

ALABAMA LEGISLATURE COMMITTEE FILES, 2003-2006 86/2

11668 HOUSE STATE AFFAIRS

## What about 20 years out?

How much of an employers past  
service cost will the PSCOA pay in  
the future?

**Example: An sample city's experience the  
twentieth year of PSCOA**

### **City X**





City X has 30 employees



3 are DB employees,  
Tier 1, 2 & 3



27 are DC employees, Tier IV –*the PSCOA will pay the PSC for these employees*

## Assumptions about City X

2025



Past Service Cost Rate of City X: 30%

Average Past Service Cost Rate: 20%

Average Salary for City X: \$40,000

City's X's Wage Base: \$1.2 million

The PSCOA will pay on behalf of the 27 DC employees:

(average salary \* blended employer PSC rate) \* number of DC employees =  
PSCOA assistance

$$(\$40,000 * .2) * 27 = \$216,000$$

\*Present Dollar Value

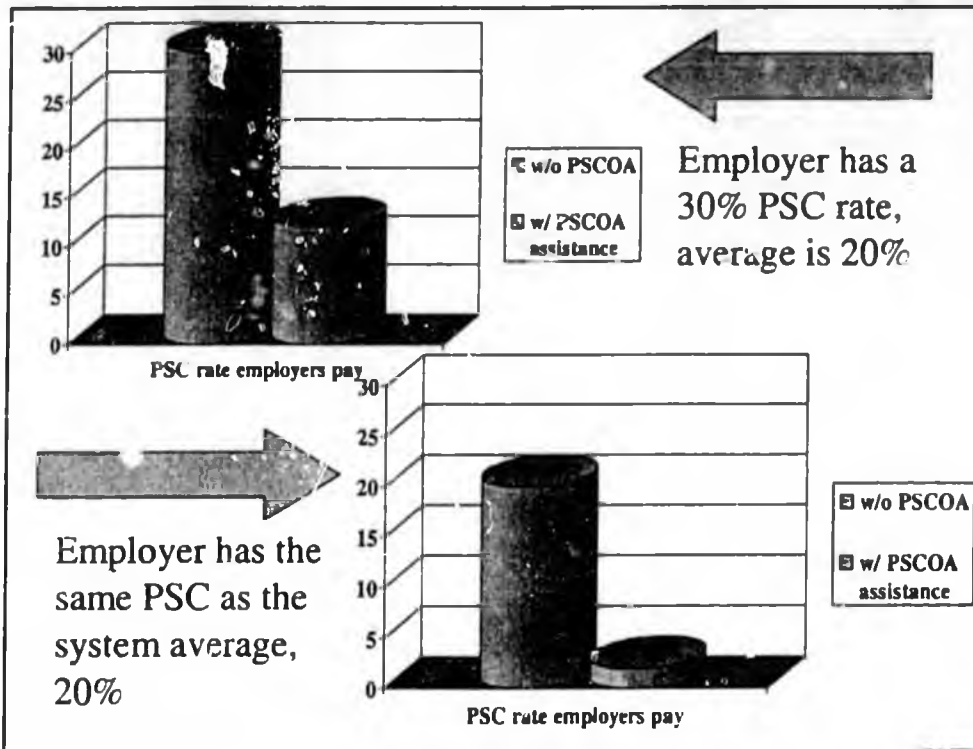
**The PSCOA payment reduces City X's PSC contribution from \$360,000 to \$144,000, or their PSC rate from 30% to 12%**



**Why not a greater reduction in PSC payments for City X?**

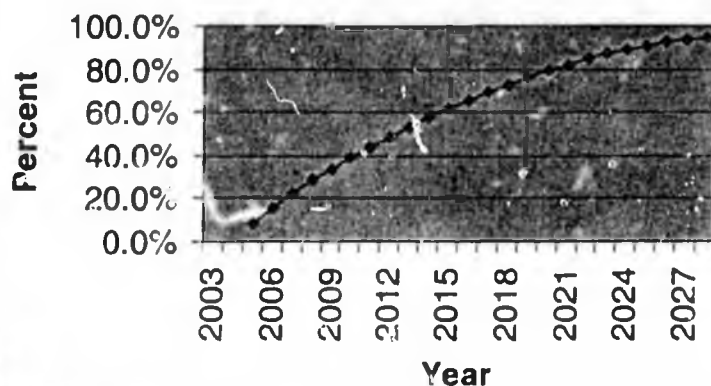
City X is only receiving aid for the average PSC rate (20%) when their actual rate is 30%

If city X had the same PSC rate as the system (20%) the PSCOA would pay 18% of the city's PSC for the twentieth year, the city left to make up the difference of \$24,000



PSCOA payments will increase over time until by the end of the amortization period the PSCOA is paying almost all of the past service cost payment for that year

### PSCOA Contributions as Percent of Total PSC



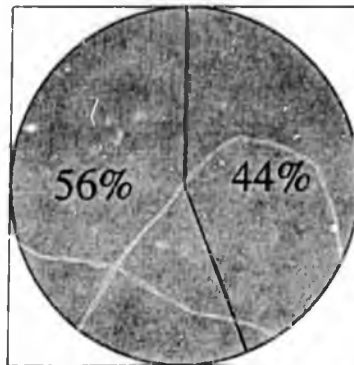
\*based on blended employer contribution rate. Does not control for employers that will have to pay more due to their individual experiences.

### System Impact of PSCOA

- ✓ Unfunded liability of PERS non-State non-school district : **679 million**
- ✓ What the PSCOA will pay over 25 years: **299 million**

Over the 25 year amortization period the PSCOA pays for a little less than half the past service cost payments

This would be less than \$300 million in present dollar value



- ☐ PSCOA aid
- ☐ PSC payments by employers

AMENDMENT #1 *Adopted*

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 238( ), Draft Version "R"

- 1 Page 2, line 5, following "to":
- 2 Insert "the average salary of all employees of the employer multiplied by"

AMENDMENT #2 ALA-A

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 238( ), Draft Version "R"

- 1 Page 2, lines 20 - 21:
- 2 Delete all material:
- 3 Insert "contribution plan established in AS 39.35.700 - 39.35.990 and the defined
- 4 benefit plan established in AS 39.35.095 - 39.35.680;"

*Amendment #3 Adopted*

**Amendment to CS HB 238 version 24-LS0791/R.4  
By: Rep. Seaton**

**Page 2, lines 7-14**

**Delete all material**

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

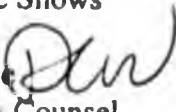
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 2, 2006

**SUBJECT:** Hiring and firing with tier 4 preference  
(Work Order No. 24-LS0597)

**TJ:** Representative Paul Seaton  
Attn: Katie Shows

**FROM:** Dan Wayne   
Legislative Counsel

You have asked for an opinion as to whether it is legal for public employers in Alaska to make hiring or firing decisions based on whether or not an applicant or employee is in tier 4, perhaps by favoring tier 4 in order to save money.<sup>1</sup>

Regarding firing the short answer is no; it is illegal and unconstitutional. In 1999, the Alaska Supreme court said:<sup>2</sup>

This court has recognized a covenant of good faith and fair dealing in all at-will employment contracts. This covenant does not lend itself to precise definition, but it requires at a minimum that an employer not impair the right of an employee to receive the benefits of the employment agreement. We have also stated that this covenant . . . requires that an employer treat like employees alike. The covenant of good faith and fair dealing . . . includes an objective standard, under which the employer must act in a manner which a reasonable person would regard as fair. The covenant also includes a subjective element. An employer engages in subjective bad faith when it discharges an employee for the purpose of depriving him or her of one of the benefits of the contract. (Citations omitted).

Terminating either an at-will or permanent tier 1-3 employee in order to deny retirement benefits is illegal because it violates the covenant of good faith and fair dealing, and is unconstitutional because of the Article XII, section 7 prohibition in the Constitution of

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<sup>1</sup> I understand tiers 1-3 to mean the PERS/TRS defined benefit plan and tier 4 to mean the PERS/TRS defined contribution plan.

<sup>2</sup> Holland v. Union Oil Co., 993 P.2d 1026, 1032 (Alaska, 1999).

the State of Alaska against diminishing or impairing an employee's accrued benefits in a public employee retirement system.

Regarding hiring, the answer is yes; it is legal to consider tier 4 status in selecting an applicant if doing so does not impair a contractual or legal hire preference of another applicant, or (because it would be unconstitutional if it occurred) *rejection* of an applicant does not occur as a result of the applicant's participation in tiers 1-3.

A supervisor hiring on the basis of retirement system participation should be concerned that Article XII, section 7's protection from impairment or diminution of benefits might inspire a legal challenge based on an argument that denying employment to someone based on their retirement plan status violates Alaska's constitution.<sup>3</sup>

It is axiomatic that an employee denied a new position for not being in tier 4 would suffer a resulting impairment or diminution of *prospective* retirement benefits. I do not know if the courts would interpret Article XII, Section 7 so broadly as to give force to this argument. An argument in the same vein might also be made that an employee's accrued benefits in tiers 1-3 are impaired by the employee's inability to transfer to a better job or, if the employee is not in work status, to obtain a new job.

A feature of the new "tier 4" is that an employee from an earlier tier may elect to change tiers and participate in tier 4. If hiring and firing decisions are made based on tier participation, then it is conceivable that employees might find themselves in the position of choosing between a job (keeping one or obtaining one) and complete forfeiture of retirement benefits accrued in another tier. It would be unconstitutional under Article XII, section 7 to force an employee to switch from an earlier tier to tier 4, and a forced choice could occur either as the result of the employer making a tier switch mandatory, or as the result of an employee's subjective belief that future employment requires a tier switch.

An employee might choose to switch tiers without being objectively or subjectively forced, but the practice of using tier participation as a screening device in hiring and firing would probably still be considered unconstitutional because of the potential for employees to be forced.

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<sup>3</sup> Article XII, section 7 of the Constitution of the State of Alaska says:

SECTION 7. Retirement Systems. Membership in employee retirement systems of the State or its political subdivisions shall constitute a contractual relationship. Accrued benefits of these systems shall not be diminished or impaired.

Representative Paul Seaton

February 2, 2006

Page 3

Finally, AS 18.80.220 prohibits discrimination in employment based on age, regardless of whether an employee is at-will or permanent. The purpose of discrimination in hiring based on tier participation might not be based on age, but the effect is potentially age-discriminatory if, as one would expect, tier 4 participants will usually be younger than participants in tiers 1-3. Inevitably, the age-discriminatory effect of a tier 4 preference policy will in time become more pronounced, because participants in tiers 1-3 are generally at least 18 years of age on June 30, 2006.

DCW:imb  
06-039.imb



# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CS HB 238( ) 24-LS0781R  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title: An Act ...establishing a past service cost offset RDU: Centralized Administrative Services  
 account for: payments to the public employee's pension fund Component: Retirement and Benefits  
 Sponsor: House State Affairs Committee Requester: House State Affairs Committee Component No.: 64

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2006) 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						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

HB 238 establishes a new account in the State general fund, the Past Service Cost Offset (PSCO) account. The purpose of the account is to provide assistance to participating employers of the Public Employees' Retirement System (PERS), other than the State of Alaska, in paying past service costs related to the unfunded liability of the PERS defined benefit (DB) plan.

Under the proposed new section, the Administrator of the retirement systems will transfer a calculated amount from the PSCO account to the asset accounts in the DB trust fund for each employer that participates in the defined contribution retirement (DCR) plan under AS 39.35.700-39.35.990.

