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contributions. Subsection (c) 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.

Reason: Codifies the division's practice and updates the statute to comply with IRS requirements.

Sec. 38 AS 14.25.510. Clarifies that the nonguarantee clause relates only to the defined contribution portion of the TRS DCR plan. The fixed benefits contained under the plan are defined by statute.

Reason: The TRS DCR plan 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.

Sec. 39 AS 14.25.540(c). Clarifies that IRC section 415(c) limits apply to employer matching contributions when a DB member elects to convert to the DCR plan. Should the amount of the employer contribution exceed the 415(c) limits for the tax year, the amount of matching contributions that exceeds the limits will be made in the following tax year as long as the limits are not exceeded in that tax year.

Reason: This clarification implements the legislature's intent that an employee electing conversion to the TRS DCR plan receives an amount matching the employee's DB contribution account balance in the new account and also complies with IRC contribution limits.

Sec. 40 AS 14.25.540(d). Clarifies that transferred membership service from the TRS DB plan to the TRS DCR plan will be applied to vesting in both the employer's matching contribution and subsequent employer contributions.

Reason: SB 141 is silent on this issue. Ambiguity about whether a member's DB plan service applies to vesting in DCR plan employer contributions may prevent members who would otherwise benefit from transferring from making the decision to transfer.

Sec. 41 AS 14.25.540(h). Provides a time limit -- 12 months from the date the employer consents to the conversion -- within which an eligible member must make the decision to transfer from the TRS DB plan to the TRS DCR plan.

Reason: Under SB 141, an employer's decision to allow its employees to convert is irrevocable and employees have up until the day before they become vested in the TRS DB plan to convert. However, a plan does not satisfy the qualifications of an IRC section 401(a) plan if it includes a cash or deferred arrangement. Treasury Regulation 1.401(k)-1(a)(3) does provide for certain one-time elections. The time limit in this amendment for the decision-making process is intended to meet the requirements of the Treasury Regulation.

Related bill section: Sec. 106, AS 39.35.940(h).

Sec. 42 AS 14.25.582. Adds required language for the TRS DCR plan to be in compliance with the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) referred to in 26 U.S.C. 414(u).

Reason: Under USERRA, qualified plans are required to restore employees that have been called from employment to active military duty to the job and benefits they would have attained if they had not been called to active duty. Employees must be honorably discharged and return to the employer within 90 days of discharge. Addition of this language aids in IRC compliance.

Related bill section: Sec. 108, AS 39.35.972.

Sec. 43 AS 14.25.590(7). Removes the Social Security Taxable Wage Base cap from the definition of eligible compensation for contribution purposes

Reason: The Social Security Tax Wage Base for 2007 is \$97,500. After a Social Security member reaches that compensation level, no further Social Security contributions are made for the remainder of the year. Without this change, contributions to member TRS DCR Plan accounts would also cease for the remainder of the year after members reached \$97,500 in compensation.

Related bill section: Sec. 109, AS 39.35.990(7).

Sec. 44 AS 22.25.022(e). 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 contribution account that represented his/her marital portion to another qualified plan in the event the member refunded contributions.

Sec. 45 AS 22.25.022(3). Adds provisions for a rollover to a Roth IRA on or after January 1, 2008; removes obsolete language.

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

Sec. 46 AS 22.25.022(c)(4). Adds clarification allowing distribution (rollover) of post-tax portion of member account to certain qualified plans if the receiving plan agrees to account for pre-tax and post-tax contributions separately.

Reason: To conform to IRC requirements for qualified plans and to ensure that post-tax contributions can be rolled over only if the receiving plan agrees to account for them separately from pre-tax contributions.

Sec. 47 AS 22.25.046. Provides for separately computed employer contributions to pre-fund retiree health benefits to be paid to the new Alaska retiree health care trust established in Sec. 50 of this bill.

Reason: The trust to fund retiree health benefits will be a tax exempt IRC section 115 plan recognized by the IRS. This amendment provides authority to separately compute and deposit employer JRS contributions to the new account.

Sec. 48 AS 22.25.090. Clarifies that health benefits will be paid in part from the Alaska retiree health care trust.

Reason: This section authorizes payment of health benefits from the Alaska Retiree health care trust created in Sec. 50 of this bill.

Sec. 49 AS 37.10.210(a). Provides the Alaska Retirement Management Board authority to serve as trustee of the new Alaska retiree health care trusts.

Reason: Necessary to provide for ARMB governance and investment authority over the new Alaska health care trusts.

Sec. 50 AS 39.30.097. Creates new Alaska retiree health care trusts to hold employer contributions to pre-fund retiree medical benefits and trust operations, provides for governance, administration and investment of the assets, and payment of benefits and administrative costs.

AS 39.30.098. Authorizes the commissioner of administration to promulgate regulations to implement the state's group life and health insurance statutes, including the new Alaska retiree health trust statute.

Reason: In order to pre-fund retiree medical benefits in conformity with the IRC and comply with GASB requirements for a trust or equivalent structure, a new IRC section 115 retiree health care trust is established, separate from the pension trusts. The trustee will be the ARMB, with the commissioner of administration or the commissioner's designee, as the administrator of the trust. The assets of the new trust may be pooled for investment purposes with the pension assets and group health and life insurance assets as long as they are separately accounted for. The commissioner of administration will promulgate regulations for the administration of the trusts.

Sec. 51 AS 39.30.154. Clarifies the duties of the administrator for the Alaska Supplemental Benefits System (SBS).

Reason: to correct statutory references to administrator duties in SBS to correlate with statutes as amended or added by SB 141.

Sec. 52 AS 39.30.160(a). Returns the authority for adopting regulations for the SBS from the Alaska Retirement Management Board (ARMB) to the commissioner of administration.

Reason: Part of the reform to the retirement systems was a regulation authority change from the prior Public Employees' Retirement Board (PERB) to the commissioner of administration. The reference to the PERB in the SBS statute that provides authority for adoption of regulations was changed to the ARMB along with the many other reference changes. SBS regulations, like PERS regulations, relate to administrative matters to be adopted by the commissioner.

Consequence: If the amendment is not made, in practice, the division of retirement and benefits will draft regulations for administration of the SBS plan for the ARMB's review and adoption.

Sec. 53 AS 39.30.160(e). Changes the reference from "board" to "commissioner".

Reason: This completes the change of authority for adopting regulations for the SBS program. See sec. 52 above.

Sec. 54 AS 39.30.165. Adds a provision under the SBS for a member, annuitant, or beneficiary to appeal a decision of the administrator to the Office of Administrative Hearings (OAH).

Reason: This was an inadvertent omission in SB 141, which transferred PERB appeals functions to the OAH.

Consequence: Without amendment, appeals will have to be sent to the superior court.

Sec. 55 AS 39.30.335. Adds a provision under the Health Reimbursement Arrangement Plan for a member to appeal a decision of the administrator to the Office of Administrative Hearings.

Reason: This was an inadvertent omission in SB 141, which assigned appeals functions to the OAH.

Consequence: Without amendment, appeals will have to be sent to the superior court.

Sec. 56 AS 39.30.340. Allows the HRA trust to be a sub-trust of the Alaska retiree health care trust established in Sec. 50 of this bill. Also adds related statute 14.25.003 to the duties of the administrator.

Reason: To establish the HRA trust within the Alaska retiree health care trust and to clarify and ensure consistency in the duties of the administrator across plans.

Sec. 57 AS 39.30.370. Changes the employer contribution from an individual employer contribution amount to a uniform employer contribution amount for all participants of the Health Reimbursement Arrangement Plan.

