

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3345 227

**SB**

**122**

**SFIN**

**FILE**

Grier Hopkins - testimony response to Sen. Steedman

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From: Steve VanSant [steve\_vansant@commerce.state.ak.us]  
 Sent: Tuesday, March 27, 2007 11:23 AM  
 To: Grier Hopkins  
 Subject: Re: municipal property exemptions  
 Attachments: Table 2 -2006.pdf; Table 1 -2006.pdf; steve\_vansant.vcf

Grier,

The following municipalities have authorized the \$20K residential exemption:

North Slope Borough - A flat \$20K exemption regardless of value - 2006 cost \$1,796,276

Fairbanks North Star Borough - 20% of assessed value up to \$20K - 2006 cost \$261,583,315

Municipality of Anchorage - 10% of assessed value up to \$20K - 2006 cost \$917,909,785

City of Valdez - 30% of assessed value up to \$20K - 2006 cost \$9,339,771

Kenai Peninsula Borough A flat \$20K exemption regardless of value 2006 cost \$182,351,500

Bristol Bay Borough - A flat \$10K exemption regardless of value 2006 cost \$750,000 (This is the only borough to limit the exemption to \$10K)

As far as the mill rates go, all I have is last years rates which are in Alaska Taxable, Table 5 which reflect the following:

Anchorage	15.28 mills
Bristol Bay Borough	13 mills
FNSB (city of Fairbanks)	19.623 mills
Kenai Pen. Bor (City of Kenai)	12.10 mills
North Slope Borough	19.05 mills
City of Valdez	20 Mills

Municipalities with sales taxes are listed in Table 1 & 2 of Alaska Taxable. I have attached copies of those two tables. I hope this helps and if you need more info, please feel free to contact me.

Steve

Grier Hopkins wrote:

3/27/2007

# Allowable Municipal Property Tax Exemption Increase

Prepared 1 February 2008 by Jennifer Yuhas,  
Special Assistant to Fairbanks North Star Borough Mayor / FNSB Legislative Liaison  
907.388.7951 / jyuhas@co.fairbanks.ak.us

## Purpose:

- Allows municipalities to exempt the first \$100K from the value of a residential property before levying taxes upon that property.
- Requested by Fairbanks North Star Borough to offset rising cost of energy paired with rapidly rising property valuations in response to public concern.

## Optional:

- Each municipality would acquire the option to increase the allowable exemption to \$100K only by municipal vote.
- Option already exists for up to \$20K
- Change only affects the amount allowable, increasing it from \$20K to \$100K

## Other:

- Each municipality will have the burden to manage diversification of revenue or retraction of services associated with implementation of an increased exemption.
  - Options include but are not limited to the following:
    - Reduction of services / decreased budget
    - Shifting tax burden to non-residential properties
    - Implementing sales, gross receipts, or other taxes
- Issues associated with implementation will be discussed at the local level through the election process prior to adoption
- Similar legislation passed unanimously 2004 increasing \$10K to \$20K
- The FNSB Assembly has allocated \$150K to ballot initiative 2008.  
Support: Anchorage, et al
- Only community on record opposing = Kenai Peninsula Borough:  
testimony (H)C&RA = cited fear voters would insist on option if option existed.

# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: SB 122  
(S) Publish Date: 2/6/08

Identifier (file name): SB122-CED-CRA-02-04-08 Dept. Affected: DCCED  
Title: Municipal Property Tax Exemption RDU: Comm Asst & Ec Dev (405)  
Component: Community & Regional Affairs  
Sponsor: Thomas  
Requester: Senate Community & Regional Affairs Component Number: 2879

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

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
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>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>								
<b>CHANGE IN REVENUES (1004)</b>	<b>0.0</b>	<b>0.0</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
<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>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time							
Part-time							
Temporary							

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

This legislation would grant municipalities the option to exempt from taxation up to \$100,000 of residential property value. The current amount of the optional exemption is \$20,000 of property value. The option would need to be implemented by ordinance ratified by voters at an election. Any fiscal impacts to municipalities would depend on how they write the ordinance and how much exemption they choose. This bill will have no fiscal impact on the Division.

If municipalities with oil and gas properties increase their mill rates to offset revenue losses resulting from the increased residential property tax exemptions, the Division estimates that this legislation could cost the State up to \$3 million annually in lost oil and gas property tax revenues.

Prepared by: Tara Jollie, Director  
Division: Community and Regional Affairs  
Approved by: Emil R. Notti, Commissioner  
Commerce, Community, and Economic Development

Phone 907.269.7959  
Date/Time 2/4/08 7:42 PM  
Date 2/4/2008

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By: Charlie Rex  
Tim Beck  
Luke Hopkins  
Mike Musick  
Nadine Winters  
Hank Bartos  
Torle Foole  
Valerie Therrion  
Introduced: 02/22/07  
Adopted: 02/22/07

FAIRBANKS NORTH STAR BOROUGH  
RESOLUTION NO. 2007 - 06

A RESOLUTION REQUESTING THE ALASKA STATE LEGISLATURE TO AMEND AS29.45.050(A) TO INCREASE THE RESIDENTIAL PROPERTY TAX EXEMPTION ALLOWABLE TO \$50,000

WHEREAS, AS29.45.050(a) states "A municipality may exclude or exempt or partially exempt residential property from taxation by ordinance ratified by the voters at an election. An exclusion or exemption authorized by this subsection may be applied with respect to taxes levied in a service area to fund the special services. An exclusion or exemption authorized by this subsection may not exceed the assessed value of \$20,000 for any one residence" and

WHEREAS, property owners in the Fairbanks North Star Borough have seen substantial increases in assessed valuations, thereby increasing their tax bills; and

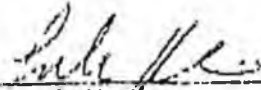
WHEREAS, along with increased assessments, residents have also faced skyrocketing heating fuel and gasoline prices; and

WHEREAS, an increase to the residential property tax exemption would help to ease the rising costs associated with owning a home in the Fairbanks North Star Borough; and

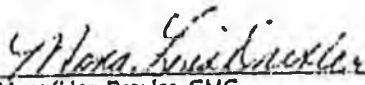
WHEREAS, the local tax base needs to be diversified so residential property taxes can be reduced; and

NOW, THEREFORE, BE IT RESOLVED the Assembly of the Fairbanks North Star Borough respectfully requests the Alaska State Legislature to amend AS29.45.050(a) to increase the residential property tax exemption allowable to \$50,000.

46 BE IT FURTHER RESOLVED, that copies of this resolution shall be sent  
47 to the Alaska Interior Delegation,  
48  
49 PASSED AND APPROVED THIS 22<sup>nd</sup> DAY OF FEBRUARY 2007.

  
\_\_\_\_\_  
Luke Hopkins  
Presiding Officer

ATTEST

  
\_\_\_\_\_  
Mona Lisa Drexler, CMC  
Municipal Borough Clerk

50  
51 Ayes: Bartos, Beck, Foola, Winters, Musick, Therrien, Rex, Hopkins  
52 Noes: Frank



# KENAI PENINSULA BOROUGH

## EFFECTS OF INCREASED RESIDENTIAL EXEMPTIONS

Assessed Residential Values 2007 (not certified)				Taxable Values After Exemption			
<u>Count</u>	<u>Imp</u>	<u>Land</u>	<u>Total</u>	<u>20K</u>	<u>50K</u>	<u>75K</u>	<u>100K</u>
9,303	1,370,400,300	239,113,600	1,609,513,900	1,424,391,100	1,157,083,700	947,915,600	754,040,900
				Exempted Values			
				<u>20K</u>	<u>50K</u>	<u>75K</u>	<u>100K</u>
				185,122,800	452,430,200	661,598,300	855,473,000



# Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-6650 • Telephone: (907) 343-4431 • Fax: (907) 343-4499 <http://www.muni.org>

*Mayor Mark Begich*

Office of the Mayor

February 5, 2008

The Honorable Joe Thomas  
Alaska State Senate  
State Capitol, Room 510  
Juneau, AK 99801

The Honorable Scott Kawasaki  
Alaska State House of Representatives  
State Capitol, Room 428  
Juneau, AK 99801

Dear Joe and Scott,

I write to lend my support to legislation you have introduced – Senate Bill 122 and House Bill 199 – which would help provide sorely needed tax relief to Alaska property taxpayers.

As you know, property taxes comprise the largest source of revenues to fund local government services across Alaska. Unfortunately, many Alaska taxpayers have seen their property taxes continue to increase. That is certainly the case here in Anchorage.

Three years ago, at my request and with the concurrence of our Assembly, Anchorage voters overwhelmingly approved taking advantage of the Legislature's option to exempt the first \$20,000 of their property from taxation. Many Anchorage property taxpayers have requested an even greater exemption, so I am pleased you have introduced legislation to increase that amount to \$100,000. I commend you for giving local government the option to grant residential property tax exemptions.

I am pleased to assist you both in whatever ways would be useful to pass this important legislation during this session. Thank you again for introducing these important bills.

Sincerely,

Mark Begich  
Mayor

CC: Members, Anchorage Assembly  
Members Anchorage Legislative Delegation

*Community, Security, Prosperity*



**Daily News - Miner**

## A fair tax break

Published April 1, 2007

Giving local governments the flexibility to raise property tax exemptions for homeowners if they so desire seems like it would be a welcome idea in any community, but according to some who have debated the issue over the years that's just not the case in Alaska.

Not every community taxes people the same way, yet we are all connected by at least one other funding source, that being taxes levied against oil and gas industry infrastructure statewide.

That tax money goes into the state's general fund and communities get a cut based on the amount of that sort of infrastructure in their area. For example the biggest chunk for the Fairbanks North Star Borough comes because of the trans-Alaska pipeline.

So, if Fairbanks-area residents get a break on property taxes and the mill rate climbs to offset that break, targeting industry, then more of that general fund money might be directed to Fairbanks and other oil-and-gas heavy towns who might choose to increase exemptions.

That doesn't go over so well in other communities where there is less oil and gas infrastructure — and where they may pay both property and sales taxes to make ends meet.

It's part of the reason why the allowable property tax exemption has only increased from \$10,000 to \$20,000 over its decades in existence. Logically, the exemption should have been going up with inflation. That would only be fair. But, realistically, there are some who would prefer that it didn't exist in the first place.

That shouldn't stop our delegation from continuing to push for an increase to the exemption, however. Proposals are pending for increases to \$50,000 or \$100,000. If we have to accept less of an increase, so be it. The existing exemption is effective and there is no reason it should not be increased to at least some degree to mirror our changing economy.

A property-tax based system has worked well for the Fairbanks area for a long time as an efficient means of collecting taxes. That's why it's important for residents to continue to pay close attention to property tax issues, to push for reasonable exemptions and for local leaders to consider all options — possibly even tax rebates to homeowners — as part of any future tax picture.

It only makes sense to exercise all the creativity we can within our existing tax structure before we abandon it for what people might think are greener tax pastures. Lawmakers need our encouragement to continue pushing for adjustments to the exemption and local officials need support in exploring all other options within the property tax framework.

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# ALASKA STATE LEGISLATURE



SENATOR JOE THOMAS

## Sponsor Statement

### **SB 122 – Residential Property Tax Exemption**

Senate Bill 122 increases the *optional* municipal property tax exemption for a private residence from \$20,000 to up to \$100,000. This bill *does not mandate* any action by municipalities. This bill only allows local governments the option of increasing their residential property tax exemption.

Currently there are 12 boroughs and 13 cities - with a combined population of over 590,000 Alaskans - which levy property taxes. Each of these is attempting to respond to homeowners struggling under the rising cost of energy across the state. In some instances these issues are coupled with rapidly rising assessed values of private residences. Across the state, these citizens are crying for relief.

SB 122 would not affect a smaller, revenue-strapped community's sources of tax income. Instead, it would give those municipalities with a large enough population the ability to relieve the tax burden largely borne by homeowners. SB 122 would allow local for control in setting the allowable exemption at any amount *up to \$100,000*. A local ordinance would then require voter approval before enactment.

The original option of exempting up to \$20,000 was a good idea when it passed both houses of the Alaska Legislature unanimously in 2004, and has been a valuable tool for the municipalities which exercised this option.

As municipalities around our state attempt to diversify their income base and respond to the needs of private citizens struggling under today's rising energy costs, I urge you to support the timely passage Senate Bill 122.

**SB**

**123**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: April 5, 2007

FURTHER REFERRALS:

Date of Committee Action: 4/19/07

The FINANCE Committee considered:

CSSB 123(FIN)

CS FOR SENATE BILL NO. 123(FIN)

PUBLIC EMP./TEACHERS/JUDGES EMP. BENEFITS

"An Act relating to the public employees' and teachers' defined benefit retirement plans; relating to the public employees' and teachers' defined contribution retirement plans; relating to the judicial retirement system; relating to the health reimbursement arrangement plan for certain teachers and public employees; relating to the supplemental employee benefit program; relating to the public employees' deferred compensation program; relating to group insurance for public employees and retirees; making conforming amendments; and providing for an effective date."

Recommends it be replaced with  HCS or  CS for CS SB 123 (FIN)  
 For Senate Bills with new title:  Technical Title  New Title: HCR \_\_\_\_\_  Same Title  New Title

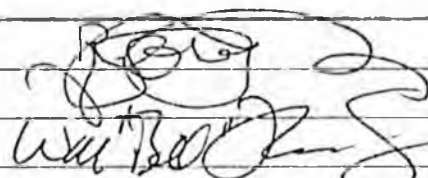
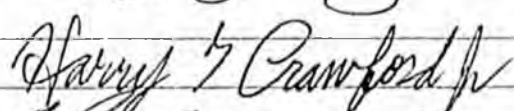
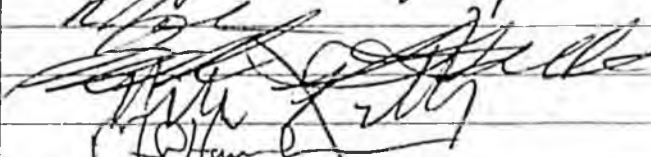
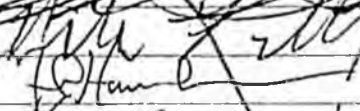
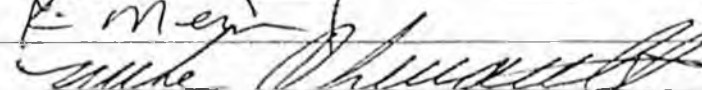
- attach amendments
- add new referral to \_\_\_\_\_ Committee
- Letter of Intent \_\_\_\_\_ Committee

List of Abbrev for Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LWF
- LAW
- LEG
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW</u> FISCAL NOTES				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
ADM		✓		

<u>PREVIOUS</u> FISCAL NOTES				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
ADM	#2			✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Thomas	X			
	CRAWFORD			X	
	KELLY	X			
	Meyer	X			
Chair: 	Chenuit			X	

# FISCAL NOTE

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

Fiscal Note Number: CSSB123(FIN)-DOA-RB  
Bill Version: CSSB123(FIN)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
Title An act relating to public employees' and teachers' retirement defined contribution retirement plans. RDU Centralized Administrative Services  
Component Retirement and Benefits  
Sponsor Rules Committee  
Requester Governor Component No. 64

### Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	108.0	56.4	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>108.0</b>	<b>56.4</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
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<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0
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### FUND SOURCE (Thousands of Dollars)

1029 PERS	77.7	40.6	0.0	0.0	0.0	0.0
1034 TRS	30.2	15.2	0.0	0.0	0.0	0.0
1042 JRS	0.1	0.6	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>108.0</b>	<b>56.4</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

### POSITIONS

Full-time						
Part-time						
Temporary						

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

This bill provides clarifying revisions to SB 141 passed by the 24th Alaska Legislature and enacted as ch. 9, FSSLA 2005. some of the provisions include the following: identifies a funding source for teachers' disability and death benefits; adds annual cost of living increases to disability benefits, survivor pensions, and peace officer/firefighter pensions provided by the new PERS and TRS plans; clarifies that a member or survivor is not entitled to elect distributions from the member's individual account while receiving disability or death benefits; makes clarifying changes to maintain Internal Revenue Code requirements.

This bill has a fiscal impact on the Division of Retirement and Benefits related to the reprogramming of the division's computerized accounting and member record systems as noted above. Please see page two for the analysis required by 24.08.036.

Prepared by: Patrick Shier, Director  
Division: Retirement and Benefits  
Approved by: Rachael Petro, Deputy Commissioner  
Ager cy: Department of Administration

Phone: 465-4817  
Date/Time: 4/13/07 11:31 a.m.  
Date: 4/13/07

FISCAL NOTE

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

BILL NO. CSSB123(FIN)

ANALYSIS CONTINUATION

Sec. 24.08.036. Fiscal notes on bills affecting state retirement systems. Before a bill which would have an effect on the retirement systems of the state is reported to the rules committee, there shall be attached to the bill an analysis of the long-term and short-term costs to the state if the bill is adopted, as well as the impact of the bill on the actuarial soundness of the fund. The analysis is in addition to the fiscal note requirements of AS .08.035.

The legislature passed Senate Bill 141, enacted as ch. 9 FSSLA 2005 establishing defined contribution retirement plans for new members of the PERS and TRS first enrolled on or after July 1, 2006. It was important to the legislature that members of the defined contribution retirement plans receive death and disability benefits commensurate with the death and disability benefits available to members of the defined benefit plans. As a result of this plan structure combining certain guaranteed fixed benefits with defined contribution benefits, these plans are hybrid plans under the Internal Revenue Code sec. 414(k).

