

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3347

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 Notwithstanding any contrary provisions of AS 14.25.310 - 14.25.590, with respect to
 13 qualified military service, contributions shall be made and benefits and service credit
 14 shall be provided in accordance with 26 U.S.C. 414(u).

15 * Sec. 43. AS 14.25.590(7) is amended to read:

16 (7) "compensation"

17 (A) means

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

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

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

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

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

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

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

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

18 (3) "eligible retirement plan"

19 [(A)] means

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (b) The commissioner of administration is authorized to prefund medical
29 benefits provided by AS 14.25.180, AS 39.30.300, and AS 39.35.880 by establishing
30 an irrevocable trust that is exempt from federal income tax under 26 U.S.C. 115 and
31 subject to the applicable financial reporting, disclosure and actuarial requirements of

1 the Governmental Accounting Standards Board.

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

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

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

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

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

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

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

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

1 following benefit options:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 * Sec. 60. AS 39.35.165(f) is amended to read:

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

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

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

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

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

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

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

1 not accept contributions of eligible rollover distributions.

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

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

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

6 (3) "eligible retirement plan"

7 [(A)] means

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 past service rate as approved by the board.

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

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

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

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

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

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

1 AS 39.35.610.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 paid in full its prior termination costs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (18) "employer" means

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

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

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

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

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

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

3 * Sec. 81. AS 39.35.700 is amended to read:

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

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

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

19 * Sec. 83. AS 39.35.750(b) is amended to read:

20 (b) An employer shall also contribute an amount equal to a percentage, as
21 adopted [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 established by the commissioner.

27 * Sec. 84. AS 39.35.750(e) is amended to read:

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

1 under AS 39.35.700 - 39.35.990 and retirement benefits elected by disabled peace
 2 officers and fire fighters under AS 39.35.890(h)(2) [AS 39.35.890 AND 39.35.892].

3 The contribution required under this subsection for peace officers and fire fighters and
 4 the contribution required under this subsection for other employees shall be separately
 5 calculated based on the actuarially calculated costs for each group of employees.

6 * Sec. 85. AS 39.35.760(d)(3) is amended to read:

7 (3) "eligible retirement plan" means

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

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

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

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

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

14 (F) an individual retirement annuity defined in 26 U.S.C.

15 408(b); or

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

17 U.S.C. 408A;

18 * Sec. 86. AS 39.35.760(d)(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 THAT IS ON ACCOUNT OF
 8 HARDSHIP; AND

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

11 * Sec. 87. AS 39.35.770 is amended to read:

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

16 * Sec. 88. AS 39.35.770 is amended by adding new subsections to read:

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

27 (c) Employers are responsible for administrative fees, investment fees, and
 28 investment losses charged to accounts established under AS 39.35.730 resulting from
 29 contribution adjustments due to employers enrolling members in the plan before the
 30 members are eligible for membership. Contributions made by employees shall be
 31 returned to the employer by reducing future employee contributions due.

1 Contributions, net of fees and investment losses, made by employers shall be used to
 2 reduce future employer contributions due.

3 * Sec. 89. AS 39.35.780 is amended to read:

4 **Sec. 39.35.780. Limitations on contributions and benefits.** Notwithstanding
 5 any other provisions of this plan, the annual additions to each member's individual
 6 account under this plan and under all defined contribution plans of the employer
 7 required to be aggregated with the contributions from this plan under the provisions of
 8 26 U.S.C. 415 may not exceed, for any limitation year, the amount permitted under 26
 9 U.S.C. 415(c) [26 U.S.C. 415] at any time. If the amount of a member's individual
 10 account [DEFINED CONTRIBUTION PLAN] contributions exceeds the limitation of
 11 26 U.S.C. 415(c) for any limitation year, the administrator shall take any necessary
 12 remedial action to correct an excess contribution. A fixed benefit provided under
 13 this plan may not exceed, for or during a limitation year, the amount permitted
 14 under 26 U.S.C. 415(b). If a fixed benefit provided under this plan exceeds, for or
 15 during a limitation year, the amount permitted under 26 U.S.C. 415(b), the
 16 administrator shall take remedial action necessary to comply with the limits on
 17 the benefit amount in 26 U.S.C. 415(b). The provisions of 26 U.S.C. 415, and the
 18 regulations adopted under that statute, as applied to qualified [DEFINED
 19 CONTRIBUTION] plans of governmental employees are incorporated as part of the
 20 terms and conditions of the plan.

