

**ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE**

March 7, 2006

8:07 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Carl Gatto, Vice Chair
Representative Bob Lynn
Representative Jay Ramras
Representative Berta Gardner

MEMBERS ABSENT

Representative Jim Elkins
Representative Max Gruenberg

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Personnel Board

Al Tamagni, Sr. - Anchorage, Alaska

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 448

"An Act relating to special license plates for the Free and Accepted Masons."

- HEARD AND HELD

HOUSE BILL NO. 475

"An Act describing contributions to the health reimbursement arrangement plan for certain teachers and public employees; clarifying eligibility for membership in that health reimbursement arrangement plan; relating to the 'administrator' of the Public Employees' Retirement System of Alaska; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 383

"An Act limiting motor vehicle dealer charges for fees and costs; relating to the disclosures required for certain motor

vehicle transactions; and requiring consumers to be informed of finance charges paid to a motor vehicle dealer by a financing institution on the sale of a used motor vehicle."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 448

SHORT TITLE: LICENSE PLATES FOR MASONS

SPONSOR(S): REPRESENTATIVE(S) ELKINS

02/13/06 (H) READ THE FIRST TIME - REFERRALS
02/13/06 (H) STA, FIN
03/07/06 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 475

SHORT TITLE: PUB EMPLOYEE & TEACHER RETIREMENT & SBS

SPONSOR(S): REPRESENTATIVE(S) SEATON

02/13/06 (H) READ THE FIRST TIME - REFERRALS
02/13/06 (H) STA, FIN
02/23/06 (H) STA AT 8:00 AM CAPITOL 106
02/23/06 (H) Heard & Held
02/23/06 (H) MINUTE(STA)
02/28/06 (H) STA AT 8:00 AM CAPITOL 106
02/28/06 (H) Scheduled But Not Heard
03/02/06 (H) STA AT 8:00 AM CAPITOL 106
03/02/06 (H) Heard & Held
03/02/06 (H) MINUTE(STA)
03/07/06 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 383

SHORT TITLE: MOTOR VEHICLE TRANSACTIONS

SPONSOR(S): REPRESENTATIVE(S) GARA

01/20/06 (H) READ THE FIRST TIME - REFERRALS
01/20/06 (H) TRA, STA
02/07/06 (H) TRA AT 1:30 PM CAPITOL 17
02/07/06 (H) -- Meeting Canceled --
02/09/06 (H) TRA AT 1:30 PM CAPITOL 17
02/09/06 (H) Moved CSHB 383(TRA) Out of Committee
02/09/06 (H) MINUTE(TRA)
02/13/06 (H) TRA RPT CS(TRA) NT 1DP 4NR
02/13/06 (H) DP: KAPSNER;
02/13/06 (H) NR: SALMON, NEUMAN, GATTO, ELKINS
03/07/06 (H) STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

ALFRED L. TAMAGNI, SR., Appointee
to the Personnel Board
Anchorage, Alaska

POSITION STATEMENT: Appeared before the committee as appointee during the confirmation hearing for the Personnel Board.

JENNIFER BAXTER, Staff
to Representative Jim Elkins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 448 on behalf of Representative Elkins, sponsor.

DUANE BANNOCK, Director
Division of Motor Vehicles
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 448.

KATIE SHOWS, Staff
to Representative Paul Seaton
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions related to amendments on behalf of Representative Seaton, sponsor of HB 475.

TRACI CARPENTER, Project Manager
Health Benefits Section
Division of Retirement & Benefits
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Answered a question during the hearing on HB 475.

MELANIE MILLHORN, Director
Division of Retirement & Benefits
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 475.

DORIS ROBBINS
Fairbanks, Alaska

POSITION STATEMENT: Testified on behalf of herself during the hearing on HB 475.

CHARLES GALLAGHER
Fairbanks, Alaska

POSITION STATEMENT: Testified on behalf of himself during the hearing on HB 475.

REPRESENTATIVE LES GARA
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 383.

CLYDE (ED) SNIFFEN, JR., Assistant Attorney General
Commercial/Fair Business Section
Civil Division (Anchorage)
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 383.

JIM ARPINO

Affordable Used Cars, Fairbanks/Anchorage;
Alaska Auto Dealers Association (AADA)
Fairbanks, Alaska

POSITION STATEMENT: Testified on behalf of both entities during the hearing on HB 383.

JOHN COOK, Legislative Director
Alaska Automobile Association
(No address provided)

POSITION STATEMENT: Testified on behalf of the association, and also on behalf of Aurora Motors, during the hearing on HB 383.

ACTION NARRATIVE

CHAIR PAUL SEATON called the House State Affairs Standing Committee meeting to order at [8:07:49 AM](#). Representatives Gatto, Lynn, Gardner, and Seaton were present at the call to order. Representative Ramras arrived as the meeting was in progress.

Confirmation Hearing(s)

Personnel Board

[8:08:09 AM](#)

CHAIR SEATON announced that the first order of business was the confirmation hearing for the Personnel Board.

[8:08:14 AM](#)

ALFRED L. TAMAGNI, SR., Appointee to the Personnel Board, offered a brief personal history and reasons for his interest in the position. He proffered that his background in finance, insurance, pension, administration, and design, makes him qualified to serve fairly, honestly, and decently on the Personnel Board.

[8:09:40 AM](#)

CHAIR SEATON said he appreciates anyone who understands the issues of the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS).

[8:10:00 AM](#)

REPRESENTATIVE GARDNER moved to advance the name of Al Tamagni, Sr., to the joint session of the House and Senate; she requested unanimous consent. There being no objection, the nomination of Al Tamagni, Sr., as appointee to the Personnel Board was advanced.

HB 448-LICENSE PLATES FOR MASONS

[8:11:35 AM](#)

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 448, "An Act relating to special license plates for the Free and Accepted Masons."

[8:11:47 AM](#)

JENNIFER BAXTER, Staff to Representative Jim Elkins, Alaska State Legislature, introduced HB 448 on behalf of Representative Elkins, sponsor. The proposed bill would amend AS 28.10.181, by adding a new subsection that would allow the Department of Administration to "design and issue registration plates representing the Free and Accepted Masons of Alaska." In response to a request from Representative Gardner for information on the Free and Accepted Masons of Alaska, she suggested Mr. Van Horn would provide the information at the next hearing of the bill.

[8:13:25 AM](#)

REPRESENTATIVE LYNN asked if the bill allows the design of a registration plate, or "merely to make it possible for a Mason to have a plate of their own."

[8:13:36 AM](#)

MS. BAXTER offered her understanding that it would be "for their own plate, but it'll be their own design."

[8:13:54 AM](#)

CHAIR SEATON suggested Mr. Bannock from the Division of Motor Vehicles could provide further information.

[8:14:11 AM](#)

REPRESENTATIVE LYNN opined that the Free and Accepted Masons is an organization dating back to the foundation of the nation. He named the Knights of Columbus as another such honorable organization, "which would kind of balance the scales a bit."

[8:15:21 AM](#)

CHAIR SEATON told Ms. Baxter that the committee would like a fact sheet detailing the Free and Accepted Masons. Furthermore he asked that the sponsor supply a listing of the designer plates that exist to date. He observed that the committee packet included a zero fiscal note, and he said the committee would address that issue with Mr. Bannock.

[8:16:12 AM](#)

DUANE BANNOCK, Director, Division of Motor Vehicles, Department of Administration, in response to Representative Lynn's original question, said he believes the bill would serve to bring about both the design of a registration plate, as well as the issuance of the plate through the division. In response to a follow-up question from Representative Lynn, said several groups have approached the division to get a license plate. In order to keep the costs as low as possible, he said, the actual artwork would be provided by the sponsor, and for \$300 the plate manufacturer could form the plate. There is a certain format that must be followed regarding plate design, he added.

[8:18:29 AM](#)

REPRESENTATIVE GARDNER brought attention to the last line of the bill, which read:

The department may disapprove the issuance of registration plates under this subsection when the requested plates are a duplication of an existing registration.

REPRESENTATIVE GARDNER stated her assumption that there may be other grounds on which a design might be disapproved.

