12055 SENATE STATE AFFAIRS

SB 234

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 13, 2006

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

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to a community dividend program.

This bill would establish the community dividend program, under which several types of grants would be awarded to municipalities for use for specified public services. The bill provides for appropriation for the program from amounts deposited into the Alaska capital income fund, established in AS 37.05.565 by ch. 49, SLA 2005. The Alaska capital income fund is financed by the earnings on *Amerada Hess* settlement deposits to the Alaska Permanent Fund.

The bill provides first for a base grant to municipalities, then for an organizational grant to newly organized boroughs. Any amounts remaining from a fiscal year's appropriation would be distributed on a pro rata basis to municipalities as a supplemental grant.

I urge your prompt and favorable action on this measure.

Sincerely yours,

Frank H. Murkowski
Governor

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 234
(S) Publish Date: 1/13/06

Revision Date/Time (Note if correction):
Title: Community Dividend/Revenue Sharing
Sponsor: Governor Frank Murkowski
Requester:

Dept. Affected: Revenue
RDU: AK Permanent Fund Corporation
Component: AK Permanent Fund Corporation
Component No. 109

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

This bill as drafted would not affect the operations of the Alaska Permanent Fund Corporation. Therefore there is no fiscal impact to the APFC as a result of this bill.

Prepared by: Michael Burns, Executive Director/CEO — Phone 907-465-2047
Division: Alaska Permanent Fund Corporation — Date/Time 1/13/2006
Approved by: — Date
Agency:

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 234
(S) Publish Date: 1/13/06

Revision Date/Time (Note if correction):
Title: Community Dividend Program
Sponsor: Rules
Requester: By Request of Governor

Dept. Affected: Commerce
RDU: Comm Asst & Econ Dev (405)
Component: State Revenue Sharing
Component No. 689

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	27,600.0	27,600.0	27,600.0	27,600.0	27,600.0	27,600.0
Miscellaneous						
TOTAL OPERATING	**27,600.0**	**27,600.0**	**27,600.0**	**27,600.0**	**27,600.0**	**27,600.0**

CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1197 AK Cap Inc	27,600.0	27,600.0	27,600.0	27,600.0	27,600.0	27,600.0
TOTAL	**27,600.0**	**27,600.0**	**27,600.0**	**27,600.0**	**27,600.0**	**27,600.0**

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal: [ ]

POSITIONS

Full-time	0	0	0	0	0	0
Part-time						
Temporary						

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

This legislation funds an annual community dividend program from earnings of the Alaska capital income fund (AS 37.05.565). The Alaska Permanent Fund Corporation has estimated a mid-case statutory return from the fund of 6.5% on $424 million, or $27.6 million, per year in projected realized income. The projected annual income may vary significantly due to fluctuations in the market.

The first $10 million appropriated to the program is allocated to boroughs and cities using graduated base grants ranging from $25,000 to $50,000 with the remaining balance distributed on a per capita basis. After making the $10 million distribution, the department shall distribute organizational grants to organized boroughs at $1 million per year for each of the borough's first two years and $500,000 for the borough's third year. After paying the organizational grants, any remaining amount shall be distributed on a per capita basis to organized boroughs based on their areawide populations. The division anticipates implementing and administering the program with existing staff.

Prepared by: Michael Black, Director
Division: Community Advocacy
Phone: 907.269.4578
Date/Time: 1/12/06 1:07 PM

Approved by: William C. Noll, Commissioner
Agency: Commerce, Community, and Economic Development
Date: 1/12/2006

DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Office of the Commissioner

Frank H. Murkowski, Governor
William C. Noll, Commissioner

January 19, 2006

The Honorable Gene Therriault
Chair, State Affairs Committee
Alaska State Senate
State Capitol, Room 119
Juneau, AK 99801-1182

Re: SB 234 – Community Dividend Program

Dear Senator Therriault:

Senate Bill 234 has been introduced at the request of the Governor. This bill would fund an annual community dividend program from earnings of the Alaska Capital Income Fund (AS 37.05.565). SB 234 has received referrals to the Senate committees of State Affairs and Finance.

We respectfully request that you schedule this bill for a hearing in the Senate State Affairs Committee, and we urge favorable action on this bill. I have enclosed a copy of the Governor's transmittal letter, the bill, and the fiscal notes for this legislation.

We will be happy to meet with you and other members of the committee to provide any further information you may require. Thank you for considering our request.

Sincerely,

William C. Noll
Commissioner

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Alaska Department of Commerce

Recap of Community Dividend/Revenue Sharing/Admin Borough Bills

Bill #	Sponsor(s)	BASIS Title	Description	Fund Source	Minimum	Per Capita	Estimated Annual Cost	Referrals
SB 38	Elton	MODIFICATION OF OIL SEVERANCE TAX	Increases oil production tax, distributes half of new revenue to communities under existing State Revenue Sharing Program statutes	GF (new taxes	$25.0 to cities and boroughs	—	—	RES, FIN
SB 219	Wilken	COMMUNITY DIVIDEND PROGRAM	$70 per capita to municipalities and unincorporated communities. Municipalities that operate schools would receive $100 per capita. No minimum allocation	33% PF Earnings Reserve; 33% Am Hess 33% CBR (balance > $1 billion);	None	$70 per capita to municipalities and unincorporated communities. Municipalities that operate schools would receive $100 per capita.	$63 million	CRA, FIN
SB 246	Senate CRA by request of Advisory Commission on Local Government	APPROP TO REVENUE SHARING FUND	Appropriates $28 million from AM Hess to Municipal Fund	AM Hess	$300.0 for a unified municipality; $150.0 for other boroughs, $75.0 to each city and Metlakatla, $25.0 to each unincorporated community (about 75 communities per DCCED)	Any balance distributed per capita	$28 million	CRA, FIN
SB 247	Senate CRA by request of Advisory Commission on Local Government	REVENUE SHARING PROGRAM	Base grant $300.0 for each unified municipality; $150.0 for each borough that is not a unified municipality, $75.0 for each city $25.0 for each unincorporated community Balance distributed to municipalities on per capita basis	AM Hess	$300.0 for a unified municipality, $150.0 for other boroughs, $75.0 to each city and Metlakatla, $25.0 to each unincorporated community (about 75 communities per DCCED)	Any balance distributed per capita	$28 million	CRA, FIN
SB 248	Senate CRA by request of Advisory Commission on Local Government	ADMINISTRATIVE BOROUGHS AND NEW BOROUGH GRANTS	Admin Borough Organizational Grants: $250.0 yrs 1, 2, and 3 Other Borough Organizational Grants: $300.0 yr 1, $200.0 yr 2, $100.0 yr 3 New Borough Grants: If land grant > 15,000 acres then $12.5 M, If land grant < 15,000 acres then $15M	GF	—	—	—	CRA, FIN

2/16/2006

Alaska Department of Commerce

Recap of Community Dividend/Revenue Sharing/Admin Borough Bills

Bill #	Sponsor(s)	BASIS Title	Description	Fund Source	Minimum	Per Capita	Estimated Annual Cost	[illegible]
HB 28	Moses	MUNICIPA DIVIDEND PROGRAM	Provides $250 per capita with a minimum of $40.0 per community	PF earnings a[illegible] PFD's an[illegible] inflation-proofing	$40.0 per city or borough	$250 per capita	$160 million	CRA, STA, FIN
HB 36	Kapsner, Gara, Guttenberg, Croft	APPROP MUNI REVENUE SHARING/SAFE COMM	Distributed under existing State Revenue Sharing and Safe Communities Program statutes	GF	$40.0 per city or borough, approx $7.0 to each unincorporated community	About $34 per capita under Safe Communities Program	$58.9 million	CRA, FIN
HB 49	Rokeberg, Elkins	MUNICIPAL AID GRANTS	Provides $50.0 per municipality $3.5 per unincorporated community	GF	$50.0 per city or borough; $3.5 to each unincorporated community	None	$8.3 million	CRA, FIN
HB 144	Thomas	ADVISORY VOTE ON COMMUNITY DIVIDEND	Advisory vote on using PF earnings for revenue sharing	PF earnings after PFD's and inflation-proofing	$50.0 per city or borough; $25.0 to each unincorporated community	About $219 per capita	$150 million	STA, FIN
HB 289 SB 191	Gara Ellis, French	LOCAL TAX RELIEF & MUNI ASSISTANCE FUND	Appropriates 2005 oil tax change revenue to Local property tax and municipal assistance fund. Distributed under existing SRS/SC Program statutes	GF	$40.0 per city or borough, approx $10.0 to each unincorporated community	About $57 per capita under Safe Communities Program	$100 million	CRA, FIN/ CRA, FIN
HB 330 SB 217	Gardner, Gara, Gruenberg, Elkins, Ellis	MUNICIPAL ASSISTANCE/LOCAL TAX RELIEF	Appropriates $60 million annually to the local property tax and municipal assistance fund if oil > $30 bbl. Formula to increase if oil > $30 bbl. Distributed under existing SRS/SC Program statutes	GF	$40.0 per city or borough, approx $7.0 to each unincorporated community	About $34 per capita under Safe Communities Program	$60 million minimum	W&M, CRA, FIN/ CRA, FIN
HB 351 SB 226	Crawford Ellon	MUNICIPAL ENDOWMENT PROGRAM	Provides $50.0 per municipality plus a per capita distribution $25.0 per unincorporated community	Municipal endowment fund (see HB 352 and SB 227)	$50.0 per city or borough, $25.0 to each unincorporated community	About $55 per capita	6.0% of fund distributed (projected $45 million)	CRA, FIN/ CRA, FIN
HB 352 SB 227	Crawford Ellon	APPROPRIATIONS MUNICIPAL ENDOWMENT FUND	E[illegible]tablishes Municipal endowment fund and capitalizes it with $750 million	GF Surplus	—	—	—	CRA, FIN/ CRA, FIN
HB 371 SB 234	Governor	COMMUNITY DIVIDEND PROGRAM	$50.0 for borough. municipalities: 500 or more = $40.0, 250-500 = $35.0, 100-249 = $30.0, 100 or less = $25.0 Next priority is organizational grants ($1M yrs 1 & 2, $0.5M yr 3) Balance is distributed per capita to boroughs	AM Hess	$50.0 for borough municipalities with a population of 500 or more=$40.0 250-500=$35.0 100-249=$30.0 100 or less=$25.0	Any balance distributed per capita	Base program $10 million Average of $27.6 million distributed	CRA, FIN/ STA, FIN
HB 398	Moses	STATE MINERAL RESOURCE REV/MUNICIPAL AID	Establishes State Minerals Lease Assistance Fund to offset effects of exploration or location activity on municipalities	GF	—	—	Approx $1.994 million	CRA, FIN
HB 401	Berkowitz	REVENUE SHARING ENDOWMENT FUND	Establishes Revenue Sharing Endowment fund. Capitalized with 25% ongoing share of designated mineral revenues that would otherwise be GF	GF (FY 05 $138 million)	Formula is traditional municipal revenue sharing and safe communities program statutes	—	5.0% of fund value ($6.9 million on $138 million)	W&M, RES, FIN

SB 234 Comı unity Dividend Program
$10 Million Base Payments to Cities and Boroughs With
$16.6 Million Supplemental Borough Payments
(Distribution Assumes One New Borough Incorporation Grant at $1 Million)

Municipalities	2004 Population	Graduated Base Amounts	Per Capita Distribution	First Stage Distribution	Borough Areawide Population	Borough Supplemental Distribution	Total Community Dividend Payment
Adak	69	$25,000	$445	$25,445			$25,445
Akhiok	56	$25,000	$361	$25,361			$25,361
Akiak	367	$35,000	$2,368	$37,368			$37,368
Akutan	771	$40,000	$4,975	$44,975			$44,975
Alakanuk	667	$40,000	$4,304	$44,304			$44,304
Aleknagik	219	$30,000	$1,413	$31,413			$31,413
Aleutians East Borough	76	$50,000	$490	$50,490	2,629	$75,980	$126,471
Allakaket	90	$25,000	$581	$25,581			$25,581
Ambler	274	$35,000	$1,768	$36,768			$36,768
Anaktuvuk Pass	300	$35,000	$1,936	$36,936			$36,936
Anchorage	277,498	$50,000	$1,790,646	$1,840,646	277,498	$8,019,936	$9,860,582
Anderson	546	$40,000	$3,523	$43,523			$43,[illegible]23
Angoon	481	$35,000	$3,104	$38,104			$38,104
Aniak	532	$40,000	$3,433	$43,433			$43,433
Anvik	101	$30,000	$652	$30,652			$30,652
Atka	92	$25,000	$594	$25,594			$25,594
Atqasuk	247	$30,000	$1,594	$31,594			$31,594
Barrow	4,351	$40,000	$28,076	$68,076			$68,076
Bethel	5,888	$40,000	$37,994	$77,994			$77,994
Bettles	31	$25,000	$200	$25,200			$25,200
Brevig Mission	319	$35,000	$2,058	$37,058			$37,058
Bristol Bay Borough	1,096	$50,000	$7,072	$57,072	1,096	$31,675	$88,748
Buckland	437	$35,000	$2,820	$37,820			$37,820
Chefornak	439	$35,000	$2,833	$37,833			$37,833
Chevak	899	$40,000	$5,801	$45,801			$45,801
Chignik	92	$25,000	$594	$25,594			$25,594
Chuathbaluk	105	$30,000	$678	$30,678			$30,678
Clark's Point	62	$25,000	$400	$25,400			$25,400
Coffman Cove	177	$30,000	$1,142	$31,142			$31,142
Cold Bay	89	$25,000	$574	$25,574			$25,574
Cordova	2,298	$40,000	$14,829	$54,829			$54,82[illegible]
Craig	1,127	$40,000	$7,272	$47,272			$47,272
Deering	145	$30,000	$936	$30,936			$30,936
Delta Junction	984	$40,000	$6,350	$46,350			$46,350
Denali Borough	1,296	$50,000	$8,363	$58,363	1,842	$53,235	$111,598
Dillingham	2,422	$40,000	$15,629	$55,629			$55,629
Diomede	141	$30,000	$910	$30,910			$30,910
Eagle	115	$30,000	$742	$30,742			$30,742
Eek	292	$35,000	$1,884	$36,884			$36,884
Egegik	76	$25,000	$490	$25,490			$25,490
Ekwok	127	$30,000	$820	$30,820			$30,820
Elim	318	$35,000	$2,052	$37,052			$37,052
Emmonak	762	$40,000	$4,917	$44,917			$44,917
Fairbanks	29,954	$40,000	$193,288	$233,288			$233,288
Fairbanks North Star Borough	53,493	$50,000	$345,181	$395,181	84,979	$2,455,968	$2,851,149
False Pass	62	$25,000	$400	$25,400			$25,400
Fort Yukon	594	$4[illegible]000	$3,833	$43,833			$43,833
Galena	717	$40,000	$4,627	$44,627			$44,627
Gambell	648	$40,000	$4,181	$44,181			$44,181
Golovin	160	$30,000	$1,032	$31,032			$31,032
Goodnews Bay	236	$30,000	$1,523	$31,523			$31,523
Grayling	182	$30,000	$1,171	$31,174			$31,174
Gustavus	473	$35,000	$3,052	$38,052			$38,052
Haines Borough	2,245	$50,000	$14,487	$64,487	2,245	$64,882	$129,369
Holy Cross	206	$30,000	$1,329	$31,329			$31,329
Homer	5,332	$40,000	$34,406	$74,406			$74,406
Hoonah	841	$40,000	$5,427	$45,427			$45,427

