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1 and the member establishes that they are not cohabiting; or

2 (5) another reason established by regulation exists.

3 **Sec. 14.25.410. Rights under qualified domestic relations order.** A former
4 spouse shall be treated as a spouse or surviving spouse under AS 14.25.310 -
5 14.25.495 to the extent required by a qualified domestic relations order. Rights under
6 the order do not take effect until the order is filed with the administrator.

7 **Sec. 14.25.420. Rollover distributions and rollover contributions.** (a) A
8 teacher entering the plan may elect, at the time and in the manner prescribed by the
9 administrator, to have all or part of a direct rollover distribution from an eligible
10 retirement plan owned by the member paid directly into the member's individual
11 account.

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

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

17 (d) In this section,

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

21 (2) "distributee" means a member or a beneficiary who is the surviving
22 spouse of the member or a former spouse;

23 (3) "eligible retirement plan" means

24 (A) an individual retirement account described in 26 U.S.C.
25 408(a);

26 (B) an individual retirement annuity defined in 26 U.S.C.
27 408(b);

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

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

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

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

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

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

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

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

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

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

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

16 **Sec. 14.25.4.0. Distribution requirements.** (a) The entire interest of a
17 member must be distributed or must begin to be distributed not later than the member's
18 required beginning date.

19 (b) If a member dies after the distribution of the member's interest has begun
20 but before the distribution has been completed, the remaining portion of the interest
21 shall continue to be distributed at least as rapidly as under the method of distribution
22 being used before the member's death.

23 (c) If a member has made a distribution election and dies before the
24 distribution of the member's interest begins, distribution of the member's entire interest
25 shall be completed by December 31 of the calendar year containing the fifth
26 anniversary of the member's death. However, if any portion of the member's interest
27 is payable to a designated beneficiary, distributions may be made over the life of the
28 designated beneficiary or over a period certain not greater than the life expectancy of
29 the designated beneficiary, commencing on or before December 31 of the calendar
30 year immediately following the calendar year in which the member died, and, if the
31 designated beneficiary is the member's surviving spouse, the date distributions are

1 required to begin may not be earlier than the later of December 31 of the calendar year
2 (1) immediately following the calendar year in which the member died, or (2) in which
3 the member would have attained 70 1/2 years of age, whichever is earlier. If the
4 surviving spouse dies after the member but before payments to the spouse have begun,
5 the provisions of this subsection apply as if the surviving spouse were the member.

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

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

23 (f) Notwithstanding any contrary provisions of AS 14.25.310 - 14.25.495, the
24 requirements of this section apply to all distributions of a member's interest and take
25 precedence over any inconsistent provisions of AS 14.25.310 - 14.25.495.

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

29 (h) In this section,

30 (1) "designated beneficiary" means the individual who is designated as
31 the beneficiary under the plan in accordance with 26 U.S.C. 401(a)(5) and regulations

1 adopted under that statute;

2 (2) "interest" means the accumulated balance in the member's
3 individual account;

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

7 **Sec. 14.25.440. Designation of beneficiary.** (a) Each member shall
8 designate the beneficiary or beneficiaries to whom the administrator shall distribute
9 benefits payable under AS 14.25.310 - 14.25.495 as a consequence of the member's
10 death. Notwithstanding a previous designation of beneficiary, a person who is the
11 spouse of a member at the time of the member's death automatically becomes the
12 designated beneficiary if the spouse was married to the member during part of the
13 member's employment for an employer

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

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

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

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

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

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

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

6 (4) to the estate.

7 (d) A person claiming entitlement to benefits payable under AS 14.25.310 -
8 14.25.495 as a consequence of a member's death shall provide the administrator with a
9 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.
10 Documents establishing entitlement may be filed with the administrator immediately
11 after a change in the member's marital status. If the administrator does not receive
12 notification of a claim before the date 10 days after the member's death, the person
13 claiming entitlement is not entitled to receive from the division of retirement and
14 benefits any benefit already paid by the administrator.

15 **Sec. 14.25.450. Retirement.** (a) In order to obtain medical benefits under
16 AS 14.25.460 and access to the health reimbursement arrangement plan under
17 AS 39.30.300, a member must retire directly from the plan. A member is eligible to
18 retire from the plan if the member has been an active member for the whole school
19 year during the 12 months before application for retirement and

20 (1) the member has at least 30 years of service; or

21 (2) the member reaches the normal retirement age of 65 years of age
22 and has at least 10 years of service.

23 (b) A member must apply to the administrator for retirement and medical
24 benefits enrollment. Application shall be made on forms and in the manner prescribed
25 by the administrator.

26 (c) A member who continues in the employ of the employer after reaching
27 normal retirement age shall continue to participate in the plan and to have
28 contributions allocated to the member's account.

29 **Sec. 14.25.460. Medical benefits.** (a) The medical benefits available to
30 eligible persons are access to the retiree major medical insurance plan and to the
31 health reimbursement arrangement. Access to the retiree major medical insurance

1 plan means that an eligible person may not be denied insurance coverage ~~except~~ for
2 failure to pay the required premium.

3 (b) The following persons are eligible for the retiree major medical insurance
4 plan provided under this section and the health reimbursement arrangement:

5 (1) a member with at least 30 years of service and who retires directly
6 from the plan:

7 (2) the surviving spouse of a member who elected coverage under (1)
8 of this subsection;

9 (3) a member who reaches the normal retirement age of 65 years of
10 age, has at least 10 years of service, and retires directly from the plan;

11 (4) the surviving spouse of a member who elected coverage under (3)
12 of this subsection.

13 (c) Retiree major medical insurance plan coverage elected by an eligible
14 member under this section covers the eligible member, the spouse of the eligible
15 member, and the dependent children of the eligible member.

16 (d) Retiree major medical insurance plan coverage elected by a surviving
17 spouse of an eligible member under this section covers the surviving spouse and the
18 dependent children of the surviving spouse.

19 (e) Major medical insurance coverage takes effect on the first day of the
20 month following the date of the election and stops when the person who elects
21 coverage under (b) of this section dies or fails to make a required premium payment.

22 (f) The coverage for persons 65 years of age or older is the same as that
23 available for persons under 65 years of age. The benefits payable to those persons 65
24 years of age or older supplement any benefits provided under the federal old age,
25 survivors and disability insurance program.

26 (g) The medical and optional insurance premiums owed by the person who
27 elects coverage under (b) of this section maybe deducted from the health
28 reimbursement arrangement. If the amount of the health reimbursement arrangement
29 becomes insufficient to pay the premiums, the person who elects coverage under (a) of
30 this section shall pay the premiums directly.

31 (h) The cost of premiums for retiree major medical insurance coverage for an

1 eligible member or surviving spouse who is

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

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

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

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

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

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

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

15 (i) The eligibility for and cost of premiums for retiree major medical insurance
16 coverage for an alternate payee under a qualified domestic relations order shall be
17 determined based on the years of service of the member to which the alternate payee is
18 entitled under the order.

19 (j) A person who is entitled to retiree major medical insurance coverage shall

20 (1) be informed by the administrator in writing

21 (A) that the health insurance coverage available to retired
22 members may be different from the health insurance coverage provided to
23 employees;

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

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

29 (k) The monthly group premiums for retiree major medical insurance coverage
30 are established by the administrator in accordance with AS 39.30.095. Nothing in
31 AS 14.25.310 - 14.25.495 guarantees a person who elects coverage under (a) of this

1 section a monthly group premium rate for retiree major medical insurance coverage
2 other than the premium in effect for the month in which the premium is due for
3 coverage for that month.

4 (f) In this section.

5 (1) "health reimbursement arrangement" means the plan established in
6 AS 39.30.300;

7 (2) "retires directly from the plan" means that the member is an active
8 member at the time that the member applies to the administrator for retirement and
9 medical benefits enrollment and that the member continues as an active member up
10 through the day before the day the member is eligible for medical benefits enrollment.

11 **Sec. 14.25.495. Definitions.** In AS 14.25.310 - 14.25.495, unless the context
12 requires otherwise,

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

14 (2) "beneficiary" means a person designated by a member to receive
15 benefits that may be due from the plan upon the member's death;

16 (3) "board" has the meaning given in AS 14.25.220;

17 (4) "compensation" has the meaning given in AS 14.25.220;

18 (5) "employer" has the meaning given in AS 14.25.220;

19 (6) "fund" means the assets of the plan;

20 (7) "Internal Revenue Code" has the meaning given in AS 14.25.220;

21 (8) "member" has the meaning given "teacher" in AS 14.25.220;

22 (9) "member individual account" means the total maintained by the
23 plan of the member's mandatory contributions, employer contributions on behalf of the
24 employee, and interest;

25 (10) "military service" has the meaning given in AS 14.25.220;

26 (11) "plan" means the defined contribution retirement plan established
27 in AS 14.25.310 - 14.25.495;

28 (12) "qualified domestic relations order" has the meaning given in
29 AS 14.25.220;

30 (13) "retirement fund" or "fund" has the meaning given in
31 AS 14.25.220;

1 (14) "school year" has the meaning given in AS 14.25.220;

2 (15) "system" has the meaning given in AS 14.25.220;

3 (16) "teacher" has the meaning given in AS 14.25.220;

4 (17) "terminated" means a person no longer employed by an employer
5 participating in the plan.

6 * Sec. 5. AS 14.40.671(e) is amended to read:

7 (e) An employee whose rights to transfer assets out of a state retirement
8 system are subject to a qualified domestic relations order is entitled to transfer assets
9 from the state retirement system to the program only if the requirements for receiving
10 a refund under AS 14.25.150(b), 14.25.400, [OR] AS 39.35.200(c), or 39.35.770, as
11 appropriate, are met.

12 * Sec. 6. AS 39.30.090(a) is amended to read:

13 (a) The Department of Administration may obtain a policy or policies of group
14 insurance covering state employees, persons entitled to coverage under AS 14.25.168,
15 14.25.460, AS 22.25.090, AS 39.35.535, 39.35.880, or former AS 39.37.145,
16 employees of other participating governmental units, or persons entitled to coverage
17 under AS 23.15.136, subject to the following conditions:

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

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

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

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

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

1 (C) the commissioner of administration approves the
2 participation in writing.

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

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

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

31 (7) A person receiving benefits under AS 14.25.110, AS 22.25,

1 AS 39.35, or former AS 39.37 may continue the life insurance coverage that was in
2 effect under this section at the time of termination of employment with the state or
3 participating governmental unit.

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

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

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

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

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

26 * **Sec. 7.** AS 39.30 is amended by adding new sections to read:

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

29 **Sec. 39.30.300. State of Alaska Teachers' and Public Employees' Retiree**
30 **Health Reimbursement Arrangement Plan established.** The State of Alaska
31 Teachers' and Public Employees' Retiree Health Reimbursement Arrangement Plan is

1 established for teachers who first become members of the defined contribution plan of
2 the teachers' retirement system under AS 14.25.310 - 14.25.895 on or after July 1,
3 2005, and employees of the state, political subdivisions of the state, and public
4 organizations of the state who first become members of the defined contribution plan
5 of the public employees' retirement system under AS 39.35.700 - 39.35.895 on or after
6 July 1, 2005.

7 **Sec. 39.30.310. Purpose and effective date.** (a) The purpose of the plan is to
8 allow medical care expenses to be reimbursed from individual savings accounts
9 established for qualified members.

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

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

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

17 **Sec. 39.30.340. Powers and duties of the administrator.** The administrator
18 shall establish a teachers' and public employees' retiree health reimbursement
19 arrangement plan trust fund in which the assets of the plan shall be deposited and held.
20 The administrator has the same powers and duties with regard to the plan and the trust
21 fund as provided in AS 14.25.170.

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

26 **Sec. 39.30.360. Management and investment of the fund.** The Alaska State
27 Pension Investment Board is the fiduciary of the fund and has the same powers and
28 duties under this section in regard to the fund as are provided under AS 37.10.220.

29 **Sec. 39.30.370. Contributions by employers.** For each member of the plan,
30 an employer shall contribute to the teachers' and public employees' retiree health
31 reimbursement arrangement plan trust fund an amount equal to one percent of the

1 employer's average annual employee compensation, not to exceed \$500 a member a
2 year. The administrator shall ~~maintain~~ a record for each member to account for
3 employer contributions on behalf of that member. The board shall establish by
4 regulation the rate of interest to be applied annually to the amount in a member's
5 record.

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

14 **Sec. 39.30.390. Eligibility and enrollment.** A member is eligible for
15 reimbursement from the individual account established for that member under the plan
16 when that member becomes eligible for medical benefits under AS 14.25.460 or
17 AS 39.35.880. The administrator shall enroll an eligible member in the plan upon
18 receipt of the eligible member's request for enrollment in retirement and medical
19 benefits.

20 **Sec. 39.30.400. Benefits payable from the individual account.** (a) The
21 administrator may pay the cost of monthly premiums for retiree major medical
22 insurance on behalf of a participant if the participant elected retiree major medical
23 insurance under AS 14.25.460 or AS 39.35.880.

24 (b) Upon application of a participant, the administrator shall reimburse to a
25 participant the costs for medical care expenses as defined in 26 U.S.C. 213(d).

26 (c) When the member's individual account balance is exhausted, the insurance
27 premium payments under (a) of this section and the reimbursement of medical care
28 expenses under (b) of this section end.

29 (d) If a participant dies before exhausting the participant's individual account,
30 the surviving spouse and the surviving spouse's dependent children are eligible to be
31 reimbursed for medical care expenses as defined in 26 U.S.C. 213(d) until the

1 individual account is exhausted. If any amount remains in an individual account after
2 the death of a participant, the account balance shall revert to the trust.

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

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

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

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

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

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

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

31 (d) Any contribution made by an employer to the plan because of a mistake of

1 fact must be returned to the employer by the administrator within one year after the
2 contribution or ~~discovery~~ whichever is later.

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

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

8 **Sec. 39.30.495. Definitions.** Unless the context requires otherwise, in
9 AS 39.30.300 - 39.30.495,

10 (1) "administrator" means the commissioner of administration or the
11 commissioner's designee;

12 (2) "board" means the Alaska State Pension Investment Board
13 established under AS 37.10.210;

14 (3) "compensation" has the meaning given in AS 14.25.495;

15 (4) "employer" has the meaning given in AS 14.25.495 for employers
16 of teachers in the defined contribution plan established in AS 14.25.310 - 14.25.495
17 and has the meaning given in AS 39.35.895 for employers of public employees in the
18 defined contribution plan established in AS 39.35.700 - 39.35.895;

19 (5) "fund" means the assets of the teachers' and public employees'
20 retiree health reimbursement arrangement plan trust fund;

21 (6) "individual account" means the record established by the
22 administrator for individual employees under the teachers' and public employees'
23 retiree health reimbursement arrangement plan;

24 (7) "member" means a member of the defined contribution plan of the
25 teachers' retirement system in AS 14.25.310 - 14.25.495 or a member of the public
26 employees' retirement system in AS 39.35.700 - 39.35.895;

27 (8) "qualified domestic relations order" has the meaning given in
28 AS 14.25.220;

29 (9) "qualified member" means a member entitled to medical benefits.

30 * Sec. 8. AS 39.35 is amended by adding a new section to article 1 to read:

31 **Sec. 39.35.005. Applicability of AS 39.35.010 - 39.35.690 to employees first**

1 hired before July 1, 2005. The following provisions of this chapter apply only to
2 members first hired before July 1, 2005: AS 39.35.010, 39.35.120 - 39.35.165,
3 39.35.180 - 39.35.650, and 39.35.675 - 39.35.680.

