

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 3023

1 settlement, that

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

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

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

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

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

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

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

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

23 * Sec. 100. AS 39.35.680 is amended by adding new paragraphs to read:

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

25 (42) "plan" means the retirement plan established in AS 39.35.095 -
26 39.35.680.

27 * Sec. 101. AS 39.35 is amended by adding new sections to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (d) In this section,

31 (1) "direct rollover" means the payment of an eligible rollover

1 distribution by the plan to an eligible retirement plan specified by a distributee who is
2 eligible to elect a direct rollover;

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

5 (3) "eligible retirement plan" means

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

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

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

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

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

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

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

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

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

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

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

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

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

31 **Sec. 39.35.780. Limitations on contributions.** Notwithstanding any other

1 provisions of this plan, the annual additions to each member's individual account
2 under this plan and under all defined contribution plans of the employer required to be
3 aggregated with the contributions from this plan under the provisions of 26 U.S.C. 415
4 may not exceed, for any limitation year, the amount permitted under 26 U.S.C. 415 at
5 any time. If the amount of a member's defined contribution plan contributions exceeds
6 the limitation of 26 U.S.C. 415(c) for any limitation year, the administrator shall take
7 any necessary remedial action to correct an excess contribution. The provisions of 26
8 U.S.C. 415, and the regulations adopted under that statute, as applied to qualified
9 defined contribution plans of governmental employees are incorporated as part of the
10 terms and conditions of the plan.

11 **Sec. 39.35.790. Vesting.** (a) A participating member is immediately and
12 fully vested in that member's contributions and related earnings.

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

- 17 (1) 25 percent with two years of service;
18 (2) 50 percent with three years of service; and
19 (3) 75 percent with four years of service.

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

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

28 (c) A participant may elect to change or transfer all or a portion of the
29 participant's existing account balance among available investment funds not more
30 often than once each day in accordance with the rules established by the administrator.
31 Only the last election received by the administrator before the transmittal of

1 contributions to the trust fund for allocation to the individual account shall be used to
2 direct the investment of the contributions received.

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

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

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

14 **Sec. 39.35.810. Distribution election at termination.** (a) A member is
15 eligible to elect distribution of the member's account in accordance with this section
16 60 days after termination of employment.

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

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

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

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

1 (4) prevention of the eviction of the member from the member's
2 principal residence or foreclosure on the mortgage of the member's principal
3 residence; or

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

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

11 (d) Distributions are payable to an alternate payee in accordance with the
12 terms and conditions of a qualified domestic relations order that is received and
13 approved by the administrator as specified in AS 39.35.860.

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

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

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

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

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

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

31 (5) single life annuity payment, which is an annuity payable monthly

1 until the first of the month in which the annuitant's death occurs; or

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

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

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

15 (d) If an unmarried member or other participant fails to elect a form of
16 payment before the distribution commencement date, the account shall be paid to a
17 beneficiary in the form of a lump sum to the extent required by the minimum
18 distribution requirements set out in the Internal Revenue Code. If a married member
19 fails to elect a form of payment before the distribution commencement date, the
20 account shall be paid in the form of a 50 percent joint and survivor annuity, with the
21 member's spouse as the joint annuitant.

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

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

30 (1) the form of payment election;

31 (2) an election to commence benefits; or

1 (3) the joint annuitant designation.

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

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

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

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

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

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

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

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

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

27 (d) If a member has made a distribution election and dies before the
28 distribution of the member's interest begins, distribution of the member's entire interest
29 shall be completed by December 31 of the calendar year containing the fifth
30 anniversary of the member's death. However, if any portion of the member's interest
31 is payable to a designated beneficiary, distributions may be made over the life of the

1 designated beneficiary or over a period certain not greater than the life expectancy of
2 the designated beneficiary, commencing on or before December 31 of the calendar
3 year immediately following the calendar year in which the member died, and, if the
4 designated beneficiary is the member's surviving spouse, the date distributions are
5 required to begin may not be earlier than the later of December 31 of the calendar year
6 (1) immediately following the calendar year in which the member died, or (2) in which
7 the member would have attained 70 1/2 years of age, whichever is earlier. If the
8 surviving spouse dies after the member but before payments to the spouse have begun,
9 the provisions of this subsection apply as if the surviving spouse were the member.
10 An amount paid to a child of the member shall be treated as if it were paid to the
11 surviving spouse if the amount becomes payable to the surviving spouse when the
12 child reaches the age of majority.

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

22 (f) For purposes of (b) of this section, distribution of a member's interest is
23 considered to begin (1) on the member's required beginning date, or (2) if the
24 designated beneficiary is the member's surviving spouse and the surviving spouse dies
25 after the member but before payments to the spouse have begun, on the date
26 distribution is required to begin to the surviving spouse. If distribution in the form of
27 an annuity irrevocably commences to the member before the required beginning date,
28 the date distribution is considered to begin is the date that the distribution actually
29 commences.

30 (g) Notwithstanding any contrary provisions of AS 39.35.700 - 39.35.990, the
31 requirements of this section apply to all distributions of a member's interest and take

1 precedence over any inconsistent provisions of AS 39.35.700 - 39.35.990.

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

5 (i) In this section,

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

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

12 **Sec. 39.35.850. Designation of beneficiary.** (a) Each participant shall have
13 the right to designate a beneficiary and shall have the right, at any time, to revoke the
14 designation or to substitute another beneficiary, subject to the following limitation: if a
15 married member elects a nonspouse beneficiary, the value of the benefit payable to the
16 beneficiary may not exceed 50 percent of the member's portion of the account balance,
17 and the member's spouse shall automatically be considered the beneficiary for the
18 remaining 50 percent of the account balance, unless the spouse consents to the
19 beneficiary designation in a writing that is notarized or witnessed by the administrator.
20 If the spouse consents in this manner, a married member may designate a nonspouse
21 beneficiary for the entire benefit or any portion the benefit as part of an available form
22 of payment contained in this plan,

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

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

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

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

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

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

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

15 (4) to the estate.

16 (d) A person claiming entitlement to benefits payable under AS 39.35.700 -
17 39.35.990 as a consequence of a member's death shall provide the administrator with a
18 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.
19 Documents establishing entitlement may be filed with the administrator immediately
20 after a change in the member's marital status. If the administrator does not receive
21 notification of a claim before the date 10 days after the member's death, the person
22 claiming entitlement is not entitled to receive from the division of retirement and
23 benefits any benefit already paid by the administrator.

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

30 (b) The administrator shall determine whether an order meets the requirements
31 of this section within a reasonable period after receiving an order. The administrator

1 shall notify the member and any alternate payee that an order has been received and
2 indicate to the member and any alternate payee when the order is accepted. A separate
3 account for the alternate payee portion shall be established as soon as administratively
4 feasible after the order has been accepted by the administrator.

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

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

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

10 (b) A member's surviving spouse is eligible to elect medical benefits under
11 AS 39.35.880 if the member had elected, or was eligible to elect medical benefits at
12 the time of the member's death.

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

16 (d) Election of the retiree major medical insurance plan is not required in
17 order to elect participation in the health reimbursement arrangement.

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

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

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

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

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

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

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

12 (f) The medical and optional insurance premiums owed by the person who
13 elects coverage may be deducted from the health reimbursement arrangement. If the
14 amount of the health reimbursement arrangement becomes insufficient to pay the
15 premiums, the person who elects coverage under (a) of this section shall pay the
16 premiums directly.

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

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

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

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

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

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

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

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

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

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

6 (1) be informed by the administrator in writing

7 (A) that the health insurance coverage available to retired
8 members may be different from the health insurance coverage provided to
9 employees;

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

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

15 (j) The monthly group premiums for retiree major medical insurance coverage
16 are established by the administrator in accordance with AS 39.30.095. Nothing in
17 AS 39.35.700 - 39.35.990 guarantees a person who elects coverage under (a) of this
18 section a monthly group premium rate for retiree major medical insurance coverage
19 other than the premium in effect for the month in which the premium is due for
20 coverage for that month.

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

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

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

30 (c) The state may, in its discretion, terminate the plan in whole or part at any
31 time without liability for the termination. If the plan is terminated, all investments

1 remain in force until all individual accounts have been completely distributed under
2 the plan, and, after all plan liabilities are satisfied, excess assets revert to the employer.