SB 234 Community Dividend Program
$10 Million Base Payments to Cities and Boroughs With
$16.6 Million Supplemental Borough Payments
(Distribution Assumes One New Borough Incorporation Grant at $1 Million)

Municipalities	2004 Population	Graduated Base Amounts	Per Capita Distribution	First Stage Distribution	Borough Areawide Population	Borough Supplemental Distribution	Total Community Dividend Payment
Hooper Bay	1,124	$40,000	$7,253	$47,253			$47,253
Houston	1,368	$40,000	$8,827	$48,827			$48,827
Hughes	72	$25,000	$465	$25,465			$25,465
Huslia	269	$35,000	$1,736	$36,736			$36,736
Hydaburg	349	$35,000	$2,252	$37,252			$37,252
Juneau	30,966	$50,000	$199,818	$249,818	30,966	$894,945	$1,144,763
Kachemak	475	$35,000	$3,065	$38,065			$38,065
Kake	663	$40,000	$4,278	$44,278			$44,278
Kaktovik	284	$35,000	$1,833	$36,833			$36,833
Kaltag	211	$30,000	$1,362	$31,362			$31,362
Kasaan	60	$25,000	$387	$25,387			$25,387
Kenai	6,809	$40,000	$43,937	$83,937			$83,937
Kenai Peninsula Borough	31,794	$50,000	$205,161	$255,161	50,980	$1,473,367	$1,728,528
Ketchikan	7,691	$40,000	$49,629	$89,629			$89,629
Ketchikan Gateway Borough	4,948	$50,000	$31,929	$81,929	13,030	$376,578	$458,507
Kiana	394	$35,000	$2,542	$37,542			$37,542
King Cove	723	$40,000	$4,665	$44,665			$44,665
Kivalina	388	$35,000	$2,504	$37,504			$37,504
Klawock	848	$40,000	$5,472	$45,472			$45,472
Kobuk	128	$30,000	$826	$30,826			$30,826
Kodiak	6,199	$40,000	$40,001	$80,001			$80,001
Kodiak Island Borough	6,494	$50,000	$41,905	$91,905	13,466	$389,179	$481,084
Kotlik	588	$40,000	$3,794	$43,794			$43,794
Kotzebue	3,130	$40,000	$20,197	$60,197			$60,197
Koyuk	348	$35,000	$2,246	$37,246			$37,246
Koyukuk	109	$30,000	$703	$30,703			$30,703
Kupreanof	38	$25,000	$245	$25,245			$25,245
Kwethluk	695	$40,000	$4,485	$44,485			$44,485
Lake & Peninsula Borough	882	$50,000	$5,691	$55,691	1,603	$46,328	$102,020
Larsen Bay	96	$25,000	$619	$25,619			$25,619
Lower Kalskag	262	$35,000	$1,691	$36,691			$36,691
Manokotak	437	$35,000	$2,820	$37,820			$37,820
Marshall	358	$35,000	$2,310	$37,310			$37,310
Matanuska-Susitna Borough	57,474	$50,000	$370,870	$420,870	70,148	$2,027,339	$2,448,209
McGrath	367	$35,000	$2,368	$37,368			$37,368
Mekoryuk	198	$30,000	$1,278	$31,278			$31,278
Metlakatla	1,370	$40,000	$8,840	$48,840			$48,840
Mountain Village	769	$40,000	$4,962	$44,962			$44,962
Napakiak	360	$35,000	$2,323	$37,323			$37,323
Napaskiak	436	$35,000	$2,813	$37,813			$37,813
Nenana	549	$40,000	$3,543	$43,543			$43,543
New Stuyahok	477	$35,000	$3,078	$38,078			$38,078
Newhalen	183	$30,000	$1,181	$31,181			$31,181
Nightmute	232	$30,000	$1,497	$31,497			$31,497
Nikolai	121	$30,000	$781	$30,781			$30,781
Nome	3,473	$40,000	$22,411	$62,411			$62,411
Nondalton	205	$30,000	$1,323	$31,323			$31,323
Noorvik	609	$40,000	$3,930	$43,930			$43,930
North Pole	1,532	$40,000	$9,886	$49,886			$49,886
North Slope Borough	235	$50,000	$1,516	$51,516	7,104	$205,312	$256,828
Northwest Arctic Borough	708	$50,000	$4,569	$54,569	7,306	$211,150	$265,718
Nuiqsut	430	$35,000	$2,775	$37,775			$37,775
Nulato	320	$35,000	$2,065	$37,065			$37,065
Nunam Iqua	204	$30,000	$1,316	$31,316			$31,316
Nunapitchuk	527	$40,000	$3,401	$43,401			$43,401
Old Harbor	196	$30,000	$1,265	$31,265			$31,265
Ouzinkie	187	$30,000	$1,207	$31,207			$31,207

SB 234 Community Dividend Program
$10 Million Base Payments to Cities and Boroughs With
$16.[illegible] Million Supplemental Borough Payments
(Distribution Assumes One New Borough Incorporation Grant at $1 Million)

Municipalities	2004 Population	Graduated Base Amounts	Per Capita Distribution	First Stage Distribution	Borough Areawide Population	Borough Supplemental Distribution	Total Community Dividend Payment
Palmer	5,197	$40,000	$33,535	$73,535			$73,535
Pelican	118	$30,000	$761	$30,761			$30,761
Petersburg	3,123	$40,000	$20,152	$60,152			$60,152
Pilot Point	75	$25,000	$484	$25,484			$25,484
Pilot Station	559	$40,000	$3,607	$43,607			$43,607
Platinum	39	$25,000	$252	$25,252			$25,252
Point Hope	726	$40,000	$4,685	$44,685			$44,685
Port Alexander	69	$25,000	$445	$25,445			$25,445
Port Heiden	90	$25,000	$581	$25,581			$25,581
Port Lions	238	$30,000	$1,536	$31,536			$31,536
Quinhagak	612	$40,000	$3,949	$43,949			$43,949
Ruby	190	$30,000	$1,226	$31,226			$31,226
Russian Mission	331	$35,000	$2,136	$37,136			$37,136
Saint George	137	$30,000	$884	$30,884			$30,884
Saint Mary's	539	$40,000	$3,478	$43,478			$43,478
Saint Michael	409	$35,000	$2,639	$37,639			$37,639
Saint Paul	494	$35,000	$3,188	$38,188			$38,188
Sand Point	908	$40,000	$5,859	$45,[illegible]			$45,859
Savoonga	710	$40,000	$4,582	$4[illegible]82			$44,582
Saxman	391	$35,000	$2,523	$37,523			$37,523
Scammon Bay	486	$35,000	$3,136	$38,136			$38,136
Selawik	829	$40,000	$5,349	$45,349			$45,349
Seldovia	263	$35,000	$1,697	$36,697			$36,697
Seward	2,540	$40,000	$16,390	$56,390			$56,390
Shageluk	132	$30,000	$852	$30,852			$30,852
Shaktoolik	209	$30,000	$1,349	$31,349			$31,349
Shishmaref	591	$40,000	$3,8[illegible]4	$43,814			$43,814
Shungnak	264	$35,000	$1	$36,704			$36,704
Sitka	8,805	$50,000	$56,817	$106,817	8,805	$254,472	$361,289
Skagway	870	$40,000	$5,614	$45,614			$45,614
Soldotna	3,767	$40,000	$24,308	$64,308			$64,308
Stebbins	586	$40,000	$3,781	$43,781			$43,781
Tanana	304	$35,000	$1,962	$36,962			$36,962
Teller	241	$30,000	$1,555	$31,555			$31,555
Tenakee Springs	105	$30,000	$678	$30,678			$30,678
Thorne Bay	497	$35,000	$3,207	$38,207			$38,207
Togiak	805	$40,000	$5,195	$45,195			$45,195
Toksook Bay	561	$40,000	$3,620	$43,620			$43,620
Unalakleet	728	$40,000	$4,698	$44,698			$44,698
Unalaska	4,366	$40,000	$28,173	$68,173			$68,173
Upper Kalskag	263	$35,000	$1,697	$36,697			$36,697
Valdez	4,454	$40,000	$28,741	$68,741			$68,741
Wainwright	531	$40,000	$3,426	$43,426			$43,426
Wales	152	$30,000	$981	$30,981			$30,981
Wasilla	6,109	$40,000	$39,420	$79,420			$79,420
White Mountain	213	$30,000	$1,374	$31,374			$31,374
Whittier	172	$30,000	$1,110	$31,110			$31,110
Wrangell	2,023	$40,000	$13,054	$53,054			$53,054
Yakutat	680	$50,000	$4,388	$54,388	680	$19,653	$74,041
Totals	638,480	$5,880,000	$4,120,000	$10,000,000	574,377	$16,600,000	$26,600,000

Prepared by DCCED

4/7/2006

Governor Murkowski's Proposed Community Dividend Program HB371/SB 234

SUSTAINABILITY

The Community Dividend Program is funded with a reliable and sustainable source - the estimated $27.6 million in annual earnings of the "Alaska Capital Income Fund".

BASE GRANTS TO ALL CITIES AND BOROUGHS

$10 million annually distributed to all cities and boroughs:

- Cities with less than 100 residents receive $25,000
- Cities with 100 to 249 residents receive $30,000
- Cities with 250 to 500 residents receive $35,000
- Cities with more than 500 residents receive $40,000
- Boroughs receive $50,000
- Balance of funds distributed on a per capita basis

FINANCIAL INCENTIVES FOR BOROUGH ORGANIZATION

Increased incorporation grants for areas that organize into boroughs:

- Year one $1 million
- Year two $1 million
- Year three $500,000

SUPPLEMENTAL GRANTS TO ORGANIZED BOROUGHS

Remaining balance (approximately $16.6 million) distributed to organized boroughs on a per capita basis.

ACCOUNTABILITY

Community Dividend payments may only be used for essential public services like public safety; infrastructure maintenance; education; and fuel.

Fairbanks North Star Borough — Office of the Mayor

809 Pioneer Road — P.O. Box 71267 — Fairbanks, Alaska 99707-1267 — 907/459-1300
Fax 907/459-1102
Email mayor@co.fairbanks.ak.us

April 4, 2006

Dear Interior Delegation:

Thank you for your serious consideration of a municipal dividend program for Alaskan communities. Through this letter, I add my voice to the others that you have heard urging support for this action.

The reduction, and subsequent elimination, of past assistance programs have made it more and more difficult for municipalities to provide vital community services while holding down property taxes. The burden on property taxpayers in the Fairbanks North Star Borough and other urban communities has risen as state assistance has diminished.

Protecting the property taxpayer from unnecessary and unwarranted increases in property tax levels has been a cornerstone of my administration at the Borough. I can state unequivocally that significant municipal assistance or revenue sharing from the legislature will result in further reductions in local property taxes.

Other communities have analyzed the impact pending legislation would have on their local communities. Attached is a comparable analysis for the Fairbanks North Star Borough. As you can see, the impact on the taxpayers of the Fairbanks community will be substantial.

Again, I appreciate the hard work you have done on this topic. I support your efforts and will assist in any way that I can.

Sincerely,

Jim Whitaker, Mayor

/bs-csm

Enclosure

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 234
(S) Publish Date: 1/13/06

Revision Date/Time (Note if correction):
Title: Community Dividend/Revenue Sharing
Sponsor: Governor Frank Murkowski
Requester:

Dept. Affected: Revenue
RDU: AK Permanent Fund Corporation
Component: AK Permanent Fund Corporation
Component No. 109

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

This bill as drafted would not affect the operations of the Alaska Permanent Fund Corporation. Therefore there is no fiscal impact to the APFC as a result of this bill.

Prepared by: Michael Burns, Executive Director/CEO
Division: Alaska Permanent Fund Corporation
Phone: 907-465-2047
Date/Time: 1/13/2006
Approved by:
Date
Agency

(Revised 9/23/2004 OMB)

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number:	2
Bill Version:	SB 234
(S) Publish Date:	1/13/06

Revision Date/Time (Note if correction).		Dept. Affected:	Commerce
Title	Community Dividend Program	RDU	Comm Asst & Econ Dev (405)
		Component	State Revenue Sharing
Sponsor	Rules		
Requester	By Request of Governor	Component No	689

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
avel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	27,600.0	27,600.0	27,600.0	27,600.0	27,600.0	27,600.0
Miscellaneous						
TOTAL OPERATING	**27,600.0**	**27,600.0**	**27,600.0**	**27,600.0**	**27,600.0**	**27,600.0**
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1197 AK Cap Inc	27,600.0	27,600.0	27,600.0	27,600.0	27,600.0	27,600.0
TOTAL	**27,600.0**	**27,600.0**	**27,600.0**	**27,600.0**	**27,600.0**	**27,600.0**

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time						
Temporary						

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

This legislation funds an annual community dividend program from earnings of the Alaska capital income fund (AS 37.05.565). The Alaska Permanent Fund Corporation has estimated a mid-case statutory return from the fund of 6.5% on $424 million, or $27.6 million, per year in projected realized income. The projected annual income may vary significantly due to fluctuations in the market.

The first $10 million appropriated to the program is allocated to boroughs and cities using graduated base grants ranging from $25,000 to $50,000 with the remaining balance distributed on a per capita basis. After making the $10 million distribution, the department shall distribute organizational grants to organized boroughs at $1 million per year for each of the borough's first two years and $500,000 for the borough's third year. After paying the organizational grants, any remaining amount shall be distributed on a per capita basis to organized boroughs based on their areawide populations. The division anticipates implementing and administering the program with existing staff.

Prepared by:	Michael Black, Director	Phone	907 269 4578
Division	Community Advocacy	Date/Time	1/12/06 1:07 PM
Approved by:	William C. Noll, Commissioner	Date	1/12/2006
Agency	Commerce, Community, and Economic Development		

(Revised 9/7/2005 OMB)

Hickey & Associates
Planning * Management * Lobbying

Telephone (907) 586-2263 211 Fourth Street; Suite 108; Juneau, AK 99801
Fax (907) 586-1097 E-mail mshickey@gci.net

Memorandum

To: Senator Gene Therriualt, Chairman
Senate State Affairs Committee

From: Mark Hickey, Lake & Peninsula Borough Lobbyist

Date: April 11, 2006

Subject: Community Dividend Program - Unincorporated Communities Within Boroughs

---

There are a number of proposals pending to implement a new community dividend or revenue sharing program for municipalities. Some proposals provide a minimum level of funding for unincorporated communities; others do not. On behalf of the Lake & Peninsula Borough (LPB), I wanted to alert you to a concern that **some proposals unfairly discriminate against organized boroughs and would have the unfortunate result of working as a disincentive for new borough formation.**

Many of the more rural boroughs have numerous communities that are unincorporated. LPB has 10 such communities based on the definition currently in state law. Other boroughs in a similar situation include the Aleutians East Borough, the Denali Borough, the Bristol Bay Borough, the Kodiak Island Borough and the Matanuska-Susitina Borough. In our case, these communities are typically Native villages that provide similar services to municipalities, including fire protection, emergency medical, water and sewer, road maintenance and public health. These services are normally managed through a traditional village council, which is often less costly than establishing a municipality and reflects the preference of local residents.