Reason: As currently written, the HRA statutes require a separate calculation for each employer on that employer's average annual employee compensation, resulting in a different employer contribution amount for each participating employer. Employer data for FY 2005 shows the average annual employee compensation for employers is diverse. Calculations demonstrate a

probable range of monthly employer contributions from as little as \$30 per member to as high as \$180 per member. There is less difference among TRS employers but there is still disparity.

Consequence: There are several consequences of not changing the statute. Members of the same plan will be receiving different HRA contribution amounts depending on their employer, and members that work for the same school district will receive different amounts depending on their retirement system membership (PERS or TRS).

Sec. 58 AS 39.35.115. Clarifies that the PERS DB retirement plan is a joint contributory plan (employee and employer contributions) and clarifies that upon termination of the plan any excess assets will revert to the employer using a method determined by the administrator if termination is approved by the IRS.

Reason: To provide clarification of the disposition of the assets in the future when the defined benefit plan reaches termination and ensures compliance with IRS requirements.

Sec. 59 AS 39.35.165(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: To update the plan's provisions and provide language for the plan to keep current with changing federal legislation regarding eligible and non-eligible plans.

Sec. 60 AS 39.35.165(f). Effective July 1, 2010, removes the language authorizing receipt of rollovers for payment of contributions to reinstate forfeited (refunded) service.

Reason: SB 141 repealed statutes authorizing reinstatement of forfeited service, effective July 1, 2010 making this provision unnecessary.

Sec. 61 AS 39.35.195(b). Clarifies that the plan does not accept any rollover contributions other than those expressly defined in AS 39.35.165(f) which are rollovers to purchase forfeited or claimed credited service.

Reason: Previous reference was to AS 39.35.165(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. 62 AS 39.35.195(c)(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 members account that represented their marital portion to another qualified plan in the event the member refunded contributions.

Sec. 63 AS 39.35.195(c)(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. 64 AS 39.35.195(e)(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 the IRC requirements for qualified plans.

Sec. 65 AS 39.35.250. Changes the calculation of the employer contributions to the PERS DB plan so that the employer rate is applied to the employer's entire payroll base.

Reason: Under current statutes, the employer DB plan contribution rate is applied only to salaries paid to members of the PERS DB plan. This amendment allows the contribution rate to be applied to the entire PERS payroll base of the employer's 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 the employers' liability nor will it relieve the employers of the liability; it merely restates the rate as a lower percentage of applicable payrolls.

Sec. 66 AS 39.35.250(d). Requires employer 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.

Reason: To provide that employer retiree health contributions go to the new health trust to conform to the IRC.

Sec. 67 AS 39.35.270(a). Changes the calculation of the employer contributions to the PERS DB plan so that the employer rate is applied to the employer's entire PERS system payroll base.

Reason: Under current statutes, the employer DB plan contribution rate is applied only to salaries paid to members of the PERS DB plan. This amendment allows the contribution rate to be applied to the entire payroll base of the employer's PERS workforce without regard to plan (tier) membership, and will keep employer contribution rates for the DB plan lower than would otherwise be calculated. However, this will neither increase employers' liability nor will it relieve employers of the liability; it merely restates the liability as a lower percentage of the applicable payroll.

Sec. 68 AS 39.35.375(a). Effective July 1, 2010, removes the provision that allows employees to repay refunded contributions for the purpose of obtaining a public service benefit.

Reason: This statute was overlooked in the repeal by SB 141 of the reinstatement of service provisions. AS 39.35.375 allows an active PERS member who has never vested in TRS or PERS and who has cashed out TRS service to reinstate the TRS service credit to establish a "public service benefit."

Consequence: Without change, refunded TRS members will be treated differently under separate statutes. It would also continue to allow an "off-book" liability in the DB plan because it cannot be determined until an eligible member applies for the benefit.

Sec. 69 AS 39.35.385(e). Effective July 1, 2010, removes the provision that allows employees to repay refunded contributions for the purpose of obtaining a conditional service benefit.

Reason: This statute was overlooked in the repeal by SB 141 of the reinstatement of service provisions. AS 39.35.385 allows persons who are eligible for a normal or early retirement salary under TRS to qualify for a normal or early "conditional service" retirement benefit under PERS if he or she has at least two years of credited service in PERS. Members are allowed to reinstate refunded service credit in order to qualify for the conditional service benefit under AS 39.35.385(e). 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-book" liability in the DB plan because it cannot be determined until an eligible member applies for the benefit.

Sec. 70 AS 39.35.522(d). Adds a provision for appeal to the Office of Administrative Hearings of the commissioner's decisions on waiver requests under PERS.

Reason: SB 141 established a new procedure for persons seeking a waiver of adjustment to benefits paid made by the administrator. The new procedure requires filing a request with the commissioner of administration for the waiver. While the TRS statutes allow an appeal of the commissioner's decision to the OAH, the PERS statutes do not. This was a drafting error.

Consequence: If the amendment is not made, PERS appeals from the commissioner's waiver decisions will have to be sent to the superior court, which is costly. An alternative would be for the commissioner to delegate authority to the OAH to make the PERS waiver decisions [AS 44.64.030(b)]. Under this scenario, the OAH could bill the division for these services.

Sec. 71 AS 39.35.535. 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. 72 AS 39.35.610(b). Adds a provision allowing the administrator of the PERS DB plan to attach funds held by other state agencies or political subdivisions for an employer in order to pay any delinquent contributions plus added interest or

remaining liability costs in the event of termination of the employer's participation (see sec. 73).

Reason: To ensure contributions are paid to the systems should employers fail to remit as required.

Consequence: If payments are not made to the PERS defined benefit plan as anticipated and required by statute, there will be an unfunded liability further exacerbating the funding shortfall currently experienced.

Sec. 73 AS 39.35.615(g) and (h). Adds subsections requiring an employer that voluntarily terminates participation in the PERS DB plan to pay its termination liability within 60 days of the employer's receipt of notice of the costs. Allows an employer to enter into a payment plan and allows employer to rejoin the PERS DCR plan once the termination liability has been paid in full. Employers contemplating termination from the plan will pay for the cost for the termination study.

Reason: Current statutes do not contain a deadline for payment of termination liability and do not provide for a payment plan. Terminating employers are currently required to pay the outstanding termination liability in a lump sum payment.

Sec. 74 AS 39.35.620. Adds subsections requiring an employer that is involuntarily terminated from PERS DB plan participation to pay its termination liability within 60 days of the employer's receipt of the costs. Allows an employer to enter into a payment plan and allows employer to rejoin the PERS DCR plan once the termination liability has been paid in full.

Reason: Current statutes do not contain a deadline for payment of termination liability when an employer's PERS DB plan participation is involuntarily terminated and do not provide for a payment plan. Terminating employers are currently required to pay the outstanding termination liability in a lump sum payment.

Sec. 75 AS 39.35.650. Clarifies that an employer may not receive an amount from the plan except if there are excess assets after the PERS DB plan is terminated, if approved by the IRC, or after all employees removed from participation by employer termination from the plan have either received refunds or have been vested in their accrued benefits.

Reason: To clarify that all liabilities under the plan must be satisfied first and then, if there are any excess assets, the employer may then receive a refund of any remaining assets in the employer account if the employer is terminating participation, or remaining assets in the plan upon termination of the plan, if approved by the IRS.

Sec. 76 AS 39.35.678. Conforms plan language to IRC. Subsection (a) codifies the division's practice of use of forfeitures to reduce employer contributions. Subsection (b) 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 an defined benefits paid from the plans will not exceed 26 U.S.C. 415 limits and provides for a payment plan for service purchases to prevent contributions received in excess of the 415(c) limits. The administrator may establish a periodic payment plan for the member to comply with the limits. Payments received in excess of the limits can be refused.