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

6 **Sec. 39.35.900. Exclusive benefit.** (a) The corpus or income of the assets
7 held in trust as required by the plan may not be diverted or used for other than the
8 exclusive benefit of the participants.

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

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. 39.35.910. Nonguarantee of returns, rates, or benefit amounts.** The
16 plan created by AS 39.35.700 - 39.35.990 is a defined contribution plan, not a defined
17 benefit plan. The amount of money in the account of a participant depends on the
18 amount of contributions and the rate of return from investments of the account that
19 varies over time. If benefits are paid in the form of an annuity, the benefit amount
20 payable is dependent on the amount of money in the account and the interest rates
21 applied and service fees charged by the annuity payor at the time benefits are first
22 paid. Nothing in this plan guarantees a participant

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

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

28 **Sec. 39.35.920. Nonguarantee of employment.** The provisions of
29 AS 39.35.700 - 39.35.990 are not a contract of employment between an employer and
30 an employee, nor do they confer a right of an employee to be continued in the
31 employment of an employer, nor are they a limitation of the right of an employer to

1 discharge an employee with or without cause.

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

5 **Sec. 39.35.940. Transfer into defined contribution plan by nonvested**
6 **members of defined benefit plan.** (a) Subject to (g) of this section, an active
7 member of the defined benefit retirement plan of the teachers' retirement system is
8 eligible to participate in the defined contribution retirement plan established under
9 AS 39.35.700 - 39.35.990, if that member has not vested. Participation in the defined
10 contribution retirement plan is in lieu of participation in the defined benefit retirement
11 plan established under AS 39.35.095 - 39.35.680.

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

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

27 (d) As directed by the participant, the board shall transfer or cause to be
28 transferred the appropriate amounts to the designated account. The board shall
29 establish transfer procedures by regulation, but the actual transfer may not be later
30 than 30 days after the effective date of the member's participation in the defined
31 contribution retirement plan unless the major financial markets for securities available

1 for a transfer are seriously disrupted by an unforeseen event that also causes the
2 suspension of trading on any national securities exchange in the country where the
3 securities were issued. In that event, the 30-day period of time may be extended by a
4 resolution of the board of trustees. Transfers are not commissionable or subject to
5 other fees and may be in the form of securities or cash as determined by the board.
6 Securities shall be valued as of the date of receipt in the participant's account.

7 (e) If the board or the administrator receives notification from the United
8 States Department of the Treasury, Internal Revenue Service, that this section or a
9 portion of this section will cause the retirement system under this chapter, or a portion
10 of the retirement system under this chapter, to be disqualified for tax purposes under
11 the Internal Revenue Code, the portion that will cause the disqualification does not
12 apply, and the board and the administrator shall notify the presiding officers of the
13 legislature.

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

1 (g) A member may make an election under this section only if the member's
2 employer participates in both the defined benefits retirement plan and the defined
3 contribution retirement plan and consents to transfers under this section. The
4 employer shall notify the administrator if the employer consents to allowing the
5 employer's members to choose to transfer from the defined benefits retirement plan to
6 the defined contribution retirement plan under this section. An employer's notice to
7 allow transfers is irrevocable and applicable to all eligible employees of the employer.

8 (h) In this section,

9 (1) "defined benefit retirement plan" means the retirement plan
10 established in AS 39.35.095 - 39.35.680;

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

13 **Sec. 39.35.950. Request by political subdivision to participate and**
14 **adoption of resolution.** A municipality or other political subdivision of the state may
15 request to become an employer in this plan. The request shall be made after adoption
16 of a resolution by the legislative body of the political subdivision and after approval of
17 the resolution by the person required by law to approve the resolution. A certified
18 copy of the resolution shall be filed with the administrator. If the administrator
19 approves the request for participation, the political subdivision is an employer of the
20 plan.

21 **Sec. 39.35.955. Request by public organization to participate and**
22 **adoption of resolution.** A public organization may request to become an employer in
23 this plan. The request shall be made after adoption of a resolution by the governing
24 body of the public organization. A certified copy of the resolution shall be filed with
25 the administrator. If the administrator approves the request for participation, the
26 public organization is an employer of the plan.

27 **Sec. 39.35.960. Membership in teachers' and public employees'**
28 **retirement systems.** A person who is employed at least half-time in the public
29 employees' defined contribution retirement plan (AS 39.35.700 - 39.35.990) during the
30 same period that the person is employed at least half-time in a position in the teachers'
31 defined contribution retirement plan (AS 14.25.310 - 14.25.590) shall receive credited

1 service under each plan for half-time employment. However, the amount of credited
2 service a person receives under the public employees' defined contribution retirement
3 plan during a school year may not exceed the amount necessary, when added to the
4 amount of credited service earned during the school year under the teachers' defined
5 contribution retirement plan, to equal one year of credited service.

6 **Sec. 39.35.965. Army and air national guard employees.** A regular full-
7 time civilian employee of the Alaska Army National Guard and Air National Guard
8 whose entire salary is paid from allotted federal funds is included in the public
9 employees' defined contribution retirement plan (AS 39.35.700 - 39.35.990) if the
10 federal or state government pays the employer's contributions. If the amount that the
11 federal government may legally contribute to the plan is lower than the required
12 employer's contribution, the state government shall contribute the difference. If the
13 employer's contributions are not paid when due, service credit for the period of
14 delinquency may not be granted until the contributions are paid.

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

22 **Sec. 39.35.975. Administrative director of courts.** An administrative
23 director of the Alaska Court System who withdraws from the judicial retirement
24 system under AS 22.25.012 is eligible for membership in the public employees'
25 defined contribution retirement plan (AS 39.35.700 - 39.35.990).

26 **Sec. 39.35.990. Definitions.** In AS 39.35.700 - 39.35.990, unless the context
27 requires otherwise,

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

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

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

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

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

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

8 (7) "compensation"

9 (A) means

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

14 (ii) the member contribution to the public employees'
15 retirement system under AS 39.35.730, employee deferrals under
16 AS 39.45.010, the wage reduction amount contributed to the Alaska
17 Supplemental Annuity Plan under AS 39.30.150(a), and the wage
18 reduction amount contributed to the Alaska Supplemental Benefit Plan
19 under AS 39.30.150(c), as those statutes may be amended from time to
20 time;

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

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

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

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

13 (10) "employer" means

14 (A) the State of Alaska; or

15 (B) a political subdivision or public organization of the state
16 that participates in the plan;

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

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

23 (13) "Internal Revenue Code" means the Internal Revenue Code of
24 1986, as amended;

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

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

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

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

5 (18) "normal retirement age" means 65 years of age;

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

10 (20) "peace officer" or "fire fighter" has the meaning given in
11 AS 39.35.680;

12 (21) "plan" means the retirement plan established in AS 39.35.700 -
13 39.35.990;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 * Sec. 102. AS 39.45.030(a) is amended to read:

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

23 * Sec. 103. AS 39.45.030(g) is amended to read:

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

26 * Sec. 104. AS 39.45.060 is amended by adding a new paragraph to read:

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

29 * Sec. 105. AS 39.50.200(a)(9) is amended to read:

30 (9) "public official" means

31 (A) a judicial officer;

1 (B) the governor or the lieutenant governor;

2 (C) a person hired or appointed in a department in the
3 executive branch as

4 (i) the head or deputy head of the department;

5 (ii) the director or deputy director of a division;

6 (iii) a special assistant to the head of the department;

7 (iv) a person serving as the legislative liaison for the
8 department;

9 (D) an assistant to the governor or the lieutenant governor;

10 (E) the chair or a member of a state commission or board
11 [OTHER THAN PHYSICIAN MEMBERS OR ALTERNATES OF THE
12 ALASKA TEACHERS' RETIREMENT BOARD APPOINTED UNDER
13 AS 14.25.035(a)(2) OR OF THE PUBLIC EMPLOYEES' RETIREMENT
14 BOARD APPOINTED UNDER AS 39.35.030(d);]

15 (F) state investment officers and the state comptroller in the
16 Department of Revenue;

17 (G) [REPEALED

18 (H)] the chief procurement officer appointed under
19 AS 36.30.010;

20 (H) [(I)] the executive director of the Alaska Workforce
21 Investment Board; and

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

23 * Sec. 106. AS 39.50.200(b)(54) is amended to read:

24 (54) Alaska Retirement Management [STATE PENSION
25 INVESTMENT] Board (AS 37.10.210);

26 * Sec. 107. AS 44.25.020(2) is amended to read:

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

1 * **Sec. 108.** AS 44.25.028(a) is amended to read:

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

7 * **Sec. 109.** AS 44.25.028(b) is amended to read:

8 (b) If an officer or employee of the Department of Revenue with responsibility
9 for funds for which the Alaska Retirement Management [STATE PENSION
10 INVESTMENT] Board is responsible acquires, owns, or controls an interest, direct or
11 indirect, in an entity or project in which assets under the control of the board are
12 invested, the officer or employee shall immediately disclose the interest to the board.
13 The disclosure is a matter of public record and shall be included in the minutes of the
14 board meeting next following the disclosure. The commissioner shall adopt
15 regulations to restrict officers and employees of the department from having a
16 substantial interest in an entity or project in which assets under the control of the board
17 are invested.