As an example, CSSB 247 (CRA) requires a payment of $25,000 to each unincorporated community not in a borough. As a home rule municipality, LPB would receive an annual payment of $150,000 to help pay for borough services. LPB has six municipalities that would receive assistance, but our unincorporated communities essentially receive nothing. If the LPB dissolved, our municipalities would still receive funds, but our unincorporated communities would now qualify for $25,000 each, or a total of $250,000. This provision works to discriminate against areas that have voluntarily elected to organize, which is contrary to the state's goal to encourage regional incorporation. It is interesting to note that the Local Boundary Commission also identified this arrangement as a defect in past municipal assistance programs and recommended fixing the problem to remove this disincentive to borough incorporation.

Any solution to help unincorporated communities within an organized borough cannot rely on the current definition in state law (See AS 29.60.140(b)). This definition only includes unincorporated communities within the unorganized borough.

Solutions

- The easiest solution would be to increase the base amount for boroughs. This increase should be sufficient to ensure there is not an unintended consequence making it more attractive to not organize.

- An alternative would be to pay a minimum amount to unincorporated communities providing certain services (e.g., fire protection; emergency medical; water and sewer; solid waste management; road maintenance; public health; or search & rescue services). Communities would have to demonstrate they are providing at least some of these services (say two or three of the total). DCCED could develop a list of specific communities that would qualify. This approach was adopted in the House Finance version of the community dividend bill in 2002. I've attached a copy of that bill.

Summary

Addressing this issue in a particular community dividend proposal needs to be tailored to match the structure contained in that particular bill. For example, the introduced version of SB 234 does not provide funds to any unincorporated communities.

In general, LPB recommends the following two guiding principles:

1. Ensure unincorporated communities within an organized borough are treated in the same fashion as unincorporated communities in the unorganized borough. Another way to approach this question is to make sure that the area within an organized borough would receive at least the same amount of funding if it had not elected to incorporate.

2. Ensure any per capita sharing deducts the population of these communities before determining a borough's share. It is not our intent to double count this population.

Please call if you have questions.

Attachment

cc. Jeff Currier, LPB Borough Manager

SB
274

SENATOR FRED DYSON

SPONSOR STATEMENT
SB 274 "Surplus Firearms"

Currently state owned surplus firearms are sold in an auction restricted to purchasers who are federally licensed firearm dealers. This statute change expands the number of potential buyers to include all Alaskans who are qualified to legally purchase a firearm.

SB 274 does not change restrictions on who may or may not possess a firearm, nor does it change any rules regulating the buying and selling of guns. SB 274 simply gives direction to the Department of Public Safety to give qualified buyers equal opportunity.

The current practice does not allow the State to get the best price for surplus firearms and allows a few federally licensed firearm dealers to potentially collude to keep prices artificially low.

Updated February 9, 2006

During Session (January - May): Alaska State Capitol • Juneau, Alaska 99801 • (800) 342-2199 • (907) 465-2199 • (907) 465-4587 (fax)
During Interim (June-December): 10928 Eagle River Road, Suite 238 • Eagle River, Alaska 99577 • (907) 694-6683 • (907) 694-1015 (fax)
senator.fred.dyson@legis.state.ak.us • www.akrepublicans.org

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: SB 274
() Publish Date:

Revision Date/Time (Note if correction): 2/23/06 8:14 a.m.

Title	An Act relating to disposition of surplus firearms
Sponsor	Senator Dyson
Requester	(S) State Affairs

Dept. Affected:	Administration
RDU	Centralized Administrative Services
Component	Property Management
Component No.	61

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual	22.5	22.5	22.5	22.5	22.5	22.5
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	**22.5**	**22.5**	**22.5**	**22.5**	**22.5**	**22.5**
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (1005)	**50.0**	**50.0**	**50.0**	**50.0**	**50.0**	**50.0**

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	22.5	22.5	22.5	22.5	22.5	22.5
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	**22.5**	**22.5**	**22.5**	**22.5**	**22.5**	**22.5**

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal: [ ]

POSITIONS

Full-time						
Part-time						
Temporary						

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

This bill would require the Department of Administration to dispose of surplus firearms via public auction. Costs associated with this bill include auctioneer and federal firearms licensing database verification services. This estimate assumes that 500 firearms will be disposed each year, for $100 each (for a total of $50,000), that auctioneering services will be 20% of the value of firearms auctioned ($50,000 X 20% = $10,000), and that a federal firearms licensee will charge $25 per weapon to verify that buyers are qualified under federal rules (500 X $25 = $12,500).

Prepared by:	Vern Jones, Chief Procurement Officer	Phone	465-5684
Division	General Services	Date/Time	2/23/2006 8:14 a.m
Approved by:	Michael Tibbles, Deputy Commissioner	Date	2/23/2006
Agency	Administration		

(Revised 9/7/2005 OMB)

SENATOR FRED DYSON

Sectional Analysis: SB 274, 24-LS 1636\X
Disposition of Surplus Firearms

Section 1: Specifies that disposal of unclaimed firearms and ammunition used as evidence is subject to the guidelines laid out in Chapter 65, Police Protection, Article 4, Disposal of Firearms and Ammunition.

Section 2:

18.65.340 (a) Lists four options for disposal of firearms and ammunition

(1) public sale not limited to firearms dealers,
(2) trade-in for credit,
(3) donation, or
(4) transfer to other jurisdictions.

18.65.340 (b) Lists three options if the firearm is illegal

(1) sale to firearms dealer with appropriate federal dealers license,
(2) donation,
(3) dismantle the firearm for the purpose of destroying the parts of the firearm that made it illegal, and sell, trade-in, donate, or transfer the legal parts.

18.65.340 (c) Requires the department to report firearm description and value to the legislature when firearms are traded in, donated, or transferred.

18.65.340 (d) Limits the liability of the state unless a firearm is sold with gross negligence or recklessness.

18.65.340 (e) Defines "department" as any State department, and "surplus firearm" to include firearm or ammunition that is forfeited, surplus, or recovered by unclaimed.

During Session (January - May) Alaska State Capitol • Juneau, Alaska 99801 • (800) 342-2199 • (907) 465-2199 • (907) 465-4587 (fax)
During Interim (June December) 10928 Eagle River Road, Suite 238 • Eagle River, Alaska 99577 • (907) 694-6683 • (907) 694-1015 (fax)
senator.fred.dyson@legis.state.ak.us • www.akrepublicans.org

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: SB 274
() Publish Date:

Revision Date/Time (Note if correction): 2/23/06 8:14 a.m.
Title: An Act relating to disposition of surplus firearms
Sponsor: Senator Dyson
Requester: (S) State Affairs

Dept. Affected: Administration
RDU: Centralized Administrative Services
Component: Property Management
Component No. 61

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual	22.5	22.5	22.5	22.5	22.5	22.5
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	**22.5**	**22.5**	**22.5**	**22.5**	**22.5**	**22.5**
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (1005)	**50.0**	**50.0**	**50.0**	**50.0**	**50.0**	**50.0**

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	22.5	22.5	22.5	22.5	22.5	22.5
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	**22.5**	**22.5**	**22.5**	**22.5**	**22.5**	**22.5**

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

This bill would require the Department of Administration to dispose of surplus firearms via public auction Costs associated with this bill include auctioneer and federal firearms licensing database verification services. This estimate assumes that 500 firearms will be disposed each year, for $100 each (for a total of $50,000), that auctioneering services will be 20% of the value of firearms auctioned ($50,000 X 20% = $10,000), and that a federal firearms licensee will charge $25 per weapon to verify that buyers are qualified under federal rules (500 X $25 = $12,500).

Prepared by: Vern Jones, Chief Procurement Officer
Phone 465-5684
Division: General Services
Date/Time 2/23/2006 8 14 a m
Approved by: Michael Tibbles, Deputy Commissioner
Date 2/23/2006
Agency: Administration

(Revised 9/7/2005 OMB)

SB

288

ALASKA STATE LEGISLATURE

Senate Labor and Commerce Committee

Senate Community and Regional Affairs Committee

Department of Military and Veterans Affairs Budget Subcommittee

SENATOR JOHNNY ELLIS
MINORITY LEADER

While in Session
State Capitol, Rm. 9
Juneau, AK 99801
(907) 465-3704
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716 W. 4th Ave, Ste. 440
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SPONSOR STATEMENT SB 288

SEPTEMBER AS EDUCATION SAVINGS MONTH

The purpose of SB 288 is to encourage Alaskans to begin preparing for rising costs of postsecondary education and vocational training.

In recent years, families have struggled to cope with rapidly increasing cost of college tuition and vocational education training. All around the country, colleges, universities, and vocational education training centers continue to raise tuition rates at an alarming rate. At the same time, funding for federal student aid programs is being cut drastically, forcing students who have not planned ahead to make the decision between not pursuing education after high school, and taking on large amounts of debt.

SB 288 is designed to help raise awareness about the importance of saving early for future educational needs, so that families can have a plan that will ensure their child continues their education after high school, either through college and university study, or vocational training.

In various years past, Alaska's Governors have proclaimed each September as "College Savings Month". This bill makes such a proclamation permanent, by establishing "Education Savings Month" in Alaska statute.

Every September, just before Alaskans begin receiving their Permanent Fund Dividends, SB 288 will serve as a reminder to take responsibility and begin saving for the future education of the children in our state.

This bill is intended to promote responsible savings by Alaskans. I strongly encourage your support for SB 288.

Sticker price: farther out of reach

By Kim Clark

Posted 10/18/05

Related Links

More from Paying for College

The price of a college degree continues to move farther out of the average family's reach, according to the 2005 survey of tuition and fees by the College Board, the nonprofit that brings you the SAT and Profile aid application.

Tuition at the average four-year public school is 7.1 percent higher than it was last fall, rising much faster than wages and most other costs. Average earnings have risen only 2.3 percent in the past year, while the overall consumer price index is up 4.7 percent in the last 12 months, largely on spiking energy costs.

Making matters worse for students, public colleges raised their room and board bills by 6.2 percent. The full cost of a year of study, including books, transportation and extras, averages $15,566 for an in-state student now, $926 more than last year.

The price rise for private colleges is slightly less, with tuition up 5.9 percent and other charges rising 5 percent. But the total sticker price is still a hefty $32,070 for a year of study, up $1,621 from last year.

Community colleges continue to be an education bargain, with tuition up 5.[illegible] percent. A commuter student who lives at home would pay less than $3,000 for tuition and books, just $143 more than last year.

Of course, many students do not pay the full sticker price. More than $56 billion in federal, state, and private grants and scholarships reduces the cost significantly for about half of all students. And the amount of those grants is up about 6 percent from last year. After adding in tax breaks, the College Board estimates that the average student at a four-year public university will pay only $2,200 for this year's tuition at a public four-year university, about $3,300 less than the posted price. Private schools hand out so much aid that the average student this year is paying only about $11,600 in tuition, $9,600 less than the price listed on the colorful brochures.

Unfortunately, however, much of the increase in aid is simply keeping pace with the increased number of students enrolling in college. Congress hasn't increased the amount of the Pell grant in years, for example. As a result, the real cost of a degree continues to skyrocket along with the sticker price.

With a growing share of scholarships and tax breaks going to middle- and upper-income students, it is getting harder for low-income students to afford a college education, says Sandy Baum, the Skidmore economist who prepared the College Board's report.

The rising real cost of higher education is forcing more students to borrow big bucks. Nearly two thirds of public university graduates take an average educational debt load of $19,400 with their sheepskin. Three quarters of private college graduates have had to borrow an average of $24,600.

That's scary, but the College Board says it's probably worth it. There's so much evidence that a college degree improves a student's earnings and career prospects that "there is not a better investment a parent or student can make than going to college," says Gaston Caperton, president of the College Board.

Learn more about paying for college.

Print | Email Article | Respond | Newsletter

SPECIAL REPORT»

2004 Grade	Improvement Over Decade
F	↓

Alaska has lost ground in making higher education affordable over the past decade. This year Alaska receives an F in affordability.

Graded Information

- Compared with best-performing states, families in Alaska devote a fairly large share of family income, even after financial aid, to attend public four-year colleges and universities, which enroll over 90% of college students in the state.

- Alaska has made no investment in need-based financial aid, and does not offer low-priced college opportunities.

- Undergraduate students borrowed on average $3,277 in 2003.

Other Key Facts

- In Alaska, 92% of students are enrolled in public four-year colleges and universities.

AFFORDABILITY	ALASKA A Decade Ago	ALASKA 2004	Top States A Decade Ago
Family Ability to Pay (50%)			
Percent of income (average of all income groups) needed to pay for college expenses minus financial aid:			
at community colleges	17%	20%	15%
at public 4-year colleges/universities	17%	21%	16%
at private 4-year colleges/universities	34%	41%	32%
Strategies for Affordability (40%)			
State investment in need-based financial aid as compared to the federal investment	5%	0%	89%
At lowest-priced colleges, the share of income that the poorest families need to pay for tuition	10%	12%	7%
Reliance on Loans (10%)			
Average loan amount that undergraduate students borrow each year	$3,101	$3,277	$2,619

Note: In the affordability category, the lower the figures the better the performance for all indicators except for "State investment in need-based financial aid."

The affordability category measures whether students and families can afford to pay for higher education, given income levels, financial aid, and the types of colleges and universities in the state.

A CLOSER LOOK AT FAMILY ABILITY TO PAY	Average family income	Community colleges		Public 4-year colleges/universities		Private 4-year colleges/universities	
		Net college cost*	Percent of income needed to pay net college cost	Net college cost*	Percent of income needed to pay net college cost	Net college cost*	Percent of income needed to pay net college cost
Income groups used to calculate 2004 family ability to pay							
20% of the population with the lowest income	$15,726	$7,286	46%	$7,918	50%	$15,482	98%
20% of the population with lower-middle income	$35,334	$7,565	21%	$8,248	23%	$15,607	44%
20% of the population with middle income	$54,543	$7,717	14%	$8,399	15%	$15,531	28%
20% of the population with upper-middle income	$79,597	$7,772	10%	$8,530	11%	$15,462	19%
20% of the population with the highest income	$127,730	$7,755	6%	$8,627	7%	$16,022	13%
40% of the population with the lowest income	$25,530	$7,425	29%	$8,083	32%	$15,545	61%

*Net college cost equals tuition, room, and board, minus financial aid

Those who are striving to reach or stay in the middle class—the 40% of the population with the lowest incomes—earn on average $25,530.

- If a student from such a family were to attend a public four-year college in the state, their net cost to attend college would represent about 32% of their income annually:

Tuition, room, and board:	$9,350
Financial aid received:	–$1,267
Net college cost:	$8,083
Percent of income:	32%

Note

The numbers shown for tuition, room, and board minus financial aid may not exactly equal net college cost due to rounding.

SB

290

Administrative Orders
FROM THE OFFICE OF THE GOVERNOR OF ALASKA

Frank H. Murkowski
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 5, 2004

ADMINISTRATIVE ORDER NO. 213

Under the authority of art. III, secs. 1 and 24 of the Alaska Constitution, and AS 39.20.345, I, Frank H. Murkowski, order as follows:

1. An employee of the State of Alaska who is a member of a reserve or auxiliary component of the armed forces of the United States, including the organized militia of Alaska consisting of the Alaska National Guard, the Alaska Naval Militia, and the Alaska State Defense Force, and who is ordered to active duty due to the current conflicts in Iraq and Afghanistan is authorized to continue to receive state group life and health benefits, including benefits for eligible dependents, for the duration of active duty, unless the employee elects to terminate state employment.

