

SB

1003

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: June 5, 1996

FURTHER REFERRALS:

Date of Committee Action: 6/6/96

The FINANCE Committee considered:

CSSB 1003(FIN) am

CS FOR SENATE BILL NO. 1003(FIN) am

PUB.EMPLOYEES PAY/BENEFITS/CONTRACTS

"An Act relating to public employee compensation, benefits, and labor relations; relating to salaries and cost-of-living differentials for certain state employees, and to salary surveys and preparation of an annual pay schedule regarding certain state employees; relating to retirement and early retirement incentives for certain public employees; relating to pay and benefit programs for public employees; and providing for an effective date."

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

1 fiscal note(s) 2) DDA

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Richard Foster</i>	X			
<i>Alan Hanley</i>	X			
<i>Donald Mulder</i>	X			
<i>Terre Martin</i>			X	
<i>Sean Parnell</i>	X			
<i>Ben Guerin</i>	X			
<i>Miller Navarre</i>			X	
<i>Ed Brown</i>			X	
<i>Steve Kelly</i>			X	
<i>Jim Theriault</i>			X	

CHAIR'S SIGNATURE

Alan Hanley
Hanley

Richard Foster
Foster

AMENDMENT #1

Sen. Miller

OFFERED IN THE SENATE

TO: CSSB 1003(FIN)

- 1 Page 28, following line 3:
- 2 Insert a new bill section to read:
- 3 "* Sec. 53. PROVISIONS NOT SEVERABLE. Notwithstanding AS 01.10.030, the
- 4 provisions of this Act are not severable."

- 5 Renumber the following bill sections accordingly.

AMENDMENT #2

OFFERED IN THE SENATE
TO: CSSB 1003(FIN)

BY SENATOR MILLER

- 1 Page 1, line 2:
- 2 Delete ", geographic"

- 3 Page 1, line 4, following "to retirement"
- 4 Insert "of"

- 5 Page 1, lines 6 - 8:
- 6 Delete "relating to and making conforming amendments concerning certain state
- 7 aid calculations formerly based on geographic differentials for state employee salaries;"

- 8 Page 3, line 26, through page 5, line 24:
- 9 Delete all material.

- 10 Renumber the following bill sections accordingly.

- 11 Page 6, line 28, through page 7, line 26:
- 12 Delete all material.

- 13 Renumber the following bill sections accordingly.

- 14 Page 8, line 7, through page 9, line 6:
- 15 Delete all material.

- 16 Renumber the following bill sections accordingly.

1 Page 9, line 15, through page 10, line 9:

2 Delete all material.

3 Renumber the following bill sections accordingly.

4 Page 11, lines 3 - 29:

5 Delete all material.

6 Renumber the following bill sections accordingly.

7 Page 13, lines 19 - 20:

8 Delete "for determination of area cost-of-living differentials under AS 29.60.164
9 and 29.60.165 or"

10 Page 13, lines 23, 28, and 29; page 14, lines 2, 12, and 22; page 15, lines 13, 21, and 30;
11 page 18, line 18; page 19, line 18; page 21, lines 24, 25, and 27 - 28; page 22, lines 5 and
12 18; page 23, line 27; and page 24, lines 7, 9, 11, 20, 23, and 27:

13 Delete "30 - 43"

14 Insert "21 - 34"

15 Page 14, line 21:

16 Delete "sec. 37"

17 Insert "sec. 28"

18 Page 16, line 28; page 17, line 8; page 18, line 2; and page 23, line 4:

19 Delete "sec. 30(b)"

20 Insert "sec. 21(b)"

21 Page 21, line 14:

22 Delete "sec. 30(c)(2)"

23 Insert "sec. 21(c)(2)"

- 1 Page 21, line 29:
2 Delete "sec. 30(d) or (e)"
3 Insert "sec. 21(d) or (e)"
- 4 Page 22, lines 30 and 31:
5 Delete "sec. 30"
6 Insert "sec. 21"
- 7 Page 23, line 16:
8 Delete "secs. 35, 37, 38, 41, and 43"
9 Insert "secs. 26, 28, 29, 32, and 34"
- 10 Page 23, line 19:
11 Delete "secs. 30 - 32"
12 Insert "secs. 21 - 23"
- 13 Page 23, line 27:
14 Delete "and separation incentive programs"
15 Insert "program"
- 16 Page 24, lines 18 and 19:
17 Delete "secs. 30 - 38 and 40 - 43"
18 Insert "secs. 21 - 29 and 31 - 34"
- 19 Page 24, lines 21 and 24:
20 Delete "secs. 31 - 39"
21 Insert "secs. 22 - 30"
- 22 Page 25, line 22:
23 Delete "sec. 13"
24 Insert "sec. 10"

1 Page 25, lines 22 - 24:

2 Delete ", and to receive geographic differentials comparable to those received by the
3 classified and partially exempt employees of the executive branch under AS 39.25.020, as
4 enacted by sec. 14 of this Act"

5 Page 26, line 3:

6 Delete "sec. 13"

7 Insert "sec. 10"

8 Page 26, lines 3 - 5:

9 Delete ", and geographic differential adjustments comparable to those received by the
10 classified and partially exempt employees of the executive branch under AS 39.27.020, as
11 enacted by sec. 14 of this Act"

12 Page 26, line 12:

13 Delete "sec. 13"

14 Insert "sec. 10"

15 Page 26, line 20:

16 Delete "ser. 13"

17 Insert "sec. 10"

18 Page 27, line 19, through page 28, line 1:

19 Delete all material.

20 Renumber the following bill sections accordingly.

21 Page 28, line 4:

22 Delete all material.

23 Renumber the following bill sections accordingly.

1 Page 28, line 5:

2 Delete "Sections 30, 31, and 39"

3 Insert "Sections 21, 22, and 30"

4 Page 28, line 6:

5 Delete "Sections 32 - 35"

6 Insert "Sections 23 - 27"

AMENDMENT

#3

BY:

Miller

CSSB 1003 (FIN)

Page 26, line 27

delete ":"
insert "; and"

add new subsection

"(3) satisfies only those monetary terms funded in appropriation legislation passed by the Second Session of the Nineteenth Alaska State Legislature.