[8:18:51 AM](#)

MR. BANNOCK answered that's correct. He said:

That line seems to be a duplicative line from other sections within this same chapter, which specifically have to do with the concept that it is not the background of the license plate that makes a license plate different, but rather the letter, and numbers, and the combinations thereof on them. ... If my license plate says "DUANE" ..., just because the DUANE plate is on a gold background, that doesn't mean that some other Duane could get the DUANE plate on the Free Mason plate.

[8:19:47 AM](#)

MR. BANNOCK responded to a series of questions from Representative Gatto with the following answers: One, there is currently no paramedic/fire fighter plate in existence. Two, he has not rejected a group in the three years that he has been the director of the division. Three, there is a fee of \$30 that is a one-time-only charge [for a vanity plate]. Four, there is a \$5 fee to transfer a vanity plate from one vehicle to the next. Five, he has not been faced with having to turn down anyone's request yet; however, if he did make that decision it could be trumped by hearing officers.

CHAIR SEATON offered his understanding that "there has to be a bill to come through to allow a group to apply to you for a specialty plate, other than the regular vanity plates."

[8:22:03 AM](#)

MR. BANNOCK answered that's 100 percent correct. In response to a follow-up question from Chair Seaton, he said the division is contacted no less than a dozen times a year, but not many of those contacts make it to the legislative process.

[8:23:16 AM](#)

REPRESENTATIVE GATTO asked what happens to user rights to a vanity plate after the original owner has passed away.

[8:23:28 AM](#)

MR. BANNOCK responded that "after 12 months of nonexpiration, the plate becomes available again."

[8:23:41 AM](#)

CHAIR SEATON closed public testimony.

CHAIR SEATON announced that HB 448 was heard and held.

HB 475-PUB EMPLOYEE & TEACHER RETIREMENT & SBS

[Contains discussion of SB 141 and SB 293.]

[8:24:49 AM](#)

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 475, "An Act describing contributions to the health reimbursement arrangement plan for certain teachers and public employees; clarifying eligibility for membership in that health reimbursement arrangement plan; relating to the 'administrator' of the Public Employees' Retirement System of Alaska; and providing for an effective date."

[8:25:12 AM](#)

KATIE SHOWS, Staff to Representative Paul Seaton, Alaska State Legislature, on behalf of Representative Seaton, sponsor of HB 475, suggested that since the answers to questions submitted to the Division of Retirement & Benefits by the committee at the last hearing were still forthcoming, the committee may best be served by proceeding to discussion of amendments.

[CHAIR SEATON handed the gavel over to Vice Chair Gatto.]

[8:26:45 AM](#)

REPRESENTATIVE SEATON moved to adopt Amendment 1, which read as follows [original punctuation provided, but with some formatting changed]:

Page 5, following line 8:

Insert new bill sections to read:

* **Sec. 10.** AS 14.25. is amended by adding new sections to read:

Sec. AS 14.25.486. Disability benefit adjustment.

(a) Once each year, the administrator shall increase disability benefits. The amount of the increase is a percentage of the current disability benefit equal to the lesser of 75 percent of the increase of the cost of living in the preceding calendar year or nine percent.

(b) If a disabled member was not receiving a benefit during the entire preceding calendar year, the increase in the benefit under this section shall be adjusted by multiplying it by a fraction, the numerator of which is the number of months for which the benefit was received in the preceding calendar year and the denominator of which is 12.

(c) An increase in benefit payments under this section is effective July 1 of each year and is based on the percentage increase in the consumer price index for urban wage earners and clerical workers for Anchorage, Alaska during the previous calendar year as determined by the United States Department of Labor, Bureau of Labor Statistics.

(d) Benefit adjustments under this section shall terminate the last day of the month following the date in which a disabled member is no longer receiving a disability benefit under AS 14.25.485.

Sec. AS 14.25.488. Survivor's pension adjustment.

(a) Once each year, the administrator shall increase payments to persons age 60 or older receiving a survivor's pension under AS 14.25.485(i) or AS 14.25.487(c) and to persons who have received a survivor's pension under AS 14.25.485(i) or AS 14.25.487(c) for at least 8 years who are not otherwise eligible for an increase under this section.

(b) The amount of the increase is a percentage of the current survivor's pension equal to the lesser of 50 percent of the increase in the cost of living in the preceding calendar year or six percent.

(c) If a survivor was not receiving a pension during the entire preceding calendar year, the increase in the survivor's pension under this section shall be adjusted by multiplying it by a fraction, the numerator of which is the number of months for which the pension was received in the preceding calendar year and the denominator of which is 12.

(d) The administrator shall increase the initial survivor's pension paid to a survivor of a member who died while receiving disability benefits by a percentage equal to the total cumulative percentage that has been applied to the member's disability benefit under AS 14.25.486.

(e) An increase in benefit payments under this section is effective July 1 of each year and is based on the percentage increase in the consumer price index for urban wage earners and clerical workers for Anchorage, Alaska during the previous calendar year as determined by the United States Department of Labor, Bureau of Labor Statistics.

(f) Pension adjustments under this section shall terminate the last day of the month following the date in which a survivor is no longer receiving a survivor's pension under AS 14.25.485(i) or AS 14.25.487(e).

Sec. AS 14.25.489. Premiums for retiree major medical insurance coverage upon termination of disability benefits or survivor's pension. The premium for retiree major medical insurance coverage payable by a member whose disability benefit is terminated under AS 14.25.485(g) or by an eligible survivor whose survivor pension is terminated under AS 14.25.485(i) or AS 14.25.487(e) when the member would have been eligible for normal retirement if the member had survived shall be determined under AS 14.25.480(g)(2) as if the member or survivor were eligible for Medicare.

Renumber the following bill sections accordingly.

[8:27:11 AM](#)

REPRESENTATIVE GARDNER objected for discussion purposes.

[8:27:35 AM](#)

MS. SHOWS spoke to Amendment 1. She directed attention to the last paragraph on the second page of the amendment and said the intent of the language is to clarify that if an employee reaches normal retirement age before the age of Medicare eligibility, he/she would receive benefits "as if they were Medicare age eligible." She explained that that would mean the plan would pay a percentage of the person's premium for health care. In response to questions from Vice Chair Gatto, she offered examples.

[8:33:12 AM](#)

REPRESENTATIVE SEATON added that the plan would pay the premium for the person who reaches retirement eligibility until that person reaches Medicare eligibility.

[8:34:45 AM](#)

REPRESENTATIVE GARDNER offered a scenario as follows:

I have ... three people with disabilities [who] qualify under this, and they've reached the normal retirement age, and now I'm also responsible for their 90 percent health premium, but you don't have any in your system. So, are my costs higher than yours, or is this averaged across the entire pool.

[8:35:40 AM](#)

REPRESENTATIVE SEATON said that issue is clarified within an upcoming amendment. He said the payments from all the employers will go into a system-wide trust account.

[8:37:37 AM](#)

MS. SHOWS, in response to a question from Vice Chair Gatto, said once a person has reached normal retirement age, he/she has access to the defined contribution retirement count. There is an increase of 75 percent of the Anchorage consumer price index (CPI), which occurs the year after the member becomes disabled; therefore, once the member becomes disabled, his/her disability benefit would increase annually by 75 percent of the Anchorage CPI.

VICE CHAIR GATTO asked, "Instead of what?"

MS. SHOWS replied, "Instead of not increasing at all and being 40 percent of the salary that they made ... the last year of employment."

VICE CHAIR GATTO asked for confirmation that "that salary would be 20 years old now, and so we're trying to fix that calculation."

MS. SHOWS indicated that Vice Chair Gatto is correct. She added, "And we're marrying current language ... for defined benefit employees."

[8:38:39 AM](#)

REPRESENTATIVE SEATON noted that another amendment in the committee packet addresses the death and disability benefit, so that under the defined contribution plan a person cannot be taking out defined contribution payments out while simultaneously receiving disability benefits. In response to a question from Vice Chair Gatto he offered his understanding that a person can choose at normal retirement age to "take your DC plan out" and then "not continue on with disability benefits"

[8:39:49 AM](#)

REPRESENTATIVE GARDNER removed her objection to Amendment 1. There being no further objection, Amendment 1 was adopted.

