
8 arrangement plan under AS 39.30.300.

9 **Sec. 39.35.760. Rollover contributions and distributions.** (a) An employee  
10 entering the plan may elect, at the time and in the manner prescribed by the  
11 administrator, to have all or part of a direct rollover distribution from an eligible  
12 retirement plan owned by the member paid directly into the member's individual  
13 account.

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

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

19 (d) In this section,

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

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

25 (3) "eligible retirement plan" means

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

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

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

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

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

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

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

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

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

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

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

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

16 **Sec. 39.35.770. Transmittal of contributions.** All contributions deducted in  
17 accordance with AS 39.35.700 - 39.35.990 shall be transmitted to the plan for deposit  
18 in the trust fund as soon as administratively feasible, but in no event later than 15 days  
19 following the close of the payroll period.

20 **Sec. 39.35.780. Limitations on contributions.** Notwithstanding any other  
21 provisions of this plan, the annual additions to each member's individual account  
22 under this plan and under all defined contribution plans of the employer required to be  
23 aggregated with the contributions from this plan under the provisions of 26 U.S.C. 415  
24 may not exceed, for any limitation year, the amount permitted under 26 U.S.C. 415 at  
25 any time. If the amount of a member's defined contribution plan contributions exceeds  
26 the limitation of 26 U.S.C. 415(c) for any limitation year, the administrator shall take  
27 any necessary remedial action to correct an excess contribution. The provisions of 26  
28 U.S.C. 415, and the regulations adopted under that statute, as applied to qualified  
29 defined contribution plans of governmental employees are incorporated as part of the  
30 terms and conditions of the plan.

31 **Sec. 39.35.790. Vesting.** (a) A participating member is immediately and

1 fully vested in that member's contributions and related earnings.

2 (b) A member shall be fully vested in the employer contributions made on that  
3 member's behalf, and related earnings, after five years of service. A member is  
4 partially vested in the employer contributions made on that member's behalf, and the  
5 related earnings, in the ratio of

6 (1) 25 percent with two years of service;

7 (2) 50 percent with three years of service; and

8 (3) 75 percent with four years of service.

9 **Sec. 39.35.800. Investment of individual accounts.** (a) The board shall  
10 provide a range of investment options and permit a participant to exercise investment  
11 control over the participant's assets in the member's individual account as provided in  
12 this section. If a participant exercises control over the assets in the individual account,  
13 the participant is not considered a fiduciary for any reason on the basis of exercising  
14 that control.

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

17 (c) A participant may elect to change or transfer all or a portion of the  
18 participant's existing account balance among available investment funds not more  
19 often than once each day in accordance with the rules established by the administrator.  
20 Only the last election received by the administrator before the transmittal of  
21 contributions to the trust fund for allocation to the individual account shall be used to  
22 direct the investment of the contributions received.

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

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

30 (f) To the extent that a member's individual account has been divided as  
31 provided in a qualified domestic relations order between participants, each participant

1 shall be treated as the holder of a separate individual account for purposes of  
2 investment yields, decisions, transfers, and time limitations imposed by this section.

3 **Sec. 39.35.810. Distribution election at termination.** (a) A member is  
4 eligible to elect distribution of the member's account in accordance with this section  
5 (0 days after termination of employment).

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

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

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

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

21 (4) prevention of the eviction of the member from the member's  
22 principal residence or foreclosure on the mortgage of the member's principal  
23 residence; or

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

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

31 (d) Distributions are payable to an alternate payee in accordance with the

1 terms and conditions of a qualified domestic relations order that is received and  
2 approved by the administrator as specified in AS 39.35.860.

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

8 **Sec. 39.35.820. Forms of distribution.** (a) A participant may elect to receive  
9 the participant's share of the individual account in a

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

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

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

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

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

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

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

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

4 (d) If an unmarried member or other participant fails to elect a form of  
5 payment before the distribution commencement date, the account shall be paid to a  
6 beneficiary in the form of a lump sum to the extent required by the minimum  
7 distribution requirements set out in the Internal Revenue Code. If a married member  
8 fails to elect a form of payment before the distribution commencement date, the  
9 account shall be paid in the form of a 50 percent joint and survivor annuity, with the  
10 member's spouse as the joint annuitant.

11 **Sec. 39.35.830. Manner of electing distributions.** (a) Any election or any  
12 alteration or revocation of a prior election by a participant for any purpose under this  
13 plan shall be on forms or made in a manner prescribed for that purpose by the plan  
14 administrator. To be effective, the forms required or the required action for any  
15 purpose under this plan must be completed and received in accordance with  
16 regulations adopted by the commissioner of administration.

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

- 19 (1) the form of payment election;  
20 (2) an election to commence benefits; or  
21 (3) the joint annuitant designation.

22 (c) Changes in elections are not allowed on or after seven days before the  
23 benefit commencement date.

24 **Sec. 39.35.840. Distribution requirements.** (a) Payments to a participant  
25 shall commence as soon as administratively feasible following the distribution  
26 commencement date. The distribution commencement date is the first date on which  
27 one of the following occurs:

28 (1) a member meets the requirements of AS 39.35.810 and has made a  
29 complete application for payment under AS 39.35.830;

30 (2) a participant has elected to defer receipt of the account to a date  
31 specified, the date has been attained, and the participant has made a complete

1 application for payment;

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

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

7 (5) notwithstanding (a) of this section, a participant whose account has  
8 a balance of \$1,000 or less meets the requirements of AS 39.35.810, at which time the  
9 participant must take payment of the participant's account.

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

12 (c) If a member dies after the distribution of the member's interest has begun  
13 but before the distribution has been completed, the remaining portion of the interest  
14 shall continue to be distributed at least as rapidly as under the method of distribution  
15 being used before the member's death.

16 (d) If a member has made a distribution election and dies before the  
17 distribution of the member's interest begins, distribution of the member's entire interest  
18 shall be completed by December 31 of the calendar year containing the fifth  
19 anniversary of the member's death. However, if any portion of the member's interest  
20 is payable to a designated beneficiary, distributions may be made over the life of the  
21 designated beneficiary or over a period certain not greater than the life expectancy of  
22 the designated beneficiary, commencing on or before December 31 of the calendar  
23 year immediately following the calendar year in which the member died, and, if the  
24 designated beneficiary is the member's surviving spouse, the date distributions are  
25 required to begin may not be earlier than the later of December 31 of the calendar year  
26 (1) immediately following the calendar year in which the member died, or (2) in which  
27 the member would have attained 70 1/2 years of age, whichever is earlier. If the  
28 surviving spouse dies after the member but before payments to the spouse have begun,  
29 the provisions of this subsection apply as if the surviving spouse were the member.  
30 An amount paid to a child of the member shall be treated as if it were paid to the  
31 surviving spouse if the amount becomes payable to the surviving spouse when the

1 child reaches the age of majority.

2 (e) If a member has not made a distribution election before the member's  
3 death, the member's designated beneficiary must elect the method of distribution not  
4 later than December 31 of the calendar year (1) in which distributions would be  
5 required to begin under this section, or (2) that contains the fifth anniversary of the  
6 date of death of the member, whichever is earlier. If the member does not have a  
7 designated beneficiary or if the designated beneficiary does not elect a method of  
8 distribution, distribution of the member's entire interest must be completed by  
9 December 31 of the calendar year containing the fifth anniversary of the member's  
10 death.