21 * Sec. 90. AS 39.35.890(b) is amended to read:

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

28 (1) dies;

29 (2) recovers from the disability;

30 (3) fails to meet the requirements under (f)₂ [OR] (j), or (l) of this

31 section; or

1 (4) reaches normal retirement age.

2 * Sec. 91. AS 39.35.890(d) is amended to read:

3 (d) The monthly amount of an occupational disability benefit is 40 percent of
4 the disabled employee's gross monthly compensation at the time of termination due to
5 disability. Notwithstanding AS 39.35.790(b), at the time a member is appointed to
6 disability, the member becomes fully vested in the employer contributions made
7 under AS 39.35.750(a). A disabled member is fully vested in the contributions to
8 the member's individual account made under this subsection. An employee is not
9 entitled to elect distributions from the employee's individual contribution
10 account under AS 39.35.810 while the employee is receiving disability benefits
11 under this section. While an employee is receiving disability benefits, based on the
12 disabled employee's gross monthly compensation at the time of termination due to
13 disability, the employer shall make contributions

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

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

17 * Sec. 92. AS 39.35.890(g) is amended to read:

18 (g) A disabled employee's occupational disability benefit terminates the last
19 day of the month in which [WHEN] the disabled employee first qualifies
20 [ATTAINS ELIGIBILITY] for normal retirement. At that time, the employee's
21 retirement benefit shall be determined under the provisions of AS 39.35.820 -
22 39.35.840, 39.35.870, and 39.35.880. An employee whose occupational disability
23 benefit terminates under this subsection [RECEIVING DISABILITY BENEFITS
24 UP UNTIL ELIGIBILITY FOR RETIREMENT] shall be considered to have retired
25 directly from the plan.

26 * Sec. 93. AS 39.35.890(h) is amended to read:

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

31 (1) employee's retirement benefit calculated under the provisions of

1 AS 39.35.820 - 39.35.840; or

2 (2) employee's retirement benefit calculated as if the provisions of
 3 AS 39.35.370(c) were to apply; however, pension [RETIREMENT] benefits paid
 4 under this paragraph must be paid first from the peace officer's or fire fighter's
 5 individual contribution account, and the remaining benefits must be paid from
 6 the trust account established under AS 39.35.750(e); the peace officer or fire
 7 fighter may not elect other distributions from the peace officer's or fire fighter's
 8 individual contribution account under AS 39.35.810 [MAY NOT BE MADE
 9 FROM THE TRUST FUND OF THE PUBLIC EMPLOYEES' DEFINED BENEFIT

10 RETIREMENT PLAN].

11 * **Sec. 94.** AS 39.35.890(k) is amended to read:

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

1 additional benefit in an amount equal to the accumulated contributions that
 2 would have been made to the deceased member's individual account under
 3 AS 39.35.730(a) and 39.35.750(a), based on the deceased member's gross monthly
 4 compensation at the time of occupational disability, from the time of the
 5 member's death to the date the member would have first qualified for normal
 6 retirement if the member had survived. Earnings shall be allocated to the
 7 additional benefit calculated under this subsection based on the actual rate of
 8 return, net of expenses, of the trust account established under AS 39.35.750(e)
 9 over the period that the contributions would have been made. This additional
 10 amount and allocated earnings shall be paid in the same manner as determined
 11 for the member's individual account under AS 39.35.820 - 39.35.860 to the extent
 12 permitted by the Internal Revenue Service. For the purpose of determining
 13 eligibility of an employee's survivor who is receiving a benefit under this
 14 subsection for medical benefits under AS 39.35.870 - 39.35.880, an employee
 15 [LIVED, THE RETIREMENT BENEFIT SHALL BE DETERMINED UNDER THE
 16 PROVISIONS OF AS 39.35.820 - 39.35.840, 39.35.870, AND 39.35.880. AN
 17 EMPLOYEE] who died while receiving disability benefits shall be considered to have
 18 retired directly from the plan on the date the employee would have first qualified for
 19 normal retirement if the employee had survived. The period during which the
 20 employee was eligible for a disability benefit and the period during which a
 21 survivor's pension is paid to a survivor under this subsection each constitute
 22 membership service for the purposes of determining eligibility for medical
 23 benefits under this chapter and AS 39.30.300 - 39.30.495 [NORMAL
 24 RETIREMENT OF THE EMPLOYEE WOULD HAVE OCCURRED IF THE
 25 EMPLOYEE HAD LIVED].

26 * Sec. 95. AS 39.35.890(f) is amended to read:

27 (f) In this section, "occupational disability" means a physical or mental
 28 condition that the administrator determines presumably permanently prevents
 29 an employee from satisfactorily performing the employee's usual duties or the
 30 duties of another comparable position or job available to the employee and for
 31 which the employee is qualified by training or education; however, the proximate

1 cause of the condition must be a bodily injury sustained, or a hazard undergone,
 2 while in the performance and within the scope of the employee's duties and not
 3 the proximate result of the wilful negligence of the employee [HAS THE
 4 MEANING GIVEN IN AS 39.35.680].

5 * **Sec. 96.** AS 39.35.890 is amended by adding a new subsection to read:

6 (m) While a survivor under (k) of this section is receiving a survivor's
 7 pension, the employer of the deceased employee shall make contributions with respect
 8 to the survivor based on the deceased employee's gross monthly compensation at the
 9 time of termination due to disability

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

13 (2) to the appropriate accounts and funds under AS 39.35.750(b) - (c).

14 * **Sec. 97.** AS 39.35 is amended by adding a new section to read:

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

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

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

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

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

10 * Sec. 98. AS 39.35.892(b) is amended to read:

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

19 * Sec. 99. AS 39.35.892(c) is amended to read:

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

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

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

6 * Sec. 100. AS 39.35.892(e) is amended to read:

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

1 [LIVED].

2 * **Sec. 101.** AS 39.35 is amended by adding new sections to read:

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

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

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

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

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

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

28 **Sec. 39.35.894. Premiums for retiree major medical insurance coverage**
29 **upon termination of disability benefits or survivor's pension.** The premium for
30 retiree major medical insurance coverage payable by an employee whose disability
31 benefit is terminated under AS 39.35.890(g) or by an eligible survivor whose survivor

1 pension is terminated under AS 39.35.890(k) or 39.35.892(e) when the employee
 2 would have been eligible for normal retirement if the employee had survived shall be
 3 determined under AS 39.35.880(g)(2) as if the employee or survivor were eligible for
 4 Medicare.

5 * **Sec. 102.** AS 39.35.900 is amended by adding new subsections to read:

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

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

13 * **Sec. 103.** AS 39.35.910 is amended to read:

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

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

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

28 * **Sec. 104.** AS 39.35.940(c) is amended to read:

29 (c) Each eligible member who elects to participate in the defined contribution
 30 retirement plan shall have transferred to a new account the employee contribution
 31 account balance held in trust for the member under the defined benefit retirement plan

1 of the public employees' retirement system. A matching employer contribution shall
 2 be made on behalf of that employee to the new account. The employer shall make the
 3 matching contribution from funds other than the trust funds of the defined benefit
 4 retirement plan established under AS 39.35.095 - 39.35.680. The amount of the
 5 matching employer contribution shall be subject to, and may not exceed, the
 6 limitation of 26 U.S.C. 415(c) during the applicable limitation year as defined by
 7 AS 39.35.990. If the matching employer contribution would exceed the limits
 8 during the limitation year in which the transfer occurs, the remaining amount of
 9 the matching employer contribution shall be made in the next limitation year, if
 10 the limits would not be exceeded.