4 * Sec. 9. AS 39.35.010 is amended to read:

5 **Sec. 39.35.010. Purpose and effective date; federal qualification**
6 **requirements.** (a) The purpose of AS 39.35.010 - 39.35.680 [THIS CHAPTER] is to
7 encourage qualified personnel to enter and remain in the service of the state or a
8 political subdivision or public organization of the state by establishing a plan
9 [SYSTEM] for the payment of retirement, disability, and death benefits to or on behalf
10 of the employees.

11 (b) [THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF ALASKA
12 IS HEREBY CREATED.] The plan [SYSTEM] created becomes effective as of
13 January 1, 1961, at which time contributions by the state and its employees begin.

14 (c) The retirement plan [SYSTEM] established by AS 39.35.010 - 39.35.680
15 [THIS CHAPTER] is intended to qualify under 26 U.S.C. 401(a) and 414(d) (Internal
16 Revenue Code) as a qualified retirement plan established and maintained by the state
17 for its employees and for the employees of political subdivisions, public corporations,
18 and public organizations of the state, and for the employees of other employers whose
19 participation is authorized by AS 39.35.010 - 39.35.680 [THIS CHAPTER] and who
20 participate in this plan [SYSTEM].

21 (d) An amendment to AS 39.35.010 - 39.35.680 [THIS CHAPTER] does not
22 provide a person with a vested right to a benefit if the Internal Revenue Service
23 determines that the amendment will result in disqualification of the plan under the
24 Internal Revenue Code.

25 * Sec. 10. AS 39.35.158 is amended to read:

26 **Sec. 39.35.158. Administrative director of courts.** An administrative
27 director of the Alaska court system who withdraws from the judicial retirement system
28 under AS 22.25.012 is eligible for membership in the plan [SYSTEM] and shall
29 receive credited service in the plan [SYSTEM] for service rendered as administrative
30 director. To be eligible for membership in the plan [SYSTEM] under this subsection,
31 the administrative director must contribute to the plan [SYSTEM]

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

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

7 * Sec. 11. AS 39.35.300(a) is amended to read:

8 (a) An active employee is entitled to credited service for periods of
9 employment with the state after January 1, 1961, regardless of the office, department,
10 division, or agency of the state in which the person was employed. For purposes of
11 AS 39.35.010 - 39.35.680 [THIS CHAPTER], the University of Alaska is not an
12 office, department, division, or agency of the state. Service credit may not be granted
13 under AS 39.35.010 - 39.35.680 [THIS CHAPTER] for service that is creditable under
14 the teachers' retirement plan under AS 14.25.010 - 14.25.220 [SYSTEM, AS 14.25].

15 * Sec. 12. AS 39.35.360(i) is amended to read:

16 (i) An employee who completes three years of credited service with an
17 employer, for which the employee makes contributions required by AS 39.35.010 -
18 39.35.680 [THIS CHAPTER], is entitled to credited service on a year-for-year basis
19 for service credited in the Civil Service Retirement System, rendered as an employee
20 of an Alaska Bureau of Indian Affairs (BIA) school, other than service as a teacher.
21 When eligibility for retroactive credited service under this subsection has been
22 established, an indebtedness of the employee to the plan [SYSTEM] shall be
23 determined as follows: (1) the employee's actual annual compensation, or the
24 calculated annual compensation for an employee who work fewer than 12 months, for
25 the most recent calendar year in which service is rendered to an employer before the
26 calendar year in which the employee first becomes eligible to claim service under this
27 subsection, multiplied by (2) the number of years of service in Alaska BIA schools
28 that is credited under this subsection, and this product multiplied by (3) six percent
29 for employees first eligible to claim this service before January 1, 1987, or eight and
30 one-half percent for employees first eligible to claim this service on or after January 1,
31 1987. Interest as prescribed by regulation accrues on the indebtedness beginning on

1 the date the employee may first claim the retroactive credited service. Any
2 outstanding indebtedness that exists at the time the employee retires requires an
3 actuarial adjustment to the benefits that are based on retroactive credited service under
4 this subsection. A retirement benefit payable under this subsection for Alaska BIA
5 service shall be reduced by an amount equal to the retirement benefits paid to the
6 member by the United States government for the same service.

7 * **Sec. 13.** AS 39.35.360(l) is amended to read:

8 (l) An administrative director of the Alaska Court System who withdraws
9 from the judicial retirement system under AS 22.25.012(b) is eligible for membership
10 in the public employees' retirement plan [SYSTEM] and shall receive credited service
11 in this plan [SYSTEM] for service rendered as administrative director. To be eligible
12 for membership in this plan [SYSTEM] under this subsection, the administrative
13 director must contribute to the plan [SYSTEM]

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

17 (2) any contributions for service as administrative director refunded
18 from the public employees' retirement plan [SYSTEM] at the time the administrative
19 director became a member of the judicial retirement system.

20 * **Sec. 14.** AS 39.35.375(a) is amended to read:

21 (a) An active or inactive member who has never been vested in this plan
22 [SYSTEM] or in the teachers' retirement plan under AS 14.25.010 - 14.25.220
23 [SYSTEM UNDER AS 14.25], who has at least two years of credited service in this
24 system, and who has membership service in the teachers' retirement plan [SYSTEM]
25 may claim credited service in this plan [SYSTEM] in an amount equal to the
26 membership service the member has in the teachers' retirement plan [SYSTEM]. The
27 claimed credited service may be added to service earned under AS 39.35.010 -
28 39.35.680 [THIS CHAPTER] to enable the member to qualify for a public service
29 benefit under this section. The member may not claim credited service for membership
30 service for which the member has received a refund under AS 14.25.150 unless the
31 member fully pays the indebtedness as established under AS 14.25.063. The member

1 may not claim credited service in this plan [SYSTEM] based on unused sick leave
2 under AS 14.25.115.

3 * Sec. 15. AS 39.35.375(b) is amended to read:

4 (b) To claim credited service under this section, the member shall file a
5 written request with the administrator when the member applies to retire. The
6 administrator shall determine the full actuarial cost of benefits based on the member's
7 total credited service and shall transfer from the teachers' retirement plan [SYSTEM]
8 to this plan [SYSTEM] an amount equal to the sum of the member contributions and
9 any indebtedness payments to the teachers' retirement plan [SYSTEM] and the
10 employer contributions to the teachers' retirement plan [SYSTEM] made on behalf of
11 the employee together with interest earned on those contributions and indebtedness
12 payments. If the amount to be transferred, when combined with the amount of
13 employee contributions and indebtedness payments to this plan [SYSTEM] and the
14 amount of employer contributions on behalf of the employee in this plan [SYSTEM],
15 and interest earned on contributions and indebtedness payments for the employee, is
16 less than the full actuarial cost computed under this subsection, an indebtedness to the
17 plan [SYSTEM] equal to the amount of the difference is established. Interest as
18 prescribed by regulation accrues on the indebtedness. The member must pay any
19 outstanding indebtedness existing at the time the member applies for retirement in full
20 before the member is appointed to retirement under this section.

21 * Sec. 16. AS 39.35.375(c) is amended to read:

22 (c) A member is entitled to receive a public service benefit under this section
23 if the member has at least a total of five years credited service under AS 39.35.010 -
24 39.35.680 [THIS CHAPTER] and credited service from the teachers' retirement plan
25 [SYSTEM] claimed under this section. A public service benefit shall be calculated
26 using the higher of the average monthly compensation for service in this plan
27 [SYSTEM] or the average base salary for service in the teachers' retirement plan
28 [SYSTEM]. The amount of the benefit shall be calculated in accordance with
29 AS 39.35.370(c).

30 * Sec. 17. AS 39.35.375(d) is amended to read:

31 (d) Credited service earned under either this plan [SYSTEM] or the teachers'

1 retirement plan [SYSTEM] that has been claimed for a public service benefit under
2 this section may not be used for any other purpose. A member who claims credited
3 service under this section loses all rights to benefits under AS 14.25.010 - 14.25.220
4 [AS 14.25] based on the claimed credited service. A member may not claim credited
5 service under this section unless the member claims all of the membership service the
6 member has in the teachers' retirement plan [SYSTEM]. A public service benefit
7 does not constitute a normal or early retirement benefit for purposes of qualifying for a
8 conditional service retirement benefit under AS 14.25.125 or AS 39.35.385.

9 * Sec. 18. AS 39.35.375(f) is amended to read:

10 (f) Notwithstanding AS 14.25.063 and AS 39.35.350, a former member of the
11 teachers' retirement plan [SYSTEM] who is an active member or inactive member of
12 this plan [SYSTEM] may reinstate, under this section, membership service earned
13 under AS 14.25.010 - 14.25.220 [AS 14.25] for which the member received a refund
14 of contributions.

15 * Sec. 19. AS 39.35.375(g) is amended to read.

16 (g) If a member retires under this section and subsequently returns to work for
17 an employer under this plan [SYSTEM] or the teachers' retirement plan [SYSTEM],
18 benefits under this section shall cease during the period of reemployment and shall
19 recommence when the reemployment is ended. The credited service earned during the
20 period of reemployment may not be added to the credited service claimed for a public
21 service benefit under this section. If a member vests and meets the other eligibility
22 requirements under this plan [SYSTEM] or the teachers' retirement plan [SYSTEM]
23 during the reemployment, the member is entitled to a benefit under AS 14.25.010 -
24 14.25.220 [AS 14.25] or AS 39.35.010 - 39.35.680 [AS 39.35], as appropriate.

25 * Sec. 20. AS 39.35.381(a) is amended to read:

26 (a) An elected public officer is eligible for a public officer benefit if the officer
27 is retired under AS 14.25.010 - 14.25.220 [AS 14.25] (teachers' retirement plan
28 [SYSTEM]). Only fully paid credited service as an elected public officer of a
29 municipality or other political subdivision, earned while the municipality or political
30 subdivision was an employer under this plan [SYSTEM] and while the person was
31 employed full-time under AS 14.25, may be counted under this section.

1 * Sec. 21. AS 39.35.680(21) is amended to read:

2 (21) "member" or "employee"

3 (A) means a person eligible to participate in the plan
4 [SYSTEM] and who is covered by the plan [SYSTEM];

5 (B) includes

6 (i) an active member;

7 (ii) an inactive member;

8 (iii) a vested member;

9 (iv) a deferred vested member;

10 (v) a nonvested member;

11 (vi) a disabled member;

12 (vii) a retired member;

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

14 (C) does not include

15 (i) former members;

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

17 (iii) casual or emergency workers or nonpermanent
18 employees as defined in AS 35.25.200;

19 (iv) persons covered by the Alaska Teachers'
20 Retirement System except as provided under AS 39.35.131 and
21 39.35.381, or persons covered by the optional university retirement
22 program;

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

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

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

31 (viii) members of the elected public officers' retirement

1 system (former AS 39.37); and

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

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

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

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

12 * **Sec. 22.** AS 39.35.680 is amended by adding a new paragraph to read:

13 (41) "plan" means the retirement plan established in AS 39.35.010 -
14 39.35.680.

15 * **Sec. 23.** AS 39.35 is amended by adding new sections to read:

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

17 **Sec. 39.35.700. Applicability of AS 39.35.700 - 39.35.895.** The provisions of
18 AS 39.35.700 - 39.35.895 apply only to members first hired on or after July 1, 2005.

19 **Sec. 39.35.710. Defined contribution retirement plan established; federal**
20 **qualification requirements.** (a) A defined contribution retirement plan is established
21 for employees of the state or a political subdivision or public organization of the state.
22 All eligible employees first hired on or after July 1, 2005, must participate in this plan
23 in which retirement and death benefits are provided through the purchase of annuity
24 contracts, either fixed, variable, or a combination of fixed and variable.

25 (b) The purpose of AS 39.35.700 - 39.35.895 is to encourage qualified
26 personnel to enter and remain in the service of the state or a political subdivision or
27 public organization of the state by establishing a plan for the payment of defined
28 contribution retirement benefits to or on behalf of the employees.

29 (c) The retirement plan established by AS 39.35.700 - 39.35.895 is intended to
30 qualify under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified
31 retirement plan established and maintained by the state for its employees and for the

1 employees of political subdivisions, public corporations, and public organizations of
2 the state, and for the employees of other employers whose participation is authorized
3 by AS 39.35.700 - 39.35.895 and who participate in the plan set out in AS 39.35.700 -
4 39.35.895.

5 (d) An amendment to AS 39.35.700 - 39.35.895 does not provide a person
6 with a vested right to a benefit if the Internal Revenue Service determines that the
7 amendment will result in disqualification of the plan under the Internal Revenue Code.

8 **Sec. 39.35.720. Contributions by members.** Each peace officer or fire
9 fighter shall contribute to the plan an amount equal to 8.5 percent of the peace officer's
10 or fire fighter's compensation. Each other employee shall contribute to the plan an
11 amount equal to eight percent of the employee's compensation. The contributions
12 shall be deducted by the employer at the end of each payroll period. The contributions
13 shall be deducted from employee compensation before computation of applicable
14 federal taxes, and the contributions shall be treated as employer contributions under 26
15 U.S.C. 414(h)(2). A member may not have the option of making the payroll deduction
16 directly instead of having the contribution picked up by the employer.

17 **Sec. 39.35.730. Contributions by employers.** (a) The maximum employer
18 contribution rate is 8.75 percent of each member's compensation accrued from July 1
19 to the following June 30 for the defined contribution plan.

20 (b) The maximum employer contribution rate to a member's individual
21 account is five percent of each member's compensation from July 1 to the following
22 June 30.

23 (c) The maximum employer contribution rate for retiree major medical
24 insurance is 3.75 percent of each member's compensation from July 1 to the following
25 June 30. This contribution shall be paid into the group health and life benefits fund
26 established by the commissioner of administration under AS 39.30.095 and shall be
27 accounted for in accordance with regulations established by the commissioner.

28 (d) Employer contributions under (b) and (c) of this section are graduated as a
29 percentage of the maximum employer contribution rate based upon the employee's
30 years of service with the employer. The employer contribution during the employee's

31 (1) first year of service with the employer is zero percent;

1 (2) second year of service with the employer is 25 percent of the
2 maximum employer contribution rate;

3 (3) third year of service with the employer is 50 percent of the
4 maximum employer contribution rate;

5 (4) fourth year of service with the employer is 75 percent of the
6 maximum employer contribution rate;

7 (5) fifth and all subsequent years of service with the employer is 100
8 percent of the maximum employer contribution rate.

9 (e) For purposes of this section, "year of service" means one full year of
10 membership service completed by an employee; part-time service shall be credited on
11 a pro rata basis only if the part-time service was for regular employment that is at least
12 50 percent of full-time service.

13 **Sec. 39.35.740. Retirement benefits and vesting.** A member is immediately
14 and fully vested in that member's contributions and in the employer contributions
15 made on that member's behalf to an account under AS 39.35.700 - 39.35.895.

16 **Sec. 39.35.750. Investment of individual accounts.** (a) The board shall
17 provide a range of investment options and permit a participant to exercise investment
18 control over the participant's assets in the employee individual account as provided in
19 this section. If a participant exercises control over the assets in the individual account,
20 the participant is not considered a fiduciary for any reason on the basis of exercising
21 that control.