18 * **Sec. 110.** AS 44.64.030(a) is amended by adding a new paragraph to read:

19 (36) AS 37.10.210 - 37.10.390 (Alaska Retirement Management
20 Board).

21 * **Sec. 111.** AS 14.25.012(a), 14.25.015, 14.25.020, 14.25.022, 14.25.030, 14.25.035,
22 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);
23 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,
24 39.35.080, 39.35.090, 39.35.520(c), 39.35.522(c) 39.35.522(e); AS 39.45.025;
25 AS 39.50.200(b)(23), and 39.50.200(b)(29) are repealed.

26 * **Sec. 112.** AS 14.25.061(c), 14.25.062; and AS 39.35.350 are repealed.

27 * **Sec. 113.** The uncodified law of the State of Alaska is amended by adding a new section
28 to read:

29 **TRANSITION: INITIAL STAGGERED TERMS OF TRUSTEES OF THE**
30 **ALASKA RETIREMENT MANAGEMENT BOARD.** Notwithstanding AS 37.10.210(c), as
31 repealed and reenacted by sec. 42 of this Act, the terms of the initially appointed trustees of

1 the Alaska Retirement Management Board who are not commissioners shall be set by the
2 governor to achieve staggered terms in the manner provided for nine-member boards by
3 AS 39.05.055(7).

4 * Sec. 114. The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

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

10 * Sec. 115. The uncodified law of the State of Alaska is amended by adding a new section
11 to read:

12 TERMS OF MEMBERS OF THE ALASKA STATE PENSION INVESTMENT
13 BOARD. The terms of all board members appointed to the Alaska State Pension Investment
14 Board expire on September 30, 2005.

15 * Sec. 116. The uncodified law of the State of Alaska is amended by adding a new section
16 to read:

17 TRANSITION OF DUTIES BETWEEN ALASKA STATE PENSION
18 INVESTMENT BOARD AND THE ALASKA RETIREMENT MANAGEMENT BOARD.

19 (a) After the effective date of this section and until September 30, 2005, the Alaska State
20 Pension Investment Board shall continue to exercise the powers and duties assigned in this
21 Act to the Alaska Retirement Management Board. The Alaska State Pension Investment
22 Board shall take actions to facilitate the transition of duties formerly assigned to the Alaska
23 State Pension Investment Board to the duties assigned in this Act to the Alaska Retirement
24 Management Board. A member of the Alaska Retirement Management Board appointed to
25 serve as a trustee before September 30, 2005, shall be invited to observe and train with the
26 Alaska State Pension Investment Board.

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

30 * Sec. 117. The uncodified law of the State of Alaska is amended by adding a new section
31 to read:

1 TRANSITION. Hearings and other proceedings pending under a law amended or
2 repealed by this Act or in connection with functions transferred by this Act continue in effect
3 and may be continued and completed notwithstanding a transfer or amendment or repeal
4 provided for in this Act. Orders and regulations issued or adopted under authority of a law
5 amended or repealed by this Act remain in effect for the term issued, or until revoked,
6 vacated, or otherwise modified under the provisions of this Act. Contracts, rights, liabilities,
7 and obligations created by or under a law amended or repealed by this Act, and in effect on
8 the effective date of this section, remain in effect notwithstanding this Act's taking effect.
9 Records, equipment, appropriations, funds, and other property of boards or agencies of the
10 state whose functions are transferred under this Act shall be transferred to implement the
11 provisions of this Act.

12 * **Sec. 118.** The uncodified law of the State of Alaska is amended by adding a new section
13 to read:

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

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

20 * **Sec. 119.** The uncodified law of the State of Alaska is amended by adding a new section
21 to read:

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

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

- 1 (2) assessment of the actuarial services purchased by the board;
- 2 (3) recommendations for additional legislative or administrative policy to
- 3 improve the financial health of the retirement plans;
- 4 (4) short-term and long-term recommendations for addressing the unfunded
- 5 liability of the retirement plans; and
- 6 (5) recommendations for legislative procedures regarding fiscal notes for new
- 7 legislation affecting the retirement plans.

8 * Sec. 120. The uncodified law of the State of Alaska is amended by adding a new section

9 to read:

10 INSTRUCTION REGARDING ALASKA TEACHERS' RETIREMENT SYSTEM

11 BOARD, ALASKA PUBLIC EMPLOYEES' RETIREMENT SYSTEM BOARD, AND

12 ALASKA STATE PENSION INVESTMENT BOARD. Wherever in the Alaska Statutes and

13 the Alaska Administrative Code the terms "Alaska Teachers' Retirement System Board,"

14 "Alaska Public Employees' Retirement System Board," or "Alaska State Pension Investment

15 Board" are used, they shall be read as "Alaska Retirement Management Board" when to do so

16 would be consistent with the changes made by this Act.

17 * Sec. 121. The uncodified law of the State of Alaska is amended by adding a new section

18 to read:

19 SPECIFIC INSTRUCTIONS TO REVISOR OF STATUTES CONCERNING

20 SPECIFIC REFERENCES. (a) The revisor of statutes shall change references to "this

21 chapter" to "AS 14.25.009 - 14.25.220" in the following statutes: AS 14.25.040(b),

22 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),

23 14.25.105, 14.25.107, 14.25.110(k), 14.25.142, 14.25.150(b), 14.25.153, 14.25.160(h),

24 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

25 in 14.25.220 in each place that the phrase appears.

26 (b) The revisor of statutes shall change the reference to "board" to "administrator" in

27 the following statutes: AS 14.25.075 and 14.25.130(f).

28 (c) The revisor of statutes shall change the reference to "system" to "plan" in the

29 following statutes: AS 14.25.040(b), 14.25.040(c), 14.25.045, 14.25.047, 14.25.055,

30 14.25.060, 14.25.061(a), 14.25.062, 14.25.063(a), 14.25.065, 14.25.070, 14.25.075(c),

31 14.25.075(d), 14.25.075(g), 14.25.075(h), 14.25.075(i), 14.25.100(a), 14.25.105(c),

1 14.25.107, 14.25.110, 14.25.125(c), 14.25.143, 14.25.163, 14.25.165(i), 14.25.167(g),
 2 14.25.168, 14.25.169, 14.25.173(a), 14.25.173(d), 14.25.181, 14.25.200, 14.25.210,
 3 14.25.220(1), 14.25.220(4), 14.25.220(7), 14.25.220(14), 14.25.220(20), 14.25.220(22),
 4 14.25.220(23), 14.25.220(31), 14.25.220(34), 14.25.220(36), 14.25.220(37), 14.25.220(42);
 5 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),
 6 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),
 7 39.35.250, 39.35.280, 39.35.300(c), 39.35.310(a), 39.35.310(c), 39.35.340(a), 39.35.342(a),
 8 39.35.342(d), 39.35.345(a), 39.35.345(d), 39.35.360(a), 39.35.360(g), 39.35.360(h),
 9 39.35.360(k), 39.35.370(f), 39.35.370(h), 39.35.370(i), 39.35.370(j), 39.35.370(k),
 10 39.35.371(i), 39.35.381(b), 39.35.381(g), 39.35.385(c), 39.35.400(e), 39.35.450(g),
 11 39.35.475(a), 39.35.475(b), 39.35.475(d), 39.35.500(a), 39.35.505, 39.35.520(a),
 12 39.35.520(d), 39.35.522(d), 39.35.527(a), 39.35.527(b), 39.35.530, 39.35.535(a),
 13 39.35.535(d), 39.35.550, 39.35.560, 39.35.570, 39.35.580, 39.35.590, 39.35.600, 39.35.610,
 14 39.35.620(a), 39.35.620(h), 39.35.650, 39.35.670, 39.35.675(a), 39.35.680(1), 39.35.680(5),
 15 39.35.680(9), 39.35.680(12), 39.35.680(15), 39.35.680(16), 39.35.680(17), 39.35.680(20),
 16 39.35.680(21)(A), 39.35.680(29), 39.35.680(32), 39.35.680(33), and 39.35.680(35).