Prepared by: Melanie Millhom, Director Phone 465-4408  
 Division: Retirement and Benefits Date/Time 2/2/06 8:06 AM  
 Approved by: Mike Tibbles, Deputy Commissioner Date 2/2/2006  
 Agency: Department of Administration

**FISCAL NOTE**

**STATE OF ALASKA  
2006 LEGISLATIVE SESSION**

**BILL NO. CSHB238**

**ANALYSIS CONTINUATION**

The calculation is the lesser of the individual PERS employer's past service rate or the average past service rate, actuarially calculated, multiplied against the wage base of VCR plan members. Subsection (c)(2) makes an adjustment to the transfer amount based on any "unpaid past service costs" for elected officials eligible to participate in the DB plan.

This bill has no fiscal impact on the Division of Retirement and Benefits.

24-LS0761\R  
Wayne  
1/31/06

CS FOR HOUSE BILL NO. 238( ) *Amend.*

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): HOUSE STATE AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to establishing a past service cost offset account for required past  
2 service cost offset payments owed by employers other than the state to the public  
3 employees' pension fund; and providing for an effective date."

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

5 \* Section 1. AS 39.35 is amended by adding a new section to read:

6 Sec. 39.35.287. Past service cost offset account. (a) The public employees'  
7 pension fund past service cost offset account is established in the state treasury and  
8 shall be administered by the Department of Administration. The legislature may  
9 appropriate money to the account.

10 (b) The administrator shall pay from the account into the public employees'  
11 pension fund, on behalf of each employer, other than the state, under the defined  
12 contribution plan in AS 39.35.700 - 39.35.990, the employer past service cost offset  
13 contributions for that year, not to exceed the blended employer past service cost rate.  
14 The amount shall be determined by actuarial method.

1 (c) Contributions for each employer under (b) of this section shall be  
2 determined by

3 (1) applying the employer's past service cost rate, up to an amount  
4 equal to the blended employer past service cost rate, as calculated on the employer's  
5 entire wage base, <sup>The average salary of all employees of the employer multiplied by</sup> to the number of employees of that employer who are members of  
6 the public employees' defined contribution plan in AS 39.35.700 - 39.35.990; and

7 (2) reducing the calculation made in (1) of this subsection by the  
8 amount of the political subdivision's unpaid past service cost for that fiscal year for  
9 each elected official serving on or after the effective date of this Act who is eligible  
10 for the plan but not paid an hourly wage or a salary based on an hourly wage, unless  
11 the contribution for that official during that fiscal year by the political subdivision  
12 meets or exceeds the contribution required of a participating employer for an  
13 employee who was paid the average salary of all employees in the retirement plan  
14 established under AS 39.35.095 - 39.35.680.

omit

15 (d) Unless the context requires otherwise, in this section,

16 (1) "account" means the public employees' pension fund past service  
17 cost offset account;

18 (2) "blended employer past service cost rate" means the average past  
19 service cost rate of all employers, other than the state, in the public employees' defined  
20 contribution established in AS 39.35.095 - 39.35.680 and the defined benefit plan  
21 established in AS 39.35.700 - 39.35.990; <sup>switched</sup>

22 (3) "past service cost" means the amount of an annual payment made  
23 over a stipulated number of years to amortize the unfunded liability of the public  
24 employees' pension fund under AS 39.35.095 - 39.35.680;

25 (4) "past service cost rate" means the annual payment as a percentage  
26 of total wage base of employee salary required to pay the past service cost as an  
27 amortized contribution in percentage over a stipulated number of years;

28 (5) "unfunded liability" means the excess of the accrued liability over  
29 the assets of the public employees' pension fund under AS 39.35.095 - 39.35.680.

30 \* Sec. 2. This Act takes effect July 1, 2006.

24-LS0761VL  
Craver  
4/8/05

**CS FOR HOUSE BILL NO. 238( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): THE HOUSE STATE AFFAIRS COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to contribution rates for employers and members in the defined benefit**  
2 **plans of the teachers' retirement system and the public employees' retirement system**  
3 **and to the ad-hoc post-retirement pension adjustment in the teachers' retirement**  
4 **system; requiring insurance plans provided to members of the teachers' retirement**  
5 **system, the judicial retirement system, the public employees' retirement system, and the**  
6 **former elected public officials retirement system to provide a list of preferred drugs;**  
7 **relating to defined contribution plans for members of the teachers' retirement system**  
8 **and the public employees' retirement system; and providing for an effective date."**

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

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

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

12 **Sec. 14.25.005. Applicability of AS 14.25.005 - 14.25.012, 14.25.040 -**

1 14.25.169, 14.25.173, 14.25.175, and 14.25.220. The provisions of AS 14.25.005 -  
2 14.25.012, 14.25.040 - 14.25.169, 14.25.173, 14.25.175, and 14.25.220 apply only to  
3 members first hired before July 1, 2005.

4 \* Sec. 2. AS 14.25.050(a) is amended to read:

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

16 \* Sec. 3. AS 14.25 is amended by adding a new section to read:

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

21 (1) 8.65 percent; or

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

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

26 \* Sec. 4. AS 14.25.070 is amended to read:

27 **Sec. 14.25.070. Contributions by employer.** An employer shall contribute to  
28 the plan [SYSTEM] an amount equal to the percentage, as certified by the board  
29 [ADMINISTRATOR], of the sum total of the base salaries of all members that is  
30 required in addition to member contributions to provide the benefits of AS 14.25.009 -  
31 14.25.220 [THIS CHAPTER] times the sum total of the base salaries paid to members,

1 including any adjustments to contributions required by AS 14.25.173(a), by the  
2 employer.

3 \* Sec. 5. AS 14.25.070 is amended by adding a new subsection to read:

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

7 \* Sec. 6. AS 14.25.143(a), as that subsection read following amendment by sec. 3 ch. 146,  
8 SLA 1980, until amended by sec. 12, ch. 106, SLA 1988, is amended to read:

9 (a) When the administrator determines that the cost of living has increased and  
10 that the financial condition of the retirement fund permits, the administrator shall  
11 increase benefit payments to persons receiving benefits under this system. The value  
12 of assets of the retirement fund must be equal to or exceed the accrued liability of  
13 the retirement fund before benefit payments are increased. In this subsection,  
14 "accrued liability" means the present value of all member benefits accrued by  
15 member service in this system.

16 \* Sec. 7. AS 14.25.143(a), as that subsection read following amendment by sec. 12, ch.  
17 106, SLA 1988, until amended by sec. 12, ch. 57, SLA 1990, is amended to read:

18 (a) When the administrator determines that the cost of living has increased and  
19 that the financial condition of the system permits, the administrator shall increase  
20 benefit payments to persons receiving benefits under this system. The value of assets  
21 of the system must be equal or exceed the accrued liability of the system before  
22 benefit payments are increased. In this subsection, "accrued liability" means the  
23 present value of all member benefits accrued by member service in this system.

24 \* Sec. 8. AS 14.25.220(37) is amended to read:

25 (37) "retirement fund" or "fund" means the fund in which the assets of  
26 the defined benefit retirement plans [SYSTEM], including income and interest  
27 derived from the investment of money, are deposited and held;

28 \* Sec. 9. AS 14.25.220(41) is amended to read:

29 (41) "system" means the Teachers' Retirement System of Alaska,  
30 which includes all retirement plans in this chapter;

31 \* Sec. 10. AS 14.25.220 is amended by adding a new paragraph to read:

1 (46) "defined benefit retirement plans" means the retirement plans  
2 provided to members in AS 14.25.005 - 14.25.012, 14.25.040 - 14.25.169, 14.25.173,  
3 14.25.175, and 14.25.220.

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

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

6 **Sec. 14.25.310. Applicability of AS 14.25.310 - 14.25.495.** The provisions of  
7 AS 14.25.310 - 14.25.495 apply only to members first hired on or after July 1, 2005.  
8 For purposes of AS 14.25.310 - 14.25.495, a teacher is considered to be first hired on  
9 the first day of employment as a teacher.

10 **Sec. 14.25.320. Defined contribution retirement plan established; federal**  
11 **qualification requirements.** (a) A defined contribution retirement plan for teachers  
12 of the state is created.

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

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

22 **Sec. 14.25.330. Purpose and effective date.** (a) The purpose of  
23 AS 14.25.310 - 14.25.495 is to encourage qualified teachers to enter and remain in  
24 service with participating employers by establishing a defined contribution retirement  
25 plan on behalf of the members.

26 (b) All eligible employees first hired on or after July 1, 2005, shall participate  
27 in the plan set out in AS 14.25.310 - 14.25.495.

28 **Sec. 14.25.340. Contributions by members.** (a) Each member shall  
29 contribute to the plan an amount equal to 11 percent of the member's base salary  
30 accrued from July 1 to the following June 30. The employer shall deduct the  
31 contribution from the member's salary at the end of each payroll period, and the

1 contribution shall be credited by the plan to the member account. The contributions  
2 shall be deducted from employee compensation before the computation of applicable  
3 federal taxes and shall be treated as employer contributions under 26 U.S.C. 414(h)(2).  
4 A member may not have the option of making the payroll deduction directly in cash  
5 instead of having the contribution picked up by the employer.

6 (b) In this section, "base salary" means the total remuneration paid under  
7 contract to a member for services rendered during a school year, excluding cost-of-  
8 living differentials, payments for leave that is actually used by the member, the  
9 amount by which the member's wages are reduced under AS 39.30.150(c), the amount  
10 deferred under an employer-sponsored deferred compensation plan or the tax shelter  
11 annuity plan approved by the Department of Education and Early Development,  
12 retirement benefits, welfare benefits, per diem, expense allowances, workers'  
13 compensation payments, or payments for leave not used by the member, whether those  
14 leave payments are scheduled payments, lump-sum payments, donations, or cash-ins;  
15 compensation paid includes any payment made after June 30 of a school year for  
16 services rendered before the end of the school year.

17 **Sec. 14.25.350. Contributions by employer.** (a) An employer shall  
18 contribute an amount equal to 11 percent of each member's base salary as provided in  
19 (b) - (d) of this section.

20 (b) An employer shall contribute to the member account an amount equal to  
21 5.75 percent of each member's base salary determined under AS 14.25.340 from July 1  
22 to the following June 30.

23 (c) An employer shall also contribute an amount equal to 3.75 percent of each  
24 member's base salary determined under AS 14.25.340 from July 1 to the following  
25 June 30 to pay for retiree major medical insurance. This contribution shall be paid  
26 into the group health and life benefits fund established by the commissioner of  
27 administration under AS 39.30.095 and shall be accounted for in accordance with  
28 regulations established by the commissioner.

29 (d) An employer shall also contribute an amount equal to 1.5 percent of each  
30 member's base salary determined under AS 14.25.340 to each member's health  
31 reimbursement account plan under AS 39.30.300.

1           **Sec. 14.25.360. Transmittal of contributions.** (a) All contributions  
2 deducted in accordance with AS 14.25.340(a) shall be transmitted to the plan for  
3 deposit in the retirement fund not later than 15 days following the close of the payroll  
4 period, with the final contributions due for any school year transmitted not later than  
5 July 15.