11 * Sec. 105. AS 39.35.940(d) is amended to read:

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

19 * Sec. 106. AS 39.35.940(h) is amended to read:

20 (h) An employee who is eligible to elect transfer to the defined
 21 contribution retirement plan must make the election not later than 12 months
 22 after the first day of the month following the administrator's receipt of the
 23 notification that the employee's employer consents to transfers of its employees
 24 under (i) of this section. The election to participate in the defined contribution
 25 retirement plan must be made in writing on forms and in the manner prescribed by the
 26 administrator. Before accepting an election to participate in the defined contribution
 27 retirement plan, the administrator must provide the employee planning on making an
 28 election to participate in the defined contribution retirement plan with information,
 29 including calculations to illustrate the effect of moving the employee's retirement plan
 30 from the defined benefit retirement plan to the defined contribution retirement plan as
 31 well as other information to clearly inform the employee of the potential consequences

1 of the employee's election. An election made under this subsection to participate in the
2 defined contribution retirement plan is irrevocable. Upon making the election, the
3 participant shall be enrolled as a member of the defined contribution retirement plan,
4 the member's participation in the plan shall be governed by the provisions of
5 AS 39.35.700 - 39.35.990, and the member's participation in the defined benefit
6 retirement plan under AS 39.35.115 shall terminate. The participant's enrollment in the
7 defined contribution retirement plan shall be effective the first day of the month after
8 the administrator receives the completed enrollment forms. An election made by an
9 eligible member who is married is not effective unless the election is signed by the
10 individual's spouse.

11 * **Sec. 107.** AS 39.35 is amended by adding new sections to read:

12 **Sec. 39.35.957. Designation of eligible employees, agreement to contribute,**
13 **and amendment of participation.** (a) A political subdivision or public organization
14 participating in the defined contribution retirement plan under AS 39.35.700 -
15 39.35.990 shall designate the departments, groups, or other classifications of
16 employees eligible to participate in the plan and, by participating, shall legally be
17 presumed to have agreed to make contributions each year in the amounts required for
18 members of the plan under AS 39.35.750.

19 (b) If the employer does not participate in the defined benefit retirement plan
20 under AS 39.35.095 - 39.35.680, an employee who is eligible under (a) of this section
21 and who is a member of the defined benefit retirement plan under AS 39.35.095 -
22 39.35.680 does not accrue credited service or make contributions under that defined
23 benefit retirement plan, but shall be a member of the defined contribution retirement
24 plan under AS 39.35.700 - 39.35.990 and make contributions under that plan.

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

28 **Sec. 39.35.958. Termination of participation in the plan.** (a) A political
29 subdivision or public organization may request that its participation in the plan be
30 terminated. The request may be made only after adoption of a resolution by the
31 legislative body of the political subdivision and approval of the resolution by the

1 person required by law to approve the resolution, or, in the case of a public
2 organization, after adoption of a resolution by the governing body of that public
3 organization. A certified copy of the resolution shall be filed with the administrator.

4 (b) If contributions are not transmitted to the plan within the prescribed time
5 limit, the administrator may grant an extension and shall assess interest on the
6 outstanding contributions at the rate established under AS 39.35.610. If the political
7 subdivision or public organization is in default at the end of the extension,
8 participation in the plan is terminated, and it shall be sent notice of termination.

9 (c) When an employer's participation in the plan is terminated, or when an
10 employer terminates coverage of a department, group, or other classification of
11 employees under AS 39.35.957(c), the administrator shall assess the employer a
12 termination cost that the administrator determines is actuarially required to fully fund
13 the costs to the plan for employees whose coverage is terminated, including the cost of
14 providing the employer's share of retiree health benefits under AS 39.35.880,
15 occupational disability and occupational death benefits under AS 39.35.890 and
16 39.35.892, and pension benefits elected under AS 39.35.890(h)(2).

