

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

10015 HOUSE STATE AFFAIRS

**HB**

**335**

# Alaska State Legislature



## Representative Bill Hudson

State Capitol  
Juneau, Alaska  
99801-1182  
Phone: (907) 465-3744  
Fax: (907) 465-2273

Committees:  
Chair  
Fisheries  
Utilities Restructuring  
Member  
Transportation  
State Affairs

## SPONSOR STATEMENT

### HB 335, Retirement and Benefits Clean-up Legislation

HB 335 has been introduced at the request of the Division of Retirement and Benefits, and is essentially a cleanup bill. According to the department, there are federal laws, court settlements and other technical issues that need to be addressed in an updated state law. Also addressed in this legislation are some efficiency measures requested by the various retirement boards. There has not been a cleanup bill in many years and many of the issues addressed in HB 335 are longstanding ones.

This legislation is aimed at addressing issues involving clarification of current practices and law, compliance with new federal laws, compliance with various settlements, and board efficiencies. We have made every effort to stay away from policy changes and just address the cleanup issues.

There is nothing in this legislation that enhances or diminishes any retirement benefit for active employees or retirees in any public retirement system, and no section in this bill will increase the employers costs.

Thank you for your consideration.

(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: February 4, 2000

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/22/00

The STATE AFFAIRS Committee considered:

HB 335

HOUSE BILL NO. 335

"An Act relating to information contained in retirement system records; relating to retirement boards; relating to procedures and hearings under state retirement systems; relating to benefits for reemployed retired members of retirement systems; relating to eligibility for normal retirement for members of the teachers' retirement system who have Alaska BIA credited service; relating to disability benefits for members of state retirement systems; relating to deduction of premiums from retirement benefits; relating to protection of, and assignment and transfer of, amounts held in retirement systems; relating to retirement benefits for certain employees earning high salaries; relating to qualified domestic relations orders in state retirement systems; relating to the definition of 'retirement fund' in the teachers' retirement system; relating to membership of state employees in the teachers' retirement system; relating to refund of contributions made to the judicial retirement system or to the former elected public officers retirement system and repayment of refunded contributions in those systems; relating to self-insurance and excess loss insurance for persons receiving benefits from a state retirement system; relating to participation of elected officials in the public employees' retirement system; relating to reinstatement of credited service in the public employees' retirement system after a refund because of certain levies; relating to the level income option benefit under the public employees' retirement system; relating to participation of employees of political subdivisions and public organizations in the public employees' retirement system; relating to penalties for attempts to defraud the public employees' retirement system; relating to the definition of 'pension fund' in the public employees' retirement system; relating to calculation of years of service and of benefits under the public employees' retirement system for noncertificated employees of certain educational employers; and relating to individual accounts maintained for members of the former elected public officers retirement system."

recommends it be replaced

with the following committee substitute

CS HB 335 (STA)

[ ] the same title [x] a new title

[ ] additional referral to \_\_\_\_\_ Committee

[ ] attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[x] fiscal note(s) Admin

[ ] fiscal note(s)

[ ] zero fiscal note(s)

[ ] zero fiscal note(s)

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Annnette James</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
MOVED (CS LS1217/H with LS1217/H.1 amendments)				

CHAIR'S SIGNATURE *Annnette James*

**PUBLIC EMPLOYEES' RETIREMENT BOARD**

c/o DIVISION OF RETIREMENT AND BENEFITS  
P.O. BOX 110203  
JUNEAU, ALASKA 99811-0203

**PAT WELLINGTON, Chair**  
Anchorage  
**PETER HALLGREN, Vice Chair**  
Delta Junction  
**CHARLIE PARR**  
Fairbanks  
**CHARLES BORG**  
Anchorage

February 14, 2000

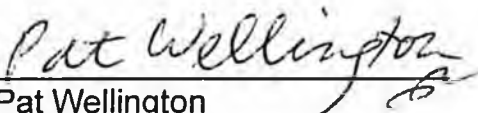
Representative Jeannette James  
Chair, House State Affairs Committee  
Alaska State Legislature  
State Capitol, Room 102  
Juneau, Alaska 99801-1182

RE: Support for HB 335 (PERB/TRB Legislation)

Dear Chair James:

The Public Employees' Retirement Board wishes to express its support for HB 335, a bill introduced by Representative Hudson to amend provisions of the Public Employees' Retirement System (as well as other retirement system) statutes. The Board has reviewed the legislation, commented on it and made suggestions to it prior to its introduction and unanimously supports it. The Board urges that you consider the bill favorably, as it will enhance the administration of those systems and as a consequence be of significant benefit to public-employee retirees and beneficiaries. If you have any questions, do not hesitate to contact me.

PUBLIC EMPLOYEES'  
RETIREMENT BOARD

By   
Pat Wellington  
Chair

cc: Guy Bell, Director  
Division of Retirement and Benefits

# Alaska State Legislature



## Representative Bill Hudson

State Capitol  
Juneau, Alaska  
99801-1182  
Phone: (907) 465-3744  
Fax: (907) 465-2273

**Committees:**  
Chair  
Fisheries  
Utilities Restructuring  
Member  
Transportation  
State Affairs

### MEMORANDUM

**TO:** Representative Jeannette James, Chair  
House State Affairs Committee  
**FROM:** Representative Bill Hudson *Bill*  
**SUBJECT:** Hearing Request for HB 335  
**DATE:** February 8, 2000

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I respectfully request that you schedule a hearing for HB 335, An Act relating to Retirement and Benefits, before your committee. This legislation has just been introduced and I would appreciate a hearing as soon as possible, so that this legislation would have the chance to pass this legislative session.

HB 335 has been introduced at the request of the Division of Retirement and Benefits, and is essentially a cleanup bill. According to the department, there are federal laws, court settlements and other technical issues that need to be addressed in an updated state law. This legislation is aimed at addressing those issues. We have made every effort to stay away from policy changes and just address the cleanup issues.

Thank you for your consideration.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 335( ), Draft Version "H"

- 1 Page 7, lines 17 - 29:
- 2 Delete all material.
  
- 3 Renumber the following bill sections accordingly.
  
- 4 Page 24, lines 8 - 12:
- 5 Delete all material.
  
- 6 Renumber the following bill sections accordingly.
  
- 7 Page 24, line 30, through page 25, line 3:
- 8 Delete all material.
  
- 9 Renumber the following bill sections accordingly.
  
- 10 Page 33, line 26:
- 11 Delete "sec. 30"
- 12 Insert "sec. 29"
  
- 13 Page 33, line 29:
- 14 Delete "sec. 30"
- 15 Inscrt "sec. 29"

*Version H  
adapted.*

**CS FOR HOUSE BILL NO. 335( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVE HUDSON**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to information contained in retirement system records; relating  
2 to retirement boards; relating to procedures and hearings under state retirement  
3 systems; relating to benefits for reemployed retired members of retirement  
4 systems; relating to eligibility for normal retirement for members of the  
5 teachers' retirement system who have Alaska BIA credited service; relating to  
6 disability benefits for members of state retirement systems; relating to deduction  
7 of premiums from retirement benefits; relating to protection of, and assignment  
8 and transfer of, amounts held in retirement systems; relating to retirement  
9 benefits for certain employees earning high salaries; relating to qualified domestic  
10 relations orders in state retirement systems; relating to the definition of  
11 'retirement fund' in the teachers' retirement system; relating to membership of  
12 state employees in the teachers' retirement system; relating to refund of

1 contributions made to the judicial retirement system or to the former elected  
2 public officers retirement system and repayment of refunded contributions in  
3 those systems; relating to self-insurance and excess loss insurance for persons  
4 receiving benefits from a state retirement system; relating to participation of  
5 elected officials in the public employees' retirement system; relating to the level  
6 income option benefit under the public employees' retirement system; relating  
7 to participation of employees of political subdivisions and public organizations  
8 in the public employees' retirement system; relating to crimes for defrauding a  
9 state retirement system; relating to the definition of 'pension fund' in the public  
10 employees' retirement system; relating to calculation of years of service and of  
11 benefits under the public employees' retirement system for noncertificated  
12 employees of certain educational employers; and relating to individual accounts  
13 maintained for members of the former elected public officers retirement system."

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

15 \* Section 1. AS 09.25 is amended by adding a new section to read:

16 Sec. 09.25.151. Confidentiality of retirement records. (a) Except as  
17 provided in (b) - (d) of this section, public records, including electronic services and  
18 products involving public records, containing information about a person and  
19 maintained under AS 14.25, AS 22.25, AS 26.05.222 - 26.05.229, AS 39.35, or former  
20 AS 39.37 shall be kept confidential and are not subject to inspection or copying under  
21 AS 09.25.110 - 09.25.120.

22 (b) Records described in (a) of this section concerning a person who is a  
23 member or former member of a state retirement system who is still living may only  
24 be released to

25 (1) the person or the person's guardian;

26 (2) the person's employer or former employer;

- 1 (3) a state agency authorized to obtain confidential information;
- 2 (4) another person if the person has
- 3 (A) written authorization for release from the affected member
- 4 or former member or the member's or former member's guardian; or
- 5 (B) a court order or subpoena to obtain the information.
- 6 (c) Records described in (a) of this section concerning a member or former
- 7 member of a state retirement system who is deceased or a deceased member's named
- 8 beneficiary may only be released to
- 9 (1) the member's named beneficiary or the beneficiary's guardian;
- 10 (2) the member's or former member's former employer;
- 11 (3) a state agency authorized to obtain confidential information;
- 12 (4) the personal representative of the member's or former member's
- 13 estate;
- 14 (5) another person if the person has
- 15 (A) written authorization for release from the member or former
- 16 member, the member's named beneficiary, or the personal representative of the
- 17 member's or former member's estate; or
- 18 (B) a court order or subpoena to secure the information.
- 19 (d) The name and address of a living person who is a member or former
- 20 member of a state retirement system may be released to a retirement organization
- 21 representing persons receiving benefits under a state retirement system if the retirement
- 22 organization is affiliated with an organization representing employees of the employer
- 23 under AS 23.40.070 - 23.40.260 (Public Employment Relations Act).
- 24 (e) In this section, "state retirement system" means the teachers' retirement
- 25 system under AS 14.25, the judicial retirement system under AS 22.25, the retirement
- 26 system for members of the national guard under AS 26.05.222 - 26.05.229, the public
- 27 employees' retirement system under AS 39.35, or the elected public officers retirement
- 28 system under former AS 39.37.