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

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

30 (d) Except to the extent clearly set out in the terms of the investment plans
31 offered by the employer to the employee, the employer is not liable to the participant

1 for investment losses if the prudent investment standard has been met.

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

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

10 (g) In this section, "participant" means the person who has a vested right to an
11 individual account, such as a member, an alternate payee if the account is subject to a
12 qualified domestic relations order, the member's beneficiary if the member is
13 deceased, or an alternate payee's beneficiary if the alternate payee is deceased.

14 **Sec. 39.35.760. Distributions.** (a) A member is eligible to receive
15 distribution of that person's accumulated balance in the plan upon becoming a former
16 member.

17 (b) Upon the death of a member or former member, the accumulated balance
18 of that deceased member is considered to belong to the designated beneficiary, if any,
19 of that deceased member. If a valid nomination of designated beneficiary is not on file
20 with the board, the board, in a lump sum distribution, shall distribute the accumulated
21 balance to a legal representative, if any, of the deceased member's estate.

22 (c) A former member or designated beneficiary may elect one or a
23 combination of several of the following methods of distribution of the accumulated
24 balance:

25 (1) lump sum distribution to the recipient;

26 (2) lump sum direct rollover to another qualified plan, to the extent
27 allowed by federal law;

28 (3) periodic distributions, as authorized by the board;

29 (4) no current distribution, in which case the accumulated balance
30 must remain in the plan until the former member or designated beneficiary elects a
31 method or methods of distribution under this section, to the extent allowed by federal

1 law.

2 (d) If the former member's ~~vested~~ account balance is less than \$5,000, the
3 board shall automatically refund ~~the~~ member's ~~vested~~ account balance upon
4 termination of employment. The ~~member~~ may ~~waive~~ the refund if the member
5 submits a written statement to the ~~board~~, within 120 days after termination, requesting
6 that the member's ~~vested~~ account balance remain in the plan.

7 **Sec. 39.35.770. Refund upon termination.** (a) Except as provided in (b) of
8 this section, a terminated member is ~~entitled~~ to a refund of the balance of the member
9 individual account.

10 (b) A member who is ~~terminated~~ and who is ~~married~~ at the time of application
11 for a refund or whose rights to a refund are subject to a qualified domestic relations
12 order is ~~entitled~~ to receive a refund of the balance of the member individual account
13 only if the member's present spouse ~~and~~ each person ~~entitled~~ under the order ~~consent~~
14 to the refund in writing on a form ~~provided~~ by the administrator. The administrator
15 may ~~waive~~ written consent from the person ~~entitled~~ under the order if the
16 administrator determines that the ~~person~~ cannot be located or for other reasons
17 established by regulation. The administrator may ~~waive~~ written consent from the
18 spouse if the administrator determines that

19 (1) the member was ~~not~~ married to the spouse during any period of the
20 member's employment with an employer;

21 (2) the spouse has ~~no~~ rights to benefits under AS 39.35.700 -
22 39.35.895 because of the terms of a ~~qualified~~ domestic relations order;

23 (3) the spouse cannot be located;

24 (4) the member and spouse have been married for less than two years
25 and the member establishes that they ~~are~~ not cohabiting; or

26 (5) another reason established by regulation exists.

27 **Sec. 39.35.780. Rights under qualified domestic relations order.** A former
28 spouse shall be treated as a spouse or surviving spouse under AS 39.35.700 -
29 39.35.895 to the extent required by a ~~qualified~~ domestic relations order. Rights under
30 the order do not take effect until the order is filed with the administrator.

31 **Sec. 39.35.790. Rollover distributions and rollover contributions.** (a) An

1 employee may elect, at the time and in the manner prescribed by the administrator, to
2 have all or part of a direct rollover distribution from an eligible retirement plan owned
3 by the member paid directly into the member's individual account.

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

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

9 (d) In this section,

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

13 (2) "distributee" means a member or a beneficiary who is the surviving
14 spouse of the member or a former spouse;

15 (3) "eligible retirement plan" means

16 (A) an individual retirement account described in 26 U.S.C.
17 408(a);

18 (B) an individual retirement annuity defined in 26 U.S.C.
19 408(b);

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

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

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

23 (F) a governmental plan described in 26 U.S.C. 457(b);

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

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

30 (B) a distribution that is one of a series of substantially equal
31 installments payable not less frequently than annually over a specified period

1 of 10 years or more;

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

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

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

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

8 **Sec. 39.35.800. Distribution requirements.** (a) The entire interest of a
9 member must be distributed or must begin to be distributed not later than the member's
10 required beginning date.

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

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

29 (d) If a member has not made a distribution election before the member's
30 death, the member's designated beneficiary must elect the method of distribution not
31 later than December 31 of the calendar year (1) in which distributions would be

1 required to begin under this section, or (2) ~~that contains~~ the fifth anniversary of the
2 date of death of the member, whichever is ~~earlier~~. If the member does not have a
3 designated beneficiary or if the designated ~~beneficiary~~ does not elect a method of
4 distribution, distribution of the member's ~~entire~~ interest must be completed by
5 December 31 of the calendar year containing ~~the fifth~~ anniversary of the member's
6 death.

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

15 (f) Notwithstanding any contrary provisions of AS 39.35.700 - 39.35.895, the
16 requirements of this section apply to all distributions of a member's interest and ~~take~~
17 precedence over any inconsistent provisions of AS 39.35.700 - 39.35.895.

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

21 (h) In this section,

22 (1) "designated beneficiary" means ~~the~~ individual who is designated as
23 the beneficiary under the plan in accordance with 26 U.S.C. 401(a)(9) and regulations
24 adopted unde, that statute;

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

28 **Sec. 39.35.810. Designation of beneficiary.** (a) Each member shall
29 designate the beneficiary or beneficiaries to ~~whom~~ the administrator shall distribute
30 benefits payable under AS 39.35.700 - 39.35.895 as a consequence of the member's
31 death. Notwithstanding a previous designation of ~~beneficiary~~, a person who is the

1 spouse of a member at the time of the member's death automatically becomes the
2 designated beneficiary if the spouse was married to the member during part of the
3 member's employment for an employer

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

7 (2) unless the member filed a revocation of beneficiary accompanied
8 by a written consent to the revocation from the present spouse and each person entitled
9 under the order; however, consent of the present spouse is not required if the member
10 and the present spouse had been married for less than two years on the date of the
11 member's death and if the member established when filing the revocation that the
12 member and the present spouse were not cohabiting.

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

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

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

23 (2) to the surviving children in equal parts or, if there are none
24 surviving;

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

27 (4) to the estate.

28 (d) A person claiming entitlement to benefits payable under AS 39.35.700 -
29 39.35.895 as a consequence of a member's death shall provide the administrator with a
30 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.
31 Documents establishing entitlement may be filed with the administrator immediately

1 after a change in the member's marital status. If the administrator does not receive
2 notification of a claim before the date 10 days after the member's death, the person
3 claiming entitlement is not entitled to receive from the division of retirement and
4 benefits any benefit already paid by the administrator.

5 **Sec. 39.35.820. Management and investment of fund.** (a) The Alaska State
6 Pension Investment Board is the fiduciary of the fund. In managing the fund, the
7 Alaska State Pension Investment Board shall

8 (1) consider the status of the fund's investments and the plan's
9 liabilities on both a current and a probable future basis;

10 (2) determine the appropriate investment objectives for the fund;

11 (3) establish investment policies aimed at achieving the objectives; and

12 (4) act only in regard to the best financial interests of the plan and
13 beneficiaries.

14 (b) The Alaska State Pension Investment Board may invest the fund on the
15 basis of probable total rate of return without regard to the distinction between principal
16 and income or to the generation of income.

17 (c) In carrying out investment duties under AS 39.35.700 - 39.35.895, the
18 Alaska State Pension Investment Board has the same powers and duties in regard to
19 the teacher's retirement trust fund as are provided in AS 37.10.071, except that the
20 standard of prudence that the board must obey under AS 37.10.071(c) shall be in
21 regard to the management of large trust investments rather than large investments.

22 **Sec. 39.35.830. Special rules for treatment of qualified military service.**
23 Notwithstanding any contrary provisions of AS 39.35.700 - 39.35.895, with respect to
24 qualified military service, contributions shall be made and benefits and service credit
25 shall be provided in accordance with 26 U.S.C. 414(u).

26 **Sec. 39.35.840. Exemption from taxation and process.** (a) Except as
27 provided in AS 29.45.030(a)(1) or in (c) of this section, member contributions and
28 other amounts held in the plan on behalf of a member or other person who is or may
29 become eligible for benefits under the plan are exempt from Alaska state and
30 municipal taxes and are not subject to anticipation, alienation, sale, transfer,
31 assignment, pledge, encumbrance, or charge of any kind, either voluntary or

1 involuntary, before they are received by the person entitled to the amount under the
2 terms of the plan. Any attempt to anticipate, alienate, sell, transfer, assign, pledge,
3 encumber, charge, or otherwise dispose of any right to amounts accrued in the plan is
4 void. However, a member's right to receive benefits or the member individual account
5 may be assigned

6 (1) under a qualified domestic relations order;

7 (2) to a trust or similar legal device that meets the requirements for a
8 Medicaid-qualifying trust under AS 47.61.020(f) and 42 U.S.C. 1396p(d)(4); or

9 (3) as provided in (c) of this section.

10 (b) Member contributions and other amounts held in the plan and benefits
11 payable under AS 39.35.700 - 39.35.895 are exempt from garnishment, execution, or
12 levy as provided in AS 09.38.

13 (c) An inactive member may elect to have the taxable portion of the member
14 individual account transferred directly to another plan or an individual retirement
15 arrangement that is qualified under the federal Internal Revenue Code and that accepts
16 the transfer.

17 **Sec. 39.35.850. Time limit for application.** If an application for benefits or
18 for refund has not been filed with the administrator by July 1 following the date on
19 which an inactive member, except a member on leave of absence without pay, would
20 attain age 75, or if an application for benefits or for refund has not been filed with the
21 administrator within the 50 years following the most recent date on which the person
22 was an active member, benefits or refunds may not be paid under AS 39.35.700 -
23 39.35.895 and the member's records may be destroyed.

24 **Sec. 39.35.860. Penalty for false statements.** (a) A person who knowingly
25 makes a false statement, or falsifies or permits to be falsified any record of this plan,
26 in an attempt to defraud this plan, is guilty of a class A misdemeanor and forfeits all
27 rights under AS 39.35.700 - 39.35.895.

28 (b) In this section, "knowingly" has the meaning given in AS 11.81.900(a).

29 **Sec. 39.35.870. Retirement.** (a) In order to obtain medical benefits under
30 AS 39.35.880 and access to the health reimbursement arrangement plan under
31 AS 39.30.300, an active member must retire directly from the plan. A member is

1 eligible to retire from the plan if

2 (1) the member has at least 25 years of service as a peace officer or fire
3 fighter or 30 years of service for all other employees;

4 (2) the member reaches the normal retirement age of 65 years of age
5 and has at least 10 years of membership service; and

6 (3) the member has been an active member for at least 12 months
7 before application for retirement.

8 (b) A member must apply to the administrator for retirement and medical
9 benefit enrollment. Application shall be made on forms and in the manner prescribed
10 by the administrator.

11 (c) A member who continues in the employ of the employer after reaching
12 normal retirement age shall continue to participate in the plan and to have
13 contributions allocated to the member's account.

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

19 (b) The following persons are eligible for the retiree major medical insurance
20 plan provided under this section and the health reimbursement arrangement:

21 (1) a member

22 (A) with at least

23 (i) 25 years of service as a peace officer or fire fighter;

24 or

25 (ii) 30 years of service for all other employees; and

26 (B) who retires directly from the plan;

27 (2) the surviving spouse of a member who elected coverage under (1)
28 of this subsection;

29 (3) a member who reaches the normal retirement age of 65 years of
30 age, has at least 10 years of service, and retires directly from the plan;

31 (4) the surviving spouse of a member who elected coverage under (3)

1 of this subsection.

2 (c) Retiree major medical insurance plan coverage elected by an eligible
3 member under this section covers the eligible member, the spouse of the eligible
4 member, and the dependent children of the eligible member.

5 (d) Retiree major medical insurance plan coverage elected by a surviving
6 spouse of an eligible member under this section covers the surviving spouse and the
7 dependent children of the surviving spouse.

8 (e) Major medical insurance coverage takes effect on the first day of the
9 month following the date of the election and stops when the person who elects
10 coverage under (b) of this section dies or fails to make a required premium payment.

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

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

20 (h) The cost of premiums for retiree major medical insurance coverage for an
21 eligible member or surviving spouse who is

22 (1) not eligible for Medicare is an amount equal to the full monthly
23 group premium for retiree major medical insurance coverage;

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

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

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

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

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

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

4 (i) The eligibility for and cost of premiums for retiree major medical insurance
5 coverage for an alternate payee under a qualified domestic relations order shall be
6 determined based on the years of service of the member to which the alternate payee is
7 entitled under the order.

8 (j) A person who is entitled to retiree major medical insurance coverage shall

9 (1) be informed by the administrator in writing

10 (A) that the health insurance coverage available to retired
11 members may be different from the health insurance coverage provided to
12 employees;

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

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

18 (k) The monthly group premiums for retiree major medical insurance coverage
19 are established by the administrator in accordance with AS 39.30.095. Nothing in
20 AS 39.35.700 - 39.35.895 guarantees a person who elects coverage under (a) of this
21 section a monthly group premium rate for retiree major medical insurance coverage
22 other than the premium in effect for the month in which the premium is due for
23 coverage for that month.

24 (l) In this section,

25 (1) "health reimbursement arrangement" means the plan established in
26 AS 39.30.300;

27 (2) "retires directly from the plan" means that the member is an active
28 member at the time that the member applies to the administrator for retirement and
29 medical benefits enrollment and that the member continues as an active member up
30 through the day before the day the member is enrolled in retirement and medical
31 benefits.

1 **Sec. 39.35.895. Definitions.** In AS 39.35.700 - 39.35.895, unless the context
2 requires otherwise,

3 (1) "active member" has the meaning given in AS 39.35.680;

4 (2) "actuarial adjustment" has the meaning given in AS 39.35.680;

5 (3) "administrator" has the meaning given in AS 39.35.680;

6 (4) "beneficiary" has the meaning given in AS 39.35.680;

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

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

9 (7) "compensation" has the meaning given in AS 39.35.680;

10 (8) "employee individual account" means the total maintained by the
11 plan of the employer's contributions, employee's mandatory contributions, voluntary
12 contributions, indebtedness principal, interest contributions, and interest credited to
13 that account;

14 (9) "employer" has the meaning given in AS 39.35.680;

15 (10) "former member" means a terminated member;

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

17 (12) "inactive member" has the meaning given in AS 39.35.680;

18 (13) "member" or "employee" has the meaning given in AS 39.35.680;

19 (14) "member individual account" means the total maintained by the
20 plan of the member's mandatory contributions, employer contributions on behalf of the
21 employee, and interest;

22 (15) "military service" has the meaning given in AS 39.35.680;

23 (16) "peace officer" or "fire fighter" has the meaning given in
24 AS 39.35.680,

25 (17) "plan" means the retirement benefit plan established in
26 AS 39.35.700 - 39.35.895;

27 (18) "public organization" has the meaning given in AS 39.35.680;

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

30 (20) "retired member" means an employee who is terminated, who has
31 not received a refund from the plan, and who is receiving a retirement benefit from the

1 plan;

2 (21) "retirement" means that period of time from the first day of the
3 month following (A) the date of termination, and (B) application for retirement, in
4 which a person is appointed to receive a retirement benefit;

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

7 (23) "terminated" means a person no longer employed by an employer
8 participating in the plan.