Page 26, line 28

insert after "approval"

“, subject to the conditions in (a) of this section,”

A M E N D M E N T #4

OFFERED IN THE SENATE
TO: CSSB 1003(FIN)

BY SENATOR MILLER

1 Page 5, line 7, following "director":

2 Insert "of the division of personnel in the Department of Administration"

3 Page 5, line 25, through page 6, line 6:

4 Delete all material and insert:

5 **** Sec. 12. AS 39.20.200 is amended by adding a new subsection to read:**

6 (b) Personal leave accrued by an officer or employee during each pay period
7 shall be converted monthly to a cash value by multiplying the hours accrued during
8 the pay periods in that month by the officer's or employee's annualized hourly rate
9 of pay for the pay period. The resulting amount shall be added to the cash value
10 amounts calculated for previous pay periods. The total of all of the cash values is the
11 cash value of the officer's or employee's personal leave balance.

12 *** Sec. 13. AS 39.20.250(a) is amended to read:**

13 (a) Terminal leave for unused personal leave shall be allowed upon separation
14 from service. The payment equals the cash value of the officer's or employee's
15 personal leave balance at the time of separation from state service
16 [COMPENSATION THAT THE OFFICER OR EMPLOYEE WOULD HAVE
17 RECEIVED IF THE OFFICER OR EMPLOYEE HAD REMAINED IN THE
18 SERVICE UNTIL THE EXPIRATION OF THE PERIOD OF UNUSED PERSONAL
19 LEAVE. A PAYMENT OF TERMINAL LEAVE TO AN EMPLOYEE SHALL BE
20 MADE AS A LUMP SUM PAYMENT OR IN INSTALLMENTS OVER A PERIOD
21 OF TIME, AS THE EMPLOYEE ELECTS]."

22 Renumber the following bill sections accordingly.

1 Page 13, lines 23, 28, and 29; page 14, lines 2, 12, and 22; page 15, lines 13, 21, and 30;
2 page 18, line 18; page 19, line 18; page 21, lines 24, 25, and 27 - 28; page 22, lines 5 and
3 18; page 23, line 27; and page 24, lines 7, 9, 11, 20, 23, and 27;

4 Delete "30 - 43"

5 Insert "31 - 44"

6 Page 14, line 21:

7 Delete "sec. 37"

8 Insert "sec. 38"

9 Page 16, line 28; page 17, line 8; page 18, line 2; and page 23, line 4:

10 Delete "sec. 30(b)"

11 Insert "sec. 31(b)"

12 Page 21, line 14:

13 Delete "sec. 30(c)(2)"

14 Insert "sec. 31(c)(2)"

15 Page 21, line 29:

16 Delete "sec. 30(d) or (e)"

17 Insert "sec. 31(d) or (e)"

18 Page 22, lines 30 and 31:

19 Delete "sec. 30"

20 Insert "sec. 31"

21 Page 23, line 16:

22 Delete "secs. 35, 37, 38, 41, and 43"

23 Insert "secs. 36, 38, 39, 42, and 44"

24 Page 23, line 19:

25 Delete "secs. 30 - 32"

- 1 Insert "secs. 31 - 33"

- 2 Page 24, lines 18 and 19:
- 3 Delete "secs. 30 - 38 and 40 - 43"
- 4 Insert "secs. 31 - 39 and 41 - 44"

- 5 Page 24, lines 21 and 24:
- 6 Delete "secs. 31 - 39"
- 7 Insert "secs. 32 - 40"

- 8 Page 25, line 22:
- 9 Delete "sec. 13"
- 10 Insert "sec. 14"

- 11 Page 25, line 24:
- 12 Delete "sec. 14"
- 13 Insert "sec. 15"

- 14 Page 25, line 26:
- 15 Following "FOR":
- 16 Insert "CERTAIN"

- 17 Page 25, line 29:
- 18 Following "FOR":
- 19 Insert "CERTAIN"
- 20 Following "BRANCH.":
- 21 Insert "(a) Effective July 1, 1996, the permanent and temporary employees of the
- 22 judicial branch, other than justices and judges, who are not members of a collective
- 23 bargaining unit, are entitled to receive a one-time salary increase of 5.2 percent of the
- 24 employee's base salary as of June 30, 1996."

- 25 Page 25, line 30:

1 Delete "For the fiscal years beginning"

2 Insert "(b) On"

3 Page 26, line 3:

4 Delete "sec. 13"

5 Insert "sec. 14."

6 Page 26, lines 3 - 5:

7 Delete ", and geographic differential adjustments comparable to those received by the
8 classified and partially exempt employees of the executive branch under AS 39.27.020, as
9 enacted by sec. 14 of this Act."