17 (d) The revisor of statutes shall change the reference to "board" to "commissioner" in
 18 the following statutes: AS 39.35.290, 39.35.522(a), 39.35.522(b), and 39.35.522(d).

19 (e) The revisor of statutes shall change references to "this chapter" to "AS 39.35.095 -
 20 39.35.680" in the following statutes: AS 39.35.165, 39.35.200, 39.35.250, 39.35.300,
 21 39.35.340, 39.35.350, 39.35.360, 39.35.370, 39.35.371, 39.35.375, 39.35.381, 39.35.480,
 22 39.35.490, 39.35.495, 39.35.505, 39.35.530, 39.35.546, 39.35.547, 39.35.615(c),
 23 39.35.620(e), 39.35.660, 39.35.675(b), 39.35.677, and 39.35.680.

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

25 * Sec. 122. The uncodified law of the State of Alaska is amended by adding a new section
 26 to read:

27 IMPLEMENTATION OF SECTIONS 120 and 121 OF THIS ACT. Under
 28 AS 01.05.031, the revisor of statutes shall implement secs. 120 and 121 of this Act in the
 29 Alaska Statutes, and, under AS 44.62.125(b)(6), the regulations attorney shall implement secs.
 30 120 and 121 of this Act in the administrative code.

31 * Sec. 123. Sections 11, 12, 14, 15, 19, 71 - 76, 89, 96, and 112 of this Act take effect

1 June 30, 2010.

2 * Sec. 124. Section 122 of this Act takes effect immediately under AS 01.10.070(c).

3 * Sec. 125. Except as provided in secs. 123 and 124 of this Act, this Act takes effect July 1,
4 2005.

Adopted 4/2/05

24-LS0637/F
Craver
3/31/05

CS FOR SENATE BILL NO. 141(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

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

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

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

12 Article 1. Administration of the Teachers' Retirement System.

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

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

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

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

12 **Sec. 14.25.004. Powers and duties of the administrator.** (a) The
13 administrator shall

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

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

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

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

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

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

23 (7) formulate and recommend to the commissioner of administration
24 regulations to govern the operation of the system,

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

29 (A) a balance sheet;

30 (B) a statement of income and expenditures for the previous
31 fiscal year;

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

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

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

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

11 (10) report to the Legislative Budget and Audit Committee concerning
12 the condition and administration of each plan and distribute the report to the members
13 of each plan in the system;

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

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

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

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

23 (c) The administrator is authorized to contract with public and private entities
24 to provide record keeping, benefit payments, and other functions necessary for the
25 administration of each plan in the system.

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

30 (b) Notwithstanding (a) of this section, a regulation adopted under this chapter
31 shall be published in the Alaska Administrative Register and Code for informational

1 purposes.

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

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

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

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

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

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

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

17 (f) The commissioner of administration may hold a hearing on a proposed
18 regulation.

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

21 (h) Notwithstanding the other provisions of this section, a regulation may be
22 adopted, amended, or repealed, effective immediately, as an emergency regulation by
23 the commissioner of administration. For an emergency regulation to be effective the
24 commissioner must find that the adoption, amendment, or repeal of the regulation is
25 necessary for the immediate preservation of the orderly operation of the system. The
26 commissioner shall, within 10 days after adoption of an emergency regulation, give
27 notice of the adoption under (d) of this section.

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

29 **Sec. 14.25.006. Appeals.** An employer, member, annuitant, or beneficiary
30 may appeal a decision made by the administrator to the office of administrative
31 hearings established under AS 44.64. An aggrieved party may appeal a final decision

1 to the superior court.

2 **Sec. 14.25.007. Investment management of retirement system funds.** The
3 Alaska Retirement Management Board established under AS 37.10.210 is the
4 fiduciary of the system funds.

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

6 (1) "plan" means the retirement plan established in AS 14.25.009 -
7 14.25.200 or the retirement plan established in AS 14.25.310 - 14.25.590;

8 (2) "system" means all retirement plans established under the teachers'
9 retirement system.

10 **Article 2. Teachers First Hired before July 1, 2005.**

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

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

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

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

24 (c) An amendment to AS 14.25.009 - 14.25.220 [THIS CHAPTER] does not
25 provide a person with a vested right to a benefit if the Internal Revenue Service
26 determines that the amendment will result in disqualification of the plan under the
27 Internal Revenue Code.

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

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

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

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

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

5 (a) Unless a teacher or member has elected to participate in the optional
6 university retirement program under AS 14.40.661 - 14.40.799, [OR] has filed an
7 election under AS 14.25.043(b), or has elected to participate in the plan established
8 in AS 14.25.310 - 14.25.590, a teacher or member contracting for service with a
9 participating employer is subject to AS 14.25.009 - 14.25.220 [THIS CHAPTER].

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

11 (d) A person who is employed at least half-time in the plan [SYSTEM] during
12 the same period that the person is employed at least half-time in a position in the
13 public employees' retirement plan [SYSTEM] under AS 39.35.095 - 39.35.680
14 [AS 39.35] shall receive credited service under each plan [SYSTEM] for half-time
15 employment. However, the amount of credited service a person receives under the
16 public employees' retirement plan [SYSTEM] during a school year may not exceed
17 the amount necessary, when added to the amount of credited service earned during the
18 school year under the plan [SYSTEM], to equal one year of credited service. A
19 person who was employed at least half-time in a position in the public employees'
20 retirement plan [SYSTEM] under AS 39.35.095 - 39.35.680 [AS 39.35] in the same
21 period that the person was employed at least half-time in a position in this plan
22 [SYSTEM] may claim credited service in both plans [SYSTEMS] for employment
23 before May 31, 1989. To obtain this credited service, the person shall claim the
24 service and verify the period of half-time employment. When eligibility for half-time
25 service credit has been established, an indebtedness shall be determined to the
26 retirement plan [SYSTEM] in which the person did not participate. The amount of
27 the indebtedness is the full actuarial cost of providing benefits for the credited service
28 claimed. Interest as prescribed by regulation accrues on that indebtedness beginning
29 on the later of July 1, 1989, or the date on which the member is first eligible to claim
30 the service. Any outstanding indebtedness existing at the time the person retires will
31 require an actuarial adjustment to the benefits payable based on that service.

1 * Sec. 7. AS 14.25.050(a) is amended to read:

2 (a) Except as provided in (c) of this section, beginning July 1, 2005
3 [JANUARY 1, 1991], each member shall contribute to the plan a percentage
4 [SYSTEM AN AMOUNT EQUAL TO 8.65 PERCENT] of the member's base salary
5 accrued from July 1 to the following June 30, as determined under AS 14.25.052.
6 The employer shall deduct the contribution from the member's salary at the end of
7 each payroll period, and the contribution shall be credited by the plan [SYSTEM] to
8 the member contribution account. The contributions shall be deducted from employee
9 compensation before the computation of applicable federal taxes and shall be treated
10 as employer contributions under 26 U.S.C. 414(h)(2). A member may not have the
11 option of making the payroll deduction directly in cash; instead of having the
12 contribution picked up by the employer.

13 * Sec. 8. AS 14.25 is amended by adding new sections to read:

14 **Sec. 14.25.052. Calculation of member contribution rate.** (a) Each active
15 member shall contribute a percentage of the member's base salary to be determined
16 annually in advance by the administrator. The member contribution rate is the greater
17 of

18 (1) 8.65 percent; or

19 (2) one-half of the normal cost rate actuarially calculated to fund the
20 benefits expected to be earned by active members during the fiscal year.

21 (b) Notwithstanding (a) of this section, the member contribution rate may not
22 increase more than one-half of a percentage point annually.

23 * Sec. 9. AS 14.25.070 is amended to read:

24 **Sec. 14.25.070. Contributions by employer.** An employer shall contribute to
25 the plan [SYSTEM] an amount equal to the percentage, as certified by the board
26 [ADMINISTRATOR], of the sum total of the base salaries of all members that is
27 required in addition to member contributions to provide the benefits of AS 14.25.009 -
28 14.25.220 [THIS CHAPTER] times the sum total of the base salaries paid to members,
29 including any adjustments to contributions required by AS 14.25.173(a), by the
30 employer.