9 * Sec. 24. AS 39 35.680(39) is repealed.

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

12 OPTION TO PARTICIPATE IN DEFINED CONTRIBUTION RETIREMENT
13 PLAN AND ENROLLMENT PERIOD FOR NONVESTED, ACTIVE MEMBERS OF THE
14 TEACHERS' RETIREMENT DEFINED BENEFIT PLAN. (a) Notwithstanding
15 AS 14.25.310, added by sec. 4 of this Act, an active member of the defined benefit retirement
16 plan of the teachers' retirement system is eligible to participate in the defined contribution
17 retirement plan established under AS 14.25.310 - 14.25.495, added by sec. 4 of this Act, if
18 that member has not vested in the defined benefit retirement plan. Participation in the defined
19 contribution retirement plan is in lieu of participation in the defined benefit plan established
20 under AS 14.25.010.

21 (b) A member who has vested in a defined benefit retirement plan is not eligible to
22 transfer under this section. An active member who is on a leave of absence during the entire
23 12-month enrollment period is not eligible.

24 (c) Each eligible member who elects to participate in the defined contribution
25 retirement plan shall have transferred to a new account the present value of the member
26 contribution account balance held in trust for the member under the defined benefit retirement
27 plan of the teachers' retirement system. The employer contribution made on behalf of that
28 employee shall also transfer, and the appropriate percentage of the employer contribution
29 shall be applied to the employee's health reimbursement account and to the employee's
30 medical benefits. Upon a transfer, all service credit previously earned under the defined
31 benefit plan shall be nullified for purposes of entitlement to a future benefit under the defined

1 benefit plan, but shall be credited for purposes of vesting in the medical benefits under
2 AS 14.25.460, added by sec. 4 of this Act. A participant is precluded from transferring the
3 member contribution account balance from the defined benefit retirement plan upon the
4 expiration of the period afforded to enroll in the defined contribution retirement plan. An
5 eligible member whose accounts are subject to a qualified domestic relations order may not
6 make an election under this subsection unless the qualified domestic relations order is
7 amended or vacated and court-certified copies of the order are received by the administrator.

8 (d) As directed by the participant, the board shall transfer or cause to be transferred
9 the appropriate amounts to the designated account. The board shall establish transfer
10 procedures by regulation.

11 (e) The period of enrollment for eligible members electing to participate in the
12 defined contribution retirement plan is the 12-month period that begins on the effective date
13 of this Act. The election must be made in writing on forms and in the manner prescribed by
14 the administrator. Before accepting an election to participate in the defined contribution plan,
15 the administrator must provide the employee planning on making an election to participate in
16 the defined contribution plan with information, including calculations to illustrate the effect of
17 moving the employee's retirement plan from the defined benefit plan to the defined
18 contribution plan as well as other information to clearly inform the employee of the potential
19 consequences of the employee's election. An election made under this subsection to
20 participate in the defined contribution retirement plan is irrevocable. Upon making the
21 election, the participant shall be enrolled as a member of the defined contribution retirement
22 plan, the member's participation in the plan shall be governed by the provisions of
23 AS 14.25.310 - 14.25.495, added by sec. 4 of this Act, and the member's participation in the
24 defined benefit retirement plan under AS 14.25.010 shall terminate. The participant's
25 enrollment in the defined contribution retirement plan shall be effective the first day of the
26 month after the administrator receives the completed enrollment forms. An election made by
27 an eligible member who is married is not effective unless the election is signed by the
28 individual's spouse.

29 (f) A member who fails to elect to participate in the defined contribution retirement
30 plan within the prescribed time period is considered to have elected to retain membership in
31 the defined benefit plan of the teachers' retirement system, and the member's option to elect to

1 participate in the defined contribution retirement plan is forfeited.

2 (g) In this section,

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

4 (2) "board" has the meaning given in AS 14.25.220;

5 (3) "defined benefit retirement plan" means the retirement plan established in
6 AS 14.25.010;

7 (4) "defined contribution retirement plan" means the retirement plan
8 established in AS 14.25.320;

9 (5) "Internal Revenue Code" has the meaning given in AS 14.25.220;

10 (6) "member" has the meaning given in AS 14.25.220;

11 (7) "member contribution account" has the meaning given in AS 14.25.220;

12 (8) "qualified domestic relations order" has the meaning given in
13 AS 14. 5.220.

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

16 OPTION TO PARTICIPATE IN DEFINED CONTRIBUTION RETIREMENT
17 PLAN AND ENROLLMENT PERIOD FOR NONVESTED, ACTIVE MEMBERS OF
18 PUBLIC EMPLOYEES' RETIREMENT SYSTEM DEFINED BENEFIT PLAN. (a)
19 Notwithstanding AS 39.35.700, added by sec. 23 of this Act, an active member of the defined
20 benefit retirement plan of the public employees' retirement system is eligible to participate in
21 the defined contribution retirement plan established under AS 39.35.700 - 39.35.895, added
22 by sec. 23 of this Act, if that member has not vested in the defined benefit retirement plan.
23 Participation in the defined contribution retirement plan is in lieu of participation in the
24 defined benefit plan established under AS 39.35.010.

25 (b) A member who has vested in a defined benefit retirement plan is not eligible to
26 transfer under this section. An active member who is on a leave of absence during the entire
27 12-month enrollment period is not eligible.

28 (c) Each eligible member who elects to participate in the defined contribution
29 retirement plan shall have transferred to a new account the present value of the employee
30 contribution account and the employee savings account held in trust for the member under the
31 defined benefit retirement plan of the public employees' retirement system. The employer

1 contribution made on behalf of that employee shall also transfer, and the appropriate
2 percentage of the employer contribution shall be applied to the employee's health
3 reimbursement account and to the employee's medical benefits. Upon a transfer, all service
4 credit previously earned under the defined benefit plan shall be nullified for purposes of
5 entitlement to a future benefit under the defined benefit plan, but shall be credited for
6 purposes of vesting in the medical benefits under AS 39.35.880, added by sec. 23 of this Act.

7 A participant is precluded from transferring the employee contribution account balance and
8 the employee savings account balance from the defined benefit retirement plan upon the
9 expiration of the period afforded to enroll in the defined contribution retirement plan. An
10 eligible member whose accounts are subject to a qualified domestic relations order may not
11 make an election under this subsection unless the qualified domestic relations order is
12 amended or vacated and court-certified copies of the order are received by the administrator.

13 (d) As directed by the participant, the board shall transfer or cause to be transferred
14 the appropriate amounts to the designated account.

15 (e) The period of enrollment for eligible members electing to participate in the
16 defined contribution retirement plan is the 12-month period that begins on the effective date
17 of this Act. The election must be made in writing on forms and in the manner prescribed by
18 the administrator. Before accepting an election to participate in the defined contribution plan,
19 the administrator must provide the employee planning on making an election to participate in
20 the defined contribution plan with information, including calculations to illustrate the effect of
21 moving the employee's retirement plan from the defined benefit plan to the defined
22 contribution plan as well as other information to clearly inform the employee of the potential
23 consequences of the employee's election. An election made under this subsection to
24 participate in the defined contribution retirement plan is irrevocable. Upon making the
25 election, the participant shall be enrolled as a member of the defined contribution retirement
26 plan, the member's participation in the plan shall be governed by the provisions of
27 AS 39.35.700 - 39.35.895, added by sec. 23 of this Act, and the member's participation in the
28 defined benefit retirement plan under AS 39.35.010 shall terminate. The participant's
29 enrollment in the defined contribution retirement plan shall be effective the first day of the
30 month after the administrator receives the completed enrollment forms. An election made by
31 an eligible member who is married is not effective unless the election is signed by the

1 individual's spouse.

2 (f) A member who fails to elect to participate in the defined contribution retirement
3 plan within the prescribed time period is considered to have elected to retain membership in
4 the defined benefit plan of the public employees' retirement system, and the member's option
5 to elect to participate in the defined contribution retirement plan is forfeited.

6 (g) In this section,

7 (1) "administrator" has the meaning given in AS 39.35.680;

8 (2) "board" has the meaning given in AS 39.35.680;

9 (3) "defined benefit retirement plan" means the retirement plan established in
10 AS 39.35.010;

11 (4) "defined contribution retirement plan" means the retirement plan
12 established in AS 39.35.710;

13 (5) "employee contribution account" has the meaning given in AS 39.35.680;

14 (6) "employee savings account" has the meaning given in AS 39.35.680;

15 (7) "Internal Revenue Code" has the meaning given in AS 39.35.680;

16 (8) "member" has the meaning given in AS 39.35.680;

17 (9) "member contribution account" has the meaning given in AS 39.35.680;

18 (10) "qualified domestic relations order" has the meaning given in
19 AS 39.35.680.

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

22 REVISOR INSTRUCTION. (a) In the following statute sections, the revisor of
23 statutes shall substitute the spanned reference "AS 14.25.010 - 14.25.220" for references to
24 "this chapter": AS 14.25.010, 14.25.012, 14.25.040, 14.25.045, 14.25.047, 14.25.048,
25 14.25.061, 14.25.062, 14.25.063, 14.25.070, 14.25.075, 14.25.105, 14.25.107, 14.25.110,
26 14.25.142, 14.25.150, 14.25.153, 14.25.160, 14.25.165, 14.25.166, and 14.25.220.

27 (b) In the following statute sections, the revisor of statutes shall substitute "the plan"
28 for references to "the system": AS 14.25.012(b), 14.25.015, 14.25.020(a), 14.25.022(g),
29 14.25.030, 14.25.035(c), 14.25.035(d), 14.25.035(e), 14.25.035(j), 14.25.040(d),
30 14.25.045(a), 14.25.047, 14.25.048(a), 14.25.048(c), 14.25.050(a), 14.25.055, 14.25.060(a),
31 14.25.060(b), 14.25.060(d), 14.25.061(a), 14.25.062, 14.25.065, 14.25.070, 14.25.075(a),

1 14.25.075(c), 14.25.075(d), 14.25.075(e), 14.25.075(g), 14.25.075(h), 14.25.075(i),
 2 14.25.107, 14.25.110(a), 14.25.110(k), 14.25.110(l), 14.25.110(m) 14.25.143(b),
 3 14.25.163(b), 14.25.163(c), 14.25.165(i), 14.25.167(g), 14.25.168(a), 14.25.168(c),
 4 14.25.173(a), 14.25.173(d), 14.25.175(d), 14.25.220(1), 14.25.220(2), 14.25.220(7),
 5 14.25.220(14), 14.25.220(20), 14.25.220(22), 14.25.220(23), 14.25.220(31), 14.25.220(34),
 6 14.25.220(36), 14.25.220(37), 14.25.220(40), and 14.25.220(42).

7 (c) In the following statute sections, the revisor of statutes shall substitute "the plan"
 8 for references to "the system": AS 39.35.010(a), 39.35.010(c), 39.35.011, 39.35.020,
 9 39.35.030(c), 39.35.040, 39.35.042(g), 39.35.050(a), 39.35.060, 39.35.070, 39.35.090,
 10 39.35.100, 39.35.120, 39.35.125, 39.35.131, 39.35.154, 39.35.160(a), 39.35.165(a),
 11 39.35.165(c), 39.35.165(d), 39.35.165(e), 39.35.165(g), 39.35.165(h), 39.35.165(i),
 12 39.35.170, 39.35.180, 39.35.195, 39.35.250, 39.35.280, 39.35.300(c), 39.35.310(a),
 13 39.35.310(c), 39.35.340(a), 39.35.342(a), 39.35.342(d), 39.35.345(a), 39.35.345(d),
 14 39.35.360(a), 39.35.360(g), 39.35.360(h), 39.35.360(i), 39.35.360(j), 39.35.360(k),
 15 39.35.370(f), 39.35.370(g), 39.35.370(h), 39.35.370(i), 39.35.370(j), 39.35.370(k),
 16 39.35.371(i), 39.35.381(b), 39.35.381(g), 39.35.385(c), 39.35.400(e), 39.35.450(g),
 17 39.35.475(a), 39.35.475(b), 39.35.475(d), 39.35.500(a), 39.35.505, 39.35.520(a),
 18 39.35.520(d), 39.35.522(d), 39.35.527(a), 39.35.527(b), 39.35.530, 39.35.535(a),
 19 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,
 20 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(2),
 21 39.35.680(5), 39.35.680(9), 39.35.680(12), 39.35.680(15), 39.35.680(16), 39.35.680(17),
 22 39.35.680(20), 39.35.680(29), 39.35.680(32), 39.35.680(33), 39.35.680(34), and
 23 39.35.680(35).

24 (d) In the following statute sections, the revisor of statutes shall substitute the spanned
 25 reference "AS 39.35.010 - 39.35.680" for references to "this chapter": AS 39.35.165,
 26 39.35.200, 39.35.250, 39.35.300, 39.35.340, 39.35.350, 39.35.360(a), 39.35.360(b),
 27 39.35.360(i), 39.35.360(j), 39.35.370, 39.35.371, 39.35.381, 39.35.480, 39.35.490, 39.35.495,
 28 39.35.505, 39.35.530, 39.35.546, 39.35.547, 39.35.615, 39.35.620, 39.35.675, 39.35.677, and
 29 39.35.680.

30 * Sec. 28. This Act takes effect July 1, 2005.

Employee
10
8.5
8.0
Employer may
TRS - 8% P 3 line 13
PERS 8.75
PERS 8.75
P14 line 6

Where is Post Service Cost

24-LS0461NG

HOUSE BILL NO. 191

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE KELLY

Introduced: 3/2/05
Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to defined contribution systems for members of the teachers'
2 retirement system and the public employees' retirement system; and providing for an
3 effective date."

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

5 * Section 1. AS 14.25 is amended by adding a new section to read:

6 **Article 1. Teachers First Hired before July 1, 2005.**

7 **Sec. 14.25.005. Applicability of AS 14.25.005 - 14.25.012, 14.25.040 -**
8 **14.25.169, 14.25.173, 14.25.175, and 14.25.220.** The provisions of AS 14.25.005 -
9 14.25.012, 14.25.040 - 14.25.169, 14.25.173, 14.25.175, and 14.25.220 apply only to
10 members first hired before July 1, 2005.

11 * Sec. 2. AS 14.25 is amended by adding new sections to read:

12 **Article 2. Teachers First Hired on or after July 1, 2005.**

13 **Sec. 14.25.310. Applicability of AS 14.25.310 - 14.25.495.** The provisions of
14 AS 14.25.310 - 14.25.495 apply only to members first hired on or after July 1, 2005.

1 **Sec. 14.25.320. Defined contribution retirement system established;**
 2 **federal qualification requirements.** (a) A defined contribution retirement system
 3 for teachers of the state is created.

4 (b) The retirement system established by AS 14.25.310 - 14.25.495 is intended
 5 to qualify under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified
 6 retirement plan established and maintained by the state for its employees, for the
 7 employees of school districts and regional educational attendance areas in the state,
 8 and for the employees of other employers whose participation is authorized by
 9 AS 14.25.310 - 14.25.495 and who participate in this system.

10 (c) An amendment to AS 14.25.310 - 14.25.495 does not provide a person
 11 with a vested right to a benefit if the Internal Revenue Service determines that the
 12 amendment will result in disqualification of the plan under the Internal Revenue Code.