10 Page 26, line 12:

11 Delete "sec. 13"

12 Insert "sec. 14"

13 Page 26, line 20:

14 Delete "sec. 13"

15 Insert "sec. 14"

16 Page 27, following line 18:

17 Insert a new bill section to read:

18 **"* Sec. 52. TRANSITION FOR STATE EMPLOYEE LEAVE PROVISIONS.** For the
19 purpose of implementing secs. 12 and 13 of this Act, the beginning total cash value of an
20 officer's or employee's personal leave balance on the effective date of secs. 12 and 13 of this
21 Act is calculated by multiplying the officer's or employee's personal leave balance as of the
22 day before the effective date of secs. 12 and 13 of this Act by the officer's or employee's
23 annualized hourly rate of pay on the effective date of secs. 12 and 13 of this Act."

24 Renumber the following bill sections accordingly.

25 Page 27, lines 21, 23, and 29:

1 Delete "sec. 14"

2 Insert "sec. 15"

3 Page 28, line 4:

4 Delete "Section 51"

5 Insert "Section 53"

6 Page 28, line 5:

7 Delete "Sections 30, 31, and 39"

8 Insert "Sections 31, 32, and 40"

9 Page 28, line 6:

10 Delete "Sections 32 - 36"

11 Insert "Sections 33 - 37"

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CS SB 1003(FIN) am

Revision Date: _____
 Title: An Act relating to compensation and benefits of public employees
 Sponsor: Senate Finance Committee
 Requestor: Senate Rules

Department Affected: Administration
 BRU: Retirement & Benefits
 Component: Retirement & Benefits
 COMPONENT SERIAL NO. 64

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	477.1	477.1	413.5	303.8	303.8	303.8
TRAVEL	30.0	30.0	25.0	25.0	25.0	25.0
CONTRACTUAL	168.4	115.4	114.6	114.6	114.6	114.6
SUPPLIES	12.0	3.0	3.0	3.0	3.0	3.0
EQUIPMENT	123.8	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	811.3	625.5	556.1	446.4	446.4	446.4

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	811.3	625.5	556.1	446.4	446.4	446.4
TOTAL	811.3	625.5	556.1	446.4	446.4	446.4

Estimate of any current year (FY 96) cost: \$ zero

POSITIONS:

FULL-TIME	6	6	6	6	6	6
PART-TIME	0	0	0	0	0	0
TEMPORARY	5	5	3	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

The actuarial costs to participating employers due to the retirement incentive program are to be paid up front and no additional costs to the systems are anticipated. An administrative charge for participating employers will cover the increased costs of administering the program.

Prepared by: Robert F. Stalnaker Phone: 465-4470
 Division: Retirement & Benefits Date: _____

Approved by Commissioner: Mark Boyer Date: 6/16/96
 Agency: Department of Administration

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CS SB 1003(FIN) .am

ANALYSIS: (continued)

This bill creates a retirement incentive program for the Public Employees' (PERS) and Teachers' (TRS) Retirement Systems. In addition, it allows for separation bonuses for state employees. Authorization of a RIP for State employees could begin as early as June 30, 1996 or as late as June 30, 1999. RIP eligibility periods for state employees would be designated by the Commissioner of Administration. RIP window periods would last from 30-60 days. The University of Alaska could adopt a RIP any time between June 30, 1996 and June 30, 1999. Participating PERS political subdivision employers could adopt a RIP between October 31, 1996 and October 31, 1997. Active PERS and TRS members could retire on an accelerated basis with an increased benefit under the following conditions: at age 47 or 53 (depending on date of hire), if vested; with 17 years of service as a qualified peace officer, fire fighter or teacher; or with 27 years of credited service in the PERS. Before qualifying for an accelerated benefit, however, the member is indebted to the system and must make a lump sum payment or take an actuarial reduction from their lifetime benefit for the indebtedness amount. **The total cost of the incentive is required to be paid within three years and will not impact the actuarial soundness of the retirement plans.**

This bill also establishes a 10 year vesting period for health insurance; and calculates benefits on a five year average salary. **These changes only apply to those employees first hired after the effective date of this bill and will not impact the actuarial soundness of the PERS.**

We estimate that six permanent employees will be needed to manage the operations of the program and increased service demands into the future. Five long-term non-permanent employees will also be needed over the next two fiscal years, with three of those to remain for the third fiscal year. Personnel will handle increased counseling, address and beneficiary changes, account maintenance, and other services. Subsequent increases in the number of retirees will necessitate increased permanent employees to handle the increased demand for information and services.

We estimate that we will need to increase our normal number of counseling trips by 17 trips over the next two fiscal years to assure that members and employers understand the options and requirements of the programs.

The total estimated administrative cost to the division by fiscal year is as follows:

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CS SB 1003(FIN) am

	<u>FY 1997</u>	<u>FY 1998</u>	<u>FY 1999</u>
PERSONAL SERVICES			
	<u>FY 1997</u>		
1 Accountant III	\$ 60.0		
1 Retirement & Benefits Spec II	60.0		
1 Retirement & Benefits Spec I	52.8		
1 Accounting Tech II	46.6		
2 Retirement & Benefits Tech II	84.4		
2 Retirement & Benefits Tech II (NP)	75.6		
2 Accounting Clerk III (NP)	68.2		
1 Admin Clerk I (NP)	<u>29.5</u>		
TOTAL FY 1997 COSTS		\$477.1	
	<u>FY 1998</u>		
1 Accountant III	\$ 60.0		
1 Retirement & Benefits Spec II	60.0		
1 Retirement & Benefits Spec I	52.8		
1 Accounting Tech II	46.6		
2 Retirement & Benefits Tech II	84.4		
2 Retirement & Benefits Tech II (NP)	75.6		
2 Accounting Clerk III (NP)	68.2		
1 Admin Clerk I (NP)	<u>29.5</u>		
TOTAL FY 1998 COSTS		\$477.1	
	<u>FY 1999</u>		
1 Accountant III	\$ 60.0		
1 Retirement & Benefits Spec II	60.0		
1 Retirement & Benefits Spec I	52.8		
1 Accounting Tech II	46.6		
2 Retirement & Benefits Tech II	84.4		
2 Retirement & Benefits Tech II (NP)	75.6		
1 Accounting Clerk III (NP)	<u>34.1</u>		
TOTAL FY 1999 COSTS			\$413.5