31 * Sec. 10. AS 14.25.070 is amended by adding a new subsection to read:

1 (b) When added to the member contribution rate calculated under
2 AS 14.25.052, the employer contribution may not be less than the amount required as
3 actuarially calculated to fully fund the future liabilities of active members.

4 * Sec. 11. AS 14.25.075(a) is amended to read:

5 (a) An employee who is eligible to purchase credited service under
6 AS 14.25.047 or 14.25.048, a member who is eligible to purchase credited service
7 under AS 14.25.048, 14.25.050, 14.25.060, 14.25.061, [14.25.062,] 14.25.100, or
8 14.25.107, or a teacher who is eligible to purchase credited service under
9 AS 14.20.345, AS 14.25.050, [14.25.062,] or 14.25.105, in lieu of making payments
10 directly to the plan, may elect to have the member's employer make payments as
11 provided in this section.

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

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

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

20 (2) the member shall make an irrevocable election under this
21 subsection to purchase credited service as permitted in AS 14.20.345, AS 14.25.047,
22 14.25.048, 14.25.050, 14.25.060, 14.25.061, [14.25.062,] 14.25.100, 14.25.105, or
23 14.25.107 before the member's termination of employment; the irrevocable election
24 must specify the number of payroll periods that deductions will be made from the
25 member's compensation and the dollar amount of deductions for each payroll period
26 during the specified number of payroll periods; the deductions made under this
27 paragraph cease upon the earlier of the member's termination of employment with the
28 employer or the member's death; amounts paid by an employer under (f) of this
29 section may not be applied toward the payment of the dollar amount of the deductions
30 representing the portion of the credited service that is being purchased by the member
31 through payroll deduction in accordance with the member's irrevocable election under

1 this paragraph;

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

7 * Sec. 13. AS 14.25.075(e) is amended to read:

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

12 * Sec. 14. AS 14.25.075(f) is amended to read:

13 (f) The administrator may accept rollover contributions from a member [,
14 AND DIRECT TRANSFERS AS DESCRIBED IN THIS SUBSECTION, FOR THE
15 PURCHASE, IN WHOLE OR IN PART, OF FORFEITED CREDITED SERVICE
16 UNDER THIS SECTION FOR THE REINSTATEMENT, IN WHOLE OR IN PART,
17 OF FORFEITED CREDITED SERVICE UNDER AS 14.25.062]. Contributions
18 made under this subsection may not be applied to purchase service being paid under
19 (b) of this section. A rollover contribution [OR TRANSFER] as described in this
20 subsection shall be treated as employer contributions for the purpose of determining
21 tax treatment under the Internal Revenue Code and may be made by any one or a
22 combination of the following methods:

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

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

31 (3) subject to the limitations prescribed in 26 U.S.C. 403(b)(13).

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

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

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

11 * Sec. 15. AS 14.25.075(i) is amended to read:

12 (i) On satisfaction of the eligibility requirements of AS 14.20.345,
13 AS 14.25.047, 14.25.048, 14.25.050, 14.25.060, 14.25.061, [14.25.062.] 14.25.100,
14 14.25.105, or 14.25.107, the requirements of this section, and the administrative filing
15 requirements specified by the administrator, the plan shall adjust the member's
16 credited service history and add any additional service credits acquired.

17 * Sec. 16. AS 14.25.143(b) is amended to read:

18 (b) The increase in benefit payments applies to total benefit payments
19 [EXCEPT FOR THE COST-OF-LIVING ALLOWANCE UNDER AS 14.25.142].
20 The amount of the increase is a percentage of the current benefit equal to

21 (1) the lesser of 75 percent of the increase in the cost of living in the
22 preceding calendar year or nine percent, for recipients who on July 1 are at least 65
23 years old and for members receiving disability benefits; and

24 (2) the lesser of 50 percent of the increase in the cost of living in the
25 preceding calendar year or six percent, for recipients who on July 1 are at least 60 but
26 less than 65 years old or for recipients who on July 1 are less than 60 years old but
27 who have received benefits from the system for at least eight years.

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

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

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

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

4 * Sec. 19. AS 14.25.173(c) is amended to read:

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

17 * Sec. 20. AS 14.25.175(a) is amended to read:

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

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

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

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

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

31 * Sec. 21. AS 14.25.175(b) is amended to read:

1 (b) In order to obtain consideration of a waiver under this section, the affected
2 member or beneficiary shall file a request with [MUST APPEAL TO] the
3 commissioner of administration [BOARD] in writing within 30 days after receipt of
4 notice that the records have been adjusted. The ruling of the commissioner of
5 administration [BOARD] shall be in writing.

6 * Sec. 22. AS 14.25.175(c) is repealed and reenacted to read:

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

9 * Sec. 23. AS 14.25.175(d) is amended to read:

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

15 * Sec. 24. AS 14.25.220(2) is amended to read:

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

23 * Sec. 25. AS 14.25.220(3) is amended to read:

24 (3) "administrator" means the [PERSON APPOINTED BY THE]
25 commissioner of administration or the commissioner's designee under AS 14.25.003
26 [AS 14.25.015];

27 * Sec. 26. AS 14.25.220(9) is amended to read:

28 (9) "board" means the Alaska Retirement Management [ALASKA
29 TEACHERS' RETIREMENT] Board established under AS 37.10.210 [AS 14 25.035];

30 * Sec. 27. AS 14.25.220(40) is amended to read:

31 (40) "supplemental contribution account" means the account

1 maintained by the plan [SYSTEM] to record the supplemental contributions of each
2 member, including interest and adjustments to the account [IN ACCORDANCE
3 WITH AS 14.25.170];

4 * **Sec. 28.** AS 14.25.220 is amended by adding a new paragraph to read:

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

7 * **Sec. 29.** AS 14.25 is amended by adding new sections to read:

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

9 **Sec. 14.25.310. Applicability of AS 14.25.310 - 14.25.590.** The provisions of
10 AS 14.25.310 - 14.25.590 apply only to teachers who first become members on or
11 after July 1, 2005.

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

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

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

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

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

29 (b) A teacher who has elected to participate in the optional university
30 retirement program under AS 14.40.661 - 14.40.799 may not participate as a member
31 of the defined contribution retirement plan.

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

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

6 (c) The employer shall deduct the contribution from the member's
7 compensation at the end of each payroll period, and the contribution shall be credited
8 by the administrator to the member's individual account. The contributions shall be
9 deducted from member's compensation before the computation of applicable federal
10 taxes and shall be treated as employer contributions under 26 U.S.C. 414(h)(2). A
11 member may not have the option of making the payroll deduction directly in cash
12 instead of having the contribution picked up by the employer.

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

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

22 **Sec. 14.25.348. Teachers of Alaska Native language and culture.** An
23 employee employed by a participating employer shall participate in the plan if the
24 employee

25 (1) teaches Alaska Native language or culture in a permanent full-time
26 or permanent part-time position;

27 (2) learned about the subject to be taught by living in the culture or
28 using the language in daily life; and

29 (3) is qualified to teach the subject to elementary or secondary students
30 as required by regulations adopted by the Department of Education and Early
31 Development.

1 **Sec. 14.25.350. Contributions by employers.** (a) An employer shall
2 contribute to each member's individual account an amount equal to 3.5 percent of the
3 member's compensation from July 1 to the following June 30.

4 (b) An employer shall also contribute an amount equal to 3.75 percent of each
5 member's compensation from July 1 to the following June 30 to pay for retiree major
6 medical insurance. This contribution shall be paid into the group health and life
7 benefits fund established by the commissioner of administration under AS 39.30.095
8 and shall be accounted for in accordance with regulations established by the
9 commissioner.

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

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

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

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

22 (d) In this section,

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

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

28 (3) "eligible retirement plan" means

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

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

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

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

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

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

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

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

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

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

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

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

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

23 **Sec. 14.25.380. Limitations on contributions.** Notwithstanding any other
24 provisions of this plan, the annual additions to each member's individual account
25 under this plan and under all defined contribution plans of the employer required to be
26 aggregated with the contributions from this plan under the provisions of 26 U.S.C. 415
27 may not exceed, for any limitation year, the amount permitted under 26 U.S.C. 415 at
28 any time. If the amount of a contribution to a member's individual account exceeds
29 the limitation of 26 U.S.C. 415(e) for any limitation year, the administrator shall take
30 any necessary remedial action to correct an excess contribution. The provisions of 26
31 U.S.C. 415, and the regulations adopted under that statute, as applied to qualified

1 defined contribution plans of governmental employees are incorporated as part of the
2 terms and conditions of the plan.