There were some oversights in the drafting of the original legislation that resulted in the exclusion of explicit statutory authority for funding of some of the fixed benefits contained in the plans. This bill contains the conforming amendments necessary to pay all the benefits required in accordance with the intent of the new defined contribution retirement plans as enacted by the legislature and adds the following:

- Annual cost of living increases (COLA) for recipients of disability benefits.
- Annual cost of living increases (COLA) for recipients of a survivor's pension.
- Medical premium cost-sharing for disabled members and survivors at normal retirement.
- Funding for disabled peace officer/firefighter members who choose a monthly retirement pension.

The State's actuary, Buck Consultants, developed cost estimates for these benefits. The total combined increase to the employers of the PERS and TRS in FY 2008 is approximately \$147,200. The table below breaks out the dollar cost estimates for each retirement system based on the projected payroll for the PERS and TRS Defined Contribution Retirement Plans in 2008:

Benefit	PERS "Others" Rate	PERS		FERS P/F		Total PERS Costs	TRS Rate	TRS Costs (Payroll \$69.8m)
		Others Costs (Payroll \$133.4 m)	PERS P/F Rate	Costs (Payroll \$17.0m)	Total TRS Rate			
COLA	0.048%	\$64,032	0.211%	\$36,380	\$100,412	0.038%	\$26,524	
Disabled P/F Pension at Normal Retirement	N/A	N/A	0.119%	\$20,230	\$20,230	N/A	N/A	
Medical Cost Sharing at Normal Retirement	0.019%		0.176%			0.025%		

The FY08 rates for retiree medical benefits, as well as all costs related to occupational disability, occupational death, and disabled P/F retirement, were based upon actuarial calculation and adopted by the Alaska Retirement Management Board [per AS 14.25.350(b) and AS 39.35.750(b)]. The long-term costs will vary by plan experience. However, Buck made these cost estimates based on PERS Tier 3 and TRS Tier 2 members, expecting the experience of the new tiers to be reflective of that population. As PERS Tier 4 and TRS Tier 3 plan membership grows annually, these rates (as actuarially calculated) would be applied to the annual payroll base.

FISCAL NOTE

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

BILL NO. CSSB123(FIN)

ANALYSIS CONTINUATION

Separate trust accounts will be established in which all contributions and earnings will be deposited to pay the guaranteed fixed benefits associated with the occupational disability and occupational death provisions (including disabled P/F retirement) of the defined contribution retirement plans. Absent the increased rates as noted above, the employers will not contribute in FY 2008 to these trust accounts an amount sufficient to pay for the death and disability benefits for their members. As a result, the initial health of the trust funds for death and disability benefits may be considered not actuarially sound in order to properly pay future benefits to members from these trust funds.

# FISCAL NOTE

STATE OF ALASKA  
2007 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSSB 123(FIN)  
(S) Publish Date: 3/30/07

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
Title An act relating to public employees' and teachers' def RDU Central Administrative Services  
Component Office of Administrative Hearings  
Sponsor Senate Rules Committee  
Requester Governor Component No. 2771

## Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<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>	0.0	0.0	0.0	0.0	0.0	0.0
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<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0
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## FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
<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 (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

### POSITIONS

Full-time						
Part-time						
Temporary						

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

This bill provides for the Office of Administrative Hearings (OAH) to conduct the hearings in SBS, Deferred Compensation and Health Reimbursement administrative appeals, in addition to the PERS and TRS appeals already heard by OAH. The Division of Retirement and Benefits estimates that this may generate two additional hearings per year. OAH presently has the capacity to handle these cases without increasing personnel. The cost of doing so would be recovered from the division through interagency receipts under OAH's cost allocation plan, based on the time commitment required for the hearings. OAH does not anticipate increased expenditure: for its operation due to the addition of these three, low volume case types.

Prepared by: Terry L. Thurbon, Chief Administrative Law Judge  
Division: Office of Administrative Hearings  
Approved by: Kevin Brooks  
Agency: Department of Administration

Phone: 465-1886  
Date/Time: 03/20/2007 3:16 p.m.  
Date: 3/20/2007 4:30pm

*adopted 4/19/07*

25-GS1004M  
Chenoweth  
4/17/07

HOUSE CS FOR CS FOR SENATE BILL NO. 123( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the public employees' and teachers' defined benefit retirement  
2 plans; relating to the public employees' and teachers' defined contribution retirement  
3 plans; relating to the judicial retirement system; relating to the health reimbursement  
4 arrangement plan for certain teachers and public employees; relating to the  
5 supplemental employee benefit program; relating to the public employees' deferred  
6 compensation program; relating to group insurance for public employees and retirees;  
7 making conforming amendments; and providing for an effective date."

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

9 \* Section 1. AS 14.25.065(b) is amended to read:

10 (b) The contributions of employers under AS 14.25.070 must be transmitted to  
11 the plan for deposit in the retirement fund and the Alaska retiree health care trust at  
12 the close of each pay period. If the contributions are not submitted within the  
13 prescribed time limit [15 DAYS OF THE CLOSE OF EACH PAYROLL PERIOD].

1 interest must be assessed on the outstanding contributions at one and one-half times  
2 the most recent actuarially determined rate of earnings for the plan from the date that  
3 contributions were originally due. [IN ADDITION, THE AMOUNT OF THE  
4 CONTRIBUTIONS AND INTEREST MAY BE DEDUCTED BY THE  
5 DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT FROM THE  
6 STATE FUNDS DUE THE SCHOOL DISTRICT AND THE AMOUNT SO  
7 DEDUCTED TRANSMITTED TO THE PLAN FOR DEPOSIT IN THE  
8 RETIREMENT FUND.] Amounts due from an employer [THE UNIVERSITY OF  
9 ALASKA] and interest as prescribed in this section may be claimed [DEDUCTED]  
10 by the administrator [COMMISSIONER OF ADMINISTRATION] from any agency  
11 of the state or political subdivision that has in its possession funds of the  
12 employer or that is authorized to disburse funds to the employer that are not  
13 restricted by statute or appropriation to a specific purpose. The amount claimed  
14 shall be certified by the administrator as sufficient to pay the contributions and  
15 interest due from the employer. The amount claimed shall be submitted to the  
16 administrator for deposit in the retirement fund and the Alaska retiree health  
17 care trust [STATE FUNDS DUE THE UNIVERSITY OF ALASKA AND THE  
18 AMOUNT DEDUCTED TRANSMITTED TO THE ADMINISTRATOR FOR  
19 DEPOSIT IN THE RETIREMENT FUND].

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

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

31 \* Sec. 3. AS 14.25.070 is amended by adding new subsections to read:

1 (d) Employer contributions shall be separately computed for benefits provided  
2 by AS 14.25.168, and shall be deposited in the Alaska retiree health care trust  
3 established under AS 39.30.097(a).

4 (e) In (a) of this section,

5 (1) "employer normal cost rate" means the percentage of compensation  
6 of all active members in the system that, when combined with the member  
7 contribution rate of active members in the plan, is sufficient to provide the benefits  
8 that are expected to be credited with respect to service during the year beginning after  
9 the last valuation date; this percentage is uniformly determined for all employers and  
10 is applicable to each employer;

11 (2) "past service rate" means the percentage of compensation of all  
12 active members in the system necessary to provide the annual amount required to  
13 amortize the unfunded obligations of the employers for benefits earned by members in  
14 the plan as of the date of the last actuarial valuation over a period not to exceed the  
15 maximum period allowed by generally accepted accounting principles of the  
16 Governmental Accounting Standards Board; this percentage is uniformly determined  
17 for all employers and is applicable to each employer.

18 \* Sec. 4. AS 14.25.075(f) is amended to read:

19 (f) The administrator may accept rollover contributions from a member, and  
20 direct transfers as described in this subsection, for the purchase, in whole or in part, of  
21 forfeited credited service under this section for the reinstatement, in whole or in part,  
22 of forfeited credited service under AS 14.25.062. Contributions made under this  
23 subsection may not be applied to purchase service being paid under (b) of this section.  
24 A rollover contribution or transfer as described in this subsection shall be treated as  
25 employer contributions for the purpose of determining tax treatment under the Internal  
26 Revenue Code and may be made by any one or a combination of the following  
27 methods:

28 (1) subject to the limitations prescribed in 26 U.S.C. 402(e), accepting  
29 eligible rollover distributions directly from one or more eligible retirement plans as  
30 defined by 26 U.S.C. 402(e)(8)(B) [PROGRAMS OF ANOTHER EMPLOYER  
31 THAT ARE QUALIFIED UNDER 26 U.S.C. 401(a) OR ACCEPTING

1 ROLLOVERS DIRECTLY FROM A MEMBER];

2 (2) [SUBJECT TO THE LIMITATIONS PRESCRIBED IN 26 U.S.C.  
3 408(d)(3)(A)(ii), ACCEPTING FROM A MEMBER CONDUIT ROLLOVER  
4 CONTRIBUTIONS THAT ARE RECEIVED BY THE MEMBER FROM ONE OR  
5 MORE CONDUIT ROLLOVER INDIVIDUAL RETIREMENT ACCOUNTS  
6 PREVIOUSLY ESTABLISHED BY THE MEMBER;

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

11 (3) [(4)] subject to the limitations prescribed in 26 U.S.C. 457(e)(17),  
12 accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the  
13 member, on or after January 1, 2002, from an eligible deferred compensation plan of a  
14 tax-exempt organization or a state or local government described in 26 U.S.C. 457(b);

15 (4) [(5)] accepting direct trustee-to-trustee transfer from an account  
16 established for the benefit of the member in AS 39.30.150 - 39.30.180 (Alaska  
17 Supplemental Annuity Plan).

18 \* Sec. 5. AS 14.25.075(f), as amended by sec. 4 of this Act, is amended to read:

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

29 (1) subject to the limitations prescribed in 26 U.S.C. 402(c), accepting  
30 eligible rollover distributions directly from one or more eligible retirement plans as  
31 defined by 26 U.S.C. 402(c)(8)(B);

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

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

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

12 \* Sec. 6. AS 14.25.125(c) is amended to read:

13 (c) Membership service for which contributions were refunded is not  
14 creditable under this section [UNLESS THE REFUNDED CONTRIBUTIONS HAVE  
15 BEEN REPAID. FOR PURPOSES OF THIS SECTION, A MEMBER OR FORMER  
16 MEMBER DOES NOT HAVE TO BE REEMPLOYED UNDER THIS PLAN IN  
17 ORDER TO REPAY REFUNDED CONTRIBUTIONS. COMPOUND INTEREST  
18 AT THE RATE PRESCRIBED BY REGULATION MUST BE ADDED TO THE  
19 REINSTATEMENT INDEBTEDNESS FROM THE DATE OF THE REFUND TO  
20 THE DATE OF REPAYMENT].

21 \* Sec. 7. AS 14.25.163(b) is amended to read:

22 (b) Except as provided by AS 14.25.075(f) [AS 14.25.075(f)(5)], the plan does  
23 not accept contributions of eligible rollover distributions.

24 \* Sec. 8. AS 14.25.163(c)(2) is amended to read:

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

27 \* Sec. 9. AS 14.25.163(c)(3) is amended to read:

28 (3) "eligible retirement plan"  
29 [(A)] means  
30 (A) [(i)] an individual retirement account described in 26  
31 U.S.C. 408(a);

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

(C) [(iii)] an annuity plan described in 26 U.S.C. 403(a);

(D) [(iv)] a qualified trust described in 26 U.S.C. 401(a);

(E) [(v)] on and after January 1, 2002, an annuity plan described in 26 U.S.C. 403(b); [OR]

(F) [(vi)] on or after January 1, 2002, a governmental plan described in 26 U.S.C. 457(b); or

(G) on or after January 1, 2008, a Roth IRA described in 26 U.S.C. 408A [AND

(B) NOTWITHSTANDING (A) OF THIS PARAGRAPH, MEANS, WITH RESPECT TO DISTRIBUTIONS MADE BEFORE JANUARY 1, 2002, AN INDIVIDUAL RETIREMENT ACCOUNT OR AN INDIVIDUAL RETIREMENT ANNUITY ACCOUNT DESCRIBED OR DEFINED IN 26 U.S.C. 408 IN THE CASE OF AN ELIGIBLE ROLLOVER DISTRIBUTION TO A BENEFICIARY WHO IS THE SURVIVING SPOUSE OF A MEMBER];

\* Sec. 10. AS 14.25.163(c)(4) is amended to read:

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

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

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

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

(D) the portion of any distribution that is not includable in gross income; however, a portion under this subparagraph may be transferred only to an individual retirement account or annuity described

1 in 26 U.S.C. 408(a) or (b), to a qualified plan described in 26 U.S.C. 401(a)  
2 or 403(a), or to an annuity contract described in 26 U.S.C. 403(b), that  
3 agrees to separately account for amounts transferred, including separately  
4 accounting for the portion of the distribution that is includable in gross  
5 income and the portion of the distribution that is not includable in gross  
6 income; and

7 (E) [A DISTRIBUTION MADE ON OR AFTER JANUARY  
8 1, 2002, THAT IS ON ACCOUNT OF HARDSHIP; AND

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

11 \* Sec. 11. AS 14.25.168 is amended by adding a new subsection to read:

12 (f) On and after July 1, 2007, benefits under this section shall be provided in  
13 part by the Alaska retiree health care trust established under AS 39.30.097(a).

14 \* Sec. 12. AS 14.25.181(b) is amended to read:

15 (b) If, upon termination of the plan, all liabilities are satisfied, any excess  
16 assets [ARISING FROM ERRONEOUS ACTUARIAL COMPUTATION] shall  
17 revert to the employers as determined by the administrator subject to the approval  
18 of the termination by the Internal Revenue Service [ON A PRO RATA BASIS].

19 \* Sec. 13. AS 14.25.181 is amended by adding new subsections to read:

20 (c) The administrator shall use forfeitures that arise for any reason, including  
21 from termination of employment or death, to reduce employer contributions.  
22 Forfeitures may not be applied to increase the benefits of any member.

23 (d) The administrator shall determine the amount of any benefit that is  
24 determined on the basis of actuarial tables using assumptions approved by the  
25 commissioner of administration. The amount of benefits is not subject to employer  
26 discretion.

27 (e) Employee contributions paid to, and retirement benefits paid from, the plan  
28 may not exceed the annual limits on contributions and benefits, respectively, allowed  
29 by 26 U.S.C. 415. Notwithstanding any contrary provision of law, the administrator  
30 may modify a request by a member to make a contribution to the plan if the amount of  
31 the contribution would exceed the limits provided in 26 U.S.C. 415 by using the

1 following methods:

2 (1) if the law requires a lump sum payment for the purchase of service  
3 credit, the administrator may establish a periodic payment plan for the member to  
4 avoid a contribution in excess of the limits under 26 U.S.C. 415(c) or (n);

5 (2) if a periodic payment plan under (1) of this subsection will not  
6 avoid a contribution in excess of the limits imposed by 26 U.S.C. 415(c), the  
7 administrator may either reduce the member's contribution to an amount within the  
8 limits of that section or refuse the member's contribution.

9 \* Sec. 14. AS 14.25.220(10) is amended to read:

10 (10) "compensation" means the total remuneration paid under contract  
11 to a member for services rendered during a school year, including cost-of-living  
12 differentials, payments for leave that is actually used by the member, the amount by  
13 which the member's wages are reduced under AS 39.30.150(c), an amount that is  
14 contributed by the employer under a salary reduction agreement and that is not  
15 includable in the gross income of the employee under 26 U.S.C. 125 or 132(f)(4),  
16 and the amount deferred under an employer-sponsored deferred compensation plan or  
17 the tax shelter annuity plan approved by the Department of Education and Early  
18 Development, but does not include retirement benefits, welfare benefits, per diem,  
19 expense allowances, workers' compensation payments, or payments for leave not used  
20 by the member, whether those leave payments are scheduled payments, lump-sum  
21 payments, donations, or cash-ins; for purposes of AS 14.25.050, compensation paid  
22 includes any payment made after June 30 of a school year for services rendered before  
23 the end of the school year;

24 \* Sec. 15. AS 14.25.220(16) is amended to read:

25 (16) "employer" means a public school district, the Board of Regents  
26 of the University of Alaska, the Department of Education and Early Development,  
27 [THE NATIONAL EDUCATION ASSOCIATION OF ALASKA,] the Regional  
28 Resource Centers, or the state legislature with respect to a state legislator who elects  
29 membership under AS 14.25.040(b);

30 \* Sec. 16. AS 14.25.310 is amended to read:

31 Sec. 14.25.310. Applicability of AS 14.25.310 - 14.25.590. The provisions of

1 AS 14.25.310 - 14.25.590 apply only to teachers who first become members on or  
2 after July 1, 2006, to members who are employed by employers that do not  
3 participate in the defined benefit retirement plan established under AS 14.25.009  
4 - 14.25.220, or to members who transfer into the defined contribution retirement plan  
5 under AS 14.25.540.