13 **Sec. 14.25.330. Purpose and effective date.** (a) The purpose of
 14 AS 14.25.310 - 14.25.495 is to ~~encourage~~ qualified teachers to enter and remain in
 15 service with participating employers by establishing a defined contribution retirement
 16 system on behalf of the members.

17 (b) All eligible employees first hired on or after July 1, 2005, shall participate
 18 in the system set out in AS 14.25.310 - 14.25.495 in which retirement and death
 19 benefits are provided through the purchase of annuity contracts, either fixed, variable,
 20 or a combination of fixed and variable.

21 **Sec. 14.25.340. Contributions by members.** Each member shall contribute
 22 to the system an amount equal to 10 percent of the member's base salary accrued from
 23 July 1 to the following June 30. The employer shall deduct the contribution from the
 24 member's salary at the end of each payroll period, and the contribution shall be
 25 credited by the system to the member contribution account. The contributions shall be
 26 deducted from employee compensation before the computation of applicable federal
 27 taxes and shall be treated as employer contributions under 26 U.S.C. 414(h)(2). A
 28 member may not have the option of making the payroll deduction directly in cash
 29 instead of having the contribution picked up by the employer.

30 **Sec. 14.25.350 Contributions by employer.** (a) An employer shall
 31 contribute to the system a percentage of each member's base salary accrued from

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1 July 1 to the following June 30, including any adjustments to contributions required by
 2 AS 14.25.440(a). The employer contribution to the system as a percentage of a
 3 member's base salary for employees during the member's

4 (1) first year of service with the employer is zero percent;

5 (2) second year of service with the employer is 25 percent of the
 6 maximum employer contribution rate;

7 (3) third year of service with the employer is 50 percent of the
 8 maximum employer contribution rate;

9 (4) fourth year of service with the employer is 75 percent of the
 10 maximum employer contribution rate;

11 (5) fifth and all subsequent years of service with the employer is 100
 12 percent of the maximum employer contribution rate.

13 (b) The maximum employer contribution rate is eight percent of each
 14 member's base salary accrued from July 1 to the following June 30 for the defined
 15 contribution plan.

16 (c) For purposes of this section, "year of service" has the meaning given in
 17 AS 14.25.220, except part-time service shall be credited on a pro rata basis only if the
 18 part-time service is for regular employment that is at least 50 percent of full-time
 19 service.

20 **Sec. 14.25.360. Transmittal of contributions.** (a) All contributions
 21 deducted in accordance with AS 14.25.340 shall be transmitted to the system for
 22 deposit in the retirement fund not later than 15 days following the close of the payroll
 23 period, with the final contributions due for any school year transmitted not later than
 24 July 15.

25 (b) The contributions of employers under AS 14.25.350 must be transmitted to
 26 the system for deposit in the retirement fund at the close of each pay period. If the
 27 contributions are not submitted within 15 days after the close of each payroll period,
 28 interest must be assessed on the outstanding contributions at one and one-half times
 29 the most recent actuarially determined rate of earnings for the system from the date
 30 that contributions were originally due. In addition, the amount of the contributions
 31 and interest may be deducted by the Department of Education and Early Development

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1 from the state funds due the school district and the amount so deducted ~~transmitted~~ to
 2 the system for deposit in the retirement fund. Amounts due from the University of
 3 Alaska and interest as prescribed in this section may be deducted by the commissioner
 4 of administration from any state funds due the University of Alaska and the amount
 5 deducted transmitted to the administrator for deposit in the retirement fund.

6 **Sec. 14.25.370. Retirement benefits and vesting.** A participating member is
 7 immediately and fully vested in that member's contributions and in the employer
 8 contributions made on that member's behalf to an account under AS 14.25.310 -
 9 14.25.495.

10 **Sec. 14.25.380. Distributions.** (a) A participating member is eligible to
 11 receive distribution of that person's accumulated balance in the plan upon becoming a
 12 former participating member.

13 (b) Upon the death of a participating member or former participating member,
 14 the accumulated balance of that deceased participant is considered to belong to the
 15 refund beneficiary, if any, of that deceased participant. If a valid nomination of refund
 16 beneficiary is not on file with the board, the board, in a lump sum distribution, shall
 17 distribute the accumulated balance to a legal representative, if any, of the deceased
 18 participant's estate.

19 (c) A former participating member or refund beneficiary may elect one or a
 20 combination of several of the following methods of distribution of the accumulated
 21 balance:

- 22 (1) a lump sum distribution to the recipient;
 23 (2) a lump sum direct rollover to another qualified plan, to the extent
 24 allowed by federal law;
 25 (3) periodic distributions, as authorized by the board;
 26 (4) no current distribution, in which case the accumulated balance
 27 must remain in the plan until the former participating member or refund beneficiary
 28 elects a method or methods of distribution under this section, to the extent allowed by
 29 federal law.

30 (d) If the former participating member's vested account balance is less than
 31 \$5,000, the board shall automatically refund the member's vested account balance

1 upon termination of employment. The member may waive the refund if the member
 2 submits a written statement to the board, within 120 days after termination, requesting
 3 that the member's vested account balance remain in the plan.

4 **Sec. 14.25.390. Refund upon termination.** (a) Except as provided in (b) of
 5 this section, a terminated member is entitled to a refund of the balance of the member
 6 contribution account.

7 (b) A member who is terminated and who is married at the time of application
 8 for a refund or whose rights to a refund are subject to a qualified domestic relations
 9 order is entitled to receive a refund of the balance of the member contribution account
 10 only if the member's present spouse and each person entitled under the order consent
 11 to the refund in writing on a form provided by the administrator. The administrator
 12 may waive written consent from the person entitled under the order if the
 13 administrator determines that the person cannot be located or for other reasons
 14 established by regulation. The administrator may waive written consent from the
 15 spouse if the administrator determines that

16 (1) the member was not married to the spouse during any period of the
 17 member's employment with an employer;

18 (2) the spouse has no rights to benefits under AS 14.25.310 -
 19 14.25.495 because of the terms of a qualified domestic relations order;

20 (3) the spouse cannot be located;

21 (4) the member and spouse have been married for less than two years
 22 and the member establishes that they are not cohabiting; or

23 (5) another reason established by regulation exists.

24 **Sec. 14.25.400. Rights under qualified domestic relations order.** A former
 25 spouse shall be treated as a spouse or surviving spouse under AS 14.25.310 -
 26 14.25.495 to the extent required by a qualified domestic relations order. Rights under
 27 the order do not take effect until the order is filed with the administrator.

28 **Sec. 14.25.410. Rollover distributions and rollover contributions.** (a) A
 29 distributee may elect, at the time and in the manner prescribed by the administrator, to
 30 have all or part of an eligible rollover distribution paid directly to an eligible
 31 retirement plan specified by the distributee in the direct rollover.

1 (b) The system does not accept contributions of eligible rollover distributions.

2 (c) In this section,

3 (1) "direct rollover" means the payment of an eligible rollover
4 distribution by the system to an eligible retirement plan specified by a distributee who
5 is eligible to elect a direct rollover;

6 (2) "distributee" means a member or a beneficiary who is the surviving
7 spouse of the member;

8 (3) "eligible retirement plan" means

9 (A) an individual retirement account described in 26 U.S.C.
10 408(a);

11 (B) an individual retirement annuity defined in 26 U.S.C.
12 408(b);

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

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

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

16 (F) a governmental plan described in 26 U.S.C. 457(b);

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

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

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

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

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

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

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

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1 **Sec. 14.25.420. Distribution requirements.** (a) The entire interest of a
2 member must be distributed or must begin to be distributed not later than the member's
3 required beginning date.

4 (b) If a member dies after the distribution of the member's interest has begun
5 but before the distribution has been completed, the remaining portion of the interest
6 shall continue to be distributed at least as rapidly as under the method of distribution
7 being used before the member's death.

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

25 (d) If a member has not made a distribution election before the member's
26 death, the member's designated beneficiary must elect the method of distribution not
27 later than December 31 of the calendar year (1) in which distributions would be
28 required to begin under this section, or (2) that contains the fifth anniversary of the
29 date of death of the member, whichever is earlier. If the member does not have a
30 designated beneficiary or if the designated beneficiary does not elect a method of
31 distribution, distribution of the member's entire interest must be completed by

1 December 31 of the calendar year containing the fifth anniversary of the member's
2 death.

3 (e) For purposes of (c) of this section, distribution of a member's interest is
4 considered to begin (1) on the member's required beginning date, or (2) if the
5 designated beneficiary is the member's surviving spouse and the surviving spouse dies
6 after the member but before payments to the spouse have begun, on the date
7 distribution is required to begin to the surviving spouse. If distribution in the form of
8 an annuity irrevocably commences to the member before the required beginning date,
9 the date distribution is considered to begin is the date that the distribution actually
10 commences.

11 (f) Notwithstanding any contrary provisions of AS 14.25.310 - 14.25.495, the
12 requirements of this section apply to all distributions of a member's interest and take
13 precedence over any inconsistent provisions of AS 14.25.310 - 14.25.495.

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

17 (h) In this section,

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

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

24 **Sec. 14.25.430. Designation of beneficiary.** (a) Each member shall
25 designate the beneficiary or beneficiaries to whom the administrator shall distribute
26 benefits payable under AS 14.25.310 - 14.25.495 as a consequence of the member's
27 death. Notwithstanding a previous designation of beneficiary, a person who is the
28 spouse of a member at the time of the member's death automatically becomes the
29 designated beneficiary if the spouse was married to the member during part of the
30 member's employment for an employer

31 (1) except to the extent a qualified domestic relations order filed with

1 the administrator provides for payment to a former spouse or other dependent of the
2 member; or

3 (2) unless the member filed a revocation of beneficiary accompanied
4 by a written consent to the revocation from the present spouse and each person entitled
5 under the order; however, consent of the present spouse is not required if the member
6 and the present spouse had been married for less than two years on the date of the
7 member's death and if the member established when filing the revocation that the
8 member and the present spouse were not cohabiting.

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

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

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

19 (2) to the surviving children in equal parts or, if there are none
20 surviving;

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

23 (4) to the estate.

24 (d) A person claiming entitlement to benefits payable under AS 14.25.310 -
25 14.25.495 as a consequence of a member's death shall provide the administrator with a
26 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.
27 Documents establishing entitlement may be filed with the administrator immediately
28 after a change in the member's marital status. If the administrator does not receive
29 notification of a claim before the date 10 days after the member's death, the person
30 claiming entitlement is not entitled to receive from the division of retirement and
31 benefits any benefit already paid by the administrator.

1 **Sec. 14.25.440. Adjustments.** (a) When a change or error is made in the
2 records maintained by the system or in the contributions made on behalf of an
3 employee or an error is made in computing a benefit, and, as a result, a teacher or
4 member or beneficiary is entitled to receive from the system more or less than the
5 teacher or member or beneficiary would have been entitled to receive had the records
6 or contributions been correct or had the error not been made, the records,
7 contributions, or error shall be corrected. An adjustment to contributions shall be
8 picked up by the employee in accordance with AS 14.25.360 or treated as an
9 adjustment to the employer's contributions in accordance with this section, depending
10 upon the nature of the adjustment. If no future benefit payments are due, a person
11 who was paid any amount to which the person was not entitled is liable for repayment
12 of that amount, and a person who was not paid the full amount to which the person
13 was entitled shall be paid that amount.

14 (b) An adjustment that requires the recovery of benefits may not be made
15 under this section if

16 (1) the incorrect benefit was first paid two years or more before the
17 member or beneficiary was notified of the error;

18 (2) the error was not the result of erroneous information supplied by
19 the member or beneficiary; and

20 (3) the member or beneficiary did not have reasonable grounds to
21 believe that the amount of the benefit was in error.

22 (c) At each regularly scheduled meeting of the Alaska Teachers' Retirement
23 Board, the administrator shall report to the board on all situations since the
24 administrator's last report in which an adjustment has been prohibited under (b) of this
25 section. If the board finds that there is reason to believe that one or more of the
26 conditions set out in (b) of this section have not been met, the administrator shall
27 notify the member or beneficiary that an adjustment will be made to recover the
28 overpayment. A member or beneficiary who receives notice of adjustment under this
29 subsection may appeal to the board for a waiver of the adjustment under
30 AS 14.25.450. An adjustment that requires the repayment of benefits may not be
31 required while the appeal is pending.

1 (d) The system shall pay interest on amounts owed to a member or
2 beneficiary. Interest shall be charged on amounts owed to the system by a member or
3 beneficiary if the amount owed is the result of erroneous information supplied by the
4 member or beneficiary, or the member or beneficiary had reasonable grounds to
5 believe the amount of the benefit was in error. The interest paid under this subsection
6 is at the rate established by regulation for indebtedness contributions owed. Interest
7 accrues from the date on which the correct payment was due and continues until an
8 actuarial adjustment to the benefit is effective or the amount owed is paid. Accrued
9 interest for periods less than 60 days or in amounts less than the limit established in
10 regulation for writing off small indebtedness and refund balances may not be collected
11 or paid under this subsection.

12 Sec. 14.25.450. Waiver of adjustments. (a) Upon appeal by an affected
13 member or beneficiary under (b) of this section, the board may waive an adjustment or
14 a portion of an adjustment made under AS 14.25.440 if, in the opinion of the board,

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

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

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

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

24 (b) In order to obtain consideration of a waiver under this section, the affected
25 member or beneficiary must appeal to the board in writing within 30 days after receipt
26 of notice that the records have been adjusted. The ruling of the board shall be in
27 writing.

28 (c) The board may conduct a hearing on an appeal under this section.

29 (d) The board may impose conditions on granting a waiver that it considers
30 equitable. These conditions may include requiring the member or beneficiary to make
31 additional contributions to the system.

1 (e) The board may reconsider a ruling under this section upon request of the
 2 member or beneficiary or the administrator if the request is received within 30 days
 3 after the initial ruling. Any modification of the initial ruling must be made within 30
 4 days after receipt of a request for reconsideration.

5 Sec. 14.25.495. Definitions. In AS 14.25.310 - 14.25.495, unless the context
 6 requires otherwise,

- 7 (1) "administrator" has the meaning given in AS 14.25.220;
 8 (2) "base salary" has the meaning given in AS 14.25.220;
 9 (3) "beneficiary" has the meaning given in AS 14.25.220;
 10 (4) "board" has the meaning given in AS 14.25.220;
 11 (5) "compensation" has the meaning given in AS 14.25.220;
 12 (6) "employer" has the meaning given in AS 14.25.220;
 13 (7) "former participating member" means a terminated member;
 14 (8) "fund" means the assets of the system;
 15 (9) "Internal Revenue Code" has the meaning given in AS 14.25.220;
 16 (10) "member" has the meaning given "teacher" in AS 14.25.220;
 17 (11) "member contribution account" means the total maintained by the
 18 system of the member's mandatory contributions, employer contributions on behalf of
 19 the employee, indebtedness principal and interest payments, interest credited to each
 20 of those accounts, and adjustments to the account in accordance with AS 14.25.440;
 21 (12) "military service" has the meaning given in AS 14.25.220;
 22 (13) "qualified domestic relations order" has the meaning given in
 23 AS 14.25.220;
 24 (14) "retirement fund" or "fund" has the meaning given in
 25 AS 14.25.220;
 26 (15) "school year" has the meaning given in AS 14.25.220;
 27 (16) "system" has the meaning given in AS 14.25.220;
 28 (17) "teacher" has the meaning given in AS 14.25.220;
 29 (18) "terminated" means a person no longer employed by an employer
 30 participating in the system.