29 \* Sec. 2. AS 14.25.035(a) is amended to read:

- 30 (a) There is established the Alaska Teachers' Retirement Board as follows:
- 31 (1) the governor shall appoint five members for overlapping three-year

1 terms; one member must be a resident who is receiving retirement benefits under this  
2 chapter; statewide teacher organizations may submit to the governor a list of  
3 recommended nominees to serve on the board;

4 (2) the governor shall appoint two physicians authorized to practice  
5 medicine in the state to serve as members of the board and two physicians  
6 authorized to practice medicine in the state to serve as alternate members to the  
7 physician members of the board; the physicians are members of the board only  
8 for the purpose of hearing appeals to determine medical eligibility for disability  
9 benefits under AS 14.25.130; [THE GOVERNOR SHALL APPOINT TWO  
10 PHYSICIANS EACH FROM AT LEAST TWO OF THE STATE'S FOUR JUDICIAL  
11 DISTRICTS;] the Public Employees' Retirement Board and the Teachers' Retirement  
12 Board may submit to the governor a list of recommended physicians to serve on the  
13 board; if the administrator, after making a reasonable effort to secure the  
14 participation of two physicians to serve on a disability appeal, is unable to do so,  
15 the board may hear the appeal with the participation of only one physician or  
16 alternate, in which case, for purposes of a quorum, the board shall be considered  
17 to have only one physician as a member; [THE TWO PHYSICIAN MEMBERS  
18 FROM THE JUDICIAL DISTRICT IN WHICH A DISABILITY APPEAL HEARING  
19 IS CONDUCTED SHALL SERVE ON THE BOARD DURING THE HEARING; IF  
20 ONE OR MORE OF THE PHYSICIANS IN THE JUDICIAL DISTRICT IN WHICH  
21 A DISABILITY HEARING IS CONDUCTED IS UNABLE TO SERVE AT THE  
22 HEARING, OR IF THERE IS NO PHYSICIAN MEMBER FROM THAT JUDICIAL  
23 DISTRICT, OTHER PHYSICIAN MEMBERS SHALL SERVE AT THE HEARING,  
24 SELECTED FOR SUCH HEARINGS ON A ROTATING BASIS, IN ACCORDANCE  
25 WITH REGULATIONS ADOPTED BY THE BOARD:] physician members and  
26 alternates serve at the pleasure of the governor.

27 \* Sec. 3. AS 14.25.035(b) is amended to read:

28 (b) Members of the board appointed under (a)(1) of this section are entitled  
29 to receive [DO NOT RECEIVE COMPENSATION] for their services on the  
30 retirement board an honorarium equal to the honorarium provided to trustees of  
31 the Alaska State Pension Investment Board under AS 37.10.250. Physician

1 members of the board are entitled to hourly compensation for their services at a rate  
2 to be determined by the commissioner of administration. The rate of compensation  
3 shall be consistent with the physicians' normal hourly earnings. All members of the  
4 board are entitled to travel expenses and per diem authorized for boards and  
5 commissions under AS 39.20.180 [WHEN IT IS NECESSARY TO TRAVEL].

6 \* Sec. 4. AS 14.25.035(f) is amended to read:

7 (f) The board shall meet at the call of the chair [CHAIRMAN], any three  
8 members, or at the request of the commissioner of administration. The board may  
9 adopt regulations defining a quorum for the conduct of its business, including  
10 appeals and disability appeals.

11 \* Sec. 5. AS 14.25 is amended by adding a new section to read:

12 **Sec. 14.25.037. Hearings.** (a) The board shall adopt regulations establishing  
13 procedures for the conduct of hearings and appeals under this chapter.

14 (b) In the conduct of a hearing under this chapter, the board may issue  
15 subpoenas, administer oaths, compel the attendance and testimony of witnesses, compel  
16 the taking of depositions and the submission of affidavits, and compel the production  
17 of documents and records. The board's powers under this subsection do not extend  
18 to prehearing discovery. However, upon good cause shown, the board may permit the  
19 preservation of witness testimony if the board cannot successfully compel the witness  
20 to attend a hearing. The board may authorize hearing officers to conduct hearings  
21 under this chapter and issue decisions; the decision of a hearing officer may be  
22 appealed to the board. The board shall adopt procedures for appeals from a hearing  
23 officer's decision.

24 (c) A majority of a quorum of the board may issue a ruling or modification  
25 of a ruling. If the board's vote on an appeal under this chapter is a tie vote of those  
26 members present and voting, the decision being appealed is affirmed. The board, by  
27 regulation, shall establish procedures for the reconsideration of a ruling issued under  
28 this chapter. A request for reconsideration is timely if it is received within 30 days  
29 after the initial ruling was issued.

30 (d) An aggrieved party may appeal a final decision to the superior court.

31 \* Sec. 6. AS 14.25.043 is amended to read:

1           **Sec. 14.25.043. Reemployment of retired members.** If a retired member  
2 again becomes an active member, benefit payments may not be made during the period  
3 of reemployment. The retirement benefit must be suspended for the entire school year  
4 if the teacher is reemployed as an active teacher for a period equivalent to a year of  
5 service. During the period of reemployment, deductions from the member's salary will  
6 be made in accordance with AS 14.25.050. Upon subsequent retirement, the retired  
7 member is entitled to receive an additional benefit based on the credited service and  
8 the average base salary during the period of reemployment in accordance with  
9 AS 14.25.110. If the initial benefit payments to which the retired member is  
10 eligible have been actuarially reduced because the member retired early under  
11 AS 14.25.110(b), the member shall also receive an incremental benefit based on  
12 the amount of the actuarial reduction imposed by AS 14.25.110(j) on the first  
13 benefit and the length of time that the employee was reemployed and not  
14 receiving retirement benefits. The amount of the incremental benefit is equal to  
15 the difference between the normal retirement benefit to which the member would  
16 have been entitled had the member taken a normal retirement and the early  
17 retirement benefit that the member has been receiving based on the member's  
18 initial period of employment multiplied by the total number of months that the  
19 member did not receive retirement benefits because of reemployment and that  
20 amount actuarially adjusted to be paid over the expected lifetime of the member.

21 \* Sec. 7. AS 14.25.110(a) is amended to read:

22           (a) Subject to AS 14.25.167, a member is eligible for a normal retirement  
23 benefit if the member

24                   (1) was first hired before July 1, 1975, has attained the age of 55 years,  
25 and has at least 15 years of credited service, the last five of which have been  
26 membership service or is otherwise vested in the system;

27                   (2) has attained the age of 60 years and has at least eight years of  
28 membership service;

29                   (3) has attained the age of 60 years, has at least five years of  
30 membership service, and has [AT LEAST THREE YEARS OF] Alaska BIA service  
31 which, when added to the membership service, will equal at least eight years;

1 (4) has at least 25 years of credited service, the last five of which have  
2 been membership service;

3 (5) has at least 20 years of membership service;

4 (6) has at least 20 years of combined membership service and Alaska  
5 BIA service, the last five of which have been membership service; or

6 (7) has, for each of 20 school years,

7 (A) at least one-half year of membership service as a part-time  
8 teacher;

9 (B) one full year of membership service as a full-time teacher;

10 or

11 (C) any combination of service qualified under this paragraph.

12 \* Sec. 8. AS 14.25.130(d) is amended to read:

13 (d) The amount of the disability benefit is equal to 50 percent of the member's  
14 base salary immediately before becoming disabled. The disability benefit is increased  
15 by 10 percent of the member's base salary immediately before becoming disabled  
16 for each dependent child, up to a maximum of four dependent children.

17 \* Sec. 9. AS 14.25.130(e) is amended to read:

18 (e) Benefits payable under this section accrue from the first day of the month  
19 after which the following requirements are met: (1) the member meets the eligibility  
20 requirements of this section; and (2) the member terminates employment. The benefits  
21 are payable the last day of the month. If payment is delayed, a retroactive payment  
22 must be made to cover the period of deferment. The last payment for a dependent  
23 child shall be for the month in which the child ceases to be a dependent child. The  
24 last payment for the disabled member shall be made for the month in which the  
25 disabled member recovers from the disability, dies, or is eligible for normal retirement.  
26 A member is considered to have recovered from a disability if the member is  
27 employed or self-employed in sustainable employment and earning at least 75  
28 percent of the member's compensation, adjusted for inflation, at the time the  
29 member terminated the member's employment under this section.

30 \* Sec. 10. AS 14.25.130 is amended by adding a new subsection to read:

31 (f) A member is not entitled to a disability benefit under this section unless

*Change:  
Not made for  
this change*

1 the member files a timely application for the benefit with the administrator. The  
2 application is timely if it is filed by the later of six months after the date that the  
3 member's disability began or 90 days after the termination of the member's  
4 employment. The board may waive a filing deadline under this subsection if there are  
5 extraordinary circumstances that resulted in the inability to meet the filing deadline.  
6 The board may delegate the authority to waive a filing deadline under this subsection  
7 to the administrator.

8 \* Sec. 11. AS 14.25.143 is amended by adding a new subsection to read:

9 (g) The board may advise the administrator whether or not the administrator  
10 should grant a discretionary post retirement pension adjustment under the former  
11 provisions of this section, and, if so, how much the adjustment should be.

12 \* Sec. 12. AS 14.25.168(b) is amended to read:

13 (b) After an election of coverage under this section, major medical insurance  
14 coverage takes effect on the same date as retirement benefits begin and stops when the  
15 member or survivor is no longer eligible to receive a monthly benefit. The coverage  
16 for persons age 65 or older is the same as that available for persons under age 65.  
17 The benefits payable to those persons age 65 or older supplement any benefits  
18 provided under the federal old age, survivors and disability insurance program. The  
19 medical premium and optional insurance premiums owed by a member or  
20 survivor shall be deducted from the benefit owed to the member or survivor  
21 before payment of the benefit.

22 \* Sec. 13. AS 14.25.175(b) is amended to read:

23 (b) In order to obtain consideration of a waiver under this section, the affected  
24 member or beneficiary must appeal to the board in writing within 30 days after receipt  
25 of notice that the records have been adjusted. [THE BOARD SHALL RULE ON AN  
26 APPEAL WITHIN 120 DAYS AFTER ITS RECEIPT.] The ruling of the board shall  
27 be in writing.

28 \* Sec. 14. AS 14.25.175(c) is amended to read:

29 (c) The board may [, AT ITS DISCRETION,] conduct a hearing on an appeal  
30 under this section. [IN REACHING A DECISION ON AN APPEAL, THE BOARD  
31 MAY ISSUE SUBPOENAS, ADMINISTER OATHS, AND COMPEL THE

1 ATTENDANCE AND TESTIMONY OF WITNESSES, THE TAKING OF  
2 DEPOSITIONS, THE SUBMISSION OF AFFIDAVITS, AND THE PRODUCTION  
3 OF DOCUMENTS AND RECORDS.]

4 \* Sec. 15. AS 14.25.200(a) is amended to read:

5 (a) Except as provided in AS 29.45.030(a)(1) or in (c) or (d) of this section,  
6 member contributions and other amounts held in the system on behalf of a member or  
7 other person who is or may become eligible for benefits under the system are exempt  
8 from Alaska state and municipal taxes and are not subject to anticipation, alienation,  
9 sale, transfer, assignment, pledge, encumbrance, or charge of any kind, either voluntary  
10 or involuntary, before they are received by the person entitled to the amount under the  
11 terms of the system. Any [, AND ANY] attempt to anticipate, alienate, sell, transfer,  
12 assign, pledge, encumber, charge, or otherwise dispose of any right to amounts accrued  
13 in the system is void. However, a member's right to receive benefits or the member  
14 contribution account may be assigned

15 (1) under a qualified domestic relations order; [OR]

16 (2) to a trust or similar legal device that meets the requirements for a  
17 Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C. 1396p(d)(4); or

18 (3) as provided in (c) or (d) of this section.

19 \* Sec. 16. AS 14.25.200 is amended by adding new subsections to read:

20 (c) An inactive member may elect to have the taxable portion of the member  
21 contribution account transferred directly to another plan or an individual retirement  
22 arrangement that is qualified under the federal Internal Revenue Code and that accepts  
23 the transfer.