Reason: Codifies the division's procedure with the use of employer contribution forfeitures. Present statutes do not address the 415(c) contribution limitations as it relates to payment of service purchases. However, these payments are considered employee contributions to the plan and are subject to the limitations. Compliance with the limits is required by the IRS to maintain the plan's qualified status.

Sec. 77 AS 39.35.680(3). Incorporates the reference to the new administrator section AS 39.35.003 into the definition of "administrator" under the PERS DB plan.

Reason: AS 39.35.050(a) is repealed in section 114 of the bill. This is a duplicative section regarding the administrator that was replaced with AS 39.35.003 in SB 141.

Sec. 78 AS 39.35.680(9) 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 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. 79 AS 39.35.680(18). This section clarifies that the PERS DB plan is closed to new employers as of July 1, 2006. An employer that assumes the PERS DB plan liability of a DB plan employer as a result of a consolidation or reorganization occurring after July 1, 2006, remains an employer in the plan.

Reason: Without this clarification, the status of cities, boroughs, and public organizations that may consolidate or reorganize in the future is unclear regarding continued participation in the PERS DB plan. Determining that the consolidated or reorganized entity is a new employer and only eligible to participate in the PERS DCR plan would create an unnecessary impediment to an otherwise beneficial consolidation or reorganization.

Sec. 80 AS 39.35.700. Adds a provision for PERS DB plan members who employ with new employers that join the PERS after July 1, 2006, and that are not eligible to participate in the PERS DB plan, to participate in the PERS DCR Plan.

Reason: SB 141 applied the new PERS DCR plan only to employees who were first hired into the PERS on or after July 1, 2006, with employers that also participate in the PERS DB plan, and nonvested PERS DB employees who elect to transfer to the DCR plan. Without this change, a new employer joining after July 1, 2006, would not be able to provide retirement benefits to a DB plan member.

Sec 81 AS 39.35.700. Effective July 1, 2010, adds former members of the PERS who have not reinstated refunded service to the definition of employees covered by the PERS 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. Should they rehire in a PERS covered position on or after July 1, 2010, they will be members of the PERS DCR Plan. Without this change, they would not be covered by either the DB or the DCR plan.

Sec. 82 AS 39.35.710(c). Clarifies that the PERS defined contribution plan is a qualifying hybrid plan. Provides that retiree 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 PERS DCR plan is covered by IRC section 414(k). This section defines a hybrid defined contribution and defined benefit plan. Medical benefits will be provided through the new Alaska retiree health care trust established by sec. 50 of the bill.

Sec. 83 AS 39.35.750(b). Specifies that employer contributions to pay for retiree major medical insurance shall be deposited in the Alaska retiree health care trust.

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

Sec. 84 AS 39.35.750(e). Clarifies that the employer contributions for the defined benefits under this subsection (occupational disability, occupational death, and disabled peace officer/fire fighter pension benefits) will be deposited to a separate trust account in the plan.

Reason: The legislature specified that a monthly pension benefit calculated under AS 39.35.370(c) elected by a disabled peace officer or fire fighter would *not* be paid out of the PERS defined benefit trust (AS 39.35.890((h)(2))); however, AS 39.35.750(e) only specified funding for occupational disability under AS 39.35.890 and AS 39.35.892. As the P/F optional pension benefit is not technically an occupational disability benefit once the member reaches normal retirement eligibility, clarification is needed. The "trust account" is new language to conform to the IRC by keeping these employer contributions separate from the contributions to the plan's individual member accounts.

Sec. 85 AS 39.35.760(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 and 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. 86 AS 39.35.760(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. 87 AS 39.35.770. Specifies that contributions to the plan will be deposited in the appropriate plans or trusts.

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.

Sec. 88 AS 39.35.770(b) and (c). Subsection (b) provides for interest to be charged on contributions that are not transmitted to the PERS from employers timely and allows the PERS administrator to claim the amount of contributions and interest due from any agency of the state or political subdivision from funds due to an employer 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 PERS 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 other funds designated for an employer if that employer is delinquent in paying employer and employee contributions (including interest due) to PERS. Section (c) clarifies the manner in which the DCR plan will return contributions if employers report ineligible 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. 89 AS 39.35.780. Clarifies that the defined contributions paid into a member's individual account are subject to the limitations of 26 U.S.C. 415(e) and the fixed benefits paid under the DCR plan (occupational disability, survivor's pension) are subject to the limitations of 26 U.S.C. 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. 90 AS 39.35.890(b). Clarifies the termination of a disability benefit when a person no longer meets the requirements to receive occupational disability benefits.

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. 95 of this bill, the amendment makes it clear 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. 91 AS 39.35.890(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 distributions from the member's individual account while receiving disability benefits.

Reason: This amendment relates specifically to the continuing employer contributions required under AS 39.35.890(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 nonforfeitable 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 the account during disability will provide retirement benefits to the member once the normal retirement date is reached and disability benefits end.

Sec. 92 AS 39.35.890(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. 93 AS 39.35.890(h). Specifies that the monthly pension benefit elected upon eligibility for normal retirement by a disabled peace officer or fire fighter under (2) of this subsection will be paid first from the member's individual account and then from the trust account established for this purpose. Also clarifies that a member who is a peace officer or fire fighter is not entitled to elect distributions from the member's individual account while receiving disability benefits.

Reason: Upon reaching normal retirement eligibility, if a disabled peace officer or fire fighter elects to receive a normal pension benefit calculated using the PERS DB plan formula, monthly pension benefits will be first drawn from the member individual account and then, when the individual account is exhausted, the trust account established for payment of these benefits. The clarification that a disabled peace officer or fire fighter who elects this benefit may not receive distributions from the individual contribution account prevents double dipping, and preserves the account for payment of part of the retirement benefit.

Consequence: The consequence of not enacting this amendment is that there will be an ambiguity in the statutes regarding the accounts used for payment of these benefits. See also sec. 52, above.

Sec. 94 AS 39.35.890(k). 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) specifies 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: This is an IRC conforming amendment. The most important change is the provision for a tax qualified mechanism to allow the employer to continue making contributions (see sec. 96) 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 PERS 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. 95 AS 39.35.890(l). Clarifies the definition of occupational disability and establishes the eligibility requirements.

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. 95 of this bill, the amendment makes it clear 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. 96 AS 39.35.890(m). This new subsection 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. IRS rules prohibit continued contributions to a deceased member's contribution account to stop as of December 31st of the year in which the member died. By requiring the employer contributions to

be made to a trust account to fund the benefits, the legislature's intent regarding survivor benefits can be achieved. .

Sec. 97 AS 39.35.891. Adds an annual adjustment to occupational disability benefits, and to retirement benefits elected by disabled peace officers and fire fighters (P/F) under AS 39.35.890(h)(2), 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, and to a monthly retirement benefit for eligible P/F, that is similar to the formula for PERS Tier III members.

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

Sec. 98 AS 39.35.892(b). Clarifies the termination of a survivor's pension under the occupational death benefit provisions, including the end date of survivor 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). Related bill section: Sec. 33, AS 14.25.487(b).

Sec. 99 AS 39.35.892(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 to provide a benefit to the survivor when the member would have been eligible for normal retirement, and the survivor's pension ends. The situation is similar to that described under sec. 91 [AS 39.35.890(d)]. Please see sec. 96 below for an explanation of the changes required by the IRC.

Consequence: If the clarification substituting surviving spouse and dependent children for "beneficiaries" is not enacted, the plan may 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. 100 AS 39.35.892(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 if the member had 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. 94 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 PERS 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. 101 AS 39.35.893. Adds an annual cost-of-living adjustment (COLA) 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 5 years are eligible for the COLA.

