

SCOMM

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March 15, 2007

The Honorable John Harris
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the public employees' and teachers' defined benefit retirement plans; relating to the public employees' and teachers' defined contribution retirement plans; relating to the judicial retirement system; relating to the health reimbursement arrangement plan for certain teachers and public employees; relating to the supplemental employee benefit program; relating to the public employees' deferred compensation program; relating to group insurance for public employees and retirees; and making conforming amendments.

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

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

The Honorable John Harris

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

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

- (1) provide statutory authority for funding of the new Teachers' Retirement System (TRS) plan's occupational disability and death benefits;
- (2) clarify statutory authority for funding of the new Public Employees' Retirement System (PERS) plan's optional monthly pension benefits upon the retirement of disabled peace officers and fire fighters and clarify that employer contributions for defined benefits in the new PERS and TRS plans (occupational disability; occupational death; disabled peace officer/ fire fighter optional pension benefit) will be deposited to separate trust accounts;
- (3) add annual cost-of-living increases to disability benefits, survivor pensions, and optional pension benefits upon the retirement of disabled peace officers and fire fighters provided by the new PERS and Teachers' Retirement System (TRS) plans;
- (4) add employer cost sharing of medical premiums for persons younger than Medicare age whose disability or survivor benefits are terminated due to eligibility for normal retirement;
- (5) clarify that a member or survivor is not entitled to elect distributions from the member's individual account while receiving disability benefits or a survivor's pension;
- (6) provide that elected officials of the state are eligible to participate in the new PERS defined contribution retirement plan;
- (7) clarify that continuing employer contributions are made on behalf of the surviving spouse and member's dependent children rather than "beneficiaries";

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

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

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

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

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

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

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

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

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

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

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

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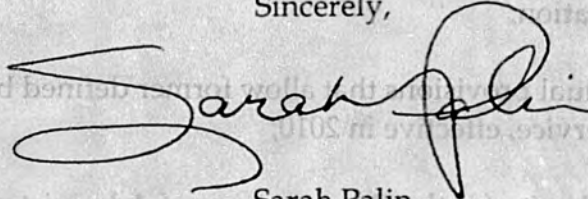
The Honorable John Harris

March 15, 2007

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I urge your support of this important legislation.

Sincerely,



Sarah Palin
Governor

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 204
(H) Publish Date: 3/16/07

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

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE

(Thousands of Dollars)

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

Estimate of any current year (FY2007) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

This bill has no fiscal impact on the Division of Retirement and Benefits. Please see page two for the analysis required by AS 24.08.036.

Prepared by: Melanie Millhorn, Director Phone: 465-4817
Division: Retirement and Benefits Date/Time: 3/15/07 11:00 AM
Approved by: Rachael Petro, Deputy Commissioner Date: 3/15/2007
Agency: Department of Administration

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL NO. HB 204

ANALYSIS CONTINUATION

Sec. 24.08.036. Fiscal notes on bills affecting state retirement systems. Before a bill which would have an effect on the retirement systems of the state is reported to the rules committee, there shall be attached to the bill an analysis of the long-term and short-term costs to the state if the bill is adopted, as well as the impact of the bill on the actuarial soundness of the fund. The analysis is in addition to the fiscal note requirements of AS 24.08.035.

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

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

- Annual COLA for recipients of disability benefits.
- Annual COLA for recipients of a survivor's pension.
- Medical premium cost-sharing for disabled members and survivors at normal retirement.
- Funding for disabled police/fire fighter members who choose a monthly retirement pension.
- Annual COLA for disabled police/fire fighter members who choose a monthly retirement pension.

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

Benefit	PERS "Others" Rate	PERS Others Costs (Payroll \$133.4 m)	PERS P/F Rate	PERS P/F Costs (Payroll \$17.0 m)	Total PERS Costs	TRS Rate	TRS Costs (Payroll \$69.8 m)
COLA	0.048%	\$ 64,032	0.214%	\$ 36,380	\$ 100,412	0.038%	\$ 26,524
Disabled P/F Pension at Normal Retirement	N/A	N/A	0.119%	\$ 20,230	\$ 20,230	N/A	N/A
Medical cost-sharing at Normal Retirement	0.019%		0.176%			0.025%	

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

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

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB204-DOA-OAH-3-20-07
 Bill Version: HB 204
 () Publish Date: _____

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

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2007) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Terry L. Thurbon, Chief Administrative Law Judge Phone 465-1886
 Division Office of Administrative Hearings Date/Time 03/20/2007 3:22 p.m.
 Approved by: Kevin Brooks, Deputy Commissioner Date 3/20/2007 4:30pm
 Agency Department of Administration

SECTIONAL ANALYSIS FOR Senate Bill 123 / House Bill 204

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 7 **AS 14.25.163(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(c)(4). Allows distribution (rollover) of post-tax portion of member DB plan account to certain qualified plans only if the receiving plan agrees to account for pre-tax and post-tax contributions separately.

Reason: To conform to IRC requirements for qualified plans.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 24 AS 14.25.370(b) and (c). Subsection (b) provides for interest to be charged on contributions that are not transmitted to the TRS from employers timely and allows the TRS administrator to claim the amount of contributions and interest due from any agency of the state or political subdivision from funds due to a school district (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(c). Clarifies that IRC section 415(c) limits apply to employer matching contributions when a DB member elects to convert to the DCR plan. Should the amount of the employer contribution exceed the 415(c) limits for the tax year, the amount of matching contributions that exceeds the limits will be made in the following tax year as long as the limits are not exceeded in that tax year.