6 \* Sec. 17. AS 14.25.310, as amended by sec. 16 of this Act, is amended to read:

7 Sec. 14.25.310. Applicability of AS 14.25.310 - 14.25.590. The provisions of  
8 AS 14.25.310 - 14.25.590 apply only to teachers who first become members on or  
9 after July 1, 2006, to members who are employed by employers that do not participate  
10 in the defined benefit retirement plan established under AS 14.25.009 - 14.25.220, to  
11 former members under AS 14.25.220, or to members who transfer into the defined  
12 contribution retirement plan under AS 14.25.540.

13 \* Sec. 18. AS 14.25.320(c) is amended to read:

14 (c) The defined contribution retirement plan is intended to qualify under 26  
15 U.S.C. 401(a), [AND] 414(d), and 414(k) (Internal Revenue Code) as a qualified  
16 retirement plan established and maintained by the state for its employees and for the  
17 employees of school districts and regional educational attendance areas in the state.  
18 Benefits under AS 14.25.480 are not provided by the defined contribution  
19 retirement plan.

20 \* Sec. 19. AS 14.25.350(b) is amended to read:

21 (b) An employer shall also contribute an amount equal to a percentage, as  
22 approved [CERTIFIED] by the board, of each member's compensation from July 1 to  
23 the following June 30 to pay for retiree major medical insurance. This contribution  
24 shall be paid into the Alaska retiree health care trust [GROUP HEALTH AND  
25 LIFE BENEFITS FUND] established by the commissioner of administration under  
26 AS 39.30.097(b) [AS 39.30.095] and shall be accounted for in accordance with  
27 regulations adopted [ESTABLISHED] by the commissioner.

28 \* Sec. 20. AS 14.25.350 is amended by adding a new subsection to read:

29 (e) An employer shall make annual contributions to a trust account in the plan,  
30 applied as a percentage of each member's compensation from July 1 to the following  
31 June 30, in an amount determined by the board to be actuarially required to fully fund

1 the cost of providing occupational disability and occupational death benefits under  
2 AS 14.25.310 - 14.25.590.

3 \* Sec. 21. AS 14.25.360(d)(3) is amended to read:

4 (3) "eligible retirement plan" means

5 (A) an [A CONDUIT] individual retirement account described  
6 in 26 U.S.C. 408(d)(3)(A);

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

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

9 (D) an annuity plan described in 26 U.S.C. 403(b); [OR]

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

11 (F) an individual retirement annuity described in 26 U.S.C.

12 408(b); or

13 (G) on or after January 1, 2008, a Roth IRA described in 26

14 U.S.C. 408A;

15 \* Sec. 22. AS 14.25.360(d)(4) is amended to read:

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

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

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

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

26 (D) the portion of any distribution that is not includable in  
27 gross income; however, a portion under this subparagraph may be  
28 transferred only to an individual retirement account or annuity described  
29 in 26 U.S.C. 408(a) or (b), to a qualified plan described in 26 U.S.C. 401(a)  
30 or 403(a), or to an annuity contract described in 26 U.S.C. 403(b), that  
31 agrees to separately account for amounts transferred, including separately

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accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not includable in gross income; and

(E) [A DISTRIBUTION THAT IS ON ACCOUNT OF HARDSHIP; AND

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

\* Sec. 23. AS 14.25.370 is amended to read:

**Sec. 14.25.370. Transmittal of contributions.** All contributions deducted in accordance with AS 14.25.310 - 14.25.590 shall be transmitted to the plan for deposit in the appropriate account or trusts [TRUST FUND] as soon as administratively feasible, but in no event later than 15 days following the close of the payroll period, with the final contributions due for any school year transmitted no later than July 15.

\* Sec. 24. AS 14.25.370 is amended by adding new subsections to read:

(b) If contributions are not transmitted within the prescribed time limit, interest shall be assessed on the outstanding contributions at the rate established under AS 14.25.065 from the date that contributions were originally due. Amounts due from an employer and interest as prescribed in this subsection may be claimed by the administrator from any agency of the state or political subdivision that has in its possession funds of the employer or that is authorized to disburse funds to the employer that are not restricted by statute or appropriation to a specific purpose. The amount claimed shall be certified by the administrator as sufficient to pay the contributions and interest due from the employer. The amount claimed shall be submitted to the administrator for deposit in the appropriate account or trusts.

(c) An employer is responsible for administrative fees, investment fees, and investment losses charged to accounts established under AS 14.25.340 resulting from contribution adjustments because the employer enrolled a member in the plan before the member was eligible for membership. Contributions made by an employee shall be returned to the employer by reducing future employee contributions due. Contributions, net of fees and investment losses, made by an employer shall be used to

1 reduce future employer contributions due.

2 \* Sec. 25. AS 14.25.380 is amended to read:

3 **Sec. 14.25.380. Limitations on contributions and benefits.** Notwithstanding  
 4 any other provisions of this plan, the annual additions to each member's individual  
 5 account under this plan and under all defined contribution plans of the employer  
 6 required to be aggregated with the contributions from this plan under the provisions of  
 7 26 U.S.C. 415 may not exceed, for any limitation year, the amount permitted under 26  
 8 U.S.C. 415(c) [26 U.S.C. 415] at any time. If the amount of a member's individual  
 9 account [DEFINED CONTRIBUTION PLAN] contributions exceeds the limitation of  
 10 26 U.S.C. 415(c) for any limitation year, the administrator shall take any necessary  
 11 remedial action to correct an excess contribution. A fixed benefit provided under  
 12 this plan may not exceed, for or during a limitation year, the amount permitted  
 13 under 26 U.S.C. 415(b). If a fixed benefit provided under this plan exceeds, for or  
 14 during a limitation year, the amount permitted under 26 U.S.C. 415(b), the  
 15 administrator shall take remedial action necessary to comply with the limits on  
 16 the benefit amount in 26 U.S.C. 415(b). The provisions of 26 U.S.C. 415, and the  
 17 regulations adopted under that statute, as applied to qualified [DEFINED  
 18 CONTRIBUTION] plans of governmental employers [EMPLOYEES] are  
 19 incorporated as part of the terms and conditions of the plan.

20 \* Sec. 26. AS 14.25.485(b) is amended to read:

21 (b) The occupational disability benefits accrue beginning the first day of the  
 22 month following termination of employment as a result of the disability and are  
 23 payable the last day of the month. If a final determination granting the benefit is not  
 24 made in time to pay the benefit when due, a retroactive payment shall be made to  
 25 cover the period of deferment. The last payment shall be for the first month in which  
 26 the disabled member

27 (1) dies;

28 (2) recovers from the disability;

29 (3) fails to meet the requirements under (i), [OR] (h), or (j) of this

30 section; or

31 (4) reaches normal retirement age.

1 \* Sec. 27. AS 14.25.485(d) is amended to read:

2 (d) The monthly amount of an occupational disability benefit is 40 percent of  
3 the disabled member's gross monthly compensation at the time of termination due to  
4 disability. Notwithstanding AS 14.25.390(b), at the time a member is appointed to  
5 disability, the member becomes fully vested in the employer contributions made  
6 under AS 14.25.350(a). A disabled member is fully vested in the contributions to  
7 the member's individual account made under this subsection. A member is not  
8 entitled to elect distributions from the member's individual contribution account  
9 under AS 14.25.410 while the member is receiving disability benefits under this  
10 section. While a member is receiving disability benefits, based on the disabled  
11 member's gross monthly compensation at the time of termination due to disability, the  
12 employer shall make contributions to the

13 (1) member's individual account under AS 14.25.340 on behalf of the  
14 member, without deduction from the member's disability payments; and

15 (2) appropriate accounts and funds on behalf of the member under  
16 AS 14.25.350.

17 \* Sec. 28. AS 14.25.485(g) is amended to read:

18 (g) A disabled member's occupational disability benefit terminates the last  
19 day of the month in which [WHEN] the disabled member first qualifies [ATTAINS  
20 ELIGIBILITY] for normal retirement. At that time, the member's retirement benefit  
21 shall be determined under the provisions of AS 14.25.420 - 14.25.440, 14.25.470, and  
22 14.25.480. A member whose occupational disability benefit terminates under this  
23 subsection [RECEIVING DISABILITY BENEFITS UP UNTIL ELIGIBILITY FOR  
24 RETIREMENT] shall be considered to have retired directly from the plan.

25 \* Sec. 29. AS 14.25.485(i) is amended to read:

26 (i) Upon the death of a disabled member who is receiving or is entitled to  
27 receive an occupational disability benefit, the administrator shall pay the surviving  
28 spouse a surviving spouse's pension, equal to 40 percent of the member's monthly  
29 compensation at the time of termination of employment because of occupational  
30 disability. If there is no surviving spouse, the administrator shall pay the survivor's  
31 pension in equal parts to the dependent children of the member. While the monthly

1 survivor's pension is being paid, the survivor is not entitled to elect distributions  
2 from the member's individual contribution account under AS 14.25.410. The first  
3 payment of the surviving spouse's pension or of a dependent child's pension shall  
4 accrue from the first day of the month following the member's death and is payable the  
5 last day of the month. The last payment shall be made the last day of [FOR] the last  
6 month in which there is an eligible surviving spouse or dependent child, or the last  
7 day of the month in which the member would have first qualified for normal  
8 retirement if the member had survived, whichever day is sooner. A retirement  
9 benefit shall be determined under the provisions of AS 14.25.420 - 14.25.440,  
10 14.25.470, and 14.25.480 based on [ . ON] the date the member would have first  
11 qualified for normal retirement [OF THE MEMBER WOULD HAVE OCCURRED]  
12 if the member had survived. In addition to the payment of the member's  
13 individual account, the surviving spouse or, if there is no surviving spouse, the  
14 surviving dependent children of the member, shall receive an additional benefit  
15 in an amount equal to the accumulated contributions that would have been made  
16 to the deceased member's individual account under AS 14.25.34 (a) and  
17 14.25.350(a), based on the deceased member's gross monthly compensation at the  
18 time of occupational disability, from the time of the member's death to the date  
19 the member would have first qualified for normal retirement if the member had  
20 survived. Earnings shall be allocated to the additional benefit calculated under  
21 this subsection based on the actual rate of return, net of expenses, of the trust  
22 account established under AS 14.25.350(e) over the period that the contributions  
23 would have been made. This additional amount and allocated earnings shall be  
24 paid in the same manner as determined for the member's individual account  
25 under AS 14.25.420 - 14.25.460 to the extent permitted by the Internal Revenue  
26 Service. For the purpose of determining eligibility of a survivor who is receiving a  
27 benefit under this subsection for medical benefits under AS 14.25.470 and  
28 14.25.480, a [LIVED, THE RETIREMENT BENEFIT SHALL BE DETERMINED  
29 UNDER THE PROVISIONS OF AS 14.25.420 - 14.25.440, 14.25.470, AND  
30 14.25.480, A] member who died while receiving disability benefits shall be considered  
31 to have retired directly from the plan on the date the member would have first

1 qualified for normal retirement [OF THE MEMBER WOULD HAVE OCCURRED]  
2 if the member had survived. The period during which the member was eligible for  
3 a disability benefit and the period during which a survivor's pension is paid to a  
4 survivor under this subsection each constitute membership service for the  
5 purposes of determining eligibility for medical benefits under AS 14.25.310 -  
6 14.25.590 and AS 39.30.300 - 39.30.495 [LIVED].

7 \* Sec. 30. AS 14.25.485(j) is amended to read:

8 (j) In this section, "occupational disability" means a physical or mental  
9 condition that the administrator determines presumably permanently prevents  
10 an employee from satisfactorily performing the employee's usual duties or the  
11 duties of another comparable position or job available to the employee and for  
12 which the employee is qualified by training or education; however, the proximate  
13 cause of the condition must be a bodily injury sustained, or a hazard undergone,  
14 while in the performance and within the scope of the employee's duties and not  
15 the proximate result of the wilful negligence of the employee [HAS THE  
16 MEANING GIVEN IN AS 39.35.680].

17 \* Sec. 31. AS 14.25.485 is amended by adding a new subsection to read:

18 (k) While a survivor under (i) of this section is receiving a survivor's pension,  
19 the employer of the deceased member shall make contributions with respect to the  
20 survivor based on the deceased member's gross monthly compensation at the time of  
21 termination due to disability

22 (1) that would have been paid to the member's individual account  
23 under AS 14.25.340 and 14.25.350(a), to the trust account established under  
24 AS 14.25.350(c), without deduction from the survivor's pension; and

25 (2) to the appropriate accounts and funds under AS 14.25.350(b) - (e).

26 \* Sec. 32. AS 14.25 is amended by adding a new section to read:

27 **Sec. 14.25.486. Disability benefit adjustment.** (a) Once each year, the  
28 administrator shall increase disability benefits. The amount of the increase is a  
29 percentage of the current disability benefit equal to the lesser of 75 percent of the  
30 increase in the cost of living in the preceding calendar year or nine percent.

31 (b) If a disabled member was not receiving a benefit during the entire

1 preceding calendar year, the increase in the benefit under this section shall be adjusted  
2 by multiplying it by a fraction, the numerator of which is the number of months for  
3 which the benefit was received in the preceding calendar year and the denominator of  
4 which is 12.

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

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

13 \* Sec. 33. AS 14.25.487(b) is amended to read:

14 (b) The first payment of the surviving spouse's pension or of a dependent  
15 child's pension shall be made for the month following the month in which the member  
16 dies. Payments [, AND PAYMENT] shall cease on the last day of the month in  
17 which there is no longer an eligible spouse or eligible dependent child, or the last  
18 day of the month following the earliest date [TO BE MADE BEGINNING WITH  
19 THE MONTH IN WHICH] the member would have first qualified for normal  
20 retirement if the member had survived, whichever day is sooner.

21 \* Sec. 34. AS 14.25.487(c) is amended to read:

22 (c) The monthly survivor's pension in (b) of this section for survivors of  
23 members is 40 percent of the member's monthly compensation in the month in which  
24 the member dies. While the monthly survivor's pension is being paid, the survivor  
25 is not entitled to elect distributions from the member's individual contribution  
26 account under AS 14.25.410, except as required by AS 14.25.440. While the  
27 monthly survivor's pension is being paid, the employer shall make contributions with  
28 respect to [ON BEHALF OF] the member's surviving spouse and member's  
29 surviving dependent children [BENEFICIARIES] based on the deceased member's  
30 gross monthly compensation at the time of occupational death

31 (1) that would have been paid to the member's individual account

1 under AS 14.25.340 and AS 14.25.350(a), to the trust account established under  
2 AS 14.25.350(e), without deduction from the survivor's pension; and

3 (2) to the appropriate accounts and funds [ON BEHALF OF THE  
4 MEMBER] under AS 14.25.350(b) - (e) [AS 14.25.350].

5 \* Sec. 35. AS 14.25.487(e) is amended to read:

6 (e) On the date the member would have first qualified for normal retirement  
7 [OF THE MEMBER WOULD HAVE OCCURRED] if the member had survived  
8 [LIVED], the retirement benefit shall be determined under the provisions of  
9 AS 14.25.420 - 14.25.440, 14.25.470, and 14.25.480. In addition to payment of the  
10 member's individual account, the surviving spouse or, if there is no surviving  
11 spouse, the surviving dependent children of the member, shall receive an  
12 additional benefit in an amount equal to the accumulated contributions that  
13 would have been made to the deceased member's individual account under  
14 AS 14.25.340(a) and 14.25.350(a), based on the deceased member's gross monthly  
15 compensation at the time of the member's occupational death, from the time of  
16 the member's death to the date the member would have first qualified for normal  
17 retirement if the member had survived. Earnings shall be allocated to the  
18 additional benefit calculated under this subsection based on the actual rate of  
19 return, net of expenses, of the trust account established under AS 14.25.350(e)  
20 over the period that the contributions would have been made. This additional  
21 amount and allocated earnings shall be paid in the same manner as determined  
22 for the member's individual account under AS 14.25.420 - 14.25.460 to the extent  
23 permitted by the Internal Revenue Service. A member who died and whose  
24 survivors receive occupational death benefits under this section shall be considered to  
25 have retired directly from the plan on the date the [NORMAL RETIREMENT OF  
26 THE] member would have first qualified for normal retirement [OCCURRED] if  
27 the member had survived. The period during which a survivor's pension is paid  
28 under this subsection constitutes membership service for the purposes of  
29 determining vesting in employer contributions under AS 14.25.390(b) and  
30 eligibility for medical benefits under AS 14.25.310 - 14.25.590 and AS 39.30.300 -  
31 39.30.495 [LIVED].

1 \* **Sec. 36.** AS 14.25 is amended by adding new sections to read:

2           **Sec. 14.25.488. Survivors' pension adjustment.** (a) Once each year, the  
3 administrator shall increase payments to a person 60 years of age or older receiving a  
4 survivor's pension under AS 14.25.485(i) or 14.25.487(c) and to a person who has  
5 received a survivor's pension under AS 14.25.485(i) or 14.25.487(c) for at least eight  
6 years, who is not otherwise eligible for an increase under this section.

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

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

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

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

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

27           **Sec. 14.25.489. Premiums for retiree major medical insurance coverage**  
28 **upon termination of disability benefits or survivor's pension.** The premium for  
29 retiree major medical insurance coverage payable by a member whose disability  
30 benefit is terminated under AS 14.25.485(g) or by an eligible survivor whose survivor  
31 pension is terminated under AS 14.25.485(i) or 14.25.487(c) when the member would

1 have been eligible for normal retirement if the member had survived shall be  
2 determined under AS 14.25.480(g)(2) as if the member or survivor were eligible for  
3 Medicare.