6           (b) The contributions of employers under AS 14.25.350 must be transmitted to  
7 the plan for deposit in the appropriate fund at the close of each pay period. If the  
8 contributions are not submitted within 15 days after the close of each payroll period,  
9 interest must be assessed on the outstanding contributions at one and one-half times  
10 the most recent actuarially determined rate of earnings for the plan from the date that  
11 contributions were originally due. In addition, the amount of the contributions and  
12 interest may be deducted by the Department of Education and Early Development  
13 from the state funds due the school district and the amount so deducted transmitted to  
14 the plan for deposit in the retirement fund. Amounts due from the University of  
15 Alaska and interest as prescribed in this section may be deducted by the commissioner  
16 of administration from any state funds due the University of Alaska and the amount  
17 deducted transmitted to the administrator for deposit in the retirement fund.

18           **Sec. 14.25.370. Retirement benefits and vesting.** A participating member is  
19 immediately and fully vested in that member's contributions and in the employer  
20 contributions made on that member's behalf to an account under AS 14.25.310 -  
21 14.25.495.

22           **Sec. 14.25.380. Investment of individual accounts.** (a) The Alaska State  
23 Pension Investment Board shall provide a range of investment options and permit a  
24 participant to exercise investment control over the participant's assets in the member  
25 account as provided in this section. If a participant exercises control over the assets in  
26 the account, the participant is not considered a fiduciary for any reason on the basis of  
27 exercising that control.

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

30           (c) To the extent that a member account has been divided as provided in a  
31 qualified domestic relations order between participants, each participant shall be

1 treated as the holder of a separate individual account for purposes of investment  
2 yields, decisions, and transfers under this section.

3 **Sec. 14.25.390. Distributions.** (a) A participating member is eligible to  
4 receive distribution of that person's accumulated balance in the plan upon becoming a  
5 former participating member.

6 (b) Upon the death of a participating member or former participating member,  
7 the accumulated balance of that deceased participant is considered to belong to the  
8 refund beneficiary, if any, of that deceased participant. If a valid nomination of refund  
9 beneficiary is not on file with the board, the board, in a lump sum distribution, shall  
10 distribute the accumulated balance to a legal representative, if any, of the deceased  
11 participant's estate.

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

15 (1) a lump sum distribution to the recipient;

16 (2) a lump sum direct rollover to another qualified plan, to the extent  
17 allowed by federal law;

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

19 (4) no current distribution, in which case the accumulated balance  
20 must remain in the plan until the former participating member or refund beneficiary  
21 elects a method or methods of distribution under this section, to the extent allowed by  
22 federal law.

23 (d) If the former participating member's vested account balance is less than  
24 \$5,000, the board shall automatically refund the member's vested account balance  
25 upon termination of employment. The member may waive the refund if the member  
26 submits a written statement to the board, within 120 days after termination, requesting  
27 that the member's vested account balance remain in the plan.

28 **Sec. 14.25.400. Refund upon termination.** (a) Except as provided in (b) of  
29 this section, a terminated member is entitled to a refund of the balance of the member  
30 account.

31 (b) A member who is terminated and who is married at the time of application

1 for a refund or whose rights to a refund are subject to a qualified domestic relations  
2 order is entitled to receive a refund of the balance of the member account only if the  
3 member's present spouse and each person entitled under the order consent to the  
4 refund in writing on a form provided by the administrator. The administrator may  
5 waive written consent from the person entitled under the order if the administrator  
6 determines that the person cannot be located or for other reasons established by  
7 regulation. The administrator may waive written consent from the spouse if the  
8 administrator determines that

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

11 (2) the spouse has no rights to benefits under AS 14.25.310 -  
12 14.25.495 because of the terms of a qualified domestic relations order;

13 (3) the spouse cannot be located;

14 (4) the member and spouse have been married for less than one year  
15 and the member establishes that they are not cohabiting; or

16 (5) another reason established by regulation exists.

17 **Sec. 14.25.410. Rights under qualified domestic relations order.** A former  
18 spouse shall be treated as a spouse or surviving spouse under AS 14.25.310 -  
19 14.25.495 to the extent required by a qualified domestic relations order. Rights under  
20 the order do not take effect until the order is filed with the administrator.

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

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

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

30 (d) In this section,

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

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

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

5 (3) "eligible retirement plan" means

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

8 (B) an individual retirement annuity defined in 26 U.S.C.  
9 408(b);

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

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

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

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

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

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

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

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

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

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

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

29 **Sec. 14.25.430. Distribution requirements.** (a) The entire interest of a  
30 member must be distributed or must begin to be distributed not later than the member's  
31 required beginning date.

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

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

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

31 (e) For purposes of (c) of this section, distribution of a member's interest is

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

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

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

14 (h) In this section,

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

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

21 **Sec. 14.25.440. Designation of beneficiary.** (a) Each member shall  
22 designate the beneficiary or beneficiaries to whom the administrator shall distribute  
23 benefits payable under AS 14.25.310 - 14.25.495 as a consequence of the member's  
24 death. Notwithstanding a previous designation of beneficiary, a person who is the  
25 spouse of a member at the time of the member's death automatically becomes the  
26 designated beneficiary if the spouse was married to the member during part of the  
27 member's employment for an employer

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

31 (2) unless the member filed a revocation of beneficiary accompanied

1 by a written consent to the revocation from the present spouse and each person entitled  
2 under the order; however, consent of the present spouse is not required if the member  
3 and the present spouse had been married for less than one year on the date of the  
4 member's death and if the member established when filing the revocation that the  
5 member and the present spouse were not cohabiting.

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

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

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

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

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

20 (4) to the estate.

21 (d) A person claiming entitlement to benefits payable under AS 14.25.310 -  
22 14.25.495 as a consequence of a member's death shall provide the administrator with a  
23 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.  
24 Documents establishing entitlement may be filed with the administrator immediately  
25 after a change in the member's marital status. If the administrator does not receive  
26 notification of a claim before the date 120 days after the member's death, the person  
27 claiming entitlement is not entitled to receive from the division of retirement and  
28 benefits any benefit already paid by the administrator.

29 **Sec. 14.25.450. Adjustments.** (a) When a change or error is made in the  
30 records maintained by the plan or in the contributions made on behalf of an employee  
31 or an error is made in computing a benefit, and, as a result, a teacher or member or

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

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

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

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

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

19 (c) At each regularly scheduled meeting of the Alaska Teachers' Retirement  
20 Board, the administrator shall report to the board on all situations since the  
21 administrator's last report in which an adjustment has been prohibited under (b) of this  
22 section. If the board finds that there is reason to believe that one or more of the  
23 conditions set out in (b) of this section have not been met, the administrator shall  
24 notify the member or beneficiary that an adjustment will be made to recover the  
25 overpayment. A member or beneficiary who receives notice of adjustment under this  
26 subsection may appeal to the board for a waiver of the adjustment under  
27 AS 14.25.460. An adjustment that requires the repayment of benefits may not be  
28 required while the appeal is pending.

29 (d) The plan shall pay interest on amounts owed to a member or beneficiary.  
30 Interest shall be charged on amounts owed to the plan by a member or beneficiary if  
31 the amount owed is the result of erroneous information supplied by the member or

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

9 **Sec. 14.25.460. Waiver of adjustments.** (a) Upon appeal by an affected  
10 member or beneficiary under (b) of this section, the board may waive an adjustment or  
11 a portion of an adjustment made under AS 14.25.450 if, in the opinion of the board,

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

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

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

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

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

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

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

29 (e) The board may reconsider a ruling under this section upon request of the  
30 member or beneficiary or the administrator if the request is received within 30 days  
31 after the initial ruling. Any modification of the initial ruling must be made within 30

1 days after receipt of a request for reconsideration.

2 **Sec. 14.25.470. Retirement.** (a) In order to obtain medical benefits under  
3 AS 14.25.480 and access to the health reimbursement account plan under  
4 AS 39.30.300, a member must retire directly from the plan. A member is eligible to  
5 retire from the plan if the member has been an active member for at least 12 months  
6 before application for retirement and

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

8 (2) the member reaches the normal retirement age and has at least 10  
9 years of service.

10 (b) The normal retirement age is 60 months less than the age set for Medicare  
11 eligibility.

12 (c) A member must apply to the administrator for appointment to retirement.  
13 Application shall be made on forms and in the manner prescribed by the administrator.

14 (d) A member who continues in the employ of the employer after reaching  
15 normal retirement age shall continue to participate in the plan and to have  
16 contributions allocated to the member's account.

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

22 (b) The following persons are eligible for the retiree major medical insurance  
23 plan provided under this section and the health reimbursement account:

24 (1) a member with at least 30 years of service and who retires directly  
25 from the plan;

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

28 (3) a member who reaches the normal retirement age as provided in  
29 AS 14.25.470, has at least 10 years of service, and retires directly from the plan;

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

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

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

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

10 (f) The coverage for persons who are eligible for Medicare is the same as that  
11 available for persons who are not yet eligible for Medicare. The benefits payable to  
12 those Medicare eligible persons supplement any benefits provided under the Medicare  
13 program.

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

19 (h) The administrator shall set separate retiree health coverage premiums for  
20 participants who are Medicare eligible and for participants who are not yet Medicare  
21 eligible. An increase in the premium amount may not exceed five percentage points  
22 annually. A participant's share of the applicable premium shall be determined  
23 according to (i) of this section.

24 (i) The portion of the cost of premiums payable by the participant is 70  
25 percent if the member had 10 years of service; for each additional year of service after  
26 the member's 10th year of service, the cost of premiums decreases by three percentage  
27 points; however, the minimum employee portion of the premium is 10 percent if the  
28 member has 30 or more years of service.

29 (j) The eligibility for retiree major medical insurance coverage for an alternate  
30 payee under a qualified domestic relations order shall be determined based on the  
31 eligibility of the member to elect coverage. The alternate payee shall pay the full

1 monthly premium for retiree major medical insurance coverage.

2 (k) The administrator shall establish monthly group premiums for retiree  
3 major medical insurance coverage under AS 39.30.095. Nothing in AS 14.25.310 -  
4 14.25.495 guarantees a person who elects coverage under (a) of this section a monthly  
5 group premium rate for retiree major medical insurance coverage other than the  
6 premium in effect for the month in which the premium is due for coverage for that  
7 month.

8 (l) In this section,

9 (1) "health reimbursement account" means the plan established in  
10 AS 39.30.300;

11 (2) "retires directly from the plan" means that the member is an active  
12 member at the time that the member applies to the administrator for appointment to  
13 retirement and that the member continues as an active member up through the day  
14 before the day the member is appointed to retirement.

15 **Sec. 14.25.495. Definitions.** In AS 14.25.310 - 14.25.495, unless the context  
16 requires otherwise,

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

18 (2) "beneficiary" has the meaning given in AS 14.25.220;

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

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

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

22 (6) "former participating member" means a terminated member;

23 (7) "fund" or "retirement fund" means the assets of the defined  
24 contribution plan established in AS 14.25.310 - 14.25.495;

25 (8) "Internal Revenue Code" has the meaning given in AS 14.25.220;

26 (9) "member" has the meaning given "teacher" in AS 14.25.220;

27 (10) "member account" means the total maintained by the plan of the  
28 member's mandatory contributions, employer contributions on behalf of the employee,  
29 indebtedness principal and interest payments, interest credited to each of those  
30 accounts, and adjustments to the account in accordance with AS 14.25.450;

31 (11) "qualified domestic relations order" has the meaning given in

1 AS 14.25.220;

2 (12) "school year" has the meaning given in AS 14.25.220;

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

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

6 (15) "year of service" has the meaning given in AS 14.25.220.