[8:40:03 AM](#)

REPRESENTATIVE SEATON moved to adopt Amendment 2, which read as follows [original punctuation provided, but with some formatting changed]:

Page 14, following line 10:

Insert new bill sections to read:

* **Sec. 37.** AS 39.35 is amended by adding new sections to read:

Sec. AS 39.35.891. Disability benefit and disabled peace officer or fire fighter retirement benefit adjustment. (a) Once each year, the administrator shall increase disability benefits and retirement benefits elected by disabled peace officers or firefighters under AS 39.35.890(h)(2). The amount of the increase is a percentage of the current disability benefit or retirement benefit equal to the

lesser of 75 percent of the increase of the cost of living in the preceding calendar year or nine percent.

(b) If a disabled member was not receiving a benefit during the entire preceding calendar year, the increase in the benefit under this section shall be adjusted by multiplying it by a fraction, the numerator of which is the number of months for which the benefit was received in the preceding calendar year and the denominator of which is 12.

(c) If a disabled peace officer or fire fighter elects to receive a retirement benefit in the amount calculated under AS 39.35.890(h)(2), the administrator shall, at the time the disabled peace officer or firefighter is appointed to retirement, increase the retirement benefit by a percentage equal to the total cumulative percentage that has been applied to the disabled peace officer's or fire fighter's disability benefit under this section.

(d) An increase in benefit payments under this section is effective July 1 of each year and is based on the percentage increase in the consumer price index for urban wage earners and clerical workers for Anchorage, Alaska during the previous calendar year as determined by the United States Department of Labor, Bureau of Labor Statistics.

(e) Benefit adjustments under this section shall terminate the last day of the month following the date in which a disabled member is no longer receiving a disability benefit under AS 39.35.890 unless the member is a disabled peace officer or fire fighter and has chosen a retirement benefit under AS 39.35.890(h)(2).

Sec. AS 39.35.893. Survivor's pension adjustment. (a) Once each year, the administrator shall increase payments to persons age 60 or older receiving a survivor's pension under AS 39.35.890(k) or AS 39.35.892(c) and to persons who have received a survivor's pension under AS 39.35.890(k) or AS 39.35.892(c) for at least 5 years who are not otherwise eligible for an increase under this section.

(b) The amount of the increase is a percentage of the current survivor's pension equal to the lesser of 50 percent of the increase in the cost of living in the preceding calendar year or six percent.

(c) If a survivor was not receiving a pension during the entire preceding calendar year, the increase in the survivor's pension under this section

shall be adjusted by multiplying it by a fraction, the numerator of which is the number of months for which the pension was received in the preceding calendar year and the denominator of which is 12.

(d) The administrator shall increase the initial survivor's pension paid to a survivor of a member who died while receiving disability benefits by a percentage equal to the total cumulative percentage that has been applied to the member's disability benefit under AS 39.35.891.

(e) An increase in benefit payments under this section is effective July 1 of each year and is based on the percentage increase in the consumer price index for urban wage earners and clerical workers for Anchorage, Alaska during the previous calendar year as determined by the United States Department of Labor, Bureau of Labor Statistics.

(f) Pension adjustments under this section shall terminate the last day of the month following the date in which a survivor is no longer receiving a survivor's pension under AS 39.35.890(k) or AS 39.35.892(e).

Sec. AS 39.35.894. Premiums for retiree major medical insurance coverage upon termination of disability benefits or survivor's pension. The premium for retiree major medical insurance coverage payable by an employee whose disability benefit is terminated under AS 39.35.890(g) or by an eligible survivor whose survivor pension is terminated under AS 39.35.890(k) or AS 39.35.892(e) when the employee would have been eligible for normal retirement if the employee had survived shall be determined under AS 39.35.880(g)(2) as if the employee or survivor were eligible for Medicare.

Renumber the following bill sections accordingly.

[8:40:26 AM](#)

REPRESENTATIVE GARDNER objected for discussion purposes.

REPRESENTATIVE SEATON explained that Amendment 2 mirrors [Amendment 1], but addresses police and fire.

REPRESENTATIVE GARDNER removed her objection.

[8:41:06 AM](#)

VICE CHAIR GATTO objected for discussion purposes.

[8:41:20 AM](#)

MS. SHOWS noted that the language of the amendment that is specific to police/fire is [subsection] (c). In response to a question from Vice Chair Gatto, she said Amendment 2 would apply to a police/fire defined contribution member hired after July 1, 2006. She continued:

They become disabled; they receive a disability benefit - the same disability benefit as their Tier III [defined benefit] colleague. And when they hit normal retirement age, at that point they make a decision: Do I want to collect a lump sum - my defined contribution account - or do I want to continue receiving a monthly benefit ... calculated in the same manner as my Tier III colleague when he or she retires?

[8:42:36 AM](#)

REPRESENTATIVE SEATON clarified as follows:

The only way this applies to any employee is, first of all, if they're hired after July 1, 2006, or if their employer elects to allow nonvested employees to convert from their defined benefit to a defined contribution plan and if that individual employee also elects to change. So, it's not forced on any employee; but it's not available to every employee either.

CHAIR SEATON offered further details.

VICE CHAIR GATTO delivered a caveat to his fellow police/fire workers to consider carefully before making elections that are irrevocable.

[8:44:23 AM](#)

REPRESENTATIVE SEATON proffered that before anyone will be making those elections, the Division of Retirement & Benefits will provide a personal spread sheet showing the outcome comparisons between a DC and DB plan.

8:45:09 AM

VICE CHAIR GATTO removed his objection to Amendment 2. There being no further objection, Amendment 2 was adopted.

8:45:37 AM

REPRESENTATIVE SEATON moved to adopt Amendment 3, which read as follows [original punctuation provided, but with some formatting changed]:

Page 10, following line 2:

Insert new bill sections to read:

**** Sec. 25.** AS 39.35.250(a) is amended to read:

(a) An employer shall make contributions to the plan in amounts determined in accordance with this section. For the purposes of this section, the past service date for each employer is the entry date of the employer or December 31, 1972, whichever is later. After December 31, 1972, if amendments to AS 39.35.095 - 39.35.680 are enacted that substantially affect benefits accrued before the effective date of the amendment, the past service date will be changed to December 31 of the year immediately preceding that in which the amendment is enacted. The contribution rate is the sum of the consolidated employer normal cost rate and the past service rate as certified by the board.

*** Sec. 26.** AS 39.35.250(b) is amended to read:

(b) In (a) of this section, "consolidated employer normal cost rate" means the percentage of compensation of all active employees in the plan which, if paid over the period of [THEIR] credited service of active employees in the plan after the [THEIR] past service date and when combined with all employee contributions to the plan, is sufficient to provide the benefits earned after such past service dates. This percentage is [UNIFORMLY] determined at the plan level for all employers and is applicable to each employer.

*** Sec. 27.** AS 39.35.250(c) is amended to read:

(c) In (a) of this section, "past service rate" means the percentage of compensation of all active employees in the system [PLAN] necessary to provide

the annual amount required to amortize the unfunded obligations of the employer for benefits earned by the employer's members in the plan before the [EMPLOYER'S PAST SERVICE DATE] date of the last actuarial valuation over a period not to exceed [40 YEARS] the maximum allowed by the governmental accounting standards board. [THE PERIOD OF AMORTIZATION BEGINS AT THE PAST SERVICE DATE OF EACH EMPLOYER.] The percentage is separately determined for each employer.

* **Sec. 28.** AS 39.35.270 (a) is amended to read:

(a) The amount of each employer's contributions shall be determined by applying the [EMPLOYER'S CONTRIBUTION] consolidated employer normal cost rate [,AS CERTIFIED BY THE BOARD,] to the total compensation paid to the employer's active employees of the [EMPLOYER] plan and by applying the employer's past service rate to the total compensation paid to the employer's active employees in the system for each payroll period [AND BY], including any adjustments to contributions required by AS 39.35.520 (a). This amount shall be remitted by the employer to the administrator in accordance with AS 39.35.610."

Renumber the following bill sections accordingly.