AS 39.35.894. 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 PERS Tier III 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 they reach 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 they qualify for a normal retirement benefit will have to pay 100% of the monthly premium for retiree major medical insurance.

Sec. 102 AS 39.35.900(d) and (e). Conforms plan language to IRC. Subsection (d) codifies the division's practice of use of forfeitures to reduce future employer contributions. Subsection (e) 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.

Reason: Codifies the division's practice and updates the statute to comply with IRS requirements.

Sec. 103 AS 39.35.910. Clarifies that the nonguarantee clause relates only to the defined contribution portion of the PERS DCR plan. The fixed benefits contained under these plans are defined by statute.

Reason: The PERS DCR plan 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: If this amendment is not adopted, the IRS may not recognize and apply the special rules of the §414(k) structure which may result in an IRS plan determination failure.

Sec. 104 AS 39.35.940(c). Clarifies that IRC section 415(c) limits apply to employer matching contributions when a DB member elects to convert to the DCR plan. Should the amount of the employer contribution exceed the 415(c) limits for the tax year, the amount of matching contributions that exceeds the limits will be made in the following tax year as long as the limits are not exceeded in that tax year.

Reason: This clarification implements the legislature's intent that an employee electing conversion to the PERS DCR plan receives an amount matching the employee's DB contribution account balance in the new account and also complies with IRC contribution limits.

Sec. 105 AS 39.35.940(d). Clarifies that transferred membership from the PERS DB plan to the PERS DCR plan will be applied to vesting in both the employer's matching contribution and subsequent employer contributions.

Reason: SB 141 is silent on this issue. Ambiguity about whether a member's DB plan service applies to vesting in DC plan employer contributions may prevent members who would otherwise benefit from transferring from making the decision to transfer.

Sec. 106 AS 39.35.940(h). Provides a time limit – 12 months from the date the employer consents to the conversion -- within which an eligible member must make the decision to transfer from the PERS DB plan to the PERS DCR plan.

Reason: Under SB 141, an employer's decision to allow its employees to transfer is irrevocable and employees have up until the day before they become vested in the PERS DB plan to convert. However, a plan does not satisfy the qualifications of an IRC section 401(a) plan if it includes a cash or deferred arrangement. Treasury Regulation 1.401(k)-1(a)(3) does provide for certain one-time elections. The time limit in the amendment for the decision-making process is intended to meet the requirements of the Treasury Regulation.

Sec. 107 AS 39.35.957. Adds a provision for employers to designate classes or groups of employees eligible to participate in (or to be excluded from) the PERS DCR plan. Clarifies that a member of the DB plan will become a member of the DCR plan if employed by an employer that participates only in the DCR plan.

AS 39.35.958. Adds the process by which an employer may terminate participation from the DCR plan and outlines the rights of employees and the costs to the employer upon termination.

Reason: The PERS DB plans have specific statutory guidelines on the process for amending and terminating participation in the PERS. Although a provision for participation was included in the PERS DCR plan, amendment and termination provisions were not.

Consequence: If these amendments are not enacted, there will be no statutory guidelines for amendment and termination of participation in the PERS DCR plan. The division of retirement and benefits will have no basis for making decisions regarding members' rights if an employer terminates from participation.

Sec. 108 AS 39.35.972. Adds required language for the PERS DCR plan to be in compliance with the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) referred to in 26 U.S.C. 414(u).

Reason: Under USERRA, qualified plans are required to restore employees that have been called from employment to active military duty to the job and benefits they would have attained if they had not been called to active duty. Employees must be honorably discharged and return to the employer within 90 days of discharge. Addition of this language aids in IRC compliance.

Sec. 109 AS 39.35.990(7). Removes the Social Security Taxable Wage Base cap from the definition of eligible compensation for contribution purposes

Reason: The Social Security Tax Wage Base for 2007 is \$97,500. After a Social Security member reaches that compensation level, no further Social Security contributions are made for the remainder of the year. Without this change contributions to member PERS DCR Plan accounts would also cease for the remainder of the year after members reached \$97,500 in compensation.

Sec. 110 AS 39.35.990(16). Clarifies that "member" and "employee" have the same meaning throughout the PERS DCR statutes. Includes as members the governor, lieutenant governor and legislators. Excludes instructors at the Department of Labor and Workforce Development (DLW&D) and the Department of Education and Early Development (DEED) in positions requiring a teacher certificate.

Reason: "Member" and "employee" are both used inconsistently throughout the PERS statutes. This change clarifies they are intended to be used interchangeably. Clarifies status of state elected officials i.e. governor, lieutenant governor and legislators, as members of the DCR Plan. Also, the DLWD is changing the position requirements for some of its vocational education positions to *not* require a teacher certificate.

Consequence: Without amendment, state elected officials will not have a retirement plan and instructors at the DLW&D and DEED may be precluded from being members of PERS if they work in a position that does not require a teacher certificate.

Sec. 111 AS 39.35.990(20). Provides a clear definition of peace officer and fire fighter under the DCR plan.

Reason: This is a technical change to clarify the job classes eligible for classification as a peace officer or fire fighter.

Sec. 112 AS 39.45.020. Adds language for the powers and duties of the Deferred Compensation program administrator.

Reason: Conforms the powers and duties of the administrator across all plans

Sec. 113 AS 39.45.055. Adds a provision under the Deferred Compensation program for a member to appeal a decision of the administrator to the Office of Administrative Hearings.

Reason: This was an inadvertent omission in transferring all appeals functions to the OAH.

Consequence: Without amendment, appeals will have to be sent to the superior court.

Sec. 114 AS 44.64.030(a). Adds the Supplemental Benefit-Annuity Plan, Health Reimbursement Arrangement Plan, Deferred Compensation Plan, and waivers of adjustment under the PERS and TRS defined benefit plans to the jurisdiction of the Office of Administrative Hearings.

Reason: This is a required change for statutory authority over the appeals delegated under the above programs.

Sec. 115 AS 14.25.045, 14.25.340(b), 14.25.570, AS 39.35.050(a), 39.35.370(k), 39.35.615(d), 39.35.615(f), 39.35.620(e), 39.35.620(f), 39.35.620(h), 39.35.730(b), 39.35.375(f), and sections 15 and 91, ch. 9, FSSLA 2005. Acts to repeal these statutes.

Reason: AS 14.25.045. Removes the National Education Association (NEA) as a participating employer in the TRS. Although NEA had been included by the legislature in the TRS DB plan in statute, NEA is a private non-profit organization and it 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 1990's/late 1980's. 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).

AS 14.25.340(b). Repeals the voluntary contribution provision of the TRS DCR Plan.

AS 14.25.570. Repeals participation of NEA in the TRS DCR Plan. See explanation of repeal of AS 14.25.045 above. Inclusion of NEA in the new plan resulted from duplication of existing statutes.

AS 39.35.050(a). Repeals duplicative statute which provides commissioner of administration authority to appoint the administrator of the PERS and the Supplemental Benefits System.

AS 39.35.730(b). Repeals the voluntary contribution provision of the PERS DCR Plan.

AS 39.35.375(f). Repeals the subsection relates to reinstating service associated with refunded contributions for obtaining a public service benefit, effective July 1, 2010 under sec. 118 of the bill.

39.35.615(d), 39.35.615(f), 39.35.620(c), 39.35.620(f), 39.35.620(h). Repeals provisions that are no longer necessary or replaced by amendments in secs. 73 and 74 of the bill, provisions regarding accounting for employee and employer contribution accounts when the employees whose coverage is terminated by a participating employer, provisions regarding termination and reinstatement of coverage of a group or other classification of employees, and provisions that result in reduction or forfeiture of member benefits when employer's participation is involuntarily terminated and employer fails to pay past service liability.