11 (f) For purposes of (b) of this section, distribution of a member's interest is  
12 considered to begin (1) on the member's required beginning date, or (2) if the  
13 designated beneficiary is the member's surviving spouse and the surviving spouse dies  
14 after the member but before payments to the spouse have begun, on the date  
15 distribution is required to begin to the surviving spouse. If distribution in the form of  
16 an annuity irrevocably commences to the member before the required beginning date,  
17 the date distribution is considered to begin is the date that the distribution actually  
18 commences.

19 (g) Notwithstanding any contrary provisions of AS 39.35.700 - 39.35.990, the  
20 requirements of this section apply to all distributions of a member's interest and take  
21 precedence over any inconsistent provisions of AS 39.35.700 - 39.35.990.

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

25 (i) In this section,

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

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

1           **Sec. 39.35.850. Designation of beneficiary.** (a) Each participant shall have  
2 the right to designate a beneficiary and shall have the right, at any time, to revoke the  
3 designation or to substitute another beneficiary, subject to the following limitation: if a  
4 married member elects a nonspouse beneficiary, the value of the benefit payable to the  
5 beneficiary may not exceed 50 percent of the member's portion of the account balance,  
6 and the member's spouse shall automatically be considered the beneficiary for the  
7 remaining 50 percent of the account balance, unless the spouse consents to the  
8 beneficiary designation in a writing that is notarized or witnessed by the administrator.  
9 If the spouse consents in this manner, a married member may designate a nonspouse  
10 beneficiary for the entire benefit or any portion the benefit as part of an available form  
11 of payment contained in this plan,

12                   (1) except to the extent a qualified domestic relations order filed with  
13 the administrator provides for payment to a former spouse or other dependent of the  
14 member; or

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

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

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

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

31                   (2) to the surviving children of the member in equal parts or, if there

1 are none surviving:

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

4 (4) to the estate.

5 (d) A person claiming entitlement to benefits payable under AS 39.35.700 -  
6 39.35.990 as a consequence of a member's death shall provide the administrator with a  
7 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.  
8 Documents establishing entitlement may be filed with the administrator immediately  
9 after a change in the member's marital status. If the administrator does not receive  
10 notification of a claim before the date 10 days after the member's death, the person  
11 claiming entitlement is not entitled to receive from the division of retirement and  
12 benefits any benefit already paid by the administrator.

13 **Sec. 39.35.860. Rights under qualified domestic relations order.** (a)  
14 Notwithstanding the nonalienation provisions in AS 39.35.900(a), the plan  
15 administrator may direct that benefits be paid to someone other than a member or  
16 beneficiary under a valid qualified domestic relations order that is executed by the  
17 judge of a competent court in accordance with applicable state law and that has been  
18 accepted by the administrator.

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

25 **Sec. 39.35.870. Eligibility to elect medical benefits.** (a) A member is  
26 eligible to elect the medical benefits under AS 39.35.880 if the member

27 (1) has at least 25 years of service as a peace officer or fire fighter or at  
28 least 30 years of service for all other employees; or

29 (2) is 65 years of age and has at least 10 years of service.

30 (b) A member's surviving spouse is eligible to elect medical benefits under  
31 AS 39.35.880 if the member had elected, or was eligible to elect medical benefits at

1 the time of the member's death.

2 (c) Members shall elect or reject medical benefits on the forms and in the  
3 manner prescribed by the administrator. The decision to elect or reject benefits is  
4 irrevocable.

5 (d) Electing the retiree major medical insurance plan is not required in  
6 order to elect participation in the health reimbursement arrangement.

7 (e) A person eligible to elect medical benefits is not required to participate in  
8 the health reimbursement arrangement in order to elect participation in the retiree  
9 major medical insurance plan.

10 (f) An eligible person must make the irrevocable election to participate or not  
11 participate in the retiree major medical insurance by reaching 70 1/2 years of age, or  
12 upon termination of employment, whichever is later.

13 **Sec. 39.35.880. Medical benefits.** (a) The medical benefits available to  
14 eligible persons are access to the retiree major medical insurance plan and to the  
15 health reimbursement arrangement under AS 39.30.300. Access to the retiree major  
16 medical insurance plan means that an eligible person may not be denied insurance  
17 coverage except for failure to pay the required premium.

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

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

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

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

1 (f) The medical and optional insurance premiums owed by the person who  
2 elects coverage may be deducted from the health reimbursement arrangement. If the  
3 amount of the health reimbursement arrangement becomes insufficient to pay the  
4 premiums, the person who elects coverage under (a) of this section shall pay the  
5 premiums directly.

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

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

10 (2) eligible for Medicare is the following percentage of the premium  
11 amounts established for retirees who are eligible for Medicare:

12 (A) 30 percent if the member had 10 or more, but less than 15,  
13 years of service;

14 (B) 25 percent if the member had 15 or more, but less than 20,  
15 years of service;

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

18 (D) 15 percent if the member had 25 or more, but less than 30,  
19 years of service;

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

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

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

26 (1) be informed by the administrator in writing

27 (A) that the health insurance coverage available to retired  
28 members may be different from the health insurance coverage provided to  
29 employees;

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

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

4 (j) The monthly group premiums for retiree major medical insurance coverage  
5 are established by the administrator in accordance with AS 39.30.095. Nothing in  
6 AS 39.35.700 - 39.35.990 guarantees a person who elects coverage under (a) of this  
7 section a monthly group premium rate for retiree major medical insurance coverage  
8 other than the premium in effect for the month in which the premium is due for  
9 coverage for that month.

10 (k) In this section, "health reimbursement arrangement" means the plan  
11 established in AS 39.30.300.

12 **Sec. 39.35.890. Amendment and termination of plan.** (a) The state has the  
13 right to amend the plan at any time and from time to time, in whole or in part,  
14 including the right to make retroactive amendments referred to in 26 U.S.C. 401(b).

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

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

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

26 **Sec. 39.35.900. Exclusive benefit; refunds; credits of unvested amounts.**

27 (a) The corpus or income of the assets held in trust as required by the plan may not be  
28 diverted or used for other than the exclusive benefit of the participants.

29 (b) Notwithstanding (a) of this section, employer contributions to employee  
30 individual accounts, and any related earnings, in which terminated employees have not  
31 vested shall be credited back to the employer that made the contributions.

1 (c) If plan benefits are provided through the distribution of annuity or  
2 insurance contracts, any refunds or credits in excess of plan benefits due to dividends,  
3 earnings, or other experience rating credits, or surrender or cancellation credits, shall  
4 be paid to the trust fund.

5 (d) The assets of the plan may not be used to pay premiums or contributions of  
6 the employer under another plan maintained by the employer.