24 (d) A person receiving benefits under this chapter who intends to join or who  
25 belongs to a retirement organization may authorize the administrator to deduct from  
26 the person's benefits the amount of annual dues owed to the organization. The person  
27 shall make the authorization in writing on a form approved by the administrator. The  
28 authorization shall remain in effect until revoked in writing. The revocation is  
29 effective when received by the administrator. The administrator may, by regulation,  
30 assess a reasonable administrative fee to compensate the system for administration of  
31 this subsection. In this subsection, "retirement organization" means an organization

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representing persons receiving benefits under this chapter that is affiliated with an organization representing employees of the employer under AS 23.40.070 - 23.40.260.

\* Sec. 17. AS 14.25.210 is amended to read:

**Sec. 14.25.210. Penalty for false statements.** A person who [WILFULLY OR] knowingly makes a false statement, or falsifies or permits to be falsified any record of this [THE RETIREMENT] system, in an attempt to defraud this system, is guilty of a class A misdemeanor and [, UPON CONVICTION, IS PUNISHABLE BY A FINE OF NOT MORE THAN \$500 OR BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BY BOTH, AND] forfeits all rights under this chapter.

\* Sec. 18. AS 14.25.210 is amended by adding a new subsection to read:

(b) In this section, "knowingly" has the meaning given in AS 11.81.900(a).

\* Sec. 19. AS 14.25.220(6) is amended to read:

(6) "base salary"

(A) means the total remuneration payable under contract for a full year of membership service, including addenda to the contract but, for a member first hired on or after July 1, 1996, does not include remuneration in excess of the limitations set out in 26 U.S.C. 401(a)(17);

(B) has the same meaning as "compensation" under AS 39.35.680(3) when applied to a state legislator who elects membership under AS 14.25.040(b);

\* Sec. 20. AS 14.25.220(31) is amended to read:

(31) "qualified domestic relations order" means a divorce or dissolution judgment under AS 25.24, including an order approving a property settlement, that

(A) creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the member contribution account or benefits payable with respect to a member;

(B) sets out the name and last known mailing address, if any, of the member and of each alternate payee covered by the order;

(C) sets out the amount or percentage of the member's benefit,

*Call Chapter-*

1 or of any survivor's benefit, to be paid to the alternate payee, or sets out the  
2 manner in which that amount or percentage is to be determined;

3 (D) sets out the number of payments or period to which the  
4 order applies;

5 (E) does not require any type or form of benefit or any option  
6 not otherwise provided by this chapter;

7 (F) does not require an increase of benefits in excess of the  
8 amount provided by this chapter, determined on the basis of actuarial value;  
9 and

10 (G) does not require the payment, to an alternate payee, of  
11 benefits that are required to be paid to another alternate payee under another  
12 order previously determined to be a qualified domestic relations order;

13 \* Sec. 21. AS 14.25.220(35) is amended to read:

14 (35) "retirement fund" or "fund" means the fund in which the assets of  
15 the system, including income and interest derived from the investment of money,  
16 are deposited and held:

17 \* Sec. 22. AS 14.25.220(40) is amended to read:

18 (40) "teacher" or "member" means a person eligible to participate in  
19 the system and who is covered by the system, limited to

20 (A) a certificated full-time or part-time elementary or secondary  
21 teacher, a certificated school nurse, or a certificated person in a position  
22 requiring a teaching certificate as a condition of employment in a public school  
23 of the state or in the Department of Education and Early Development;

24 (B) [THE COMMISSIONER OF EDUCATION AND EARLY  
25 DEVELOPMENT AND ALL SUPERVISORY POSITIONS IN THE  
26 DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT;

27 (C) a full-time or part-time teacher of the University of Alaska  
28 or a person occupying a full-time administrative position at the University of  
29 Alaska that requires academic standing; the approval of the administrator must  
30 be obtained before an administrative position qualifies for membership in the  
31 system; however, a teacher or administrative person at the university who is

1 participating in the optional university retirement program under AS 14.40.661  
2 - 14.40.799 is not a member under this system;

3 (C) [(D)] a state legislator who elects membership under  
4 AS 14.25.040(b);

5 \* Sec. 23. AS 22.25.020 is amended to read:

6 Sec. 22.25.020. **Retirement pay.** A retired justice or judge eligible for  
7 retirement pay shall receive from the date of eligibility until death monthly  
8 compensation equal to five percent per year of service, to a maximum of 75 percent,  
9 of the monthly salary authorized for justices and judges, respectively, at the time each  
10 retirement payment is made. For a justice or judge who was first employed in this  
11 retirement system on or after July 1, 1996, base annual salary does not include  
12 remuneration in excess of the limitations set out in 26 U.S.C. 401(a)(17) (Internal  
13 Revenue Code).

14 \* Sec. 24. AS 22.25.041 is amended to read:

15 Sec. 22.25.041. **Refund of contributions.** (a) Except as provided in (c) of  
16 this section, a [A] justice or judge who vacates office for any reason and who has not  
17 then accrued five years of creditable service under this chapter is entitled to receive  
18 a refund of the total amount of contributions, including principal and interest  
19 payments on indebtedness, together with interest credited on the amount. To receive  
20 credit for an earlier period of service under AS 22.25.010(f), [IF] a justice or judge  
21 who has received a refund of contributions and who returns to active service [, THE  
22 JUSTICE OR JUDGE] shall repay in full, before appointment to retirement,  
23 [WITHIN ONE YEAR] the refunded contributions with interest at the prevailing rate  
24 [TO RECEIVE CREDIT FOR THE EARLIER PERIOD OF SERVICE UNDER  
25 AS 22.25.010(f)].

26 (b) A justice or judge whose contributions have been involuntarily refunded  
27 because of a levy under AS 09.38.065 or because of a federal tax levy may repay  
28 the amount levied together with accrued interest whether or not the justice or judge is  
29 on active service. Repayments shall be made under (a) of this section.

30 \* Sec. 25. AS 22.25.041 is amended by adding new subsections to read:

31 (c) A justice or judge whose rights to a refund are subject to a qualified

1 domestic relations order is entitled to receive a refund of the total amount of  
2 contributions, together with interest credited on the amount, only if the present spouse  
3 of the justice or judge, if any, and each person entitled under the order consent to the  
4 refund in writing on a form provided by the administrator. The administrator may  
5 waive written consent from the person entitled to benefits under the order if the  
6 administrator determines that the person cannot be located or for other reasons  
7 established by regulation. The administrator may waive written consent from the  
8 spouse if the administrator determines that

9 (1) the justice or judge was not married to the spouse during any period  
10 of the justice's or judge's employment under this chapter;

11 (2) the spouse has no right to benefits under this chapter because of the  
12 terms of a qualified domestic relations order;

13 (3) the spouse cannot be located;

14 (4) the justice or judge and spouse have been married for less than two  
15 years and the justice or judge establishes that they are not cohabiting; or

16 (5) another reason established by regulation exists.

17 (d) Except as provided in this subsection, in (e) of this section, and in  
18 AS 29.45.030(a)(1), amounts held in the system on behalf of a justice or judge or other  
19 person who is or may become eligible for benefits under the system are exempt from  
20 Alaska state and municipal taxes and are not subject to anticipation, alienation, sale,  
21 transfer, assignment, pledge, encumbrance, or charge of any kind, either voluntary or  
22 involuntary, before they are received by the person entitled to the amount under the  
23 terms of the system, and any attempt to anticipate, alienate, sell, transfer, assign,  
24 pledge, encumber, charge, or otherwise dispose of any right to amounts accrued in the  
25 system is void. However,

26 (1) the right of a justice or judge to receive benefits or the contributions  
27 and interest may be assigned

28 (A) under a qualified domestic relations order;

29 (B) to a trust or similar legal device that meets the requirements  
30 for a Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C. 1396p(d)(4); or

31 (C) as provided in (e) of this section;

1 (2) a justice or judge may elect to have the taxable portion of the  
2 qualifying distributions transferred directly to another qualified plan or an individual  
3 retirement account that accepts the transfer.

4 (e) A person receiving benefits under this chapter who intends to join or who  
5 belongs to a retirement organization may authorize the administrator to deduct from  
6 the person's benefits the amount of annual dues owed to the organization. The person  
7 shall make the authorization in writing on a form approved by the administrator. The  
8 authorization shall remain in effect until revoked in writing. A revocation is effective  
9 when received by the administrator. The administrator may, by regulation, assess a  
10 reasonable administrative fee to compensate the system for administration of this  
11 subsection. In this subsection, "retirement organization" means an organization  
12 representing persons receiving benefits under this chapter that is affiliated with an  
13 organization representing employees of the employer under AS 23.40.070 - 23.40.260.

14 \* Sec. 26. AS 22.25.090(b) is amended to read:

15 (b) Except as provided in (d) of this section, major medical insurance coverage  
16 takes effect on the same date as retirement benefits begin [,] and stops when the retired  
17 person or survivor is no longer eligible to receive a monthly benefit. The coverage for  
18 persons age 65 or older is the same as that available for persons under 65 years of  
19 age. The benefits payable to those persons age 65 or older supplement any benefits  
20 provided under the federal old age, survivors, and disability insurance program. The  
21 medical premium and optional insurance premiums owed by a retired person or  
22 survivor shall be deducted from the benefit payable to the retired person or  
23 survivor before payment of the benefit.

24 \* Sec. 27. AS 22.25.900 is amended to read:

25 **Sec. 22.25.900. Definition.** In this chapter, "qualified domestic relations  
26 order" means a divorce or dissolution judgment under AS 25.24, including an order  
27 approving a property settlement, that

28 (1) creates or recognizes the existence of an alternate payee's right to,  
29 or assigns to an alternate payee the right to, receive all or a portion of the member  
30 contributions and interest or benefits payable with respect to a justice or judge;

31 (2) sets out the name and last known mailing address, if any, of the

1 justice or judge and of each alternate payee covered by the order;

2 (3) sets out the amount or percentage of the justice's or judge's benefit,  
3 or of any survivor's benefit, to be paid to the alternate payee, or sets out the manner  
4 in which that amount or percentage is to be determined;

5 (4) sets out the number of payments or period to which the order  
6 applies;

7 (5) does not require any type or form of benefit or any option not  
8 otherwise provided by this chapter;

9 (6) does not require an increase of benefits in excess of the amount  
10 provided by this chapter, determined on the basis of actuarial value;

11 (7) does not require the payment, to an alternate payee, of benefits that  
12 are required to be paid to another alternate payee under another order previously  
13 determined to be a qualified domestic relations order.

14 \* Sec. 28. AS 26.05.224 is amended by adding new subsections to read:

15 (g) Except as provided in this subsection or AS 29.45.030(a)(1), amounts held  
16 in the system on behalf of a member or other person who is or may become eligible  
17 for benefits under the system are exempt from Alaska state and municipal taxes and  
18 are not subject to anticipation, alienation, sale, transfer, assignment, pledge,  
19 encumbrance, or charge of any kind, either voluntary or involuntary, before they are  
20 received by the person entitled to the amount under the terms of the system, and any  
21 attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or  
22 otherwise dispose of any right to amounts accrued in the system is void. However,

23 (1) a member's right to receive benefits or the member contribution  
24 account may be assigned

25 (A) under a qualified domestic relations order; or

26 (B) to a trust or similar legal device that meets the requirements  
27 for a Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C.  
28 1396p(d)(4);

29 (2) a member may elect to have the taxable portion of the qualifying  
30 distributions transferred directly to another plan or individual retirement arrangement  
31 qualified under the federal Internal Revenue Code.