FISCAL NOT

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CS SB 1003(FIN) am

	<u>FY 1997</u>	<u>FY 1998</u>	<u>FY 1999</u>
TRAVEL			
Traveling to various locations throughout the state to counsel prospective retirees and give seminars.	\$ 30.0	\$ 30.0	\$ 25.0
CONTRACTUAL			
Communication (Telephone, Postage)	13.4	13.4	12.6
Actuarial Services	50.0	50.0	50.0
Computer System Upgrades	50.0	0.0	0.0
Legal Services	50.0	50.0	50.0
Software Maintenance	3.0	0.0	0.0
Training/Risk Management	<u>2.0</u>	<u>2.0</u>	<u>2.0</u>
TOTAL CONTRACTUAL	168.4	115.4	114.6
SUPPLIES			
Office Supplies, Calculators, software	12.0	3.0	3.0
EQUIPMENT			
Computer Workstations	40.0	0.0	0.0
File Cabinets (6)	2.4	0.0	0.0
Office Chairs (10)	6.0	0.0	0.0
Microfiche Viewers (10)	6.0	0.0	0.0
Office Workstations	30.0	0.0	0.0
Computer/Network Printers	12.0	0.0	0.0
Computer Network Upgrades	21.4	0.0	0.0
Telephone Unit (10)	<u>6.0</u>	<u>0.0</u>	<u>0.0</u>
TOTAL EQUIPMENT	<u>123.8</u>	<u>0.0</u>	<u>0.0</u>
TOTAL OPERATIONS COST	\$811.3	\$625.5	\$556.1

The retirement technicians, retirement specialists, accounting technicians, and accounting clerks need constant access to the PERS and TRS computer files. We do not have any excess terminals, microfiche viewers, or calculators. Our equipment request will satisfy our equipment needs for the duration of this program. We propose the purchase of personal computers to be used as terminals because they will be compatible with the division's local area network.

We are also proposing the purchase of two additional computer printers. The previous RFPs put a great demand on our existing printers and we were always in a state of backlog. Our current day-to-day printer needs maximize the capacity of our existing printers. After comparing the cost of leasing printers for two years, coupled with our existing needs, purchasing new printers would be more cost effective.

All administrative costs of the program will be paid in advance by participating employers as required by the bill.

Funding Source Breakdown for FY 1997:

1029	PERS	\$527.3
1034	TRS	<u>284.0</u>
		\$811.3

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB 1003(FIN)am

Revision Date: _____
Title: "An Act relating to compensation and benefits of public employees....."
Sponsor: (S) Fin
Requestor: (H) Fin

Department Affected: Administration
BRU: Finance
Component: Finance

COMPONENT SERIAL NO. 59

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY00	FY 01	FY 02
PERSONAL SERVICES	19.4	19.4	19.9	9.9	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	26.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	45.4	19.4	19.9	9.9	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
--------------------	-----	-----	-----	-----	-----	-----

FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	45.4	19.4	19.9	9.9	0.0	0.0
1005 GF/Program	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	45.4	19.4	19.9	9.9	0.0	0.0

Estimate of any current year (FY 96) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME	1	1	1	1		
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)
See attached.

Prepared by: Don Wanie *DW*
Division: Finance

Phone: 465-2240
Date: _____

Approved by Commissioner: Mark Boyer *Mark Boyer*
Agency: Department of Administration

Date: 6/6/96

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FISCAL NOTE

STATE OF ALASKA

BILL NO. CSSB 1003 (FIN)am

1996 LEGISLATIVE SESSION

Retirement Incentive:

The Division of Finance is responsible for verification of employment history and processing of termination pay for all state employees. This includes verifying the length of employment, accounting for all leave without pay during the entire employment with the state and determining salaries for the three highest years. Final and terminal leave pay must be processed in accordance with contractual agreements.

With implementation of a Retirement Incentive Program (RIP) the workload for these functions would be significantly increased and additional support will be required by the Division of Finance to meet processing deadlines. It is estimated a half time Accounting Technician I will be needed in FY 97, 98 and 99 and the first half of FY 2000 to accommodate the additional workload generated by the program.

Accounting Technician I,

	FY 97	FY 98	FY 99	FY 2000
Range 14 A half time.	19.4	19.4		
Range 14 B half time.			19.9	9.9

Terminal Leave Calculation and RIP Tracking:

Contractual services funding of \$26.0 will also be needed in FY 97 to cover the cost of a senior level contract Analyst/Programmer for four months. The funds will be used to help implement the necessary payroll (AKPAY) and accounting (AKSAS) program and system changes needed to accommodate changes in terminal leave pay calculation, and RIP savings tracking.

LEGAL SERVICES

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

(907) 465-3887 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

June 3, 1996

SUBJECT: Sectional Summary of CSSB 1003(FIN) "O" version dated 6/3/96
(Public employee compensation, benefits, and labor relations)

TO: Senator Mike Miller
Attn: Mary Gore

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Salary of judges

Section 1 sets out the legislative purpose and intent of bill section 7, which addresses the cost of living differential for ferry system employees.

Sections 2 - 5, amending statutes in AS 22, increase the salary of the chief justice and other justices of the state supreme court; the judges of the court of appeals; superior court judges; and district court judges.