4 \* Sec. 37. AS 14.25.500 is amended by adding new subsections to read:

5 (d) The administrator shall use forfeitures in the fixed benefit account of the  
6 plan that arise for any reason, including from termination of employment or death, to  
7 reduce employer contributions. Forfeitures may not be applied to increase the benefits  
8 of any member.

9 (e) The administrator shall determine the amount of any fixed benefit that is  
10 determined on the basis of actuarial tables using assumptions approved by the  
11 commissioner. The amount of benefits is not subject to employer discretion.

12 \* Sec. 38. AS 14.25.510 is amended to read:

13 Sec. 14.25.510. Nonguarantee of returns, rates, or benefit amounts. The  
14 plan created by AS 14.25.310 - 14.25.590 is, with respect to individual accounts,  
15 treated as a defined contribution plan, and not a defined benefit plan. The amount of  
16 money in the individual account of a participant depends on the amount of  
17 contributions and the rate of return from investments of the account that varies over  
18 time. If benefits are paid in the form of an annuity, the benefit amount payable is  
19 dependent on the amount of money in the account and the interest rates applied and  
20 service fees charged by the annuity payor at the time the annuity is purchased from  
21 the carrier and benefits are first paid. Nothing in this plan guarantees a participant

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

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

27 \* Sec. 39. AS 14.25.540(c) is amended to read:

28 (c) Each eligible member who elects to participate in the defined contribution  
29 retirement plan shall have transferred to a new account the member contribution  
30 account balance held in trust for the member under the defined benefit retirement plan  
31 of the teachers' retirement system. A matching employer contribution shall be made on

1           behalf of that employee to the new account. The employer shall make the matching  
2           contribution from funds other than the trust funds of the defined benefit retirement  
3           plan. The amount of the matching employer contribution is subject to, and may  
4           not exceed, the limitation of 26 U.S.C. 415(c) during the applicable limitation  
5           year as defined in AS 14.25.590. If the matching employer contribution would  
6           exceed the limits during the limitation year in which the transfer occurs, the  
7           remaining amount of the matching employer contribution shall be made in the  
8           next limitation year, if the limits would not be exceeded.

9           \* Sec. 40. AS 14.25.540(d) is amended to read:

10                   (d) Upon a transfer, all membership service previously earned under the  
11           defined benefit retirement plan shall be nullified for purposes of entitlement to a future  
12           benefit under the defined benefit retirement plan but shall be credited for purposes of  
13           determining vesting in employer contributions under AS 14.25.390(b) and  
14           eligibility to elect medical benefits under AS 14.25.470. Membership service allowed  
15           for credit toward medical benefits does not include any service credit purchased under  
16           AS 14.25.075 for employment by an employer who is not a participating employer in  
17           this chapter.

18           \* Sec. 41. AS 14.25.540(h) is amended to read:

19                   (h) A member who is eligible to elect transfer to the defined contribution  
20           retirement plan must make the election not later than 12 months after the first  
21           day of the month following the administrator's receipt of the notification that the  
22           member's employer consents to transfers of its members under (i) of this section.

23           The election to participate in the defined contribution retirement plan must be made in  
24           writing on forms and in the manner prescribed by the administrator. Before accepting  
25           an election to participate in the defined contribution retirement plan, the administrator  
26           must provide the employee planning on making an election to participate in the  
27           defined contribution retirement plan with information, including calculations to  
28           illustrate the effect of moving the employee's retirement plan from the defined benefit  
29           retirement plan to the defined contribution retirement plan as well as other information  
30           to clearly inform the employee of the potential consequences of the employee's  
31           election. An election made under this subsection to participate in the defined

1 contribution retirement plan is irrevocable. Upon making the election, the participant  
2 shall be enrolled as a member of the defined contribution retirement plan, the  
3 member's participation in the plan shall be governed by the provisions of  
4 AS 14.25.310 - 14.25.590, and the member's participation in the defined benefit  
5 retirement plan under AS 14.25.009 - 14.25.220 shall terminate. The participant's  
6 enrollment in the defined contribution retirement plan shall be effective the first day of  
7 the month after the administrator receives the completed enrollment forms. An  
8 election made by an eligible member who is married is not effective unless the  
9 election is signed by the individual's spouse.

10 \* Sec. 42. AS 14.25 is amended by adding a new section to read:

11 **Sec. 14.25.582. Special rules for treatment of qualified military service.**

12 Notwithstanding any contrary provisions of AS 14.25.310 - 14.25.590, 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. 43. AS 14.25.590(7) is amended to read:

16 (7) "compensation"

17 (A) means

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

22 (ii) the member contribution to the teachers' retirement  
23 system under AS 14.25.340;

24 (B) does not include retirement benefits, severance pay or other  
25 separation bonuses, welfare benefits, per diem, expense allowances, workers'  
26 compensation payments, payments for leave not used whether those leave  
27 payments are scheduled payments, lump-sum payments, donations, or cash-ins,  
28 any remuneration contributed by the employer for or on account of the  
29 employee under this plan or under any other qualified or nonqualified  
30 employee benefit plan, or any remuneration not specifically included above  
31 that would have been excluded under 26 U.S.C. 3121(a) (Internal Revenue

1 Code) if the employer had remained in the Federal Social Security System [,  
2 OR ANY REMUNERATION PAID BY THE EMPLOYER IN EXCESS OF  
3 THE SOCIAL SECURITY TAXABLE WAGE BASE FOR THE  
4 CALENDAR YEAR];

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

14 \* Sec. 44. AS 22.25.022(c)(2) is amended to read:

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

17 \* Sec. 45. AS 22.25.022(c)(3) is amended to read:

18 (3) "eligible retirement plan"

19 [(A)] means

20 (A) [(i)] an individual retirement account described in 26  
21 U.S.C. 408(a);

22 (B) [(ii)] an individual retirement annuity defined in 26 U.S.C.  
23 408(b);

24 (C) [(iii)] an annuity plan described in 26 U.S.C. 403(a);

25 (D) [(iv)] a qualified trust described in 26 U.S.C. 401(a);

26 (E) [(v)] on and after January 1, 2002, an annuity plan  
27 described in 26 U.S.C. 403(b); or

28 (F) [(vi)] on or after January 1, 2002, a governmental plan  
29 described in 26 U.S.C. 457(b); or

30 (G) on or after January 1, 2008, a Roth IRA described in 26  
31 U.S.C. 408A [AND

1 (B) NOTWITHSTANDING (A) OF THIS PARAGRAPH,  
2 MEANS, WITH RESPECT TO DISTRIBUTIONS MADE BEFORE  
3 JANUARY 1, 2002, AN INDIVIDUAL RETIREMENT ACCOUNT OR AN  
4 INDIVIDUAL RETIREMENT ANNUITY ACCOUNT DESCRIBED OR  
5 DEFINED IN 26 U.S.C. 408 IN THE CASE OF AN ELIGIBLE ROLLOVER  
6 DISTRIBUTION TO A BENEFICIARY WHO IS THE SURVIVING  
7 SPOUSE OF A MEMBER];

8 \* Sec. 46. AS 22.25.022(c)(4) is amended to read:

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

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

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

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

19 (D) the portion of any distribution that is not includable in  
20 gross income; however, a portion under this subparagraph may be  
21 transferred only to an individual retirement account or annuity described  
22 in 26 U.S.C. 408(a) or (b), to a qualified plan described in 26 U.S.C. 401(a)  
23 or 403(a), or to an annuity contract described in 26 U.S.C. 403(b), that  
24 agrees to separately account for amounts transferred, including separately  
25 accounting for the portion of the distribution that is includable in gross  
26 income and the portion of the distribution that is not includable in gross  
27 income; and

28 (E) [A DISTRIBUTION MADE ON OR AFTER JANUARY  
29 1, 2002, THAT IS ON ACCOUNT OF HARDSHIP; AND

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

1 \* **Sec. 47.** AS 22.25.046 is amended by adding a new subsection to read:

2 (c) Employer contributions shall be separately computed for benefits provided  
3 by AS 22.25.090, and shall be deposited in the Alaska retiree health care trust  
4 established under AS 39.30.097(a).

5 \* **Sec. 48.** AS 22.25.090 is amended by adding a new subsection to read:

6 (f) On and after July 1, 2007, benefits under this section will be provided in  
7 part by the Alaska retiree health care trust established under AS 39.30.097(a).

8 \* **Sec. 49.** AS 37.10.210(a) is amended to read:

9 (a) The Alaska Retirement Management Board is established in the  
10 Department of Revenue. The board's primary mission is to serve as the trustee of the  
11 assets of the state's retirement systems, the State of Alaska Supplemental Annuity  
12 Plan, and the deferred compensation program for state employees, and the Alaska  
13 retiree health care trusts established under AS 39.30.097. Consistent with  
14 standards of prudence, the board has the fiduciary obligation to manage and invest  
15 these assets in a manner that is sufficient to meet the liabilities and pension obligations  
16 of the systems, plan, [AND] program, and trusts. The board may, with the approval  
17 of the commissioner of revenue and upon agreement with the responsible fiduciary,  
18 manage and invest other state funds so long as the activity does not interfere with the  
19 board's primary mission. In making investments, the board shall exercise the powers  
20 and duties of a fiduciary of a state fund under AS 37.10.071.

21 \* **Sec. 50.** AS 39.30 is amended by adding new sections to read:

22 **Sec. 39.30.097. Alaska retiree health care trusts.** (a) The commissioner of  
23 administration is authorized to prefund medical benefits provided by AS 14.25.168,  
24 AS 22.25.090, and AS 39.35.535 by establishing an irrevocable trust that is exempt  
25 from federal income tax under 26 U.S.C. 115 and subject to the applicable financial  
26 reporting, disclosure and actuarial requirements of the Governmental Accounting  
27 Standards Board.

28 (b) The commissioner of administration is authorized to prefund medical  
29 benefits provided by AS 14.25.480, AS 39.30.300, and AS 39.35.880 by establishing  
30 an irrevocable trust that is exempt from federal income tax under 26 U.S.C. 115 and  
31 subject to the applicable financial reporting, disclosure and actuarial requirements of

1 the Governmental Accounting Standards Board.

2 (c) The plans and assets of the Alaska retiree health care trusts shall be under  
3 the governance and investment authority of the Alaska Retirement Management  
4 Board, which shall serve as trustee of the trust as provided in AS 37.10.210. The  
5 commissioner of administration or the commissioner's designee shall serve as  
6 administrator of the Alaska retiree health care trusts.

7 (d) All employer contributions, appropriations, earnings, and reserves for the  
8 payment of retiree medical obligations shall be credited to the retiree health care  
9 trusts. The prefunded amounts shall be available without fiscal year limitations for  
10 retiree medical benefits and administration costs. The amounts remaining in the trusts,  
11 if any, after retiree medical benefits and administration costs have been paid in any  
12 year shall be retained in the trusts for future payments, until the satisfaction of all  
13 employer liabilities under the trusts for retiree medical benefits. All prefunded  
14 amounts shall be used solely for the payment of retiree medical benefits and  
15 administration costs and for no other purpose.

16 (e) The assets of the Alaska retiree health care trusts may be pooled, for  
17 investment purposes, with assets of the retirement systems, so long as such assets are  
18 accounted for separately.

19 **Sec. 39.30.098. Regulations.** The commissioner of administration may adopt  
20 regulations to implement AS 39.30.090 - 39.30.097. Regulations adopted by the  
21 commissioner under this section relate to the internal management of state agencies  
22 and their adoption is not subject to AS 44.62 (Administrative Procedure Act.).

23 \* **Sec. 51.** AS 39.30.154 is amended to read:

24 **Sec. 39.30.154. Powers and duties of the administrator.** The administrator  
25 has the same powers and duties with regard to the plan as those set out in  
26 AS 14.25.003 and 14.25.004 [AS 14.25.004].

27 \* **Sec. 52.** AS 39.30.160(a) is amended to read:

28 (a) The Department of Administration shall, in accordance with policies  
29 prescribed by regulations adopted by the commissioner [OF THE ALASKA  
30 RETIREMENT MANAGEMENT BOARD], provide to employees for whom special  
31 individual employee benefit accounts are established under AS 39.30.150(c) the

1 following benefit options:

- 2 (1) supplemental health benefits;  
3 (2) supplemental death benefits;  
4 (3) supplemental disability benefits; and  
5 (4) supplemental dependent care benefits.

6 \* Sec. 53. AS 39.30.160(e) is amended to read:

7 (e) Regulations adopted by the commissioner [BOARD] implementing  
8 AS 39.30.150 and this section are not subject to AS 44.62 (Administrative Procedure  
9 Act).

10 \* Sec. 54. AS 39.30 is amended by adding a new section to read:

11 Sec. 39.30.165. Appeals. A final decision made under AS 39.30.150 -  
12 39.30.180 is subject to appeal under AS 44.64.

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

14 Sec. 39.30.335. Appeals. A final decision made under AS 39.30.300 -  
15 39.30.495 is subject to appeal under AS 44.64.

16 \* Sec. 56. AS 39.30.340 is amended to read:

17 Sec. 39.30.340. Powers and duties of the administrator. The administrator  
18 shall establish a teachers' and public employees' retiree health reimbursement  
19 arrangement plan trust fund in which the assets of the plan shall be deposited and held.  
20 The retiree health reimbursement arrangement plan trust fund may be a sub-  
21 trust of the Alaska retiree health care trust established under AS 39.30.097(b).  
22 The administrator has the same powers and duties with regard to the plan and the trust  
23 fund as provided in AS 14.25.003 and 14.25.004 [AS 14.25.004].

24 \* Sec. 57. AS 39.30.370 is amended to read:

25 Sec. 39.30.370. Contributions by employers. For each member of the plan,  
26 an employer shall contribute to the teachers' and public employees' retiree health  
27 reimbursement arrangement plan trust fund an amount equal to three percent of the  
28 average annual compensation of all employees of all employers in the teachers'  
29 retirement system and public employees' retirement system [EMPLOYER'S  
30 AVERAGE ANNUAL EMPLOYEE COMPENSATION]. The administrator shall  
31 maintain a record for each member to account for employer contributions on behalf of

1 that member. The board shall establish by regulation the rate of interest to be applied  
2 annually to the amount in a member's individual account.

3 \* Sec. 58. AS 39.35.115 is amended by adding new subsections to read:

4 (d) The retirement plan established by AS 39.35.095 - 39.35.680 is a joint  
5 contributory plan.

6 (e) If, upon termination of the plan, all liabilities are satisfied, any excess  
7 assets shall revert to the employers as determined by the administrator, subject to the  
8 approval of the termination by the Internal Revenue Service.

9 \* Sec. 59. AS 39.35.165(f) is amended to read:

10 (f) The board may accept rollover contributions from a member and direct  
11 transfers, as described in this subsection, for the purchase, in whole or in part, of  
12 credited service for the reinstatement, in whole or in part, of forfeited credited service  
13 under AS 39.35.350. A rollover contribution or transfer as described in this subsection  
14 shall also be treated as employer contributions for the purpose of determining tax  
15 treatment under the Internal Revenue Code and may be made by any one or a  
16 combination of the following methods:

17 (1) subject to the limitations prescribed in 26 U.S.C. 401(a)(3) and 26  
18 U.S.C. 402(c), accepting eligible rollover distributions directly from one or more  
19 eligible retirement plans as defined by 26 U.S.C. 402(c)(8)(B) [PROGRAMS OF  
20 ANOTHER EMPLOYER THAT ARE QUALIFIED UNDER 26 U.S.C. 401(a) OR  
21 ACCEPTING ROLLOVERS DIRECTLY FROM A MEMBER];

22 (2) [SUBJECT TO THE LIMITATIONS PRESCRIBED IN 26 U.S.C.  
23 408(d)(3)(A)(ii), ACCEPTING FROM A MEMBER CONDUIT ROLLOVER  
24 CONTRIBUTIONS THAT ARE RECEIVED BY THE EMPLOYEE FROM ONE  
25 OR MORE CONDUIT ROLLOVER INDIVIDUAL RETIREMENT ACCOUNTS  
26 PREVIOUSLY ESTABLISHED BY THE MEMBER;

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

31 (3) [(4)] subject to the limitations prescribed in 26 U.S.C. 457(c)(17),

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

4 (4) [(5)] accepting direct trustee-to-trustee transfer from an account  
5 established for the benefit of the member in AS 39.30.150 - 39.30.180 (Alaska  
6 Supplemental Annuity Plan).

7 \* Sec. 60. AS 39.35.165(f), as amended by sec. 59 of this Act, is amended to read:

8 (f) The board may accept rollover contributions from a member [AND  
9 DIRECT TRANSFERS, AS DESCRIBED IN THIS SUBSECTION, FOR THE  
10 PURCHASE, IN WHOLE OR IN PART, OF CREDITED SERVICE FOR THE  
11 REINSTATEMENT, IN WHOLE OR IN PART, OF FORFEITED CREDITED  
12 SERVICE UNDER AS 39.35.350]. A rollover contribution [OR TRANSFER] as  
13 described in this subsection shall also be treated as employer contributions for the  
14 purpose of determining tax treatment under the Internal Revenue Code and may be  
15 made by any one or a combination of the following methods:

16 (1) subject to the limitations prescribed in 26 U.S.C. 401(a)(3) and 26  
17 U.S.C. 402(c), accepting eligible rollover distributions directly from one or more  
18 eligible retirement plans as defined by 26 U.S.C. 402(c)(8)(B);

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

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

27 (4) accepting direct trustee-to-trustee transfer from an account  
28 established for the benefit of the member in AS 39.30.150 - 39.30.180 (Alaska  
29 Supplemental Annuity Plan).