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

5 (b) A member is fully vested in the employer contributions made on that
6 member's behalf, and related earnings, after five years of service. A member is
7 partially vested in the employer contributions made on that member's behalf, and the
8 related earnings, in the ratio of

9 (1) 25 percent with two years of service;

10 (2) 50 percent with three years of service; and

11 (3) 75 percent with four years of service.

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

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

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

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

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

1 participant's account.

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

6 **Sec. 14.25.410. Distribution election at termination.** (a) A member is
7 eligible to elect distribution of the member's account in accordance with this section
8 60 days after termination of employment.

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

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

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

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

24 (4) prevention of the eviction of the member from the member's
25 principal residence or foreclosure on the mortgage of the member's principal
26 residence; or

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

31 (c) If a member dies before benefits commence, the member's beneficiary is

1 immediately eligible to elect distribution of the member's share of the member's
2 individual account.

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

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

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

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

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

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

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

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

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

30 (b) Upon the death of an annuitant whose payments have commenced, an
31 annuitant's beneficiary shall receive further payments only to the extent provided in

1 accordance with the form of payment that was being made to the annuitant. The
2 remaining portion of the interest shall continue to be distributed at least as rapidly as
3 under the method of distribution being used before the annuitant's death.

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

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

14 **Sec. 14.25.430. Manner of electing distributions.** (a) Any election or any
15 alteration or revocation of a prior election by a participant for any purpose under this
16 plan shall be on forms or made in a manner prescribed for that purpose by the plan
17 administrator. To be effective, the forms required or the required action for any
18 purpose under this plan must be completed and received in accordance with
19 regulations adopted by the commissioner of administration.

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

- 22 (1) the form of payment election;
23 (2) an election to commence benefits; or
24 (3) the joint annuitant designation.

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

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

- 31 (1) a member meets the requirements of AS 14.25.410 and has made a

1 complete application for payment under AS 14.25.430;

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

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

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

10 (5) notwithstanding (a) of this section, a participant whose account has
11 a balance of \$1,000 or less meets the requirements of AS 14.25.430, at which time the
12 participant must take payment of the participant's account.

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

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

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

1 the provisions of this subsection apply as if the surviving spouse were the member.
2 An amount paid to a child of the member shall be treated as if it were paid to the
3 surviving spouse if the amount becomes payable to the surviving spouse when the
4 child reaches the age of majority.

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

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

22 (g) Notwithstanding any contrary provisions of AS 14.25.310 - 14.25.590, if
23 requirements of this section apply to all distributions of a member's interest and take
24 precedence over any inconsistent provisions of AS 14.25.310 - 14.25.590.

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

28 (i) In this section,

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

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

4 **Sec. 14.25.450. Designation of beneficiary.** (a) Each participant shall have
5 the right to designate a beneficiary and shall have the right, at any time, to revoke the
6 designation or to substitute another beneficiary, subject to the following limitation: if
7 a married member elects a nonspouse beneficiary, the value of the benefit payable to
8 the beneficiary may not exceed 50 percent of the member's portion of the account
9 balance, and the member's spouse shall automatically be considered the beneficiary for
10 the remaining 50 percent of the account balance, unless the spouse consents to the
11 beneficiary designation in a writing that is notarized or witnessed by the administrator.
12 If the spouse consents in this manner, a married member may designate a nonspouse
13 beneficiary for the entire benefit or any portion of the benefit as part of an available
14 form of payment contained in this plan,

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

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

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

31 (c) If a member fails to designate a beneficiary, or if no designated beneficiary

1 survives the member, the death benefit shall be paid

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

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

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

7 (4) to the estate.

8 (d) A person claiming entitlement to benefits payable under AS 14.25.310 -
9 14.25.590 as a consequence of a member's death shall provide the administrator with a
10 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.
11 Documents establishing entitlement may be filed with the administrator immediately
12 after a change in the member's marital status. If the administrator does not receive
13 notification of a claim before the date 10 days after the member's death, the person
14 claiming entitlement is not entitled to receive from the division of retirement and
15 benefits any benefit already paid by the administrator.

16 **Sec. 14.25.460. Rights under qualified domestic relations order.** (a)
17 Notwithstanding the nonalienation provisions in AS 14.25.500(a), the administrator
18 may direct that benefits be paid to someone other than a member or beneficiary under
19 a valid qualified domestic relations order that is executed by the judge of a competent
20 court in accordance with applicable state law and that has been accepted by the
21 administrator.

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

28 **Sec. 14.25.470. Eligibility to elect medical benefits.** (a) A member is
29 eligible to elect the medical benefits under AS 14.25.480 if the member

30 (1) has at least 30 years of service, or

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

1 (b) A member's surviving spouse is eligible to elect medical benefits under
2 AS 14.25.480 if the member had elected, or was eligible to elect, medical benefits at
3 the time of the member's death.

4 (c) A member shall elect or reject medical benefits on the forms and in the
5 manner prescribed by the administrator. The decision to elect or reject benefits is
6 irrevocable.

7 (d) Election of the retiree major medical insurance plan is not required in
8 order to elect participation in the health reimbursement arrangement.

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

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

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

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

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

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

30 (e) The coverage for persons 65 years of age or older is the same as that
31 available for persons under 65 years of age. The benefits payable to those persons 65

1 years of age or older supplement any benefits provided under the federal old age,
2 survivors and disability insurance program.

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

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

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

12 (2) eligible for Medicare, is the following percentage of the premium
13 amounts established for retirees who are eligible for Medicare:

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

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

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

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

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

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

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

28 (1) be informed by the administrator in writing

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

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

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

6 (j) The monthly group premiums for retiree major medical insurance coverage
7 are established by the administrator in accordance with AS 39.30.095. Nothing in
8 AS 14.25.310 - 14.25.590 guarantees a person who elects coverage under (a) of this
9 section a monthly group premium rate for retiree major medical insurance coverage
10 other than the premium in effect for the month in which the premium is due for
11 coverage for that month.

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

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

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

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

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

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

31 (b) If plan benefits are provided through the distribution of annuity or

1 insurance contracts, any refunds or credits in excess of plan benefits due to dividends,
2 earnings, or other experience rating credits, or surrender or cancellation credits, shall
3 be paid to the trust fund.

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

6 **Sec. 14.25.510. Nonguarantee of returns, rates, or benefit amounts.** The
7 plan created by AS 14.25.310 - 14.25.590 is a defined contribution plan, not a defined
8 benefit plan. The amount of money in the account of a participant depends on the
9 amount of contributions and the rate of return from investments of the account that
10 varies over time. If benefits are paid in the form of an annuity, the benefit amount
11 payable is dependent on the amount of money in the account and the interest rates
12 applied and service fees charged by the annuity payor at the time benefits are first
13 paid. Nothing in this plan guarantees a participant

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

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

19 **Sec. 14.25.520. Nonguarantee of employment.** The provisions of
20 AS 14.25.310 - 14.25.590 are not a contract of employment between an employer and
21 an employee, nor do they confer a right of an employee to be continued in the
22 employment of an employer, nor are they a limitation of the right of an employer to
23 discharge an employee with or without cause.