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

26 (e) An employer terminating participation in the plan shall pay termination
27 costs determined by the administrator, or enter into a payment plan acceptable to the
28 administrator, within 60 days of the employer's receiving notice of its termination
29 costs from the administrator. Termination costs not paid within the prescribed time
30 limit or in accordance with the approved payment plan shall be collected by the
31 administrator in accordance with AS 39.35.610(b). Termination of participation by an

1 employer in the plan does not bar future participation by the employer if the employer
2 has paid in full its prior termination costs.

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

6 * **Sec. 108.** AS 39.35 is amended by adding a new section to read:

7 **Sec. 39.35.972. Special rules for treatment of qualified military service.**
8 Notwithstanding any contrary provisions of AS 39.35.700 - 39.35.990, with respect to
9 qualified military service, contributions shall be made and benefits and service credit
10 shall be provided in accordance with 26 U.S.C. 414(u).

11 * **Sec. 109.** AS 39.35.990(7) is amended to read

12 (7) "compensation"

13 (A) means

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

18 (ii) the member contribution to the public employees'
19 retirement system under AS 39.35.730, employee deferrals under
20 AS 39.45.010, the wage reduction amount contributed to the Alaska
21 Supplemental Annuity Plan under AS 39.30.150(a), and the wage
22 reduction amount contributed to the Alaska Supplemental Benefit Plan
23 under AS 39.30.150(c), as those statutes may be amended from time to
24 time;

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

1 which would have been excluded under 26 U.S.C. 3121(a) (Internal Revenue
2 Code) if the employer had remained in the Federal Social Security System [,
3 OR ANY REMUNERATION PAID BY THE EMPLOYER IN EXCESS OF
4 THE SOCIAL SECURITY TAXABLE WAGE BASE FOR THE
5 CALENDAR YEAR];

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

15 * Sec. 110. AS 39.35.990(16) is amended to read:

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

24 * Sec. 111. AS 39.35.990(20) is amended to read:

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

31 * Sec. 112. AS 39.45.020 is amended by adding a new subsection to read:

1 (d) The administrator of a deferred compensation program under this chapter
 2 has the powers and duties with regard to the program as set out in AS 14.25.003 and
 3 14.25.004, as though those provisions applied to the program.

4 * Sec. 113. AS 39.45 is amended by adding a new section to read:

5 Sec. 39.45.055. Appeals. A final decision made under AS 39.45.010 -
 6 39.45.060 is subject to appeal under AS 44.64.

7 * Sec. 114. AS 44.64.030(a) is amended by adding new paragraphs to read:

8 (35) AS 14.25.175 (waiver of adjustments under teachers' defined
 9 benefit plan);

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

11 (37) AS 39.30.335 (teachers' and public employees' health
 12 reimbursement arrangement plan);

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

15 (39) AS 39.45.055 (public employees' deferred compensation
 16 program).

17 * Sec. 115. (a) AS 14.25.045, 14.25.340(b), 14.25.570; AS 39.35.050(a), 39.35.370(k),
 18 39.35.615(d), 39.35.615(f), 39.35.620(c), 39.35.620(f), 39.35.620(h), and 39.35.730(b) are
 19 repealed.

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

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

22 * Sec. 116. The uncodified law of the State of Alaska is amended by adding a new section
 23 to read:

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

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

3 TRANSFER OF FUNDS TO ALASKA RETIREE HEALTH CARE TRUSTS. The
4 commissioner of administration shall transfer to the Alaska retiree health care trusts
5 established under AS 39.30.097, enacted by sec. 50 of this Act, all funds for payment of
6 retiree health benefits that have been deposited in the group health and life benefits fund
7 under AS 39.30.095, including funds in the retiree health insurance fund, and all funds from
8 any fund or account into which funds for provision of retiree health benefits have been
9 deposited. The commissioner of administration shall make the transfer on July 1, 2007, or
10 immediately after July 1, 2007 when the funds become available to the commissioner for
11 transfer.