Reason: This clarification implements the legislature's intent that an employee electing conversion to the TRS DCR plan 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(c)(3). Adds a Roth IRA (post-tax) as an eligible plan to receive rollovers, as of January 1, 2008; removes obsolete language.

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

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

Sec. 64 AS 39.35.195(c)(4). Allows distribution (rollover) of post-tax portion of member DB plan account to certain qualified plans only if the receiving plan agrees to account for pre-tax and post-tax contributions separately.

Reason: To conform to the IRC requirements for qualified plans.

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

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

Sec. 66 AS 39.35.250(d). Requires employer contributions for retiree health benefits to be separately computed and deposited in the new Alaska retiree health care trust established in sec. 50 of this bill.

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

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

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

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

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

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

Sec. 69 AS 39.35.385(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 retire 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(c). 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(c)(3)(C) provides special rules that allow the compensation of a disabled member for any year subsequent to the disability to be considered equivalent to the rate of compensation immediately prior to the disability. However, these rules only apply if the contributions are nonforfeitable when made.

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

Sec. 92 AS 39.35.890(g). Clarifies the termination of disability benefits when a disabled member first qualifies for normal retirement.

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

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

Reason: Upon reaching normal retirement eligibility, if a disabled peace officer or fire fighter elects to receive a normal pension benefit calculated using the PERS DB plan formula, monthly pension benefits will be first drawn from the member individual account and then, when the

individual account is exhausted, the trust account established for payment of these benefits. The clarification that a disabled peace officer or fire fighter who elects this benefit may not receive distributions from the individual contribution account prevents double dipping, and preserves the account for payment of part of the retirement benefit.

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

Sec. 94 AS 39.35.890(k). Changes made to this subsection, which is related to the benefits for a survivor of a disabled member who dies while receiving disability benefits, mirror other changes being made to the disability and death statutes throughout this bill. The changes are: (1) clarifies the termination of a survivor's pension; (2) clarifies that a survivor cannot access the member's individual account while receiving a survivor's pension; (3) clarifies the normal retirement benefits available to a survivor; (4) specifies that the period of disability benefits and the period of survivor benefits constitute membership service for eligibility for medical benefits and the Health Reimbursement Arrangement; and (5) establishes a tax qualified mechanism for the employer to continue to make employer and employee contributions to provide benefits to a survivor when the member would have reached normal retirement, had the member survived.

Reason: This is an IRC conforming amendment. The most important change is the provision for a tax qualified mechanism to allow the employer to continue making contributions (see sec. 96) to the plan to provide a benefit to an eligible survivor when the survivor's pension ends. Unlike the special rules under 26 USC 415(c)(3)(C) that allow the compensation of a disabled member for any year subsequent to the disability to be considered equivalent to the rate of compensation immediately prior to the disability, thereby allowing continued contributions to the employee's account, there is no corresponding rule for a deceased participant. Thus, there would be no compensation for a deceased member in the year after death and, therefore, no allowable contributions to the deceased member's individual account. The solution this amendment proposes is to provide an "additional benefit" that is equal to the amount that would have been contributed to the member's individual account had the member survived, with allocated earnings.

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

Sec. 95 AS 39.35.890(l). Clarifies the definition of occupational disability and establishes the eligibility requirements.

Reason: The intent of an occupational disability benefit is to provide an income for a person who is no longer able to work due to an injury sustained on-the-job. This definition is slightly different from the definition under AS 39.35.680. In combination with sec. 95 of this bill, the amendment makes it clear that if a person is able to perform the duties of another available and

comparable position, regardless of employer, then that person no longer meets the requirements to receive occupational disability benefits.

Sec. 96 AS 39.35.890(m). This new subsection requires employers to fund the additional benefit for survivors of a disabled member by making contributions to the appropriate trust accounts based on the deceased member's gross monthly compensation.

Reason: The "additional benefit" for survivors is explained in the reason for sec. IRS rules prohibit continued contributions to a deceased member's contribution account to stop as of December 31st of the year in which the member died. By requiring the employer contributions to be made to a trust account to fund the benefits, the legislature's intent regarding survivor benefits can be achieved.

Sec. 97 AS 39.35.891. Adds an annual adjustment to occupational disability benefits, and to retirement benefits elected by disabled peace officers and fire fighters (P/F) under AS 39.35.890(h)(2), equal to 75% of the increase in the Anchorage Consumer Price Index or 9%, whichever is less.

Reason: This amendment provides a formula for annual increases to the monthly amount of an occupational disability benefit, and to a monthly retirement benefit for eligible P/F that is similar to the formula for PERS Tier III members.

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

Sec. 98 AS 39.35.892(b). Clarifies the termination of a survivor's pension under the occupational death benefit provisions, including the end date of survivor benefits when a dependent child no longer meets the definition of dependent.

Reason: This amendment clarifies the death benefit statute to provide clearly that a survivor's pension paid to a dependent child ends the last month in which there is an eligible child (i.e., when the child reaches age 19, or age 23 if the child is enrolled in school). Related bill section: Sec. 33, AS 14.25.487(b).

Sec. 99 AS 39.35.892(c). Clarifies that a survivor of a member who died from occupational causes is not entitled to elect distributions from the member's individual account while receiving survivor benefits. Clarifies that the continuing contributions required by the employer are made on behalf of the surviving spouse and member's dependent children rather than "beneficiaries." Directs all continuing contributions by the employer into the occupational disability and death trust account and other appropriate accounts and funds in accordance with the IRC.