Reason: The current statutes defining contributions by employers calculate the contribution rates as a percentage of the "compensation of all active employees in the plan." The "plan" is defined as the retirement plan established under AS 39.35.095-39.35.680, or the DB plan. This amendment allows for the normal cost rate to be applied to the payroll base of the employer's DB plan members and the past service rate to be applied to the payroll base of all the employer's members in the system, thus keeping employer contribution rates for the DB plan lower than would otherwise be calculated.

Consequence: Employer rates for past service costs under the DB plan will continue to rise as the amortized liability is applied to a shrinking payroll paid to members of the DB plan. However, this will neither increase the employers [sic] liability nor will it relieve the employers of the liability, it merely restates the liability as a higher percentage of applicable payroll.

[8:45:49 AM](#)

REPRESENTATIVE GARDNER objected [for discussion purposes].

REPRESENTATIVE SEATON spoke to Amendment 3.

[8:46:42 AM](#)

MS. SHOWS confirmed that Amendment 3 defines the consolidated normal cost.

[8:47:10 AM](#)

REPRESENTATIVE SEATON, regarding changes to Section 27 as shown in Amendment 3, said the language is being changed to ensure that the legislation meets with "what's currently approved and will be approved in the future government accounting issues."

[8:47:54 AM](#)

REPRESENTATIVE GARDNER asked "if this is a reference to the possibility of having a ... later retirement date, later Medicare eligibility date - that kind of thing."

[8:48:12 AM](#)

REPRESENTATIVE SEATON answered no. He explained that there had been a word switch that had an unintentional consequence of not defining the entire wage base as being what will be used as the calculation of the cost rates.

[8:50:57 AM](#)

REPRESENTATIVE GARDNER removed her objection.

[8:51:05 AM](#)

VICE CHAIR GATTO objected for discussion purposes. He observed that many changes are being proposed and said it is difficult to collect all the data and review it.

[8:51:56 AM](#)

REPRESENTATIVE SEATON referred to the footnotes in Amendment 3 [showing the reason and consequence for the amendment].

VICE CHAIR GATTO removed his objection to Amendment 3. There being no further objection, Amendment 3 was adopted.

[8:53:11 AM](#)

REPRESENTATIVE SEATON moved to adopt Amendment 4, which read as follows [original punctuation provided, but with some formatting changed]:

Page 2, following line 11:

Insert new bill sections to read:

**** Sec. 2.** AS 14.25.070(a) is amended to read:

(a) An employer shall make contributions to the plan in accordance with this section and as certified by the board in an amount sufficient, after subtracting member contributions, to provide the benefits of AS 14.25.009 - 14.25.220. The amount shall be calculated by applying the normal cost rate to the sum total of the base salaries paid to members in the plan and by applying the past service rate to the sum total of the base salaries paid to members in the system[AN EMPLOYER CONTRIBUTION RATE, CERTIFIED BY THE BOARD, AGAINST THE SUM TOTAL OF THE BASE SALARIES PAID TO MEMBERS], including any adjustments to contributions required by as 14.25.173(a). This amount shall be remitted by the employer to the administrator in accordance with AS 14.25.065.

*** Sec 3.** AS 14.25.070 is amended by adding a new section to read:

(c) In (a) of this section, "normal cost rate" means the percentage of compensation of all active members in the plan which, when combined with the member contribution rate of active members in the plan, is sufficient to provide the benefits which are expected to be credited with respect to service during the year beginning after the last valuation date. This percentage is uniformly determined for all employers and is applicable to each employer.

*** Sec 4.** AS 14.25.070 is amended by adding a new section to read:

(d) In (a) of this section, "past service rate" means the percentage of compensation of all active members in the system necessary to provide the annual amount required to amortize the unfunded obligations of the employers for benefits earned by members in the

plan before the date of the last actuarial valuation over a period not to exceed the maximum period allowed by the governmental accounting standards board. This percentage is uniformly determined for all employers and is applicable to each employer."

Renumber the following bill sections accordingly.

Reason: The statutes defining contributions by employers reference contributions to the "plan," and specify that the employer contribution rate will be applied to the salaries paid to "members." The "plan" is defined as the retirement plan established under AS 14.25.009-14.25.220, or the DB plan. A member in the DB plan is defined as "a person eligible to participate in the plan and who is covered by the plan...". This amendment allows for the normal cost rate to be applied to the payroll base of the employer's DB plan members and the past service rate to be applied to the payroll base of all the employer's members in the system, thus keeping employer contribution rates for the DB plan lower than would otherwise be calculated.

Consequence: Employer rates for past service costs under the DB plan will continue to rise as the amortized liability is applied to a shrinking payroll paid to members of the DB plan. However, this will neither increase the employers [sic] liability nor will it relieve the employers of the liability, it merely restates the liability as a higher percentage of applicable payroll.

[8:53:38 AM](#)

VICE CHAIR GATTO objected for discussion purposes.

REPRESENTATIVE SEATON explained that Amendment 4 is the same as the previous amendment, but relates to TRS.

VICE CHAIR GATTO removed his objection to Amendment 4. There being no further objection, Amendment 4 was adopted.

[8:53:57 AM](#)

REPRESENTATIVE SEATON moved to adopt Amendment 5, which read as follows [original punctuation provided, but with some formatting changed]:

Page 2, line 27, following "plan":

Insert: ", applied as a percentage of compensation paid to members in the plan from July 1 to the following June 30,"

Page 11, line 11, following "plan":

Insert: ", applied as a percentage of compensation paid to employees in the plan from July 1 to the following June 30,"

Page 18, following line 21:

Insert new bill section to read:

"Sec. 51. Sec. 134 of ch.9, FSSLA 2005, is amended to read:

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

EMPLOYER CONTRIBUTIONS FOR OCCUPATIONAL DISABILITY AND DEATH BENEFITS IN THE PUBLIC EMPLOYEES' DEFINED CONTRIBUTION RETIREMENT PLAN FOR THE FIRST FISCAL YEAR THE PLAN IS IN EFFECT.

Notwithstanding AS 39.35.750(e), added by sec. 122 of this Act, for the first fiscal year in which the public employees' defined contribution retirement plan is in effect, the employer contribution to fully fund the cost of providing occupational disability and occupational death benefits under AS 39.35.890 and 39.35.892 shall be equal to

(1) 0.4 percent of the compensation for peace officers and fire fighters who are members in the plan; and

(2) 0.3 percent of the compensation for all other employees who are members in the plan."

Renumber the following bill sections accordingly.

[8:54:08 AM](#)

REPRESENTATIVE GARDNER objected for discussion purposes.

[8:54:17 AM](#)

MS. SHOWS stated that Amendment 5 clarifies how the first year of death and disability benefits for PERS and TRS members will be paid. She noted that [paragraphs] (1) and (2) in Section 51, as shown in Amendment 5, set out the percentage that will be paid in that first year. After that point, she explained, the percentage will be actuarially calculated. She said, "So, this is so we make sure we can start off with something in the pot."

[8:55:07 AM](#)

REPRESENTATIVE SEATON, in response to a question from Vice Chair Gatto, confirmed that village public safety officers (VPSOs) are not included in police/fire.

[8:55:14 AM](#)

VICE CHAIR GATTO remarked that medics are often included with police/fire, but historically that has not always been the case. He said he wants the definitions of terms to be clear in this regard.

[8:56:00 AM](#)

MS. SHOWS responded that the Division of Retirement & Benefits has prepared comments on the definition of peace officer.

[8:56:17 AM](#)

VICE CHAIR GATTO removed his objection to Amendment 5. There being no further objection, Amendment 5 was adopted.

[8:57:40 AM](#)

VICE CHAIR GATTO asked if there are other groups beside VPSOs that could approach the legislature and say they are qualified under these statutes.

[8:58:49 AM](#)

TRACI CARPENTER, Project Manager, Health Benefits Section, Division of Retirement & Benefits, Department of Administration, said the director of the Division of Retirement & Benefits is probably better qualified to answer that question. Notwithstanding that, she offered her belief that Section 45 of HB 475 is a duplication of a definition in statute and specifies the definition of a police officer and fire fighter. She said AS 39.35.680 lists the types of job classes considered to be

part of the police officer and fire fighter group. She said there certainly could be groups that could approach the division requesting to be included under that classification. She offered her understanding that juvenile probation officers have attempted that in the past.