12 * Sec. 118. Sections 5, 6, 17, 60, 68, 69, 81, and 115(b) of this Act take effect July 1, 2010.

13 * Sec. 119. Except as provided in sec. 118 of this Act, this Act takes effect immediately
14 under AS 01.10.070(c).

Our Proof

25-GS1004C

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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

See Memo
from
Legal
+ Miles
Baker

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

Amend #1

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

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

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

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

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

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

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

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

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

23 (c) Employers are responsible for administrative fees, investment fees, and
24 investment losses charged to accounts established under AS 14.25.340 resulting from
25 contribution adjustments due to employers enrolling members in the plan before the
26 members are eligible for membership. Contributions made by employees shall be
27 returned to the employer by reducing future employee contributions due.
28 Contributions, net of fees and investment losses, made by employers shall be used to
29 reduce future employer contributions due.

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

31 Sec. 14.25.380. Limitations on contributions and benefits. Notwithstanding

Amend
#1
Language
was
deleted
here

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
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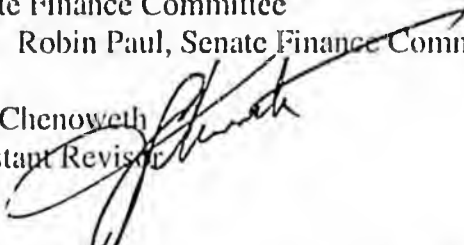
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Juneau, Alaska 99801-1182
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MEMORANDUM

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 --

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.

Senator Lyman Hoffman
Senator Bert Stedman
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This change also should be made to substantially the same amendment material appearing at

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

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."

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;

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

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 14.25.3-10 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.

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

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.

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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"?

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

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

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

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"?

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

SECTIONAL ANALYSIS FOR Senate Bill 123

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 8. AS 14.25.163(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 member's account that represented his/her marital portion to another qualified plan in the event the member refunded contributions.

Sec. 9. AS 14.25.163(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. 10 AS 14.25.163(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 IRC requirements for qualified plans.

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

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

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

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

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

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

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

Reason: Clarifies that the employee's gross pay prior to authorized pre-tax wage reductions should be used for the calculation of retirement benefits. The language is required to maintain

compliance with IRS requirements as to the definition of compensation and is not meant to be a substantive change.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 24 AS 14.25.370(b) and (c). Subsection (b) provides for interest to be charged on contributions that are not transmitted to the TRS from employers timely and allows the TRS administrator to claim the amount of contributions and interest due from any agency of the state or political subdivision from funds due to a school district (including the Department of Education and Early Development) if the funds are not restricted by statute or appropriation to a specific purpose. Subsection (c) provides that employers are responsible for any administrative fees, investment fees and investment losses when ineligible employees are

enrolled into the TRS and a correcting adjustment is made and that contributions transmitted to the plan for ineligible participants will be returned to the employer by crediting future payroll the amount of the contributions net of fees and any investment losses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Reason: The death benefit provides an income, and eventually retirement benefits, for the family of a member who dies in the line of duty. This clarification preserves the individual account until the member would have been eligible for the normal retirement benefit. The situation is similar to that described under sec. 27[AS 14.25.485(d)]. Please see the reason for sec. 31 above for an explanation of the funding of the additional benefit to conform to the IRC.

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

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

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

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

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

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

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

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

Sec. 37 AS 14.25.500(d) and (e). Conforms plan language to IRC. Subsection (d) codifies the division's practice of use of forfeitures to reduce future employer 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. 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(e). Clarifies that IRC section 415(e) 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(e) 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 receive 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.

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.

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.

Sec. 44 AS 22.25.022(c). 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 ensure 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(e)(3). Adds a Roth IRA (post-tax) as an eligible plan to receive rollovers, as of January 1, 2008; removes obsolete language.