Reason: The death benefit provides an income, and eventually retirement benefits, for the family of a member who dies in the line of duty. This clarification preserves the individual account to provide a benefit to the survivor when the member would have been

eligible for normal retirement, and the survivor's pension ends. The situation is similar to that described under sec. 91 [AS 39.35.890(d)]. Please see sec. 96 below for an explanation of the changes required by the IRC.

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

Sec. 100 AS 39.35.892(e). The amendment to this subsection (1) clarifies the normal retirement benefits available to survivors of members who died occupationally; (2) establishes a tax qualified mechanism for the plan to provide benefits to a survivor when the member would have reached normal retirement if the member had survived; and (3) clarifies that the period of death benefits constitutes membership service for determining vesting in employer contributions and eligibility for medical benefits and the Health Reimbursement Arrangement.

Reason: Please see the reason for sec. 94 above for an explanation of the provision of a tax qualified mechanism to provide an "additional benefit" to an eligible survivor when eligibility for the survivor's pension ends.

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

Sec. 101 AS 39.35.893. Adds an annual cost-of-living adjustment (COLA) to the survivor's pension benefit equal to 50% of the increase in the Anchorage Consumer Price Index or 6%, whichever is less. Persons who are receiving a survivor's pension who are age 60 or older and persons who have received a survivor's pension for at least 5 years are eligible for the COLA.

AS 39.35.894. Adds a provision that a person whose disability or survivor benefits are terminated due to eligibility for a normal retirement benefit will be treated as if that person is eligible for Medicare, regardless of age, for the purpose of cost-sharing medical premiums with the Plan.

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

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

Sec. 102 AS 39.35.900(d) and (e). Conforms plan language to IRC. Subsection (d) codifies the division's practice of use of forfeitures to reduce future employer contributions. Subsection (e) complies with IRC requirement that the actuarial calculation of benefits is based on actuarial tables using assumptions approved by the administrator and is not subject to discretion of the employer.

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

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

Reason: The PERS DCR plan provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans.

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

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

Reason: This clarification implements the legislature's intent that an employee electing conversion to the PERS DCR plan 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: Confirms 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, FSSLA 2005. Acts to repeal these statutes.

Reason: AS 14.25.045. Removes the National Education Association (NEA) as a participating employer in the TRS. Although NEA had been included by the legislature in the TRS DB plan in statute, NEA is a private non-profit organization and it does not qualify for inclusion in the system. This error was acknowledged by the Division of Retirement and Benefits, the Department of Law, and the NEA in the early 1990's/late 1980's. In discussion with participating NEA management it was decided by the TRS Board that members participating at the time would be grandfathered and inclusion of new members would be discontinued (since then the last member has retired).

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

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

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

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

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

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.

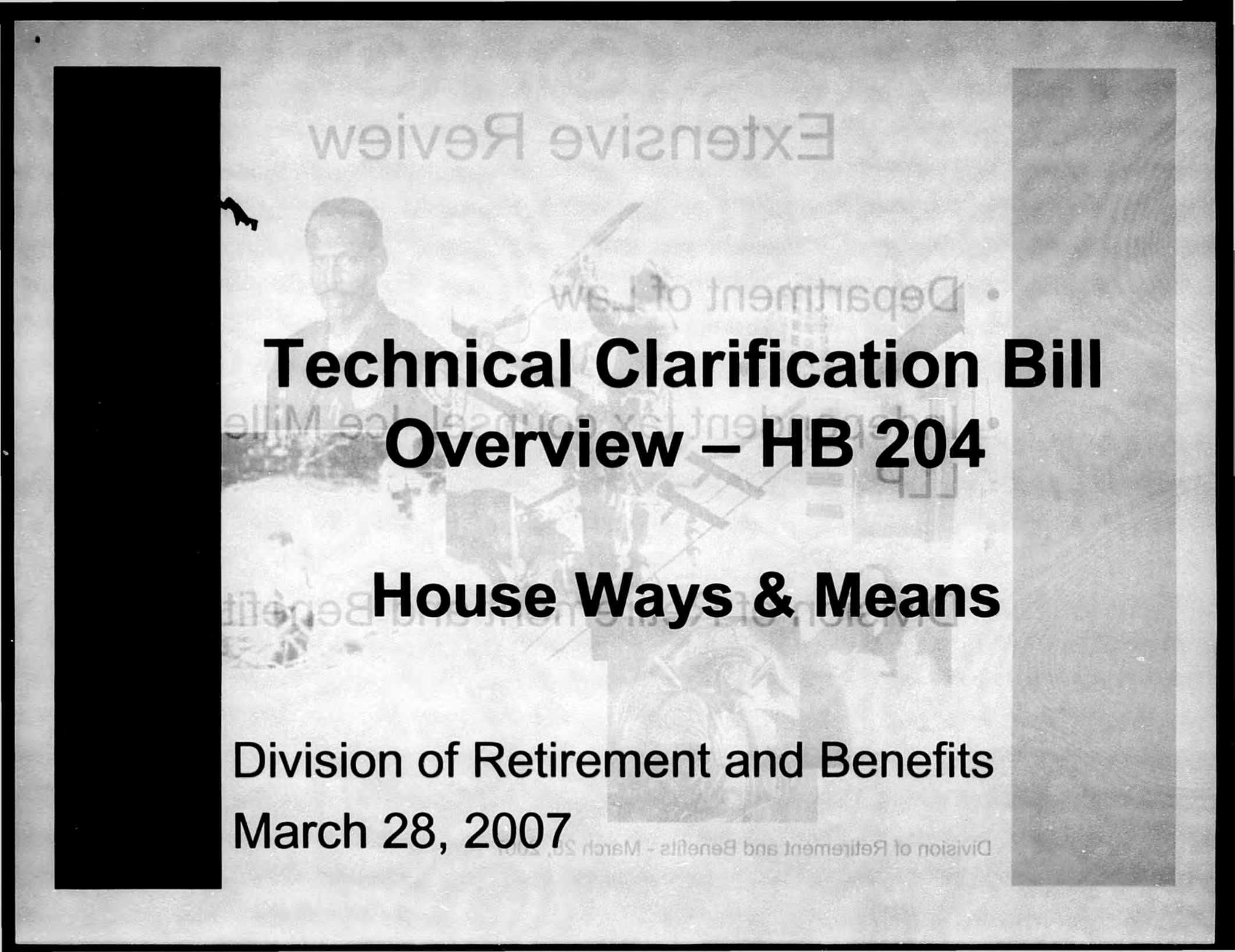
Reason: Funding for TRS occupational disability and death benefits was not provided for in SB 141. This section sets out the contribution rate for these benefits in the fiscal year funding is provided. Funding rates for future years will be set by the ARMB.