7 **Sec. 39.35.910. Nonguarantee of returns, rates, or benefit amounts.** The  
8 plan created by AS 39.35.700 - 39.35.990 is a defined contribution plan, not a defined  
9 benefit plan. The amount of money in the account of a participant depends on the  
10 amount of contributions and the rate of return from investments of the account that  
11 varies over time. If benefits are paid in the form of an annuity, the benefit amount  
12 payable is dependent on the amount of money in the account and the interest rates  
13 applied and service fees charged by the annuity payor at the time benefits are first  
14 paid. Nothing in this plan guarantees a participant

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

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

20 **Sec. 39.35.920. Nonguarantee of employment.** The provisions of  
21 AS 39.35.700 - 39.35.990 are not a contract of employment between an employer and  
22 an employee, nor do they confer a right of an employee to be continued in the  
23 employment of an employer, nor are they a limitation of the right of an employer to  
24 discharge an employee with or without cause.

25 **Sec. 39.35.930. Fraud.** A person who knowingly makes a false statement or  
26 falsifies or permits to be falsified a record of this plan in an attempt to defraud the plan  
27 is guilty of a class A misdemeanor.

28 **Sec. 39.35.940. Transfer into defined contribution plan by nonvested**  
29 **members of defined benefit plan.** (a) Subject to (g) of this section, an active  
30 member of the defined benefit retirement plan of the public employees' retirement  
31 system is eligible to participate in the defined contribution retirement plan established

1 under AS 39.35.700 - 39.35.990, if that member has not vested. Participation in the  
2 defined contribution retirement plan is in lieu of participation in the defined benefit  
3 retirement plan established under AS 39.35.095 - 39.35.680.

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

6 (c) Each eligible member who elects to participate in the defined contribution  
7 retirement plan shall have transferred to a new account the present value of the  
8 member contribution account balance held in trust for the member under the defined  
9 benefit retirement plan of the public employees' retirement system. A matching  
10 employer contribution shall be made on behalf of that employee to the new account.  
11 Upon a transfer, all service credit previously earned under the defined benefit  
12 retirement plan shall be nullified for purposes of entitlement to a future benefit under  
13 the defined benefit retirement plan but shall be credited for purposes of eligibility to  
14 elect medical benefits under AS 39.35.870. An eligible member whose accounts are  
15 subject to a qualified domestic relations order may not make an election to participate  
16 in the defined contribution retirement plan under this subsection unless the qualified  
17 domestic relations order is amended or vacated and court-certified copies of the order  
18 are received by the administrator.

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

30 (e) If the board or the administrator receives notification from the United  
31 States Department of the Treasury, Internal Revenue Service, that this section or a

1 portion of this section will cause the retirement system under this chapter, or a portion  
2 of the retirement system under this chapter, to be disqualified for tax purposes under  
3 the Internal Revenue Code, the portion that will cause the disqualification does not  
4 apply, and the board and the administrator shall notify the presiding officers of the  
5 legislature.

6 (f) The election to participate in the defined contribution retirement plan must  
7 be made in writing on forms and in the manner prescribed by the administrator.  
8 Before accepting an election to participate in the defined contribution retirement plan,  
9 the administrator must provide the employee planning on making an election to  
10 participate in the defined contribution retirement plan with information, including  
11 calculations to illustrate the effect of moving the employee's retirement plan from the  
12 defined benefit retirement plan to the defined contribution retirement plan as well as  
13 other information to clearly inform the employee of the potential consequences of the  
14 employee's election. An election made under this subsection to participate in the  
15 defined contribution retirement plan is irrevocable. Upon making the election, the  
16 participant shall be enrolled as a member of the defined contribution retirement plan,  
17 the member's participation in the plan shall be governed by the provisions of  
18 AS 39.35.700 - 39.35.990, and the member's participation in the defined benefit  
19 retirement plan under AS 39.35.115 shall terminate. The participant's enrollment in  
20 the defined contribution retirement plan shall be effective the first day of the month  
21 after the administrator receives the completed enrollment forms. An election made by  
22 an eligible member who is married is not effective unless the election is signed by the  
23 individual's spouse.

24 (g) A member may make an election under this section only if the member's  
25 employer participates in both the defined benefits retirement plan and the defined  
26 contribution retirement plan and consents to transfers under this section. The  
27 employer shall notify the administrator if the employer consents to allowing the  
28 employer's members to choose to transfer from the defined benefits retirement plan to  
29 the defined contribution retirement plan under this section. An employer's notice to  
30 allow transfers is irrevocable and applicable to all eligible employees of the employer.

31 (h) In this section,

1 (1) "defined benefit retirement plan" means the retirement plan  
2 established in AS 39.35.095 - 39.35.680:

3 (2) "defined contribution retirement plan" means the retirement plan  
4 established in AS 39.35.700 - 39.35.990.

5 **Sec. 39.35.950. Request by political subdivision to participate and**  
6 **adoption of resolution.** A municipality or other political subdivision of the state may  
7 request to become an employer in this plan. The request shall be made after adoption  
8 of a resolution by the legislative body of the political subdivision and after approval of  
9 the resolution by the person required by law to approve the resolution. A certified  
10 copy of the resolution shall be filed with the administrator. If the administrator  
11 approves the request for participation, the political subdivision is an employer of the  
12 plan.

13 **Sec. 39.35.955. Request by public organization to participate and**  
14 **adoption of resolution.** A public organization may request to become an employer in  
15 this plan. The request shall be made after adoption of a resolution by the governing  
16 body of the public organization. A certified copy of the resolution shall be filed with  
17 the administrator. If the administrator approves the request for participation, the  
18 public organization is an employer of the plan.

19 **Sec. 39.35.960. Membership in teachers' and public employees'**  
20 **retirement systems.** A person who is employed at least half-time in the public  
21 employees' defined contribution retirement plan (AS 39.35.700 - 39.35.990) during the  
22 same period that the person is employed at least half-time in a position in the teachers'  
23 defined contribution retirement plan (AS 14.25.310 - 14.25.590) shall receive credited  
24 service under each plan for half-time employment. However, the amount of credited  
25 service a person receives under the public employees' defined contribution retirement  
26 plan during a school year may not exceed the amount necessary, when added to the  
27 amount of credited service earned during the school year under the teachers' defined  
28 contribution retirement plan, to equal one year of credited service.

29 **Sec. 39.35.965. Army and air national guard employees.** A regular full-  
30 time civilian employee of the Alaska Army National Guard and Air National Guard  
31 whose entire salary is paid from allotted federal funds is included in the public

1 employees' defined contribution retirement plan (AS 39.35.700 - 39.35.990) if the  
2 federal or state government pays the employer's contributions. If the amount that the  
3 federal government may legally contribute to the plan is lower than the required  
4 employer's contribution, the state government shall contribute the difference. If the  
5 employer's contributions are not paid when due, service credit for the period of  
6 delinquency may not be granted until the contributions are paid.

7 **Sec. 39.35.970. North Pacific Fishery Management Council employees.**  
8 An employee of the North Pacific Fishery Management Council appointed under 16  
9 U.S.C. 1852(f)(1) (Sec. 302(f)(1) of P.L. 94-265) whose compensation is paid from  
10 allotted federal funds is included in the public employees' defined contribution  
11 retirement plan (AS 39.35.700 - 39.35.990) if the council pays the employer's  
12 contributions. If the employer's contributions are not paid when due, credited service  
13 for the period of delinquency may not be granted until the contributions are paid.