Sections 15 and 91, ch. 9, FSSLA 2005. Repeals sections of SB 141 that amend AS 14.25.075(f) and AS 39.35.165(f), effective July 1, 2010. Those statues are amended by secs. 5 and 60 of this bill, effective July 1, 2010 under sec. 118 of the bill.

Sec. 116 **Uncodified law.** Establishes an initial contribution rate for TRS employers to fund occupational disability and death benefits during the fiscal year 2008.

Reason: Funding for TRS occupational disability and death benefits was not provided for in SB 141. This section sets out the contribution rate for these benefits in the fiscal year funding is provided. Funding rates for future years will be set by the ARMB.

Consequence: If this section, in combination with Sec. 8 of this bill, is not enacted, there will be no funding source from which to pay TRS occupational disability and death benefits. If Sec. 8 is enacted but not this section, implementation of a cost rate for this benefit, and contributions to the plan, may be delayed until the ARMB can request a calculation by the actuary and approve a contribution rate.

Sec. 117 **Uncodified law.** Authorizes the commissioner of administration to transfer all funds deposited to the former group health and life benefits fund or any account into which retiree health benefit funds have been deposited into the new Alaska retiree health care trusts on July 1, 2007 or as soon as the funds become available for transfer.

Sec. 118 **Effective date clause for sections 5, 6, 17, 60, 68, 81, and 115(b).** July 1, 2010

Sec. 119 **Effective date remainder of bill.** Immediately.

SARAH PALIN
GOVERNOR

GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. BOX 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

March 15, 2007

The Honorable Lyda Green
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Green:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill 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; and making conforming amendments.

In 2005, FCCS SB 141(2d FCC) (SB 141) was enacted, making changes to the state's teachers' and public employees' defined benefit retirement plans and creating new defined contribution plans, with certain fixed and guaranteed benefits and a new health reimbursement arrangement plan, for new teachers and employees hired under the systems (ch. 9, FSSLA 2005). Following the enactment of SB 141, a number of needed corrections and clarifications of statutes were identified but legislation to address these issues failed to pass last year. The Commissioner of Administration also took steps to adopt regulations to clarify how benefits would be provided under the new plans. Those regulations interpreted the statutes for the new plans in a manner that would secure favorable determinations from the Internal Revenue Service (IRS) that the plans are qualified under the Internal Revenue Code (IRC). Favorable determinations for the defined contribution and occupational disability and death components were received on February 14, 2007.

This legislation is intended to provide the necessary clarifications and corrections that remain unresolved.

COMMITTEE COPY

SENATE BILL NO. 123

The Honorable Lyda Green

March 15, 2007

Page 2

The regulations adopted by the Commissioner of Administration primarily dealt with issues crucial to securing favorable determinations from the IRS. A number of statutory amendments remain necessary to correct and clarify the statutory provisions of the plans, and to assure that benefits are provided in the manner intended by the Legislature. New provisions in this bill are designed to maintain the IRC-qualified status of both the defined benefit and defined contribution plans.

While a section-by-section analysis that contains a detailed explanation of the bill will be provided to the Legislature by the Department of Administration, Division of Retirement and Benefits, below is a summary list of the purpose of some of the amendments proposed by the bill:

(1) provide statutory authority for funding of the new Teachers' Retirement System (TRS) plan's occupational disability and death benefits;

(2) clarify statutory authority for funding of the new Public Employees' Retirement System (PERS) plan's optional monthly pension benefits upon the retirement of disabled peace officers and fire fighters and clarify that employer contributions for defined benefits in the new PERS and TRS plans (occupational disability; occupational death; disabled peace officer/fire fighter optional pension benefit) will be deposited to separate trust accounts;

(3) add annual cost-of-living increases to disability benefits, survivor pensions, and optional pension benefits upon the retirement of disabled peace officers and fire fighters provided by the new PERS and Teachers' Retirement System (TRS) plans;

(4) add employer cost sharing of medical premiums for persons younger than Medicare age whose disability or survivor benefits are terminated due to eligibility for normal retirement;

(5) clarify that a member or survivor is not entitled to elect distributions from the member's individual account while receiving disability benefits or a survivor's pension;

(6) provide that elected officials of the state are eligible to participate in the new PERS defined contribution retirement plan;

(7) clarify that continuing employer contributions are made on behalf of the surviving spouse and member's dependent children rather than "beneficiaries";

The Honorable Lyda Green
March 15, 2007
Page 3

(8) add guidelines for employer participation and termination from the PERS defined contribution retirement plan, including employee designations for participation and rights upon termination;

(9) remove residual provisions that allow former defined benefit plan members to reinstate refunded service, effective in 2010;

(10) provide authority for the Commissioner of Administration to adopt regulations for the supplemental employee benefits system, health reimbursement arrangement plan, deferred compensation plan, and group health insurance plans;

(11) provide a clear definition of "peace officer" and "fire fighter" under the defined contribution retirement plan;

(12) allow TRS or PERS defined benefit plan members to participate in the TRS or PERS defined contribution retirement plan if hired by an employer that only participates in the defined contribution plan;

(13) allow TRS and PERS defined benefit plan former (refunded) members to become members of the TRS or PERS defined contribution retirement plan if rehired on or after July 1, 2010;

(14) revise the method for funding the retirement benefit for survivors of members who are disabled or die from occupational causes, to conform to the IRC;

(15) clarify that the new retirement plans established by SB 141 are hybrid plans that fall under IRC sec. 414(k);

(16) limit the option of non-vested PERS and TRS employees to transfer to the defined contribution plans to one 12-month window, to conform to the IRC;

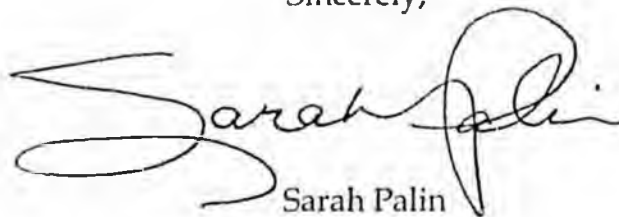
(17) update rollover provisions of the PERS and TRS plans and the judicial retirement system, to conform to the IRC.

The bill includes a delayed effective date of July 1, 2010, for specific sections. These include provisions that remove the opportunity for defined benefit plan members to reinstate refunded service and that allow such members to become members of the defined contribution retirement plans if they are rehired. The remainder of the bill has an immediate effective date.

The Honorable Lyda Green
March 15, 2007
Page 4

I urge your support of this important legislation.

Sincerely,

A handwritten signature in black ink that reads "Sarah Palin". The signature is written in a cursive style with a large, looping "S" at the beginning and a distinct "P" at the end.

Sarah Palin
Governor

ALASKA STATE LEGISLATURE HOUSE FINANCE COMMITTEE

Representative Mike Chenault
Co-Chairman
(907) 465-3779

Fax: (907) 465-2833

Representative_Mike_Chenault@legis.state.ak.us

145 Main St. Loop #223
Kona, Alaska 99611



Representative Kevin Meyer
Co-Chairman
(907) 465-4945

Fax: (907) 465-3476

Representative_Kevin_Meyer@legis.state.ak.us

716 W. 4th Avenue
Anchorage, Alaska 99501

State Capitol, Juneau, Alaska 99801-1182

MEMORANDUM

DATE: April 18, 2007

TO: House Finance Committee Members

FROM: Representative Kevin Meyer, Co-Chairman *Kevin Meyer*
House Finance Committee

RE: Blank Committee Substitute for SB 123

Attached to this memo is a blank committee substitute for SB 123 for consideration by the House Finance Committee.