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.



Technical Clarification Bill Overview – HB 204

House Ways & Means

Division of Retirement and Benefits
March 28, 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

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

Member Participation

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

Member Participation

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

IRC Compliance

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

Defined Benefit Plans

Pension Protection Act

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

Employer Participation

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

Employer Participation

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

Member Participation

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

Administrative

New Trust

- Alaska Retiree Health Trusts
 - ARMB Trustees
 - Receive employer health contributions
 - Pay retiree medical premiums

Administrative

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

Administrative

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

Technical Clarification Bill Overview

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

COMPARISON OF FORMER HB 475 AND HB 204

Reasons: Admin = Administrative ARHT = Alaska Retiree Health Trust IRC = Identified by Div. Tax Counsel

PPA= Pension Protection Act SB 141 = Corrections to SB 141

Secs. From HB 475	New Sections	Statute	Description	Reason
2	1	14.25.065(b)	Directs employer health contributions to the new retiree health trust.	ARHT
3	4	14.25.075(f)	Adds plans eligible for rollover to DB plan	PPA
6	5	14.25.075(f) effective 7/1/2010	Removes acceptance of rollovers for payment of reinstatement as of 7/1/2010	SB 141
18	7	AS 14.25.163(b)	Plan does not accept rollovers except as defined in Sec. 4 of the bill.	PPA
20	8	AS 14.25.163(c)(2)	Includes an alternate payee in definition of "distributee"	PPA
25	9	AS 14.25.163(c)(3)	Adds a Roth IRA for DB rollovers as of January 1, 2008	PPA
26	10	AS 14.25.163(c)(4)	Requires receiving plan to account for pre-tax and post tax DB contributions separately	PPA
27	11	AS 14.25.168	DB Health benefits will be paid by the new health trust.	ARHT
28	12	AS 14.25.181(b)	Excess assets revert to employers at termination	IRC
29	13	AS 14.25.181(c)-(e)	Use of forfeitures	IRC
30	14	AS 14.25.220(10)	Clarifies that employee gross wages before pre-tax wage reductions are used for the calculation of retirement benefits	IRC
32	15	AS 14.25.220(16)	Removes NEA as an eligible TRS employer.	IRC
33	16	AS 14.25.310	TRS DB members who employ with a DCR only employer are DCR members	SB 141
34	17	AS 14.25.310	Former DB members who do not reinstate service by reemploying before 7/1/2010 will be DCR members upon rehire.	SB 141
35	19	AS 14.25.350(b)	DCR health contributions deposited in new health trust.	ARHT
36	21	AS 14.25.360(d)(3)	Updates DCR rollover provisions	PPA
38	22	AS 14.25.360(d)(4)	Requires receiving plan to account for pre-tax and post tax DCR contributions separately	PPA
39	23	AS 14.25.370	Sets a payment deadline for contributions to be received.	Admin
40	24	AS 14.25.370(b)-(c)	Interest charged on late contributions, provides for intercept of other funds held by state agencies to pay delinquent contributions.	Admin
41	31	AS 14.25.485	Funding for TRS death and disability benefits	Admin
52	37	AS 14.25.500	Codifies forfeiture usage and conforms plan language to IRC	Admin
53	42	AS 14.25.582	Adds special rules for qualified military service-Uniformed Services Employment and Reemployment Act compliance.	IRC
54	43	AS 14.25.590(7)	Amends definition of compensation to comply with IRC requirements.	IRC
55	44	AS 22.25.022(c)(2)	Includes an alternate payee in definition of "distributee"	PPA
57	45	AS 22.25.022(c)(3)	Adds eligible plans for rollover and adds a Roth IRA for DB rollovers as of January 1, 2008	PPA