2. Each employee described in paragraph 1 of this Order is authorized to continue to receive the group life and health benefits provided under AS 39.30.090 - 39.30.095 or under a collective bargaining agreement, as provided under the terms of the plan in which the employee is enrolled at the time the employee commences active duty. The employee shall be given the option of either continuing to participate or declining to participate in the group life and health plan for the duration of the employee's active duty. If the employee elects to continue to participate, the employee is responsible for paying the normal employee contribution under the employee's plan. If the employee elects to continue participation, the employee is subject to the same rights, terms, conditions, limitations, exclusions, and changes with respect to the employee's group life and health plan as are employees in the plan who are not in active duty status.

3. As required by chap. 65, SLA 2003, a collective bargaining agreement in effect as of June 12, 2003, including any extensions and successor agreements, must be modified to accept the provisions of chap. 65, SLA 2003, for this Order to apply to employees covered by the agreement.

4. The Department of Administration shall adopt emergency regulations as necessary to implement this Order.

This Order takes effect immediately.

Dated at Juneau, Alaska this 5th day of February, 2004.

/s/Frank H. Murkowski
Governor

24-LS1666\F
Bailey
2/16/06

CS FOR SENATE BILL NO. 290( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS HUGGINS, Elton

A BILL

FOR AN ACT ENTITLED

"An Act providing for the issuance of complimentary fishing and hunting licenses to certain members of the Alaska National Guard returning from active duty deployment; relating to reimbursement of premiums for Servicemembers' Group Life Insurance paid by members of the Alaska National Guard deployed to a combat zone; and providing for an effective date."

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

* **Section 1.** AS 16.05.335 is amended by adding a new subsection to read:

(b) The commissioner shall, at the request of the governor, authorize the issuance, by the department or by agents appointed under AS 16.05.380, of a complimentary license for sport fishing or hunting, or both, to qualified members of the Alaska National Guard. To qualify for a complimentary license under this subsection, a member of the Alaska National Guard must produce to the department or agent the member's United States Department of Defense certificate of release or discharge from active duty and the member's deployment orders demonstrating that the member was called to active duty and deployed for 30 or more consecutive days because of fighting in, or providing direct support for, a national conflict outside the United States. However, a member who was so deployed for less than 30 consecutive days due to an injury related to the member's deployment is qualified for the complimentary license if the member provides documentation to verify that status. The complimentary license for sport fishing or hunting, or both, is valid for the license year in which the member is no longer in deployed status and returns to the state, or for the subsequent license year. To receive the complimentary license under this subsection, the member must apply to the commissioner requesting the license and provide the information required by this subsection within two years after returning to the state following deployment. Information pertaining to complimentary licenses issued under this subsection shall be available to the public.

* **Sec. 2.** AS 26.05 is amended by adding a new section to read:

Sec. 26.05.263. Payment of Servicemembers' Group Life Insurance premiums; establishment of fund. (a) The Servicemembers' Group Life Insurance premium fund is established as a separate fund in the state treasury. The fund consists of appropriations by the legislature to it. Money appropriated to the fund does not lapse. The state shall hold the principal and earnings of the fund for the purpose of reimbursing eligible members of the Alaska National Guard deployed to a combat zone for premiums paid under 38 U.S.C. 1965 - 1980 (Servicemembers' Group Life Insurance Program).

(b) The adjutant general may make expenditures from the fund to reimburse eligible members of the Alaska National Guard deployed to a combat zone for premiums paid under the program.

(c) Subject to appropriation, the fund may be used to pay the expenses incurred by the commissioner of revenue in managing the fund and administrative expenses incurred by the Department of Revenue in administering this section.

(d) Except as provided in (c) of this section, money in the fund is available for expenditure without further appropriation.

(e) Nothing in this section creates a dedicated fund.

(f) The Department of Revenue may adopt regulations necessary to carry out the provisions of this section.

(g) In this section,

(1) "combat zone" means an area of hostile fire or imminent danger that entitles a member on duty in that area to special pay;

(2) "fund" means the Servicemembers' Group Life Insurance premium fund;

(3) "program" means the Servicemembers' Group Life Insurance program established by 38 U.S.C. 1965 - 1980.

* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. The reimbursement of premiums paid by members of the Alaska National Guard deployed to a combat zone under 38 U.S.C. 1965 - 1980 (Servicemembers' Group Life Insurance Program) under AS 26.05.263, enacted in sec. 2 of this Act, applies to premiums due on or after January 1, 2005.

* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY. AS 26.05.263, enacted by sec. 2 of this Act, is retroactive to January 1, 2005, and applies to authorize reimbursement of premiums paid by eligible Alaska National Guard members after December 31, 2004.

* **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).

ALASKA STATE LEGISLATURE

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907-373-4724 – Fax
Senator_Charlie_Huggins@legis.state.ak.us

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www.akrepublicans.org/huggins/

Charlie Huggins
Senator

MEMORANDUM

Date: February 14, 2006

To: Senator Gene Therriault, Chair
Senate State Affairs Committee

From: Senator Charlie Huggins

Subject: Hearing Request for Senate Bill

I respectfully request a hearing for Senate Bill 290, "an act relating to reimbursement of premiums for Servicemembers' Group Life Insurance paid by members of the Alaska National Guard deployed to a combat zone; and providing for an effective date." Would you please consider scheduling it for a hearing on February 14, 2006?

Attached please find the sponsor statement, the legislation, a fiscal note, and 4 biographies. If you have any questions, please call my staff person, Josh Tempel, at Ext. 3878.

Thank you.

Sincerely,

JDT for CH

Charlie Huggins
Senator

Attachments

LAWS OF ALASKA

2003

Source
CSSB 26(STA)

Chapter No.
____

AN ACT

Relating to state employees who are called to active duty as reserve or auxiliary members of the armed forces of the United States; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

Relating to state employees who are called to active duty as reserve or auxiliary members of the armed forces of the United States; and providing for an effective date.

---

* **Section 1.** AS 39.20 is amended by adding a new section to read:

Sec. 39.20.345. Continuation of pay and benefits for certain members of the reserve and auxiliary units of the armed forces. (a) Notwithstanding any contrary provision of law, the governor, through the issuance of an administrative order, may authorize state employees who are members of a reserve or auxiliary component of the armed forces of the United States, including the organized militia of Alaska, consisting of the Alaska National Guard, the Alaska Naval Militia, and the Alaska State Defense Force, and who are called to active duty by the appropriate state or federal authority to continue to receive the equivalent of their state compensation and some or all of their state benefits.

(b) The Department of Administration shall implement an order issued by the governor under this section. The Department of Administration may adopt emergency regulations to implement an order issued by the governor under this section, including regulations regarding the scope of compensation and benefits and any allocation between the state and the state employee of contributions relating to the benefits. Emergency regulations adopted under this section

(1) are not subject to AS 44.62 (Administrative Procedure Act); and

(2) take effect immediately unless the Department of Administration specifies another date.

(c) In this section, "benefits" includes credited service in a state retirement system, membership in the supplemental employee benefits system under AS 39.30.150 - 39.30.180, and group life and health insurance provided under AS 39.30.090 - 39.30.095 or under a collective bargaining agreement.

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

APPLICABILITY. Until a collective bargaining agreement in effect on the effective date of this Act expires, this Act applies to state employees covered by that collective bargaining agreement only if that agreement is modified to accept the provisions of this Act.

* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY. This Act is retroactive to September 11, 2001.

* **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).

ALASKA STATE LEGISLATURE

Senate District H
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www.akrepublicans.org/huggins/

Charlie Huggins
Senator

Senate Bill No. 290
Sponsor Statement

"An Act relating to reimbursement of premiums for Servicemembers' Group Life Insurance paid by members of the Alaska National Guard deployed to a combat zone; and providing for an effective date."

Specialist Jacob Eugene Melson, 22 years old, survived by his wife, Sarah; his mother, Teresa; and his father Mark.
First Lieutenant Jaime Lynn Campbell, 25 years old, survived by her husband Samuel; her father, Jeffery; her mother, Miki.
Chief Warrant Officer Four Chester William Troxel, 45 years old, survived by his wife Sheree; his 17 year old son, Hollis; and his 14 year old daughter, Summer.
Specialist Michael Ignatius Edwards, 26 years old, survived by his fiancé', Danielle O'Brien; his six year old son, Elijah; and his one year old daughter, Destiny.

These are the brave National Guard soldiers which Alaska lost in a helicopter crash in Iraq on January 7, 2006. Husbands, wives, and parents!

There have been times in our nation's history that the citizens of America have fallen short in showing appreciation for our troops and their sacrifices. Let us never make those mistakes again! Presently in our country, there are many people who profess their support and appreciation, but true support goes beyond words and the displaying of yellow ribbons. So let us ensure the words we expend are not idle, but that we stand and actively show appreciation to **Jacob, Jaime, Chester, Michael** and all the rest of our troops in the Alaska National Guard who are making our way of life possible!

Senate Bill Amends AS 26.05 by adding a new section that would let the citizens of Alaska say thank you to our National Guard troops by reimbursing them for their life insurance premiums while they are in a combat zone, retroactive to January 1, 2006. Currently a soldier in the Alaska National Guard receives $400,000 dollars in life insurance coverage for a premium of $27 a month.

While our National Guard troops are on the "bloody edge" carrying out the desire of our nation we must ensure that they have confidence, in the event of tragedy, that we will take care of their families. May it never be said that we did not care about Michael's one year old son Elijah or Chester's 14 year old daughter Summer after Michael and Chester bravely gave their lives for us. Paying our troops' life insurance premiums is a very meaningful act. So let us take this opportunity to tell our troops that while they are under fire, in a place none of us would ever want to be, we thank them and are in the rear caring for their families and loved ones. Thank you, thank you, thank you, Alaska National Guard for securing my freedom.

Contact: Josh Tempel
Staff to Senator Charlie Huggins
465-3878

Version 24-LS1215\y
Work Draft

BIOGRAPHY

Company B, 1st Battalion; 207th Aviation

SPECIALIST JACOB EUGENE MELSON, AKARNG

Specialist Jacob Eugene Melson was a crew member for Company B, 1/207th Aviation. He died on January 7, 2006, at the age of 22 in the Blackhawk helicopter crash near the Iraq town of Tal Afar. The aircraft was involved in a two-ship night operation. Specialist Melson was a brave Solider who will be remembered with honor by family, friends, and fellow Soldiers.

Specialist Melson received his GED on March 8, 2001. He joined the Alaska Army National Guard in June 2001. Specialist Melson went to basic training in Fort Jackson, South Carolina, and graduated from the U.S. Army's UH-60 repair school at Fort Eustis, Virginia. Specialist Melson was then assigned to Company B, 1/207th Aviation, Alaska Army National Guard.

While serving in the Alaska Army National Guard, Specialist Melson was awarded the Army Reserve Components Achievement Medal, National Defense Service Medal, Global War on Terrorism Service Medal, Armed Forces Reserve Medal with "M" Device, Army Service Ribbon, Iraqi Campaign Medal, Aircraft Crewman Badge and Expert Marksmanship Badge for the M16. The State of Alaska awarded Specialist Melson the Alaska Domestic Emergency Ribbon for his efforts in fighting interior Alaska fires in 2004. Specialist Melson has been awarded the following awards posthumously: the Purple Heart, Air Medal, Army Commendation Medal, Army Good Conduct Medal, and the Alaska Distinguished Service Medal.

He is survived by his wife, Sarah; his mother, Teresa; and his father, Alaska Army National Guard Captain Mark Melson.

EDUCATION

2001 - Graduated Alaska Military Youth Academy
2001 - Completed US Army Basic Training
2002 - Completed US Army UH-60 Repair School
2004 - Completed US Army Accident Prevention Course

ASSIGNMENTS

2001 - Company C, 120th Adjutant General Battalion
2002 - Company C, 1st Battalion, 222nd Aviation Training Center
2002 - Company B, 1st Battalion, 207th Aviation

AWARDS AND DECORATIONS

Purple Heart
Air Medal
Army Commendation Medal
Army Good Conduct Medal
Army Reserve Components Achievement Medal
National Defense Service Medal
Global War on Terrorism Service Medal
Armed Forces Reserve Medal with "M" Device

Army Service Ribbon
Iraqi Campaign Medal
Aircraft Crewmember Badge
Expert Marksmanship Badge for M16
Alaska Distinguished Service Medal
Alaska Domestic Emergency Ribbon

EFFECTIVE MILITARY DATES OF PROMOTION
2001 - Promoted to Private 2nd Class on July 12th
2002 - Promoted to Private 1st Class on April 17th
2003 - Promoted to Specialist on June 1st

BIOGRAPHY

Company B, 1st Battalion 207th Aviation

FIRST LIEUTENANT JAIME LYNN CAMPBELL, AKARNG

First Lieutenant Jaime Lynn Campbell was a Platoon Leader of the Company B, 1/207th Aviation Battalion. She died on January 7, 2006, at the age of 25 in the Blackhawk helicopter crash near the Iraqi town of Tal Afar. The aircraft was involved in a two-ship night operation. First Lieutenant Campbell was a brave Soldier, who will be remembered with honor by family, friends and by fellow Soldiers.

First Lieutenant Campbell enlisted in the Washington Army National Guard as a Private on April 8, 1999, as a vehicle driver with 1161st Transportation Company. First Lieutenant Campbell was commissioned on December 20, 2002, as a Second Lieutenant in the United States Army Reserve. She joined the Alaska Army National Guard as a Second Lieutenant on March 10, 2003, and was assigned to Headquarters and Headquarters Company 1/207th Aviation at Fort Richardson, Alaska. First Lieutenant Campbell was assigned as a Platoon Leader in Detachment 1, Company C, 1/207th Aviation. On June 10, 2005, First Lieutenant Campbell was assigned to Company B, 1/207th Aviation when the unit was mobilized to Iraq.

In total, First Lieutenant Campbell was in the National Guard for more than six years, and during that time, she received several awards. Those include: National Defense Service Medal, Global War on Terrorism Service Medal, Armed Forces Reserve Medal with "M" Device, Army Service Ribbon, Iraqi Campaign Medal, Basic Army Aviator Badge, and Expert Marksmanship Badge for M9. First Lieutenant Campbell was awarded the following awards posthumously: Bronze Star, Purple Heart, Air Medal, and Alaska Distinguished Service Medal.

First Lieutenant Campbell was a graduate of Ephrata High School in Ephrata, Washington. She received a Bachelor of Arts in Fashion and Apparel from Washington State University in 2002.

First Lieutenant Campbell is survived by her husband Captain Samuel Campbell and by her parents, Sergeant Major Jeffery and Miki Krausse.