The following changes are incorporated in the blank committee substitute:

**1. Page 36, line 20
New Section 83**

The provisions in this section were added, by amendment, to the House companion bill for SB 123, in the House Special Committee on Ways and Means.

The section clarifies the participation of elected officials of political subdivisions in the defined contribution retirement plan. The section also clarifies when an elected official may file a waiver of participation in the defined contribution retirement plan.

2. Technical and drafting changes

The committee substitute for SB 123 contains several technical and conforming drafting changes. These changes and the location of these changes are listed on the second page of this memo. The changes conform with legislative drafting standards and were identified by our Legislative Legal Services.

Conforming and Technical Amendments
Blank Committee Substitute: SB 123

Page 4, line 18
After "AS 14.25.075(f)"
Insert ", as amended by sec. 4 of this Act,"

Page 7, line 25
After "commissioner"
Insert "of administration"

Page 9, line 5
After "AS 14.25.310"
Insert ", as amended by sec. 16 of this Act,"

Page 9, line 9
After "14.25.220,"
Insert "to"

Page 9, line 14
After "U.S.C. 401(a),"
Delete "and"

Page 14, line 1
Delete "employee's"
Insert "member's"

Page 14, line 7
Delete "comes"
Insert "is"

Page 15, line 5
Delete "this chapter"
Insert "AS 14.25.310 – AS 14.25.590"

Page 17, line 27
Delete "of time"

Page 17, line 30
Delete "this chapter"
Insert "AS 14.25.310 – AS 14.25.590"

Page 21, line 30
After "plan,"
Insert "or"

Page 28, line 7

Conforming and Technical Amendments
Blank Committee Substitute: SB 123

After "AS 39.35.165(l)"
Insert ", as amended by sec. 59 of this Act,"

Page 33, line 15
Delete "employer's"
Insert "employer"

Page 33, line 27
After "60 days"
Delete "of the employer's notice of such cost"
Insert "after the employer receives notice of the cost"

Page 35, line 30
After "2006,"
Insert "to"

Page 36, line 3
After "AS 39.35.700"
Insert ", as amended by sec. 80 of this Act,"

Page 36, line 7
After "39.35.680,"
Insert "to"

Page 42, line 23
Delete "this chapter and AS 39.30.300 – 39.30.495"
Insert "AS 39.30.300 – 39.30.495 and AS 39.35.700 – 39.35.990"

Page 45, line 31
Delete "this chapter and AS 39.30.300 – 39.30.495"
Insert "AS 39.30.300 – 39.30.495 and AS 39.35.700 – 39.35.990"

Page 50, line 28
After "60 days"
Delete "employer's"
Insert "employer"

Page 51, line 31
After "plan,"
Insert "or"

4/19/07



Technical Bill Overview

Division of Retirement and Benefits

April 19, 2007

Extensive Review

- Department of Law
- Independent tax counsel, Ice Miller LLP
- Division of Retirement and Benefits

Reasons For Legislation

- Ensure defined contribution retirement plan benefits provided as intended
- Update defined benefit plans for qualification in 2008 per the Pension Protection Act of 2006
- Administrative Changes



Defined Contribution Plans

Division of Retirement and Benefits April 19, 2007

DCR Plan Changes

- Occupational disability and death benefit administration and funding
- Employer participation
- Member participation
- IRC Contribution limits



Occupational Death and Disability

- Funding the benefits
 - TRS Occ D&D
 - PERS Occ D&D clarification for disabled Peace Officer/Firefighter at normal retirement
- Annual inflation-proofing
 - Provides the lesser of:
 - Disability-75% of increase in CPI or 9%
 - Survivor-50% of increase in CPI or 6%



Occupational Death and Disability

- Periods of disability and survivor benefits constitute membership service for retirement/medical eligibility
- Member or Survivor not entitled to individual account until retirement
- Provides medical cost share at normal retirement, regardless of age



Employer Participation

- Provides participation and termination authority for new PERS employers.
- Establishes a time limit on conversion election period for employees
- Assigns employer retiree health contributions to the Alaska Retiree Health Trust

Member Participation

- Adds Governor, Lieutenant Governor and Legislators as members of the DCR plan.
- Clarifies that a DB member hiring with a new DCR-only employer participates in the DCR plan.

Member Participation

- Clarifies that a former DB member who does not reinstate service before July 1, 2010 will be a DCR plan member if reemployed after that date.
- Specifies how the IRC § 415(c) limits affect payment of the conversion match for DB to DCR transfers.

IRC Compliance

- Disabled member 100% vested in employer contributions
- Survivor retirement benefit funded from Occupational D&D fund
- USERRA Compliance
- § 415(c)—contribution limits
 - contributions on behalf of survivors
 - voluntary employee contributions



Defined Benefit Plans

Division of Retirement and Benefits April 19, 2007



Pension Protection Act

- Updates rollover provisions and includes a Roth IRA as of January 1, 2008
- Allows an alternate payee to rollover contributions
- Requires a rollover of pre/post tax contributions to be accounted for separately by receiving plan

Employer Participation

- Normal cost and past service rate applied to total payroll dollars
- Establishes a deadline for terminated employers to pay termination costs



Employer Participation

- Allows the plan to intercept other state funds for payment of delinquent contributions.
- Codifies use of forfeitures to be applied to future employer contributions.

Member Participation

- Repeals the ability to reinstate service for Conditional or Public Service benefits as of July 1, 2010
- DB members who hire with a DCR only employer participate in the DCR plan
- Former DB members who do not reinstate by July 1, 2010 are DCR members upon rehire



Administrative

New Trusts

Alaska Retiree Health Trusts

- ARMB Trustees
- Commissioner of Administration administers
- Receive ER health contributions
- Pay retiree medical premiums

Administrative

- Removes NEA as an eligible employer
- Removes Social Security tax wage base cap from employee and employer contributions
- Conforms Administrator's duties across plans

Administrative

- Returns authority to the Commissioner of Administration to adopt regulations for the SBS, DCP and HRA plans.
- Provides OAH authority to hear appeals for the SBS, DCP and HRA plans.
- Provides OAH authority to hear PERS/TRS requests for waivers of adjustment.

Technical Bill

- Allows State to administer benefits intended by the legislature
- Provides funding mechanisms for all benefits
- Addresses IRC requirements
- Removes administrative ambiguities

SB

123

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT
First Committee of Referral

REPORTED OUT
 MAR 29 2007
 SENATE FINANCE COMMITTEE

DATE: 3/16/07

FURTHER:

Date of 5-Day Notice: _____
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: 3/30/2007

Finance Committee considered SENATE BILL NO. 123

SB 123 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."

and recommends:

- be replaced with SCS or CS SB 123 (FIN)
- adopt previous SCS or CS as Forthcoming
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

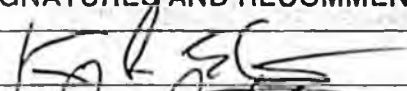

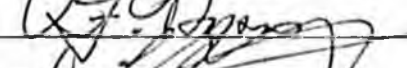
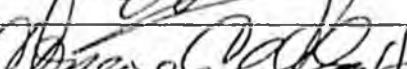

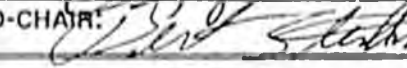

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DOA	3/20/07			✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DOA	3/15/07			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	No REC	AMEND
	Elton Thomas			✓	
	Thomas	✓			
	Dyson	✓			
	Hugartus	✓			
	O'Connell			✓	
CO-CHAIR: 	Hoffman	✓			
CO-CHAIR: 	STEDMAN	✓			

FISCAL NOTE

STATE OF ALASKA
 2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 123
 (S) Publish Date: 3/16/07

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	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
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ()	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
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Check 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/fire fighter 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 no fiscal impact on the Division of Retirement and Benefits. Please see page two for the analysis required by AS 24.08.036.