1 (h) Amounts held in the system and benefits payable under this section are  
2 exempt from garnishment, execution, or levy as provided in AS 09.38 (Alaska  
3 Exemptions Act).

4 \* Sec. 29. AS 39.30.091 is amended to read:

5 **Sec. 39.30.091. Authorization for self-insurance and excess loss insurance.**  
6 Notwithstanding AS 21.86.310 or AS 39.30.090, the Department of Administration  
7 may provide, by means of self-insurance, one or more of the benefits listed in  
8 AS 39.30.090(a)(1) for state employees eligible for the benefits by law or under a  
9 collective bargaining agreement **and for persons receiving benefits under AS 14.25,**  
10 **AS 22.25, AS 39.35, or former AS 39.37, and their dependents.** The department  
11 shall procure any necessary excess loss insurance under AS 39.30.090.

12 \* Sec. 30. AS 39.35.030(b) is repealed and reenacted to read:

13 (b) Three public members are appointed by the governor to serve at the  
14 pleasure of the governor for six-year staggered terms. One of the public members  
15 must be or have been employed by an employer other than the State of Alaska. The  
16 governor shall fill a vacancy in an unexpired appointive term by appointment for the  
17 remainder of the term.

18 \* Sec. 31. AS 39.35.030(c) is amended to read:

19 (c) Two members of the board must be members of the system elected by [A  
20 MAJORITY OF THE VOTES CAST BY] members of the system. Elections shall be  
21 conducted by the board. **The candidate who receives the most votes cast in the**  
22 **election is elected to the seat. If two seats are to be filled at the election, the**  
23 **candidate who receives the most votes cast and the candidate who receives the**  
24 **next most votes cast are elected to the seats.** The term of office of an elected  
25 member is six years. A vacancy in an unexpired elective term shall be filled by  
26 election for a new six-year term.

27 \* Sec. 32. AS 39.35.030(d) is amended to read:

28 (d) The governor shall appoint **two** physicians authorized to practice medicine  
29 in the state to serve as members of the board **and two physicians authorized to**  
30 **practice medicine in the state to serve as alternate members to the physician**  
31 **members of the board.** **The physicians are members of the board** only for the

1 purpose of hearing appeals to determine medical eligibility for disability benefits under  
2 AS 39.35.400 and 39.35.410. If the administrator, after making a reasonable effort  
3 to secure the participation of two physician members or alternates to serve on a  
4 disability appeal, is unable to do so, the board may hear the appeal with the  
5 participation of only one physician member or alternate, in which case, for  
6 purposes of a quorum, the board shall be considered to have only one physician  
7 as a member [THE GOVERNOR SHALL APPOINT TWO PHYSICIANS EACH  
8 FROM AT LEAST TWO OF THE STATE'S FOUR JUDICIAL DISTRICTS]. The  
9 Public Employees' Retirement Board and the Teachers' Retirement Board may submit  
10 to the governor a list of recommended physicians to serve on the board. [THE TWO  
11 PHYSICIAN MEMBERS FROM THE JUDICIAL DISTRICT IN WHICH A  
12 DISABILITY APPEAL HEARING IS CONDUCTED SHALL SERVE ON THE  
13 BOARD DURING THE HEARING. IF ONE OR MORE OF THE PHYSICIANS IN  
14 THE JUDICIAL DISTRICT IN WHICH A DISABILITY HEARING IS  
15 CONDUCTED IS UNABLE TO SERVE AT THE HEARING, OR IF THERE IS NO  
16 PHYSICIAN MEMBER FROM THAT JUDICIAL DISTRICT, OTHER PHYSICIAN  
17 MEMBERS SHALL SERVE AT THE HEARING, SELECTED FOR SUCH  
18 HEARINGS ON A ROTATING BASIS, IN ACCORDANCE WITH REGULATIONS  
19 ADOPTED BY THE BOARD.] Physician members serve at the pleasure of the  
20 governor.

21 \* Sec. 33. AS 39.35.030(e) is amended to read:

22 (e) Members of the board appointed under [IDENTIFIED IN] (b) of this  
23 section or elected under (c) of this section are entitled to [DO NOT] receive  
24 [COMPENSATION] for their services on the retirement board an honorarium equal  
25 to the honorarium provided to trustees of the Alaska State Pension Investment  
26 Board under AS 37.10.250. Physician members of the board are entitled to hourly  
27 compensation for their services at a rate to be determined by the commissioner of  
28 administration. The rate of compensation shall be consistent with the physicians'  
29 normal hourly earnings. All members of the board are entitled to travel expenses and  
30 per diem when it is necessary to travel.

31 \* Sec. 34. AS 39.35.040 is amended to read:

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Sec. 39.35.040. Powers and duties of board. The Public Employees Retirement Board has the following powers and duties:

(1) to hold regular meetings and special meetings considered necessary; all meetings are open to the public, and the board keeps a full record of all its proceedings; the board may, by regulation, define a quorum for the conduct of its business, including appeals and disability appeals;

(2) to adopt, with modifications it considers proper, regulations recommended by the administrator for carrying out this chapter;

(3) to consider and adopt resolutions on matters referred to it by the administrator in connection with changes in policy and revisions of this chapter;

(4) to act as an appeals board, hold hearings at the request of an employer, employee, surviving spouse, or a beneficiary on decisions made by the administrator, and submit its findings to the administrator;

(5) to have prepared, at least biennially, an actuarial valuation of the total obligations under the system of each employer and, on the basis of the valuation and in time for incorporation of the results in the state budget, to certify to the appropriate budgetary authorities of each employer:

(A) an appropriate contribution rate for all employers; and

(B) an amount appropriate for each employer to liquidate the employee's past service liability; the board shall have an actuarial and financial experience analysis of the system conducted at appropriate intervals, but no less frequently than once every six years; the actuarial valuations and the actuarial and financial experience analysis shall be prepared and certified by a member of the American Academy of Actuaries;

(6) to prescribe the policies for the proper operation of the system and carry on other activities that are considered necessary to carry out the intent and purpose of the system in accordance with this chapter:

(7) to prescribe the rate of interest that shall be credited to the employee accounts each year;

(8) to waive the requirements of AS 39.35.520 in accordance with AS 39.35.522;

1 (9) to exercise the duties set out in AS 39.30.155 with respect to the  
2 supplemental employee benefit program under AS 39.30.150 - 39.30.180;

3 (10) to exercise the duties set out in AS 39.45.025 with respect to the  
4 deferred compensation program for state employees;

5 (11) to adopt regulations for the election of trustees to the Alaska State  
6 Pension Investment Board and for removal from the investment board of trustees  
7 elected from the system;

8 **(12) to adopt a contribution surcharge under AS 39.35.160(c).**

9 \* Sec. 35. AS 39.35 is amended by adding a new section to read:

10 **Sec. 39.35.077. Hearings.** (a) The board shall adopt regulations establishing  
11 procedures for the conduct of hearings and appeals under this chapter.

12 (b) In the conduct of a hearing under this chapter, the board may issue  
13 subpoenas, administer oaths, compel the attendance and testimony of witnesses, compel  
14 the taking of depositions and the submission of affidavits, and compel the production  
15 of documents and records. The board's powers under this subsection do not extend  
16 to prehearing discovery. However, upon good cause shown, the board may permit the  
17 preservation of witness testimony if the board cannot successfully compel the witness  
18 to attend a hearing. The board may authorize hearing officers to conduct hearings  
19 under this chapter and issue decisions; the decision of a hearing officer may be  
20 appealed to the board. The board shall adopt procedures for appeals from a hearing  
21 officer's decision.

22 (c) A majority of a quorum of the board may issue a ruling or modification  
23 of a ruling. If the board's vote on an appeal under this chapter is a tie vote of those  
24 members present and voting, the decision being appealed is affirmed. The board, by  
25 regulation, shall establish procedures for the reconsideration of a ruling issued under  
26 this chapter. A request for reconsideration is timely if it is received within 30 days  
27 after the initial ruling was issued.

28 (d) An aggrieved party may appeal a final decision to the superior court.

29 \* Sec. 36. AS 39.35.125(a) is amended to read:

30 (a) An elected official **of the state or of a political subdivision of the state**  
31 **if the political subdivision has elected under AS 39.35.550 - 39.35.650 to designate**

1 electd officials in the classifications of employees entitled to participate in the  
2 system is included in the system unless the official files a written waiver of coverage  
3 with the administrator. A waiver under this subsection waives coverage of future  
4 employment as an elected official, regardless of any change of employer. An elected  
5 official may file a waiver under this subsection at any time after election to office,  
6 including the period before taking the oath of office. An elected official may revoke  
7 a waiver under this subsection by filing a written revocation with the administrator.  
8 A revocation under this subsection operates prospectively only, and the elected official  
9 may not receive credited service for service as an elected official while the waiver was  
10 in effect. There is no limit on the number of times an elected official may file a  
11 waiver or revocation under this subsection.

12 \* Sec. 37. AS 39.35.150 is amended to read:

13 **Sec. 39.35.150. Re-employment of retired employees.** If a retired employee  
14 subsequently becomes an active member, benefit payments may not be made during  
15 the period of re-employment. During the period of re-employment, deductions from  
16 the employee's salary shall be made in accordance with AS 39.35.160. Upon  
17 subsequent retirement, the retired employee is entitled to receive an additional pension  
18 based on the credited service and the average monthly compensation earned during the  
19 period of re-employment in accordance with AS 39.35.370. If the initial benefit  
20 payments to which the retired member is eligible have been reduced because the  
21 member retired early under AS 39.35.370(b) or increased because the member  
22 elected to receive a level income option benefit under former AS 39.35.460, the  
23 member shall also receive an incremental benefit based on the amount of the  
24 reduction imposed by AS 39.35.370(b) or the increase under former AS 39.35.460  
25 on the first benefit and the length of time that the employee was reemployed and  
26 not receiving retirement benefits. The amount of the incremental benefit is equal  
27 to the difference between the normal retirement benefit to which the member  
28 would have been entitled had the member taken a normal retirement and the  
29 early retirement benefit or benefit under the level income option that the member  
30 has been receiving based on the member's initial period of employment multiplied  
31 by the total number of months that the member did not receive retirement

1 benefits because of reemployment and that amount actuarially adjusted to be paid  
2 over the expected lifetime of the member. In the case of a member who selected  
3 benefits under the level income option, the total number of months may not  
4 include any month in which the member was 65 years of age or older.

5 \* Sec. 38. AS 39.35.160(c) is amended to read:

6 (c) An employee who has made an [IRREVOCABLE] election under  
7 AS 39.35.300(c) or 39.35.310(c) to have the employee's years of service as a  
8 noncertificated employee of a state boarding school, of a school district or regional  
9 educational attendance area, of the special education service agency, or of the Alaska  
10 Vocational Technical Center determined by reference to AS 14.25.220 shall pay a  
11 contribution surcharge for that service. The amount of the surcharge is the difference  
12 between the amount the employer would have had to contribute under AS 39.35.250 -  
13 39.35.290 for the employee when treating the employee's credited service as service  
14 earned under AS 39.35.300(c) or 39.35.310(c) less the amount the employer would  
15 have had to contribute under AS 39.35.250 - 39.35.290 without treating the employee's  
16 credited service as service earned under AS 39.35.300(c) or 39.35.310(c).