EDUCATION

1998 - Ephrata High School
1998 - U.S. Army Education Center
2002 - Washington State University, Bachelor of Arts in Fashion and Apparel, Washington State
2005 - U.S. Army Aviation Center

ASSIGNMENTS

Apr 99 - Enlisted in Washington Army National Guard
Apr 99 - Vehicle Driver

Mar 03 - Appointed into the Alaska Army National Guard
Mar 03 - Liaison Officer, HHC 1st Battalion, 207th Aviation, Ft. Richardson, Alaska
Dec 03 - Platoon Leader, Detachment 1, Company C, 1st Battalion, 207th Aviation, Nome, Alaska
Jun 05 - Platoon Leader, Company C, 1st Battalion, 207th Aviation, Fairbanks, Alaska
Jun 05 - Ordered to Active Duty, Platoon Leader, Company B, 1st Battalion, 207th Aviation

AWARDS AND DECORATIONS

Bronze Star
Purple Heart
Air Medal
National Defense Service Medal
Global War on Terrorism Service Medal
Armed Forces Reserve Medal with "M" Device
National Defense Service Ribbon
Army Service Ribbon
Iraqi Campaign Medal
Basic Army Aviator Badge
Expert Marksmanship Badge for M9
Alaska Distinguished Service Medal

EFFECTIVE MILITARY DATES OF PROMOTION

Apr 99 - Private
Sep 99 - Private Second Class
May 00 - Private First Class
Dec 02 - Second Lieutenant
Feb 05 - First Lieutenant

BIOGRAPHY

Company B, 1st Battalion, 207th Aviation

SPECIALIST MICHAEL IGNATIUS EDWARDS, AKARNG

Specialist Michael Ignatius Edwards, a member of the 1/207th Aviation Battalion Combat UH60, died January 7, 2006, in a UH-60 Blackhawk helicopter crash near the Iraqi town of Tal Afar. The aircraft was in a two-ship night operation. Specialist Edwards was a brave Soldier, who will be remembered with honor by family, friends and his follow Soldiers.

Specialist Edwards first joined Company D, 1/207th Aviation Battalion on October 9, 2003, as a UH-60 helicopter repairman. Specialist Edwards had eight years combined military service in the U.S. Army, U.S. Army Reserve and the Army National Guard. Specialist Edwards was a graduate of Adlai E. Stevenson High, in Bronx, New York. Specialist Edwards, was pursuing his civilian education at the University of Alaska Fairbanks.

Specialist Edwards' awards and decorations include the Army Good Conduct Medal, National Defense Service Medal, Global War on Terrorism Service Medal, Armed Forces Reserve Medal with "M" Device, Army Service Ribbon, Overseas Service Ribbon, Iraqi Campaign Medal, Aircraft Crewman Badge and Expert Marksmanship Badge for M16. Specialist Edwards was awarded the following awards posthumously: the Purple Heart, Air Medal, Army Commendation Medal and the Alaska Distinguished Service Medal

Specialist Edwards is survived by his fiancé, Danielle O'Brien; daughter, Destiny; and son, Elijah, of Alaska; mother, Bernadine Castro, and father, Alexis Joseph.

EDUCATION

1997 - Graduated Adlai E. Stevenson High School, Bronx, New York
1998 - UH60 Helicopter Repairer Course
2002 - Attended 1 year of college, University of Fairbanks

ASSIGNMENTS

Oct 03 - Alaska Army National Guard
Oct 00 - U.S. Army Reserve
Sep 97 - U.S. Army Active Duty

AWARDS AND DECORATIONS

Purple Heart
Air Medal
Army Commendation Medal
Good Conduct Medal
National Defense Service Medal

Global War on Terrorism Service Medal
Armed Forces Reserve Medal with "M" Device
Army Service Ribbon
Overseas Service Ribbon
Iraqi Campaign Medal
Aircraft Crewman Badge
Expert Marksmanship Badge for M16
Alaska Distinguished Service Medal

EFFECTIVE DATES OF PROMOTION
09 Oct 03 - Specialist

BIOGRAPHY

Company B, 1st Battalion, 207th Aviation

CHIEF WARRANT OFFICER FOUR CHESTER WILLIAM TROXEL, AKARNG

Chief Warrant Officer Four Chester William Troxel, a member of the 1/207th Combat Support Aviation Battalion, died January 7, 2006, in a UH-60 Blackhawk helicopter crash near the Iraqi town of Tal Afar. The aircraft was part of a two-ship night operation. Chief Warrant Officer Four Troxel was a brave Soldier, who will be remembered with honor by friends, family and his fellow Soldiers.

Chief Warrant Officer Four Troxel enlisted in the Alaska Army National Guard on April 3, 1983. After achieving the rank of Sergeant, he attended the Warrant Officer Candidate Course at Fort Rucker, Alabama, where he received his appointment as a Warrant Officer on February 3, 1988. Chief Warrant Officer Troxel was assigned to the 1898th Aviation Company (Combat Support).

As a noncommissioned officer, Chief Warrant Officer Four Troxel served as a Medium Helicopter Repairman with the U.S. Army Reserve. After receiving his appointment as a Warrant Officer, he served as a UH-1 "Huey" Pilot, Aircraft Survivability Equipment/ Electronic Warfare Officer and a UH-60 Blackhawk Helicopter Pilot.

Chief Warrant Officer Four Troxel had a total of 26 years combined service in the U.S. Army, U.S. Army Reserves and the Army National Guard.
Chief Warrant Officer Four Troxel is preceded in death by his father, George. He is survived by his wife, Sheree; his son, Hollis; his daughter, Summer; and mother, Lois Alderson.

EDUCATION

1980 - Verdugo Hills High School, Los Angeles, CA
1980 - U.S. Army Medium Helicopter Repair Course
1985 - Attended One year of college, University of Fairbanks
1987 - U.S. Army Warrant Officer Candidate Course
1988 - U.S. Army Initial Entry Rotary Wing Course
1993 - U.S. Army Advanced Warrant Officer Course
1994 - U.S. Army UH-60 Qualification Course
1999 - U.S. Army Aircraft Survivability Equipment/ Electronic Warfare Course
2001 - U.S. Army Warrant Officer Staff Course

ASSIGNMENTS

Jun 80 - Medium Helicopter Repair
Mar 87 - Army Initial Entry Rotary Wing Flight School
Jun 88 - Pilot UH-1, Co A, 1st Battalion, 207th Aviation Regiment, Fort Richardson, Alaska
Jan 96 - Pilot UH-60, Co B, 1st Battalion, 207th Aviation Regiment, Fort Richardson, Alaska
Nov 98 - ASE/EW Officer, Co B, 1st Battalion, 207th Aviation Regiment, Fort Richardson, Alaska
May 05 - Pilot UH-60, Co B, 1st Battalion, 207th Combat Support Aviation, Fort Richardson, Alaska

AWARDS AND DECORATIONS

Purple Heart
Air Medal
Army Commendation Medal
Army Achievement Medal
Army Good Conduct Medal
Army Reserve Components Achievement Medal with 4 Oak Leaf Clusters
National Defense Service Medal with Bronze Service Star
Global War on Terrorism Service Medal
Armed Forces Reserve Medal with "M" Device
Armed Forces Reserve Medal with Bronze Hour Glass Device
Army Service Ribbon
Overseas Service Ribbon
Army Reserve Component Overseas Training Ribbon
Iraqi Campaign Medal
Aircraft Crewman Badge
Master Army Aviator Badge
Expert Marksmanship Badge for M9
Alaska Legion of Merit
Alaska Domestic Emergency Ribbon
Alaska State Service Medal
Alaska Governor's Distinguished Unit Citation

EFFECTIVE MILITARY DATES OF PROMOTION

Feb 88 - Warrant Officer One
Jun 90 - Chief Warrant Officer Two
Jun 96 - Chief Warrant Officer Three
Apr 02 - Chief Warrant Officer Four

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: No Number-DMVA-COMM-02-13-06
() Publish Date:

Revision Date/Time (Note if correction):
Title: Servicemembers Group Life Insurance Reimb
Sponsor: Military & Veterans Affairs
Requester:

Dept. Affected: Military and Veterans' Affairs
RDU: Military and Veterans Affairs
Component: Office of the Commissioner
Component No. 414

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0				
Travel	0.0	0.0				
Contractual	40.1	32.8				
Supplies	0.0	0.0				
Equipment	0.0	0.0				
Land & Structures	0.0	0.0				
Grants & Claims	267.3	218.7				
Miscellaneous	0.0	0.0				
TOTAL OPERATING	307.4	251.5				
CAPITAL EXPENDITURES	0.0	0.0				
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0				
1003 GF Match	0.0	0.0				
1004 GF	307.4	251.5				
1005 GF/Program Receipts	0.0	0.0				
1037 GF/Mental Health	0.0	0.0				
Other (Specify Type--Do not abbreviate)	0.0	0.0				
TOTAL	307.4	251.5				

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0

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

Prepared by: John Cramer
Phone (907) 465-4602
Division: Administrative Services Division
Date/Time 2/13/06 10:16 AM

Approved by: Craig E. Campbell, Commissioner
Date 2/13/2006
Agency: Department of Military & Veterans' Affairs

(Revised 9/7/2005 OMB)

SB

293

SENATOR KIM ELTON

SB 293 – Delaying Implementation of Pension Changes

Sponsor Statement

SB 293 acknowledges a simple fact. When the legislature passed SB 141 in 2005, its implications were not fully understood. It had numerous technical and policy difficulties, forged in the cramped confines of several conference committees during a lengthy special session.

The Departments of Revenue and Law, and the Alaska Retirement Management Board have identified several issues, ranging from unfunded benefits to opportunities for double-dipping, from closing the employee base against whose salaries the unfunded liability may be assessed to inappropriate eligibility rules and appeal procedures.

As importantly, there has never been an analysis of the impact of changing from a defined benefit to a defined contribution system on Alaska's ability to recruit and retain the public servants we need: teachers, troopers, biologists, engineers, corrections officers, child protection workers, and many others.

Before this change takes effect, Alaskans must have real data. The Alaska Retirement Management Board already estimates the SB 141 plan will cost more than the plans PERS and TRS members enter today. They cannot yet estimate how much larger it will make the unfunded liability. Until the board makes recommendations on addressing that liability, the State of Alaska would be irresponsible to step off the defined contribution precipice.

I respectfully ask for your support.

ALASKA SENATE
STATE CAPITOL • JUNEAU, ALASKA 99801-1182 • (907) 465-4947 • FAX (907)-465-2108
SENATOR_KIM_ELTON@LEGIS.STATE.AK.US

SENATOR KIM ELTON

MEMORANDUM

March 15, 2006

To: Senator Gene Therriault, Chair
Senate Health Education & Social Services Committee

From: Kim Elton

Re: SB 293

I respectfully request a hearing on Senate Bill 293, delaying the transfer from a defined benefit to a defined contribution retirement system until 2008.

There are significant problems, both technical and general, with the bill the legislature enacted last year. I hope the State Affairs Committee will take a role in preventing them from doing any harm to our state.

I look forward to discussing the bill with the committee.

ALASKA SENATE
STATE CAPITOL • JUNEAU, ALASKA 99801-1182 • (907) 465-4947 • FAX (907) 465-2108
SENATOR_KIM_ELTON@LEGIS.STATE.AK.US

STATE OF ALASKA

DEPARTMENT OF LAW
CIVIL DIVISION

FRANK H. MURKOWSKI
GOVERNOR

P.O. Box 110300
Juneau, Alaska 99811-0300
Phone: (907) 465-3600
Fax: (907) 465-2075

July 26, 2005

COPY

The Honorable Frank H. Murkowski
Governor
State of Alaska
P.O. Box 110001
Juneau, Alaska 99811-0001

Re: FCCS SB 141(2d FCC) -- relating to the teachers' and public employees' retirement systems and the university retirement program; creating new plans in the retirement systems that provide defined contribution and health reimbursement arrangement plans for teachers and public employees hired on or after July 1, 2006; and changing the board structure for the systems
Our file: 883-05-0105

Dear Governor Murkowski:

At the request of your legislative office, we have reviewed FCCS SB 141(2d FCC). This bill makes amendments to the Teachers' Retirement System (TRS), Public Employees' Retirement System (PERS), and university retirement programs; creates a new Alaska Retirement Management Board (ARMB) to replace and perform many of the functions of the current Teachers' Retirement Board (TRB), Public Employees' Retirement Board (PERB), and Alaska State Pension Investment Board (ASPIB); transfers most of the regulation adoption authority of the current TRB and PERB to the commissioner of the Department of Administration; and transfers most of the appeal functions currently performed by the TRB and PERB to the office of administrative hearings (OAH) under AS 44.64.

In addition to changes to current retirement statutes, the bill creates new retirement plans for members first employed under TRS and PERS on or after July 1, 2006. Those new members will be covered by new defined contribution plans with defined occupational disability, occupational death, and retiree medical benefits, and will also be covered by a new retiree health reimbursement arrangement (HRA) plan, instead of the defined benefit plans covering members first employed under the systems before that date.[1] Nonvested members of the TRS and PERS defined benefits plans will be permitted to transfer to the new defined contribution plans if their employers agree to participate in such transfers.

Senate Bill 141 is a lengthy and complicated bill. In this bill review, we explain the major provisions for changes to the current retirement system statutes, the new plans, interpretation and implementation issues, and potential legal issues.

Changes Applicable to Current Systems

The bill adds proposed new articles in the TRS and PERS statutes to govern administration of the systems. Section 1 of the bill adds a proposed new article 1 to AS 14.25, which includes general provisions for administration of TRS. This article provides for the administration of both the current TRS defined benefit plan and the proposed new TRS defined contribution plan established by the bill. Section 81 of the bill adds a proposed new article 1 to AS 39.35, which includes provisions for administration of PERS. This article provides for the administration of both the current PERS defined benefit plan and the proposed new PERS defined contribution plan established by the bill. A number of the general provisions set out in secs. 1 and 81 replace provisions repealed by sec. 132 of the bill.[2] Sections 1 and 81 set out the purpose

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[1] In this bill review, the new plans created by sec. 35 for TRS and sec. 122 for PERS are generally referred to as "defined contribution" plans. A defined contribution plan is a type of retirement plan in which the employer or the employee, or both, pay (contribute) a specified amount of money into an individual account on behalf of the employee. The contributed money is invested either at the employer's or the employee's direction as specified by the terms of the plan. The accumulated value of the individual account at retirement or termination is the total value of all contributions made, including investment income earnings or losses experienced on those contributions. Investment results are not guaranteed, and unlike a defined benefit plan, a defined contribution plan does not provide a guaranteed benefit amount at retirement. The new plans created by sec. 35 for TRS and sec. 122 for PERS are not purely defined contribution plans, because they also include defined benefit components, including occupational disability benefits, occupational death benefits, and retiree health benefits. Financing of those benefits will require variable, actuarially-determined employer contributions.

[2] In secs. 1 and 81 of the bill, the proposed new AS 14.25.001 and AS 39.35.001 replace repealed provisions of AS 14.25.012(a) and AS 39.35.010(a) (purpose of chapters); proposed new AS 14.25.002 establishes the attorney general as legal counsel for the system, and proposed new AS 39.35.002 replaces repealed AS 39.35.090 regarding representation of PERS by the attorney general; proposed new AS 14.25.004 and AS 39.35.004 replace repealed provisions of AS 14.25.020, 14.25.030, 14.25.170, AS 39.35.020 and 39.35.060 (powers and duties of administrator); proposed new AS 14.25.005 and AS 39.35.005 replace repealed provisions of *(footnote 2 continued at bottom of page 3)*

of the chapters (AS 14.25 (TRS) and AS 39.35 (PERS)), the authority of the attorney general and TRS/PERS administrator, provisions for adoption of regulations by the commissioner of administration, assignment to the OAH of authority to hear appeals from decision of the administrator, and assignment of the ARMB as the fiduciary for the systems' funds.