14 **Sec. 39.35.990. Definitions.** In AS 39.35.700 - 39.35.990, unless the context  
15 requires otherwise,

16 (1) "administrator" means the commissioner of administration or the  
17 commissioner's designee;

18 (2) "alternate payee" means the person for whom an amount has been  
19 separated into an account under a qualified domestic relations order;

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

22 (4) "beneficiary" means the person or persons entitled under the  
23 provisions of this plan to receive benefits after the death of a member or alternate  
24 payee;

25 (5) "board" has the meaning given in AS 39.35.680;

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

27 (7) "compensation"

28 (A) means

29 (i) the total remuneration earned by an employee for  
30 personal services rendered, including cost-of-living differentials, as  
31 reported on the employee's Federal Income Tax Withholding Statement

1 (Form W-2) from the employer for the calendar year;

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

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

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

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

30 (9) "distribution commencement date" has the meaning given in  
31 AS 39.35.840(a);

- 1 (10) "employer" means  
2 (A) the State of Alaska; or  
3 (B) a political subdivision or public organization of the state  
4 that participates in the plan;
- 5 (11) "fund" means the assets of the plan;
- 6 (12) "individual account" means the total maintained by the plan in an  
7 investment account within the trust fund, established for each member for the purposes  
8 of allocation of the member's contributions, the employer's contributions on behalf of  
9 the member, and earnings credited to each of those contributions, investment gains  
10 and losses, and expenses; as well as reporting of the member's benefit under the plan;
- 11 (13) "Internal Revenue Code" means the Internal Revenue Code of  
12 1986, as amended;
- 13 (14) "investment funds" means those separate funds that are provided  
14 within and that make up the trust fund and that are established for the purpose of  
15 directing investment through the exercise of the sole control of a member, beneficiary,  
16 or alternate payee under the terms of the plan and trust agreement;
- 17 (15) "limitation year" means the year for which contributions are made  
18 to a member's individual account as reported to the Internal Revenue Service and as  
19 meets the limits described in 26 U.S.C. 415(c);
- 20 (16) "member" means an employee of an employer or former  
21 employee of an employer who retains a right to benefits under the plan;
- 22 (17) "membership service" means full-time or part-time employment  
23 with an employer in the plan;
- 24 (18) "normal retirement age" means 65 years of age;
- 25 (19) "participant" means the person who has a vested right to an  
26 individual account, such as a member, an alternate payee if the account is subject to a  
27 qualified domestic relations order, the member's beneficiary if the member is  
28 deceased, or an alternate payee's beneficiary if the alternate payee is deceased;
- 29 (20) "peace officer" or "fire fighter" has the meaning given in  
30 AS 39.35.680;
- 31 (21) "plan" means the retirement plan established in AS 39.35.700 -

1 39.35.990;

2 (22) "prudent investment standard" means the degree of care, skill,  
3 prudence, and diligence under the circumstances then prevailing that a prudent person  
4 acting in a like capacity and familiar with such matters would use in the conduct of an  
5 enterprise of a like character and with like aims;

6 (23) "qualified domestic relations order" means a divorce or  
7 dissolution judgment under AS 25.24, including an order approving a property  
8 settlement, that

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

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

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

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

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

20 (F) does not require any type or form of benefit or any option  
21 not otherwise provided by AS 39.35.700 - 39.35.990;

22 (G) does not require an increase of benefits in excess of the  
23 amount provided by AS 39.35.700 - 39.35.990; and

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

27 (24) "retiree" means an eligible person who has elected to receive  
28 medical benefits under AS 39.35.880;

29 (25) "surviving spouse" means the spouse of an employee who has  
30 been married to the employee for at least one year at the time of the employee's death;

31 (26) "system" has the meaning given in AS 39.35.680;

1 (27) "year of service" means the equivalent of 52 weeks of permanent  
2 full-time employment, which may consist of a combination of permanent full-time or  
3 permanent part-time membership service; in this paragraph, "permanent full-time" and  
4 "permanent part-time" have the meanings given in AS 39.35.680.

5 \* Sec. 120. AS 39.45.030(a) is amended to read:

6 (a) The Alaska Retirement Management [STATE PENSION  
7 INVESTMENT] Board is authorized, subject to contracts with individual employees,  
8 to invest the funds held under a deferred compensation program. The board has the  
9 same powers and duties concerning the management and investment in regard to those  
10 funds as are provided under AS 37.10.220 [AS 14.25.180].

11 \* Sec. 121. AS 39.45.030(g) is amended to read:

12 (g) In this section, "board" means the Alaska Retirement Management  
13 [STATE PENSION INVESTMENT] Board.

14 \* Sec. 122. AS 39.45.060 is amended by adding a new paragraph to read:

15 (2) "board" means the trustees of the Alaska Retirement Management  
16 Board established under AS 37.10.210.

17 \* Sec. 123. AS 39.50.200(a)(9) is amended to read:

18 (9) "public official" means  
19 (A) judicial officer;  
20 (B) the governor or the lieutenant governor;  
21 (C) a person hired or appointed in a department in the  
22 executive branch as  
23 (i) the head or deputy head of the department;  
24 (ii) the director or deputy director of a division;  
25 (iii) a special assistant to the head of the department;  
26 (iv) a person serving as the legislative liaison for the  
27 department;  
28 (D) an assistant to the governor or the lieutenant governor;  
29 (E) the chair or a member of a state commission or board  
30 [OTHER THAN PHYSICIAN MEMBERS OR ALTERNATES OF THE  
31 ALASKA TEACHERS' RETIREMENT BOARD APPOINTED UNDER

1 AS 14.25.035(a)(2) OR OF THE PUBLIC EMPLOYEES' RETIREMENT  
2 BOARD APPOINTED UNDER AS 39.35.030(d);]

3 (F) state investment officers and the state comptroller in the  
4 Department of Revenue;

5 (G) [REPEALED

6 (H)] the chief procurement officer appointed under  
7 AS 36.30.010;

8 (I) [(I)] the executive director of the Alaska Workforce  
9 Investment Board; and

10 (J) [(J)] each appointed or elected municipal officer;

11 \* Sec. 124. AS 39.50.200(b)(54) is amended to read:

12 (54) Alaska Retirement Management [STATE PENSION  
13 INVESTMENT] Board (AS 37.10.210);

14 \* Sec. 125. AS 44.25.020(2) is amended to read:

15 (2) collect, account for, have custody of, invest, and manage all state  
16 funds and all revenues of the state except revenues incidental to a program of licensing  
17 and regulation carried on by another state department, funds managed and invested by  
18 the Alaska Retirement Management [STATE PENSION INVESTMENT] Board,  
19 and as otherwise provided by law;

20 \* Sec. 126. AS 44.25.028(a) is amended to read:

21 (a) The commissioner of revenue may designate employees of the Department  
22 of Revenue who are subject to the provisions of AS 39.50 because of their  
23 responsibility for participating in the management or investment of the funds for  
24 which the Alaska Retirement Management [STATE PENSION INVESTMENT]  
25 Board is responsible.

26 \* Sec. 127. AS 44.25.028(b) is amended to read:

27 (b) If an officer or employee of the Department of Revenue with responsibility  
28 for funds for which the Alaska Retirement Management [STATE PENSION  
29 INVESTMENT] Board is responsible acquires, owns, or controls an interest, direct or  
30 indirect, in an entity or project in which assets under the control of the board are  
31 invested, the officer or employee shall immediately disclose the interest to the board.