COMPARISON OF FORMER HB 475 AND HB 204

Secs. From HB 475	New Sections	Statute	Description	Reason
58	46	AS 22.25.022(c)(4)	Requires receiving plan to account for pre-tax and post tax DB contributions separately	PPA
59	47	AS 22.25.046	Directs employer health contributions to the new retiree health trust.	ARHT
	48	AS 22.25.090	Provides that health benefits will be paid from new retiree health trust.	ARHT
65	49	AS 37.10.210(a)	Adds the ARMB as trustees for the new retiree health trust.	ARHT
67	50	AS 39.30.097	Creates the new retiree health trust	ARHT
68	51	AS 39.30.154	Conforms administrator's duties to the changes made by SB 141	SB 141
69	56	AS 39.30.340	Specifies the Health Reimbursement Arrangement is a sub-trust of the new retiree health trust.	ARHT
70	58	AS 39.35.115	Excess assets revert to employers at termination	IRC
77	59	AS 39.35.165(f)	Adds plans eligible for rollover to DB plan	PPA
82	60	AS 39.35.165(f) (effec. 7/1/2010)	Removes rollovers for purchase of refunded service as of July 1, 2010.	SB 141
84	61	AS 39.35.195(b)	Plan does not accept rollovers except as defined in Sec. 4 of the bill.	PPA
89	62	AS 39.35.195(c)(2)	Includes an alternate payee in definition of "distributee"	PPA
90	63	AS 39.35.195(c)(3)	Adds a Roth IRA for DB rollovers as of January 1, 2008	PPA
91	64	AS 39.35.195(c)(4)	Requires receiving plan to account for pre-tax and post tax DB contributions separately	PPA
92	66	AS 39.35.250	DB Health contributions will be paid to the new health trust.	ARHT
93	71	AS 39.35.535	DB Health benefits will be paid by the new health trust.	ARHT
94	72	AS 39.35.610	Interest charged on late contributions, provides for intercept of other funds held by state agencies to pay delinquent contributions.	Admin
95	73	AS 39.35.615	Voluntary termination from the PERS	Admin
97	74	AS 39.35.620	Involuntary termination from the PERS	Admin
98	75	AS 39.35.650	Excess assets revert to employers at termination	IRC
99	76	AS 39.35.678	Use of forfeitures	IRC
100	78	AS 39.35.680(9)	Clarifies that employee gross wages before pre-tax wage reductions are used for the calculation of retirement benefits	IRC
101	79	AS 39.35.680(18)	Definition of "employer" under DB statutes to include former political subdivisions or public organizations who consolidate into a new employer entity after July 1, 2006	SB 141
103	80	AS 39.35.700	PERS DB members who employ with a DCR only employer are DCR members	SB 141
104	81	AS 39.35.700 (effec 7/1/2010)	Former DB members who do not reinstate service by reemploying before 7/1/2010 will be DCR members upon rehire.	SB 141
105	83	AS 39.35.750(b)	Contributions for DCR health benefits are paid to the new health trust.	ARHT
106	85	AS 39.35.760(d)(3)	Adds plans eligible for rollover to DB plan	PPA

COMPARISON OF FORMER HB 475 AND HB 204

Secs. From HB 475	New Sections	Statute	Description	Reason
107	86	AS 39.35.760(d)(4)	Requires receiving plan to account for pre-tax and post tax DB contributions separately	PPA
111	87	AS 39.35.770	All contributions will be deposited in the appropriate account or trust.	Admin
113	88	AS 39.35.770(b)-(c)	Interest charged on late contributions, provides for intercept of other funds held by state agencies to pay delinquent contributions.	Admin
114	96	AS 39.35.890(m)	Contributions on behalf of a deceased member will be paid to the ODD trust account	IRC
116	102	AS 39.35.900	Use of forfeitures	IRC
	108	AS 39.35.972	Adds special rules for qualified military service-Uniformed Services Employment and Reemployment Act compliance.	IRC
	109	AS 39.35.990(7)	Amends definition of compensation to comply with IRC requirements.	IRC
	110	AS 39.35.990(16)	Adds Governor, Lieutenant Governor and Legislators as participants in the DCR plan.	Admin
	112	AS 39.45.020	Conforms administrator's duties to the changes made by SB 141	SB 141
	115	Repeals	Repeal of employee voluntary contributions to DCR plans; provisions no longer necessary or replaced by amendments in secs. 73 and 74.	Admin
	117	Transfer of funds into the Alaska Retiree Health Trust	Transfers all the funds deposited to the former group health and life benefits fund to the new retiree health trust.	ARHT

COMPARISON OF FORMER HB 475 AND HB 204

This chart only contains sections that did not appear in HB 475 OR have been modified since HB 475. NEW sections were not in HB 475; MODIFIED sections appeared in HB 475, but are different in HB 204.

Highlighted/Bold Main areas of change

Reasons: Admin = Administrative ARHT = Alaska Retiree Health Trust IRC = Identified by Div. Tax Counsel

PPA= Pension Protection Act SB 141 = Corrections to SB 141

Section	Type	Statute	Description	Reason
1	New	14.25.065(b)	Directs employer health contributions to the new retiree health trust.	ARHT
4	New	14.25.075(f)	Adds plans eligible for rollover to DB plan	PPA
5	New	14.25.075(f) effective 7/1/2010	Removes acceptance of rollovers for payment of reinstatement as of 7/1/2010	SB 141
7	New	AS 14.25.163(b)	Plan does not accept rollovers except as defined in Sec. 4 of the bill.	PPA
8	New	AS 14.25.163(c)(2)	Includes an alternate payee in definition of "distributee"	PPA
9	New	AS 14.25.163(c)(3)	Adds a Roth IRA for DB rollovers as of January 1, 2008	PPA
10	New	AS 14.25.163(c)(4)	Requires receiving plan to account for pre-tax and post tax DB contributions separately	PPA
11	New	AS 14.25.168	DB Health benefits will be paid by the new health trust.	ARHT
12	New	AS 14.25.181(b)	Excess assets revert to employers at termination	IRC
13	New	AS 14.25.181(c)-(e)	Use of forfeitures	IRC
14	New	AS 14.25.220(10)	Clarifies that employee gross wages before pre-tax wage reductions are used for the calculation of retirement benefits	IRC
15	Modified	AS 14.25.220(16)	Removes NEA as an eligible TRS employer from definition of employer. HB 475 did not remove NEA from the definitions.	IRC
16	New	AS 14.25.310	TRS DB members who employ with a DCR only employer are DCR members	SB 141
17	New	AS 14.25.310	Former DB members who do not reinstate service by reemploying before 7/1/2010 will be DCR members upon rehire.	SB 141
19	New	AS 14.25.350(b)	DCR health contributions deposited in new health trust.	ARHT
21	New	AS 14.25.360(d)(3)	Updates DCR rollover provisions	PPA
22	New	AS 14.25.360(d)(4)	Requires receiving plan to account for pre-tax and post tax DCR contributions separately	PPA
23	New	AS 14.25.370	Sets a payment deadline for contributions to be received.	Admin