Sec. 6, amending AS 22.15.220(b), directs that magistrates receive the geographic differential set by the supreme court.

Sec. 7, adding subsections to AS 23.40.210, sets out provisions for determining the cost-of-living differential which applies when setting salaries for employees residing outside the state. Under subsection (d), a collective bargaining agreement may not vary the terms of the statute and regulations adopted under the statute.

Senator Mike Miller

June 3, 1996

Page 2

Salary of Legislators

Sec. 8, amending AS 24.10.100, sets the salary of legislators at the rate in effect before this bill is enacted. Legislators' salaries do not change under the bill.

Preservation of system for state aid to municipalities

Secs. 9 - 11, amending AS 29.60, make changes to ensure that calculations for state aid to municipalities continue to be based on the existing statutory geographic differentials. Since the formula for geographic differentials for state employee salaries is changed by the bill (see secs. 14 - 16), this conforming change is needed to avoid applying the change for state employee salaries to state aid to municipalities.

Terminal leave

Sec. 12, amending AS 39.20.250(a), limits how state employees may cash out their accrued personal leave when they end their employment with the state. The new terms apply to leave earned after the bill section takes effect.

State employee salary increase and geographic salary differential

Sec. 13, amending AS 39.27.011, establishes salary increases during the next three years for those employees whose pay is set by the statutory salary schedule. Employees paid under the statutory schedule are "classified and partially exempt employees in the executive branch of state government who are not members of a collective bargaining unit established under authority of the Public Employment Relations Act and employees of the legislature under AS 23.10 and 23.20[.]"

Secs. 14 - 16, amending AS 39.27.020 - 39.27.045, establish a new schedule for geographic pay differentials. Sec. 29.27.020(b), enacted by sec. 14, permits a greater differential to be paid under certain conditions.

PERS TIER THREE - Amendments to AS 39.35

Sec. 17, amending AS 39.35.160(a), sets contribution rates for PERS employees first hired on or after the effective date of the bill section. The contribution rates are lower than those that apply to current members of PERS. Under sec. 56, the Act takes effect July 1, 1996. If the bill gets the required two-thirds majority vote in each house for the effective date, Tier III will begin on that date.

Sec. 18, amending AS 39.35.370(a), sets out when employees may retire from PERS. Anyone can retire at age 60 with at least five years of credited service. Under paragraph (4), a Tier II employee can retire at any age with at least 30 years of credited service. Under

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paragraph (2), Tier II peace officers and fire fighters can retire at any age with at least 20 years of peace officer or fire fighter credited service. Under paragraph (3) a Tier III peace officer or fire fighter can retire at age 50 with 20 years of credited service. Under paragraph (5), anyone in Tier III can retire when their age and years of credited service total at least 85. (For someone who is 55, that would require having at least 30 years of PERS credited service.)

Sec. 19, amending AS 39.35.370(b), sets the formula for reducing the normal retirement benefit to arrive at the amount that a retiree who retires early will receive.

Sec. 20, amending AS 39.35.370(c), sets the formulas for determining the amount of a normal retirement benefit. Paragraph (3) establishes a new formula for Tier III employees.

Secs. 21 and 24 amend AS 39.35.450 and 39.35.485(a) to reflect the repeal of AS 39.35.460 (in bill sec. 28), which provided a method of setting the amount of PERS retirement payments so that retirees got a larger payment until their social security benefits began, at which point their PERS retirement benefit dropped.

Secs. 22 and 23, amending AS 39.35.475(a) and (b), set when beneficiaries of the PERS system are entitled to an increase in benefit payments as a post retirement pension adjustment and set the amount of the PRPA increase. For Tier III members, only those who are disabled or 60 years of age or older will be entitled, and the amount of the increase is determined by a percentage of the individual's retirement benefit that is the lesser of one half the increase in the cost of living during the preceding calendar year or (in the case of very high inflation) six percent.

Sec. 25, amending AS 39.35.535(c), covers benefit recipients who elect major medical insurance coverage. Tier III retirees who are disabled or 65 years of age or older will be required to pay the monthly group premium for dependent coverage unless the retiree had 10 or more years of credited service, in which case the dependent coverage is provided at no cost to the retiree.

Sec. 26, amending AS 39.35.680(4), changes the definition of "average monthly compensation for Tier III to require that the compensation for five consecutive years of service be averaged instead of three years.

Department of Labor duties

Sec. 27, amending AS 44.31.020, conforms this section, relating to the duties of the Department of Labor, to the changes made in secs. 9 - 11 and 15 of the bill.

Sec. 28. repealed statutes

AS 39.20.250(b) applies to state employees who have ended their employment with the state and cashed out their leave and then been reemployed by the state before the expiration of the period covered by the leave. Employees must pay back an amount equal to the leave payment covering the period between the date of re-employment and the expiration of the unused leave period. The employee then is credited with leave for the time covered by the repayment.

AS 39.27.035 requires the director of personnel to prepare an annual pay plan for state employees. The pay plan applies only to employees in the classified and partially exempt service who are not subject to collective bargaining.

AS 39.27.040 requires the director of personnel to conduct an annual salary survey and make recommendations to the Board of Regents of the University of Alaska concerning salaries.

AS 39.35.460 permits retirees under PERS to select a benefit payment option that was intended to keep the total amount of retirement benefits a retiree received level after the retiree's social security benefits began (which was likely to be later than the retiree's PERS benefits).

Retirement Incentive Program

Secs. 29 - 43 establish a retirement incentive program for PERS and TRS except that, under sec. 43 and under the definition of employer in sec. 30(g), school districts are excluded from participating.

Sec. 29 sets out the legislative findings and purpose of the retirement incentive program (RIP).