VICE CHAIR GATTO asked if an animal control officer is considered a peace officer.

9:00:05 AM

MELANIE MILLHORN, Director, Division of Retirement & Benefits, Department of Administration, answered no. She stated, "The statute provides those classifications that are specifically identified as police and fire fighter, and the legislature has the purview to determine who will be included for police and fire fighters under that definition." She said the division looks at both the definition of police and fire fighters and the regulation that encompasses the body of work that is performed, in order to make a determination if an individual qualifies under that job category. She continued:

While VPSOs were asked to be included as part of police and fire fighters, the division sought a private-letter ruling to determine if they would be includable, or not, and the private-letter ruling in 2003 determined that they were not includable, because ... they're hired by village corporations. And because of that, the village corporation has control over village public safety officers, with regard to hiring and firing, and that is not under the control under [a] political subdivision or municipality, which would then allow them to be included in [the Public Employees' Retirement System (PERS)].

9:02:14 AM

MS. MILLHORN, in response to a question from Vice Chair Gatto regarding full-time, part-time, and volunteer work, said in order for an individual to receive PERS credit and service, he/she would have to meet all of the criteria in statutory definitions. In response to a follow-up question from Vice Chair Gatto, she confirmed that there is language in statute that refers to compensation.

9:03:03 AM

VICE CHAIR GATTO asked, "Based on that statement, who would be excluded in those categories?"

MS. MILLHORN asked for clarification.

VICE CHAIR GATTO responded as follows:

The paid people [are] not a problem. Then we have on-call people who are not paid unless they respond. They [get a] call at two in the morning; they go out for a traffic accident; they come back [and] they [get] \$25 or \$10 an hour - some number. Then there are people who get the same call, and respond, and come back, and receive zero [payment]. They do the same job. Are they both qualified under the statute to get the benefits?

9:03:30 AM

MS. MILLHORN replied, "I do not know that specific question given the scenario that you provided, but I would be happy to research it and get back to you."

VICE CHAIR GATTO added:

I think Chugiak Volunteer Fire Department has, certainly, paid personnel full-time - the fire chief, et cetera. ... They may have some on-call people who are paid all the time, but they have some ... people that will be there paid all the time, but not all. Similarly in [Matanuska-Susitna (Mat-Su)] where they're paid. Now those are all big communities.

The concern I have is what happens in Homer, ... Wrangell, ... [and] Nondalton; what happens in other places where ... departments, ... fire trucks, ... [and] training exists. They're volunteers, they show up, they do the job, they go home. Are they somehow excluded? And if so, there must be strong justification and it's probably already in the statute, but I'm not aware of having seen it yet.

9:05:00 AM

VICE CHAIR GATTO, regarding a previous question relating to surviving spousal benefits, said he wants to know if it is possible to "pay someone less than the amount they have earned

because they received an occupational disability ... past their normal retirement." In response to a question from Chair Seaton he said he is asking the question in relation to the defined benefit retirement plan.

[9:06:42 AM](#)

MS. CARPENTER offered the following:

Once a disabled member ... first qualifies for a normal retirement, that normal retirement - and I'll start with under the defined benefits plan right now - would then be calculated based on that member's highest years' salary, according to the formula, and the number of years of service. While that person is disabled, receiving ... disability benefits, those years ... of disability payments are counting towards service. So, once the person reaches a normal retirement age, based on their age and/or years of service, then it's a normal retirement calculation. If that person had been working for five years prior to the disability, then the division would take the highest three years, if that is the formula, for their tier, and use that salary to calculate the benefit. So, the disability benefit goes away and the normal retirement benefit is calculated.

[9:07:58 AM](#)

VICE CHAIR GATTO said that he had been considering a person who reached normal retirement, continued to work, and became disabled during the time working past normal retirement. He asked how that person's benefit is calculated.

[9:08:29 AM](#)

MS. CARPENTER answered that because that person has continued to work all those years, he/she is eligible for a normal retirement; therefore, the division would "use the highest salaries within the entire work history." In response to a question from Vice Chair Gatto, she said current statute defines disability as being permanent and total. In response to a follow-up question from Vice Chair Gatto, she said it seems reasonable that if a person is no longer able to work, a normal retirement - if that person was eligible for one - would be a better benefit than accepting a disability benefit.

9:09:09 AM

VICE CHAIR GATTO asked, "And so, is it the higher of the normal benefit or the disability benefit, or is it defined as the disability benefit?"

MS. CARPENTER answered, "I don't believe it is defined, but we can check with our retirement manager"

VICE CHAIR GATTO said, "That's the center of the question Given the circumstances where we're beyond the time of normal retirement and continue to work, what happens ... to them?"

9:10:29 AM

MS. CARPENTER, in response to a question from Vice Chair Gatto, stated that the surviving spouse does not receive the same retirement benefit as the deceased spouse. The benefit of the survivor depends on which joint survivor selection was made by the member, if any.

9:11:02 AM

VICE CHAIR GATTO said:

Let's just say, "No children [and] 100 percent [selection]." Could that 100 percent benefit recipient - the spouse who survives - actually get a lower pension under the circumstance of saying, "Well, they didn't work 20 years or 30; they actually worked 32," and there's a penalty for that that says, "Well, you worked 32 years, you got a certain pension, but your spouse, who at that moment is looking forward to your pension actually will get a reduction." That's the question. If so, I'd like to know that.

MS. CARPENTER stated her belief that the answer to that question is yes.

VICE CHAIR GATTO added, "But if they worked exactly the number of years required, then the spouse receives no reduction in pension. Is that true?"

MS. CARPENTER offered her understanding that the surviving spouse always receives a lower benefit than the member under the normal retirement scenario.

[9:12:08 AM](#)

VICE CHAIR GATTO responded that he doesn't think that's true. He offered his understanding that if a person reaches normal retirement, retires, and then dies, that person's spouse would receive that person's pension.

[9:12:26 AM](#)

MS. MILLHORN [shook her head no]. She explained that if a member chooses a joint survivor benefit at retirement, then dies, the benefits are then "actuarially reduced from what it would be normally" and the spouse would receive a lifetime monthly benefit equal to 75 percent [of the deceased member's benefit].

MS. MILLHORN, in response to questions from Vice Chair Gatto, reviewed that the election for joint survivor benefit is irrevocable, and there are three percentages from which to choose: 75 percent, 50 percent, and 66.66 percent. She explained that there is a section within the division that - at the time that a member is contemplating retirement - will calculate the member's benefits under normal retirement, calculate joint and survivor options for all three percentage options, and present those options to the member. The member will then consider those options, look at the benefits that correspond to each one of the elections, and "make a financial decision based on the information and the projections about what those benefits will be for themselves and their spouse."

[9:15:57 AM](#)

MS. MILLHORN, in response to a question from Vice Chair Gatto, explained that when a member who had selected the 66.66 percent joint survivor option amount dies, his/her spouse would "receive a reduced benefit from the 66.66 amount."

[9:16:26 AM](#)

VICE CHAIR GATTO asked, "So, why would a person pick anything less than the highest 75 [percent amount]?"

[9:16:39 AM](#)

MS. MILLHORN indicated that it is the "financial dollar amount" that helps a member make his/her election. She offered to

provide some example projections to Vice Chair Gatto for clarification purposes.

[9:17:03 AM](#)

REPRESENTATIVE SEATON reiterated Vice Chair Gatto's question and asked for further clarification.

[9:17:37 AM](#)

MS. MILLHORN clarified as follows:

If you chose a 50 percent joint and survivor option, the benefit is actuarially reduced from what it would be normally. So, you're looking at the age of the member, you're looking at the age of the spouse, and it is actuarially reduced, because you are selecting a joint survivor option. Based on that, should that member perish, then that calculation reduces for the survivor benefit amount. So, first of all, they're looking at the member's age, they're looking at the spouse's age, and they are making a projection that is the 50 percent amount. But that's actuarially reduced from your normal retirement and benefit amount, because it contemplates that should the member perish, it has a lifetime benefit for the spouse, as well.

[9:18:47 AM](#)

MS. MILLHORN, in response to a question from Representative Seaton, she said the percentage chosen for the spouse to receive is for the lifetime of the spouse and is received as a lifetime annuity payment.