The bill structures the TRS and PERS statutes to provide separately for the defined benefit "plans" and the defined contribution "plans" within the "systems."[3] Proposed new articles segregate current TRS and PERS defined benefit plan provisions from the proposed new defined contribution plan provisions. Section 3 adds a proposed new article 2 to AS 14.25 that contains the provisions of the current TRS defined benefit plan in AS 14.25.009 - 14.25.220. Sections 4 - 34 amend a number of the TRS defined benefit plan statutes. Section 83 adds a proposed new article 2 to AS 39.35 to designate current AS 39.35.095 - 39.35.680 as the PERS defined benefit plan.[4] Sections 84 - 121 amend a number of the PERS defined benefit plan statutes. The current TRS and PERS defined benefit plans will apply only to members first hired before July 1, 2006 (secs. 3, 6, and 83 of the bill).

Sections 10 and 11 amend AS 14.25.070 for TRS, and secs. 95 and 96 amend AS 39.35.270 for PERS, regarding the employer contribution rate to finance benefits under the defined benefit plan. Employer contribution rates are applied "against the sum total of the base salaries paid to members" for TRS (sec. 10) and "to the total

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(footnote 2 continued)

AS 14.25.022 and AS 39.35.042 (regulations); proposed new AS 14.25.006 and AS 39.35.006 replace repealed provisions of AS 14.25.037 and AS 39.35.047 (hearings/appeals); proposed new AS 14.25.007 and AS 39.35.007 replace repealed provisions of AS 14.25.180 and AS 39.35.080 (investment management/fiduciary of funds).

In sec. 1 of the bill, proposed new AS 14.25.003 replaces repealed AS 14.25.015 (TRS administrator). Documents that we have reviewed regarding SB 141 do not reveal why the bill does not repeal AS 39.35.050, which provides for the commissioner to appoint an administrator of PERS and the supplemental benefits system (SBS). Because sec. 72, adds a proposed new AS 39.30.151 providing for the SBS administrator, and sec. 81 adds a proposed new AS 39.35.003 providing for the PERS administrator, AS 39.35.050 appears to be unnecessary.

[3] The differentiation between plans within the systems requires the change of over 120 references to "system" in the TRS and PERS statutes into references to "plan" (sec. 144(c)).

[4] Because the TRS statutes are not currently divided into articles, the bill's creation of the new article structure for TRS is not problematic. The bill's insertion of new articles into the PERS statutes, which are already divided among eight articles, results in some confusion, which presumably the revisor of statutes will deal with in instructions to the publisher.

compensation paid to the active employees of the employer" for PERS (sec. 95).[5] Under secs. 11 and 96, the employer contribution rates "may not be less than the rate required . . . to fully fund the actuarially calculated benefits expected to be earned by active members during a fiscal year." This is sometimes referred to as the "normal cost rate."[6]

A number of sections of the bill amend or repeal provisions of PERS and TRS statutes that allow former members to reinstate service credit upon reemployment by PERS/TRS employers (secs. 12, 13, 15, 16, 21, 89 - 94, 107, 113, and 133).[7] Former members are individuals who have terminated employment with PERS or TRS employers and have cashed out their contribution accounts. The amendments are effective June 30, 2010, thus giving former members five years to obtain reemployment with a TRS/PERS employer and reinstate past service under the current law (sec. 149).

The bill amends the provisions of TRS statute AS 14.25.143(a) in effect before July 1, 1990 (secs. 18 and 19 of the bill), and PERS statute AS 39.35.475(a) in effect before July 1, 1987 (sec. 112 of the bill), that provided for ad hoc post retirement pension adjustments (PRPA) if the financial condition of the funds permitted.[8] The amendments provide that the financial condition of the funds will only permit granting of a PRPA under former law if "the ratio of total fund assets to the accrued liability meets or exceeds 105 percent."

Section 22 and 116 of the bill repeal and reenact TRS statute AS 14.25.168(a) and PERS statute AS 39.35.535(a), to limit retiree major medical coverage for dependents of survivors of deceased retirees. As repealed and reenacted, the statutes provide that dependents of survivors of retirees will be covered only if the dependents were

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5 Based on the definitions of "member" in AS 14.25.220(42) for the TRS defined benefit plan, as amended in sec. 33 and as changed by sec. 144(c), and the definition of "employee" in AS 39.35.680(21) for the PERS defined benefit plan, as amended by sec. 119 and as changed by sec 144(c), the employer contribution rates will be applied only to the base salaries and total compensation paid to members of the TRS and PERS defined benefit plans under AS 14.25.070 and AS 39.35.270.

6 We note that the new statutory requirement for PERS employer contributions supercedes 2 AAC 35.900, which caps changes in PERS employer contribution rates at five percentage points.

7 AS 39.35.375 is a notable exception to the repeal of statutes that provide for reinstatement of service credit. That statute 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 entitlement to a "public service benefit."

8 In a 1990 memorandum of advice, we explained that, under art. XII, sec. 7, of the Alaska Constitution the ad hoc PRPA remains viable for members hired before the effective date of the amendments that created the automatic PRPA. 1990 Inf. Op. Att'y Gen.; 663-90-0206 (Jan. 19).

dependents of the retiree. Spouses and dependents that survivors obtain after the death of the retiree, who had no dependent relationship with the deceased retiree, will not be entitled to retiree major medical coverage. These provisions take effect January 1, 2006, under sec. 147.

The bill changes the structure of the boards for TRS and PERS. Under current statutes, the PERB consists of three public board members appointed by the governor, two board members elected by members of the retirement system, and two physicians appointed by the governor. The physicians are members of the board only for the purpose of participating in the hearing of appeals to determine medical eligibility for disability benefits. AS 39.35.030, repealed by sec. 132. The TRB currently consists of five public board members appointed by the governor and two physician board members appointed by the governor. As with the PERB, the sole function of the physicians on the TRB is to participate in the hearing of appeals to determine medical eligibility for disability benefits. AS 14.25.035, repealed by sec. 132. ASPIB is the currently fiduciary of the PERS and TRS funds, responsible for managing the funds' investments. AS 14.25.180 and AS 39.35.080, repealed by sec. 132. Two of the eight ASPIB board members (trustees) are elected by the TRS membership and two are elected by the PERS membership. AS 37.10.210, repealed and reenacted by sec. 58.

The bill replaces ASPIB, the TRB, and the PERB with the newly established ARMB. Sections 58 - 64 of the bill amend, or repeal and reenact, statutes providing for the current ASPIB, establishing and setting out the powers, duties, and compensation of trustees of the ARMB.[9] AS 37.10.210 is repealed and reenacted by sec. 58 to establish the primary mission, composition, and terms of members of the new ARMB. The new board will consist of nine trustees, including the commissioners of administration and revenue. Seven trustees appointed by the governor must meet eligibility requirements for an Alaska permanent fund dividend, and have recognized competence in fields specified in the statute. "Recognized competence" is defined in AS 37.10.390, as amended by sec. 64 of the bill, to mean "a minimum of 10 years' professional experience working or teaching in the field of investment management, finance, banking, economics, accounting, pension administration, or actuarial analysis." Two trustees appointed by the

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[9] In addition, sec. 1 (proposed new AS 14.25.007), sec. 81 (proposed new AS 39.35.007), sec. 50 (amending AS 22.25.048(c)), sec. 53 (amending AS 26.05.228(c)), and sec. 78 (amending AS 39.30.175(a)) establish the ARMB as the fiduciary of the TRS, PERS, Judicial Retirement System, and military retirement trust funds and SBS receipts. Other statutes that are amended to substitute the ARMB for ASPIB include secs. 123-124 (Public Employees' Deferred Compensation Program); sec. 127 (public official financial disclosure); secs. 128 - 130 (Department of Revenue duties and financial disclosure). Section 145 directs the revisor of statutes and the regulations attorney to implement sec. 143, which provides that references to the TRB, PERB, and ASPIB in the Alaska Statutes and the Alaska Administrative Code "shall be read as 'Alaska Retirement Management Board' when to do so would be consistent with the changes made by this Act."

governor must be members of the general public, who may not hold any other state office, position or employment and may not be members or beneficiaries of a retirement system managed by the board. One trustee must be employed as a finance officer for a political subdivision that participates in PERS or TRS. Two trustees must be members of PERS, selected from a list of four nominees submitted by PERS bargaining units. Two trustees must be members of TRS, selected from a list of four nominees submitted by TRS bargaining units. The lists of nominees to be submitted by PERS and TRS bargaining units must be submitted within the time period set out in regulations to be adopted under AS 37.10.240(a).

The terms of TRB and PERB members will expire on July 1, 2005 (secs. 136, 146, and 151).[10] Under secs. 137 and 138, the terms of members of ASPIB will expire on September 30, 2005, and ASPIB may continue to exercise powers and duties assigned to ARMB under the bill until that date.[11] General transition provisions in sec. 139 include a provision that "[h]earings and other proceedings pending under a law amended or repealed by this Act or in connection with functions transferred by this Act continue in effect and may be continued and completed notwithstanding a transfer or amendment or repeal provided by this Act."[12]

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10 Sections 136 and 137 only specifically refer to expiration of the terms of appointed board members. Both the PERB and ASPIB include elected board members. The failure to mention terms of elected members is an oversight without legal significance. With the repeal of AS 39.35.030 (Public Employees Retirement Board) and 39.35.040 (powers and duties of the board) by sec. 134 of the bill and the reassignment of board functions to other officials and entities under other sections of the bill, it is clear that, effective July 1, 2005, there will be no PERB, and no PERB functions for members to perform. With the transfer of ASPIB functions to the new ARMB effective September 30, 2005, there will be no ASPIB or functions for ASPIB members to perform after that date.

11 Language in the transition provision of sec. 138 that ASPIB may "continue" to exercise powers and duties results in an ambiguity as to whether the legislature intended ASPIB to pick up new duties or TRB and PERB duties assigned to ARMB by the bill in the interim period. We have not located legislative history that resolves this ambiguity. The delay in transition of duties to the AMRB was requested by the Department of Revenue. Staff members with whom we have consulted have stated that, in requesting the delay, it was the Department of Revenue's intent that ASPIB would be able to perform all necessary duties of the ARMB during the transition period.

12 Regarding appeals pending before the TRB and PERB, since the boards will no longer exist and since authority over appeals transfers to the OAH as of July 1, 2005, we interpret this provision as preserving the rights of appellants by continuing the appeals for completion before the OAH.

The bill adds appeals of most decisions of the TRS and PERS administrator to the jurisdiction of the OAH,[13] and transfers most of the regulation adoption authority of the TRB and PERB to the commissioner of administration.[14]

Section 28 of the bill amends AS 14.25.210(a), which provides for penalties when a person knowingly makes a false statement or falsifies or permits to be falsified any record of the of the TRS defined benefit plan in an attempt to defraud the plan. The penalty of forfeiture of all rights under AS 14.25 is removed. The PERS statutes do not include the forfeiture penalty for fraudulent behavior. False statements remain a class A misdemeanor under AS 14.25.210(a).

Sections 36 - 49 amend statutes pertaining to the University of Alaska. Sections 36 and 37 replace references to ASPIB with references to the ARMB in describing the power and obligations of the University of Alaska Board of Regents. Sections 38 - 49 amend statutes that provide for the optional university retirement program, allowing the University of Alaska to offer new optional retirement programs to new employees and to

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13 Sec. 1, proposed new AS 14.25.006; sec. 81, proposed new AS 39.35.006.

Under current AS 14.25.173 and AS 14.25.175, decisions of the administrator regarding adjustments of retired teachers' benefits may be appealed to the TRB. Rather than directly transfer the appeal authority to the OAH, secs. 23 - 25 of the bill establish a new procedure requiring the member to file a "request" with the commissioner of administration. Under secs. 26 and 27 of the bill a ruling by the commissioner of administration denying a requested waiver under AS 14.25.175 may be appealed to the OAH, and OAH also takes on the TRB's former authority to impose equitable conditions for a waiver under AS 14.25.175(d).

For appeals from denials of waivers of adjustment under PERS, secs. 114 and 115 amend AS 39.35.520(c) and AS 39.35.522(a) to establish a new procedure requiring the member to file a "request" with the commissioner of administration. Unlike the amendments to the TRS statutes, the amendments to the PERS statutes do not provide for appeal of the commissioner's decisions to the OAH. The bill uses the device of an amendment to the uncodified law in sec. 144(d) of the bill to instruct the revisor of statutes to change references to the "board" in AS 39.35.522(a), 39.35.522(b), and 39.35.522(d) into references to the "commissioner," thereby giving the commissioner of administration final administrative authority - including authority to impose equitable conditions for a waiver - regarding appeals from denials of waivers of adjustment.

14 Section 1, proposed new AS 14.25.003(b); sec. 81, proposed new AS 39.35.003(b). Not all regulation adoption authority of the TRB and PERB is transferred to the commissioner of administration. Section 29 (amending AS 14.25.220(2)) gives ARMB authority previously given to the TRB, and sec. 117 (amending AS 39.35.680(2)) gives ARMB authority previously given to the PERB to adopt regulations specifying assumptions, factors, and methods for determining actuarial adjustments under TRS and PERS. Sections 78 (amending AS 39.30.160(a)) and 79 (amending AS 39.30.180 to define "board" as meaning the ARMB) give the ARMB authority previously given to the PERB to adopt regulations for SBS.

an employee who elected not to participate in a different optional university retirement program.

Sections 72 - 79 amend statutes that provide for the supplemental benefits system (SBS) to set out the authority of the administrator and to substitute the new ARMB for the PERB with respect to regulation adoption authority and for the ASPIB with respect to fiduciary and investment authority. We note, that in repealing and reenacting AS 39.30.155, the bill removes the only existing statutory provision for administrative appeals of decisions of the administrator regarding SBS. Those appeals are heard by the PERB under the current statute.

Sections 123 - 125 amend statutes that provide for the public employees' deferred compensation program (DCP) to substitute the new ARMB for the ASPIB, and sec. 132 repeals AS 39.45.025. With the repeal of AS 39.45.025, the bill removes the only statutory provision for administrative appeals of the administrator regarding the DCP. Those appeals are heard by the PERB under the current statute.

New Defined Contribution Retirement Plans

Section 35 adds a proposed new article 3 to the TRS statutes creating the defined contribution retirement plan for teachers who first become members of TRS on or after July 1, 2006, or who transfer to that plan (AS 14.25.310 - 14.25.590). Section 122 adds a proposed new article 9 to the PERS statutes creating the defined contribution retirement plan for employees who first become members of PERS or after July 1, 2006, or who transfer to that plan (AS 39.35.700 - 39.35.990).

Under both of the new defined contribution retirement plans, a member must contribute an amount equal to eight percent of the member's compensation to an individual account established for the member (AS 14.25.340; AS 39.35.730). Members may elect to make additional contributions to the individual contribution account, subject to limitations on contributions under AS 14.25.380 and AS 39.35.780.[15]

A TRS member's employer must contribute to the individual account an amount equal to seven percent of the member's compensation (AS 14.25.350). A PERS member's employer must contribute to the individual account an amount equal to five percent of the member's compensation (AS 39.35.750). Both TRS and PERS employers must make contributions to the group health and life benefits fund in the amount certified by the ARMB to fund retiree major medical insurance under the plan. For fiscal year 2007, the employer contribution for retiree major medical insurance is 1.75 percent of

15 Because a voluntary contribution includes the option that the member may choose to take the money in cash, under Internal Revenue Service revenue rulings, the additional contributions may not be eligible for pre-tax deduction under AS 14.25.340(c) and AS 39.35.730(c).

each member's compensation. Employers must also contribute to the HRA plan established by sec. 80 of the bill.