Sec. 30 establishes the general requirements for a retirement incentive program. Subsection (a) permits employers to designate organizational units of employees eligible to participate. It specifically provides that employers may choose limited groups to which to extend the retirement incentive plan.

Subsection (b) limits the employees who will be eligible to participate in the RIP to employees who will be qualified to retire after receipt of the retirement incentive.

Subsection (c) sets out requirements for the employer's plan and requires the employer to agree to reimburse the retirement system for the extra costs incurred by the system as a result of participation in the RIP by the employer's employees.

Subsection (d) sets out the formula for computing how much each member of the Teachers' Retirement System (TRS) who participates in the plan owes in order to receive the three-year credit. It is based on the annual contribution rate of 8.65% for members of TRS set out in

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AS 14.25.050. Subsection (e) sets out the formula for computing how much each member of the Public Employees' Retirement System (PERS) who participates in the plan owes in order to receive the three-year credit. It is based on the annual contribution rates of 7.5% for peace officers who are members of PERS and 6.75% for other members of PERS set out in AS 39.35.160.

Subsection (f) provides that the retirement incentive is a credit of three years, to be used either to meet retirement eligibility requirements or, if those are met, to increase the benefits a participant is entitled to receive.

Subsection (g) defines "department" and "employer" for purposes of this bill section. The definition of "employer" includes all PERS employers and specifically includes departments (which are defined as executive branch agencies only). This means that a department may establish a RIP even if other departments do not. For TRS, the definition of "employer" is limited to the University, the Board of Education, and Regional Resource Centers. Definitions of "employer" for both retirement systems specifically exclude school districts.

Sec. 31 authorizes state agencies to adopt a retirement incentive plan for their employees, to begin at the time requested by the state agency and established by the commissioner of administration. The periods for application must begin no earlier than June 30, 1996, and end no later than June 30, 1999. The periods must be at least 30 days and no more than 60 days in length. There must also be a waiting period of at least 30 days after the schedules are established before the application period begins.

Subsection (c) prohibits top management state employees from participating in a RIP. Subsection (a) requires state employees who want to participate in the RIP to have continuous employment with the state for the periods listed. Subsection (e) requires that participants be appointed to retirement no later than six months after the last day of the application period.

Sec. 32 authorizes the University of Alaska to adopt a retirement incentive plan for its employees and to request that the commissioner of administration establish one or more application windows for the RIP. The application windows must fall between June 30, 1996 and June 30, 1999, last between 30 and 60 days, and begin after a waiting period of at least 30 days.

Subsection (c) requires that participants be appointed to retirement within six months after the end of the application period. Subsection (d) addresses participants in the Optional University Retirement Program.

Sec. 33 authorizes political subdivisions and public organizations which participate in PERS to adopt a retirement incentive plan for their employees. The application window lasts

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between December 31, 1996, and June 30, 1997. Subsection (b) requires that participants be appointed to retirement by February 1, 1998.

Sec. 34 authorizes regional resource centers who are employers in TRS to adopt a retirement incentive plan for their employees. The application window begins June 30, 1996, and ends December 31, 1996. Participants must be appointed to retirement by August 1, 1997.

Sec. 35 permits state employee participants of a RIP to receive credit, for purposes of determining whether the participant satisfies the years of service requirements for retirement under TRS or PERS, for certain employment with political subdivisions or public organizations who did not participate in PERS or TRS at the time of the employment. The employment may not be counted when the amount of the participant's benefits are calculated.

Sec. 36 permits the Chief Justice of the Alaska Supreme Court to adopt a RIP between July 1, 1996, and June 30, 1999, for the administrative director of the court system.

Sec. 37 permits the Department of Administration to take certain actions if employers who are participating in the RIP become delinquent in the payments they owe the system for the increased benefits paid to their retirees under the program.

Sec. 38 establishes an indebtedness owed by participants in the retirement incentive program who, after retirement, are reemployed in a position that is covered by PERS, TRS, the Judicial Retirement System, or the Optional University Retirement System. The indebtedness is 150 percent of the amount the individual received as a result of participation in the RIP.

Subsection (b) prohibits participants from working for a state department or agency for five years after the participant retired. There is an exception, so long as the employee will not be entitled to retirement, health, or leave benefits, for work for the University of Alaska and for employment with the legislature during the session if the employment is on an hourly basis. Subsection (c) permits the Board of Regents, in the case of the University of Alaska, and the commissioner of administration, in the case of other employers, to permit employers to enter into personal services contracts with certain participants during the five-year waiting period if the employer establishes that there is a compelling reason for hiring the participant because of the participant's specialized or extensive experience.

Note that while subsections (b) and (c) permit state agencies to hire certain participants, neither subsection excuses the participant from paying the penalty established under subsection (a).

Sec. 39 permits the Legislative Council to adopt a RIP for legislative employees.

Sec. 40 directs state agencies (other than the legislature) to file with the Office of Management and Budget reports showing the expected effect of the RIP on the agency's

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personal services cost and operation. Subsection (b) directs OMB to report to the legislature on the RIP. The reports are to begin January 15, 1998, and end in the year 2001.

Sec. 41 states that employees do not have a vested or contractual right to benefits under a RIP until an agreement is executed with the administrator of the retirement system. The legislature reserves the right to make changes to the program.

Sec. 42 permits the Department of Administration to adopt regulations for the RIP, other than the legislative portion.

Sec. 43 makes the definitions in TRS and PERS, as appropriate, applicable to the bill, except that school districts are excluded from the definition of "employer" for both provisions. This has the effect of excluding school districts from participating in a RIP under this bill. Subsection (c) defines terms used in the bill.