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

Phone: 465-4817
 Date/Time: 3/15/07 11:00 AM
 Date: 3/15/2007

FISCAL NOTE # 1

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL NO. SB 123

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 24.08.035.

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 COLA for recipients of disability benefits.
- Annual COLA for recipients of a survivor's pension.
- Medical premium cost-sharing for disabilitants and survivors at normal retirement.
- Funding for disabled police/fire fighter members who choose a monthly retirement pension.
- Annual COLA for disabled police/fire fighter 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 Others Costs (Payroll \$133.4 m)	PERS P/F Rate	PERS P/F Costs (Payroll \$17.0 m)	Total PERS Costs	TRS Rate	TRS Costs (Payroll \$69.8 m)
COLA	0.048%	\$ 64,032	0.214%	\$ 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.

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 those 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: SB123-DOA-OAH-3-20-07
 Bill Version: SB 123
 () Publish Date: _____

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
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ()	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
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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 expenditures for its operation due to the addition of these three, low volume case types.

Prepared by: Terry L. Thurbon, Chief Administrative Law Judge Phone 465-1885
 Division: Office of Administrative Hearings Date/Time 03/20/2007 3 16 p m
 Approved by: Kevin Brooks Date 3/20/2007 4 30pm
 Agency: Department of Administration

ADOPTED

SENATE FINANCE
COMMITTEE
Amendment # #1
To Bill Number: SB 123
Sponsor: Elton
Date 3/29/07 Logged by Robin

25-GS1004VA.1
Chenoweth
3/23/07

AMENDMENT

OFFERED IN THE SENATE
TO: SB 123

BY SENATOR ELTON

1 Page 2, lines 3 - 7:

2 Delete "In addition, the amount of [THE] contributions and interest due may be
3 claimed by the administrator from [DEDUCTED BY] the Department of Education and
4 Early Development from the state funds due the school district [AND THE AMOUNT SO
5 DEDUCTED TRANSMITTED TO THE PLAN FOR DEPOSIT IN THE RETIREMENT
6 FUND].

7 Insert "[IN ADDITION, THE AMOUNT OF THE CONTRIBUTIONS AND
8 INTEREST MAY BE DEDUCTED BY THE DEPARTMENT OF EDUCATION AND
9 EARLY DEVELOPMENT FROM THE STATE FUNDS DUE THE SCHOOL DISTRICT
10 AND THE AMOUNT SO DEDUCTED TRANSMITTED TO THE PLAN FOR DEPOSIT
11 IN THE RETIREMENT FUND.]"

12

13 Page 11, lines 14 - 17:

14 Delete "In addition, the amount of contributions and interest due may be claimed by
15 the administrator from the Department of Education and Early Development from the state
16 funds due the school district."

SENATE FINANCE
COMMITTEE
Amendment # #2
To Bill Number: SB 123
Sponsor: Elton
Date: 3/29/07 Logged by: Robin

Distributed
but NOT
offered.

25-GS1004A.2
Chenoweth
3/27/07

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR ELTON

TO: SB 123

1 Page 23, following line 30:

2 Insert a new bill section to read:

3 **** Sec. 47. AS 22.25.027(a) is amended to read:**

4 (a) The commissioner of administration may adopt regulations to implement
5 this chapter. [REGULATIONS ADOPTED BY THE COMMISSIONER UNDER
6 THIS CHAPTER RELATE TO THE INTERNAL MANAGEMENT OF STATE
7 AGENCIES AND THEIR ADOPTION IS NOT SUBJECT TO AS 44.62
8 (ADMINISTRATIVE PROCEDURE ACT).]"

9

10 Renumber the following bill sections accordingly.

11

12 Page 24, following line 19:

13 Insert a new bill section to read:

14 **** Sec. 51 AS 37.10.240(a) is amended to read:**

15 (a) The board may adopt regulations to implement AS 37.10.210 - 37.10.390.
16 [REGULATIONS ADOPTED BY THE BOARD ARE NOT SUBJECT TO THE
17 ADMINISTRATIVE PROCEDURE ACT (AS 44.62).] The board shall adopt
18 regulations required by AS 36.30.015(f) relating to procurement. The board shall
19 comply with the requirements of AS 44.62.310 - 44.62.312."

20

21 Renumber the following bill sections accordingly.

22

23 Page 25, lines 19 - 21:

1 Delete "Regulations adopted by the commissioner under this section relate to the
2 internal management of state agencies and their adoption is not subject to AS 44.62
3 (Administrative Procedure Act.)."
4

5 Page 26, lines 5 - 8:

6 Delete all material.
7

8 Renumber the following bill sections accordingly.
9

10 Page 53, lines 14 - 16:

11 Delete all material and insert

12 "*Sec. 115. (a) AS 14.25.005, 14.25.045, 14.25.340(b), 14.25.570; AS 22.25.027(b),
13 22.25.027(c), 22.25.027(d), 22.25.027(e), 22.25.027(f), 22.25.027(g), 22.25.027(h);
14 AS 37.10.240(b), 37.10.240(c), 37.10.240(d), 37.10.240(e), 37.10.240(f); AS 39.30.160(c);
15 AS 39.35.005, 39.35.050(a), 39.35.370(k), 39.35.615(d), 39.35.615(f), 39.35.620(c),
16 39.35.620(f), 39.35.620(h), and 39.35.730(b) are repealed."
17

18 Page 53, line 18:

19 Delete "and 91"

20 Insert ", 91, and 140(b)"
21

22 Page 54, line 2:

23 Delete "sec. 50"

24 Insert "sec. 52"
25

26 Page 54, line 9:

27 Delete "60, 68, 69, 81, and 115(b)"

28 Insert "61, 69, 70, 82, and 116(b)"
29

30 Page 54, line 10:

31 Delete "sec. 118"

1

Insert "sec. 119"

SENATOR BERT STEDMAN

Senate District A



State Capitol, Room 516, Juneau, Alaska 99801-1182 Phone (907) 465-3873 Fax (907) 465-3922

FAX COVER SHEET

TO: Jack Chenoweth
FROM: Miles Baker
DATE: 3/30/07 TOTAL PAGES: (4)
SUBJECT: SB 123

Jack-

This is authority from Sen Stedman to make the drafting changes as indicated by a (Y) on your memo dated 3/29/07.

Those marked with a (N): 2, 6, 7, 8, 10, 11 are not to be amended as you recommend.

Thank you-

LEGAL SERVICES

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

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

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

MEMORANDUM

March 29, 2007

SUBJECT: CSSB 123(FIN) (Work Order No. 25-GS1004C)

TO: Senator Lyman Hoffman, Co-Chair
Senator Bert Stedman, Co-Chair
Senate Finance Committee
Attn: Robin Paul, Senate Finance Committee Assistant Secretary

FROM: Jack Chenoweth
Assistant Revisor

Senate Bill 123 is an administration-sponsored bill making a series of changes to laws applicable to employee retirement and benefit matters. The Senate Finance Committee has approved and is prepared to report out CSSB 123(FIN). The committee substitute has a pair of substantive changes to the original -- the inclusion of material amending AS 14.25.065(b) (page 2 of the original, lines 3 - 7) and AS 14.25.370(b) (page 11 of the original, lines 14 - 17), both as set out in amendment A.1 offered by Senator Elton and agreed to by the committee.

The committee should not report the bill without considering the following, all of which are suggested and offered principally to conform the measure to the requirements of the Legislative Drafting Manual¹ --

(Y) 1. Page 6, line 29, through page 7, line 4: the language of the amendment should be revised to read:

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;

¹ The page and line number references are to the page and lines in the accompanying committee substitute.