7 \* Sec. 12. AS 14.40.671(e) is amended to read:

8 (e) An employee whose rights to transfer assets out of a state retirement  
9 system are subject to a qualified domestic relations order is entitled to transfer assets  
10 from the state retirement system to the program only if the requirements for receiving  
11 a refund under AS 14.25.150(b), 14.25.400, [OR] AS 39.35.200(c), or 39.35.790, as  
12 appropriate, are met.

13 \* Sec. 13. AS 39.30.090(a) is amended to read:

14 (a) The Department of Administration may obtain a policy or policies of group  
15 insurance covering state employees, persons entitled to coverage under AS 14.25.168,  
16 14.25.480, AS 22.25.090, AS 39.35.535, 39.35.870, or former AS 39.37.145,  
17 employees of other participating governmental units, or persons entitled to coverage  
18 under AS 23.15.136, subject to the following conditions:

19 (1) A group insurance policy must

20 (A) [SHALL] provide one or more of the following benefits:  
21 life insurance, accidental death and dismemberment insurance, weekly  
22 indemnity insurance, hospital expense insurance, surgical expense insurance,  
23 dental expense insurance, audiovisual insurance, or other medical care  
24 insurance; and

25 (B) require the insurance plan to provide a preferred drug  
26 list or formulary and must provide that beneficiaries use the appropriate  
27 medication on the preferred drug list or pay the difference in cost between  
28 the medication listed on the preferred drug list and the cost of a  
29 nonformulary medication; however, if a medication is not on the  
30 preferred drug list as a generic or nongeneric drug, the insurance plan  
31 shall cover the cost of the medication. For purposes of this subparagraph,

1                   a nonformulary medication is one that is not listed on the formulary, such  
2                   as a nongeneric form of the medication when a generic form of the  
3                   medication is in the formulary.

4                   (2) Each eligible employee of the state, the spouse and the unmarried  
5 children chiefly dependent on the eligible employee for support, and each eligible  
6 employee of another participating governmental unit shall be covered by the group  
7 policy, unless exempt under regulations adopted by the commissioner of  
8 administration.

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

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

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

14                   (C) the commissioner of administration approves the  
15 participation in writing.

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

26                   (5) The Department of Administration shall make available bid  
27 specifications for desired insurance benefits or for administration of benefit claims and  
28 payments to (A) all insurance carriers authorized to transact business in this state  
29 under AS 21.09 and all hospital or medical service corporations authorized to transact  
30 business under AS 21.87 who are qualified to provide the desired benefits; and (B) to  
31 insurance carriers authorized to transact business in this state under AS 21.09, hospital

1 or medical service corporations authorized to transact business under AS 21.87, and  
2 third-party administrators licensed to transact business in this state and qualified to  
3 provide administrative services. The specifications shall be made available at least  
4 once every five years. The lowest responsible bid submitted by an insurance carrier,  
5 hospital or medical service corporation, or third-party administrator with adequate  
6 servicing facilities shall govern selection of a carrier, hospital or medical service  
7 corporation, or third-party administrator under this section or the selection of an  
8 insurance carrier or a hospital or medical service corporation to provide excess loss  
9 insurance as provided in AS 39.30.091.

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

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

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

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

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

31 (11) A person receiving benefits under AS 14.25, AS 22.25, AS 39.35,

1 or former AS 39.37 may obtain long-term care insurance for that person and eligible  
2 dependents under this section. A person who elects insurance under this paragraph  
3 shall pay the cost of the insurance premium. The commissioner of administration  
4 shall adopt regulations to implement this paragraph.

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

8 \* **Sec. 14.** AS 39.30 is amended by adding new sections to read:

9 **Article 5. State of Alaska Teachers' and Public Employees' Retiree Health**  
10 **Reimbursement Account Plan.**

11 **Sec. 39.30.300. State of Alaska Teachers' and Public Employees' Retiree**  
12 **Health Reimbursement Account Plan established.** The State of Alaska Teachers'  
13 and Public Employees' Retiree Health Reimbursement Account Plan is established for  
14 teachers and teachers' spouses and dependants who first become members of the  
15 defined contribution plan under AS 14.25.310 - 14.25.495 on or after July 1, 2005, and  
16 members and spouses and dependents of members of the state, political subdivisions  
17 of the state, and public organizations of the state who first become members of the  
18 defined contribution plan under AS 39.35.700 - 39.35.895 on or after July 1, 2005.

19 **Sec. 39.30.310. Purpose and effective date.** (a) The purpose of the plan is to  
20 allow medical care expenses to be reimbursed from individual savings accounts  
21 established for qualified participants.

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

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

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

29 **Sec. 39.30.340. Powers and duties of the administrator; fund.** The  
30 administrator shall establish a teachers' and public employees' retiree health  
31 reimbursement account plan trust fund in which the assets of the plan shall be

1 deposited and held. The administrator has the same powers and duties with regard to  
2 the plan and the trust fund as provided in AS 14.25.020.

3 **Sec. 39.30.350. Employer contribution fund.** The fund established under  
4 AS 39.30.340 is an employer contribution fund. The value of the fund reflects  
5 employer contributions, expenses, and investment gains and losses. Employee  
6 contributions to the fund are not permitted.

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

10 **Sec. 39.30.370. Termination of employment.** A person who terminates  
11 employment before appointment to normal retirement loses any right to the  
12 contributions made on behalf of the person to the teachers' and public employees'  
13 retiree health reimbursement account trust fund. If a person returns to employment  
14 with a participating employer, the person's account balance shall be restored in the  
15 amount recorded on the date of termination from the trust, with interest.

16 **Sec. 39.30.380. Eligibility and enrollment.** A qualified participant is eligible  
17 for reimbursement from the appropriate individual account established for a member  
18 under the plan when the member becomes eligible for medical benefits under  
19 AS 14.25.480 or AS 39.35.870. The administrator shall enroll a participant in the plan  
20 upon receipt of the member's request for appointment to retirement.

21 **Sec. 39.30.390. Benefits payable from the individual account.** (a) The  
22 administrator shall pay the cost of monthly premiums for retiree major medical  
23 insurance on behalf of a participant if the participant elected retiree major medical  
24 insurance under AS 14.25.180 or AS 39.35.870.

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

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

30 (d) If a participant dies before exhausting the participant's individual account,  
31 the surviving spouse and the surviving spouse's dependent children are eligible to be

1 reimbursed for medical care expenses as defined in 26 U.S.C. 213(d) until the  
2 individual account is exhausted. If any amount remains in an individual account after  
3 the death of the surviving spouse and the death or nondependency of the surviving  
4 spouse's dependent children, the account balance shall revert to the trust.

5 **Sec. 39.30.400. Exemption from taxation and process.** (a) Contributions  
6 and other amounts held in the plan on behalf of a member or other person who is or  
7 may become eligible for benefits under the plan may be used only to reimburse  
8 eligible medical expenses, are exempt from Alaska state and municipal taxes, and are  
9 not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance,  
10 or charge of any kind, either voluntary or involuntary, before they are received by the  
11 person entitled to the amount under the terms of the plan. Any attempt to anticipate,  
12 alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any  
13 right to amounts accrued in the plan is void. However, a member's right to receive  
14 benefits may be assigned

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

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

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

21 **Sec. 39.30.410. Amendment and termination of plan.** (a) The state has the  
22 right to amend the plan at any time and from time to time, in whole or in part,  
23 including the right to make retroactive amendments referred to in 26 U.S.C. 401(b).

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

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

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

4 **Sec. 39.30.420. Exclusive benefit.** (a) The corpus or income of the assets  
5 held in trust as required by the plan may not be diverted or used for other than the  
6 exclusive benefit of the participants.

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

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

13 **Sec. 39.30.495. Definitions.** Unless the context requires otherwise, in  
14 AS 39.30.300 - 39.30.495,

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

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

19 (3) "dependent child" has the meaning given in AS 14.25.220;

20 (4) "employer" has the meaning given in AS 14.25.495 for employers  
21 of teachers in the defined contribution plan established in AS 14.25.310 - 14.25.495  
22 and has the meaning given in AS 39.35.895 for employers of public employees in the  
23 defined contribution plan established in AS 39.35.700 - 39.35.895;

24 (5) "fund" means the assets of the teachers' and public employees'  
25 retiree health reimbursement account plan trust fund;

26 (6) "individual account" means the record established by the  
27 administrator for individual employees under the teachers' and public employees'  
28 retiree health reimbursement account plan;

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

1 (8) "participant" means a member, spouse of a member, dependent  
2 child of a member, dependent child of a spouse of a member, or former spouse under a  
3 qualified domestic relations order;

4 (9) "qualified domestic relations order" has the meaning given in  
5 AS 14.25.495.

6 \* **Sec. 15.** AS 39.30 is amended by adding new sections to read:

7 **Article 6. Past Service Cost Offset Account.**

8 **Sec. 39.30.500. Past service cost offset account established.** The past  
9 service cost offset account is established for employers in the defined contribution  
10 plans established in AS 14.25.310 - 14.25.495 and employers in the defined  
11 contribution plans established in AS 39.35.700 - 39.35.895.

12 **Sec. 39.30.510. Purpose and effective date.** (a) The purpose of the account  
13 is to assist employers in paying past service cost obligations to each employer's  
14 respective retirement plan. The account consists of legislative appropriations and  
15 investment gain: and losses.

16 (b) The plan becomes effective July 1, 2005, at which time contributions from  
17 the account into the appropriate retirement fund on behalf of an employer shall begin.

18 **Sec. 39.30.520. Attorney general.** The attorney general of the state is the  
19 legal counsel for the account and shall advise the administrator and represent the plan  
20 in a legal proceeding.

21 **Sec. 39.30.530. Administrator.** The commissioner of administration or the  
22 commissioner's designee is the administrator of the account.

23 **Sec. 39.30.540. Powers and duties of the administrator.** The administrator  
24 has the same powers and duties with regard to the plan and the trust fund as provided  
25 in AS 14.25.020.

26 **Sec. 39.30.550. 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. 39.30.560. Contributions on behalf of employers in the teachers'**  
30 **retirement plan.** The administrator shall pay into the teachers' retirement fund on the  
31 employer's behalf the employer's past service cost for each member in the employer's

1 defined contribution plan.

2 **Sec. 39.30.570. Contributions on behalf of employers in the public**  
3 **employees' retirement plan.** The administrator shall pay into the public employees'  
4 retirement fund on each employer's behalf, that employer's past service cost for each  
5 member in the employer's defined contribution plan, up to the blended past service  
6 cost rate for all employers in the plan.

7 **Sec. 39.30.595. Definitions.** Unless the context requires otherwise, in  
8 AS 39.30.500 - 39.30.595,

9 (1) "accrued liability" means the present value of all member benefits  
10 in all plans accrued by member service;

11 (2) "administrator" means the commissioner of administration or the  
12 commissioner's designee;

13 (3) "blended employer past service cost rate" means the average past  
14 service cost rate of all employers in the public employees' retirement plan established  
15 in AS 39.35.010 - 39.35.690;

16 (4) "member" means a member of the defined contribution plan in  
17 AS 14.25.310 - 14.25.495 or a member of the defined contribution plan in  
18 AS 39.35.700 - 39.35.895,

19 (5) "past service cost" means the annual payment amount needed to  
20 pay for benefits that were not funded by past contributions into the retirement plan, as  
21 apportioned over a stipulated number of years;

22 (6) "past service cost rate" means the annual payment as a percentage  
23 of employee salary required to pay the past service cost as an amortized contribution  
24 in percentage over a stipulated number of years.