17 \* Sec. 39. AS 39.35.300(c) is amended to read:

18 (c) A noncertificated employee of the Alaska Vocational Technical Center or  
19 a state boarding school who first becomes a member of the system on or after July 1,  
20 1999, may, within 90 days after the employee first joins the system, make an  
21 [IRREVOCABLE] election under this subsection to have the years of service that the  
22 employee earns as a noncertificated employee determined using the table for service  
23 on or after July 1, 1969, that is set out in the definition of "year of service" in  
24 AS 14.25.220. A noncertificated employee of the Alaska Vocational Technical Center  
25 or a state boarding school who is an active member of the system on July 1, 1999,  
26 may, within 180 days after July 1, 1999, make the [IRREVOCABLE] election. A  
27 member of the system who is an inactive member on July 1, 1999, and who is later  
28 employed as a noncertificated employee of the Alaska Vocational Technical Center or  
29 a state boarding school may, within 90 days after beginning the subsequent  
30 employment, make the [IRREVOCABLE] election. An election under this subsection  
31 is irrevocable except as provided in (d) of this section and shall be made in writing

1 on a form provided by the administrator. The election applies to the employee's  
2 service earned for the school year in which the election is accepted by the  
3 administrator and applies to all subsequent employment as a noncertificated employee  
4 of a state boarding school, a school district or regional educational attendance area, the  
5 special education service agency, or the Alaska Vocational Technical Center. An  
6 employee who makes an election under this subsection shall pay the contribution  
7 surcharge as set out in AS 39.35.160(c).

8 \* Sec. 40. AS 39.35.300 is amended by adding new subsections to read:

9 (d) A noncertificated employee who has made an election under (c) of this  
10 section and who thereafter changes employment status from working for less than a  
11 full year, whether part-time or full time, to working for a full year, whether part-time  
12 or full-time, may, between July 1 and September 30, revoke the election and cease  
13 payment of the contribution surcharge. A revocation under this subsection is  
14 retroactive to July 1 of the school year, as defined in AS 14.25.220, in which the  
15 revocation is made.

16 (e) A noncertificated employee who has not made an election under (c) of this  
17 section who changes employment status from working for a full year, whether part-  
18 time or full-time, to working for less than a full year, whether part-time or full-time,  
19 may, between July 1 and September 30, make the election and begin paying the  
20 contribution surcharge. The election is retroactive to July 1 of the school year, as  
21 defined in AS 14.25.220, in which the election is made.

22 \* Sec. 41. AS 39.35.310(c) is amended to read:

23 (c) A noncertificated employee of a school district, a regional educational  
24 attendance area, or the special education service agency who first becomes a member  
25 of the system on or after July 1, 1999, may, within 90 days after the employee first  
26 joins the system, make an [IRREVOCABLE] election under this subsection to have  
27 the years of service that the employee earns as a noncertificated employee determined  
28 using the table for service on or after July 1, 1969, that is set out in the definition of  
29 "year of service" in AS 14.25.220. A noncertificated employee of a school district, a  
30 regional educational attendance area, or the special education service agency who is  
31 an active member of the system on July 1, 1999, may, within 180 days after July 1,

1 1999, make the [IRREVOCABLE] election. A member of the system who is an  
2 inactive member on July 1, 1999, and who later is employed as a noncertificated  
3 employee of a school district, a regional educational attendance area, or the special  
4 education service agency may, within 90 days after beginning the subsequent  
5 employment, make the [IRREVOCABLE] election. An election under this subsection  
6 is irrevocable except as provided in (d) of this section and shall be made in writing  
7 on a form provided by the administrator. The election applies to the employee's  
8 service earned for the school year in which the election is accepted by the  
9 administrator and applies to all subsequent employment as a noncertificated employee  
10 of a state boarding school, a school district or regional educational attendance area, the  
11 special education service agency, or the Alaska Vocational Technical Center. An  
12 employee who makes an election under this subsection shall pay the contribution  
13 surcharge as set out in AS 39.35.160(c).

14 \* **Sec. 42.** AS 39.35.310 is amended by adding new subsections to read:

15 (d) A noncertificated employee who has made an election under (c) of this  
16 section and who thereafter changes employment status from working for less than a  
17 full year, whether part-time or full-time, to working for a full year, whether part-time  
18 or full-time, may, between July 1 and September 30, revoke the election and cease  
19 payment of the contribution surcharge. A revocation under this subsection is  
20 retroactive to the beginning of the school year, as defined in AS 14.25.220, in which  
21 the revocation was made.

22 (e) A noncertificated employee who has not made an election under (c) of this  
23 section who changes employment status from working for a full year, whether part-  
24 time or full-time, to working for less than a full year may, between July 1 and  
25 September 30, make the election and begin paying the contribution surcharge. The  
26 election is retroactive to July 1 of the school year, as defined in AS 14.25.220, in  
27 which the election was made.

28 \* **Sec. 43.** AS 39.35.400(a) is amended to read:

29 (a) An employee is eligible for a nonoccupational disability benefit if the  
30 employee's employment is terminated because of a total and apparently permanent  
31 nonoccupational disability, as defined in AS 39.35.680, before the employee's normal

1 retirement date and after five or more years of credited service. A member is not  
 2 entitled to a nonoccupational disability benefit under this section unless the  
 3 member files an application for the benefit with the administrator within 90 days  
 4 after the member terminated employment. The board may waive a filing deadline  
 5 if there are extraordinary circumstances that resulted in the inability to meet the  
 6 deadline. The board may delegate the authority to waive a filing deadline under  
 7 this subsection to the administrator.

8 \* Sec. 44. AS 39.35.400 is amended by adding a new subsection to read:

9 (g) A member is considered to have recovered from a disability under this  
 10 section if the member is employed or self-employed in sustainable employment and  
 11 earning at least 75 percent of the member's compensation, adjusted for inflation, at the  
 12 time the member terminated the member's employment under this section.

13 \* Sec. 45. AS 39.35.410(f) is amended to read:

14 (f) An employee is not entitled to an occupational disability benefit unless the  
 15 employee files an application for it with the administrator [WITHIN SIX MONTHS  
 16 AFTER THE DATE OF THE ACCIDENT, IF DISABILITY IS ATTRIBUTABLE TO  
 17 AN ACCIDENT, WITHIN SIX MONTHS AFTER THE DATE THE DISABILITY  
 18 BEGINS IF THE DISABILITY IS CAUSED BY AN OCCUPATIONAL DISEASE,  
 19 OR] within 90 [30] days of the date of terminating employment [, WHICHEVER IS  
 20 LATER. IF THE DISABILITY IS ATTRIBUTABLE TO AN ACCIDENT, THE  
 21 EMPLOYEE SHALL FILE A NOTICE OF THE ACCIDENT WITH THE  
 22 ADMINISTRATOR WITHIN 30 DAYS FOLLOWING THE DATE IT OCCURRED.  
 23 THIS 30-DAY FILING PERIOD IS SUSPENDED FOR THE TIME THE  
 24 EMPLOYEE'S CONDITION PREVENTS FILING]. If the employee is unable to meet  
 25 a filing requirement of this subsection, it may be waived by the Public Employees'  
 26 Retirement Board if there are extraordinary circumstances that resulted in the  
 27 employee's inability to meet the filing requirement. The board may delegate the  
 28 authority to waive a filing deadline under this subsection to the administrator  
 29 [FOR CAUSE].

30 \* Sec. 46. AS 39.35.410 is amended by adding a new subsection to read:

31 (i) A member is considered to have recovered from a disability under this

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1 section if the member is employed or self-employed in sustainable employment and  
2 earning at least 75 percent of the member's compensation, adjusted for inflation, at the  
3 time the member terminated the member's employment under this section.

4 \* Sec. 47. AS 39.35.450(a) is amended to read:

5 (a) Benefits payable under this section are in place of benefits payable under  
6 AS 39.35.370, 39.35.385, and former AS 39.35.460. Upon filing an application with  
7 the administrator or when a disabled employee first attains eligibility for normal  
8 retirement under AS 39.35.400(f) or 39.35.410(h), the employee shall designate the  
9 person who is the employee's spouse at the time of appointment to retirement as the  
10 contingent beneficiary. However, if the designation of the spouse is revoked under (c)  
11 of this section, the employee may designate a dependent approved by the administrator  
12 as the contingent beneficiary or may take normal or early retirement under  
13 AS 39.35.370 or 39.35.385 or, if the employee was first hired before July 1, 1996,  
14 benefit payments under the level income option under former AS 39.35.460. The  
15 administrator shall pay benefits under the option elected by the employee. The  
16 employee may elect an option that provides that [(1)] the employee is entitled to  
17 receive a reduced benefit payable for life, and, after the employee's death, the  
18 contingent beneficiary is entitled to payments in the amount of

19 (1) 75 percent of the reduced benefit payable for life, ~~or~~

20 (2) [THE EMPLOYEE IS ENTITLED TO RECEIVE A REDUCED  
21 BENEFIT PAYABLE FOR LIFE, AND, AFTER THE EMPLOYEE'S DEATH, THE  
22 CONTINGENT BENEFICIARY IS ENTITLED TO RECEIVE PAYMENTS IN THE  
23 AMOUNT OF] 50 percent of the reduced benefit payable for life.

24 \* Sec. 48. AS 39.35.475 is amended by adding a new subsection to read:

25 (g) The board may advise the administrator whether or not the administrator  
26 should grant a discretionary post retirement pension adjustment under the former  
27 provisions of this section and, if so, how much the adjustment should be.

28 \* Sec. 49. AS 39.35.500 is amended to read:

29 Sec. 39.35.500. **Safeguard of employee funds held by the system.** Except  
30 as provided in AS 29.45.030(a)(1) or in (b) of this section, employee contributions  
31 and other amounts held in the system are exempt from Alaska state and local taxes.

1 Except as provided in this subsection and in (b) or (c) of this section, amounts  
2 [AMOUNTS] held on behalf of, or payable to, any employee or other person who is  
3 or may become eligible for benefits under the system, are not subject to anticipation,  
4 alienation, sale, transfer, assignment, pledge, encumbrance, or charge of any kind,  
5 either voluntary or involuntary, before being received by the person entitled to the  
6 amount under the terms of the system. An attempt to anticipate, alienate, sell, transfer,  
7 assign, pledge, encumber, charge, or otherwise dispose of a right to amounts held  
8 under the system is void. However, an employee's right to receive benefits or the  
9 member's employee contribution account may be assigned

10 (1) under a qualified domestic relations order; or

11 (2) to a trust or similar legal device that meets the requirements for a  
12 Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C. 1396p(d)(4).

13 \* Sec. 50. AS 39.35.500 is amended by adding new subsections to read:

14 (b) An inactive member may elect to have the taxable portion of an inactive  
15 employee contribution account transferred directly to another plan or an individual  
16 retirement arrangement qualified under the federal Internal Revenue Code that accepts  
17 the transfer.

18 (c) A person receiving benefits under this chapter who intends to join or who  
19 belongs to a retirement organization may authorize the administrator to deduct from  
20 the person's benefits the amount of annual dues owed to the organization. The person  
21 shall make the authorization in writing on a form approved by the administrator. The  
22 authorization shall remain in effect until revoked in writing. A revocation is effective  
23 when received by the administrator. The administrator may, by regulation, assess a  
24 reasonable administrative fee to compensate the system for administration of this  
25 subsection. In this subsection, "retirement organization" means an organization  
26 representing persons receiving benefits under this chapter that is affiliated with an  
27 organization representing employees of the employer under AS 23.40.070 - 23.40.260.