This change also should be made to substantially the same amendment material appearing at

- (Y) { -- page 10, lines 24 - 30;
-- page 23, lines 20 - 26;
-- page 30, lines 7 - 13; and
-- page 37, line 28 - page 38, line 3.

(N) 2. Page 7, line 23: The reference is to "the commissioner"; no separate definition of "commissioner" is provided for AS 14.25, so the definition for the title as a whole, set out in AS 14.60.010(3), will presumably apply, and that is a reference to "commissioner of education and early development." That appears to me to be an incorrect reference in context and the committee may want, instead, to refer to the "commissioner of administration."

(Y) 3. Page 8, line 30: The word "to" should be inserted at the beginning of the amendment to maintain parallel construction; if this change is made here, the word "to" would also need to be inserted in the same place in the phrase at page 9, line 6;

(Y) 4. Page 9, line 7: The word "to" should be inserted at the beginning of the amendment to maintain parallel construction.

(Y) 5. Page 11, lines 25 - 31: The text of subsection (c) should be drafted in the singular:

(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 reduce future employer contributions due.

(N) 6. Page 12, line 28: The inclusion of "(i)" is a reference to a definition. The committee should verify that "fails to meet the requirements of [a definition]" is accurate.

(N) 7. Page 13, line 30: The text of AS 14.25.485(i) earlier refers to "member," as does the text of the later part of the material added in the amendment (page 14, lines 7, 9, and 12, for example), so "member's" should substitute for "employee's" in this line.

Senator Lyman Hoffman
Senator Bert Stedman
March 29, 2007
Page 3

(N)

8. Page 15, line 3: Is reference to "this chapter" accurate, or should the reference be limited to the defined contributions component of TRS, "AS 14.25.310 - 14.25.590"?

(N)

The same question arises as to references to "this chapter" at page 17, line 28.

(Y)

9. Page 17, line 26: Reference to "this section" should probably be to "this subsection".

(N)

10. Page 39, line 28: The inclusion of "(I)" is a reference to a definition. The committee should verify that "fails to meet the requirements of [a definition]" is accurate.

(N)

11. Page 42, line 21: Is reference to "this chapter" accurate, or should the reference be limited to the defined contributions component of PERS, "AS 39.35.700 - 39.35.990"?

(N)

The same question arises as to the reference to "this chapter" at page 45, line 29.

*

In addition to the foregoing, there are punctuation, spelling, grammar, and section catchline corrections that should be made to the bill that we can accommodate in the bill enrolling process, assuming no committee of the legislature directs us to make editorial changes before final passage and enrollment. The questions and suggestions offered above identify those that, in our judgment -- that of the legal editor and my own -- ought to have the committee's attention and direction.

Thank you for your consideration.

JBC:lmb
07-083.lmb

Enclosure

Our "Final" Proof

25-GS1004E *

* this version is the Final.

Note: Highlighted language denotes either Amend. #1 or drafting changes.

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

BY THE SENATE FINANCE COMMITTEE

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 CLOS* 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:

Amend #1

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 method::

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) 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);

1 (B) [(ii)] an individual retirement annuity defined in 26 U.S.C.
2 408(b);

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

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

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

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

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

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

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

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

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

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

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

29 (D) the portion of any distribution that is not includable in
30 gross income; however, a portion under this subparagraph may be
31 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. The amount of benefits is not subject to employer discretion.

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

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

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

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

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

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

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

29 * Sec. 16. AS 14.25.310 is amended to read:

30 Sec. 14.25.310. Applicability of AS 14.25.310 - 14.25.590. The provisions of
 31 AS 14.25.310 - 14.25.590 apply only to teachers who first become members on or

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

5 * Sec. 17. AS 14.25.310 is amended to read:

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

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

13 (c) The defined contribution retirement plan is intended to qualify under 26
 14 U.S.C. 401(a)₂ and 414(d), and 414(k) (Internal Revenue Code) as a qualified
 15 retirement plan established and maintained by the state for its employees and for the
 16 employees of school districts and regional educational attendance areas in the state.
 17 Benefits under AS 14.25.480 are not provided by the defined contribution
 18 retirement plan.

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

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

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

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

1 AS 14.25.310 - 14.25.590.

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

3 (3) "eligible retirement plan" means

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

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

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

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

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

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

11 408(b); or

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

13 U.S.C. 408A;

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

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

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

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

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

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

1 income and the portion of the distribution that is not includable in gross
 2 income; and

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

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

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

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

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

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

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

Amend
 #1
 Language
 deleted

1 * Sec. 25. AS 14.25.380 is amended to read:

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

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

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

26 (1) dies;

27 (2) recovers from the disability;

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

29 section; or

30 (4) reaches normal retirement age.

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

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

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

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

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

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

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

25 (i) Upon the death of a disabled member who is receiving or is entitled to
 26 receive an occupational disability benefit, the administrator shall pay the surviving
 27 spouse a surviving spouse's pension, equal to 40 percent of the member's monthly
 28 compensation at the time of termination of employment because of occupational
 29 disability. If there is no surviving spouse, the administrator shall pay the survivor's
 30 pension in equal parts to the dependent children of the member. While the monthly
 31 survivor's pension is being paid, the survivor is not entitled to elect distributions

1 from the employee's individual contribution account under AS 14.25.410. The
2 first payment of the surviving spouse's pension or of a dependent child's pension shall
3 accrue from the first day of the month following the member's death and is payable the
4 last day of the month. The last payment shall be made the last day of [FOR] the last
5 month in which there is an eligible surviving spouse or dependent child, or the last
6 day of the month in which the member would have first qualified for normal
7 retirement if the member had survived, whichever day comes sooner. A
8 retirement benefit shall be determined under the provisions of AS 14.25.420 -
9 14.25.440, 14.25.470, and 14.25.480 based on [. ON] the date the member would
10 have first qualified for normal retirement [OF THE MEMBER WOULD HAVE
11 OCCURRED] if the member had survived. In addition to the payment of the
12 member's individual account, the surviving spouse or, if there is no surviving
13 spouse, the surviving dependent children of the member, shall receive an
14 additional benefit in an amount equal to the accumulated contributions that
15 would have been made to the deceased member's individual account under
16 AS 14.25.340(a) and 14.25.350(a), based on the deceased member's gross monthly
17 compensation at the time of occupational disability, from the time of the
18 member's death to the date the member would have first qualified for normal
19 retirement if the member had survived. Earnings shall be allocated to the
20 additional benefit calculated under this subsection based on the actual rate of
21 return, net of expenses, of the trust account established under AS 14.25.350(c)
22 over the period that the contributions would have been made. This additional
23 amount and allocated earnings shall be paid in the same manner as determined
24 for the member's individual account under AS 14.25.420 - 14.25.460 to the extent
25 permitted by the Internal Revenue Service. For the purpose of determining
26 eligibility of a survivor who is receiving a benefit under this subsection for
27 medical benefits under AS 14.25.470 and 14.25.480, a [LIVED, THE
28 RETIREMENT BENEFIT SHALL BE DETERMINED UNDER THE PROVISIONS
29 OF AS 14.25.420 - 14.25.440, 14.25.470, AND 14.25.480. A] member who died
30 while receiving disability benefits shall be considered to have retired directly from the
31 plan on the date the member would have first qualified for normal retirement [OF

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

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 TITLE] member would have first qualified for normal retirement [OCCURRED] if
 27 the member had survived. The period of time during which a survivor's pension is
 28 paid 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 this chapter and AS 39.30.300 - 39.30.495
 31 [LIVED].