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

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

Sec. 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. 68AS 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(c). 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(c). 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 d 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(e). Clarifies that the PERS defined contribution plan is a qualifying hybrid plan. Provides that retiree medical benefits 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(c) 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(e)(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(e). 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 receive 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(c), 39.35.620(f), 39.35.620(h), 39.35.730(b), 39.35.375(f), and sections 15 and 91, ch. 9, FSSL/A 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.

AS 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 statutes 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 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.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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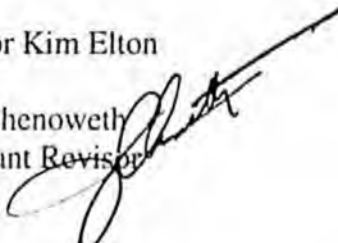
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Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 27, 2007

SUBJECT: Amendment A.2 to Senate Bill 123 -- a word of explanation about the draft (Work Order No. 25-GS1004\A.2)

TO: Senator Kim Elton

FROM: Jack Chenoweth
Assistant Revisor 

The instruction that generated the amendment accompanying this memo, identified as amendment A.2, has two components.

The first, directing removal from the bill of the language already appearing in the bill exempting regulations from the Administrative Procedure Act, is addressed in the amendment's material that makes the deletion at the bill's page 25, line 19 - 21; in the material that makes the deletion of material at the bill's page 26, line 5 - 8 (bill section 53, as it is numbered in the original); and in the repeal of that subsection, AS 39.30.160(e), as it is included in the expanded list of repealers near the end of the amendment.

All else in the memo addresses the second component of the drafting instruction: to require, "to the extent allowed by the bill title,"¹ that all retirement regulations be made subject to the Administrative Procedure Act (i.e. that any exceptions authorizing adoption of regulations not under that Act justified for reasons of "internal management" be dropped). That direction is addressed in material in amendment A.2 in material identified as

-- the repeal of AS 14.25.005 (elimination by repeal of the exemption as to regulations for the Teachers' Retirement System);

-- the amendment of AS 22.25.027(a) in proposed bill section 47 and repeal of AS 22.25.027(b) - (h) (elimination by amendment and repeal of the exemption as to regulations for the judicial retirement system);

¹ The title of Senate Bill 123, with its repetitive use of "relating to," almost certainly allows inclusion of the material proposed to be modified by this amendment without necessity of a title change. This would include even the repeal of the transitional provision of sec. 140(b), ch. 9, FSSLA 2005, insofar as that 2005 Act also covered substantially the same materials as are considered in the bill to which this amendment would attach.

Senator Kim Elton
March 27, 2007
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-- the amendment of AS 37.10.240(a) in proposed bill section 51 and repeal of AS 37.10.240(b) - (f) (elimination by amendment and repeal of the exemption as to regulations to carry out the work of the Alaska Retirement Management Board);

-- the repeal of AS 39.35.005 (elimination by repeal of the exemption as to the regulations for the Public Employees' Retirement System); and

-- the elimination by repeal of sec. 140(b), ch. 9, FSSLA 2005: that Act established the defined contribution program and made related changes, while the subsection of that chapter specified that "[r]egulations adopted by the Department of Administration and the Department of Revenue under this Act [ch. 9] relate to the internal management of a state agency, and the adoption of the regulations is not subject to AS 44.62 (Administrative Procedure Act)."

JBC:lmb
07-079.lmb

Enclosure



Technical Clarification Bill Overview

Senate Finance

Division of Retirement and Benefits
March 20, 2007

Extensive Review

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

Reasons For Legislation

- Ensure Defined Contribution Retirement (DCR) Plan benefits provided as intended
- Update Defined Benefit (DB) plans for qualification in 2008 per the Pension Protection Act of 2006
- Administrative Changes



Defined Contribution Plans

Division of Retirement and Benefits March 19, 2007

DCR Plan Changes

- Occupational Death and Disability (D&D) benefit administration and funding
- Employer participation
- Member participation
- IRC Contribution limits

Occupational Death & Disability

- Funding the benefits
 - TRS Occ D&D fund
 - 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 & 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