28 \* Sec. 51. AS 39.35.522(b) is amended to read:

29 (b) In order to obtain consideration of a waiver under this section, the affected  
30 member or beneficiary must appeal to the board in writing within 30 days after receipt  
31 of notice that the records have been adjusted. [THE BOARD SHALL RULE ON THE

1 APPEAL IN WRITING WITHIN 120 DAYS AFTER ITS RECEIPT.]

2 \* Sec. 52. AS 39.35.522(c) is amended to read:

3 (c) The board may [, AT ITS DISCRETION,] conduct a hearing on an appeal  
4 under this section. [IN REACHING A DECISION ON AN APPEAL, THE BOARD  
5 MAY ISSUE SUBPOENAS, ADMINISTER OATHS, COMPEL THE ATTENDANCE  
6 AND TESTIMONY OF WITNESSES, COMPEL THE TAKING OF DEPOSITIONS  
7 AND THE SUBMISSION OF AFFIDAVITS, AND COMPEL THE PRODUCTION  
8 OF DOCUMENTS AND RECORDS.]

9 \* Sec. 53. AS 39.35.522(e) is amended to read:

10 (e) The board may reconsider a ruling under this section under  
11 AS 39.35.077(c) [UPON REQUEST OF THE MEMBER OR BENEFICIARY OR THE  
12 ADMINISTRATOR IF THE REQUEST IS RECEIVED WITHIN 30 DAYS AFTER  
13 THE INITIAL RULING.] Any modification of the initial ruling must be made within  
14 30 days after receipt of a request for reconsideration.

15 \* Sec. 54. AS 39.35.535(b) is amended to read:

16 (b) Except as provided in (d) of this section, after an election of coverage  
17 under this section, major medical insurance coverage takes effect on the same date that  
18 benefits begin, and stops when the member or survivor is no longer eligible to receive  
19 a monthly benefit. The coverage for persons age 65 or older is the same coverage  
20 available for a person under 65 years of age. The benefits payable to persons age 65  
21 or older supplement any benefits provided under the federal old age, survivors and  
22 disability insurance program. The medical premium and optional insurance  
23 premiums owed by a member or survivor shall be deducted from the benefit owed  
24 to the member or survivor before payment of the benefit.

25 \* Sec. 55. AS 39.35.615(a) is amended to read:

26 (a) A political subdivision or public organization may request that its  
27 participation agreement be amended. The request may be made only after adoption  
28 of a resolution by the legislative body of the political subdivision and approval of the  
29 resolution by the person required by law to approve the resolution, or, in the case of  
30 a public organization, after adoption of a resolution by the governing body of that  
31 public organization. A certified copy of the resolution shall be filed with the

1 administrator. If a political subdivision or public organization amends its participation  
2 agreement so as to terminate coverage of a department, group, or other classification  
3 of employees, each employee whose coverage is so terminated, regardless of the  
4 employee's employment status at the date of termination, shall be considered fully  
5 vested in actuarially adjusted accrued retirement benefits as of the date of termination,  
6 unless

7 (1) the employee's contributions have been refunded; or

8 (2) the political subdivision or public organization amended its  
9 participation agreement to exclude coverage for the affected department, group,  
10 or other classification of employees at the written request of a majority of the  
11 employees employed in that department, group, or other classification at the time  
12 the request was made.

13 \* Sec. 56. AS 39.35.670 is amended to read:

14 Sec. 39.35.670. Fraud. A person who knowingly makes a false statement, or  
15 falsifies or permits to be falsified a record of this system, in an attempt to defraud the  
16 system [,] is guilty of a class A misdemeanor [, AND UPON CONVICTION IS  
17 PUNISHABLE BY A FINE OF NOT MORE THAN \$500, OR BY IMPRISONMENT  
18 FOR NOT MORE THAN TWELVE MONTHS, OR BY BOTH].

19 \* Sec. 57. AS 39.35.680(4) is amended to read:

20 (4) "average monthly compensation" means the result obtained by  
21 dividing the compensation earned by an employee during a considered period by the  
22 number of months, including fractional months, for which compensation was earned;  
23 an employee must have at least 115 days of credited service in the last payroll  
24 year in order for that year to be used as part of the consecutive payroll years; the  
25 considered period consists of

26 (A) for employees first hired before July 1, 1996, the three  
27 consecutive payroll years during the period of credited service that yield  
28 [YIELDS] the highest average; [,] and

29 (B) for employees first hired on or after July 1, 1996, the five  
30 consecutive payroll years during the period of credited service that yield the  
31 highest average;

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(C) [, OR] if the employee does not have the [REQUIRED] number of consecutive payroll years required by (A) or (B) of this paragraph, the actual number of months, including fractional months, that the employee worked [EMPLOYEE'S PERIOD OF CREDITED SERVICE];  
(D) for an employee who has made an election under AS 39.35.300(c) or 39.35.310(c), the actual number of months, including fractional months, that the employee worked [AN EMPLOYEE MUST HAVE AT LEAST 115 DAYS OF CREDITED SERVICE IN THE LAST PAYROLL YEAR IN ORDER FOR THAT YEAR TO BE USED AS PART OF THE CONSECUTIVE PAYROLL YEARS];

\* Sec. 58. AS 39.35.680(8) is amended to read:

(8) "compensation" means the [TOTAL] remuneration earned by an employee for personal services rendered to an employer, including employee contributions under AS 39.35.160, cost-of-living differentials only as provided in AS 39.35.675, payments for leave that is actually used by the employee, the amount by which the employee's wages are reduced under AS 39.30.150(c), and any amount deferred under an employer-sponsored deferred compensation plan, but does not include retirement benefits, severance pay or other separation bonus benefits, per diem, expense allowances, workers' compensation payments, or for leave not used by the employee whether those leave payments are payments, lump-sum payments, donations, or cash-ins; for a member first or after July 1, 1996, compensation does not include remuneration in excess of limitations set out in 26 U.S.C. 401(a)(17) (Internal Revenue Code);

*Code?*

\* Sec. 59. AS 39.35.680(29) is amended to read:

(29) "pension fund" or "fund" means the fund in which the assets of the system, including income and interest derived from the investment of money, are deposited and held;

\* Sec. 60. AS 39.35.680(34) is amended to read:

(34) "qualified domestic relations order" means a divorce or dissolution judgment under AS 25.24, including an order approving a property settlement, that  
(A) creates or recognizes the existence of an alternate payee's

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right to, or assigns to an alternate payee the right to, receive all or a portion of employee contribution account or the benefits payable with respect to an employee:

(B) sets out the name and last known mailing address, if any, of the employee and of each alternate payee covered by the order;

(C) sets out the amount or percentage of the employee's benefit, or of any survivor's benefit, to be paid to the alternate payee, or sets out the manner in which that amount or percentage is to be determined;

(D) sets out the number of payments or period to which the order applies;

(E) does not require any type or form of benefit or any option not otherwise provided by this chapter;

(F) does not require an increase of benefits in excess of the amount provided by this chapter, determined on the basis of actuarial value; and

(G) does not require the payment to an alternate payee of benefits that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order; [.]

\* Sec. 61. AS 39.50.200(a)(8) is amended to read:

(8) "public official" means

- (A) a judicial officer;
- (B) the governor or the lieutenant governor;
- (C) a person hired or appointed in a department in the executive branch as
  - (i) the head or deputy head of the department;
  - (ii) the director or deputy director of a division;
  - (iii) a special assistant to the head of the department;
  - (iv) a person serving as the legislative liaison for the department;
- (D) an assistant to the governor or the lieutenant governor;
- (E) the chair or a member of a state commission or board other

1 than physician members or alternates of the Alaska Teachers' Retirement  
2 Board appointed under AS 14.25.035(a)(2) or of the Public Employees'  
3 Retirement Board appointed under AS 39.35.030(d);

4 (F) state investment officers and the state comptroller in the  
5 Department of Revenue;

6 (G) the executive director of the Alaska Tourism Marketing  
7 Council;

8 (H) the chief procurement officer appointed under  
9 AS 36.30.010;

10 (I) the executive director of the Alaska Human Resource  
11 Investment Council; and

12 (J) each appointed or elected municipal officer;

13 \* Sec. 62. AS 14.25.175(f), 14.25.175(g); AS 39.35.522(f), and 39.35.522(g) are repealed.

14 \* Sec. 63. The uncodified law of the State of Alaska is amended by adding a new section  
15 to read:

16 **ELECTED PUBLIC OFFICERS RETIREMENT SYSTEM PROVISIONS.** (a) The  
17 individual account maintained for an elected public officer under former AS 39.37.120(b) shall  
18 include principal and interest payments on a member's indebtedness credited as of the date  
19 of payment.

20 (b) Notwithstanding former AS 39.37.140, an elected public officer who was a  
21 member of the elected public officers retirement system under former AS 39.37, who has  
22 withdrawn the balance of the officer's individual account, who returns to service as the  
23 governor, lieutenant governor, or as a member of the legislature, and who repays the refunded  
24 contributions and interest in full before appointment to retirement may reinstate membership  
25 in former AS 39.37 and, if otherwise eligible, be appointed to retirement under the provisions  
26 of that former chapter.

27 \* Sec. 64. The uncodified law of the State of Alaska is amended by adding a new section  
28 to read:

29 **ELECTED PUBLIC OFFICERS RETIREMENT SYSTEM QUALIFIED DOMESTIC**  
30 **RELATIONS ORDER PROVISIONS.** (a) Notwithstanding former AS 39.37.060, a former  
31 spouse who was married for at least one year to an elected public officer who is a member

1 of the retirement system under former AS 39.37 shall be treated as a spouse or surviving  
2 spouse to the extent required by a qualified domestic relations order. Rights under the order  
3 do not take effect until the order is filed with the administrator.

4 (b) Notwithstanding former AS 39.37.130, an elected public officer who is a member  
5 of the retirement system under former AS 39.37 and whose rights to a refund are subject to  
6 a qualified domestic relations order is entitled to receive a refund of the total amount of  
7 contributions together with interest credited on the amount only if the elected public officer's  
8 present spouse, if any, and each person entitled under the order consent to the refund in  
9 writing on a form provided by the administrator. The administrator may waive written  
10 consent from the person entitled to benefits under the order if the administrator determines that  
11 the person cannot be located or for other reasons established by regulation. The administrator  
12 may waive written consent from the spouse if the administrator determines that

13 (1) the elected public officer was not married to the spouse during any period  
14 of the public officer's membership in the system;

15 (2) the spouse has no right to benefits under former AS 39.37 because of the  
16 terms of a qualified domestic relations order;

17 (3) the spouse cannot be located;

18 (4) the elected public officer and spouse have been married for less than two  
19 years and the elected public officer establishes that they are not cohabiting; or

20 (5) another reason established by regulation exists.