25 \* **Sec. 16.** AS 39.35 is amended by adding a new section to article 1 to read:

26 **Sec. 39.35.005. Applicability of AS 39.35.010 - 39.35.690 to employees first**  
27 **hired before July 1, 2005.** The following provisions of this chapter apply only to the  
28 defined benefit plans established for members first hired before July 1, 2005:  
29 AS 39.35.010, 39.35.120 - 39.35.165, 39.35.180 - 39.35.650, and 39.35.675 -  
30 39.35.680.

31 \* **Sec. 17.** AS 39.35.010 is amended to read:

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

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

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

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

21 \* **Sec. 18.** AS 39.35.158 is amended to read:

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

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

31           (2) any contributions for services as administrative director refunded

1 by the plan [SYSTEM] at the time the director became a member of the judicial  
2 retirement system.

3 \* **Sec. 19.** AS 39.35.160(a) is amended to read:

4 (a) Beginning July 1, 2005 [JANUARY 1, 1987], each peace officer or fire  
5 fighter shall contribute to the plan a percentage [SYSTEM AN AMOUNT EQUAL  
6 TO SEVEN AND ONE-HALF PERCENT] of the peace officer's or fire fighter's  
7 compensation as determined under AS 39.35.162. Except as provided in (d) of this  
8 section, beginning July 1, 2005 [JANUARY 1, 1987], each other employee shall  
9 contribute to the system a percentage [AN AMOUNT EQUAL TO SIX AND  
10 THREE-QUARTERS PERCENT] of the employee's compensation as determined  
11 under AS 39.35.162. The contributions shall be deducted by the employer at the end  
12 of each payroll period. The contributions shall be deducted from employee  
13 compensation before computation of applicable federal taxes, and the contributions  
14 shall be treated as employer contributions under 26 U.S.C. 414(h)(2). A member may  
15 not have the option of making the payroll deduction directly instead of having the  
16 contribution picked up by the employer.

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

18 **Sec. 39.35.162. Calculation of employee contribution rate.** (a) Each peace  
19 officer or fire fighter shall contribute a percentage of the peace officer's or fire fighter's  
20 compensation to be determined annually in advance by the administrator. Each other  
21 employee shall contribute a percentage of the employee's compensation to be  
22 determined annually in advance by the administrator. The employee contribution rate  
23 is the greater of

24 (1) 7.5 percent for a peace officer or fire fighter;  
25 (2) 6.75 percent for each other employee; or  
26 (3) one half of the normal cost rate actuarially calculated to fund the  
27 benefits expected to be earned by active members during the fiscal year.

28 (b) The normal cost rate for peace officers or fire fighters and the employee  
29 contribution rate for other employees shall be separately calculated based on the  
30 actuarially calculated costs for each group of employees.

31 (c) Notwithstanding (a) of this section, the employee contribution rate may not

1 increase more than one-half of a percentage point annually.

2 \* Sec. 21. AS 39.35.270 is amended to read:

3 **Sec. 39.35.270. Amount of employer's contributions.** The amount of each  
4 employer's contributions shall be determined by applying the employer's contribution  
5 rate, as certified by the board, to the total compensation paid to the active employees  
6 of the employer for each payroll period and by including any adjustments to  
7 contributions required by AS 39.35.520(a). This amount shall be remitted by the  
8 employer to the administrator in accordance with AS 39.35.610.

9 \* Sec. 22. AS 39.35.270 is amended by adding a new subsection to read:

10 (b) When added to the member contribution rate calculated under  
11 AS 39.35.162, the employer contribution may not be less than the rate required, as  
12 actuarially calculated, to fully fund the future liabilities of active members.

13 \* Sec. 23. AS 39.35.300(a) is amended to read:

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

21 \* Sec. 24. AS 39.35.360(i) is amended to read:

22 (i) An employee who completes three years of credited service with an  
23 employer, for which the employee makes contributions required by AS 39.35.010 -  
24 39.35.680 [THIS CHAPTER], is entitled to credited service on a year-for-year basis  
25 for service credited in the Civil Service Retirement System, rendered as an employee  
26 of an Alaska Bureau of Indian Affairs (BIA) school, other than service as a teacher.  
27 When eligibility for retroactive credited service under this subsection has been  
28 established, an indebtedness of the employee to the plan [SYSTEM] shall be  
29 determined as follows: (1) the employee's actual annual compensation, or the  
30 calculated annual compensation for an employee who works fewer than 12 months, for  
31 the most recent calendar year in which service is rendered to an employer before the

1 calendar year in which the employee first becomes eligible to claim service under this  
2 subsection, multiplied by (2) the number of years of service in Alaska BIA schools  
3 that is credited under this subsection, and this product multiplied by (3) six percent for  
4 employees first eligible to claim this service before January 1, 1987, or eight and one-  
5 half percent for employees first eligible to claim this service on or after January 1,  
6 1987. Interest as prescribed by regulation accrues on the indebtedness beginning on  
7 the date the employee y first claim the retroactive credited service. Any outstanding  
8 indebtedness that exists at the time the employee retires requires an actuarial  
9 adjustment to the benefits that are based on retroactive credited service under this  
10 subsection. A retirement benefit payable under this subsection for Alaska BIA service  
11 shall be reduced by an amount equal to the retirement benefits paid to the member by  
12 the United States government for the same service.

13 \* Sec. 25. AS 39.35.360(l) is amended to read:

14 (l) An administrative director of the Alaska Court System who withdraws  
15 from the judicial retirement system under AS 22.25.012(b) is eligible for membership  
16 in the public employees retirement plan [SYSTEM] and shall receive credited service  
17 in this plan [SYSTEM] for service rendered as administrative director. To be eligible  
18 for membership in this plan [SYSTEM] under this subsection, the administrative  
19 director must contribute to the plan [SYSTEM]

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

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

26 \* Sec. 26. AS 39.35.375(a) is amended to read:

27 (a) An active or inactive member who has never been vested in this plan  
28 [SYSTEM] or in the teachers' retirement plan under AS 14.25.010 - 14.25.220  
29 [SYSTEM UNDER AS 14.25], who has at least two years of credited service in this  
30 system, and who has membership service in the teachers' retirement plan [SYSTEM]  
31 may claim credited service in this plan [SYSTEM] in an amount equal to the

1 membership service the member has in the teachers' retirement plan [SYSTEM]. The  
2 claimed credited service may be added to service earned under AS 39.35.010 -  
3 39.35.680 [THIS CHAPTER] to enable the member to qualify for a public service  
4 benefit under this section. The member may not claim credited service for  
5 membership service for which the member has received a refund under AS 14.25.150  
6 unless the member fully pays the indebtedness as established under AS 14.25.063.  
7 The member may not claim credited service in this plan [SYSTEM] based on unused  
8 sick leave under AS 14.25.115.

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

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

27 \* Sec. 28. AS 39.35.375(c) is amended to read:

28 (c) A member is entitled to receive a public service benefit under this section  
29 if the member has at least a total of five years credited service under AS 39.35.010 -  
30 39.35.680 [THIS CHAPTER] and credited service from the teachers' retirement plan  
31 [SYSTEM] claimed under this section. A public service benefit shall be calculated

1 using the higher of the average monthly compensation for service in this plan  
2 [SYSTEM] or the average base salary for service in the teachers' retirement plan  
3 [SYSTEM]. The amount of the benefit shall be calculated in accordance with  
4 AS 39.35.370(c).

5 \* Sec. 29. AS 39.35.375(d) is amended to read:

6 (d) Credited service earned under either this plan [SYSTEM] or the teachers'  
7 retirement plan [SYSTEM] that has been claimed for a public service benefit under  
8 this section may not be used for any other purpose. A member who claims credited  
9 service under this section loses all rights to benefits under AS 14.25.010 - 14.25.220  
10 [AS 14.25] based on the claimed credited service. A member may not claim credited  
11 service under this section unless the member claims all of the membership service the  
12 member has in the teachers' retirement plan [SYSTEM]. A public service benefit  
13 does not constitute a normal or early retirement benefit for purposes of qualifying for a  
14 conditional service retirement benefit under AS 14.25.125 or AS 39.35.385.

15 \* Sec. 30. AS 39.35.375(f) is amended to read:

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

21 \* Sec. 31. AS 39.35.375(g) is amended to read:

22 (g) If a member retires under this section and subsequently returns to work for  
23 an employer under this plan [SYSTEM] or the teachers' retirement plan [SYSTEM],  
24 benefits under this section shall cease during the period of reemployment and shall  
25 recommence when the reemployment is ended. The credited service earned during the  
26 period of reemployment may not be added to the credited service claimed for a public  
27 service benefit under this section. If a member vests and meets the other eligibility  
28 requirements under this plan [SYSTEM] or the teachers' retirement plan [SYSTEM]  
29 during the reemployment, the member is entitled to a benefit under AS 14.25.010 -  
30 14.25.220 [AS 14.25] or AS 39.35.010 - 39.35.680 [AS 39.35], as appropriate.

31 \* Sec. 32. AS 39.35.381(a) is amended to read:

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

7 \* Sec. 33. AS 39.35.680(21) is amended to read:

8 (21) "member" or "employee"

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

11 (B) includes

12 (i) an active member;

13 (ii) an inactive member;

14 (iii) a vested member;

15 (iv) a deferred vested member;

16 (v) a nonvested member;

17 (vi) a disabled member;

18 (vii) a retired member;

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

20 (C) does not include

21 (i) former members;

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

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

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

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

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

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

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

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

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

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

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

18 \* Sec. 34. AS 39.35.680 is amended by adding a new paragraph to read:

19 (41) "plan" means the retirement plan established in AS 39.35.010 -  
20 39.35.680.

21 \* Sec. 35. AS 39.35 is amended by adding new sections to read:

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

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

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

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

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

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

7 **Sec. 39.35.720. Purpose and effective date.** (a) The purpose of  
8 AS 39.35.700 - 39.35.895 is to encourage qualified personnel to enter and remain in  
9 the service of the state or a political subdivision or public organization of the state by  
10 establishing a plan for the payment of defined contribution retirement benefits to or on  
11 behalf of the employees.

12 (b) All eligible employees first hired on or after July 1, 2005, shall participate  
13 in the plan set out in AS 39.35.700 - 39.35.895.

14 **Sec. 39.35.730. Contributions by members.** (a) Each member shall  
15 contribute to the plan an amount equal to 10 percent of the member's base salary. The  
16 contributions shall be deducted by the employer at the end of each payroll period. The  
17 contributions shall be deducted from employee compensation before computation of  
18 applicable federal taxes, and the contributions shall be treated as employer  
19 contributions under 26 U.S.C. 414(h)(2). A member may not have the option of  
20 making the payroll deduction directly instead of having the contribution picked up by  
21 the employer.

22 (b) In this section, "base salary" means the total remuneration paid under  
23 contract to a member for services, including extra payments, but does not include  
24 retirement benefits, welfare benefits, per diem, expense allowances, workers'  
25 compensation payments, or payments for leave not used by the member, whether those  
26 leave payments are scheduled payments, lump-sum payments, donations, or cash-ins.

27 **Sec. 39.35.740. Contributions by employers.** (a) An employer shall  
28 contribute an amount equal to 10 percent of each member's base salary as provided in  
29 (b) - (d) of this section.

30 (b) An employer shall contribute to each member's account an amount equal  
31 to 5.5 percent of the member's base salary from July 1 to the following June 30.