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

27 **Sec. 14.25.590. Definitions.** In AS 14.25.310 - 14.25.590, unless the context
28 requires otherwise,

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

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

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

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

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

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

8 (7) "compensation"

9 (A) means

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

14 (ii) the member contribution to the teachers' retirement
15 system under AS 14.25.340;

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

27 (C) notwithstanding (B) of this paragraph, includes any amount
28 that is contributed by the employer under a salary reduction agreement and that
29 is not includible in the gross income of the employee under 26 U.S.C. 125,
30 132(l)(4), 402(e)(3), 402(h)(1)(B) or 403(b) (Internal Revenue Code); the
31 annual compensation limitation for the member, which is so taken into account

1 for those purposes, may not exceed \$200,000, as adjusted for the cost of living
2 in accordance with 26 U.S.C. 401(a)(17)(B) (Internal Revenue Code), with the
3 limitation for a fiscal year being the limitation in effect for the calendar year
4 within which the fiscal year begins;

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

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

8 (10) "employer" means a public school district, the Board of Regents
9 of the University of Alaska, the Department of Education and Early Development, or
10 the regional resource centers;

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

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

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

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

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

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

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

29 (18) "normal retirement age" means 65 years of age;

30 (19) "participant" means the person who has a vested right to an
31 individual account, such as a member, an alternate payee if the account is subject to a

1 qualified domestic relations order, the member's beneficiary if the member is
2 deceased, or an alternate payee's beneficiary if the alternate payee is deceased;

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

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

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

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

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

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

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

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

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

25 (G) does not require an increase of benefits in excess of the
26 amount provided by AS 14.25.310 - 14.25.590, determined on the basis of
27 actuarial value; and

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

31 (23) "retiree" means an eligible person who has elected to receive the

1 medical benefits under AS 14.25.480;

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

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

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

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

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

15 (B) a full-time or part-time teacher of the University of Alaska
16 or a person occupying a full-time administrative position at the University of
17 Alaska that requires academic standing; the approval of the administrator must
18 be obtained before an administrative position qualifies for membership in the
19 plan; however, a teacher or administrative person at the university who is
20 participating in the optional university retirement program under AS 14.40.661
21 - 14.40.799 is not a member under this plan;

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

24 (A) during any school year,

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

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

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

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

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

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

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

- 1 (viii) 118 days or more but less than 136 days, 0.7
2 years;
3 (ix) 136 days or more but less than 154 days, 0.8 years;
4 (x) 154 days or more but less than 172 days, 0.9 years;
5 (xi) 172 days or more, 1.0 years;
6 (B) service performed on a part-time basis of half time or more
7 shall be credited in proportion to the amount of credit that would have been
8 received for service performed on a full-time basis.

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

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

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

18 (b) The Board of Regents is the fiduciary of the fund. The Board of Regents
19 shall account for and invest the fund. In carrying out its investment responsibilities
20 under this subsection, the Board of Regents has the same powers and duties with
21 respect to the fund as are provided to and required of the Alaska Retirement
22 Management [STATE PENSION INVESTMENT] Board under AS 37.10.210
23 [AS 14.25.180].

24 * Sec. 32. AS 14.40.671(c) is amended to read:

25 (c) An employee whose rights to transfer assets out of a state retirement
26 system are subject to a qualified domestic relations order is entitled to transfer assets
27 from the state retirement system to the program only if the requirements for receiving
28 a refund under AS 14.25.150(b), 14.25.390, [OR] AS 39.35.200(c), or 39.35.760, as
29 appropriate, are met.

30 * Sec. 33. AS 22.25.048(c) is amended to read:

31 (c) The Alaska Retirement Management [STATE PENSION

1 INVESTMENT] Board is the fiduciary of the fund and has the same powers and
2 duties under this section in regard to the judicial retirement trust fund as are provided
3 in AS 37.10.210 [AS 14.25.180].

4 * Sec. 34. AS 22.25.900(1) is amended to read:

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

13 * Sec. 35. AS 26.05.226(a) is amended to read:

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

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

21 (2) administer the system.

22 * Sec. 36. AS 26.05.228(c) is amended to read:

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

27 * Sec. 37. AS 36.30.015(f) is amended to read:

28 (f) The board of directors of the Alaska Housing Finance Corporation,
29 notwithstanding AS 18.56.088, and the board of directors of the Knik Arm Bridge and
30 Toll Authority under AS 19.75.111, shall adopt regulations under AS 44.62
31 (Administrative Procedure Act) and the board of trustees of the Alaska Retirement

1 Management [STATE PENSION INVESTMENT] Board shall adopt regulations
2 under AS 37.10.240 to govern the procurement of supplies, services, professional
3 services, and construction for the respective public corporation and board. The
4 regulations must reflect competitive bidding principles and provide vendors
5 reasonable and equitable opportunities to participate in the procurement process and
6 must include procurement methods to meet emergency and extraordinary
7 circumstances. Notwithstanding the other provisions of this subsection, the Alaska
8 Housing Finance Corporation, the Knik Arm Bridge and Toll Authority, and the
9 Alaska Retirement Management [STATE PENSION INVESTMENT] Board shall
10 comply with AS 36.30.170(b).

11 * Sec. 38. AS 36.30.990(1) is amended to read:

12 (1) "agency"

13 (A) means a department, institution, board, commission,
14 division, authority, public corporation, the Alaska Pioneers' Home, the Alaska
15 Veterans' Home, or other administrative unit of the executive branch of state
16 government;

17 (B) does not include

18 (i) the University of Alaska;

19 (ii) the Alaska Railroad Corporation;

20 (iii) the Alaska Housing Finance Corporation;

21 (iv) a regional Native housing authority created under
22 AS 18.55.996 or a regional electrical authority created under
23 AS 18.57.020;

24 (v) the Department of Transportation and Public
25 Facilities, in regard to the repair, maintenance, and reconstruction of
26 vessels, docking facilities, and passenger and vehicle transfer facilities
27 of the Alaska marine highway system;

28 (vi) the Alaska Aerospace Development Corporation;

29 (vii) the Alaska Retirement Management [STATE
30 PENSION INVESTMENT] Board;

31 (viii) the Alaska Seafood Marketing Institute;

1 * Sec. 39. AS 37.10.071(d) is amended to read:

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

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

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

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

18 * Sec. 40. AS 37.10.071(f) is amended to read:

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

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

21 or

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

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

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

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

31 * Sec. 41. AS 37.10.210 is repealed and reenacted to read:

1 **Sec. 37.10.210. Alaska Retirement Management Board.** (a) The Alaska
2 Retirement Management Board is established in the Department of Revenue. The
3 board's primary mission is to serve as the trustee of the assets of the state's retirement
4 systems, the State of Alaska Supplemental Annuity Plan, and the deferred
5 compensation program for state employees. Consistent with standards of prudence,
6 the board has the fiduciary obligation to manage and invest these assets in a manner
7 that is sufficient to meet the liabilities and pension obligations of the systems, plan,
8 and program. The board may, with the approval of the commissioner of revenue and
9 upon agreement with the responsible fiduciary, manage and invest other state funds so
10 long as the activity does not interfere with the board's primary mission. In making
11 investments, the board shall exercise the powers and duties of a fiduciary of a state
12 fund under AS 37.10.071.

13 (b) The Alaska Retirement Management Board consists of nine trustees. The
14 commissioner of administration and the commissioner of revenue shall serve on the
15 board. The governor shall appoint seven additional trustees who meet the eligibility
16 requirements for an Alaska permanent fund dividend and who are professionally
17 credentialed or have recognized competence in investment management, finance,
18 banking, economics, accounting, pension administration, or actuarial analysis as
19 follows:

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

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

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

28 (4) one trustee shall be a member of the public employees' retirement
29 system;

30 (5) one trustee shall be a member of the teachers' retirement system.

31 (c) The trustees, other than the two commissioners, shall serve for staggered

1 terms of three years and may be reappointed to the board for a total of three
2 consecutive terms. A person who has served three consecutive terms may not be
3 reappointed to the board for at least one year.

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

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

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

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

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

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

24 * Sec. 42. AS 37.10 is amended by adding a new section to read:

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

27 * Sec. 43. AS 37.10.220 is repealed and reenacted to read:

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

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

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

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

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

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

11 (B) AS 39.30.150 - 39.30.180 (State of Alaska Supplementary
12 Annuity Plan);

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

15 (D) AS 39.45.010 - 39.45.060 (public employees' deferred
16 compensation program);

17 (5) establish the rate of interest that shall be annually credited to each
18 member's individual contribution account in accordance with AS 14.25.145 and
19 AS 39.35.100 and the rate of interest that shall be annually credited to each member's
20 account in the health reimbursement arrangement plan under AS 39.30.300 -
21 39.30.495; the rate of interest shall be adopted on the basis of the probable effective
22 rate of interest on a long-term basis, and the rate may be changed from time to time;

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

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

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

29 (B) an appropriate contribution rate for liquidating any past
30 service liability;

31 (8) review actuarial assumptions prepared and certified by a member

1 of the American Academy of Actuaries and conduct experience analyses of the
2 retirement systems not less than once every four years, except for health cost
3 assumptions, which shall be reviewed annually;

4 (9) contract for an independent audit of the state's actuary not less than
5 once every four years;

6 (10) contract for an independent audit of the state's performance
7 consultant not less than once every four years;

8 (11) obtain an external performance review to evaluate the investment
9 policies of each fund entrusted to the board and report the results of the review to the
10 appropriate fund fiduciary;

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

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

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

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

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

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

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

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

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

26 (15) develop an annual operating budget.