31 * Sec. 3. AS 14.40.071(e) is amended to read:

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

6 * Sec. 4. AS 39.35 is amended by adding a new section to Article I to read:

7 **Sec. 39.35.005. Applicability of AS 39.35.010 - 39.35.690 to employees first**
 8 **hired before July 1, 2005.** The following provisions of this chapter apply only to
 9 members first hired before July 1, 2005: AS 39.35.010, 39.35.120 - 39.35.165,
 10 39.35.180 - 39.35.650, and 39.35.675 - 39.35.680.

11 * Sec. 5. AS 39.35 is amended by adding new sections to read:

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

13 **Sec. 39.35.700. Applicability of AS 39.35.700 - 39.35.895.** The provisions of
 14 AS 39.35.700 - 39.35.895 apply only to members first hired on or after July 1, 2005.

15 **Sec. 39.35.710. Defined contribution retirement system established;**
 16 **federal qualification requirements.** (a) A defined contribution retirement system is
 17 established for employees of the state or a political subdivision or public organization
 18 of the state. All eligible employees first hired on or after July 1, 2005, must
 19 participate in this system in which retirement and death benefits are provided through
 20 the purchase of annuity contracts, either fixed, variable, or a combination of fixed and
 21 variable.

22 (b) The purpose of AS 39.35.700 - 39.35.895 is to encourage qualified
 23 personnel to enter and remain in the service of the state or a political subdivision or
 24 public organization of the state by establishing a system for the payment of defined
 25 contribution retirement benefits to or on behalf of the employees.

26 (c) The retirement system established by AS 39.35.700 - 39.35.895 is intended
 27 to qualify under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified
 28 retirement plan established and maintained by the state for its employees and for the
 29 employees of political subdivisions, public corporations, and public organizations of
 30 the state, and for the employees of other employers whose participation is authorized
 31 by AS 39.35.700 - 39.35.895 and who participate in the system set out in

AS 39.35.700 - 39.35.895.

(d) An amendment to AS 39.35.700 - 39.35.895 does not provide a person with a vested right to a benefit if the Internal Revenue Service determines that the amendment will result in disqualification of the plan under the Internal Revenue Code.

Sec. 39.35.720. Contributions by members. Each peace officer or fire fighter shall contribute to the system an amount equal to 8.5 percent of the peace officer's or fire fighter's compensation. Each other employee shall contribute to the system an amount equal to eight percent of the employee's compensation. The contributions shall be deducted by the employer at the end of each payroll period. The contributions shall be deducted from employee compensation before computation of applicable federal taxes, and the contributions shall be treated as employer contributions under 26 U.S.C. 414(h)(2). A member may not have the option of making the payroll deduction directly instead of having the contribution picked up by the employer.

Sec. 39.35.730. Contributions by employer. (a) An employer shall contribute to the system a percentage of each member's base salary accrued from July 1 to the following June 30, including any adjustments to contributions required by AS 39.35.810. The employer contribution to the system as a percentage of an employee's base salary for employees during the employee's

- (1) first year of service with the employer is zero percent;
- (2) second year of service with the employer is 25 percent of the maximum employer contribution rate;
- (3) third year of service with the employer is 50 percent of the maximum employer contribution rate;
- (4) fourth year of service with the employer is 75 percent of the maximum employer contribution rate;
- (5) fifth and all subsequent years of service with the employer is 100 percent of the maximum employer contribution rate.

(b) The maximum employer contribution rate is 8.75 percent of each member's base salary accrued from July 1 to the following June 30 for the defined contribution plan.

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1 (c) For purposes of this section, "year of service" means one full year of
 2 membership service completed by an employee; part-time service shall be credited on
 3 a pro rata basis only if the part-time service was for regular employment that is at least
 4 50 percent of full-time service.

5 **Sec. 39.35.740. Retirement benefits and vesting.** A participating member is
 6 immediately and fully vested in that member's contributions and in the employer
 7 contributions made on that member's behalf to an account under AS 39.35.700 -
 8 39.35.895.

9 **Sec. 39.35.750. Distributions.** (a) A participating member is eligible to
 10 receive distribution of that person's accumulated balance in the plan upon becoming a
 11 former participating member.

12 (b) Upon the death of a participating member or former participating member,
 13 the accumulated balance of that deceased participant is considered to belong to the
 14 refund beneficiary, if any, of that deceased participant. If a valid nomination of refund
 15 beneficiary is not on file with the board, the board, in a lump sum distribution, shall
 16 distribute the accumulated balance to a legal representative, if any, of the deceased
 17 participant's estate.

18 (c) A former participating member or refund beneficiary may elect one or a
 19 combination of several of the following methods of distribution of the accumulated
 20 balance:

- 21 (1) lump sum distribution to the recipient;
 22 (2) lump sum direct rollover to another qualified plan, to the extent
 23 allowed by federal law;
 24 (3) periodic distributions, as authorized by the board;
 25 (4) no current distribution, in which case the accumulated balance
 26 must remain in the plan until the former participating member or refund beneficiary
 27 elects a method or methods of distribution under this section, to the extent allowed by
 28 federal law.

29 (d) If the former participating member's vested account balance is less than
 30 \$5,000, the board shall automatically refund the member's vested account balance
 31 upon termination of employment. The member may waive the refund if the member

1 submits a written statement to the board, within 120 days after termination, requesting
2 that the member's vested account balance remain in the plan.

3 **Sec. 39.35.760. Refund upon termination.** (a) Except as provided in (b) of
4 this section, a terminated member is entitled to a refund of the balance of the member
5 contribution account.

6 (b) A member who is terminated and who is married at the time of application
7 for a refund or whose rights to a refund are subject to a qualified domestic relations
8 order is entitled to receive a refund of the balance of the member contribution account
9 only if the member's present spouse and each person entitled under the order consent
10 to the refund in writing on a form provided by the administrator. The administrator
11 may waive written consent from the person entitled under the order if the
12 administrator determines that the person cannot be located or for other reasons
13 established by regulation. The administrator may waive written consent from the
14 spouse if the administrator determines that

15 (1) the member was not married to the spouse during any period of the
16 member's employment with an employer;

17 (2) the spouse has no rights to benefits under AS 39.35.700 -
18 39.35.895 because of the terms of a qualified domestic relations order;

19 (3) the spouse cannot be located;

20 (4) the member and spouse have been married for less than two years
21 and the member establishes that they are not cohabiting; or

22 (5) another reason established by regulation exists.

23 **Sec. 39.35.770. Rights under qualified domestic relations order.** A former
24 spouse shall be treated as a spouse or surviving spouse under AS 39.35.700 -
25 39.35.895 to the extent required by a qualified domestic relations order. Rights under
26 the order do not take effect until the order is filed with the administrator.

27 **Sec. 39.35.780. Rollover distributions and rollover contributions.** (a) A
28 distributee may elect, at the time and in the manner prescribed by the administrator, to
29 have all or part of an eligible rollover distribution paid directly to an eligible
30 retirement plan specified by the distributee in the direct rollover.

31 (b) The system does not accept contributions of eligible rollover distributions.

1 (c) In this section,

2 (1) "direct rollover" means the payment of an eligible rollover
3 distribution by the system to an eligible retirement plan specified by a distributee who
4 is eligible to elect a direct rollover;

5 (2) "distributee" means a member or a beneficiary who is the surviving
6 spouse of the member;

7 (3) "eligible retirement plan" means

8 (A) an individual retirement account described in 26 U.S.C.
9 408(a);

10 (B) an individual retirement annuity defined in 26 U.S.C.
11 408(b);

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

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

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

15 (F) a governmental plan described in 26 U.S.C. 457(b);

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

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

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

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

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

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

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

31 **Sec. 39.35.790. Distribution requirements.** (a) The entire interest of a

1 member must be distributed or must begin to be distributed not later than the member's
2 required beginning date.

3 (b) If a member dies after the distribution of the member's interest has begun
4 but before the distribution has been completed, the remaining portion of the interest
5 shall continue to be distributed at least as rapidly as under the method of distribution
6 being used before the member's death.

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

24 (d) If a member has not made a distribution election before the member's
25 death, the member's designated beneficiary must elect the method of distribution not
26 later than December 31 of the calendar year (1) in which distributions would be
27 required to begin under this section, or (2) that contains the fifth anniversary of the
28 date of death of the member, whichever is earlier. If the member does not have a
29 designated beneficiary or if the designated beneficiary does not elect a method of
30 distribution, distribution of the member's entire interest must be completed by
31 December 31 of the calendar year containing the fifth anniversary of the member's

1 death.

2 (e) For purposes of (c) of this section, distribution of a member's interest is
3 considered to begin (1) on the member's required beginning date, or (2) if the
4 designated beneficiary is the member's surviving spouse and the surviving spouse dies
5 after the member but before payments to the spouse have begun, on the date
6 distribution is required to begin to the surviving spouse. If distribution in the form of
7 an annuity irrevocably commences to the member before the required beginning date,
8 the date distribution is considered to begin is the date that the distribution actually
9 commences.

10 (f) Notwithstanding any contrary provisions of AS 39.35.700 - 39.35.895, the
11 requirements of this section apply to all distributions of a member's interest and take
12 precedence over any inconsistent provisions of AS 39.35.700 - 39.35.895.

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

16 (h) In this section,

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

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

23 **Sec. 39.35.800. Designation of beneficiary.** (a) Each member shall designate
24 the beneficiary or beneficiaries to whom the administrator shall distribute benefits
25 payable under AS 39.35.700 - 39.35.895 as a consequence of the member's death.
26 Notwithstanding a previous designation of beneficiary, a person who is the spouse of a
27 member at the time of the member's death automatically becomes the designated
28 beneficiary if the spouse was married to the member during part of the member's
29 employment for an employer

30 (1) except to the extent a qualified domestic relations order filed with
31 the administrator provides for payment to a former spouse or other dependent of the

1 member; or

2 (2) unless the member filed a revocation of beneficiary accompanied
3 by a written consent to the revocation from the present spouse and each person entitled
4 under the order; however, consent of the present spouse is not required if the member
5 and the present spouse had been married for less than two years on the date of the
6 member's death and if the member established when filing the revocation that the
7 member and the present spouse were not cohabiting.

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

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

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

18 (2) to the surviving children in equal parts or, if there are none
19 surviving;

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

22 (4) to the estate.

23 (d) A person claiming entitlement to benefits payable under AS 39.35.700 -
24 39.35.895 as a consequence of a member's death shall provide the administrator with a
25 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.
26 Documents establishing entitlement may be filed with the administrator immediately
27 after a change in the member's marital status. If the administrator does not receive
28 notification of a claim before the date 10 days after the member's death, the person
29 claiming entitlement is not entitled to receive from the division of retirement and
30 benefits any benefit already paid by the administrator.

31 **Sec. 39.35.810. Adjustments.** (a) When a change or error is made in the

1 records maintained by the system or in the contributions made on behalf of an
2 employee or an error is made in computing a benefit, and, as a result, a member or
3 beneficiary is entitled to receive from the system more or less than the member or
4 beneficiary would have been entitled to receive had the records or contributions been
5 correct or had the error not been made, the records, contributions, or error shall be
6 corrected. An adjustment to contributions shall be picked up by the employer in
7 accordance with AS 39.35.720 or treated as an adjustment to the employer's
8 contributions in accordance with this section, depending upon the nature of the
9 adjustment. If no future benefit payments are due, a person who was paid any amount
10 to which the person was not entitled is liable for repayment of that amount, and a
11 person who was not paid the full amount to which the person was entitled shall be paid
12 that amount.

13 (b) An adjustment that requires the recovery of benefits may not be made
14 under this section if

15 (1) the incorrect benefit was first paid two years or more before the
16 member or beneficiary was notified of the error;

17 (2) the error was not the result of erroneous information supplied by
18 the member or beneficiary; and

19 (3) the member or beneficiary did not have reasonable grounds to
20 believe that the amount of the benefit was in error.

21 (c) At each regularly scheduled meeting of the Public Employees' Retirement
22 Board, the administrator shall report to the board on all situations since the
23 administrator's last report in which an adjustment has been prohibited under (b) of this
24 section. If the board finds that there is reason to believe that one or more of the
25 conditions set out in (b) of this section have not been met, the administrator shall
26 notify the member or beneficiary that an adjustment will be made to recover the
27 overpayment. A member or beneficiary who receives notice of adjustment under this
28 subsection may appeal to the board for a waiver of the adjustment under
29 AS 39.35.820. An adjustment that requires the repayment of benefits may not be
30 required while the appeal is pending.

31 (d) The system shall pay interest on amounts owed to a member or

1 beneficiary. Interest shall be charged on amounts owed to the system by a member or
 2 beneficiary if the amount owed is the result of erroneous information supplied by the
 3 member or beneficiary, or the member or beneficiary had reasonable grounds to
 4 believe the amount of the benefit was in error. The interest paid under this subsection
 5 is at the rate established by regulation for indebtedness contributions owed. Interest
 6 accrues from the date on which the correct payment was due and continues until an
 7 actuarial adjustment to the benefit is effective or the amount owed is paid. Accrued
 8 interest for periods less than 60 days or in amounts less than the limit established in
 9 regulation for writing off small indebtedness and refund balances may not be collected
 10 or paid under this subsection.

11 **Sec. 39.35.820. Waiver of adjustments.** (a) Upon appeal by an affected
 12 member or beneficiary under (b) of this section, the board may waive an adjustment or
 13 a portion of an adjustment made under AS 39.35.810 if, in the opinion of the board,

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

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

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

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

23 (b) In order to obtain consideration of a waiver under this section, the affected
 24 member or beneficiary must appeal to the board in writing within 30 days after receipt
 25 of notice that the records have been adjusted. The ruling of the board shall be in
 26 writing.

27 (c) The board may conduct a hearing on an appeal under this section.

28 (d) The board may impose conditions on granting a waiver that it considers
 29 equitable. These conditions may include requiring the member or beneficiary to make
 30 additional contributions to the system.

31 (e) The board may reconsider a ruling under this section upon request of the

1 member or beneficiary or the administrator if the request is received within 30 days
 2 after the initial ruling. Any modification of the initial ruling must be made within 30
 3 days after receipt of a request for reconsideration.

4 **Sec. 39.35.830. Management and investment of fund.** (a) The Alaska State
 5 Pension Investment Board is the fiduciary of the fund. In managing the fund, the
 6 Alaska State Pension Investment Board shall

7 (1) consider the status of the fund's investments and the system's
 8 liabilities on both a current and a probable future basis;

9 (2) determine the appropriate investment objectives for the fund;

10 (3) establish investment policies aimed at achieving the objectives; and

11 (4) act only in regard to the best financial interests of the system's plan
 12 and beneficiaries.

13 (b) The Alaska State Pension Investment Board may invest the fund on the
 14 basis of probable total rate of return without regard to the distinction between principal
 15 and income or to the generation of income.

16 (c) In carrying out investment duties under AS 39.35.700 - 39.35.895, the
 17 Alaska State Pension Investment Board has the same powers and duties in regard to
 18 the teacher's retirement trust fund as are provided in AS 37.10.071, except that the
 19 standard of prudence that the board must obey under AS 37.10.071(c) shall be in
 20 regard to the management of large trust investments rather than large investments.