COMPARISON OF FORMER HB 475 AND HB 204

Section	Type	Statute	Description	Reason
24	New	AS 14.25.370(b)-(c)	Interest charged on late contributions, provides for intercept of other funds held by state agencies to pay delinquent contributions.	Admin
31	Modified	AS 14.25.485	Funding for TRS death and disability benefits. Provides for a tax qualified mechanism for contributions for the benefit of a surviving spouse to be continued.	Admin
37	New	AS 14.25.500	Forfeiture usage and conforms plan language to IRC	IRC
42	New	AS 14.25.582	Adds special rules for qualified military service-Uniformed Services Employment and Reemployment Act compliance.	IRC
43	New	AS 14.25.590(7)	Amends definition of compensation to comply with IRC requirements.	IRC
44	New	AS 22.25.022(c)(2)	Includes an alternate payee in definition of "distributee"	PPA
45	New	AS 22.25.022(C)(3)	Adds eligible plans for rollover and adds a Roth IRA for DB rollovers as of January 1, 2008	PPA
46	New	AS 22.25.022(c)(4)	Requires receiving plan to account for pre-tax and post tax DB contributions separately	PPA
47	New	AS 22.25.046	Directs employer health contributions to the new retiree health trust.	ARHT
48	New	AS 22.25.090	Provides that health benefits will be paid from new retiree health trust.	ARHT
49	New	AS 37.10.210(a)	Adds the ARMB as trustees for the new retiree health trust.	ARHT
50	New	AS 39.30.097	Creates the new retiree health trust	ARHT
51	Modified	AS 39.30.154	Adds a section to conform administrator's duties to the changes made by SB 141	SB 141
56	New	AS 39.30.340	Specifies the Health Reimbursement Arrangement is a sub-trust of the new retiree health trust.	ARHT
58	New	AS 39.35.115	Excess assets revert to employers at termination	IRC
59	New	AS 39.35.165(f)	Adds plans eligible for rollover to DB plan	PPA
60	New	AS 39.35.165(f) (effec. 7/1/2010)	Removes rollovers for purchase of refunded service as of July 1, 2010.	SB 141
61	New	AS 39.35.195(b)	Plan does not accept rollovers except as defined in Sec. 4 of the bill.	PPA
62	New	AS 39.35.195(c)(2)	Includes an alternate payee in definition of "distributee"	PPA
63	New	AS 39.35.195(c)(3)	Adds a Roth IRA for DB rollovers as of January 1, 2008	PPA

COMPARISON OF FORMER HB 475 AND HB 204

Section	Type	Statute	Description	Reason
64	New	AS 39.35.195(c)(4)	Requires receiving plan to account for pre-tax and post tax DB contributions separately	PPA
66	New	AS 39.35.250	DB Health contributions will be paid to the new health trust.	ARHT
71	New	AS 39.35.535	DB Health benefits will be paid by the new health trust.	ARHT
72	New	AS 39.35.610	Interest charged on late contributions, provides for intercept of other funds held by state agencies to pay delinquent contributions.	Admin
73	New	AS 39.35.615	Voluntary termination from the PERS	Admin
74	New	AS 39.35.620	Involuntary termination from the PERS	Admin
75	New	AS 39.35.650	Excess assets revert to employers at termination	IRC
76	New	AS 39.35.678	Use of forfeitures	IRC
78	New	AS 39.35.680(9)	Clarifies that employee gross wages before pre-tax wage reductions are used for the calculation of retirement benefits	IRC
79	New	AS 39.35.680(18)	Definition of "employer" under DB statutes to include former political subdivisions or public organizations who consolidate into a new employer entity after July 1, 2006	SB 141
80	New	AS 39.35.700	PERS DB members who employ with a DCR only employer are DCR members	SB 141
81	New	AS 39.35.700 (effec 7/1/2010)	Former DB members who do not reinstate service by reemploying before 7/1/2010 will be DCR members upon rehire.	SB 141
83	New	AS 39.35.750(b)	Contributions for DCR health benefits are paid to the new health trust.	ARHT
85	New	AS 39.35.760(d)(3)	Adds plans eligible for rollover to DB plan	PPA
86	New	AS 39.35.760(d)(4)	Requires receiving plan to account for pre-tax and post tax DB contributions separately	PPA
87	New	AS 39.35.770	All contributions will be deposited in the appropriate account or trust.	Admin
88	New	AS 39.35.770(b)-(c)	Interest charged on late contributions, provides for intercept of other funds held by state agencies to pay delinquent contributions.	Admin
96	New	AS 39.35.890(m)	Contributions on behalf of a deceased member will be paid to the ODD trust account	IRC
102	New	AS 39.35.900	Use of forfeitures	IRC
108	New	AS 39.35.972	Adds special rules for qualified military service-Uniformed Services Employment and Reemployment Act compliance.	IRC