1 (c) An employer shall also contribute an amount equal to 3.5 percent of each  
2 member's base salary to pay for retiree major medical insurance. This contribution  
3 shall be paid into the group health and life benefits fund established by the  
4 commissioner of administration under AS 39.30.095 and shall be accounted for in  
5 accordance with regulations established by the commissioner.

6 (d) An employer shall also contribute an amount equal to one percent of each  
7 member's base salary to each member's health reimbursement account plan under  
8 AS 39.30.300.

9 (e) In this section, "base salary" is the base salary determined under  
10 AS 39.35.730.

11 **Sec. 39.35.750. Transmittal of contributions.** The contributions of an  
12 employer and the contributions of its employees shall be transmitted to the  
13 administrator as soon as practicable after the close of the payroll period for which the  
14 contributions are made. If an employer is delinquent in transferring the contributions  
15 for more than 15 days, interest shall be assessed on the outstanding contributions at  
16 one and one-half times the most recent actuarially determined rate of earnings for the  
17 retirement system from the date that the contributions were originally due.

18 **Sec. 39.35.760. Retirement benefits and vesting.** A participating member is  
19 immediately and fully vested in that member's contributions and in the employer  
20 contributions made on that member's behalf to an account under AS 39.35.700 -  
21 39.35.895.

22 **Sec. 39.35.770. Investment of individual accounts.** (a) The Alaska State  
23 Pension Investment Board shall provide a range of investment options and permit a  
24 participant to exercise investment control over the participant's assets in the member  
25 account as provided in this section. If a participant exercises control over the assets in  
26 the account, the participant is not considered a fiduciary for any reason on the basis of  
27 exercising that control.

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

30 (c) A participant may elect to change or transfer all or a portion of the  
31 participant's existing account balance among available investment funds not more

1 often than once each day in accordance with the rules established by the administrator.  
2 Only the last election received by the administrator before the transmittal of  
3 contributions to the trust fund for allocation to the individual account will be used to  
4 direct the investment of the contributions received.

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

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

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

16 **Sec. 39.35.780. Distributions.** (a) A member is eligible to receive  
17 distribution of that person's accumulated balance in the plan upon becoming a former  
18 participating member.

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

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

26 (1) lump sum distribution to the recipient;

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

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

30 (4) no current distribution, in which case the accumulated balance  
31 must remain in the plan until the former participating member or refund beneficiary

1 elects a method or methods of distribution under this section, to the extent allowed by  
2 federal law.

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

8 **Sec. 39.35.790. Refund upon termination.** (a) Except as provided in (b) of  
9 this section, a terminated member is entitled to a refund of the balance of the member  
10 account.

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

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

22 (2) the spouse has no rights to benefits under AS 39.35.700 -  
23 39.35.895 because of the terms of a qualified domestic relations order;

24 (3) the spouse cannot be located;

25 (4) the member and spouse have been married for less than one year  
26 and the member establishes that they are not cohabiting; or

27 (5) another reason established by regulation exists.

28 **Sec. 39.35.800. Rights under qualified domestic relations order.** A former  
29 spouse shall be treated as a spouse or surviving spouse under AS 39.35.700 -  
30 39.35.895 to the extent required by a qualified domestic relations order. Rights under  
31 the order do not take effect until the order is filed with the administrator.

1           **Sec. 39.35.810. Rollover distributions and rollover contributions.** (a) An  
2 employee may elect, at the time and in the manner prescribed by the administrator, to  
3 have all or part of a direct rollover distribution from an eligible retirement plan owned  
4 by the member paid directly into the member's account established under  
5 AS 39.35.770.

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

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

11           (d) In this section,

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

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

17                   (3) "eligible retirement plan" means

18                           (A) an individual retirement account described in 26 U.S.C.  
19 408(a);

20                           (B) an individual retirement annuity defined in 26 U.S.C.  
21 408(b);

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

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

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

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

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

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

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

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

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

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

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

10 **Sec. 39.35.820. Distribution requirements.** (a) The entire interest of a  
11 member must be distributed or must begin to be distributed not later than the member's  
12 required beginning date.

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

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

1 surviving spouse if the amount becomes payable to the surviving spouse when the  
2 child reaches the age of majority.

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

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

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

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

26 (h) In this section,

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

30 (2) "required beginning date" means the first day of April of the  
31 calendar year following the calendar year in which the member either attains 70 1/2

1 years of age or actually retires, whichever is later.

2 **Sec. 39.35.830. Designation of beneficiary.** (a) Each member shall  
3 designat the beneficiary or beneficiaries to whom the administrator shall distribute  
4 benefits payable under AS 39.35.700 - 39.35.895 as a consequence of the member's  
5 death. Notwithstanding a previous designation of beneficiary, a person who is the  
6 spouse of a member at the time of the member's death automatically becomes the  
7 designated beneficiary if the spouse was married to the member during part of the  
8 member's employment for an employer

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

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

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

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

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

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

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

1 (4) to the estate.

2 (d) A person claiming entitlement to benefits payable under AS 39.35.700 -  
3 39.35.895 as a consequence of a member's death shall provide the administrator with a  
4 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.  
5 Documents establishing entitlement may be filed with the administrator immediately  
6 after a change in the member's marital status. If the administrator does not receive  
7 notification of a claim before the date 120 days after the member's death, the person  
8 claiming entitlement is not entitled to receive from the division of retirement and  
9 benefits any benefit already paid by the administrator.

10 **Sec. 39.35.840. Adjustments.** (a) When a change or error is made in the  
11 records maintained by the plan or in the contributions made on behalf of an employee  
12 or an error is made in computing a benefit, and, as a result, a member or beneficiary is  
13 entitled to receive from the plan more or less than the member or beneficiary would  
14 have been entitled to receive had the records or contributions been correct or had the  
15 error not been made, the records, contributions, or error shall be corrected. An  
16 adjustment to contributions shall be picked up by the employer in accordance with  
17 AS 39.35.740 or treated as an adjustment to the employer's contributions in  
18 accordance with this section, depending upon the nature of the adjustment. If no  
19 future benefit payments are due, a person who was paid any amount to which the  
20 person was not entitled is liable for repayment of that amount, and a person who was  
21 not paid the full amount to which the person was entitled shall be paid that amount.

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

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

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

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

30 (c) At each regularly scheduled meeting of the board, the administrator shall  
31 report to the board on all situations since the administrator's last report in which an

1 adjustment has been prohibited under (b) of this section. If the board finds that there  
2 is reason to believe that one or more of the conditions set out in (b) of this section  
3 have not been met, the administrator shall notify the member or beneficiary that an  
4 adjustment will be made to recover the overpayment. A member or beneficiary who  
5 receives notice of adjustment under this subsection may appeal to the board for a  
6 waiver of the adjustment under AS 39.35.850. An adjustment that requires the  
7 repayment of benefits may not be required while the appeal is pending.

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

19 **Sec. 39.35.850. Waiver of adjustments.** (a) Upon appeal by an affected  
20 member or beneficiary under (b) of this section, the board may waive an adjustment or  
21 a portion of an adjustment made under AS 39.35.840 if, in the opinion of the board,

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

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

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

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

31 (b) In order to obtain consideration of a waiver under this section, the affected

1 member or beneficiary must appeal to the board in writing within 30 days after receipt  
2 of notice that the records have been adjusted. The ruling of the board ... all be in  
3 writing.

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

5 (d) The board may impose conditions on granting a waiver that it considers  
6 equitable. These conditions may include requiring the member or beneficiary to make  
7 additional contributions to the plan.

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

12 **Sec. 39.35.860. Retirement.** (a) In order to obtain medical benefits under  
13 AS 39.35.870 and access to the health reimbursement account plan under  
14 AS 39.30.300, an active member must retire directly from the plan. A member is  
15 eligible to retire from the plan if the member has been an active member for at least 12  
16 months before application for retirement and

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

18 (2) the member reaches the normal retirement age and has at least 10  
19 years of membership service.

20 (b) The normal retirement age is 60 months less than the age set for Medicare  
21 eligibility.

22 (c) A member must apply to the administrator for appointment to retirement.  
23 Application shall be made on forms and in the manner prescribed by the administrator.

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

27 **Sec. 39.35.870. Medical benefits.** (a) The medical benefits available to  
28 eligible persons are access to the retiree major medical insurance plan and to the  
29 health reimbursement account. Access to the retiree major medical insurance plan  
30 means that an eligible person may not be denied insurance coverage except for failure  
31 to pay the required premium.

1 (b) The following persons are eligible for the retiree major medical insurance  
2 plan provided under this section and the health reimbursement account:

3 (1) a member with at least 30 years of service and who retires directly  
4 from the plan;

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

7 (3) a member who reaches the normal retirement age as provided in  
8 AS 39.35.860, has at least 10 years of service, and retires directly from the plan;

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

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

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

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

20 (f) The coverage for persons who are eligible for Medicare is the same as that  
21 available for persons who are not yet eligible for Medicare. The benefits payable to  
22 those Medicare eligible persons supplement any benefits provided under the Medicare  
23 program.

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

29 (h) The administrator shall set separate retiree health coverage premiums for  
30 participants who are Medicare eligible and for participants who are not yet Medicare  
31 eligible. An increase in the premium amount may not exceed five percentage points

1 annually. A participant's share of the applicable premium shall be determined  
2 according to (i) of this section.

3 (i) The portion of the cost of premiums payable by the participant is 70  
4 percent if the member had 10 years of service; for each additional year of service after  
5 the member's 10th year of service, the cost of premiums decreases by three percentage  
6 points; however, the minimum employee portion of the premium is 10 percent if the  
7 member has 30 or more years of service.

8 (j) The eligibility for retiree major medical insurance coverage for an alternate  
9 payee under a qualified domestic relations order shall be determined based on the  
10 eligibility of the member to elect coverage. The alternate payee shall pay the full  
11 monthly premium for retiree major medical insurance coverage.

12 (k) The administrator shall establish the monthly group premiums for retiree  
13 major medical insurance coverage under AS 39.30.095. Nothing in AS 39.35.700 -  
14 39.35.895 guarantees a person who elects coverage under (a) of this section a monthly  
15 group premium rate for retiree major medical insurance coverage other than the  
16 premium in effect for the month in which the premium is due for coverage for that  
17 month.

18 (l) In this section,

19 (1) "health reimbursement account" means the plan established in  
20 AS 39.30.300;

21 (2) "retires directly from the plan" means that the member is an active  
22 member at the time that the member applies to the administrator for appointment to  
23 retirement and that the member continues as an active member up through the day  
24 before the day the member is appointed to retirement.

25 **Sec. 39.35.880. Management and investment of fund.** (a) The Alaska State  
26 Pension Investment Board is the fiduciary of the fund. In managing the fund, the  
27 Alaska State Pension Investment Board shall

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

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

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

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

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

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

11 **Sec. 39.35.884. Special rules for treatment of qualified military service.**  
12 Notwithstanding any contrary provisions of AS 39.35.700 - 39.35.895, with respect to  
13 qualified military service, contributions shall be made and benefits and service credit  
14 shall be provided in accordance with 26 U.S.C. 414(u).