PERS employers must make contributions to the plan in an amount determined by the ARMB to be actuarially required to fund occupational disability and occupational death benefits, with contributions for peace officers and fire fighters calculated separately from contributions for all other PERS employees. For fiscal year 2007, PERS employer contributions for disability and death benefits are set at 0.4 percent of compensation for peace officers and fire fighters, and 0.3 percent of compensation for all other employees (sec. 134 of the bill). The bill does not provide for financing of the occupational disability and death benefits provided under the TRS defined contribution retirement plan.

Members who have other eligible retirement plans will have the opportunity to rollover distributions from those plans paid into their individual accounts (AS 14.25.360; AS 39.35.760). Such rollover contributions will not count as purchase of membership service for purposes of determining years of service.

A member vests immediately and fully in the member's contributions and related earnings (AS 14.25.390; AS 39.35.790). The member will be 25 percent vested in employer contributions made for the member and related earnings after two years of service, 50 percent vested after three years of service, 75 percent vested after four years of service, and fully vested in employer contributions and related earnings after five years of service.

The plans provide for participant-controlled investment of the individual contribution accounts, based on investment options provided by the ARMB (AS 14.25.400; AS 39.35.800). Individual contribution accounts may be divided in accordance with a qualified domestic relations order, creating separate accounts for investment by the member and alternate payee. (See also AS 14.25.460; AS 39.35.860.)

A member may designate beneficiaries of the member's individual account but the member's spouse is automatically the beneficiary for 50 percent of the account unless, with limited exceptions, the spouse consents to a different designation (AS 14.25.450; AS 39.35.850). The bill provides for payment of the account if the member dies without designating beneficiaries.

A member may elect distribution of the individual account 60 days after termination of employment, or earlier in the case of demonstrated immediate and heavy hardship (AS 14.25.410; AS 39.35.810). The plans provide a number of different payment options (AS 14.25.420; AS 39.35.820). The legislature apparently intended that the joint and survivor option of payment may only be selected by a member, not by an alternate payee or beneficiary (AS 14.25.420(a)(6); AS 39.35.820(a)(6)). The bill also provides for distribution requirements, to prevent the indefinite deferral of federal taxation of amounts in the individual accounts (AS 14.25.440; AS 39.35.840).

Medical benefits are available to an eligible member who retires directly from the TRS or PERS defined contribution retirement plan (AS 14.25.470 - 14.25.480; AS 39.35.870 - 39.35.880). To retire from the plan, the member must have been an active member for at least 12 months before application for retirement and (1) have at least 25 years of service as a peace officer or fire fighter or 30 years of service as a teacher/other employee, or (2) reach the age set for Medicare eligibility and have at least 10 years of membership service. Major medical insurance elected by a retiree will cover the retiree and the retiree's spouse and dependent children (AS 14.25.480; AS 39.35.880). Major medical insurance elected by a surviving spouse of an eligible member will cover the surviving spouse and dependent children of the eligible member who are dependent on the surviving spouse. An eligible retiree or surviving spouse who is not covered by Medicare must pay the full monthly group premium for coverage. An eligible retiree or surviving spouse who is covered by Medicare must pay a percentage of the full monthly group premium for coverage that declines as the number of years of service increases, ranging from 30 percent of the premium if the member had 10 or more but less than 15 years of service, to 10 percent if the member had 30 or more years of service. AS 14.25. 70(g) and AS 39.35.870(g) provide that "[a]n eligible person must make the irrevocable election to participate or not participate in the retiree major medical insurance plan by reaching 70 1/2 years of age, or upon application for retirement benefits, whichever is later." These are the only provisions establishing an application deadline for medical benefits, which indicates that a person who meets the requirements for election of medical benefits upon retirement does not have to elect immediate coverage (and payment of premiums) but may defer the election.

The plans provide for defined occupational disability benefits for teachers and public employees (AS 14.25.485; AS 39.35.890). A member will be entitled to an occupational disability benefit if the member terminates employment because of a total and apparently permanent occupational disability before the member's normal retirement date. Both the TRS and PERS plans incorporate the PERS defined benefit plan definition of "occupational disability" (AS 39.35.680).[16] The monthly amount of the occupational disability benefit will be 40 percent of the disabled member's gross monthly compensation at the time of termination. The plans do not provide medical benefits for occupationally disabled members and their dependents.

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16 The current provisions of TRS do not differentiate between occupational and non-occupational disability, but provide a teacher who has five or more years of service with a disability benefit if the teacher's service is terminated before the teacher's normal retirement date because of a permanent disability (AS 14.25.130).

While a member is receiving the occupational disability benefit, the employer must continue making employer contributions to the TRS or PERS defined contribution account, health reimbursement account, and group health and life benefits fund for retiree medical benefits. The employer must also make the member's contributions to the defined contribution account. The employer's contributions for a disabled member are based on the member's gross monthly compensation at the time of termination due to disability. While receiving disability benefits, the member will continue to accrue membership service for purposes of eligibility for retirement. These provisions will provide implementation challenges for the administrator. Because a disabled member must terminate employment, the disabled member will arguably become eligible for distributions from the contribution account under AS 14.25.410 or AS 39.35.810. It is not clear how ongoing contributions by the employer required by AS 14.25.485(d) and AS 39.35.890(d) will be administered.[17]

Disability benefits will end when the member dies, recovers from the disability, fails to meet medical examination or vocational rehabilitation/employment requirements, reaches normal retirement age, or first attains eligibility for normal retirement.

AS 14.25.485(c) and AS 39.35.890(c) will provide the administrator with interpretive challenges if they are not clarified by legislation. Those subsections provide that, if a disabled member becomes ineligible for disability benefits before the normal retirement date, the member is then entitled to receive "retirement benefits" if the member would have been eligible for the benefit had employment continued during the period of disability, and that for purposes of determining eligibility for retirement, the period of disability constitutes membership service. The references to "retirement benefits" and "eligibility for retirement" may be intended to refer to eligibility for retiree medical benefits, since a member may already elect payment options regarding his or her contribution account upon termination of employment. "Normal retirement date" may be intended to refer to "normal retirement age," or it may be intended to refer to the date on which the formerly disabled member would have been entitled to elect medical coverage based on 30 years (or 25 years for peace officers and fire fighters) of service. These subsections, and other provision of the bill, do not specifically provide that periods of disability are considered membership service for purposes of vesting in employer contributions to the contribution account and related earnings.

When a disabled member's disability benefits end because the member becomes eligible for normal retirement, the member is entitled to elect annuity or other pay-out

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17 We are researching the issue of whether the requirements of these statutes that an employer continue to make contributions to an account of a former employee comply with federal law governing qualified plans.

options from the member's defined contribution account, and may elect retiree medical benefits.[18]

A peace officer or fire fighter receiving disability benefits who becomes eligible for normal retirement has an additional option, to "irrevocably elect to receive retirement benefits calculated . . . as if the provisions of AS 39.35.370(c) were to apply; however, retirement benefits paid under this paragraph may not be made from the trust fund of the public employees' defined benefit retirement plan." AS 39.35.370(c) provides a defined benefit for peace officers and fire fighters calculated as "two percent of average monthly compensation times the years of credited service through 10 years, plus two and one-half percent of the average monthly compensation times the years of service over 10 years."

These provisions raise a number of implementation issues for the administrator. Since the statute does not specifically require the member to forfeit the individual contribution account upon making the irrevocable election, the legislature may have intended that the benefit calculated "as if" AS 39.35.370(c) applied will be paid from the defined contribution account until that account is exhausted.[19] Because the legislature specified that the benefit would not be paid out of the PERS defined benefit plan, the legislature may have anticipated that the defined contribution account would not be sufficient to pay the elected benefit, and that the employer would have to provide financing through contributions determined by the ARMB to be actuarially required under AS 39.35.750(e). There is no provision for a peace officer or fire fighter who chooses this option select an option that will provide benefits to a surviving spouse or dependents if the individual contribution account is exhausted when the member dies.

Upon the death of a member who is receiving or entitled to receive an occupational disability benefit, a surviving spouse pension in the amount of 40 percent of the member's compensation at the time of termination because of occupational disability will be paid to the surviving spouse of the deceased member or, if there is no surviving spouse or the surviving spouse later dies, to the dependent children of the member in equal parts. There is no provision for the employer to continue contributions to the individual defined contribution account, health reimbursement arrangement plan, or group health and life benefits fund for retiree medical benefits while the survivor benefit is paid. The statute provides that "[t]he last payment shall be made for the last month in which there is an eligible surviving spouse or child." Apparently, the survivor benefit will also end on the date the normal retirement of the member would have occurred if the

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18 A disabled member who loses eligibility for disability benefits for any reason may elect an annuity or other pay-out option from the member's defined contribution account.

19 If the disabled peace officer or fireman is eligible for a distributions from the contribution account upon termination for disability under AS 14.25.410 or AS 39.35.810, the account (at least accruals before termination for disability) may be exhausted before the member is eligible for retirement.

member had lived, at which time the retirement benefit will be determined based on the defined benefit plan options and the surviving spouse may elect medical benefits.

The plans also provide for defined occupational death benefits for survivors of teachers and public employees (AS 14.25.487; AS 39.35.892). The occupational death benefit will be paid to the surviving spouse of the deceased member or, if there is no surviving spouse or the surviving spouse later dies, to the dependent children of the member in equal parts. The amount of the benefit is 40 percent of the member's monthly compensation in the month in which the member dies for survivors of teachers and public employees other than peace officers and fire fighters. The occupational death benefit for the survivors of peace officers and fire fighters is 50 percent of the member's monthly compensation in the month in which the member dies. The plans do not provide medical benefits for survivors receiving occupational death benefits.

While a survivor's pension is being paid, the employer must continue making employer contributions to the TRS or PERS defined contribution account, health reimbursement account, and group health and life benefits fund for retiree medical benefits. As with the continuing employer contributions for disability recipients, this provision will provide the administrator with implementation challenges, since the survivor may become eligible for distributions from the contribution account under AS 14.25.410(c) or AS 39.35.810(c). It is not clear how ongoing contributions by the employer required by AS 14.25.487(c) and AS 39.35.892(c) will be administered.[20]

The payment of a survivor's benefit ends in the month in which the member would have first qualified for retirement, at which time the retirement benefit will be determined based on the defined benefit plan options and the surviving spouse may elect medical benefits. We note that, unlike provisions for payment of survivor benefits after the death of a member who was receiving or entitled to receive occupational disability benefits, the occupational death benefit statutes do not provide for benefits paid to a person who is a dependent child to end when the person no longer is eligible as a child. A dependent child receiving occupational death benefits under AS 14.25.487 or AS 39.35.892 might argue that death benefits must be paid until the date the deceased member would have retired, without regard to age of the benefit recipient. This may affect plan qualification, since the Internal Revenue Code definition of "dependent" includes age requirements for distributions to a dependent child under a qualified plan.

PERS employers will finance the occupational disability and death benefits by making contributions to the plan in an amount determined by the ARMB under

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20 As mentioned in note 17, we are researching the issue of whether the requirements of these statutes that an employer continue to make contributions to an account of a former employee comply with federal law governing qualified plans.

AS 39.35.750(e). There is no provision in the proposed new TRS defined contribution plan for funding of the occupational disability and death benefits.

The state reserves the right to amend the plans (AS 14.25; AS 39.35.895) and the defined contribution plan makes no guarantee or the rates of returns on or amounts that will be payable from the individual contribution accounts (AS 14.25; AS 39.35.910).

An active, nonvested member of the TRS or PERS defined benefit plan may make an irrevocable election to participate in the applicable new defined contribution plan in lieu of participation in the defined benefit plan. AS 14.25; AS 39.35.940. A member may make the election only if the member's employer consents to participation in transfers. The statutes require transfer of a member's TRS or PERS contribution account to a new account in the defined contribution plan, and a matching contribution from the employer. The employer may not make the matching contribution from the TRS or PERS defined benefit trust funds. Membership service earned by a transferring member is nullified for purposes of the defined benefit plan, and is credited for purposes of determining eligibility to elect medical benefits. The statutes do not specifically provide that the transferred membership service will be applied to vesting under AS 14.25.390 or AS 39.35.790 of the transferring member's interest in the employer's matching contributions, or in subsequent employer contributions to the defined contribution account.

New Health Reimbursement Arrangement Plan

Section 80 adds a proposed new article 5 to AS 39.30, adding the health reimbursement arrangement plan for teachers and public employees who first become members of TRS or PERS on or after July 1, 2006. AS 39.30.300 - 39.30.495. The HRA may be used to pay the cost of monthly premiums for retiree major medical insurance for eligible members, and to reimburse eligible members' costs for medical care expenses. A member who is eligible for reimbursements under the HRA is not required to participate in retiree major medical insurance coverage.

The HRA plan will be financed solely by employer contributions (AS 39.30.370). The amount of contributions an employer will make on behalf of an employee will not be based on that specific employee's compensation, but will be three percent of that employer's "average annual employee compensation." The administrator is required to maintain a record for each member accounting for employer contributions for that member. Interest will be applied to members' accounts annually at the rate established by the ARMB.

A member who terminates employment before meeting the eligibility requirements for retirement and medical benefits under AS 14.25.470 or AS 39.35.870 loses any right to the contributions. Upon reemployment with a participating employer before the member reaches age 65, the account balance will be restored, with an adjustment for inflation.

The eligibility and reimbursement provisions of AS 39.30.390 present interpretation problems. The language of the section states that persons who meet the eligibility requirements of AS 14.25.470 and AS 39.35.870 for retirement and medical benefits are eligible for reimbursements under the plan. It is unlikely that the legislature intended that a member be eligible for retirement and medical benefits under both TRS and PERS in order to be eligible for HRA benefits. Second, the language of the section provides that a member does not have to retire directly from the system to be eligible for reimbursements. While the years-of-service and age requirements set out in paragraphs (1) and (2) of AS 14.25.470(a) and AS 39.35.870(a) apparently apply to eligibility for HRA reimbursements, it is not clear whether language in AS 14.25.470 and AS 39.35.870 requiring a member to have been an active member for 12 months before application for retirement is only associated with the "retire directly from the system" requirement or whether it is one of the eligibility requirements the legislature intended to apply for purposes of eligibility for HRA reimbursements.

<u>Potential Legal Issues</u>

Several provisions of the bill that make changes that affect current members of TRS and PERS may raise legal issues. Such changes may implicate art. XII, sec. 7 of the Alaska Constitution, which provides:

> **Retirement Systems.** Membership in employee retirement systems of the State or its political subdivisions shall constitute a contractual relationship. Accrued benefits of these systems shall not be diminished or impaired.

Interpreting this provision, the Alaska Supreme Court has held that rights under the state's retirement systems vest on employment and enrollment in the system, reasoning that retirement benefits are an element of the bargained-for consideration given to an employee in exchange for the employee's assumption and performance of employment.[21] In general, a change that diminishes a member's benefits must be offset by comparable new advantages to the member.[22]

Changes to existing statutes that may implicate art. XII, sec. 7, of the Alaska Constitution include amendments that set a deadline for former members to reinstate

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21 *Hammond v. Hoffbeck*, 627 P.2d 1052 (Alaska 1981).