COMPARISON OF FORMER HB 475 AND HB 204

Section	Type	Statute	Description	Reason
109	New	AS 39.35.990(7)	Amends definition of compensation to comply with IRC requirements.	IRC
110	New	AS 39.35.990(16)	Adds Governor, Lieutenant Governor and Legislators as participants in the DCR plan.	Admin
112	New	AS 39.45.020	Conforms administrator's duties to the changes made by SB 141	SB 141
115	New	Repeals	Repeal of employee voluntary contributions to DCR plans; provisions no longer necessary or replaced by amendments in secs. 73 and 74.	Admin
117	New	Transfer of funds into the Alaska Retiree Health Trust	Transfers all the funds deposited to the former group health and life benefits fund to the new retiree health trust.	ARHT

AMENDMENT #1

OFFERED IN THE HOUSE
TO: HB 204

BY REPRESENTATIVE GRUENBERG

1 Page 2, lines 3 - 7:

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

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

12

13 Page 11, lines 14 - 17:

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

AMENDMENT

#2

OFFERED IN THE HOUSE

BY REPRESENTATIVE FAIRCLOUGH

TO: HB 204

Page 36, following line 16, insert:

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

Sec. 39.35.725. Participation of elected officials of political subdivisions. An elected official of a political subdivision of the state that participates in both the plan and the defined benefit plan of AS 39.35.095 - 39.35.680 is a member of the plan if the political subdivision covers elected officials under AS 39.35.550 - 39.35.650 and has designated elected officials under AS 39.35.957 as a classification of employees entitled to participate in the plan and if the elected official receives compensation from the political subdivision for services as an elected official in the amount of at least \$2,001 per month. An elected official of a political subdivision of the state that participates in the plan but not the defined benefit plan of AS 39.35.095 - 39.35.680 is a member of the plan if the political subdivision has designated elected officials under AS 39.35.957 as a classification of employees entitled to participate in the plan and if the elected official receives compensation from the political subdivision for services as an elected official in the amount of at least \$2,001 per month. An elected official entitled to participate under (a) of this section may file a waiver of participation in the plan with the administrator within 30 days after the later of the effective date of this section or the date that the elected official's term of office begins. A waiver is irrevocable for the remainder of the term, or consecutive terms, of office of the elected official."

Renumber the following bill sections accordingly.

Juli Lucky

From: Kreitzer, Annette (Dept. of Admin) [Annette_Kreitzer@admin.state.ak.us]
Sent: Tuesday, April 03, 2007 4:20 PM
To: Juli Lucky; Kim Skipper
Subject: FW: Elected Officials

Juli/Kim:
 To Rep. Fairclough's amendment.
 ak

From: kathy_lea [mailto:kathy_lea@admin.state.ak.us]
Sent: Tuesday, April 03, 2007 4:17 PM
To: Virginia Ragle
Cc: Kreitzer, Annette (Dept. of Admin)
Subject: Elected Officials

City	Assembly/Council	School Board
Fairbanks	\$4,800/yr	\$4,800/yr
Anchorage	\$27,996.80/yr	\$26,206/yr Chair, \$23,023 member
Juneau	\$5,977/yr	\$3,600/yr

The above table shows what the 3 largest cities pay their elected officials per telephone calls to them today. A spot check of our smaller employers in CRS show that they are paying between \$50 - \$150 per meeting which would have a range of \$2,400 to \$7,200 annually.

--
 Kathy Lea, Retirement Manager
 Division of Retirement and Benefits
 Department of Administration
 PO Box 110203
 Juneau, AK 99811-0203
 (907) 465-3226 (voice)
 (907) 465-5404 (fax)
 (800) 821-2251 Toll-Free

Confidentiality Statement

This message (including any attachments) contains confidential information intended

LEGAL SERVICES

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

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

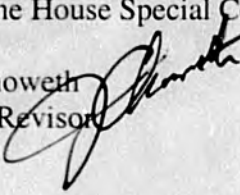
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 3, 2007

SUBJECT: House Bill 204, relating to employee retirement and benefit matters (Work Order No. 25-GH1004\A)

TO: Representative Mike Hawker
Chair of the House Special Committee on Ways and Means

FROM: Jack Chenoweth
Assistant Revisor 

House Bill 204 is an administration-sponsored bill making a series of changes to laws applicable to employee retirement and benefit matters. As your special committee considers the measure, please give consideration to the following, all of which are suggested and offered principally to conform the measure to the requirements of the Legislative Drafting Manual:

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;

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 14.25.340 resulting from contribution adjustments because the employer enrolled a member in the plan before the member was eligible for membership. Contributions made by an employee shall be returned to the employer by reducing future employee contributions due. Contributions, net of fees and investment losses, made by an employer shall be used to reduce future employer contributions due.

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

7. Page 14, line 1: 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.

8. Page 15, line 5: 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 the reference to "this chapter" at page 17, line 30.

9. Page 17, line 28: Reference to "this section" should probably be to "this subsection".

10. Page 39, line 27: The inclusion of "(i)" is a reference to a definition. The committee should verify that "fails to meet the requirements of [a definition]" is accurate.

Representative Mike Hawker
April 3, 2007
Page 3

11. Page 42, line 20: 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 28.

*

In addition to the foregoing, there are punctuation, spelling, grammar, and section catchline corrections that should be made. We would like to have the latitude to make those corrections in the event your special committee requests preparation of a committee substitute.

The matters and suggestions offered in this memo identify those that, in our judgment -- that of the legal editor and my own -- ought to have the committee's attention and direction as the House deliberates about the measure.

Thank you for your consideration.