15 **Sec. 39.35.888. Exemption from taxation and process.** (a) Except as  
16 provided in AS 29.45.030(a)(1) or in (c) of this section, member contributions and  
17 other amounts held in the plan on behalf of a member or other person who is or may  
18 become eligible for benefits under the plan are exempt from Alaska state and  
19 municipal taxes and are not subject to anticipation, alienation, sale, transfer,  
20 assignment, pledge, encumbrance, or charge of any kind, either voluntary or  
21 involuntary, before they are received by the person entitled to the amount under the  
22 terms of the plan. Any attempt to anticipate, alienate, sell, transfer, assign, pledge,  
23 encumber, charge, or otherwise dispose of any right to amounts accrued in the plan is  
24 void. However, a member's right to receive benefits or the member account may be  
25 assigned

26 (1) under a qualified domestic relations order;

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

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

30 (b) Member contributions and other amounts held in the plan and benefits  
31 payable under AS 39.35.700 - 39.35.895 are exempt from garnishment, execution, or

1           levy as provided in AS 09.38.

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

5           **Sec. 39.35.890. Time limit for application.** If an application for benefits or  
6           for refund has not been filed with the administrator by July 1 following the date on  
7           which an inactive member (except a member on leave of absence without pay) would  
8           attain age 75, or if an application for benefits or for refund has not been filed with the  
9           administrator within the 50 years following the most recent date on which the person  
10          was an active member, benefits or refunds may not be paid under AS 39.35.700 -  
11          39.35.895 and the member's records may be destroyed.

12          **Sec. 39.35.892. Penalty for false statements.** (a) A person who knowingly  
13          makes a false statement, or falsifies or permits to be falsified any record of this plan,  
14          in an attempt to defraud this plan, is guilty of a class A misdemeanor and forfeits all  
15          rights under AS 39.35.700 - 39.35.895.

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

17          **Sec. 39.35.895. Definitions.** In AS 39.35.700 - 39.35.895, unless the context  
18          requires otherwise,

19               (1) "active member" means an employee who is employed by an  
20               employer, is receiving compensation for seasonal, permanent full-time, or permanent  
21               part-time services, and is making contributions to the plan;

22               (2) "actuarial adjustment" means the adjustment necessary to obtain  
23               equality in value of the aggregate expected payments under two different forms of  
24               pension payments, considering expected mortality and interest earnings on the basis of  
25               assumptions, factors, and methods specified in regulations issued under this plan that  
26               are formally adopted by the board that clearly preclude employer discretion in the  
27               determination of the amount of any member's benefit;

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

29               (4) "beneficiary" means a person designated by an employee to receive  
30               benefits that may be due from the plan upon the employee's death;

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

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

2 (7) "compensation" means the remuneration earned by an employee  
3 for personal services rendered to an employer, payments for leave that is actually used  
4 by the employee, and any amount deferred under an employer-sponsored deferred  
5 compensation plan, but does not include retirement benefits, severance pay or other  
6 separation bonuses, welfare benefits, per diem, expense allowances, workers'  
7 compensation payments, or payments for leave not used by the employee whether  
8 those leave payments are scheduled payments, lump-sum payments, donations, or  
9 cash-ins; for a member first hired on or after July 1, 1996, compensation does not  
10 include remuneration in excess of the limitations set out in 26 U.S.C. 401(a)(17)  
11 (Internal Revenue Code);

12 (8) "employer" has the meaning given in AS 39.35.680;

13 (9) "former member" means a terminated member;

14 (10) "fund" means the assets of the retirement plan established in  
15 AS 39.35.700 - 39.35.895;

16 (11) "inactive member" means an employee who is terminated and  
17 who has not received a refund from the plan or an employee on leave-without-pay  
18 status or layoff status;

19 (12) "member" or "employee"

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

22 (B) includes

23 (i) an active member;

24 (ii) an inactive member;

25 (iii) a vested member;

26 (iv) a deferred vested member;

27 (v) a nonvested member;

28 (vi) a retired member;

29 (C) does not include

30 (i) former members;

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

1 (iii) casual or emergency employees or nonpermanent  
2 employees as defined in AS 39.25.200;

3 (iv) persons covered by the teachers' retirement system  
4 or persons covered by the optional university retirement program;

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

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

10 (vii) the administrative director of courts appointed  
11 under art. IV, sec. 16, Constitution of the State of Alaska, unless the  
12 director becomes a member under AS 39.35.158;

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

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

17 (D) may include employees of the division of marine  
18 transportation excluded under (C)(v) of this paragraph if

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

21 (ii) no collective bargaining agreement has the effect of  
22 obligating contributions made by the state under AS 39.30.150 in the  
23 event the state resumes participation in the federal social security  
24 system;

25 (13) "member account" means the total maintained by the plan of the  
26 employer's contributions, employee's mandatory contributions, voluntary  
27 contributions, indebtedness principal, and interest contributions, interest credited to  
28 each of those accounts, and adjustments to the accounts in accordance with  
29 AS 39.35.840;

30 (14) "military service" has the meaning given in AS 39.35.680;

31 (15) "peace officer" or "fire fighter" has the meaning given in

1 AS 39.35.680;

2 (16) "plan" means the defined contribution retirement plan in  
3 AS 39.35.700 - 39.35.895;

4 (17) "public organization" means an organization or entity

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

7 (L) whose officers and employees are paid by a method other  
8 than by the state payroll prepared by the Department of Administration; and

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

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

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

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

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

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

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

25 (F) does not require any type or form of benefit or any option  
26 not otherwise provided by this plan;

27 (G) does not require an increase of benefits in excess of the  
28 amount provided by this plan, determined on the basis of actuarial value; and

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

1 (19) "retired member" means an employee who is terminated, who has  
2 not received a refund from the plan, and who is receiving a retirement benefit from the  
3 plan;

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

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

9 (22) "terminated" means a person no longer employed by an employer  
10 participating in the plan.

11 \* Sec. 36. AS 39.35.680(39) is repealed.

12 \* Sec. 37. The uncodified law of the State of Alaska is amended by adding a new section to  
13 read:

14 OPTION TO PARTICIPATE IN DEFINED CONTRIBUTION RETIREMENT  
15 PLAN AND ENROLLMENT PERIOD FOR NONVESTED, ACTIVE MEMBERS OF THE  
16 TEACHERS' RETIREMENT DEFINED BENEFIT PLAN. (a) Notwithstanding  
17 AS 14.25.310, added by sec. 11 of this Act, an active member of the defined benefit  
18 retirement plan of the teachers' retirement system is eligible to participate in the defined  
19 contribution retirement plan established under AS 14.25.310 - 14.25.495, added by sec. 11 of  
20 this Act if that member has not vested. Participation in the defined contribution retirement  
21 plan is in lieu of participation in the defined benefit retirement plan established under  
22 AS 14.25.012.

23 (b) A member who has vested in a defined benefit retirement plan is not eligible to  
24 transfer under this section. An active member who is on a leave of absence during the entire  
25 90-day enrollment period is not eligible.

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

1 benefits. Upon a transfer, all service credit previously earned under the defined benefit  
2 retirement plan shall be nullified for purposes of entitlement to a future benefit under the  
3 defined benefit retirement plan, but shall be credited for purposes of vesting in the medical  
4 benefits under AS 14.25.480, added by sec. 11 of this Act. A participant is precluded from  
5 transferring the member contribution account balance from the defined benefit retirement plan  
6 upon the expiration of the period afforded to enroll in the defined contribution retirement  
7 plan. An eligible member whose accounts are subject to a qualified domestic relations order  
8 may not make an election under this subsection unless the qualified domestic relations order  
9 is amended or vacated and court-certified copies of the order are received by the  
10 administrator.

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

14 (e) The period of enrollment for eligible members electing to participate in the  
15 defined contribution retirement plan is from the effective date of this Act until the 91st day  
16 after the effective date of this Act. The election must be made in writing on forms and in the  
17 manner prescribed by the administrator. Before accepting an election to participate in the  
18 defined contribution plan, the administrator must provide the employee planning on making  
19 an election to participate in the defined contribution plan with information including  
20 calculations to illustrate the effect of moving the employee's retirement plan from the defined  
21 benefit plan to the defined contribution plan as well as other information to clearly inform the  
22 employee of the potential consequences of the employee's election. An election made under  
23 this subsection to participate in the defined contribution retirement plan is irrevocable. Upon  
24 making the election, the participant shall be enrolled as a member of the defined contribution  
25 retirement plan, the member's participation in the plan shall be governed by the provisions of  
26 AS 14.25.310 - 14.25.495, added by sec. 11 of this Act, and the member's participation in the  
27 defined benefit retirement plan under AS 14.25.012 shall terminate. The participant's  
28 enrollment in the defined retirement contribution plan shall be effective the first day of the  
29 month after the administrator receives the completed enrollment forms. An election made by  
30 an eligible member who is married is not effective unless the election is signed by the  
31 individual's spouse.

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

5 (g) In this section,

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

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

8 (3) "defined benefit retirement plan" means the retirement plan established in  
9 AS 14.25.012;

10 (4) "defined contribution retirement plan" means the retirement plan  
11 established in AS 14.25.320;

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

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

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

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

17 \* **Sec. 38.** The uncodified law of the State of Alaska is amended by adding a new section to  
18 read:

19 **OPTION TO PARTICIPATE IN DEFINED CONTRIBUTION RETIREMENT**  
20 **PLAN AND ENROLLMENT PERIOD FOR NONVESTED, ACTIVE MEMBERS OF**  
21 **PUBLIC EMPLOYEES' RETIREMENT SYSTEM DEFINED BENEFIT PLAN.** (a)  
22 Notwithstanding AS 39.35.700, added by sec. 35 of this Act, an active member of the defined  
23 benefit retirement plan of the public employees' retirement system is eligible to participate in  
24 the defined contribution retirement plan established under AS 39.35.700 - 39.35.895, added  
25 by sec. 35 of this Act. Participation in the defined contribution retirement plan is in lieu of  
26 participation in the defined benefit retirement plan established under AS 39.35.115.

27 (b) A member who has vested in a defined benefit retirement plan is not eligible to  
28 transfer under this section. An active member who is on a leave of absence during the entire  
29 90-day enrollment period is not eligible.

30 (c) Each eligible member who elects to participate in the defined contribution  
31 retirement plan shall have transferred to a new account the present value of the employee

1 contribution account and the employee savings account held in trust for the member under the  
2 defined benefit retirement plan of the public employees' retirement system. The employer  
3 contribution made on behalf of that employee shall also transfer and the appropriate  
4 percentage of the employer contribution shall be applied to the employee's health  
5 reimbursement account and to the employee's medical benefits. Upon a transfer, all service  
6 credit previously earned under the defined benefit retirement plan shall be nullified for  
7 purposes of entitlement to a future benefit under the defined benefit retirement plan, but shall  
8 be credited for purposes of vesting in the medical benefits under AS 39.35.870, added by sec.  
9 35 of this Act. A participant is precluded from transferring the employee contribution account  
10 balance and the employee savings account balance from the defined benefit retirement plan  
11 upon the expiration of the period afforded to enroll in the defined contribution retirement  
12 plan. An eligible member whose accounts are subject to a qualified domestic relations order  
13 may not make an election under this subsection unless the qualified domestic relations order  
14 is amended or vacated and court-certified copies of the order are received by the  
15 administrator.