1 The disclosure is a matter of public record and shall be included in the minutes of the  
2 board meeting next following the disclosure. The commissioner shall adopt  
3 regulations to restrict officers and employees of the department from having a  
4 substantial interest in an entity or project in which assets under the control of the board  
5 are invested.

6 \* Sec. 128. AS 44.64.030(a) is amended by adding new paragraphs to read:

7 (36) AS 14.25.006 (teachers' retirement system);

8 (37) AS 39.35.006 (public employees' retirement system).

9 \* Sec. 129. AS 14.25.012(a), 14.25.015, 14.25.020, 14.25.022, 14.25.030, 14.25.035,  
10 14.25.037, 14.25.170, 14.25.175(e), 14.25.180, 14.25.190, 14.25.220(41); AS 39.30.175(f);  
11 AS 39.35.010, 39.35.011, 39.35.020, 39.35.030, 39.35.040, 39.35.042, 39.35.047, 39.35.060,  
12 39.35.080, 39.35.090, 39.35.522(e); AS 39.45.025; AS 39.50.200(b)(23), and  
13 39.50.200(b)(29) are repealed.

14 \* Sec. 130. AS 14.25.061(c), 14.25.062; and AS 39.35.350 are repealed.

15 \* Sec. 131. The uncodified law of the State of Alaska is amended by adding a new section  
16 to read:

17 TRANSITION: INITIAL STAGGERED TERMS OF TRUSTEES OF THE  
18 ALASKA RETIREMENT MANAGEMENT BOARD. Notwithstanding AS 37.10.210(c), as  
19 repealed and reenacted by sec. 56 of this Act, the terms of the initially appointed trustees of  
20 the Alaska Retirement Management Board who are not commissioners shall be set by the  
21 governor to achieve staggered terms in the manner provided for nine-member boards by  
22 AS 39.05.055(7).

23 \* Sec. 132. The uncodified law of the State of Alaska is amended by adding a new section  
24 to read:

25 TERMS OF MEMBERS OF THE ALASKA TEACHERS' RETIREMENT BOARD,  
26 AND THE PUBLIC EMPLOYEES' RETIREMENT BOARD. The terms of all board  
27 members appointed to the Alaska Teachers' Retirement Board, and the Public Employees'  
28 Retirement Board expire on the effective date of this section.

29 \* Sec. 133. The uncodified law of the State of Alaska is amended by adding a new section  
30 to read:

31 TERMS OF MEMBERS OF THE ALASKA STATE PENSION INVESTMENT

1 BOARD. The terms of all board members appointed to the Alaska State Pension Investment  
2 Board expire on September 30, 2005.

3 \* Sec. 134. The uncodified law of the State of Alaska is amended by adding a new section  
4 to read:

5 TRANSITION OF DUTIES BETWEEN ALASKA STATE PENSION  
6 INVESTMENT BOARD AND THE ALASKA RETIREMENT MANAGEMENT BOARD.

7 (a) After the effective date of this section and until September 30, 2005, the Alaska State  
8 Pension Investment Board shall continue to exercise the powers and duties assigned in this  
9 Act to the Alaska Retirement Management Board. The Alaska State Pension Investment  
10 Board shall take actions to facilitate the transition of duties formerly assigned to the Alaska  
11 State Pension Investment Board to the duties assigned in this Act to the Alaska Retirement  
12 Management Board. A member of the Alaska Retirement Management Board appointed to  
13 serve as a trustee before September 30, 2005, shall be invited to observe and train with the  
14 Alaska State Pension Investment Board.

15 (b) The Alaska Retirement Management Board may not assume the duties and  
16 responsibilities assigned to the Alaska Retirement Management Board in this Act until  
17 October 1, 2005.

18 \* Sec. 135. The uncodified law of the State of Alaska is amended by adding a new section  
19 to read:

20 TRANSITION. Hearings and other proceedings pending under a law amended or  
21 repealed by this Act or in connection with functions transferred by this Act continue in effect  
22 and may be continued and completed notwithstanding a transfer or amendment or repeal  
23 provided for in this Act. Orders and regulations issued or adopted under authority of a law  
24 amended or repealed by this Act remain in effect for the term issued, or until revoked,  
25 vacated, or otherwise modified under the provisions of this Act. Contracts, rights, liabilities,  
26 and obligations created by or under a law amended or repealed by this Act, and in effect on  
27 the effective date of this section, remain in effect notwithstanding this Act's taking effect.  
28 Records, equipment, appropriations, funds, and other property of boards or agencies of the  
29 state whose functions are transferred under this Act shall be transferred to implement the  
30 provisions of this Act.

31 \* Sec. 136. The uncodified law of the State of Alaska is amended by adding a new section

1 to read:

2 TRANSITION: REGULATIONS. (a) The Department of Administration and the  
3 Department of Revenue may proceed to develop and adopt regulations required to implement  
4 this Act.

5 (b) Regulations adopted by the Department of Administration and the Department of  
6 Revenue under this Act relate to the internal management of a state agency, and the adoption  
7 of the regulations is not subject to AS 44.62 (Administrative Procedure Act).

8 \* Sec. 137. The uncodified law of the State of Alaska is amended by adding a new section  
9 to read:

10 REPORT TO THE LEGISLATURE BY ALASKA RETIREMENT MANAGEMENT  
11 BOARD. It is the intent of the legislature that there will be a moratorium after the effective  
12 date of this Act on legislation affecting all public employees' retirement plans until the Alaska  
13 Retirement Management Board can present a report to the legislature containing the board's  
14 assessment and recommendations as provided in this section. The Alaska Retirement  
15 Management Board shall report to the legislature 120 days after all members are appointed to  
16 the board, or 15 days after the first day of the first regular legislative session following the  
17 effective date of this section, whichever is first. The report must include the board's

18 (1) preliminary assessment of the financial health of all public employees'  
19 retirement plans and all teachers' retirement plans;

20 (2) assessment of the actuarial services purchased by the board;

21 (3) recommendations for additional legislative or administrative policy to  
22 improve the financial health of the retirement plans;

23 (4) short-term and long-term recommendations for addressing the unfunded  
24 liability of the retirement plans; and

25 (5) recommendations for legislative procedures regarding fiscal notes for new  
26 legislation affecting the retirement plans.

27 \* Sec. 138. The uncodified law of the State of Alaska is amended by adding a new section  
28 to read:

29 INSTRUCTION REGARDING ALASKA TEACHERS' RETIREMENT SYSTEM  
30 BOARD, ALASKA PUBLIC EMPLOYEES' RETIREMENT SYSTEM BOARD, AND  
31 ALASKA STATE PENSION INVESTMENT BOARD. Wherever in the Alaska Statutes and

1 the Alaska Administrative Code the terms "Alaska Teachers' Retirement System Board,"  
2 "Alaska Public Employees' Retirement System Board," or "Alaska State Pension Investment  
3 Board" are used, they shall be read as "Alaska Retirement Management Board" when to do so  
4 would be consistent with the changes made by this Act.