30 \* Sec. 61. AS 39.35.195(b) is amended to read:

31 (b) Except as provided by AS 39.35.165(f) [AS 39.35.165(f)(5)], the plan does

1 not accept contributions of eligible rollover distributions.

2 \* Sec. 62. AS 39.35.195(c)(2) is amended to read:

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

5 \* Sec. 63. AS 39.35.195(c)(3) is amended to read:

6 (3) "eligible retirement plan"

7 [(A)] means

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

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

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

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

14 (E) [(v)] on and after January 1, 2002, an annuity plan  
15 described in 26 U.S.C. 403(b); or

16 (F) [(vi)] on or after January 1, 2002, a governmental plan  
17 described in 26 U.S.C. 457(b); or

18 (G) on or after January 1, 2008, a Roth IRA described in 26  
19 U.S.C. 408A [AND

20 (B) NOTWITHSTANDING (A) OF THIS PARAGRAPH,  
21 MEANS, WITH RESPECT TO DISTRIBUTIONS MADE BEFORE  
22 JANUARY 1, 2002, AN INDIVIDUAL RETIREMENT ACCOUNT OR AN  
23 INDIVIDUAL RETIREMENT ANNUITY ACCOUNT DESCRIBED OR  
24 DEFINED IN 26 U.S.C. 408 IN THE CASE OF AN ELIGIBLE ROLLOVER  
25 DISTRIBUTION TO A BENEFICIARY WHO IS THE SURVIVING  
26 SPOUSE OF A MEMBER];

27 \* Sec. 64. AS 39.35.195(c)(4) is amended to read:

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

30 (A) a distribution that is one of a series of substantially equal  
31 installments payable not less frequently than annually over the life expectancy

1 of the distributee or the joint and last survivor life expectancy of the distributee  
2 and the distributee's designated beneficiary, as defined in 26 U.S.C. 401(a)(9);

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

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

7 (D) the portion of any distribution that is not includable in  
8 gross income; however, a portion under this subparagraph may be  
9 transferred only to an individual retirement account or annuity described  
10 in 26 U.S.C. 408(a) or (b), to a qualified plan described in 26 U.S.C. 401(a)  
11 or 403(a), or to an annuity contract described in 26 U.S.C. 403(b), that  
12 agrees to separately account for amounts transferred, including separately  
13 accounting for the portion of the distribution that is includable in gross  
14 income and the portion of the distribution that is not includable in gross  
15 income; and

16 (E) [A DISTRIBUTION MADE ON OR AFTER JANUARY  
17 1, 2002, THAT IS ON ACCOUNT OF HARDSHIP; AND

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

20 \* Sec. 65. AS 39.35.250 is amended to read:

21 **Sec. 39.35.250. Calculation of employer's contribution rate.** (a) An  
22 employer shall make contributions to the plan [IN AMOUNTS DETERMINED] in  
23 accordance with this section. For the purposes of this section and AS 39.35.270, the  
24 [PAST SERVICE DATE FOR EACH EMPLOYER IS THE ENTRY DATE OF THE  
25 EMPLOYER OR DECEMBER 31, 1972, WHICHEVER IS LATER. AFTER  
26 DECEMBER 31, 1972, IF AMENDMENTS TO AS 39.35.095 - 39.35.680 ARE  
27 ENACTED THAT SUBSTANTIALLY AFFECT BENEFITS ACCRUED BEFORE  
28 THE EFFECTIVE DATE OF THE AMENDMENT, THE PAST SERVICE DATE  
29 WILL BE CHANGED TO DECEMBER 31 OF THE YEAR IMMEDIATELY  
30 PRECEDING THAT IN WHICH THE AMENDMENT IS ENACTED. THE]  
31 contribution rate is the sum of the consolidated employer normal cost rate and the

1 past service rate as approved by the board.

2 (b) In (a) of this section, "consolidated employer normal cost rate" means the  
3 percentage of compensation of all active employees in the system [PLAN] which, [IF  
4 PAID OVER THE PERIOD OF THEIR CREDITED SERVICE AFTER THEIR  
5 PAST SERVICE DATE AND] when combined with all employee contributions to the  
6 plan, is sufficient to provide the benefits earned during the year beginning after the  
7 last valuation date [AFTER SUCH PAST SERVICE DATES]. This percentage is  
8 [UNIFORMLY] determined at the plan level for all employers and is applicable to  
9 each employer.

10 (c) In (a) of this section, "past service rate" means the percentage of  
11 compensation of all active employees in the system [PLAN] necessary to provide the  
12 annual amount required to amortize the unfunded obligations of the employer for  
13 benefits earned by the employer's members in the plan as of [BEFORE] the date of  
14 the last actuarial valuation [EMPLOYER'S PAST SERVICE DATE] over a period  
15 not to exceed the maximum allowed by generally accepted accounting principles  
16 of the Governmental Accounting Standards Board [40 YEARS. THE PERIOD OF  
17 AMORTIZATION BEGINS AT THE PAST SERVICE DATE OF EACH  
18 EMPLOYER]. The percentage is separately determined for each employer.

19 \* Sec. 66. AS 39.35.250 is amended by adding a new subsection to read:

20 (d) Employer contributions shall be separately computed for benefits provided  
21 by AS 39.35.535, and shall be deposited in the Alaska retiree health care trust  
22 established under AS 39.30.097(a).

23 \* Sec. 67. AS 39.35.270(a) is amended to read:

24 (a) The amount of each employer's contributions shall be determined by  
25 applying the sum of the consolidated employer normal cost [EMPLOYER'S  
26 CONTRIBUTION] rate and the employer's past service rate to the total  
27 compensation paid to the employer's active employees in the system [, AS  
28 CERTIFIED BY THE BOARD, TO THE TOTAL COMPENSATION PAID TO THE  
29 ACTIVE EMPLOYEES OF THE EMPLOYER] for each payroll period, [AND BY]  
30 including any adjustments to contributions required by AS 39.35.520(a). This amount  
31 shall be remitted by the employer to the administrator in accordance with

1 AS 39.35.610.

2 \* Sec. 68. AS 39.35.375(a) is amended to read:

3 (a) An active or inactive member who has never been vested in this plan or in  
4 the teachers' retirement plan under AS 14.25.009 - 14.25.220, who has at least two  
5 years of credited service in this plan, and who has membership service in the teachers'  
6 retirement system may claim credited service in this plan in an amount equal to the  
7 membership service the member has in the teachers' retirement system. The claimed  
8 credited service may be added to service earned under AS 39.35.095 - 39.35.680 to  
9 enable the member to qualify for a public service benefit under this section. The  
10 member may not claim credited service for membership service for which the member  
11 has received a refund under AS 14.25.150 [UNLESS THE MEMBER FULLY PAYS  
12 THE INDEBTEDNESS AS ESTABLISHED UNDER AS 14.25.063]. The member  
13 may not claim credited service in this plan based on unused sick leave under  
14 AS 14.25.115.

15 \* Sec. 69. AS 39.35.385(c) is amended to read:

16 (c) Credited service for which contributions were refunded is not creditable  
17 under this section [UNLESS THE REFUNDED CONTRIBUTIONS HAVE BEEN  
18 REPAYED. FOR PURPOSES OF (a) AND (b) OF THIS SECTION, A MEMBER OR  
19 FORMER MEMBER DOES NOT HAVE TO BE REEMPLOYED UNDER THIS  
20 PLAN IN ORDER TO PAY REFUNDED CONTRIBUTIONS. COMPOUND  
21 INTEREST AT THE RATE PRESCRIBED BY REGULATION SHALL BE ADDED  
22 TO THE REINSTATEMENT INDEBTEDNESS FROM THE DATE OF THE  
23 REFUND TO THE DATE OF REPAYMENT].

24 \* Sec. 70. AS 39.35.522(d) is amended to read:

25 (d) A decision of the [THE] commissioner of administration under this  
26 section to deny a waiver under this section may be appealed to the office of  
27 administrative hearings. The office of administrative hearings may reverse the  
28 decision of the commissioner and may impose conditions on the granting of a waiver  
29 which it considers equitable. These conditions may include requiring the member or  
30 beneficiary to make additional contributions to the plan.

31 \* Sec. 71. AS 39.35.535 is amended by adding a new subsection to read:

1 (f) On and after July 1, 2007, benefits under this section shall be provided in  
2 part by the Alaska retiree health care trust established under AS 39.30.097(a).

3 \* Sec. 72. AS 39.35.610 is amended by adding a new subsection to read:

4 (b) If contributions are not submitted within the prescribed time limit, the  
5 amount of contributions and interest due may be claimed by the administrator from  
6 any agency of the state or political subdivision that has in its possession funds of the  
7 employer or that is authorized to disburse funds to the employer that are not restricted  
8 by statute or appropriation to a specific purpose. The amount claimed shall be certified  
9 by the administrator as sufficient to pay the contributions and interest due from the  
10 employer. The amount claimed shall be submitted to the administrator for deposit in  
11 the retirement fund and the Alaska retiree health care trust.

12 \* Sec. 73. AS 39.35.615 is amended by adding new subsections to read:

13 (g) An employer terminating participation in the plan shall pay termination  
14 costs determined by the administrator, or enter into a payment plan acceptable to the  
15 administrator, within 60 days of the employer receiving notice of its termination costs  
16 from the administrator. Termination costs not paid within the prescribed time limit or  
17 in accordance with the approved payment plan shall be collected by the administrator  
18 in accordance with AS 39.35.610(b). Termination of participation by an employer in  
19 the plan does not bar future participation by the employer under AS 39.35.700 -  
20 39.35.990 if the employer has paid in full its prior termination costs.

21 (h) A political subdivision or public organization considering or requesting  
22 termination from the plan shall pay the cost associated with obtaining a termination  
23 cost study associated with the employer's termination.

24 \* Sec. 74. AS 39.35.620 is amended by adding new subsections to read:

25 (i) An employer terminating participation in the plan shall pay termination  
26 costs determined by the administrator, or enter into a payment plan acceptable to the  
27 administrator, within 60 days after the employer receives notice of the cost.  
28 Termination costs not paid within the prescribed time limit or in accordance with the  
29 approved payment plan shall be collected by the administrator in accordance with  
30 AS 39.35.610(b). Termination of participation by an employer in the plan does not bar  
31 future participation by the employer under AS 39.35.700 - 39.35.990 if the employer

1 has paid in full its prior termination costs.

2 (j) A political subdivision or public organization being terminated from the  
3 plan shall pay the cost associated with obtaining a termination cost study associated  
4 with the employer's termination.

5 \* Sec. 75. AS 39.35.650 is amended to read:

6 Sec. 39.35.650. Refunds to employers. An employer may not receive an  
7 amount from the plan, except as provided under AS 39.35.115(e), 39.35.615(e), or  
8 [AS 39.35.615(e) AND] 39.35.620(g).

9 \* Sec. 76. AS 39.35 is amended by adding a new section to read:

10 Sec. 39.35.678. Internal Revenue Code compliance. (a) The administrator  
11 shall use forfeitures that arise for any reason, including from termination of  
12 employment or death, to reduce employer contributions. Forfeitures may not be  
13 applied to increase the benefits of any member.

14 (b) The administrator shall determine the amount of any benefit that is  
15 determined on the basis of actuarial tables using assumptions approved by the  
16 commissioner. The amount of benefits is not subject to employer discretion.

17 (c) Employee contributions paid to, and retirement benefits paid from, the plan  
18 may not exceed the annual limits on contributions and benefits, respectively, allowed  
19 by 26 U.S.C. 415. Notwithstanding any contrary provision of law, the administrator  
20 may modify a request by a member to make a contribution to a plan if the amount of  
21 the contribution would exceed the limits provided in 26 U.S.C. 415 by using the  
22 following methods:

23 (1) if the law requires a lump sum payment for the purchase of service  
24 credit, the administrator may establish a periodic payment plan for the member to  
25 avoid a contribution in excess of the limits under 26 U.S.C. 415(c) or 415(n);

26 (2) if a periodic payment plan under (1) of this subsection will not  
27 avoid a contribution in excess of the limits imposed by 26 U.S.C. 415(c), the  
28 administrator may either reduce the member's contribution to an amount within the  
29 limits of that section or refuse the member's contribution.

30 \* Sec. 77. AS 39.35.680(3) is amended to read:

31 (3) "administrator" means [THE PERSON APPOINTED BY] the

1 commissioner of administration or the commissioner's designee appointed under  
2 AS 39.35.003 [AS 39.35.050];

3 \* Sec. 78. AS 39.35.680(9) is amended to read:

4 (9) "compensation" means the remuneration earned by an employee  
5 for personal services rendered to an employer, including employee contributions under  
6 AS 39.35.160, cost-of-living differentials only as provided in AS 39.35.675, payments  
7 for leave that is actually used by the employee, the amount by which the employee's  
8 wages are reduced under AS 39.30.150(c), an amount that is contributed by the  
9 employer under a salary reduction agreement and that is not includable in the  
10 gross income of the employee under 26 U.S.C. 125 or 132(f)(4), and any amount  
11 deferred under an employer-sponsored deferred compensation plan, but does not  
12 include retirement benefits, severance pay or other separation bonuses, welfare  
13 benefits, per diem, expense allowances, workers' compensation payments, or  
14 payments for leave not used by the employee whether those leave payments are  
15 scheduled payments, lump-sum payments, donations, or cash-ins; for a member first  
16 hired on or after July 1, 1996, compensation does not include remuneration in excess  
17 of the limitations set out in 26 U.S.C. 401(a)(17) (Internal Revenue Code);

18 \* Sec. 79. AS 39.35.680(18) is amended to read:

19 (18) "employer" means

20 (A) the State of Alaska; [OR]

21 (B) a political subdivision or public organization of the state  
22 that participates in the plan based on a resolution to participate in the plan  
23 that was approved by the administrator on or before July 1, 2006; or

24 (C) a political subdivision or public organization of the  
25 state that, as a result of consolidation or reorganization that occurs on or  
26 after July 1, 2006, assumes liability under the plan of a political  
27 subdivision or public organization described in (B) of this paragraph;

28 \* Sec. 80. AS 39.35.700 is amended to read:

29 Sec. 39.35.700. Applicability of AS 39.35.700 - 39.35.990. The provisions of  
30 AS 39.35.700 - 39.35.990 apply only to members first hired on or after July 1, 2006,  
31 to members who are employed by employers that do not participate in the

1 defined benefit retirement plan established under AS 39.35.095 - 39.35.680, or to  
2 members who transfer into the defined contribution retirement plan under  
3 AS 39.35.940.

4 \* Sec. 81. AS 39.35.700, as amended by sec. 80 of this Act, is amended to read:

5 **Sec. 39.35.700. Applicability of AS 39.35.700 - 39.35.990.** The provisions of  
6 AS 39.35.700 - 39.35.990 apply only to members first hired on or after July 1, 2006,  
7 to members who are employed by employers that do not participate in the defined  
8 benefit retirement plan established under AS 39.35.095 - 39.35.680, to former  
9 members as defined in AS 39.35.680, or to members who transfer into the defined  
10 contribution retirement plan under AS 39.35.940.

11 \* Sec. 82. AS 39.35.710(c) is amended to read:

12 (c) The retirement plan established by AS 39.35.700 - 39.35.990 is intended to  
13 qualify under 26 U.S.C. 401(a), [AND] 414(d), and 414(k) (Internal Revenue Code)  
14 as a qualified retirement plan established and maintained by the state for its  
15 employees, for the employees of political subdivisions, public corporations, and public  
16 organizations of the state, and for the employees of other employers whose  
17 participation is authorized by AS 39.35.700 - 39.35.990 and who participate in the  
18 plan set out in AS 39.35.700 - 39.35.990. Benefits under AS 39.35.880 are not  
19 provided by the defined contribution retirement plan.

20 \* Sec. 83. AS 39.35 is amended by adding a new section to read:

21 **Sec. 39.35.725. Participation of elected officials of political subdivisions.** (a)

22 An elected official of a political subdivision of the state that participates in both the  
23 plan and the defined benefit plan of AS 39.35.095 - 39.35.680 is a member of the plan  
24 if

25 (1) the political subdivision covers elected officials under  
26 AS 39.35.550 - 39.35.650 and has designated elected officials under AS 39.35.957 as  
27 a classification of employees entitled to participate in the plan; and

28 (2) the elected official receives compensation from the political  
29 subdivision for services as an elected official in the amount of at least \$2,001 a month.

30 (b) An elected official of a political subdivision of the state that participates in  
31 the plan but not the defined benefit plan of AS 39.35.095 - 39.35.680 is a member of

1 the plan if

2 (1) the political subdivision has designated elected officials under  
3 AS 39.35.957 as a classification of employees entitled to participate in the plan; and

4 (2) the elected official receives compensation from the political  
5 subdivision for services as an elected official in the amount of at least \$2,001 a month.