Other uncodified and transitional provisions

Secs. 44 - 49, salary increases for other employees, provide for salary increases for the groups of employees identified. Section 45 provides for an increase for judicial branch employees for two fiscal years while sec. 46 provides for an increase for those employees for a third fiscal year. Section 47 reflects the fact that judges salaries are increased in secs. 1 - 5 of the bill. Sec. 48 confirms an increase for legislative employees other than legislators.

Sec. 50, approving monetary terms, provides legislative approval of the monetary terms of the collective bargaining agreements with the collective bargaining organizations listed in the section.

Sec. 51, limiting application of the geographic differential, limits the effects of the new geographic salary differential set out in bill sec. 13 by delaying its application to state employees who are currently receiving a differential under AS 39.27.020 until July 1, 1997, and then applying a reduced amount for the next fiscal year.

Sec. 52 states that the Act does not modify or terminate the terms of a collective bargaining agreement in effect on the effective date of the Act.

Sec. 53 repeals sec. 51 of the Act (which delays implementing the new geographic salary differential) on July 1, 1998.

Sec. 54 repeals sections 50, 51, and 53 of the bill on July 1, 2000. Those sections establish the retirement incentive program, authorize the state to participate in the RIP, and authorize the legislative retirement incentive program.

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Sec. 55 repeals sections 32 - 36 of the Act, on July 1, 1999. Sections 32 - 34 authorize the University of Alaska, Regional Resource Centers, and those political subdivisions and public organizations that are employers under PERS to participate in the RIP. Section 35 permits state employees to count certain employment with political subdivisions in determining whether they can retire. Section 36 authorizes a retirement incentive plan for the administrative director of the court system.

Sec. 56 establishes an effective date of July 1, 1996, for the entire bill.

TC:lmb

96-109.lmb

MAJOR PROVISIONS OF SB 1003 (FIN)

COLD--Section 9

LEAVE--Section 12

New employees will cash in leave at rate earned. Savings of .5%.

GEO DIFF--Section 14

TIER III--Section 17

Employee contribution toward retirement goes to 6.75%

RULE 85 and 20/50--Section 18

At any time when the employees age and amount of service, when added together, is 85 or greater, they are eligible for retirement. Peace Officer or Fire Fighter can retire at age 50 if they have at least 20 years of service. Savings of .1%.

RAMP--Section 20

Multiplier effect on years of service. Savings of 2.13%.

HIGH 5--Section 26

Future employee's retirement will be calculated at the highest five consecutive years of employment vs. three. Savings of .42%.

RIP--Sections 30-43

Section

Must work for state for 10 years to qualify for health benefits after retirement. Full benefits can be purchased for employee and dependent if retiree has less than 10 years of credited service. Savings of 1.4%.

TOTAL RIP SAVINGS: \$1.5 million

LEGAL SERVICES

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MEMORANDUM

June 3, 1996

SUBJECT: Power of the Governor to limit subjects considered at a special session

TO: Senator Rick Halford, Co-chair
Senate Finance Committee

FROM: Tamara Brandt Cook
Director *TBC*

The Governor has issued a supplemental proclamation in which he adds subjects to the May 7, 1996 proclamation and which is a "refinement of the subjects listed in that proclamation..." You have asked whether the supplemental proclamation is unconstitutionally narrow in any regard.

A question presented by this situation is whether the Governor, having listed a subject in a proclamation calling a special session, may later restrict that subject or delete it. Paragraphs (2) through (4) of the May 7, 1996 proclamation, taken together, permit the legislature to consider any appropriation for any purpose from any source. To the extent that paragraphs (1), (2) and (6) of the supplemental proclamation amount to a restriction on the types of appropriations the legislature may consider, the supplemental proclamation is questionable.

I have found no case law from any jurisdiction on the question of whether a governor may delete a subject from the call for a special session. There are several cases holding that the governor may add subjects or amend the date of the session before the special session is convened.¹ Some courts have allowed the governor to add or amend a subject after the special session has been convened,² while one court has held that the governor cannot add

¹ Guenther v. Brown, 671 S.W.2d 260 (Ct. App Ky. 1984)(change of date); Foster v. Graves, 275 S.W. 653 (Ark. 1925)(additional subject); In re City of Pittsburg, 66 A. 348 (Pa. 1907), aff'd, 52 L.Ed. 151(additional subject).

² Jaksha v. Nebraska, 385 N.W.2d 922 (Nebr. 1986)(additional subject); Stickler v. Higgins, 106 S.W.2d 1008 (Ct. App. Ky. 1937)(amendment of reference to law to be repealed).

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subjects to a special session after it has been convened.^{2/} In Alaska, of course, art. II, sec. 9 explicitly allows the legislature to consider not only those subjects designated in the proclamation, but also those "presented by" the governor, which language suggests that the governor may add subjects even after the special session has been convened.^{3/}

However, it is not safe to assume that a governor can delete subjects, just because the constitution allows him or her to add subjects. In my opinion, the deletion of subjects should be treated like the rescission of a call (since a deletion of a subject is a rescission of part of the call), so that the governor could delete a subject before, but not after, the special session was convened. (Advisory Opinion to the Governor 96 S.2d 413 (Fla. 1957); Opinion of the Justices, 12 A.2d; but for a contrary opinion see Rovster v. Brock, 79 S.W.2d 707 (Ct. App. Ky.) My reasons for this conclusion are as follows:

1. The legislature's power to legislate is limited only by constitutional prohibitions. Article II, sec. 9 of Alaska's constitution limits legislation in special sessions to subjects designated in the proclamation or presented by the governor, but does not specifically authorize the governor to limit subjects by removing ones he or she has already designated or presented. While one could fairly imply a power to rescind a designation before the legislature "assumes jurisdiction" over the subject by convening, there is no justification for implying such a power once the legislature has convened.