REPRESENTATIVE SEATON said he thinks the committee needs the scenarios brought to them.

[9:20:39 AM](#)

REPRESENTATIVE SEATON, in response to an interchange between Vice Chair Gatto and Ms. Millhorn, using an example amount of \$3,500, said:

I think I'm understanding now. So, what you're saying is you get to normal retirement age and you say, "I want the \$3,500, and that's going to be for my lifetime, and when I die - we've been getting \$3,500 a

month, and that's it. When I die there's nothing else there." Or, I can say, "Instead of having \$3,500 a month, I want to have half of that now, but that will continue for the lifetime of my spouse - that same benefit." Or, if we wanted 75 percent, we'd say, "Okay, we're going to have 75 percent, but when I die, for the lifetime of my spouse, ... because we're taking 75 percent of the money now, there'll be a much reduced rate that my spouse will take." And that those options are the same as two-thirds, so that those options are selected by me at the point of retirement and that will determine the amount of cash I get now based on what I think will happen in the future.

[9:21:43 AM](#)

MS. MILLHORN responded:

I think you've summed that up correctly. Each one of those survivor options has a reduced benefit to the survivor, but in order to select that option, it's a reduced amount from the normal retirement amount. Because you're taking care of your spouse for her lifetime, as well, and she may live longer - or he.

[9:22:24 AM](#)

MS. MILLHORN, in response to a question from Vice Chair Gatto, said if a member who is married retires and selects a joint survivor benefit, that benefit will remain with the original spouse in the event that the member divorces and remarries. In response to a follow-up question from Vice Chair Gatto, she said those criteria are found in a qualified domestic relations order (QDRO - pronounced "quadro").

[9:23:23 AM](#)

REPRESENTATIVE GARDNER stated her understanding that HB 475 is intended to correct scenarios overlooked by SB 141. She told Ms. Millhorn that if that is an accurate assessment, then she would like to know if there are any other areas that need to be addressed.

[9:24:02 AM](#)

MS. MILLHORN concurred that the intent of HB 475 is to clarify provisions in SB 141. Furthermore, the amendments that the committee addressed today would add additional benefits. She said the bill is pretty broad. She said there could be some issues that still need to be addressed that may surface through conference with the Department of Law and a legal tax advisor; although there may be none. She said there are many questions currently up in the air.

[9:25:39 AM](#)

REPRESENTATIVE SEATON told Representative Gardner that the only other issue that he is aware of that needs to be addressed is related to termination of the plan. He explained that currently employers under the defined benefit (DB) plan can terminate their participation in the plan, and that would still remain in effect [in SB 141]; however, he said, "We don't have a corresponding election to terminate under the [defined contribution (DC)] portion."

[9:27:06 AM](#)

VICE CHAIR GATTO, bringing the discussion back to spousal benefits, told the committee about a firefighter who had not been much more than a year on the job and was newly married when he was killed in the line of duty. He offered his understanding that because the man died in the line of duty, an amount of 66.66 percent would go to his surviving spouse. He asked Ms. Millhorn to confirm if that is true.

[9:28:06 AM](#)

MS. MILLHORN reiterated her offer to have information put together for Vice Chair Gatto that would answer heretofore-unanswered questions.

[9:28:34 AM](#)

VICE CHAIR GATTO listed some of the various possibilities related to retirement benefits. He stated his concern is what will happen to his spouse upon his death. He said he did not know until recently that her benefits would be a reduced amount. He said he would like everything to be as clear as possible for members making one-time elections.

[9:30:31 AM](#)

REPRESENTATIVE SEATON reminded Vice Chair Gatto that the elections he has been discussing with Ms. Millhorn "are under [the] DB plan ..., if you're not talking about the death and disability function." He said under the DC plan there will be "a known amount that will flow 100 percent to your spouse." He added, "And so, there won't be that same kind of election unless you select to have an annuity plan, which was an option as well."

[9:31:49 AM](#)

MS. CARPENTER, in response to a question from Vice Chair Gatto, stated her understanding that at the last committee hearing on HB 475 there was some concern expressed that "what we might be doing is somehow precluding persons with teachers' certificates from participating in ... TRS." She said that is not the case. Ms. Carpenter explained that "this section" is intended to clarify that under PERS statute, the terms "member" and "employee" are interchangeable and mean a person who is eligible to participate in PERS.

[9:32:29 AM](#)

VICE CHAIR GATTO recollected that his issue had been that a teacher is a certified employee, but there are certified employees that are not teachers. He asked, "Is that our intent to include certified employees even though they're not a classroom teacher?"

[9:33:05 AM](#)

MS. CARPENTER responded, "This section does not deal with that issue. The term 'teacher' is defined under ... TRS statutes and ... includes persons who hold a teacher's certificate and includes such persons as school nurses and others under the list who are required to hold a certificate." She said that the intent of "this particular provision under PERS" is to clarify that those employed with the Department of Labor and with the Department of Education, who are required to hold teachers' certificates for those positions, are by definition included in TRS.

[9:34:36 AM](#)

VICE CHAIR GATTO hand the gavel back to Chair Seaton.

[9:34:54 AM](#)

DORIS ROBBINS, testifying on behalf of herself, noted that she is a the legislative chair for the Retired Public Employees of Alaska. She noted for the record that the average retirement salary is more like \$1,500 than the \$3,500 used in the previous example.

CHAIR SEATON explained that had just been a number pulled out of a hat for example purposes.

MS. ROBERTS stated her great concern about the need for such legislation as HB 475. She questioned why due care was not taken before passing SB 141.

CHAIR SEATON said the committee does not have SB 141 before it, but is looking at some technical amendments for HB 475. He said he would like feedback from the public regarding the amendments that are being proposed.

MS. ROBBINS explained that she is concerned that [the legislature], with its attention on current oil legislation, is "still not going to get it right." She noted that she and another RPEA member met with Senator Gary Wilken regarding a statement he had made that benefits are bulletproof and "we would be inflation-proofed with SB 141 in place." Ms. Robbins continued:

But there's a statement in the bill that says the financial condition of the fund would only permit an increase in benefits [if] the ratio of the total fund assets of the accrued liability meets or exceeds 105 percent. And we just wondered if ... HB 475 would be trying to correct that.

Now, we did get a clarification back through ... Senator Wilken's inquiry that, yes, we would be affected by that and may not receive inflation proofing, and I would like to have more information about that from you today.

MS. ROBBINS recommended passing SB 293, which would postpone implementation [of SB 141]. She said she is concerned about possible legal problems that may arise with the federal government in regard to SB 141. She asked, "How can you know that contribution rates are accurate if you don't have the latest actuarial report." She said she is speaking of

corrections such as HB 475, but she is concerned that "you may not get them all done."

9:39:38 AM

CHAIR SEATON noted that the actuarial calculations are handled by the Alaska Retirement Management (ARM) Board, which he said supersedes the Alaska State Pension Investment Board (ASPIB) and the Teachers' Retirement System Board. Those calculations are not done by the legislature, he clarified.

9:40:03 AM

MS. ROBBINS stated her understanding that the ARM Board does not yet have regulatory authority, and she asked, "Are you going to be able to help them with that?"

9:40:25 AM

CHAIR SEATON said he would look into that issue, as well as the issue regarding inflation proofing to which Ms. Robbins previously referred. Chair Seaton surmised that, regarding the latter issue, Ms. Robbins must have been talking about the post retirement pension adjustment (PRPA).

MS. ROBBINS said yes.

9:40:35 AM

CHARLES GALLAGHER, testifying on behalf of himself, noted that he is the Northern Region's chair of the Retired Public Employees of Alaska. He indicated that SB 141 and the amendments of HB 475 are confusing. He said the amendments were presented to the RPEA two weeks ago during its biannual convention in Juneau. He stated that it appears that many people do not understand "this." He referred to a handout in the committee packet that he had provided to the committee [regarding PRPA], and in particular he referred to the third page of the handout, which he said details the subject of inflation proofing. He continued:

The 105 percent provision precludes inflation proofing at 100 percent. The dollars that will affect you, Representative Gatto, are substantial, and ... I have never seen them come out like this: Between 1997 and 2002, when that PRPA was paid, it inflation-proofed with the figures I was able to get at 15 percent. ...