6 (c) An elected official entitled to participate under this section, and who either  
7 has no previous service under the system with the political subdivision or is retired  
8 under the system, may file a waiver of participation in the plan with the administrator  
9 within 30 days after the later of the effective date of this section or the date that the  
10 elected official's term of office begins. A waiver is irrevocable for the remainder of the  
11 elected official's service as an elected official or employee of the political subdivision.

12 \* Sec. 84. AS 39.35.750(b) is amended to read:

13 (b) An employer shall also contribute an amount equal to a percentage, as  
14 adopted [CERTIFIED] by the board, of each member's compensation from July 1 to  
15 the following June 30 to pay for retiree major medical insurance. This contribution  
16 shall be paid into the Alaska retiree health care trust [GROUP HEALTH AND  
17 LIFE BENEFITS FUND] established by the commissioner of administration under  
18 AS 39.30.097(b) [AS 39.30.095] and shall be accounted for in accordance with  
19 regulations established by the commissioner.

20 \* Sec. 85. AS 39.35.750(e) is amended to read:

21 (e) An employer shall make annual contributions to a trust account in the  
22 plan, applied as a percentage of each member's compensation from July 1 to the  
23 following June 30, in an amount determined by the board to be actuarially required to  
24 fully fund the cost of providing occupational disability and occupational death benefits  
25 under AS 39.35.700 - 39.35.990 and retirement benefits elected by disabled peace  
26 officers and fire fighters under AS 39.35.890(h)(2) [AS 39.35.890 AND 39.35.892].  
27 The contribution required under this subsection for peace officers and fire fighters and  
28 the contribution required under this subsection for other employees shall be separately  
29 calculated based on the actuarially calculated costs for each group of employees.

30 \* Sec. 86. AS 39.35.760(d)(3) is amended to read:

31 (3) "eligible retirement plan" means

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(A) an [A CONDUIT] individual retirement account described in 26 U.S.C. 408(d)(3)(A);

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

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

(D) an annuity plan described in 26 U.S.C. 403(b); [OR]

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

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

(G) on or after January 1, 2008, a Roth IRA described in 26 U.S.C. 408A;

\* Sec. 87. AS 39.35.760(d)(4) is amended to read:

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

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

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

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

(D) the portion of any distribution that is not includable in gross income; however, a portion under this subparagraph may be transferred only to an individual retirement account or annuity described in 26 U.S.C. 408(a) or (b), to a qualified plan described in 26 U.S.C. 401(a) or 403(a), or to an annuity contract described in 26 U.S.C. 403(b), that agrees to separately account for amounts transferred, including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not includable in gross income; and

(E) [A DISTRIBUTION THAT IS ON ACCOUNT OF

1 HARDSHIP; AND

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

4 \* Sec. 88. AS 39.35.770 is amended to read:

5 Sec. 39.35.770. **Transmittal of contributions.** All contributions deducted in  
6 accordance with AS 39.35.700 - 39.35.990 shall be transmitted to the plan for deposit  
7 in the appropriate account or trusts [TRUST FUND] as soon as administratively  
8 feasible, but in no event later than 15 days following the close of the payroll period.

9 \* Sec. 89. AS 39.35.770 is amended by adding new subsections to read:

10 (b) If contributions are not transmitted within the prescribed time limit,  
11 interest shall be assessed on the outstanding contributions at the rate established under  
12 AS 39.35.610 from the date that contributions were originally due. Amounts due from  
13 an employer and interest as prescribed in this subsection may be claimed by the  
14 administrator from any agency of the state or political subdivision that has in its  
15 possession funds of the employer or that is authorized to disburse funds to the  
16 employer that are not restricted by statute or appropriation to a specific purpose. The  
17 amount claimed shall be certified by the administrator as sufficient to pay the  
18 contributions and interest due from the employer. The amount claimed shall be  
19 submitted to the administrator for deposit in the appropriate account or trusts.

20 (c) Employers are responsible for administrative fees, investment fees, and  
21 investment losses charged to accounts established under AS 39.35.730 resulting from  
22 contribution adjustments due to employers enrolling members in the plan before the  
23 members are eligible for membership. Contributions made by employees shall be  
24 returned to the employer by reducing future employee contributions due.  
25 Contributions, net of fees and investment losses, made by employers shall be used to  
26 reduce future employer contributions due.

27 \* Sec. 90. AS 39.35.780 is amended to read:

28 Sec. 39.35.780. **Limitations on contributions and benefits.** Notwithstanding  
29 any other provisions of this plan, the annual additions to each member's individual  
30 account under this plan and under all defined contribution plans of the employer  
31 required to be aggregated with the contributions from this plan under the provisions of

1 26 U.S.C. 415 may not exceed, for any limitation year, the amount permitted under 26  
 2 U.S.C. 415(c) [26 U.S.C. 415] at any time. If the amount of a member's individual  
 3 account [DEFINED CONTRIBUTION PLAN] contributions exceeds the limitation of  
 4 26 U.S.C. 415(c) for any limitation year, the administrator shall take any necessary  
 5 remedial action to correct an excess contribution. A fixed benefit provided under  
 6 this plan may not exceed, for or during a limitation year, the amount permitted  
 7 under 26 U.S.C. 415(b). If a fixed benefit provided under this plan exceeds, for or  
 8 during a limitation year, the amount permitted under 26 U.S.C. 415(b), the  
 9 administrator shall take remedial action necessary to comply with the limits on  
 10 the benefit amount in 26 U.S.C. 415(b). The provisions of 26 U.S.C. 415, and the  
 11 regulations adopted under that statute, as applied to qualified [DEFINED  
 12 CONTRIBUTION] plans of governmental employees are incorporated as part of the  
 13 terms and conditions of the plan.

14 \* Sec. 91. AS 39.35.890(b) is amended to read:

15 (b) The occupational disability benefits accrue beginning the first day of the  
 16 month following termination of employment as a result of the disability and are  
 17 payable the last day of the month. If a final determination granting the benefit is not  
 18 made in time to pay the benefit when due, a retroactive payment shall be made to  
 19 cover the period of deferment. The last payment shall be for the first month in which  
 20 the disabled employee

21 (1) dies;

22 (2) recovers from the disability;

23 (3) fails to meet the requirements under (f), [OR] (j), or (l) of this  
 24 section; or

25 (4) reaches normal retirement age.

26 \* Sec. 92. AS 39.35.890(d) is amended to read:

27 (d) The monthly amount of an occupational disability benefit is 40 percent of  
 28 the disabled employee's gross monthly compensation at the time of termination due to  
 29 disability. Notwithstanding AS 39.35.790(b), at the time a member is appointed to  
 30 disability, the member becomes fully vested in the employer contributions made  
 31 under AS 39.35.750(a). A disabled member is fully vested in the contributions to

1 the member's individual account made under this subsection. An employee is not  
2 entitled to elect distributions from the employee's individual contribution  
3 account under AS 39.35.810 while the employee is receiving disability benefits  
4 under this section. While an employee is receiving disability benefits, based on the  
5 disabled employee's gross monthly compensation at the time of termination due to  
6 disability, the employer shall make contributions

7 (1) to the employee's individual account under AS 39.35.730 on behalf  
8 of the employee, without deduction from the employee's disability payments; and

9 (2) on behalf of the employee under AS 39.35.750.

10 \* Sec. 93. AS 39.35.890(g) is amended to read:

11 (g) A disabled employee's occupational disability benefit terminates the last  
12 day of the month in which [WHEN] the disabled employee first qualifies  
13 [ATTAINS ELIGIBILITY] for normal retirement. At that time, the employee's  
14 retirement benefit shall be determined under the provisions of AS 39.35.820 -  
15 39.35.840, 39.35.870, and 39.35.880. An employee whose occupational disability  
16 benefit terminates under this subsection [RECEIVING DISABILITY BENEFITS  
17 UP UNTIL ELIGIBILITY FOR RETIREMENT] shall be considered to have retired  
18 directly from the plan.

19 \* Sec. 94. AS 39.35.890(h) is amended to read:

20 (h) Notwithstanding (g) of this section, at the time a peace officer or fire  
21 fighter receiving occupational disability benefits under this section first attains  
22 eligibility for normal retirement, the employee shall irrevocably elect to receive  
23 retirement benefits in the amount calculated as the

24 (1) employee's retirement benefit calculated under the provisions of  
25 AS 39.35.820 - 39.35.840; or

26 (2) employee's retirement benefit calculated as if the provisions of  
27 AS 39.35.370(e) were to apply; however, pension [RETIREMENT] benefits paid  
28 under this paragraph must be paid first from the peace officer's or fire fighter's  
29 individual contribution account, and the remaining benefits must be paid from  
30 the trust account established under AS 39.35.750(e); the peace officer or fire  
31 fighter may not elect other distributions from the peace officer's or fire fighter's

1           individual contribution account under AS 39.35.810 [MAY NOT BE MADE  
2 FROM THE TRUST FUND OF THE PUBLIC EMPLOYEES' DEFINED BENEFIT  
3 RETIREMENT PLAN].

4 \* Sec. 95. AS 39.35.890(k) is amended to read:

5           (k) Upon the death of a disabled employee who is receiving or is entitled to  
6 receive an occupational disability benefit, the administrator shall pay the surviving  
7 spouse a surviving spouse's pension, equal to 40 percent of the employee's monthly  
8 compensation at the time of termination of employment because of occupational  
9 disability. If there is no surviving spouse, the administrator shall pay the survivor's  
10 pension in equal parts to the dependent children of the employee. While the monthly  
11 survivor's pension is being paid, the survivor is not entitled to elect distributions  
12 from the employee's individual contribution account under AS 39.35.810. The  
13 first payment of the surviving spouse's pension or of a dependent child's pension shall  
14 accrue from the first day of the month following the employee's death and is payable  
15 the last day of the month. The last payment shall be made the last day of [FOR] the  
16 last month in which there is an eligible surviving spouse or dependent child, or the  
17 last day of the month in which the employee would have first qualified for normal  
18 retirement if the employee had survived, whichever day is sooner. A retirement  
19 benefit shall be determined under the provisions of AS 39.35.820 - 39.35.840,  
20 39.35.870, and 39.35.880 based on [. ON] the date the employee would have first  
21 qualified for normal retirement [OF THE EMPLOYEE WOULD HAVE  
22 OCCURRED] if the employee had survived. In addition to payment of the  
23 member's individual account, the surviving spouse or, if there is no surviving  
24 spouse, the surviving dependent children of the member, shall receive an  
25 additional benefit in an amount equal to the accumulated contributions that  
26 would have been made to the deceased member's individual account under  
27 AS 39.35.730(a) and 39.35.750(a), based on the deceased member's gross monthly  
28 compensation at the time of occupational disability, from the time of the  
29 member's death to the date the member would have first qualified for normal  
30 retirement if the member had survived. Earnings shall be allocated to the  
31 additional benefit calculated under this subsection based on the actual rate of

1 return, net of expenses, of the trust account established under AS 39.35.750(e)  
2 over the period that the contributions would have been made. This additional  
3 amount and allocated earnings shall be paid in the same manner as determined  
4 for the member's individual account under AS 39.35.820 - 39.35.860 to the extent  
5 permitted by the Internal Revenue Service. For the purpose of determining  
6 eligibility of an employee's survivor who is receiving a benefit under this  
7 subsection for medical benefits under AS 39.35.870 - 39.35.880, an employee  
8 [LIVED, THE RETIREMENT BENEFIT SHALL BE DETERMINED UNDER THE  
9 PROVISIONS OF AS 39.35.820 - 39.35.840, 39.35.870, AND 39.35.880. AN  
10 EMPLOYEE] who died while receiving disability benefits shall be considered to have  
11 retired directly from the plan on the date the employee would have first qualified for  
12 normal retirement if the employee had survived. The period during which the  
13 employee was eligible for a disability benefit and the period during which a  
14 survivor's pension is paid to a survivor under this subsection each constitute  
15 membership service for the purposes of determining eligibility for medical  
16 benefits under AS 39.30.300 - 39.30.495 and AS 39.35.700 - 39.35.990 [NORMAL  
17 RETIREMENT OF THE EMPLOYEE WOULD HAVE OCCURRED IF THE  
18 EMPLOYEE HAD LIVED].

19 \* Sec. 96. AS 39.35.890(l) is amended to read:

20 (l) In this section, "occupational disability" means a physical or mental  
21 condition that the administrator determines presumably permanently prevents  
22 an employee from satisfactorily performing the employee's usual duties or the  
23 duties of another comparable position or job available to the employee and for  
24 which the employee is qualified by training or education; however, the proximate  
25 cause of the condition must be a bodily injury sustained, or a hazard undergone,  
26 while in the performance and within the scope of the employee's duties and not  
27 the proximate result of the wilful negligence of the employee [HAS THE  
28 MEANING GIVEN IN AS 39.35.680].

29 \* Sec. 97. AS 39.35.890 is amended by adding a new subsection to read:

30 (m) While a survivor under (k) of this section is receiving a survivor's  
31 pension, the employer of the deceased employee shall make contributions with respect

1 to the survivor based on the deceased employee's gross monthly compensation at the  
2 time of termination due to disability

3 (1) that would have been paid to the employee's individual account  
4 under AS 39.35.730 and 39.35.750(a), to the trust account established under  
5 AS 39.35.750(e), without deduction from the survivor's pension; and

6 (2) to the appropriate accounts and funds under AS 39.35.750(b) - (e).

7 \* **Sec. 98.** AS 39.35 is amended by adding a new section to read:

8 **Sec. 39.35.891. Disability benefit and disabled peace officer or fire fighter**  
9 **retirement benefit adjustment.** (a) Once each year, the administrator shall increase  
10 disability benefits and retirement benefits elected by disabled peace officers or fire  
11 fighters under AS 39.35.890(h)(2). The amount of the increase is a percentage of the  
12 current disability benefit or retirement benefit equal to the lesser of 75 percent of the  
13 increase in the cost of living in the preceding calendar year or nine percent.

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

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

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

30 (e) Benefit adjustments under this section shall terminate the last day of the  
31 month following the date on which a disabled member is no longer receiving a

1 disability benefit under AS 39.35.890, unless the member is a disabled peace officer or  
2 fire fighter and has chosen a retirement benefit under AS 39.35.890(h)(2).

3 \* Sec. 99. AS 39.35.892(b) is amended to read:

4 (b) The first payment of the surviving spouse's pension or of a dependent  
5 child's pension shall be made for the month following the month in which the  
6 employee dies. Payments [, AND PAYMENT] shall cease on the last day of the  
7 month in which there is no longer an eligible spouse or eligible dependent child,  
8 or the last day of the month following the earliest date [TO BE MADE  
9 BEGINNING WITH THE MONTH IN WHICH] the employee would have first  
10 qualified for normal retirement if the employee had survived, whichever day is  
11 sooner.

12 \* Sec. 100. AS 39.35.892(c) is amended to read:

13 (c) The monthly survivor's pension in (b) of this section for survivors of  
14 employees who were not peace officers or fire fighters is 40 percent of the employee's  
15 monthly compensation in the month in which the employee dies. The monthly  
16 survivor's pension in (b) of this section for survivors of employees who were peace  
17 officers or fire fighters is 50 percent of the monthly compensation in the month in  
18 which the employee dies. While the monthly survivor's pension is being paid, the  
19 survivor is not entitled to elect distributions from the employee's individual  
20 contribution account under AS 39.35.810, except as required by AS 39.35.840.  
21 While the monthly survivor's pension is being paid, the employer shall make  
22 contributions with respect to [ON BEHALF OF] the employee's surviving spouse  
23 and employee's surviving dependent children [BENEFICIARIES] based on the  
24 deceased employee's gross monthly compensation at the time of occupational death

25 (1) that would have been paid to the employee's individual account  
26 under AS 39.35.730 and 39.35.750(a), to the trust account established under  
27 AS 39.35.750(e), without deduction from the survivor's pension; and

28 (2) to the appropriate accounts and funds under AS 39.35.750(b) - (e)  
29 [AS 39.35.750].

30 \* Sec. 101. AS 39.35.892(e) is amended to read:

31 (e) On the date the employee would have first qualified for normal

1 retirement [OF THE EMPLOYEE WOULD HAVE OCCURRED] if the employee  
2 had survived [LIVED], the retirement benefit shall be determined under the  
3 provisions of AS 39.35.820 - 39.35.840, 39.35.870, and 39.35.880. In addition to  
4 payment of the member's individual account, the surviving spouse or, if there is  
5 no surviving spouse, the surviving dependent children of the member, shall  
6 receive an additional benefit in an amount equal to the accumulated  
7 contributions that would have been made to the deceased member's individual  
8 account under AS 39.35.730(a) and 39.35.750(a), based on the deceased member's  
9 gross monthly compensation at the time of occupational death, from the time of  
10 the member's death to the date the member would have first qualified for normal  
11 retirement if the member had survived. Earnings shall be allocated to the  
12 additional benefit calculated under this subsection based on the actual rate of  
13 return, net of expenses, of the trust account established under AS 39.35.750(e)  
14 over the period that such contributions would have been made. This additional  
15 amount and allocated earnings shall be paid in the same manner as determined  
16 for the member's individual account under AS 39.35.820 - 39.35.860 to the extent  
17 permitted by the Internal Revenue Service. An employee who died and whose  
18 survivors receive occupational death benefits under this section shall be considered to  
19 have retired directly from the plan on the date the [NORMAL RETIREMENT OF  
20 THE] employee would have first qualified for normal retirement [OCCURRED] if  
21 the employee had survived. The period of time during which a survivor's pension  
22 is paid under this section constitutes membership service for the purpose of  
23 determining vesting in employer contributions under AS 39.35.790(b) and  
24 eligibility for medical benefits under AS 39.30.300 - 39.30.495 and AS 39.35.700 -  
25 39.35.990 [LIVED].