5 \* Sec. 139. The uncodified law of the State of Alaska is amended by adding a new section  
6 to read:

7 SPECIFIC INSTRUCTIONS TO REVISOR OF STATUTES CONCERNING  
8 SPECIFIC REFERENCES. (a) The revisor of statutes shall change references to "this  
9 chapter" to "AS 14.25.009 - 14.25.220" in the following statutes: AS 14.25.040(b),  
10 14.25.040(c), 14.25.045(a), 14.25.047, 14.25.061(a), 14.25.062, 14.25.063(a), 14.25.075(c),  
11 14.25.105, 14.25.107, 14.25.110(k), 14.25.142, 14.25.150(b), 14.25.153, 14.25.160(h),  
12 14.25.165(f), 14.25.166, 14.25.177, 14.25.195, 14.25.200(b), 14.25.205, and 14.25.210, and  
13 in 14.25.220 in each place that the phrase appears.

14 (b) The revisor of statutes shall change the reference to "board" to "administrator" in  
15 the following statutes: AS 14.25.075 and 14.25.130(f).

16 (c) The revisor of statutes shall change the reference to "system" to "plan" in the  
17 following statutes: AS 14.25.040(b), 14.25.040(c), 14.25.045, 14.25.047, 14.25.050(a),  
18 14.25.055, 14.25.060, 14.25.061(a), 14.25.062, 14.25.063(a), 14.25.065, 14.25.075(c),  
19 14.25.075(d), 14.25.075(g), 14.25.075(h), 14.25.075(i), 14.25.100(a), 14.25.105(c),  
20 14.25.107, 14.25.110, 14.25.125(c), 14.25.143, 14.25.163, 14.25.165(i), 14.25.167(g),  
21 14.25.168, 14.25.169, 14.25.173(a), 14.25.173(d), 14.25.181, 14.25.200, 14.25.210,  
22 14.25.220(1), 14.25.220(4), 14.25.220(7), 14.25.220(14), 14.25.220(20), 14.25.220(22),  
23 14.25.220(23), 14.25.220(31), 14.25.220(34), 14.25.220(36), 14.25.220(37), 14.25.220(42);  
24 AS 39.35.120, 39.35.125, 39.35.160, 39.35.165(a), 39.35.165(c), 39.35.165(d), 39.35.165(e),  
25 39.35.165(g), 39.35.165(h), 39.35.165(i), 39.35.170, 39.35.180, 39.35.195(b), 39.35.195(c),  
26 39.35.280, 39.35.300(c), 39.35.310(a), 39.35.310(c), 39.35.340(a), 39.35.342(a),  
27 39.35.342(d), 39.35.345(a), 39.35.345(d), 39.35.360(a), 39.35.360(g), 39.35.360(h),  
28 39.35.360(k), 39.35.370(f), 39.35.370(h), 39.35.370(i), 39.35.370(j), 39.35.370(k),  
29 39.35.371(i), 39.35.381(b), 39.35.381(g), 39.35.385(c), 39.35.400(c), 39.35.450(g),  
30 39.35.475(a), 39.35.475(b), 39.35.475(d), 39.35.500(a), 39.35.505, 39.35.520(a),  
31 39.35.520(d), 39.35.527(a), 39.35.527(b), 39.35.530, 39.35.535(a), 39.35.535(d), 39.35.550,

1 39.35.560, 39.35.570, 39.35.580, 39.35.590, 39.35.600, 39.35.610, 39.35.620(a),  
2 39.35.620(h), 39.35.650, 39.35.670, 39.35.675(a), 39.35.680(1), 39.35.680(5), 39.35.680(9),  
3 39.35.680(12), 39.35.680(15), 39.35.680(16), 39.35.680(17), 39.35.680(20),  
4 39.35.680(21)(A), 39.35.680(29), 39.35.680(32), 39.35.680(33), and 39.35.680(35).

5 (d) The revisor of statutes shall change the reference to "board" to "commissioner" in  
6 AS 39.35.290.

7 (e) The revisor of statutes shall change references to "this chapter" to "AS 39.35.095 -  
8 39.35.680" in the following statutes: AS 39.35.165, 39.35.200, 39.35.300, 39.35.340,  
9 39.35.350, 39.35.360, 39.35.370, 39.35.371, 39.35.375, 39.35.381, 39.35.480, 39.35.490,  
10 39.35.495, 39.35.505, 39.35.530, 39.35.546, 39.35.547, 39.35.615(c), 39.35.620(c),  
11 39.35.660, 39.35.675(b), 39.35.677, and 39.35.680.

12 (f) The revisor of statutes shall renumber AS 39.35.690 to follow AS 39.35.990.

13 \* Sec. 140. The uncodified law of the State of Alaska is amended by adding a new section  
14 to read:

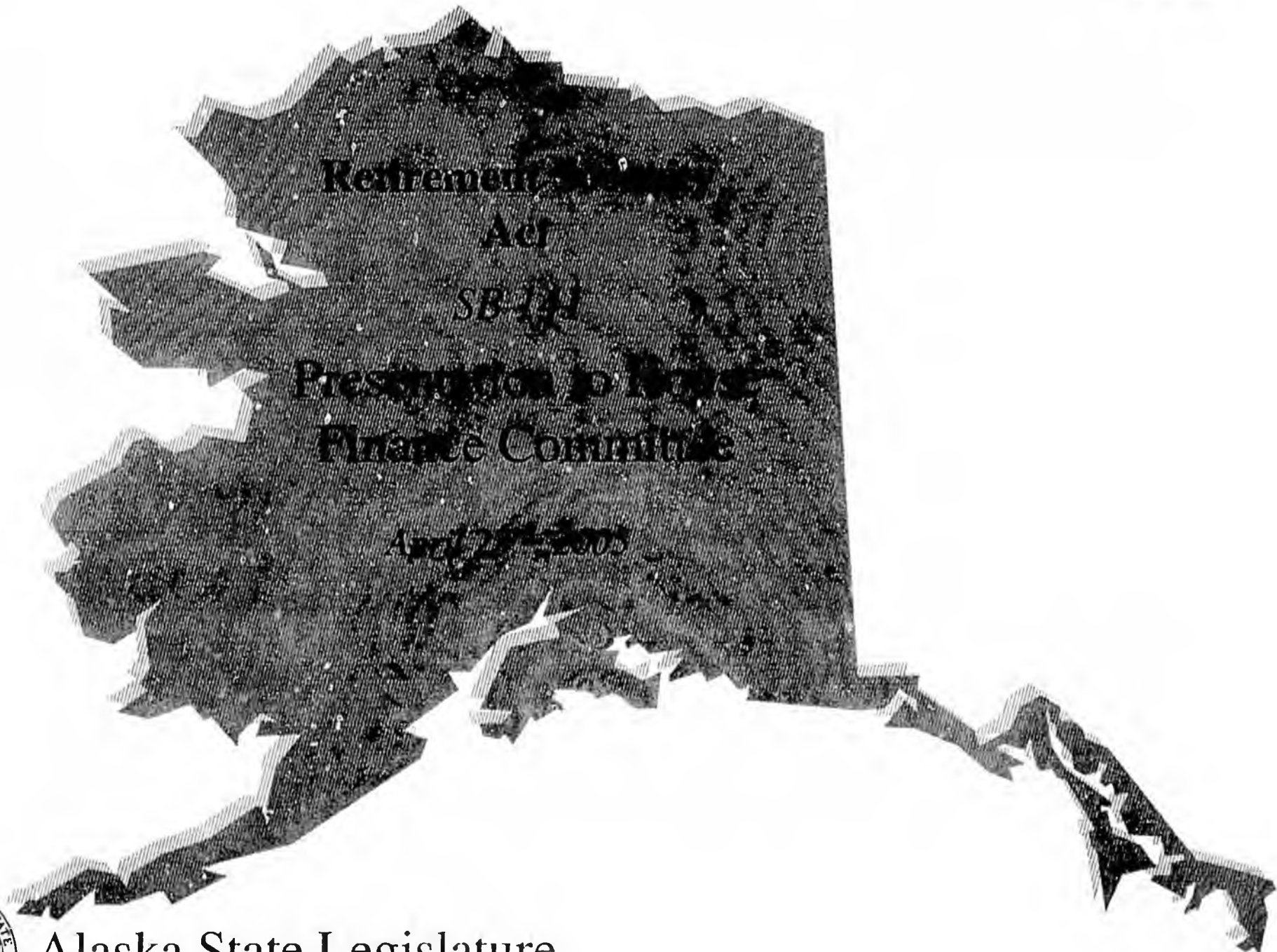
15 IMPLEMENTATION OF SECTIONS 138 AND 139 OF THIS ACT. Under  
16 AS 01.05.031, the revisor of statutes shall implement secs. 138 and 139 of this Act in the  
17 Alaska Statutes, and, under AS 44.62.125(b)(6), the regulations attorney shall implement secs.  
18 138 and 139 of this Act in the administrative code.