JBC:ljw
07-192.ljw

cc: Patty Rose, Legal Editor

NEA answers for committee
From: Kreitzer, Annette (Dept. of Admin)
[Annette_Kreitzer@admin.state.ak.us]
Sent: Sunday, April 01, 2007 10:36 AM
To: Juli Lucky; kathy_lea@admin.state.ak.us
Subject: NEA answers for committee

Juli:

Here is the answer for the committee about TRS coverage of NEA-AK employees. Kathy Lea estimates the costs across the TRS plan to be about \$450,000 for the four employees still living.
ak

Memorandum State of Alaska
Department of Administration
Division of Retirement and Benefits

To: Annette Kreitzer
 Commissioner
 Department of Administration

Date: March 31, 2007

From: Kathy Lea
 Retirement Manager
 Division of Retirement and Benefits
 Department of Administration

Phone: 465-3226

Subject: NEA Participation
 History in TRS

You have requested a synopsis of the participation of the National Education Association (NEA) as a covered employer in the Teachers' (TRS) Retirement System and the current status of its covered employees.

NEA was added to TRS as a participating employer in 1974 by Sec. 4 ch 99 SLA 1974. This added AS 14.25.045 allowing NEA to participate and also added NEA to the definition of employer in AS 14.25.220(16).

In 1980, the Division requested an opinion from the Attorney General regarding the appropriateness of including NEA in the TRS. In an opinion dated March 18, 1981, Assistant Attorney General Rodger Pegues determined that, as a private organization, the inclusion of NEA as a participating employer was unconstitutional.

An agreement was reached with NEA that the five participating employees would be allowed to continue TRS participation, however, no new employees would be enrolled.

The five employees have retired with the last participating employee completing service in March of 2000 and retiring July 1, 2001. As of July 1, 2001, NEA was terminated as an eligible TRS employer and notification was sent to NEA. No termination liability was calculated for NEA at that time. The TRS is a cost share system and the division determined that the remaining TRS employers would share the cost for the five retired employees. It is important to note that the TRS contains no statutory provisions for termination of an employer from the plan. Without statutes outlining the termination process or allowing the division to collect a termination liability, the division had no authority to make any other determination.

Currently, only four retirees remain receiving benefits since one is now deceased.

Estimated Organization Liability for Elected Officials in PERS

Assumptions:

- Retirement for member begins in 2006.
- Medical costs are based on actuarial assumptions predicting medical costs to increase between 11 and 5% annually over the next 22 years.
- Benefits are based on retiring at age 60 and living to 82.
- Assumes contribution on member's behalf while they were an elected official is negligible.

ORGANIZATIONS'S LIABILITY:

Retiree is an elected official for 7 years and a regular PERS employee for 3 years. Benefits based on 10 years of service.

Post elected official position	High 3-year average salary (high 5 year average for Tier III)	Annual pension*	Organization's annual pension liability	Organization's pension liability over lifespan of retiree (22 years)	Total liability for medical over lifespan of retiree (22 years)***	Organization's liability for medical (22 years)	Organization's total liability
Entry level school janitor	26,496	5,299	3,709	81,607 33,600**	368,545	257,981	339,588
Beginning DOT grader operator	41,335	8,267	5,786	127,311 52,850**	368,545	257,981	385,292
Special Assistant to Governor	70,848	14,169	9,918	218,211 84,140**	368,545	257,981	476,192

*does not include annual automatic COLA at $\frac{1}{4}$ the Anchorage CPI, nor the additional 10% COLA if retiree lives in Alaska

**estimated present value at time of retirement

***actual liability may range up to \$450,000 depending upon variables

ORGANIZATION'S LIABILITY: 10 years only Organization council service. (For service starting after July 1, 2006 Tier IV applies)

Pre elected official position	High 3 year average salary	Annual pension*	Organization's annual pension liability	Organization's pension liability over lifespan of retiree (22 years)	Total liability for medical over lifespan of retiree (22 years)***	Organization's liability for medical (22 years)	Organization's total liability
Organization council only	600	3,000	3,000	66,000 25,000**	368,545	368,545	434,545

*minimum pension payment is \$25/month per year of service; does not include Automatic COLA at $\frac{1}{4}$ the Anchorage CPI, nor the additional 10% COLA if retiree lives in Alaska

**estimated present value at time of retirement

***actual liability may range up to \$450,000 depending upon variables

Estimated Organization Liability for Elected Officials in PERS

ORGANIZATION'S LIABILITY:

Retiree is a regular PERS employee for 15 years and an elected official for 5 years. Benefits based on 20 years of service.

Pre elected official position	High 3 year average salary (high 5 year average for Tier III)	Annual pension*	Organization's annual pension liability	Organization's pension liability over lifespan of retiree (22 years)	Total liability for medical over lifespan of retiree (22 years)***	Organization's liability for medical (22 years)	Organization's total liability
Head school janitor	47,000	21,150	5,287	116,325 59,815**	368,545	92,136	208,461
Senior DOT grader operator	55,500	24,975	6,243	137,362 70,632**	368,545	92,136	229,498
Special Assistant to governor	\$70,848	29,025	7,256	159,637 82,062**	368,545	92,136	251,773

*does not include annual automatic COLA at $\frac{3}{4}$ the Anchorage CPI, nor the additional 10% COLA if retiree lives in Alaska

**estimated present value at time of retirement

***actual liability may range up to \$450,000 depending upon variables

Tier I: 1/1/61 - 6/30/86

Tier II: 7/1/86 - 6/30/96

Tier III: 7/1/96 - 6/30/2006

Tier IV: 7/1/2006 on or after

Organizations = any organization of elected officials that are eligible for PERS membership, ie School Board, City Council or Borough Assembly.