26 \* Sec. 102. AS 39.35 is amended by adding new sections to read:

27       Sec. 39.35.893. Survivor's pension adjustment. (a) Once each year, the  
28 administrator shall increase payments to a person 60 years of age or older receiving a  
29 survivor's pension under AS 39.35.890(k) or 39.35.892(c) and to a person who has  
30 received a survivor's pension under AS 39.35.890(k) or 39.35.892(c) for at least five  
31 years, who is not otherwise eligible for an increase under this section.

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

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

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

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

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

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

29 \* **Sec. 103.** AS 39.35.900 is amended by adding new subsections to read:

30 (d) The administrator will use forfeitures in the fixed benefit account of the  
31 plan that arise for any reason, including from termination of employment or death, to

1 reduce employer contributions. Forfeitures may not be applied to increase the benefits  
2 of any member.

3 (e) The administrator will determine the amount of any fixed benefit that is  
4 determined on the basis of actuarial tables using assumptions approved by the  
5 commissioner. The amount of benefits is not subject to employer discretion.

6 \* Sec. 104. AS 39.35.910 is amended to read:

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

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

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

21 \* Sec. 105. AS 39.35.940(c) is amended to read:

22 (c) Each eligible member who elects to participate in the defined contribution  
23 retirement plan shall have transferred to a new account the employee contribution  
24 account balance held in trust for the member under the defined benefit retirement plan  
25 of the public employees' retirement system. A matching employer contribution shall  
26 be made on behalf of that employee to the new account. The employer shall make the  
27 matching contribution from funds other than the trust funds of the defined benefit  
28 retirement plan established under AS 39.35.095 - 39.35.680. The amount of the  
29 matching employer contribution shall be subject to, and may not exceed, the  
30 limitation of 26 U.S.C. 415(c) during the applicable limitation year as defined by  
31 AS 39.35.990. If the matching employer contribution would exceed the limits

1 during the limitation year in which the transfer occurs, the remaining amount of  
2 the matching employer contribution shall be made in the next limitation year, if  
3 the limits would not be exceeded.

4 \* Sec. 106. AS 39.35.940(d) is amended to read:

5 (d) Upon a transfer, all membership service previously earned under the  
6 defined benefit retirement plan shall be nullified for purposes of entitlement to a future  
7 benefit under the defined benefit retirement plan but shall be credited for purposes of  
8 determining vesting in employer contributions under AS 39.35.790(b) and  
9 eligibility to elect medical benefits under AS 39.35.870. Membership service allowed  
10 for credit toward medical benefits does not include any service credit purchased for  
11 employment by an employer who is not a participating employer in this chapter.

12 \* Sec. 107. AS 39.35.940(h) is amended to read:

13 (h) An employee who is eligible to elect transfer to the defined  
14 contribution retirement plan must make the election not later than 12 months  
15 after the first day of the month following the administrator's receipt of the  
16 notification that the employee's employer consents to transfers of its employees  
17 under (i) of this section. The election to participate in the defined contribution  
18 retirement plan must be made in writing on forms and in the manner prescribed by the  
19 administrator. Before accepting an election to participate in the defined contribution  
20 retirement plan, the administrator must provide the employee planning on making an  
21 election to participate in the defined contribution retirement plan with information,  
22 including calculations to illustrate the effect of moving the employee's retirement plan  
23 from the defined benefit retirement plan to the defined contribution retirement plan as  
24 well as other information to clearly inform the employee of the potential consequences  
25 of the employee's election. An election made under this subsection to participate in the  
26 defined contribution retirement plan is irrevocable. Upon making the election, the  
27 participant shall be enrolled as a member of the defined contribution retirement plan,  
28 the member's participation in the plan shall be governed by the provisions of  
29 AS 39.35.700 - 39.35.990, and the member's participation in the defined benefit  
30 retirement plan under AS 39.35.115 shall terminate. The participant's enrollment in the  
31 defined contribution retirement plan shall be effective the first day of the month after

1 the administrator receives the completed enrollment forms. An election made by an  
2 eligible member who is married is not effective unless the election is signed by the  
3 individual's spouse.

4 \* **Sec. 108.** AS 39.35 is amended by adding new sections to read:

5 **Sec. 39.35.957. Designation of eligible employees, agreement to contribute,**  
6 **and amendment of participation.** (a) A political subdivision or public organization  
7 participating in the defined contribution retirement plan under AS 39.35.700 -  
8 39.35.990 shall designate the departments, groups, or other classifications of  
9 employees eligible to participate in the plan and, by participating, shall legally be  
10 presumed to have agreed to make contributions each year in the amounts required for  
11 members of the plan under AS 39.35.750.

12 (b) If the employer does not participate in the defined benefit retirement plan  
13 under AS 39.35.095 - 39.35.680, an employee who is eligible under (a) of this section  
14 and who is a member of the defined benefit retirement plan under AS 39.35.095 -  
15 39.35.680 does not accrue credited service or make contributions under that defined  
16 benefit retirement plan, but shall be a member of the defined contribution retirement  
17 plan under AS 39.35.700 - 39.35.990 and make contributions under that plan.

18 (c) An employer may request to amend its participation in the plan to add or  
19 exclude departments, groups, or other classifications of employees by filing a  
20 resolution as provided by AS 39.35.950 or 39.35.955 with the administrator.

21 **Sec. 39.35.958. Termination of participation in the plan.** (a) A political  
22 subdivision or public organization may request that its participation in the plan be  
23 terminated. The request may be made only after adoption of a resolution by the  
24 legislative body of the political subdivision and approval of the resolution by the  
25 person required by law to approve the resolution, or, in the case of a public  
26 organization, after adoption of a resolution by the governing body of that public  
27 organization. A certified copy of the resolution shall be filed with the administrator.

28 (b) If contributions are not transmitted to the plan within the prescribed time  
29 limit, the administrator may grant an extension and shall assess interest on the  
30 outstanding contributions at the rate established under AS 39.35.610. If the political  
31 subdivision or public organization is in default at the end of the extension,

1 participation in the plan is terminated, and it shall be sent notice of termination.

2 (c) When an employer's participation in the plan is terminated, or when an  
3 employer terminates coverage of a department, group, or other classification of  
4 employees under AS 39.35.957(c), the administrator shall assess the employer a  
5 termination cost that the administrator determines is actuarially required to fully fund  
6 the costs to the plan for employees whose coverage is terminated, including the cost of  
7 providing the employer's share of retiree health benefits under AS 39.35.880,  
8 occupational disability and occupational death benefits under AS 39.35.890 and  
9 39.35.892, and pension benefits elected under AS 39.35.890(h)(2).

10 (d) An employee whose coverage under the plan is terminated as a result of  
11 termination of an employer's participation under this section or amendment of the  
12 employer's agreement under AS 39.35.957(c) shall be considered fully vested in  
13 employer contributions under AS 39.35.790(b) and in the individual account  
14 established for the employee under AS 39.30.730. If the employee is later employed  
15 with a participating employer, the employee's membership service earned under the  
16 plan during employment with a terminated employer shall be credited for purposes of  
17 determining vesting in employer contributions under AS 39.35.790(b) and eligibility  
18 for medical benefits under this chapter and AS 39.30.300 - 39.30.495.

19 (e) An employer terminating participation in the plan shall pay termination  
20 costs determined by the administrator, or enter into a payment plan acceptable to the  
21 administrator, within 60 days of the employer receiving notice of its termination costs  
22 from the administrator. Termination costs not paid within the prescribed time limit or  
23 in accordance with the approved payment plan shall be collected by the administrator  
24 in accordance with AS 39.35.610(b). Termination of participation by an employer in  
25 the plan does not bar future participation by the employer if the employer has paid in  
26 full its prior termination costs.

27 (f) A political subdivision or public organization considering or requesting  
28 termination from the plan shall pay the cost associated with obtaining a termination  
29 cost study associated with the employer's termination.

30 <sup>u</sup> Sec. 109. AS 39.35 is amended by adding a new section to read:

31 **Sec. 39.35.972. Special rules for treatment of qualified military service.**

1 Notwithstanding any contrary provisions of AS 39.35.700 - 39.35.990, with respect to  
2 qualified military service, contributions shall be made and benefits and service credit  
3 shall be provided in accordance with 26 U.S.C. 414(u).

4 \* Sec. 110. AS 39.35.990(7) is amended to read

5 (7) "compensation"

6 (A) means

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

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

18 (B) does not include retirement benefits, severance pay or other  
19 separation bonuses, welfare benefits, per diem, expense allowances, workers'  
20 compensation payments, payments for leave not used whether those leave  
21 payments are scheduled payments, lump-sum payments, donations, or cash-ins,  
22 any remuneration contributed by the employer for or on account of the  
23 employee under this plan or under any other qualified or nonqualified  
24 employee benefit plan, or any remuneration not specifically included above  
25 which would have been excluded under 26 U.S.C. 3121(a) (Internal Revenue  
26 Code) if the employer had remained in the Federal Social Security System [,  
27 OR ANY REMUNERATION PAID BY THE EMPLOYER IN EXCESS OF  
28 THE SOCIAL SECURITY TAXABLE WAGE BASE FOR THE  
29 CALENDAR YEAR];

30 (C) notwithstanding (B) of this paragraph, includes any amount  
31 that is contributed by the employer under a salary reduction agreement and that

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

8 \* Sec. 111. AS 39.35.990(16) is amended to read:

9 (16) "member" or "employee" means a person who is eligible to  
10 participate in the plan and who is covered by [AN EMPLOYEE OF AN  
11 EMPLOYER OR FORMER EMPLOYEE OF AN EMPLOYER WHO RETAINS A  
12 RIGHT TO BENEFITS UNDER] the plan, including the governor, the lieutenant  
13 governor, and a member of the legislature, but does not include full-time or part-  
14 time instructors of the Department of Labor and Workforce Development and the  
15 Department of Education and Early Development in positions that require a  
16 teaching certificate;

17 \* Sec. 112. AS 39.35.990(20) is amended to read:

18 (20) "peace officer" or "fire fighter" means an employee occupying a  
19 position as a peace officer, chief of police, regional public safety officer,  
20 correctional officer, correctional superintendent, fire fighter, fire chief, or  
21 probation officer, but does not include a village public safety officer employed by  
22 a village public safety officer program established under AS 18.65.670 [HAS THE  
23 MEANING GIVEN IN AS 39.35.680];

24 \* Sec. 113. AS 39.45.020 is amended by adding a new subsection to read:

25 (d) The administrator of a deferred compensation program under this chapter  
26 has the powers and duties with regard to the program set out in AS 14.25.003 and  
27 14.25.004, as though those provisions applied to the program.

28 \* Sec. 114. AS 39.45 is amended by adding a new section to read:

29 **Sec. 39.45.055. Appeals.** A final decision made under AS 39.45.010  
30 39.45.060 is subject to appeal under AS 44.64.

31 \* Sec. 115. AS 44.64.030(a) is amended by adding new paragraphs to read:

1 (35) AS 14.25.175 (waiver of adjustments under teachers' defined  
2 benefit plan);

3 (36) AS 39.30.165 (supplemental benefits system);

4 (37) AS 39.30.335 (teachers' and public employees' health  
5 reimbursement arrangement plan);

6 (38) AS 39.35.522 (waiver of adjustments under public employees'  
7 defined benefit plan);

8 (39) AS 39.45.055 (public employees' deferred compensation  
9 program).

10 \* Sec. 116. (a) AS 14.25.045, 14.25.340(b), 14.25.570; AS 39.35.050(a), 39.35.370(k),  
11 39.35.615(d), 39.35.615(f), 39.35.620(c), 39.35.620(f), 39.35.620(h), and 39.35.730(b) are  
12 repealed.

13 (b) AS 39.35.375(f) is repealed.

14 (c) Sections 15 and 91, ch. 9, FSSLA 2005, are repealed.

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

17 EMPLOYER CONTRIBUTIONS FOR FISCAL YEAR 2008 FOR  
18 OCCUPATIONAL DISABILITY AND OCCUPATIONAL DEATH BENEFITS IN THE  
19 TEACHERS' DEFINED CONTRIBUTION RETIREMENT PLAN. Notwithstanding  
20 AS 14.25.350(e), enacted by sec. 20 of this Act, for fiscal year 2008 the employer  
21 contribution to fully finance the cost of providing occupational disability and occupational  
22 death benefits under AS 14.25.485 and 14.25.487 shall be equal to 0.62 percent of the amount  
23 of compensation paid to all teachers who work for the employer in that year and are members  
24 of the teachers' defined contribution retirement plan.

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

27 TRANSFER OF FUNDS TO ALASKA RETIREE HEALTH CARE TRUSTS. The  
28 commissioner of administration shall transfer to the Alaska retiree health care trusts  
29 established under AS 39.30.097, enacted by sec. 50 of this Act, all funds for payment of  
30 retiree health benefits that have been deposited in the group health and life benefits fund  
31 under AS 39.30.095, including funds in the retiree health insurance fund, and all funds from

1 any fund or account into which funds for provision of retiree health benefits have been  
2 deposited. The commissioner of administration shall make the transfer on July 1, 2007, or  
3 immediately after July 1, 2007 when the funds become available to the commissioner for  
4 transfer.

5 \* Sec. 119. Sections 5, 6, 17, 60, 68, 69, 81, and 116(b) of this Act take effect July 1, 2010.

6 \* Sec. 120. Except as provided in sec. 119 of this Act, this Act takes effect immediately  
7 under AS 01.10.070(c).

## SECTIONAL ANALYSIS FOR CSSB 123

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**Sec. 1** AS 14.25.065(b). Amends the section regarding transmittal of contributions to identify the newly created Alaska retiree health care trust as a trust separate from the pension trust; clarifies the administrator may claim unpaid contributions and interest due from any agency of the state or political subdivision from funds due to a school district if the funds are not restricted by statute or appropriation to a specific purpose.

Reason: This amendment directs contributions for retiree health benefits to a separate trust to conform to the IRC and clarifies the administrator's authority to intercept other funds designated for a school district if that school district has not paid employee and employer contributions and interest due to the TRS.

**Sec. 2** AS 14.25.070(a). Changes the calculation of the employer contributions to the TRS defined benefit (DB) plan so that the employer rate is applied to the employer's entire TRS system payroll base.

Reason: Under current statutes, the employer DB plan contribution rate is applied only to salaries paid to members of the TRS DB plan. This amendment allows the contribution rate to be applied to the entire TRS payroll base of the employer's TRS workforce without regard to plan (tier) membership, and will keep employer contribution rates for the DB plan lower than would otherwise be calculated. It will also allow calculation of an employer rate for past service for smaller employers who may not have active DB members at some time in the future. However, this will neither increase employers' liability nor will it relieve employers of the liability; it merely restates the rate as a lower percentage of the applicable payroll.

**Sec. 3** AS 14.25.070(d)-(e). Requires contributions for retiree health benefits to be separately computed and deposited in the new Alaska retiree health care trust established in sec. 50 of this bill; adds definitions for "employer normal cost rate" and "past service rate" and clarifies the rate is applied to the employer's entire TRS payroll base.

Reason: In combination with Sec. 1 of this bill, this amendment directs contributions for retiree health to a separate trust to conform to the IRC and changes the calculation of the employer contributions so that the normal cost rate and the past service rate are applied to the employer's entire TRS payroll base.

**Sec. 4** AS 14.25.075(f). Clarifies the plans eligible for rollover into the plan for the payment of purchased service to be those plans recognized by the IRS in 26 U.S.C. 402(c)(8)(B).

Reason: Updates the plan's provisions and provides language for the plan to keep current with changing federal legislation regarding eligible and non-eligible plans.

**Sec. 5** AS 14.25.075(f). Effective July 1, 2010, removes the provision that allows acceptance of qualified rollovers for payment of contributions to reinstate forfeited (refunded) service.

Reason: SB 141 repealed statutes allowing payment and reinstatement of refunded service and contributions, effective July 1, 2010, making this provision unnecessary.

**Sec. 6** AS 14.25.125(c) Effective July 1, 2010, removes the provisions that allow members to repay refunded contributions for the purpose of obtaining a conditional service benefit.

Reason: SB 141 repealed statutes allowing reinstatement and payment of refunded service and contributions, effective July 1, 2010. This statute was overlooked in the repeal by SB 141 of the reinstatement of service provisions. AS 14.25.125(c) allows a member who is vested in PERS to reinstate and pay refunded service to be eligible for an early or normal conditional service pension benefit. A person who is eligible for a normal or early retirement salary under PERS qualifies for a normal or early "conditional service" retirement benefit under TRS if he or she has at least two years of credited service in TRS. Members are allowed to reinstate refunded service credit in order to qualify for the conditional service benefit. The conditional service benefit is very expensive because it results in payment of medical premiums and other medical charges from both the PERS and TRS for a single retiree.