19 \* Sec. 141. Sections 8, 9, 11, 12, 17, 84 - 89, 101, 108, and 130 of this Act take effect  
20 June 30, 2010.

21 \* Sec. 142. Section 140 of this Act takes effect immediately under AS 01.10.070(c).

22 \* Sec. 143. Except as provided in secs. 141 and 142 of this Act, this Act takes effect July 1,  
23 2005.

4-23-05



Alaska State Legislature  
*Senate Finance Committee*



# Agenda

- How a retirement system works
- What is the current status of Alaska's system?
- What went wrong?
- Conclusions
- SB 141 Solutions





*How a retirement system works*





Determine how new monies come into the system



Determine how the money in the system is invested

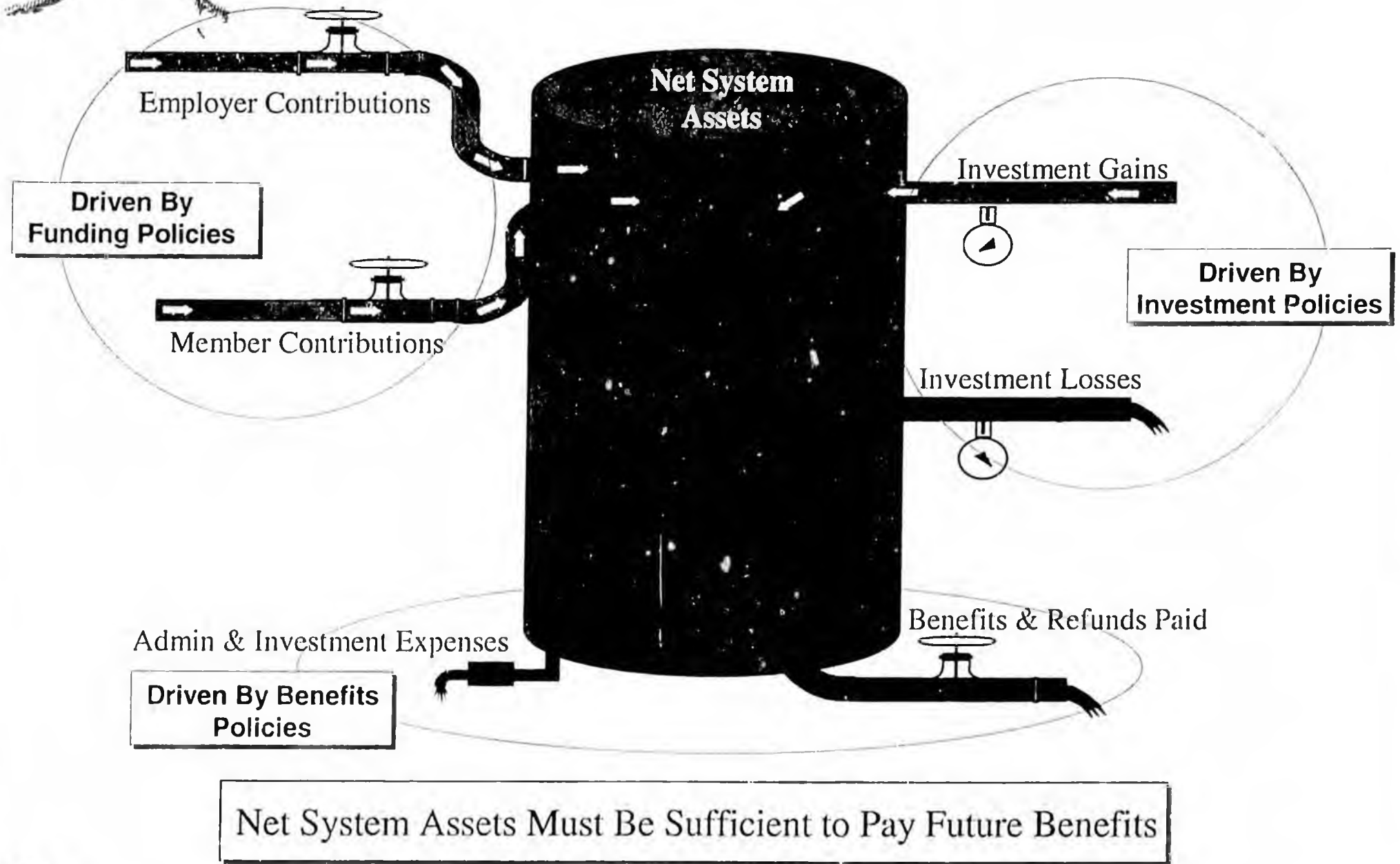
*Secure and Sustainable Retirement System*