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

18 (e) The period of enrollment for eligible members electing to participate in the  
19 defined contribution retirement plan is from the effective date of this Act until the 91st day  
20 after the effective date of this Act. The election must be made in writing on forms and in the  
21 manner prescribed by the administrator. Before accepting an election to participate in the  
22 defined contribution plan, the administrator must provide the employee planning on making  
23 an election to participate in the defined contribution plan with information including  
24 calculations to illustrate the effect of moving the employee's retirement plan from the defined  
25 benefit plan to the defined contribution plan as well as other information to clearly inform the  
26 employee of the potential consequences of the employee's election. An election made under  
27 this subsection to participate in the defined contribution retirement plan is irrevocable. Upon  
28 making the election, the participant shall be enrolled as a member of the defined contribution  
29 retirement plan, the member's participation in the plan shall be governed by the provisions of  
30 AS 39.35.700 - 39.35.895, added by sec. 35 of this Act, and the member's participation in the  
31 defined benefit retirement plan under AS 39.35.115 shall terminate. The participant's

1 enrollment in the defined retirement contribution plan shall be effective the first day of the  
2 month after the administrator receives the completed enrollment forms. An election made by  
3 an eligible member who is married is not effective unless the election is signed by the  
4 individual's spouse.

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

9 (g) In this section,

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

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

12 (3) "defined benefit retirement plan" means the retirement plan established in  
13 AS 39.35.005;

14 (4) "defined contribution retirement plan" means the retirement plan  
15 established in AS 39.35.710;

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

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

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

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

20 (9) "qualified domestic relations order" has the meaning given in  
21 AS 39.35.680.

22 \* Sec. 39. The uncodified law of the State of Alaska is amended by adding a new section to  
23 read:

24 **LEGISLATIVE INTENT REGARDING INVESTMENT OPTIONS FOR**  
25 **INDIVIDUAL ACCOUNTS.** It is the intent of the legislature that, under AS 14.25.380,  
26 added by sec. 11 of this Act, for teachers, and under AS 39.35.770, added by sec. 35 of this  
27 Act, for public employees, the administrator of the respective plans will provide investment  
28 options that are similar to the investment options provided for individual employee annuity  
29 accounts in the Department of Administration under the terms of the State of Alaska  
30 Supplemental Annuity Plan under AS 39.30.150 - 39.30.180.

31 \* Sec. 40. The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

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

7 (b) In the following statute sections, the revisor of statutes shall substitute "the  
8 defined benefit retirement plans" for references to "the system": AS 14.25.012(b), 14.25.015,  
9 14.25.020(a), 14.25.022(g), 14.25.030, 14.25.035(c), 14.25.035(d), 14.25.035(e),  
10 14.25.035(j), 14.25.040(d), 14.25.045(a), 14.25.047, 14.25.048(a), 14.25.048(c), 14.25.055,  
11 14.25.060(a), 14.25.060(b), 14.25.060(d), 14.25.061(a), 14.25.062, 14.25.065, 14.25.075(a),  
12 14.25.075(c), 14.25.075(d), 14.25.075(e), 14.25.075(g), 14.25.075(h), 14.25.075(i),  
13 14.25.107, 14.25.110(a), 14.25.110(k), 14.25.110(l), 14.25.110(m) 14.25.143(b),  
14 14.25.163(b), 14.25.163(c), 14.25.165(i), 14.25.167(g), 14.25.168(a), 14.25.168(c),  
15 14.25.173(a), 14.25.173(d), 14.25.175(d), 14.25.220(1), 14.25.220(2), 14.25.220(7),  
16 14.25.220(14), 14.25.220(20), 14.25.220(22), 14.25.220(23), 14.25.220(31), 14.25.220(34),  
17 14.25.220(36), 14.25.220(40), and 14.25.220(42).

18 (c) In the following statute sections, the revisor of statutes shall substitute "the plan"  
19 for references to "the system": AS 39.35.010(a), 39.35.010(c), 39.35.011, 39.35.020,  
20 39.35.030(c), 39.35.040, 39.35.042(g), 39.35.050(a), 39.35.060, 39.35.070, 39.35.090,  
21 39.35.100, 39.35.120, 39.35.125, 39.35.131, 39.35.154, 39.35.165(a), 39.35.165(c),  
22 39.35.165(d), 39.35.165(e), 39.35.165(g), 39.35.165(h), 39.35.165(i), 39.35.170, 39.35.180,  
23 39.35.195, 39.35.250, 39.35.280, 39.35.300(c), 39.35.310(a), 39.35.310(c), 39.35.340(a),  
24 39.35.342(a), 39.35.342(d), 39.35.345(a), 39.35.345(d), 39.35.360(a), 39.35.360(g),  
25 39.35.360(h), 39.35.360(i), 39.35.360(j), 39.35.360(k), 39.35.370(f), 39.35.370(g),  
26 39.35.370(h), 39.35.370(i), 39.35.370(j), 39.35.370(k), 39.35.371(i), 39.35.381(b),  
27 39.35.381(g), 39.35.385(c), 39.35.400(e), 39.35.450(g), 39.35.475(a), 39.35.475(b),  
28 39.35.475(d), 39.35.500(a), 39.35.505, 39.35.520(a), 39.35.520(d), 39.35.522(d),  
29 39.35.527(a), 39.35.527(b), 39.35.530, 39.35.535(a), 39.35.535(d), 39.35.550, 39.35.560,  
30 39.35.570, 39.35.580, 39.35.590, 39.35.600, 39.35.610, 39.35.620(a), 39.35.620(h),  
31 39.35.650, 39.35.670, 39.35.675(a), 39.35.680(1), 39.35.680(2), 39.35.680(5), 39.35.680(9),

1 39.35.680(12), 39.35.680(15), 39.35.680(16), 39.35.680(17), 39.35.680(20), 39.35.680(29),  
2 39.35.680(32), 39.35.680(33), 39.35.680(34), and 39.35.680(35).

3 (d) In the following statutes, the revisor of statutes shall substitute the spanned  
4 reference "AS 39.35.010 - 39.35.680" for references to "this chapter": AS 39.35.165,  
5 39.35.200, 39.35.250, 39.35.300, 39.35.340, 39.35.350, 39.35.360(a), 39.35.360(b),  
6 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,  
7 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  
8 39.35.680.

9 \* Sec. 41. This Act takes effect July 1, 2005.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 238  
 ( ) 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: House State Affairs Committee  
 Requester: House State Affairs Committee 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	276.5	227.5	163.1	163.1	163.1	163.1
Travel	37.5	17.5	3.5	5.0	5.0	5.0
Contractual	692.0	327.0	352.0	397.0	397.0	397.0
Supplies	18.0	5.0	5.0	5.0	5.0	5.0
Equipment	30.0					
Land & Structures						
Grants & Claims						
Miscellaneous (Board Restructure)						
<b>TOTAL OPERATING</b>	<b>1,054.0</b>	<b>577.0</b>	<b>523.6</b>	<b>570.1</b>	<b>570.1</b>	<b>570.1</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1,054.0	577.0	523.6	570.1	570.1	570.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>1,054.0</b>	<b>577.0</b>	<b>523.6</b>	<b>570.1</b>	<b>570.1</b>	<b>570.1</b>

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	3	3	3	3	3	3
Part-time	0	0	0	0	0	0
Temporary	2	1	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)  
 This bill creates a new defined contribution retirement plan and a health reimbursement arrangement for new employees of the PERS/TRS hired after the effective date of July 1, 2005. It adds a Past Service Offset Fund to mitigate any negative effects to the unfunded liability of the current PERS/TRS by establishing the new plan. 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 employee plans and two new employer accounts, create new plan publications and forms, develop and use new benefit education methods to train staff, employer contacts and new members, and to contract for financial planning services for members of the new plan. The bill also makes changes to the current PERS/TRS tiers by increasing employee contribution rates, defining when an ad hoc PRPA can be issued and requires the use of drug formularies. The fiscal note assumes fund manager fees, custody, and record keeper's individual account fees are separate.

Prepared by: Melanie Millhorn, Director Phone 465-4408  
 Division: Retirement and Benefits Date/Time 4/1/05 12:02 PM  
 Approved by: Mike Tibbles, Deputy Commissioner Date 4/1/2005  
 Agency: Department of Administration

**FISCAL NOTE**

**STATE OF ALASKA  
2005 LEGISLATIVE SESSION**

**BILL NO. HB 238**

**ANALYSIS CONTINUATION**

	FY 2006	FY 2007	FY 2008	FY 09-11
<b>PERSONAL SERVICES:</b>				
1 - Analyst-Pgmr III - DC-Benefits Sys - R 16	64.4	64.4	64.4	64.4
1 - Accountant II - Range 16	52.0	52.0	52.0	52.0
1 - R&B Tech I/II - ER Rpting / Contrib. Recon. - Range 12	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
	<u>276.5</u>	<u>227.5</u>	<u>163.1</u>	<u>163.1</u>
<b>TRAVEL:</b>				
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
	<u>37.5</u>	<u>17.5</u>	<u>3.5</u>	<u>5.0</u>
<b>CONTRACTUAL:</b>				
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
Computer system mods - HRA / Benefit system mods	80.0	10.0	10.0	10.0
Audit, Accting, Tax, Benefits Consulting, Legal	100.0	75.0	50.0	50.0
One-time contract increase for additional actuarial services	25.0	0.0	0.0	0.0
Training \ Risk Management	15.0	5.0	5.0	0.0
Employee financial planning services	150.0	200.0	250.0	300.0
	<u>692.0</u>	<u>327.0</u>	<u>352.0</u>	<u>397.0</u>
<b>SUPPLIES:</b> Office supplies, calculators, desk-top software	18.0	5.0	5.0	5.0
<b>EQUIPMENT:</b> Workstation & cubicle, chairs, file cabinets, computers, telephone, set-up costs	30.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>1,054.0</b>	<b>577.0</b>	<b>523.6</b>	<b>570.1</b>

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. A legal opinion is being sought to determine if the new tier members could repay the startup costs through fees as the size of the fund grows.

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**REPRESENTATIVE Paul Seaton**  
District 35

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***DRAFT***

Sectional Analysis House Bill 238

State Affairs PERS/TRS Bill

## **DRAFT Sectional Analysis for HB 238**

**Sec. 1.** Establishes applicability of the subsequent sections to teachers hired before July 1, 2005.

**Sec. 2.** Establishes that employees will contribute to the retirement system a percentage of their salary as determined in Sec. 4. This percentage will be deducted from the employee's compensation before federal taxes are applied.

**Sec. 3.** Establishes that an employer will contribute to the retirement plan as determined by Sec. 4.

**Sec. 4.** Gives the board authority to establish employer and employee contribution rates with the objective of fully funding the normal cost of the plan and paying off a portion of the past service cost. Employer and employee contributions must be equal with a ceiling on employee contributions at 14% and a floor on employer contributions of 11%.

Defines the terms: accrued liability, actuarially computed rate, employer contribution rate, member contribution rate, normal cost, normal cost rate, past service cost, past service cost rate, valuation rate.

**Sec. 5.** States that an ad hoc post pension retirement adjustment (an increase in the pension benefits due to an increase in the cost of living) may not be issued until the retirement system is 100% funded. (1988).

**Sec. 6.** States that an ad hoc post pension retirement adjustment (an increase in the pension benefits due to an increase in the cost of living) may not be issued until the retirement system is 100% funded. (1990).

**Sec. 7.** Defines "fund" as the assets of the defined benefit retirement plan for the purposes of this section.

**Sec. 8.** Defines "system" as the Teachers' Retirement System of Alaska.

**Sec. 9.** Specifies the statutes relating to defined benefit plan members.

**Sec. 10.** Specifies that the previous sections only apply to teachers first hired on or before July 1, 2005, and defines "first hired" as the first day of employment.

**Sec. 14.25.320.** Establishes a Defined Contribution Plan in compliance with federal regulations.

**Sec. 14.25.330.** States that the purpose of the legislation is to encourage qualified teachers to enter and remain in the state.