21 (c) Except as provided in this subsection, amounts held in the retirement system under  
22 former AS 39.37 on behalf of an elected public officer or other person who is or may become  
23 eligible for benefits under the system are exempt from Alaska state and municipal taxes and  
24 are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or  
25 charge of any kind, either voluntary or involuntary, before they are received by the person  
26 entitled to the amount under the terms of the system, and any attempt to anticipate, alienate,  
27 sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any right to amounts  
28 accrued in the system is void. Amounts held in the system and benefits payable under former  
29 AS 39.37 are exempt from garnishment, execution, or levy as provided in AS 09.38 (Alaska  
30 Exemptions Act). However,

31 (1) the right of an elected public officer who is a member of the retirement

1 system under former AS 39.37 to receive benefits or the contributions and interest may be  
2 assigned

3 (A) under a qualified domestic relations order; or

4 (B) to a trust or similar legal device that meets the requirements for a  
5 Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C. 1396p(d)(4) (Title  
6 XIX, Social Security Act);

7 (2) an elected public officer who is a member of the retirement system under  
8 former AS 39.37 may elect to have the taxable portion of the qualifying distributions  
9 transferred directly to another qualified plan or an individual retirement account that accepts  
10 the transfer.

11 (d) Notwithstanding former AS 39.37.145, receipt under a qualified domestic relations  
12 order of a monthly benefit under former AS 39.37 (elected public officer retirement system)  
13 does not entitle a person or the person's spouse or child to insurance coverage. However, an  
14 elected public officer's former spouse who receives a monthly benefit from the former elected  
15 public officer retirement system under a qualified domestic relations order is entitled to  
16 receive major medical insurance coverage if the former spouse

17 (1) elects the coverage within 60 days after the first monthly benefit paid under  
18 the order is mailed first class or otherwise delivered; and

19 (2) pays the premium established by the administrator for the coverage.

20 (e) In this section, "qualified domestic relations order" has the same meaning given  
21 in AS 39.35.680.

22 \* Sec. 65. The uncodified law of the State of Alaska is amended by adding a new section  
23 to read:

24 INITIAL APPOINTMENT OF PUBLIC MEMBERS OF THE PUBLIC EMPLOYEES'  
25 RETIREMENT BOARD. Notwithstanding AS 39.35.030(b), as repealed and reenacted by  
26 sec. 30 of this Act, persons serving on the Public Employees' Retirement Board under  
27 AS 39.35.030(b) on the day before the effective date of this Act shall continue to serve on the  
28 board until the expiration of their current terms on the board. When a vacancy on the board  
29 occurs, it shall be filled as provided in AS 39.35.030(b), as repealed and reenacted by sec. 30  
30 of this Act.

**PUBLIC EMPLOYEES' RETIREMENT BOARD**

c/o DIVISION OF RETIREMENT AND BENEFITS  
P.O. BOX 110203  
JUNEAU, ALASKA 99811-0203

**PAT WELLINGTON, Chair**  
Anchorage  
**PETER HALLGREN, Vice Chair**  
Delta Junction  
**CHARLIE PARR**  
Fairbanks  
**CHARLES BORG**  
Anchorage

FEB 21 2000

February 14, 2000

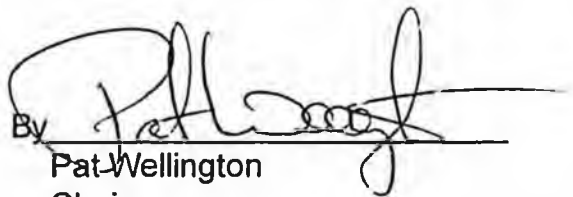
Representative Bill Hudson  
Alaska State Legislature  
State Capitol, Room 108  
Juneau, Alaska 99801-1182

RE: Support for HB 335 (PERB/TRB Legislation)

Dear Representative Hudson:

The Public Employees' Retirement Board appreciates your introduction of HB 335, a bill designed to provide needed amendments to the Public Employees' Retirement System (as well as other retirement system) statutes. The Board supports your efforts and will contact other representatives and senators as the bill makes its way through the legislative process. We look forward to your continued support, and the Board appreciates your efforts.

**PUBLIC EMPLOYEES'  
RETIREMENT BOARD**

By   
Pat Wellington  
Chair

cc: Guy Bell, Director  
Division of Retirement and Benefits

February 15, 2000

DRAFT CS HOUSE BILL NO. 335 (SA)

SECTIONAL ANALYSIS

BY REPRESENTATIVE HUDSON

**“An Act relating to...”**

\* **Section 1.** This section exempts member records, including retiree records, under the Public Records Act, thereby making member name, address, and other information confidential. The Division of Retirement and Benefits' regulations 02 AAC 35.860 and 02 AAC 36.820 making member records confidential was struck down by the Alaska Superior Court (on the grounds that we needed a specific exemption under the Public Records Act). This change would, once again, protect member records. In addition, this section limits release of member records only under specific, authorized circumstances.

*Reason: Necessary due to Court action.*

\* **Section 2.** Two physicians sit on the TRS and PERS boards when medical disability appeals are heard. The current statute requires the Governor to appoint two physicians from each of the four judicial districts in the state. The statute goes on to require that the physicians residing in the locality of the appeal hearing are first to be called to serve. Practically speaking, the Governor has had a very difficult time recruiting physician board members. This change would simplify the appointment process by requiring the Governor to appoint two physicians and two alternate physicians to serve on the TRS Board. This amendment also provides that when two physicians are not available, one physician may satisfy the quorum rules for a medical disability case. There is difficulty in appointing physician members and scheduling meetings to mesh with the schedules of those who have been appointed. Efficiencies and cost savings would follow if but one physician member would satisfy the statute, provided there is a need. The PERS parallel is section 28.

*Reason: Board recommendation for efficiency.*

\* **Section 3.** This amendment would provide for an honorarium payment to TRS Board members consistent with that paid to members of the Alaska State Pension Investment Board (currently \$150/day) recognizing the significant workload and responsibility entrusted to board members. This provision requires no general fund money. It is financed by the TRS fund. The PERS parallel is section 29.

*Reason: Board request.*

\* **Section 4.** This allows the TRS board to adopt regulations defining a quorum for the conduct of its business. The PERS parallel is section 30.

*Reason: Board efficiency.*

\* **Section 5.** The first part of this section clarifies that the TRS board has the authority to adopt regulations for the conduct of hearings. The second part addresses an inconsistency in statute relating to the issuance of subpoenas, administration of oaths, depositions and affidavits. The board already has similar authority to that addressed in this subsection, but curiously only for hearings concerning waivers of adjustments under AS 14.25.175. This new subsection extends that authority to all board hearings. However, the scope of the authority is limited to the hearing proceedings themselves, and by its terms does not extend to prehearing discovery. The goal is to ensure that appropriate evidence may be presented at a hearing without complicating proceedings by broadening the scope to prehearing discovery. In addition, the board would be allowed to appoint hearing officers to hear and decide appeals. This provision would allow (but not necessarily require) the board to appoint hearing officers for these situations. By regulation, the Board could identify the types of appeals it might hear itself and set qualifications for hearing officers. Plaintiffs would always have the option to appeal to the Board, even if a hearing officer has considered their cases.

Subsection (c) adds that if the board's vote on an appeal under this section is a tie vote, the administrator's decision is affirmed; the board, by regulation, shall provide for a method for it to reconsider a decision it has reached. This codifies the current practice of the board.

Subsection (d) allows an aggrieved person to appeal a final administrative decision of the TRS board to the superior court. This provision restates rights that exist as a matter of case law, and also amplifies that a "final" decision by the board is a precondition to further appeal. The PERS parallel is section 31.

*Reason: Board recommendation for efficiency and to reduce costs associated with appeals. This provision tracks a sensible provision now applicable only to waivers of adjustment. It clarifies what has been practice and policy.*

\* **Section 6.** This section eliminates an inequity in current law. Under the current law, a TRS member who retires early (not under the RIP) and returns to work receives a penalty for their early retirement. On returning to work, the member's early retirement benefit stops. When the member subsequently retires, their early retirement benefit resumes and they receive a second benefit based on their reemployment service. There is no adjustment for the early retirement benefits foregone. This section will authorize the division to make an actuarial adjustment to make the member whole. It is anticipated that this section will have no financial impact to the TRS fund. The PERS parallel is section 33.

*Reason: Member request to address inequity.*

\* **Section 7.** This section is amended based on the long-standing policy that the eight year vesting requirement in TRS must be met with at least five years of membership service with the balance made up of Alaska BIA service. The current statute requires a person to have at least three years of BIA service for that service to apply to vesting.

*Reason: Clarifies existing practice.*

\* **Section 8.** The TRS statute allows a disabilitant to receive an additional 10 percent for each dependent child. It does not clearly state 10 percent of what. This section clarifies the division's long-standing interpretation that the dependent child benefit is 10 percent of the member's base salary immediately before becoming disabled. This section reflects and clarifies the system's practice to adjust only the base disability benefit for automatic and ad hoc adjustments.

*Reason: Clarifies existing practice*

\* **Section 9.** The TRS statute says that disability benefits stop when a member has recovered from their disability. This section adds language to clarify that a member is considered to have recovered from a disability if the member is reemployed and is earning at least 75% of the member's pre- disability compensation (the calculation includes an inflation adjustment). The PERS parallels are sections 41 and 43.

*Reason: Clarifies existing practice.*

**Section 10.** This adds a section to the TRS statute requiring, unless there are extraordinary circumstances, a member to file a disability application within six months of the date the member's disability began or 90 days after the member terminated employment (whichever is later). The change will make the PERS and TRS filing requirements the same. The PERS parallels are sections 40 and 42.

*Reason: Creates consistency between PERS and TRS systems.*

\* **Section 11.** This provision would specifically recognize the role of the TRS board in advising on ad hoc post retirement pension adjustments. The PERS parallel is section 45.

*Reason: Board request and expression of current practice.*

\* **Section 12.** This section adds language authorizing the division's long-standing practice of deducting retiree insurance premiums (medical, dental, vision, audio, and long-term care) from retirement checks. The JRS parallel is Section 22 and the PERS parallel is Section 51

*Reason: Not addressed in current statute.*

\* **Section 13.** Removes requirement that the TRS board must rule on a waiver of adjustment appeal within 120 days of its receipt. The purpose is to have a consistent process for all appeals. PERS parallel is Section 51.

*Reason: Board request to increase flexibility to appellants and the TRS.*

\* **Section 14.** This repeals language no longer needed with the additions to AS 14.25.037 in Section 5. Makes the hearing process consistent for all types of hearing. PERS parallel is Section 52.

*Reason: The purpose is to have a consistent process for all appeals.*

\* **Section 15.** Amends language to clarify that an alternate payee has a right to the contribution account of a member, not just any benefit payment. This will add significant convenience and protection to members and alternate payees. The parallels are sections 23 and 24 (JRS), 46 and 61 (PERS).

*Reason: Efficiency and member request.*

\* **Section 16.** Adds language that allows the retirement system to pay a lump sum distribution directly to another plan or to an Individual Retirement Account - IRA. Without this, TRS must pay the contribution account balance to the former member, who must then write a check to the IRA custodian. The parallels are sections 21 and 24 (JRS), 47 (PERS) and 61 (EPORS).

This section also allows a retired member to request a deduction from their benefit check to pay membership dues for a nonprofit retirement organization whose membership is limited to members and beneficiaries of a state retirement system. The parallels are sections 21 (JRS) and 47 (PERS).

*Reason: Efficiency and member request.*

\* **Section 17 and 18.** This section updates TRS statutes relating to fraud, making such actions class A misdemeanors. PERS parallel is Section 56.

*Reason: Clarification of the law.*

\* **Section 19.** Adds language that sets an upper compensation limit for pension plan purposes for all members first hired on or after July 1, 1996. For this purpose, pension plan employee contributions cannot exceed the limits set out in federal regulations. All members hired after that date must follow the limitations set by Section 401(a)(17) of the IRS code (initially set at \$150,000). This section is necessary for the system to comply with federal law. The parallels are sections 19 (JRS) and 55 (PERS).