Determine the retirement, medical and death benefits offered to members

All Three System Components Must be Working in Balance

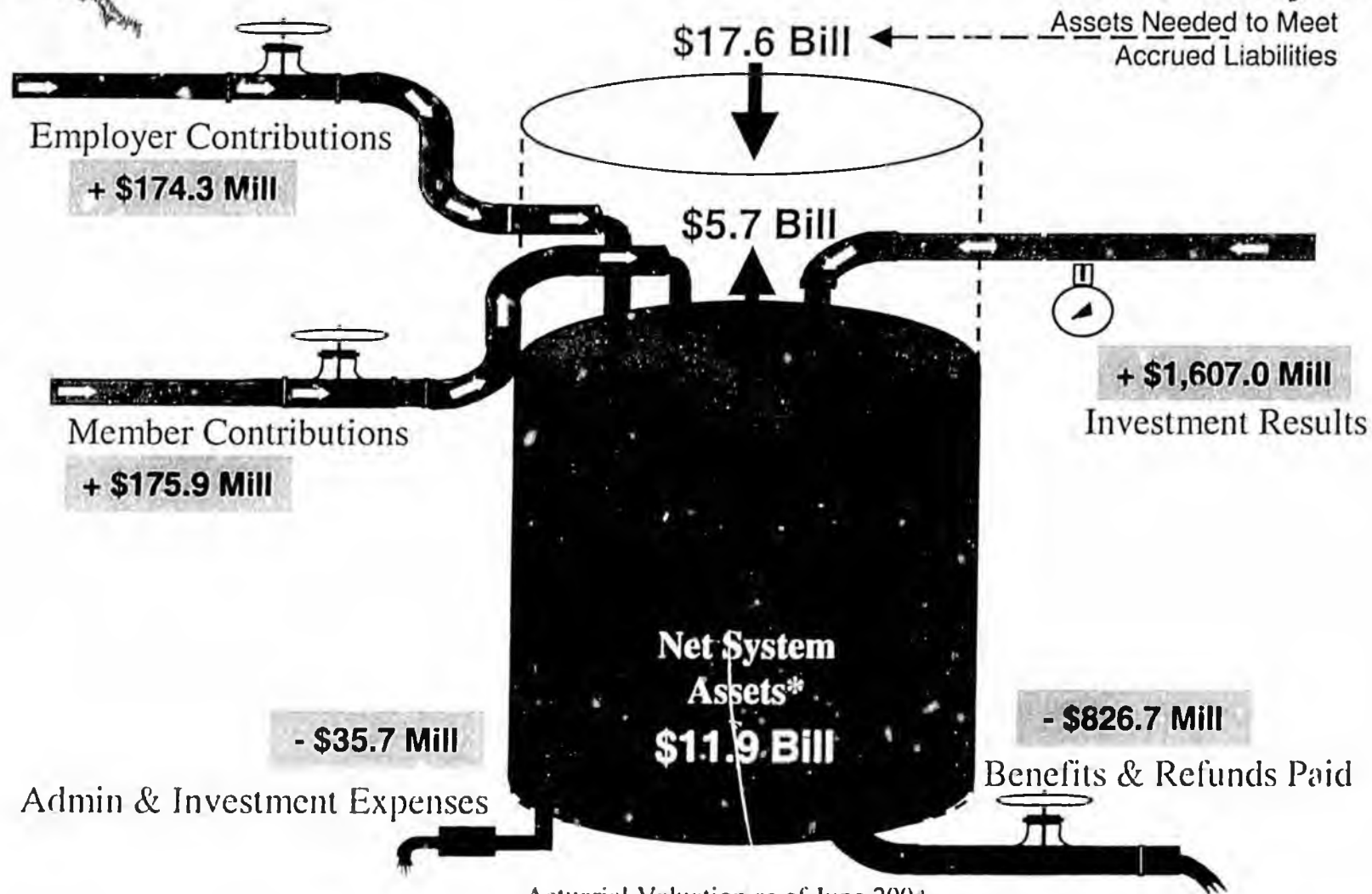






*What is the status of  
Alaska's system?*



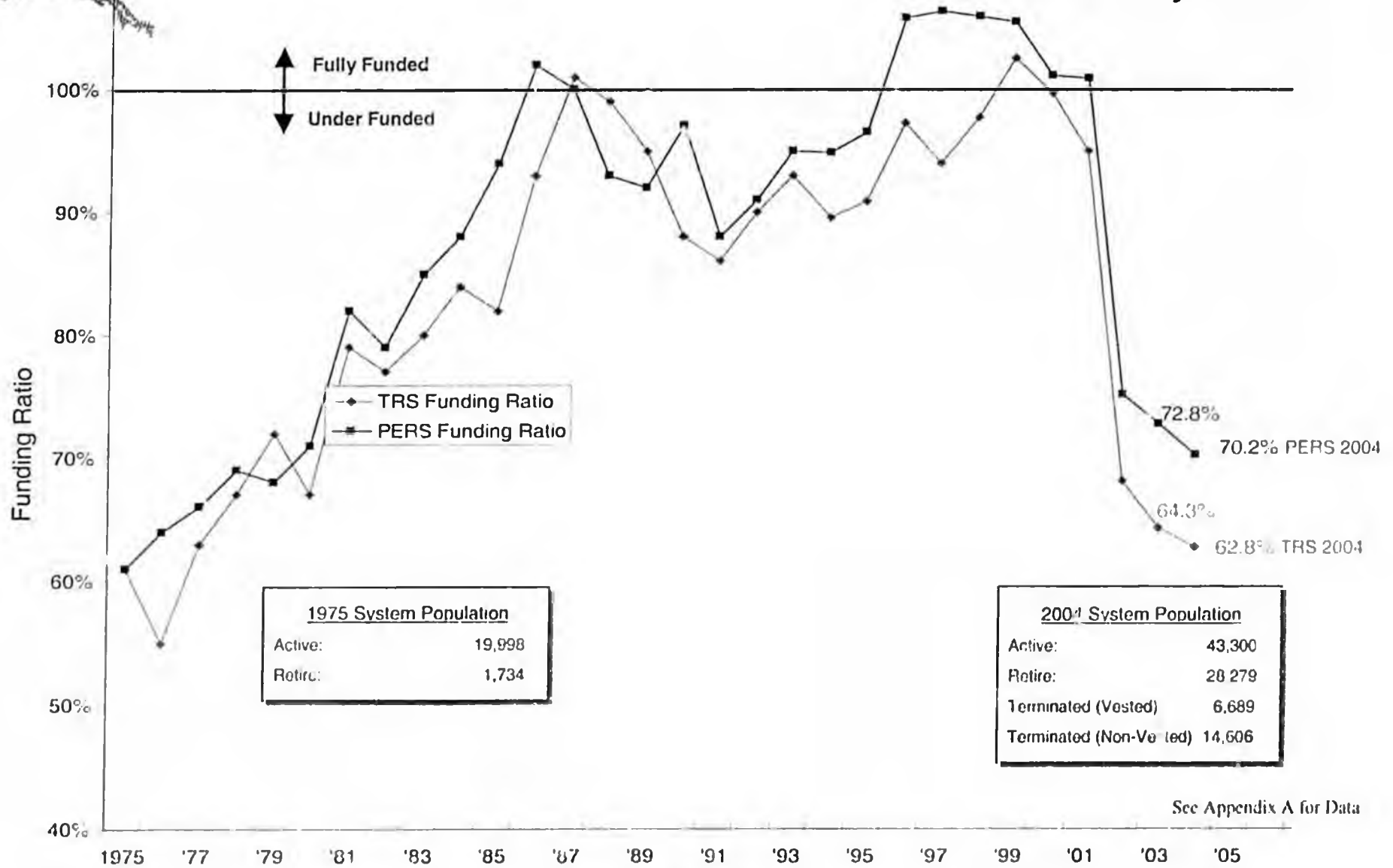


Actuarial Valuation as of June 2004  
annotated with 2004 system cash flows

\*Combined PERS & TRS Actuarial Asset Values

**PERS & TRS Have A Combined \$5.7 Billion Unfunded Liability**





Historical PERS & TRS Funding Ratios





PERS Payroll Contribution Trend & Forecast