27 (b) The board may

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

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

31 (3) contract for other services necessary to execute the board's powers

1 and duties;

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

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

8 * Sec. 44. AS 37.10.250 is amended to read:

9 **Sec. 37.10.250. Compensation of trustees.** Trustees, other than trustees who
10 are employees of the state, [OR] a political subdivision of the state, or a school
11 district or regional educational attendance area in the state, receive an honorarium
12 of \$150 for each day spent at a meeting of the board or at a meeting of a subcommittee
13 of the board or at a public meeting as a representative of the board, including a day in
14 which a trustee travels to or from a meeting. Trustees who are state employees are
15 entitled to administrative leave for service as a trustee. Trustees who are employees of
16 a political subdivision of the state or a school district or regional educational
17 attendance area in the state are entitled to leave benefits provided by their employers
18 comparable to those provided to state employees for service as a trustee. Trustees are
19 entitled to per diem and travel expenses authorized for boards and commissions under
20 AS 39.20.180.

21 * Sec. 45. AS 37.10.270(a) is amended to read:

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

27 * Sec. 46. AS 37.10.390 is amended to read:

28 **Sec. 37.10.390. Definitions.** In AS 37.10.210 - 37.10.390, unless the context
29 otherwise requires,

30 (1) "board" means the board of trustees of the Alaska Retirement
31 Management [STATE PENSION INVESTMENT] Board;

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

7 * Sec. 47. AS 37.10.390 is amended by adding a new paragraph to read:

8 (3) "fund" means the fund or funds composed of the assets of each of
9 the retirement systems administered and managed by the board.

10 * Sec. 48. AS 37.14.160 is amended to read:

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

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

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

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

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

22 * Sec. 49. AS 37.14.210(4) is amended to read:

23 (4) invest and reinvest the assets of the trust 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. 50. AS 37.14.520(4) is amended to read:

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

30 * Sec. 51. AS 37.14.610 is amended to read:

31 **Sec. 37.14.610. Duties of the commissioner.** The commissioner of revenue

1 has the power and duty to

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

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

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

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

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

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

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

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

20 * Sec. 52. AS 39.30.090(a) is amended to read:

21 (a) The Department of Administration may obtain a policy or policies of group
22 insurance covering state employees, persons entitled to coverage under AS 14.25.168,
23 14.25.480, AS 22.25.090, AS 39.35.535, 39.35.880, or former AS 39.37.145,
24 employees of other participating governmental units, or persons entitled to coverage
25 under AS 23.15.136, subject to the following conditions:

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

30 (2) Each eligible employee of the state, the spouse and the unmarried
31 children chiefly dependent on the eligible employee for support, and each eligible

1 employee of another participating governmental unit shall be covered by the group
2 policy, unless exempt under regulations adopted by the commissioner of
3 administration.

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

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

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

9 (C) the commissioner of administration approves the
10 participation in writing.

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

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

1 servicing facilities shall govern selection of a carrier, hospital or medical service
2 corporation, or third-party administrator under this section or the selection of an
3 insurance carrier or a hospital or medical service corporation to provide excess loss
4 insurance as provided in AS 39.30.091.

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

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

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

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

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

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

31 (12) Each licensee holding a current operating agreement for a vending

1 facility under AS 23.15.010 - 23.15.210 shall be covered by the group policy that
2 applies to governmental units other than the state.

3 * Sec. 53. AS 39.30.095(d) is amended to read:

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

10 * Sec. 54. AS 39.30.150(b) is amended to read:

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

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

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

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

27 * Sec. 55. AS 39.30 is amended by adding a new section to read:

28 Sec. 39.30.151. Administrator. The commissioner of administration or the
29 commissioner's designee is the administrator of the system.

30 * Sec. 56. AS 39.30 is amended by adding a new section to read:

31 Sec. 39.30.154. Powers and duties of the administrator. The administrator

1 has the same powers and duties with regard to the plan as those set out in
2 AS 14.25.004.

3 * Sec. 57. AS 39.30.155 is repealed and reenacted to read:

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

7 * Sec. 58. AS 39.30.160(a) is amended to read:

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

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

17 * Sec. 59. AS 39.30.160(e) is amended to read:

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

21 * Sec. 60. AS 39.30.175(a) is amended to read:

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

27 * Sec. 61. AS 39.30.180 is amended by adding a new paragraph to read:

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

30 * Sec. 62. AS 39.30 is amended by adding new sections to read:

31 **Article 5. State of Alaska Teachers' and Public Employees' Retiree Health**

Reimbursement Arrangement Plan.

1
2 **Sec. 39.30.300. State of Alaska Teachers' and Public Employees' Retiree**
3 **Health Reimbursement Arrangement Plan established.** The State of Alaska
4 Teachers' and Public Employees' Retiree Health Reimbursement Arrangement Plan is
5 established for teachers who first become members of the defined contribution plan of
6 the teachers' retirement system under AS 14.25.310 - 14.25.590 on or after July 1,
7 2005, and employees of the state, political subdivisions of the state, and public
8 organizations of the state who first become members of the defined contribution plan
9 of the public employees' retirement system under AS 39.35.700 - 39.35.990 on or after
10 July 1, 2005.

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

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

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

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

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

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

30 **Sec. 39.30.360. Management and investment of the fund.** The Alaska
31 Retirement Management Board is the fiduciary of the fund and has the same powers

1 and duties under this section in regard to the fund as are provided under AS 37.10.220.

2 **Sec. 39.30.370. Contributions by employers.** For each member of the plan,
3 an employer shall contribute to the teachers' and public employees' retiree health
4 reimbursement arrangement plan trust fund an amount equal to one percent of the
5 employer's average annual employee compensation, not to exceed \$500 a member a
6 year. The administrator shall maintain a record for each member to account for
7 employer contributions on behalf of that member. The board shall establish by
8 regulation the rate of interest to be applied annually to the amount in a member's
9 individual account.

10 **Sec. 39.30.380. Termination of employment.** A person who terminates
11 employment before application and eligibility for normal retirement loses any right to
12 the contributions made on behalf of the person to the teachers' and public employees'
13 retiree health reimbursement arrangement trust fund. If a person returns to
14 employment with the same employer within five years after the date of termination
15 and if the employer is still a participating employer, the person's account balance shall
16 be restored in the amount recorded on the date of termination from the trust, without
17 interest or other adjustment.

18 **Sec. 39.30.390. Eligibility and reimbursement.** Persons who meet the
19 eligibility requirements of AS 14.25.470 and AS 39.35.870 are eligible for
20 reimbursements from the individual account established for a member under the plan.

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

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

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

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

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

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

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

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

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

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

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

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

30 (c) The state may, in its discretion, terminate the plan in whole or part at any
31 time without liability for the termination. If the plan is terminated, all investments

1 remain in force until all individual accounts have been completely distributed under
2 the plan, and, after all plan liabilities are satisfied, excess assets revert to the employer.

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

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

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

11 **Sec. 39.30.495. Definitions.** Unless the context requires otherwise, in
12 AS 39.30.300 - 39.30.495

13 (1) "administrator" means the commissioner of administration or the
14 commissioner's designee;

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

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

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

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

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

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

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

30 (9) "member" means a member of the defined contribution plan of the
31 teachers' retirement system in AS 14.25.310 - 14.25.590 or a member of the public

1 employees' retirement system in AS 39.35.700 - 39.35.990;

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

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

6 * Sec. 63. AS 39.35 is amended by adding new sections to read:

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

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

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

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

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

19 **Sec. 39.35.004. Powers and duties of the administrator.** (a) The
20 administrator shall

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

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

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

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

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

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

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

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

5 (A) a balance sheet;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (h) Notwithstanding the other provisions of this section, a regulation may be
27 adopted, amended, or repealed, effective immediately, as an emergency regulation by
28 the commissioner. For an emergency regulation to be effective the commissioner
29 must find that the adoption, amendment, or repeal of the regulation is necessary for the
30 immediate preservation of the orderly operation of the system. The commissioner
31 shall, within 10 days after adoption of an emergency regulation, give notice of the