21 **Sec. 39.35.850. Special rules for treatment of qualified military service.**
 22 Notwithstanding any contrary provisions of AS 39.35.700 - 39.35.895, with respect to
 23 qualified military service, contributions shall be made and benefits and service credit
 24 shall be provided in accordance with 26 U.S.C. 414(u).

25 **Sec. 39.35.860. Exemption from taxation and process.** (a) Except as
 26 provided in AS 29.45.030(a)(1) or in (c) of this section, member contributions and
 27 other amounts held in the system on behalf of a member or other person who is or may
 28 become eligible for benefits under the system are exempt from Alaska state and
 29 municipal taxes and are not subject to anticipation, alienation, sale, transfer,
 30 assignment, pledge, encumbrance, or charge of any kind, either voluntary or
 31 involuntary, before they are received by the person entitled to the amount under the

1 terms of the system. Any attempt to anticipate, ~~alienate, sell, transfer, assign, pledge,~~
 2 encumber, charge, or otherwise dispose of any right to amounts accrued in the system
 3 is void. However, a member's right to receive benefits or the member contribution
 4 account may be assigned

5 (1) under a qualified domestic relations order;

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

8 (3) as provided in (c) of this section.

9 (b) Member contributions and other amounts held in the system and benefits
 10 payable under AS 39.35.700 - 39.35.895 are exempt from garnishment, execution, or
 11 levy as provided in AS 09.38.

12 (c) An inactive member may elect to have the taxable portion of the member
 13 contribution account transferred directly to another plan or an individual retirement
 14 arrangement that is qualified under the federal Internal Revenue Code and that accepts
 15 the transfer.

16 **Sec. 39.35.870. Time limit for application.** If an application for benefits or
 17 for refund has not been filed with the administrator by July 1 following the date on
 18 which an inactive member (except a member on leave of absence without pay) would
 19 attain age 75, or if an application for benefits or for refund has not been filed with the
 20 administrator within the 50 years following the most recent date on which the person
 21 was an active member, benefits or refunds may not be paid under AS 39.35.700 -
 22 39.35.895 and the member's records may be destroyed.

23 **Sec. 39.35.880. Penalty for false statements.** (a) A person who knowingly
 24 makes a false statement, or falsifies or permits to be falsified any record of this
 25 system, in an attempt to defraud this system, is guilty of a class A misdemeanor and
 26 forfeits all rights under AS 39.35.700 - 39.35.895.

27 (b) In this section, "knowingly" has the meaning given in AS 11.81.900(a).

28 **Sec. 39.35.895. Definitions.** In AS 39.35.700 - 39.35.895, unless the context
 29 requires otherwise,

30 (1) "active member" has the meaning given in AS 39.35.680;

31 (2) "actuarial adjustment" has the meaning given in AS 39.35.680;

- 1 (3) "administrator" has the meaning given in AS 39.35.680;
- 2 (4) "beneficiary" has the meaning given in AS 39.35.680;
- 3 (5) "board" has the meaning given in AS 39.35.680;
- 4 (6) "calendar year" has the meaning given in AS 39.35.680;
- 5 (7) "compensation" has the meaning given in AS 39.35.680;
- 6 (8) "employee contribution account" means the total maintained by the
- 7 system of the employer's contributions, employee's mandatory contributions, voluntary
- 8 contributions, indebtedness principal, and interest contributions, interest credited to
- 9 each of those accounts, and adjustments to the accounts in accordance with
- 10 AS 39.35.810;
- 11 (9) "employer" has the meaning given in AS 39.35.680;
- 12 (10) "former participating member" means a terminated member;
- 13 (11) "fund" means the assets of the system;
- 14 (12) "inactive member" has the meaning given in AS 39.35.680;
- 15 (13) "member" or "employee" has the meaning given in AS 39.35.680;
- 16 (14) "military service" has the meaning given in AS 39.35.680;
- 17 (15) "peace officer" or "fire fighter" has the meaning given in
- 18 AS 39.35.680;
- 19 (16) "public organization" has the meaning given in AS 39.35.680;
- 20 (17) "qualified domestic relations order" has the meaning given in
- 21 AS 39.35.680;
- 22 (18) "retired member" means an employee who is terminated, who has
- 23 not received a refund from the system, and who is receiving a retirement benefit from
- 24 the system;
- 25 (19) "retirement" means that period of time from the first day of the
- 26 month following (A) the date of termination, and (B) application for retirement, in
- 27 which a person is appointed to receive a retirement benefit;
- 28 (20) "surviving spouse" means the spouse of an employee who has
- 29 been married to the employee for at least one year at the time of the employee's death;
- 30 (21) "system" has the meaning given in AS 39.35.680;
- 31 (22) "terminated" means a person no longer employed by an employer

1 participating in the system.

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

4 REVISOR INSTRUCTION. (a) In the following statute sections, the revisor of
5 statutes shall substitute the spanned reference "AS 14.25.010 - 14.25.220" for references to
6 "this chapter": AS 14.25.010, 14.25.012, 14.25.040, 14.25.045, 14.25.047, 14.25.048,
7 14.25.061, 14.25.062, 14.25.063, 14.25.070, 14.25.075, 14.25.105, 14.25.107, 14.25.110,
8 14.25.142, 14.25.150, 14.25.153, 14.25.160, 14.25.165, 14.25.166, and 14.25.220.

9 (b) In the following statute sections, the revisor of statutes shall substitute the spanned
10 reference "AS 39.35.010 - 39.35.680" for references to "this chapter": AS 39.35.010,
11 39.35.165, 39.35.200, 39.35.250, 39.35.300, 39.35.340, 39.35.350, 39.35.360, 39.35.370,
12 39.35.371, 39.35.375, 39.35.381, 39.35.480, 39.35.490, 39.35.495, 39.35.505, 39.35.530,
13 39.35.546, 39.35.547, 39.35.615, 39.35.620, 39.35.675, 39.35.677, and 39.35.680.

14 * Sec. 7. This Act takes effect July 1, 2005.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB191
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: An Act relation to TRS and PERS creating a RDU: Centralized Administrative Services
defined contribution and health reimbursement plans..... Component: Retirement and Benefits
 Sponsor: Representative Kelly
 Requester: House State Affairs Component No.: 64

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	265.5	216.5	152.1	152.1	152.1	152.1
Travel	37.5	17.5	3.5	5.0	5.0	5.0
Contractual	587.0	317.0	342.0	387.0	387.0	387.0
Supplies	18.0	5.0	5.0	5.0	5.0	5.0
Equipment	30.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	938.0	556.0	502.6	549.1	549.1	549.1

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	938.0	556.0	502.6	549.1	549.1	549.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	938.0	556.0	502.6	549.1	549.1	549.1

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time	2	2	2	2	2	2
Temporary	2	1	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill will create a new defined contribution retirement plan and a health reimbursement arrangement for new employees of the PERS and TRS hired after the effective date of July 1, 2005. As the new plan significantly differs from the current defined benefit plans, the division will be required to reprogram its computer systems, set up and account for two new plans, create new plan publications and forms, train staff, employer contacts and new members, create new employee benefit education methods on the web, benefit seminars and one on one appointments, and to contract for financial planning services for members of the new plan. The fiscal note assumes fund manager fees, custody, and record keeper's individual account fees are separate.

Prepared by: Melanie Millhorn, Director
 Division: Retirement and Benefits
 Approved by: Mike Tibbles, Deputy Commissioner
 Agency: Department of Administration

Phone 465-4408
 Date/Time 3/29/05 2:18 PM
 Date 3/29/2005

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. HB191 _____

ANALYSIS CONTINUATION

The estimated administrative costs to the division by fiscal year are as follows:

	FY 2006	FY 2007	FY 2008	FY 09-11
PERSONAL SERVICES:				
1 - Analyst-Pgmr III - DC-Benefits Sys - R 16	64.4	64.4	64.4	64.4
1 - Accountant II - Range 16 P/T	41.0	41.0	41.0	41.0
1-R&B Tech I/II-ER Rptng/Contrib. Recon.-Range 12, P/T	46.7	46.7	46.7	46.7
1-Non Permanent Publications Tech II or Spec I - Range 13	49.0	0.0	0.0	0.0
1-Non Permanent Retirement Counselor - Range 18	64.4	64.4	0.0	0.0
	<hr/>	<hr/>	<hr/>	<hr/>
	265.5	216.5	152.1	152.1
TRAVEL:				
Employer Reporting Software Upgrade Install & Help	30.0	15.0	0.0	0.0
Employer Plan Education	7.5	0.0	0.0	0.0
Regional Counselor travel	0.0	2.5	3.5	5.0
	<hr/>	<hr/>	<hr/>	<hr/>
	37.5	17.5	3.5	5.0
CONTRACTUAL:				
Communications & Postage	82.0	17.0	17.0	17.0
Computer system mods - Employer Reporting	80.0	5.0	5.0	5.0
Computer system mods - PERS / TRS Record Integration	80.0	5.0	5.0	5.0
Computer system mods - DC / Web / Remit Modules	80.0	10.0	10.0	10.0
Audit, Accting, Tax, Benefits Consulting, Legal	100.0	75.0	50.0	50.0
Training \ Risk Management	15.0	5.0	5.0	0.0
Employee financial planning services	150.0	200.0	250.0	300.0
	<hr/>	<hr/>	<hr/>	<hr/>
	587.0	317.0	342.0	387.0
SUPPLIES: Office supplies, calculators, desk-top software	18.0	5.0	5.0	5.0
EQUIPMENT: Workstation & cubicle, chairs, file cabinets, computers, telephone, set-up costs	30.0	0.0	0.0	0.0
	<hr/>	<hr/>	<hr/>	<hr/>
	48.0	5.0	5.0	5.0
 TOTAL	 938.0	 556.0	 502.6	 549.1

The above funding source is initially listed as General Fund because the existing tiers of PERS / TRS are Defined Benefit plans, and the present DC plans, SBS and DCP are legally separate from the intended plan. The new tier members would have to repay the startup costs through fees as the size of the fund grows.

The new plan effective date is July 1, 2005. Therefore, startup costs will start in FY 05, although they have not been provided for. Further, such startup costs also have the same issue, they really are not costs of the PERS and TRS Defined Benefit plans. Tiers 1, 2, and 3 are logically related, tier 4 PERS and Tier 3 TRS would not be. The purpose of the bill is to separate the DB and DC side. Some arrangement will have to be worked out to allow expenditure of funds for the startup that will be reimbursed later.

Changes to Current Tiers Under the Proposed Bills

Bills	SB 141	HB 177 and HB 170	State Affairs Bill
Prescription drug Changes	None	None	Requires retirees to purchase prescription drugs from a preferred drug list unless otherwise recommended
Employee Contribution Rates	One-half the NCR ¹ set at an increase of .5% every year until the employer contribution rate reaches ½ the NCR.	HB 177- One-half the amount needed to fund the system (ACR) ² with a maximum increase of 5% per year. Police/fire contribute additional 1%	One-half the amount needed to fund the system (ACR) capped at 13% for PERS ³ and 14% for TRS ⁴ . Maximum increase of 5% per year.
Employer Contribution Rates	No more than 5% increase in PSC ⁵ rate per year. Not less than the difference between the NCR and the employee contribution.	No more than 5% increase in PSC rate per year	No more than 5% increase in PSC rate per year. One-half the NCR with a floor at 10% PERS, 11% TRS
Ad hoc PRPA's	Places limiting conditions on ad hoc PRPA's ⁶	None	Places limiting conditions on ad hoc PRPA's
PERS/TRS Board	Eliminates PERS & TRS Board and ASPIB ⁷ . Creates new ARM ⁸ Board with fiduciary responsibility only, and designates other aspects of current boards.	HB 170. Changes the requirements for members of the PERS & TRS Boards.	None
COLA	Repeal COLA ⁹	None	None
Refunded re-hires	No longer allow re-instating past employees at current tier status. A past employee who has cashed out of the system cannot buy back that time, vest and collect benefits.	None	None

¹ NCR – Normal Cost Rate

² ACR - Actuarial Computed Rate

³ PERS – Public Employees Retirement System

⁴ TRS – Teacher's Retirement System

⁵ PSC - Past Service Cost

⁶ PRPA – Post Retirement Pension Adjustment

⁷ ASPIB – Alaska State Pension Investment Board

⁸ ARM – Alaska Retirement Management

⁹ COLA – Cost of living adjustment

	Current PERS Tier I/II TRS Tier I DB Plan	Current PERS Tier II/III & TRS Tier II DB Plan	State Affairs DC PERS/TRS Bill	Senate Bill 141 - DC	House Bill 191 - DC
PERS employee contribution rate	6.75% other 7.5% Police/fire 9.6% school district	6.75 or 7.5% other 7.5% Police/fire 9.6% school district	10% all members	8% all members voluntary % up to IRS limit	8% other police/fire 8.5%
TRS employee contribution rate	8.65%	8.65%	11% all members	8% all members	10% all members
Vesting	5 years PERS 8 years TRS	5 years PERS 8 years TRS	Employee is immediately vested in both employee and employer contribution	Immediate for employee contributions Fully vested in employer contributions after 5 years (graduated scale of 25%/yr)	Employee is immediately vested in both employee and employer contribution (however employer contribution is graduated)
Retirement Age	55 normal - 50 early 30 "others" 20 police/fire 20 teachers	60 normal - 55 early 30 "others" 20 police/fire 20 teachers	Any age	Any age	Any age
PERS & TRS Benefit Formula	2% up to 2.5% multiplier per year DB multiplier X years of service X high 3 year average salary	2% up to 2.5% multiplier per year DB multiplier X years of service X high 3 (TRS) or 5 (PERS) year average salary	20% PERS (includes 1% for HRA & 3.5% for medical) 22% TRS (includes 1.5% for HRA & 3.75% for medical)	16% per year to a DC account and investment earnings (includes 1% for HRA & 3.5% for medical) 5 yr graduated vesting scale of 25% increase per year HRA - 1% average salary of employee subgroup up to \$500 annual limit	16% after five years of service - before 5 years a percentage of the employer contribution is distributed at (1 st yr 0%, 2 nd yr 25%, 3 rd yr 50%, 4 th yr 75%, 5 th yr+ 100%)
Medical	Do not have to retire directly from the system to be service or age eligible for medical coverage Medical plan premium paid by retirement system for all retirees and dependents. Except Tier II retirees	Do not have to retire directly from the system to be service or age eligible for medical coverage Must have 10 years of service for system-paid coverage over age 60. Employees with less than 10 years pay full	Must retire directly from the system with either 60 years adjusted to the change in mortality rate when adopted w/ 10 years of service OR 30 years service Early retirees -	Must retire directly from the at age 65 w/ 10 years of service OR 25 yrs police/fire 30 yrs other Access to medical coverage with one year of active service prior to retirement and age 65 with 10 years of service.	Must retire directly from the system at age 65 w/ 10 years of service OR 25 yrs police/fire 30 yrs other Access to medical coverage with one year of active service prior to retirement and age 65 with 10 years of service.