Consequence: Without change, refunded PERS members will be treated differently under separate statutes. It would also continue to allow an "off-books" liability in the DB plan, one that can be neither accounted for nor paid until an eligible member applies for the benefit.

**Sec. 7** AS 14.25.163(h). Clarifies that the plan does not accept rollover contributions other than those expressly defined in 14.25.075(f), which are rollovers to purchase forfeited (refunded) service or claimed service.

Reason: Previous reference was to 14.25.075(f)(5), which covered only direct rollovers from the supplemental annuity plan. This change clarifies the types of plans available for rollover and payment for service purchases.

**Sec. 8.** AS 14.25.163(e)(2). Includes an alternate payee in the definition of "distributee".

Reason: Provides rollover rights to an alternate payee in the event of a divorce and refund of member contributions.

Consequence: Without this change an alternate payee, which is a former spouse of the member with spousal rights as defined by a Qualified Domestic Relations Order, would not be able to rollover the portion of a member's account that represented his/her marital portion to another qualified plan in the event the member refunded contributions.

**Sec. 9.** AS 14.25.163(e)(3). Adds a Roth IRA (post-tax) as an eligible plan to receive rollovers as of January 1, 2008; removes obsolete language.

Reason: To conform to federal Pension Protection Act of 2006.

Consequence: Without this amendment the member would not be able to roll contributions to a Roth IRA.

**Sec. 10** AS 14.25.163(c)(4). Allows distribution (rollover) of post-tax portion of member DB plan account to certain qualified plans only if the receiving plan agrees to account for pre-tax and post-tax contributions separately.

Reason: To conform to IRC requirements for qualified plans.

**Sec. 11** AS 14.25.168. Clarifies that health benefits will be paid in part from the Alaska retiree health care trust.

Reason: A new qualified Alaska retiree health care trust is established in sec. 50 of this bill as an IRC section 115 plan recognized by the IRS as a tax exempt plan. This section authorizes payment of retiree health benefits from that trust.

**Sec. 12** AS 14.25.181(b). Authorizes reversion of excess plan assets to employers upon termination of the plan, subject to approval of the termination by the IRS.

Reason: Ensures that excess plan assets will be distributed to employers upon termination of the plan only if the IRS approves termination.

**Sec. 13** AS 14.25.181. Conforms plan language to IRC. Subsection (c) codifies the division's practice of use of forfeitures to reduce future employer contributions. Subsection (d) complies with IRC requirement that the actuarial calculation of benefits is based on actuarial tables using assumptions approved by the administrator and is not subject to discretion of the employer. Subsection (d) updates language providing that contributions to and benefits paid from the plans will not exceed 26 U.S.C. 415 limits, and provides the administrator with the ability to either establish a periodic payment plan or reduce the contribution amount for payments of purchased service that would otherwise exceed the 415 limits.

Reason: The Pension Protection Act of 2006 sets out new qualification criteria for tax qualified plans and requires previously qualified plans to be reviewed for qualification compliance every five years. The PERS will be reviewed for compliance in 2008. Addition of language related to use of forfeitures and enforcing U.S.C. 415 limits is required.

**Sec. 14** AS 14.25.220(10). Clarifies that reductions to an employee's salary to pay for coverage under a cafeteria plan, such as life insurance or disability insurance or certain fringe benefit agreements that are paid from the employee's salary, are included as compensation.

Reason: Clarifies that the employee's gross pay prior to authorized pre-tax wage reductions should be used for the calculation of retirement benefits. The language is required to maintain compliance with IRS requirements as to the definition of compensation and is not meant to be a substantive change.

**Sec. 15** AS 14.25.220(16). Removes the National Education Association of Alaska (NEA) from the TRS definition of "employer" to reflect that NEA is not a qualifying employer under this plan.

Reason: Although NEA had been included in the TRS DB plan in statute, NEA is a private non-profit organization and does not qualify for inclusion in the system. This error was acknowledged by the Division of Retirement and Benefits, the Department of Law, and the NEA in the early 1990s/late 1980s. In discussion with participating NEA management it was decided by the TRS Board that members participating at the time would be grandfathered and inclusion of new members would be discontinued (since then the last member has retired). Removing this language regarding a non-government entity also removes questions about the governmental status of the plan under the IRC.

**Sec. 16** AS 14.25.310. Adds a provision for TRS DB plan members who employ with new employers that join the TRS after July 1, 2006, and that do not participate in the TRS DB plan to participate in the TRS DCR Plan.

Reason: SB 141 applied the new TRS DCR plan only to teachers first hired into the TRS on or after July 1, 2006, and nonvested TRS DB employees who elected to transfer to the DCR plan. Without this change, a new school district formed after July 1, 2006 would not be able to provide TRS retirement benefits to teachers who entered the TRS prior to July 1, 2006 and would normally participate in the DB plan.

**Sec. 17** AS 14.25.310. Effective July 1, 2010, adds former members of the TRS who have not reinstated refunded service to the definition of employees covered by the TRS DCR Plan.

Reason: Former members who have not reinstated their DB service will not be able to do so when the reinstatement statutes repeal on July 1, 2010. With this change, should they rehire in a TRS covered position on or after July 1, 2010, they will be members of the TRS DCR Plan. Without this change, they would not be covered by either the DB or the DCR plan.

**Sec. 18** AS 14.25.320(c) clarifies that the TRS defined contribution plan is a qualifying hybrid plan. Provides that medical benefits are not provided by the DCR plan.

Reason: With defined benefit type components such as occupational death and disability benefits as well as the defined contribution plan, the TRS DCR plan is covered by section 414(k) of the IRC (26 U.S.C.). This section defines a hybrid defined contribution and defined benefit plan and other Code sections that may apply to such a plan. Medical benefits will be provided through the new Alaska retiree health care trust established by sec. 50 of the bill.

**Sec 19** AS 14.25.350(b). Requires employer contributions for retiree health insurance to be deposited in the new Alaska retiree health care trust created in sec. 50 of this bill.

Reason: Directs contributions for retiree health benefits to a separate trust to conform to the IRC.

**Sec. 20** AS 14.25.350(e). Requires employers in the Teachers' Retirement System (TRS) to pay occupational disability and death benefits through contributions calculated actuarially. Contributions will be deposited to a separate trust account for this purpose.

Reason: The absence of a funding mechanism for TRS occupational death and disability benefits was an inadvertent omission in drafting SB 141 in conference committee. The "trust account" language clarifies that contributions for these fixed benefits are treated differently and kept separate from the contributions to the plan's individual member accounts.

Consequence: The consequence of not enacting this amendment is that there will be no funding source from which to pay TRS occupational disability and death benefits for eligible members of the DCR plan and their survivors. Adding this change furthers IRC compliance because a qualified plan must be operated in accordance with its terms.

**Sec. 21** AS 14.25.360(d)(3). Updates the rollover provisions to include any IRA described in 26 U.S.C. (408)(d)(3)(A) rather than limiting only to a conduit IRA. Adds a Roth IRA as a qualifying plan eligible for rollover as of January 1, 2008.

Reason: To conform to federal Pension Protection Act of 2006.

**Sec. 22** AS 14.25.360(d)(4). Adds clarification allowing rollover distribution of post-tax portion of member DCR account to certain qualified plans if the receiving plan agrees to account for pre-tax and post-tax contributions separately.

Reason: To conform to federal Pension Protection Act of 2006 and to conform to previous amendments to the IRC.

**Sec. 23** AS 14.25.370(a). Specifies that contributions to the plan will be deposited in the appropriate plans or trusts and sets a payment deadline for contributions for the end of the school year.

Reason: This amendment accommodates deposit of contributions for retiree health benefits in a separate trust, and deposit of contributions for occupational disability and death benefits in a trust account in the DCR plan to conform to the IRC. Clarifies when contributions are due at the end of the school year.

**Sec. 24** AS 14.25.370(b) and (c). Subsection (b) provides for interest to be charged on contributions that are not transmitted to the TRS from employers timely and allows the TRS administrator to claim the amount of contributions and interest due from any agency of the state or political subdivision from funds due to a school district if the funds are not restricted by statute or appropriation to a specific purpose. Subsection (c) provides that employers are responsible for any administrative fees, investment fees and investment losses when ineligible employees are enrolled into the TRS and a correcting adjustment is made and that contributions transmitted to the plan for ineligible participants will be returned to

the employer by crediting future payroll the amount of the contributions net of fees and any investment losses.

Reason: New subsection (b) clarifies the administrator's authority to attach funds designated for a school district if that school district is delinquent in paying employee and employer contributions (including interest due) to TRS. Section (c) clarifies the manner in which the DCR plan will return contributions if employers report ineligible teachers (such as uncertified employees) to the plan and provides that the plan will credit future employer payroll with the total in contributions less any fees or investment losses sustained.

**Sec. 25** AS 14.25.380. Clarifies that the defined contributions paid into a member's individual account are subject to the limitations of 26 USC 415(c) and fixed benefits paid under the DCR plan (occupational disability, survivor's pension) are subject to the limitations of 26 USC 415(b).

Reason: This is one of several conforming amendments clarifying statutes to ensure that benefits are paid in accordance with the intent of SB 141 and the retirement plans contained therein. SB 141 provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans.

Consequence: The plan has received a favorable determination letter as a 414(k) plan. Addition of this language will assist in continued compliance activities.

**Sec. 26** AS 14.25.485(b). Clarifies the termination of a disability benefit when a person no longer meets the requirements to receive occupational disability benefits or recovers from disability.

Reason: The intent of an occupational disability benefit is to provide an income for a person who is no longer able to work due to an injury sustained on-the-job. In combination with sec. 30 of this bill, the amendment makes it clear that if a person is able to perform the duties of any other available and comparable position, regardless of employer, then that person no longer meets the requirements to receive occupational disability benefits.

Consequence: Without this change, persons receiving disability benefits who become able to perform duties of another comparable position will continue to qualify for and receive disability benefits, even if working in a comparable position, if the position is not with a TRS employer.

**Sec. 27** AS 14.25.485(d). Provides that a member who receives disability benefits from the plan is 100% vested in all the employer contributions made to the member's individual account, regardless of years of service worked, once the member is appointed to disability. This subsection also clarifies that a member may not elect a distribution from the member's individual account while receiving disability benefits.



Reason: This amendment relates specifically to the continuing employer contributions required under AS 14.25.485(d). 26 USC 415(c)(3)(C) provides special rules that allow the compensation of a disabled member for any year subsequent to the disability to be considered equivalent to the rate of compensation immediately prior to the disability. However, these rules only apply if the contributions are non-forfeitable when made.

The clarification that a member may not receive distributions from the individual contribution account while receiving disability benefits effectuates the intent of the legislature that the employer's continued contributions to that account during disability will provide retirement benefits to the member once the normal retirement date is reached and disability benefits end.

**Sec. 28** AS 14.25.485(g). Clarifies the termination of disability benefits when a disabled member first qualifies for normal retirement.

Reason: Technical clarification for administrative purposes. Conforms to other benefit payment provisions.

**Sec. 29** AS 14.25.485(i). Changes made to this subsection, which is related to the benefits for a survivor of a disabled member who dies while receiving disability benefits, mirror other changes being made to the disability and death statutes throughout this bill. The changes are: (1) clarifies the termination of a survivor's pension; (2) clarifies that a survivor cannot access the member's individual account while receiving a survivor's pension; (3) clarifies the normal retirement benefits available to a survivor; (4) clarifies that the period of disability benefits and the period of survivor benefits constitute membership service for eligibility for medical benefits and the Health Reimbursement Arrangement; and (5) establishes a tax qualified mechanism for the employer to continue to make employer and employee contributions to provide benefits to a survivor when the member would have reached normal retirement, had the member survived.

Reason: The majority of this section contains IRC conforming amendments. The most important change is the provision for a tax qualified mechanism to allow the employer to continue making contributions (see sec. 31) to the plan to provide a benefit to an eligible survivor when the survivor's pension ends. Unlike the special rules under 26 USC 415(c)(3)(C) that allow the compensation of a disabled member for any year subsequent to the disability to be considered equivalent to the rate of compensation immediately prior to the disability, thereby allowing continued contributions to the employee's account, there is no corresponding rule for a deceased participant. Thus, there would be no compensation for a deceased member in the year after death and, therefore, no allowable contributions to the deceased member's individual account. The solution this amendment proposes is to provide an "additional benefit" that is equal to the amount that would have been contributed to the member's individual account had the member survived, with allocated earnings.

Consequence: If this amendment is not adopted, the TRS DCR plan will not be able to pay the intended retirement benefits to survivors. Contributions would only be allowed to be made to the member account until the end of the year in which the member died.

**Sec. 30** AS 14.25.485(j). Clarifies the definition of occupational disability.

Reason: The intent of an occupational disability benefit is to provide an income for a person who is no longer able to work due to an injury sustained on-the-job. This definition is slightly different from the definition under AS 39.35.680. In combination with Sec. 26 of this bill, the amendment provides that if a person is able to perform the duties of another available and comparable position, regardless of employer, then that person no longer meets the requirements to receive occupational disability benefits.

**Sec. 31** AS 14.25.485(k). Requires employers to fund the additional benefit for survivors of a disabled member by making contributions to the appropriate trust accounts based on the deceased member's gross monthly compensation.

Reason: The "additional benefit" for survivors is explained in the reason for sec. 29, above. IRS rules prohibit continued contributions to the deceased member's contribution account after the last day of the calendar year in which the member dies. By requiring the employer contributions to be made to a trust account to fund the benefit, the legislature's intent regarding survivor benefits can be achieved.

**Sec. 32** AS 14.25.486. Adds an annual adjustment to occupational disability benefits equal to 75% of the increase in the Anchorage Consumer Price Index or 9%, whichever is less.

Reason: This amendment provides a formula for annual increases to the monthly amount of an occupational disability benefit that is the similar to the formula for TRS Tier II members.

Consequence: If this amendment is not enacted, a member's monthly disability benefit amount will remain static from year to year without adjustment for inflation.

**Sec. 33** AS 14.25.487(b). Clarifies the termination of a survivor's pension under the occupational death benefit provisions, including the end of death benefits when a dependent child no longer meets the definition of dependent.

Reason: This amendment clarifies the death benefit statute to provide clearly that a survivor's pension paid to a dependent child ends the last month in which there is an eligible child (i.e., when the child reaches age 19, or age 23 if the child is enrolled in school).

**Sec. 34** AS 14.25.487(c). Clarifies that a survivor of a member who died from occupational causes is not entitled to elect distributions from the member's individual account while receiving survivor benefits. Clarifies that the continuing contributions required by the employer are made on behalf of the surviving spouse and member's dependent children rather than "beneficiaries." Directs all continuing contributions by the employer into the occupational disability and death trust account and other appropriate accounts and funds in accordance with the IRC.

Reason: The death benefit provides an income, and eventually retirement benefits, for the family of a member who dies in the line of duty. This clarification preserves the individual account until the member would have been eligible for the normal retirement benefit. The situation is

similar to that described under sec. 27[AS 14.25.485(d)]. Please see the reason for sec. 31 above for an explanation of the funding of the additional benefit to conform to the IRC.

Consequence: If the clarification substituting surviving spouse and dependent children for "beneficiaries" is not enacted, the plan will be subject to additional tax reporting requirements in connection with benefits payable to beneficiaries other than the member's surviving spouse and/or dependent children.

**Sec. 35** AS 14.25.487(e). The amendment to this subsection (1) clarifies the normal retirement benefits available to survivors of members who died occupationally; (2) establishes a tax qualified mechanism for the plan to provide benefits to a survivor when the member would have reached normal retirement, had the member survived; and (3) clarifies that the period of death benefits constitutes membership service for determining vesting in employer contributions and eligibility for medical benefits and the Health Reimbursement Arrangement.

Reason: Please see the reason for sec. 29 above for an explanation of the provision of a tax qualified mechanism to provide an "additional benefit" to an eligible survivor when eligibility for the survivor's pension ends.

Consequence: If this amendment is not adopted, the TRS DCR plan will not be able to pay the intended retirement benefits to survivors. Contributions would only be allowed to be made to the member account until the end of the year in which the member died.

**Sec. 36** AS 14.25.488. Adds an annual adjustment to the survivor's pension: benefit equal to 50% of the increase in the Anchorage Consumer Price Index or 6%, whichever is less. Persons who are receiving a survivor's pension who are age 60 or older and persons who have received a survivor's pension for at least 8 years are eligible for the COLA.

AS 14.25.489. Adds a provision that a person whose disability or survivor benefits are terminated due to eligibility for a normal retirement benefit will be treated as if that person is eligible for Medicare, regardless of age, for the purpose of cost-sharing medical premiums with the Plan.

Reason: These new sections provide a formula for annual increases to the monthly amount of a disability benefit that is the same as the formula for TRS Tier II members and apply the medical cost-sharing provisions of the new retirement tier so that benefit recipients do not have to bear the full burden of medical insurance premiums when the member reaches normal retirement.

Consequence: If these amendments are not enacted, a member's monthly disability amount and a survivor's monthly pension amount will remain static from year to year without adjustment for inflation. Disabled members and survivors who have not reached the age required for Medicare eligibility when the member qualifies for a normal retirement benefit will have to pay 100% of the monthly premium for retiree major medical insurance.

**Sec. 37** AS 14.25.500(d) and (e). Conforms plan language to IRC. Subsection (d) codifies the division's practice of use of forfeitures to reduce future employer