22 We set out the Alaska Supreme Court case law interpreting this provision in a memorandum of advice to commissioner of administration, dated April 20, 2005. 2005 Inf. Op. Att'y Gen.; 663-05-0192 (Apr. 20), pp. 2-12.

service credit; amendments to former law governing award of "ad hoc" PRPAs; changes in retiree medical coverage affecting spouses and certain dependents of people receiving survivor benefits; and amendments to the board structure for governance of the systems.

We have found no case law that specifically addresses application to former members of changes in public retirement system statutes that provide for reinstatement of service credit. However, it is arguable that a former member who cashed out the TRS or PERS contribution account after severing the employment relationship that gave rise to rights under the retirement system has no remaining rights that could be impaired by any subsequent change to the retirement system statutes. Furthermore, the reinstatement statutes do not explicitly provide that reinstatement of cashed-out service credit upon reemployment also reinstates a former member to the former member's original "tier" status.[23] While a definitive answer to this issue will only be provided by the Alaska Supreme Court, we believe the amendments are defensible.

We addressed the issue of changes to the former law regarding award of ad hoc PRPAs in the memorandum of advice dated April 20, 2005, advising that legislation that limits the administrator's discretion to award an ad hoc PRPA might be subject to challenge.[24] However, in enacting the 105 percent standard, the legislature had evidence that ad hoc PRPAs previously granted by the administrator exercising unlimited discretion had contributed substantially to the unfunded liabilities of the TRS and PERS funds. If the legislation establishing a standard for the administrator's exercise of discretion is challenged, this evidence may support the standard.

Regarding amendments to retiree medical coverage provisions made by sec. 22 to AS 14.25.168(a) and sec. 116 to AS 39.35.535(a), although we have found no case law directly on point, we note that a person who becomes the spouse or a dependent of a retiree's survivor after the retiree's death has no connection with the employment relationship between the retiree and the retiree's TRS or PERS employer that gives rise to any vested right under art. XII, sec. 7, of the Alaska Constitution.[25] Therefore, we believe that application of these statutory changes to spouses and dependents of current survivors of deceased members and to new spouses and dependents of eventual survivors

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23 A member's tier status in the current TRS and PERS defined benefit plans determines the age of retirement eligibility and level of medical benefits available upon retirement, based on the law in effect when the member became a member of the pertinent system. TRS currently has two recognized tiers, and PERS has three.

24 2005 Inf. Op. Att'y Gen.; 663-05-0192 (Apr. 20).

25 New spouses and dependents of survivors who were not dependents of the deceased retiree do not meet the definition of "dependent" of the retiree set out in 26 U.S.C. 152, as required by 26 U.S.C. 401(h). These amendments are made in order for the state's retirement plans to comply with federal plan qualification requirements, and for payment of medical expenses out of the state's trust funds to comply with federal requirements for qualified trusts.

of current members does not diminish or impair any vested right under that constitutional provision. Whether a new spouse of a retiree's survivor or a survivor's dependent who was not dependent on the retiree has any right to retiree major medical coverage based on any other theory is, again, an issue that must be determined by the court.

Issues have also been raised as to whether statutory changes to the boards that govern the systems violate any accrued benefit under art. XII, sec. 7, of the Alaska Constitution, or any common law or statutory trust principle. The Alaska Supreme Court has not addressed the issue of whether the composition of the retirement boards would be considered an accrued benefit protected by art. XII, sec. 7, of the Alaska Constitution. There are no decisions to date that indicate that the restructuring would be considered unconstitutional. Furthermore, there are very few decisions in other states that provide any guidance on this issue. The most instructive case is a 1966 decision from New York, in which the court interpreted a constitutional provision similar to Alaska's and found that the benefits protected by the constitution did not extend to maintaining a proportionate number of teachers on a retirement board. *Brown v. N.Y. State Teachers Ret. Sys.*, 25 A.D.2d 344 (N.Y.A.D. 1966), *aff'd*, 226 N.E.2d 319 (N.Y. 1967). In that case, the New York legislature had passed a law that changed the composition of the board for the teachers' retirement system from seven to nine members, but did not increase the number of teachers on the board, which remained at three. *Id.* The plaintiffs in *Brown* argued that a decrease in the relative representation of teachers on the board was unconstitutional diminishment of benefits for members of the system. The court disagreed, holding that the constitutional provision created a contractual right to protect the members of the retirement system in pecuniary matters, but the term "benefits" did not extend to representation on the retirement board.[26] *Id.* The court also rejected the plaintiffs' argument that a decrease in voting strength on the board could make it easier for the board to reduce or impair their pecuniary benefits, finding that the board's power, no matter what its makeup, was restricted by the constitutional provision itself, which

[26] Similarly, in a more recent case, the West Virginia Supreme Court reasoned that "technical or housekeeping alterations in the PERS funds, such as changes in the manager of the funds or an expansion in permissible investments, do not implicate the constitutional provision prohibiting the impairment of contracts." *State v. West Virginia Inv. Mgmt. Bd.*, 508 S.E.2d 130, 136 (W.Va. 1998). The West Virginia Constitution, however, did not contain a prohibition against the impairment of accrued benefits, but only a general provision prohibiting impairment of contracts

prohibited the board from taking actions that would diminish or impair pecuniary benefits.[27] *Id.* at 345-46.

Regarding the application of trust principles, we believe that because this is a statutorily created trust, the legislature can modify the administrative structure of the trust as long as the modification does not violate the constitutional provision governing the retirement plans. Again, Alaska case law does not address this situation, and we have found little case law from other states that is instructive. In the California case of *Valdes v. Cory,* 139 Cal. App. 3d 773, 189 Cal. Rptr. 212 (1983), the court explained a legislature's ability to modify employee trusts without regard to common law trust principles.[28] The court declined to address an argument that a modification of the California Public Employees' Retirement System violated the general principles of trust law, explaining that:

> We address only the claim of unconstitutional impairment of contract for it is elementary that the Legislature has power, absent constitutional restrictions, expressly to amend or repeal both the common law and existing statutes.

Valdes, 189 Cal. Rptr. at 218.[29] We believe that the restructuring of the systems' board authority by the bill is defensible.

Because provisions of the new TRS and PERS defined contribution retirement plans and the new health reimbursement arrangement plan do not take effect until July 1, 2006, they do not present immediate legal problems. However, in our summary

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27 A subsequent New York decision cited *Brown* for the proposition that there is flexibility regarding management of retirement funds that is reserved for the legislature, but it is not unlimited. *Sgaglione v. Levitt,* 337 N.E.2d 592, 595 (N.Y. 1975). Even though the court in *Sgaglione* gave an expansive interpretation of benefits protected under the New York Constitution, to include protection of the sources of funds for those benefits, it did not overturn *Brown*.

28 Although not citing the case on this point, the Alaska Supreme Court found the rationale of the California court in *Valdes* to be persuasive in *Municipality of Anchorage v. Gallion*, 944 P.2d 436, 445 (Alaska 1997).

29 The court in *Valdes* cited California Civil Code sec. 22.2 in support of this conclusion, which is a statute analogous to the Alaska statute addressing the applicability of common law. The Alaska statute provides that: "So much of the common law not inconsistent with the Constitution of the State of Alaska or the Constitution of the United States or with any law passed by the legislature of the State of Alaska is the rule of decision in this state." AS 01.10.010. The California court's observation that the power of the legislature to amend or repeal the common law and existing statutes is "elementary" may account for the dearth of case law on this issue.

of provisions for those plans above, we have identified a number of provisions that present the administrator with interpretation and implementation challenges. Furthermore, the failure of the legislature to provide for financing of TRS occupational disability and death benefits cannot be cured by regulations adopted by the commissioner. Although sec. 141 sets out the legislature's intent that there be a moratorium on legislation affecting the retirement systems until after the ARMB has made the report required by that section regarding the systems' funds, we recommend that the administrator and this office continue to work together to analyze the provisions of these plans to identify changes that could be considered for action during next year's legislative session.

Legislative Procedure Issue

An issue has been raised concerning a statutory requirement for bills affecting the state's retirement systems. After HB 141 had gone through the House and Senate and free conference committee processes, an issue was raised as to whether the requirement of AS 24.08.036 had been met. That statute provides:

> **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 requirement of AS 24.08.035.

Although a substantial amount of information regarding the fiscal impact of the bill was provided as the bill proceeded through committees of the legislature, the special fiscal note required by AS 24.08.036 was not prepared before the bill was reported to the rules committee of either house. The Department of Administration's actuarial consultant, Mercer Human Resource Consulting, prepared a letter dated May 23, 2005, providing a comparison of the major employer cost components of the bill with the normal cost of the most recent TRS and PERS defined benefit plan tiers, and commenting on the issue of actuarial soundness of the fund under the bill. The legislature did have access to the information before the final vote was taken to accept the second free conference committee report.

The legislature's failure to adhere strictly to the timing set out in AS 24.08.036 for provision of the special fiscal analysis concerns a procedural rule that the legislature has made regarding legislation affecting the state's retirement systems, and does not implicate any constitutional restraint or violate any fundamental right.[30] We believe that any legal challenge to the bill based on the legislature's failure to comply with AS 24.08.036 would present a nonjusticiable issue, and that a court would not invalidate enactment of the bill on that basis.[31]

Effective Dates

The bill includes several effective date clauses. Section 147 provides that secs. 22 and 116, which limit retiree major medical coverage for dependents of survivors of deceased retirees, take effect January 1, 2006. Under sec. 148, provisions for the new defined contribution retirement plans and the health reimbursement arrangement plan take effect July 1, 2006. Section 149 establishes a June 30, 2010, effective date for provisions of the bill that repeal provisions allowing former members of TRS and PERS to reinstate service credit. Section 145 of the bill, which directs the revisor of statutes and regulations attorney to implement instructions in secs. 143 and 144, is effective immediately under sec. 150. Except as provided by secs. 147 - 150, the bill, if enacted into law, would be effective July 1, 2005, under secs. 146 and 151.

We are available to work with the affected agencies during the implementation of the bill, once it becomes law.

Sincerely,

DAVID W. MÁRQUEZ
ATTORNEY GENERAL

By:
Scott J. Nordstrand
Deputy Attorney General
Civil Division

SJN:VBR:rca

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30 *See Abood v. League of Women Voters of Alaska*, 743 P.2d 333, 338 (Alaska 1987), *citing United States v. Smith*, 286 U.S. 6, 33, 52 S.Ct. 475, 478, 76 L.Ed. 954, 958-59 (1932).

31 *Id.* at 338 ("it is the legislature's prerogative to make, interpret and enforce its own procedural rules and the judiciary cannot compel the legislature to exercise a purely legislative prerogative") and 339-40 (holding that "the Open Meetings Act, as it applies to the legislature . . . merely establishes a rule of procedure concerning how the legislature has decided to conduct its business. Of course, having made the rule, it should be followed, but a failure to follow it is not the subject matter of judicial inquiry.")

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Re: CSHB 475

Dear Melanie and Traci:

You have asked us to prepare for you an overview of the following topics:

1. Mechanics of the plan determination process and filings with Internal Revenue Service ("IRS") when a state implements a new retirement plan;

2. Benefits of passing CSHB 475 from the perspective of compliance with the Internal Revenue Code ("Code") and IRS process; and

3. Consequences of not passing CSHB 475 from the perspective of Code compliance and IRS process.

BACKGROUND

PERS Tier 4 and TRS Tier 3

The new PERS Tier 4 and TRS Tier 3 plans (the "New Plans") are intended to be qualified governmental plans under Code Section 401(a). Code Section 401(a) covers defined benefit plans, defined contribution plans, and plans that contain elements of both. Establishing and maintaining qualified status of the New Plans is critical for the employees who participate in the plans and their beneficiaries. In order to know that the New Plans are qualified, Alaska is seeking IRS "determination letters" for them. This is the procedure that has been followed in the past for the existing PERS and TRS plans and is certainly a "best practice" in the pension world.

HRAs

SB 141 also established health reimbursement accounts ("HRAs"). The IRS has recently issued guidance on the structure of HRAs. These rules must be followed in order to have non-taxable benefits for employees, spouses, and their dependents. The IRS has been very strict in their interpretation of these new rules. The only mechanism for seeking IRS approval of the HRA structure is a private letter ruling.

IMPORTANCE OF QUALIFIED STATUS – FOR NEW PLANS

It is very important to establish and maintain the New Plans as qualified governmental plans for the following reasons:

1. Employer contributions are not taxable to members as they are made (or even when vested); taxation only occurs when plan distributions are made.

2. Earnings and income are not taxed to the trust or the members (until distribution).

3. Favorable tax treatments may be available to members when they receive plan distributions; for example, the ability to rollover eligible distributions.

4. Employers and members do not pay employment taxes (even if the positions are Social Security covered) when contributions are made or when benefits are paid.

5. Members have protection of their benefits in a bankruptcy situation.

6. Qualified plans have an approved status with respect to international investments and foreign tax recaptures.

7. Qualified plans may use IRS correction mechanisms in the case of operational failures.

State and local governments are generally exempt from taxation, so the benefits of qualified status flow to the members.

MECHANICS OF THE PLAN DETERMINATION PROCESS – FOR NEW PLANS

What is filed with the IRS?

Requests for favorable determination letters have been filed with the IRS for each of the New Plans, but those requests need to be revised. The primary focus of the determination letter is compliance with "form requirements" — those plan provisions that are required as a condition of qualification under Code Section 401(a). In the case of the New Plans, the plan document would be SB 141, CSHB 475 (if passed), and administrative rules.

What do states do while the determination letter application is pending?

You have asked whether, in the normal course of events, states that are implementing a new retirement plan proceed with implementation while a determination letter is pending or delay implementation of a plan pending favorable rulings from the IRS. It has been our experience that states take a variety of approaches, depending on the legislation or process that leads to the adoption of the plan. Where a statute does not require delay until a determination letter is issued, it has been our experience that states move ahead with implementation while the determination letter is pending.

What is the timetable for receiving an IRS determination?

The IRS often takes more than one year to issue a final determination letter. During that time period an IRS agent may ask for clarification of provisions and may request amendments of the plan document. If an amendment is requested, the IRS may issue a determination letter contingent on the adoption of the amendment. The amendment would have to be adopted with 90 days of the issuance of the determination letter.

What happens if the IRS decides that New Plans have disqualifying provisions?

Code Section 401(b) governs the ability of a qualified plan to make retroactive remedial amendments in order to maintain qualified status. The period in which retroactive corrections are allowed is known as the "remedial amendment period."

If corrections are made by the end of the remedial amendment period, the amendments are treated as retroactively effective throughout the entire remedial amendment period and the plan is deemed to have satisfied the qualification requirements of Code Section 401(a) during that time.

The remedial amendment period begins for a new plan, such as PERS Tier 4 and TRS Tier 3, on the effective date of the plan. For a governmental plan, Notice 89-8, 1989-1 C.B. 628, sets the end of the remedial amendment period at the last day of the seventh month after the end of the plan year in which the remedial amendment period begins. By filing a request for a determination letter, Alaska has preserved its right to retroactively amend the New Plans back to the effective date.

Based upon this IRS guidance, we believe that Alaska has been proactive in filing its determination letters so promptly and in the proposed update of those letters. The determination