2. If the governor had the power to delete subjects after the special session had been convened, the governor could, by simply deleting all subjects, force the legislature to adjourn, which would be contrary to the intent of Alaska's constitutional convention.

3. The power to remove a subject during the session would give the governor a type of political leverage that is not contemplated by the constitution, i.e., the power to say, in effect, "I don't like the bill you are considering so I'll prevent you from passing it." If the governor does not approve of the legislature's ultimate policy choices, the constitutional remedy is the veto, not removing the legislature's power to act once it is in session.

4. Alaska's constitution limits the subject matter of a special session called by the governor in order to "relieve" the legislators from political pressure to consider material extraneous to the subject that was important enough to justify the call. 3 Minutes, Alaska Constitutional Convention 1687-1688 (Mrs. Nordale). Allowing the governor to delete subjects after the legislature had convened would not further that purpose.

^{2/} Sims v. Weldon, 263 S.W. 42 (Ark. 1924)(a subject cannot be added by the governor once the special session has convened).

^{3/} The purpose of "or presented by him" in art. II, sec. 9, Constitution of the State of Alaska was to allow the legislators to present their bills to the governor, who could then present them to the legislature in the special session. 3 Minutes, Alaska Constitutional Convention 1686 (Mrs. Sweeney).

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The primary argument for allowing the governor to rescind a subject after the legislature has convened would be that the legislature can always call itself into special session if it believes that the subject deleted by the governor is important enough. And, of course, that action would be the best way to avoid a constitutional cloud on legislation if indeed the governor does try to delete or restrict a subject after the session convenes, and the legislature nevertheless wants to pass legislation on that subject.

There is also a possibility that paragraph (1) of the supplemental proclamation is too narrow in that the stated subject is appropriations for state employee collective bargaining agreements and adjustments to salary schedules for state employees not covered by collective bargaining agreements, but the Governor also appears to be attempting to dictate the result of the legislature's consideration of that subject by requiring that those items be funded. I believe that, should the legislature partially fund those items, that appropriation would address the subject and be a valid appropriation. Likewise in paragraph (5)(c).(d), and (e) the Governor states, not only specific subjects for the legislature to consider, but attempts to dictate the effective date of any bill addressing those subjects. The effective date of legislation is not a subject in itself and is within the sole control of the legislature, in that the effective date may not be separately vetoed or changed by the Governor. Furthermore, an effective date requires a supermajority vote of the legislature. The Governor's effort to control the effective date of legislation arguably deprives the legislature of the power to enact legislation by majority vote without a special effective date.

Article II, section 9 of the state constitution states: "At special sessions called by the governor, legislation shall be limited to subjects designated in his proclamation calling the session, to subjects presented by him, and the reconsideration of bills vetoed by him after adjournment of the last regular session." While the constitution permits the governor to limit consideration by the legislature of only certain subjects, it does not permit him or her to dictate to the legislature the results of its consideration.

In other jurisdictions which authorize the Governor to limit the subjects that may be taken up at a session, very narrow calls have been upheld. (People v. Larkin, 517 P.2d 389 (Colorado 1973); People v. McKenna, 611 P.2d 574 (Colorado 1980)) The framers of our state constitution debated the issue of whether the Governor should be required to limit subjects to be considered at a special session and concluded that the Governor should because (1) with annual regular sessions, there would be little need for special sessions except to address specific emergencies; (2) limiting the sessions would protect the legislature from pressures to deal with other subjects; and (3) if a call proves too narrow, the legislature may avoid the limit by calling itself into session. (Alaska Constitutional Convention Proceedings, Part 3, pages 1685 - 1690) This suggests that the framers expected the Governor to have the power to issue a very narrow call.

On the other hand, courts have found that, having named a subject in a call, the legislature has absolute power to enact any measure respecting that subject or to enact none. (State v.

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Clancy, 77 P. 312 (Montana 1904); Empire Sav. Etc. v. Otero Sav. & Loan, 640 P.2d 1151 (Colorado 1982)) Furthermore, if the Governor attempts to restrict legislative power unduly in a call, the restriction may be considered by the court to be advisory only and not binding on the legislature. (In re Opinion of the Justices, 171 S.902 (Alabama 1936)) Some states have even held that the legislature has some leeway in addressing a matter not specifically included in a call if the matter clearly relates to the purpose of the call. In Colorado the court has adopted a "rational nexus" test. Legislation which is not specifically within the subject of a call is, nonetheless, valid if it " . . . bears a rational nexus to an item specified in the governor's call." (Wieder v. People, 722 P.2d 396 (Colorado 1986, page 398)) In Arkansas the court has held that the legislature may consider not only legislation specifically mentioned in the call, but also legislation that may incidently arise out of the call or is necessary in accomplishing the purpose of the call. (Arkansas Motor Carriers v. Pritchett, 798 S.W.2d 918 (Ark. 1990))

If you recall, the Governor in 1992 issued a Proclamation calling the legislature into special session " . . . on the subject of statutory changes for the purpose of amending Title 16 of the Alaska Statutes as it applies to the taking of fish and wildlife." Despite the effort by the Governor to limit the session to "statutory changes" the legislature introduced and considered a resolution proposing a constitutional amendment dealing with subsistence. Bear in mind, however, if the court should find that a measure is outside of the call, this would probably result in the invalidation of the proposed legislation. (State v. Edwards, 241 S.W. 945 (Missouri 1922))

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