	Current PERS Tier I/II TRS Tier I DB Plan	Current PERS Tier II/III & TRS Tier II DB Plan	State Affairs DC PERS/TRS Bill	Senate Bill 141 - DC	House Bill 191 - DC
	and survivors pay full premium under age 60.	premium for access to coverage.	Access to system, no subsidy till age 60 adjusted Retirees over 60 adjusted- Access to defined dollar medical with subsidy depending on length of service. Retirees over Medicare eligible age - Access to medical with a reduced premium and percent subsidy based on years of service Reimbursed for qualified medical expenses from HRA.	or at any age after (1) 25 years for peace officer/firefighter, or (2) 30 years for all others Retiree and survivors pay full premium until Medicare eligible After Medicare eligible, retiree shares cost based on years of service. Reimbursed for qualified medical expenses from HRA.	or at any age after (1) 25 years for peace officer/firefighter, or (2) 30 years for all others Retiree and survivors pay full premium until Medicare eligible After Medicare eligible, retiree shares cost based on years of service. Reimbursed for qualified medical expenses from HRA.
Employer Normal Cost Rate PERS	Current Normal Cost Rate 13.24% 20 year average 10.86%	Current Normal Cost Rate 13.24% (8.68% medical, rest pension) 20 year average 10.86%	10% (3.5% medical, 1% HRA)	8.25% (3.5% pension, 3.75% medical, 1% max \$500 HRA)	8% w/ following conditions - 1 st yr 0%, 2 nd yr 25%, 3 rd yr 50%, 4 th yr 75%, 5yr+ 100%
Employer Normal Cost Rate TRS	Current Normal Cost Rate 13.24% 20 year average 11.16%	Current Normal Cost Rate 13.24% (9.07% medical, rest pension) 20 year average 11.16%	11% (3.75% medical, 1.5% HRA)	8.25% (3.5% pension, 3.75% medical, 1% HRA)	8.75% w/ following conditions - 1 st yr 0%, 2 nd yr 25%, 3 rd yr 50%, 4 th yr 75%, 5yr+ 100%
Risk	Employer bears all the risk	Employer bears all the risk	Employer risk is minimal, employee bears investment risk	Employer risk is minimal, employee bears investment risk	Employer risk is minimal, employee bears investment risk
Salary only	All salary (including overtime, bonuses, etc)	All salary (including overtime, bonuses, etc)	Employee option base salary or total salary	Unknown	Base salary only
Roll Over	Accepts rollover from	Does not accept roll	Roll over accepted	Roll over accepted from	Does not accept roll over

	Current PERS Tier I/II TRS Tier I DB Plan	Current PERS Tier II/III & TRS Tier II DB Plan	State Affairs DC PERS/TRS Bill	Senate Bill 141 - DC	House Bill 191 - DC
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	qualified programs	over from qualified programs nor can you rollover into a qualified program	from qualified programs and you can roll over into a qualified program	qualified programs and you can roll over into a qualified program	from qualified programs but you rollover into a qualified program
Investment Options	ASPIB manages investments	ASPIB manages investments	ASPIB manages investments similar to SBS	Participant controls investments and has access to a range of investment options from the ARM Board ARM has all fiduciary responsibility. Managed similar to SBS	ASPIB manages investments
State Financial Help	N/A	N/A	Past Service Cost Offset Account 2.681 billion	69.5 million to compensate 5% increase in employer costs FY05 -FY06 (for school districts this is inc. in the BSA)	None
Transfer of employee to a DC plan	N/A	N/A	Allows the transfer of current, non-vested employees to a DC account within 90 days from the enactment of legislation	None	None

Advantages of Defined Contribution Plans

By Peter J. Ferrara
Americans for Tax Reform

Advantages to Workers

Portability. The most obvious advantage of defined contribution plans for workers is portability. Since the contributions are paid directly into individual accounts for each worker, it is easy simply to allow workers to take their accumulated funds with them when they change jobs. As a result, workers get to keep the full past contributions made on their behalf and their full accrued benefits. In a defined benefit plan, by contrast, the contributions for each worker are in a common pool where each worker's share is not separately identified. Because of vesting requirements and other features of the benefit formula, withdrawals and other payments from the common pool for workers who depart before attaining long term service do not reflect their fair share of past employer contributions, as discussed further below.

Immediate Vesting. In a pure defined contribution plan, the employer's contributions to the individual account become the full property of the worker upon payment. As a result, the worker enjoys immediate vesting of employer retirement contributions. This greatly benefits the majority of state and local government workers who are not going to stay with one employer for the rest of their careers.

In a typical defined benefit plan, by contrast, the employer contributions are again kept by the government in a common pool, and the worker's rights to them typically vest only after long periods of 10 years or so. As a result, most workers lose out, as most remain with one state or local employer for less than 10 years. For example, in California 70% of state and local workers lose all employer retirement contributions because they stay with one employer for less than 10 years, and consequently fail to meet the 10 year vesting requirement. Moreover, even workers who stay longer do not receive the full benefit of the employer contributions until they have worked well beyond 10 years.

Personal Control. In the defined contribution plan, the retirement funds for each worker are under the control of the worker in their own individual accounts. Workers can consequently adopt the investment strategies and benefit plans that best suit their own individual needs and preferences. As a result, they may well end up with higher benefits than under a traditional defined benefit plan, as discussed further below. Moreover, under the defined contribution plan they don't have to worry about politicians taking away benefits or bureaucrats mishandling funds and losing their retirement assets.

Fair Benefits. Under a traditional defined benefit plan, the benefits are skewed to favor the longer term and oldest workers over others, in at least 3 ways. First, the vesting requirements eliminate benefits for those working less than 10 years or so, with the funds then devoted to the longest term workers. Secondly, the benefits are a percentage of final salary, which tends to be much higher for those who have worked for the employer the longest, or for older workers.

Thirdly, granting the same percentage of final salary for each year worked (1%-2%) does not grant the full benefit of the contributions for younger workers who remain employed for several years, then leave. For example, take a worker who enters government employment at 22, works for 15 years, and then leaves for a private sector job. Under a traditional defined benefit plan, he will qualify for benefits when he reaches retirement. But he will only receive the same 1%-2% of final salary for each year worked as other workers under the benefit formula. Yet, the contributions paid for him during employment continued to earn investment returns for many years after he left employment. The worker, however, receives no benefit from these additional investment returns.

Indeed, contrast this younger worker with an older worker who enters government employment at age 50 and continues to work there for 15 years, retiring at age 65. The contributions for this worker earned investment returns for far fewer years than those for the younger worker. Yet, this worker will get the same 1%-2% of final salary for each year worked as the younger worker. If the older worker's salary was higher, as is likely, he will actually get more benefits in retirement than the younger worker, even though the contributions for the younger worker earning returns for many more years would have accumulated to much more by retirement. The younger workers are consequently denied the full benefit of their contributions, which are redistributed in large measure to others.

None of these distortions occur in a standard defined contribution plan. The contributions to the worker's account immediately vest as the property of the worker, so the worker gets to keep those full contributions in any event. The worker also gets to keep the full returns earned by those contributions over the years, rather than leaving them to others based on a calculated percentage of final salary. The defined contribution plan consequently provides fair, undistorted benefits to each worker, granting each the full value of the contributions made for them.

Higher Benefits. The defined contribution plan includes no limit on the benefits workers can receive. Those who achieve strong investment performance in their individual accounts will receive substantially higher benefits than offered under a standard defined benefit plan. In fact, there is good reason to believe that on average workers in defined contribution plans will receive substantially higher benefits than offered by defined benefit plans.

Those managing the common investment pool for a defined benefit plan are investing only to finance the targeted benefit levels. For career workers, these will range from 30% to 80% of final salary and cluster around 45%-65%.² The managers will not invest more aggressively to achieve higher benefits, even when that can be done safely. If they do attain higher investment returns, the employer will likely reduce contributions or withdraw the excess assets.

Contributing a standard 10% of salary each year to a defined contribution plan that earns the full standard investment returns available in the market will produce higher benefits than those targeted under a typical defined benefit plan. And those who would benefit the most are the longest term workers who thought they were getting the most out of the skewed benefits of defined benefit plans.

The average real rate of return earned in the stock market going back over the last 70 plus years, all the way back to 1926, is 8%.³ The average real rate of return on corporate bonds over that period is 3% or more.⁴ A conservative portfolio with half of each would earn 5.5%

Assume a worker who earns around \$30,000 per year over his career in constant inflation adjusted dollars. If 10% of that salary is contributed to a personal investment account for the worker earning a real return of 5.5% each year, then after 40 years that investment account would total \$432,357, again in constant, inflation adjusted dollars. (See Table 1) That amount would finance an annuity paying about \$60,000 per year each year for the rest of the worker's career. A defined benefit plan paying 1.5% of final salary for each year of work would pay only \$18,000 per year. A defined benefit plan paying 2% of final salary for each year of work would pay only \$24,000 per year. So the defined contribution plan would pay 2 1/2 to 3 1/2 times the benefits of the defined benefit plan. (See Table 1)

A worker's earning \$40,000 each year would reach retirement after 40 years of work with a retirement account total of \$576,476, again in constant dollars. That amount would finance an annuity of \$80,000 per year, compared to \$24,000 - \$32,000 for a defined benefit plan. A worker earning \$50,000 each year would retire with a fund of \$720,595, paying about \$100,000 per year, compared to \$30,000 to 40,000 for a defined benefit plan. Again, the defined contribution benefits are 2 1/2 to 3 1/2 times the defined benefit plan payments. (See Table 1).

Now suppose the worker retires after only 30 years of work. At a salary of \$30,000 per year, the worker would retire with a fund of \$313,457, which would pay about \$43,000 per year in benefits compared to \$13,500 to \$18,000 for a defined benefit plan. The defined contribution benefits are still 2.4 to 3.2 times the defined benefit plan payments. (See Table 1). The \$40,000 per year worker would retire after 30 years with a fund of \$417,942, paying about \$58,000 per year in benefits, compared to \$18,000- \$24,000 for the defined benefit plan. The \$50,000 per year worker would retire after 30 years with a fund of \$522,428, which would pay about \$73,000 per year, compared to \$22,500 - \$30,000 in the defined benefit plan. (See Table 1) Again, the defined contribution plan pays 2.4 to 3.2 times the defined benefit plan.

Now suppose the worker's retirement account doesn't perform as well as others for some reason and earns only a 4 % real return, which is just half the average return in the stock market over the last seventy years. A \$30,000 per year worker would retire after 40 years of work with a trust fund of almost \$300,000. That fund would pay almost \$37,000 per year for the rest of the worker's life, again all in constant, inflation adjusted dollars. The defined benefit plan would pay \$18,000 - \$24,000 per year. (See Table 2) So the defined contribution plan would pay 50-100% more.

A \$40,000 per year worker would retire after 40 years with a trust fund of almost \$400,000, which would pay almost \$50,000 per year, compared to \$24,000 - \$32,000 for the defined benefit plan. A \$50,000 per year worker would retire with a trust fund of almost \$500,000 per year paying over \$61,000 per year, compared to \$30,000 to \$40,000 for the defined benefit plan. (See Table 2) In these cases, the defined contribution plan again pays 50-100% more than the defined benefit plan.

Now suppose the worker's retires after only 30 years. The \$30,000 per year worker would retire with a trust fund of about \$175,000, paying about \$21,000 per year, compared to \$13,500 to \$18,000 for the defined benefit plan. The \$40,000 per year worker would retire with a trust fund of \$233,000 paying about \$28,000 per year, compared to \$18,000-\$24,000 for the defined benefit plan. The \$50,000 per year worker would retire with a trust fund of almost \$300,000, paying about \$36,000 per year compared to \$22,500 to \$30,000 for the defined benefit plan. (see Table 2). The defined contribution benefits are still substantially more than the defined benefit plan payments.

These calculations all assume retirement at the standard Social Security retirement age, which is 65 today and will rise to 67 over the next 25 years. To the extent workers can receive retirement benefits under the defined benefit plans at earlier ages those plans would do much better compared to the defined contribution plans. But such defined benefit plans also require much higher contribution rates than 10% of salary, which was used as the basis for the defined contribution benefits alone. At a minimum, however, these calculations show that the longer term workers would do quite well under defined contribution plans, and would quite possibly receive significantly higher benefits than under a typical defined benefit plan.

Freedom of Choice: Finally, the defined contribution reform proposals maximize the freedom of choice of workers. Under the defined contribution plans, workers can choose their own investments, investments strategies, and investment managers. They can also choose their own benefit structures and vary their benefits over time, perhaps leaving more in the accounts to accumulate further earnings. Current workers can also choose whether they want to be in the defined contribution plans or stay in the defined benefit plans, and under most proposals this is true for future workers as well. The bottom line is that the defined contribution reform proposals give workers maximum freedom of choice and control over their own money.

Advantages for Taxpayers

No Investment Risk: The most obvious advantage for taxpayers of a defined contribution plan is that it eliminates investment risk for them. With the government managing a common pool of investment funds under a defined benefit plan, the taxpayers bear the complete risk of poor investment performance. If such poor performance leaves the pool unable to pay the promised defined benefits, then the taxpayers will have to make up the difference.

Under the defined contribution plan, however, the taxpayers simply make a specific contribution to the accounts of the workers each month. The government is then not liable for the investment performance of the funds. Workers' benefits equal whatever the accumulated funds can finance. Taxpayers consequently are not subject to any risk of investment performance.

No Political Risk: Defined contribution plans eliminate another set of risks that are usually overlooked - political risks. With the government specifying benefits far in the future, as under defined benefit plans, there is always a strong danger of political giveaways by short-sighted politicians. These politicians can promise higher retirement benefits, while leaving future officials and taxpayers to pay for them. Under a defined contribution plan, where the government

does not specify future benefits but only makes regular investment contributions, this risk is eliminated.

Moreover, a large government investment pool, as under a defined benefit plan, is always subject to the danger of political interference that could raise costs. Political favoritism may influence investment policy, prohibiting some investments and forcing the fund into others. By taking the focus off of simply maximizing investment returns, such political favoritism will reduce investment returns and increase the cost of funding the specified defined benefits.

Politicians may seek to raid the large, tempting investment pool in other ways as well. They may seek to withdraw funds for other uses, claiming an excess of funds which may be temporary or chimerical. Or they may try to use the funds for short-term added benefits. These actions would again raise costs for taxpayers.

Government management of the funds also creates the risk of mishandling of the funds by bureaucrats who lack the incentives, competitive pressures, and expertise of private investment managers. Attempts to insulate the funds from bureaucratic control by contracting out to private investment managers may not be entirely successful.

Finally, a large government investment pool creates the risk for taxpayers of greater government control of the private economy. Through such a pool, the government may end up owning large shares of private companies. The government would also hold a large share of investment capital that it could use to impose mandates on the private sector. Even where there has been a good record of avoiding such abuse in the past, the danger is always present.

None of these risks arising from a large government investment pool exist in a defined contribution plan, where the government does not maintain such a pool.

No Unfunded Liability. The defined contribution plan also eliminates the danger of any unfunded liability that must be covered by taxpayers. Under a defined benefit plan, any shortfall in the common investment pool that leaves the pool unable to pay the promised benefits, creating an unfunded liability, must be covered by the taxpayers, regardless of the cause of the shortfall. In the defined contribution plan, where the government does not maintain a common investment pool but only pays a specified amount to each worker's individual account each month, and benefits equal what those accounts can finance, there is no possibility of an unfunded liability that taxpayers would have to cover.

Greater Control Over Costs. The defined contribution plan also provides the government and taxpayers greater control over costs. Costs under a defined benefit plan, where the government has pledged to provide a certain benefit regardless of cost, can vary greatly, depending on a wide range of factors outside the government's control. Retirees can live longer, greatly increasing costs. More workers may stay with the government employer long term, increasing costs. Interest rates or the stock market may decline, requiring increased contributions to make up the difference.