I think the average retirement pay per year is about \$20,000 in our 30,000 members [who are] retirees. If you were receiving that, you would lose, in that period of time of loss, \$3,000 per year in inflation proofing. That's a substantial amount.

[9:43:21 AM](#)

CHAIR SEATON noted that PRPAs have not been paid in the last three years because of the underfunded status of the plan, not because of SB 141. He said SB 141 gave legislative direction regarding when [the PRPAs] could be paid and the committee will consider that issue. He concluded, "That's not a technical amendment to the bill; that's a policy call. And we're trying to ... make this a technical bill for corrections and conflicts within the different sections of the bill to make sure everything comes out."

[9:44:29 AM](#)

CHAIR SEATON closed public testimony. He noted that the amendments would be made available online on his web site.

CHAIR SEATON announced that HB 475 was heard and held.

HB 383-MOTOR VEHICLE TRANSACTIONS

[9:46:16 AM](#)

CHAIR SEATON announced that the last order of business was HOUSE BILL NO. 383, "An Act limiting motor vehicle dealer charges for fees and costs; relating to the disclosures required for certain motor vehicle transactions; and requiring consumers to be informed of finance charges paid to a motor vehicle dealer by a financing institution on the sale of a used motor vehicle."

[Before the committee was the CSHB 383(TRA).]

[9:46:21 AM](#)

REPRESENTATIVE LES GARA, Alaska State Legislature, testified as sponsor of HB 383. He said the bill would provide for full information to be disclosed to consumers buying cars. He explained that presently there are two fees that many car dealers charge that are "somewhat hidden." The first fee is a document ("doc") fee. He said the legislature thought it had banned doc fees in 2002, but had not written the language in the

legislation tight enough. The second issue is what's known as a dealer reserve.

REPRESENTATIVE GARA, regarding the definition of a dealer reserve, explained that a car dealer will often offer a loan through a bank. The percentage listed appears to be the bank's rate; however, the dealer is often taking a cut from that percentage. The consumer thinks that is the rate that the bank is offering, so he/she doesn't bother shopping around. The bill would require any dealer who charges a higher loan rate than what the bank is charging to provide that information to the customer. He noted that a case in Anchorage that brought the bill to light cost the consumer approximately \$900.

[9:49:24 AM](#)

REPRESENTATIVE GARA, regarding the doc fee, said that a consumer and dealer will negotiate a price for a vehicle, but often when the consumer sits down to sign the deal, he/she will find an additional fee has been added. The consumer is often told that the doc fee is nonnegotiable. Many consumers think that the doc fee is a government fee and some car dealers don't dissuade their customers from believing that. The bill would require any nongovernmental fees to be included in the advertised and the negotiate price.

REPRESENTATIVE GARA stated that both provisions are issues of full disclosure; they don't change what a car dealer can charge. The adoption of the proposed honest policy, he said, can save constituents up to \$1,500.

[9:51:51 AM](#)

CLYDE (ED) SNIFFEN, JR., Assistant Attorney General, Commercial/Fair Business Section, Civil Division (Anchorage), Department of Law, echoed Representative Gara's remark that the original statute drafted in 2002 was intended to allow car dealers to charge a doc fee, but that that doc fee be included in the advertised price. What is happening now, he explained is that dealers who included the doc fee in the advertised price are negotiating a lower price with the customer and then adding the doc fee back in. The distinction is being made between "advertised" and "negotiated" price. He said he thinks that HB 383 would resolve that issue.

[9:53:20 AM](#)

REPRESENTATIVE LYNN asked how common a practice it is for the bank rate listed to include a cut for the dealer.

[9:53:43 AM](#)

REPRESENTATIVE GARA responded that he doesn't know how common the practice is, but he said he knows that a couple of the major dealers in Anchorage do it.

[9:54:09 AM](#)

MR. SNIFFEN offered his understanding that the majority of dealers use a dealer reserve; however, he noted that some don't and use that fact in advertising.

[9:54:45 AM](#)

REPRESENTATIVE LYNN asked what the difference is "between this practice ... and misrepresentation."

[9:55:02 AM](#)

REPRESENTATIVE GARA said there are lawyers who say "both the doc practice and the dealer reserve practice is illegal" because they are fraudulent practices. He said there is no Alaska Supreme Court decision on that issue. He added, "Rather than just wait for the courts to rule on it, ... what we want to do is ban it outright in the statute so there's no question." He noted that there is a press article in the committee packet.

[9:55:38 AM](#)

REPRESENTATIVE LYNN indicated that he is a proponent of full disclosure, not only for elected officials, but also for those who do business with the public.

[9:55:54 AM](#)

REPRESENTATIVE GATTO asked what is so wrong with letting the consumer end negotiations if he/she doesn't agree with the doc fee being charged.

[9:56:43 AM](#)

MR. SNIFFEN responded that the problem with the doc fee is that the car dealerships present them to the customer as "some kind of additional fee that the dealer is paying to a third party."

For example it may be disguised as a governmental fee. He said more sophisticated consumers may offer a firm price and tell the dealer that it has to include all fees, but less sophisticated consumers don't take that approach and are led to believe that the doc fee is one over which they have no control. Mr. Sniffen said [that misrepresentation] is really the issue at hand.

[9:58:09 AM](#)

REPRESENTATIVE GATTO said he has experienced having a dealer tell him that there is nothing that can be done about doc fees. He asked Mr. Sniffen if that dealer committed some violation by making that statement.

[9:59:07 AM](#)

MR. SNIFFEN answered yes. He said the scenario that Representative Gatto just described is fraud, and Representative Gatto could sue that dealer for three times the amount of the actual damages, plus full reasonable attorney fees if he could prove the dealership actually said the aforementioned.

[9:59:19 AM](#)

JIM ARPINO stated that he was testifying on behalf of both Affordable Used Cars, Fairbanks/Anchorage, and the Alaska Auto Dealers Association (AADA). He said the doc fee is 100 percent profit, which is nice because of all the costs of running a business. Regarding financing, he said car dealers arrange loans all day long and make money on it. Regarding consumers, he emphasized that they are educated. Mr. Arpino said there are 625 books available through Amazon.com on buying a used vehicle. Furthermore, there are 160 million sights on the Internet on how to buy a used car.

[10:02:47 AM](#)

MR. ARPINO, in response to a question from Chair Seaton, said what presents a problem in the bill is the definition of a negotiated price. He said if someone asks what the doc fee is, "we tell them it's profit - it goes in our pocket." He said, "There's never any misunderstandings about whether it's a fee that goes to a government agency; Mr. Sniffen's made it very clear that's not the way he wants it portrayed." Mr. Arpino said there are other businesses that have "doc-related" fees. He offered an example.

[10:03:55 AM](#)

CHAIR SEATON asked Mr. Arpino to specify whether or not he is opposing disclosure.

[10:04:22 AM](#)

MR. ARPINO said "we" want to continue to be able to add the doc fee back in after negotiations. He stated, "That's the beauty of free society." He said he thinks the legislature is sticking its nose in a little too far. He added, "If you're going to pick on this industry, you better start going after all the other ones - and there's multiples of them."

MR. ARPINO, in response to a series of questions from Representative Lynn, confirmed that the dealer markup price is pure profit above the suggested retail price (SRP) and is not a hidden amount. To Representative Lynn's suggestion that it would be more honest to treat the doc fee in the same way, he said the doc fee is not hidden at all. He said in his 13 years at his job he has not had any complaints about the doc fee. He stated, "I do oppose [the bill's proposal to mandate exposure of the doc fee]; we would want to continue to add that in ... on the negotiated price." He added, "And it's not a matter of honesty; it's in the contract. It's right there, everybody reads it, it's explained properly, and it's never really been an issue until recently." He said most consumers, including him, don't read the fine print in contracts, but he said he knew during a recent purchase of a snowmobile that he was paying a document fee.

[10:06:56 AM](#)

CHAIR SEATON asked Mr. Arpino if he also opposes the bill's proposed requirement to disclose the percentage of interest [that the car dealers may charge above the bank's fee].

[10:07:20 AM](#)

MR. ARPINO said he does oppose that proposal, because the interest added to the bank fee is "another facet of our business that we make money on." He said there are a lot of rates available, some through the Internet, and it can be confusing for the consumer.

[10:08:01 AM](#)

CHAIR SEATON said he recognizes that most people finance through the car dealership because they appreciate the service that is offered at that dealership.

[10:08:30 AM](#)

MR. ARPINO added that when the consumer makes the commitment to buy, he/she is happy with the deal, including the doc fee and interest rate. If the consumer finds out later that a better deal could have been made by financing elsewhere, he/she has the option at that point to finance elsewhere.

[10:08:46 AM](#)

REPRESENTATIVE GARDNER disputed Mr. Arpino's statement that when asked, dealers will disclose that the doc fee is profit. She said, "We had several dealers on the phone in this committee on another bill not too long ago, and we asked them many times about the doc fees and were told that it was for this, that, and the other. And I specifically asked one woman to send us a description of the kinds of things it covered, and at that time, nobody was willing to say it was pure profit.

[10:09:23 AM](#)

MR. ARPINO responded that it's a matter of what is done with that profit. For example, he said it could be used to pay clerical fees. Each dealership will use it for a different purpose, he said.

[10:09:35 AM](#)

REPRESENTATIVE GARDNER responded, "That's fine, but the dealers who were on the phone at that time didn't acknowledge that it was pure profit; they were saying that it covered specific costs."

CHAIR SEATON said that issue could be part of committee discussion.

[10:09:45 AM](#)

JOHN COOK, Legislative Director, Alaska Automobile Association, said he was testifying on behalf of the association, and also on behalf of Aurora Motors. He stated that he fully supports the concept of the bill but doesn't support the bill as presently worded, because it is discriminatory towards the automobile

industry. He said the bill is loosely worded and there are already statutes in existence that address fraudulent activities, deceptive practices, and truth in lending disclosures. Mr. Cook said he has been charged doc fees by snowmobile dealers, rental car agencies, and by an hotel. Any business that arranges financing for any consumer participates in some sort of dealer reserve, yet only car dealers are being targeted by HB 383. He said the market will prevent a dealer from charging too high a doc fee or from trying to retain too much dealer reserve; consumers will walk away.

MR. COOK stated his concern that there is no legal definition of "negotiated price." He said he has asked Mr. Sniffen for a definition, but has not yet received it. He revealed that he is a certified public accountant (CPA) and classifies a doc fee as "revenue or other income." Regarding interest rate disclosures, he stated his concern that the bill puts the dealer in a fiduciary position with regard to the customer; it would take the dealer a step towards having to go out and seek the lowest possible financing for consumers.

[10:14:04 AM](#)

CHAIR SEATON asked Mr. Cook if he sees the bill as limiting the interest that can be charged or just requiring that the dealers disclose the additional interest that is added.

[10:14:26 AM](#)

MR. COOK replied that he doesn't see the bill as limiting the interest. In response to a question from Representative Ramras, he said the discount rate that the banks charge is "three points less than prime."

[10:14:41 AM](#)

REPRESENTATIVE RAMRAS said any business that borrows from a bank has the same relationship that a car dealer has with it's customer; it can "enjoy funds at one rate and then ... mark up those funds to a customer." The rate turns out to be subjective, he said. He stated, "I've never gotten that much disclosure from my banker."

[10:15:53 AM](#)

MR. COOK responded that he has not either. He said the banks are regulated federally, and "their reasoning for anything is

that they're not subject to state regulation regarding any of these matters." He noted that when he bought a house he wasn't told what the cost of funds were, and when he bought many other things on credit he never had it disclosed to him "that there were lower loans available or what the cost of funds were."

[10:16:08 AM](#)

REPRESENTATIVE RAMRAS responded that that is his point. He stated that although his concern is in regard to usurious interest rates and having consumers taken advantage of, he has been manipulated by his "series of banking relationships over the last 20 years." He clarified his point is that the same relationship occurs between banks and other proprietors as exists between a car dealership and its customer.

[10:17:17 AM](#)

MR. COOK responded that that's correct.

[10:17:29 AM](#)

REPRESENTATIVE LYNN said he agrees that similar fees are charged in other industries. He asked Mr. Cook if he thinks the legislature should not fix one problem without first fixing all the rest.

[10:18:15 AM](#)

MR. COOK answered no, but said he knows many other industries that "have the exact same practices." He said he believes there are statutes in existence that already govern doc fees. He stated that over 14 years in business and with an excess of 1,500 transactions per year, he has never received a customer complaint relating to doc fees.

[10:19:00 AM](#)

CHAIR SEATON closed public testimony.

[10:19:22 AM](#)

REPRESENTATIVE LYNN rephrased his previous statement about having to fix all problems at once.

[10:19:57 AM](#)

REPRESENTATIVE GARDNER said she wants to underline that HB 383 does not prohibit practices; it just asks for disclosure.

10:20:36 AM

REPRESENTATIVE GATTO said he makes a distinction between a consumer and a business. The latter has a business plan, negotiates a loan from the bank, and the amount of the loan payment is clearly identified. If there is a doc fee there, it's part of the loan amount. Conversely, the individual who goes to a car dealer goes rarely. That individual is used to going to a doctor and paying a high fee, but is not asked for a doc fee added on by that doctor. There are also no doc fees added at the grocery store. He offered his understanding that the issue of the bill is that it is all right to charge a doc fee, as long as it is disclosed.

10:21:56 AM

REPRESENTATIVE RAMRAS revealed that he just bought a car in Juneau for \$3,000. He paid a 5 percent sales tax fee to the City of Juneau, a \$200 doc fee, and a \$15 title fee. He said when he asked the dealer what a doc fee is, he was told that it is profit. He said restaurants do not disclose their costs, versus their profits. He offered other examples. Representative Ramras stated that he hates to see the car industry demonized.

10:24:10 AM

CHAIR SEATON said the bill definitely has two components: the doc fee and financing. He stated his hope that between the present time and the next time the committee hears the bill, feedback from consumers will come be forthcoming. He said he thinks the testimony heard from the car dealers so far has been legitimate. The proposed legislation would require that the dealership tell the person being financed "what your cost of money is and not what you're giving to the consumer." He said it seems that in regard to the finance rate, full disclosure exists.

10:26:13 AM

CHAIR SEATON, in response to a question from Representative Gardner, said although he closed public testimony, he would encourage people to send e-mails to his staff and would even consider opening public testimony again if the need arises.

10:26:26 AM

REPRESENTATIVE GARA said the bill would not require car dealers to disclose how much money they are making, but just to disclose that there is a difference between what they are charging the consumer and what the bank offered them. The reason behind that proposed requirement is that the car dealer scenario is much different than the bank scenario that was previously mentioned. He continued as follows:

When you go to a bank, the bank is not representing to you that the Federal Reserve Bank is charging this amount, that's why I'm charging you this amount. When you go to a bank, the bank says this is what the bank is charging you. It would be fraudulent if they said this is what the Federal Reserve Bank is charging.

What's going on in the car dealer situation is very similar to as if a bank told you this is what the Federal Reserve Bank is charging us, when that's not true. The car dealer is charging you 5.5 percent, let's say - and that's fine - but what it says in there is 5.5 percent by ... First National Bank ... [for example]. The consumer reasonably believes that that's the amount that those banks are charging. In fact, it's not.

So, that's the big difference. There's an implication to the consumer that the bank is charging those rates when they're not. And so, that's why the disclosure is required here. ... There's a benefit to a consumer to have the dealer arrange the financing through the bank so they don't have to run back and forth. That's up to the consumer whether they want to pay the extra money to save that time All we want to do is let them know: If you want to run back to the bank, you might get a better deal; it's up to you.

10:28:24 AM

REPRESENTATIVE GARDNER said, "I think ... just the fact that the doc charge is listed with the sales and registration fee - both of which go to other entities - ... is misleading to the consumer. And there's an assumption, 'Oh yeah, these are all the other fees that are not [related to] the dealer.'"

10:28:58 AM

CHAIR SEATON announced that HB 383 was heard and held.

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 10:29:01 AM.