*Reason: Required to comply with federal law.*

\* **Section 20.** Companion to Section 14. Amends the TRS Qualified Domestic Relations Order (QDRO) definition to clarify that a former spouse has a right to the contribution account of a member. Current language limits the former spouse to the benefits payable. The parallels are sections 23 and 24 (JRS), 57 and 61 (PERS).

*Reason: Efficiency and member request.*

\* **Section 21.** Clarifies that the income and interest earned by the TRS fund belong to the fund. Codifies the practice in place since TRS was established in the 1950s and the trust requirements of the retirement fund. The PERS parallel is section 56.

*Reason: Codifies practice.*

\* **Section 22.** The current definition of teacher in TRS is very broad in that it includes the "commissioner of education and all supervisory employees in the Department of Education." This section changes the definition to make any Department of Education member subject to the same definition as all other members; namely, certification and being in a position requiring a teaching or administrator's certificate as a condition of employment.

*Reason: Codifies practice.*

\* **Section 23.** Adds language that defines a compensation limit for pension plan purposes for all Judicial Retirement System (JRS) members first hired on or after July 1, 1996. For this purpose, pension plan employee contributions cannot exceed the limits set out in federal regulations. All justices and judges hired after that date must follow the limitations set by Section 401(a)(17) of the IRS code (initially set at \$150,000). The parallels are sections 15 (TRS) and 55 (PERS).

*Reason: Required to comply with federal law*

\* **Section 24.** Adds language to allow judges to receive a refund of any principle and interest paid on prior indebtedness. Removes the one-year limitation to repay any prior refunds and allows the judge to make any repayments up to the time of retirement. The parallel is section 60 (EPORS).

*Reason: Consistency with PERS and TRS.*

\* **Section 25.** Adds language paralleling that in the other retirement systems defining the rights of justices and judges to a refund when a qualified domestic relations order (QDRO) has been filed. Adds language that protects JRS benefits from any voluntary or involuntary garnishment or assignment, with the exception of a Qualified Domestic Relations Order (QDRO) or a Medicaid trust. It also allows the retirement system to make payments to Individual Retirement Accounts. Federal law now requires that the retirement system make direct distributions to the former spouse and to other qualified plans. This change will bring the JRS into compliance with federal law. The parallels are sections 14 (TRS), 47 (PERS) and 61 (EPORS).

This section also allows a retired member to request a deduction from their benefit check to pay membership dues for a nonprofit retirement organization whose membership is limited to members and beneficiaries of a state retirement system. The parallels are sections 14 (TRS) and 47 (PERS).

*Reason: Consistency with PERS and TRS.*

\* **Section 26.** This section adds language authorizing the division's long-standing practice of deducting retiree insurance premiums (medical, dental, vision, audio, and long-term care) from JRS retirement checks. The parallels are sections 12 (TRS) and 51 (PERS).

*Reason: Codifies existing practice.*

\* **Section 27.** Amends JRS language to clarify that a former spouse under a Qualified Domestic Relations Order (QDRO) has the right to the contribution and interest account of a justice or judge. Current language limits the former spouse to the benefits payable. The parallels are sections 16 and 24 (TRS), 57 and 61 (PERS).

*Reason: Consistency with PERS and TRS.*

\* **Section 28.** Adds language paralleling that in the other retirement systems defining the rights of National Guard Naval Militia Retirement System (NGNMRS) members to a refund when a Qualified Domestic Relations Order (QDRO) has been filed. Adds language that protects NGNMRS benefits from any voluntary or involuntary garnishment or assignment, with the exception of a (QDRO) or a Medicaid trust. It also allows the retirement system to make payments to Individual Retirement Accounts. Federal law now requires that the retirement system make direct distributions to a former spouse and to other qualified plans. This change will bring the NGNMRS into compliance with federal law. The EPORS parallel is section 61.

*Reason: Consistency with PERS and TRS.*

\* **Section 29.** Adds language specifically authorizing self-insurance of retiree medical, dental, vision, audio, and long-term care plans. This authorization applies to PERS, TRS, JRS and EPORS.

*Reason: Codifies practice and clarifies current statute.*

\* **Section 30.** This section makes PERS board membership separate from the Personnel Board. Currently the three appointed members on the PERS Board serve by virtue of their appointment to the Personnel Board. This would make PERS Board appointment separate. Rationale: the PERS Board meets almost monthly to hear disability appeals and has other broad responsibilities. The level of activity has risen to the point where separate appointment is appropriate.

*Reason: Board request.*

\* **Section 31.** Adds language to clarify how the winner in a PERS board election is determined. Current language uses the term "majority." A majority of votes cast means the winner must receive greater than 50% of the cast votes. This is virtually impossible since a PERS board election usually draws ten or more candidates. The use of the term "majority" virtually assures a runoff election, therefore doubling the cost of the election process. With this change the winner is the person who receives the most votes. If two seats are open, then the top two vote getters are elected.

*Reason: Board request and efficiency measure.*

\* **Section 32.** Two physicians sit on the TRS and PERS boards when medical disability appeals are heard. The current statute requires the Governor to appoint two physicians from each of the four judicial districts in the state. The statute goes on to require that the physicians residing in the locality of the appeal hearing are first to be called to serve. Practically speaking, the Governor has had a very difficult time recruiting physician board members. This change would simplify the appointment process by requiring the Governor to appoint two physicians and two alternate physicians to serve on the PERS Board. This amendment also provides that when two

physicians are not available, one physician may satisfy the quorum rules for a medical disability case. There is difficulty in appointing physician members and scheduling meetings to mesh with the schedules of those who have been appointed. Efficiencies and cost savings would follow if but one physician member would satisfy the statute, provided there is a need. The TRS parallel is section 2.

*Reason: Board request and efficiency measure.*

\* **Section 33.** This amendment provides for an honorarium payment to PERS board members consistent with that paid to members of the Alaska State Pension Investment Board (currently \$150/day) and recognizes the significant workload entrusted to board members. This provision requires no general fund money. It is financed by the PERS fund. The TRS parallel is section 3.

*Reason: Board request.*

\* **Section 34.** This section allows the PERS Board to adopt regulations defining a quorum for the conduct of its business. Subsection 12 is added giving the PERS Board authority over setting the contribution surcharge for noncertificated school district employees who elect to have their service calculated using the TRS schedule. This provision was added through Senate Bill 9, which passed last session. This section brings the setting of the contribution surcharge into an open forum. The TRS parallel is section 4.

*Reason: Board request/clarification of legal authority.*

\* **Section 35.** The first part of this section clarifies that the PERS board has the authority to adopt regulations for the conduct of hearings. The second part addresses an inconsistency in statute relating to the issuance of subpoenas, administration of oaths, depositions and affidavits. The board already has similar authority to that addressed in this subsection, but curiously only for hearings concerning waivers of adjustments under AS 39.35.522. This new subsection extends that authority to all board hearings. However, the scope of the authority is limited to the hearing

proceedings themselves, and by its terms does not extend to prehearing discovery. The goal is to ensure that appropriate evidence may be presented at a hearing without complicating proceedings by broadening the scope to prehearing discovery. In addition, this is added to allow the board to appoint hearing officers to hear and decide appeals. This provision would allow (but not necessarily require) the board to appoint hearing officers for these situations. By regulation, the Board could identify the types of appeals it might hear itself and set qualifications for hearing officers. Appellants would always have the option to appeal to the Board, even if a hearing officer has considered their cases.

If the board's vote on an appeal is a tie vote of those members present and voting, the administrator's decision is affirmed; the board, by regulation, shall provide for a method for it to reconsider a decision it has reached. This codifies the current and past practice of the board. Finally, this section adds final decisions of the board may be appealed by an aggrieved party to the superior court. The TRS parallel is section 5.

*Reason: Board request. This provision restates rights that exist as a matter of case law, and also amplifies that a "final" decision by the board is a precondition to further appeal.*

\* **Section 36.** This amendment clarifies a conflict that existed in statute. This clarification places retirement system eligibility of employees, including compensated elected officials, in the control of the employer.

*Reason: Addresses conflict in statute.*

\* **Section 37.** This section eliminates an inequity in current law. Currently, a PERS member who retires early (not under the RIP) and returns to work receives a penalty for their early retirement. On returning to work, the member's early retirement benefit stops. When the member subsequently retires, their early retirement benefit resumes and they receive a second benefit based on their reemployment service. There is no adjustment for the early retirement benefits foregone. This section will authorize the

division to make an actuarial adjustment to make the member whole. This same inequity would be corrected for level income option benefit recipients who return to work before age 65. It is anticipated that this section will have no financial impact to the TRS fund. The TRS parallel is section 6.

*Reason: Addresses inequity in current law and member request.*

\* **Section 38.** This amendment removes the irrevocability of election by a noncertificated school district employee under authority of SB 9, which passed last legislative session.

*Reason: Clarification of SB 9, which passed the last legislative session.*

\* **Section 39.** This amendment removes the irrevocability of an election by a noncertificated school district employee under authority of SB 9, which passed last legislative session. Revocation would only be allowed when a person changes their work status from seasonal to full year employment (and vice versa).

*Reason: Clarification of SB 9, which passed the last legislative session.*

\* **Section 40.** Adds a new section that sets out the conditions under which a qualified employee of the State of Alaska may make an election once they have passed the initial opportunity at hiring.

*Reason: Clarification of SB 9, which passed the last legislative session.*

\* **Section 41.** This amended to remove the irrevocability of election as this does not consider those instances when a qualified employee of a school district, regional educational attendance area or other qualified employer may change their work status from seasonal to full year employment.

*Reason: Clarification of SB 9, which passed the last legislative session.*

\* **Section 42.** Adds a new section that sets out the conditions under which a qualified employee of a school district, regional educational attendance area or other qualified employer may make an election once they have passed the initial opportunity at hiring.

*Reason: Clarification of SB 9, which passed the last legislative session.*

\* **Section 43.** This amends a section of the PERS statute requiring, unless there are extraordinary circumstances, a member to file a nonoccupational disability application within 90 days after the member terminated employment. The TRS parallel is section 10.

*Reason: Establishes consistency between PERS and TRS disability requirements.*

\* **Section 44.** The PERS statute says that an occupational disability benefit stops when a member has recovered from a disability. This section adds language to clarify that a member is considered to have recovered from a disability if the member is reemployed and is earning at least 75% of the member's pre-disability compensation (the calculation includes an inflation adjustment). The TRS parallel is section 9.

*Reason: Codifies current practice.*

\* **Section 45.** This adds a subsection to the PERS statute requiring, unless there are extraordinary circumstances, a member must file an occupational disability application within six months of the date the member's disability began or 90 days after the member terminated employment (whichever is later). The TRS parallel is section 10.

*Reason: Establishes consistency between PERS and TRS disability requirements.*

\* **Section 46.** The PERS statute says that a nonoccupational disability benefit stops when a member has recovered from a disability. This section adds language to clarify that a member is considered to have recovered from a disability if the member is reemployed and is earning at least 75% of the member's pre-disability compensation (the calculation includes an inflation adjustment). The TRS parallel is section 9.

*Reason: Codifies current practice.*

\* **Section 47.** Clarifies language regarding the "level income option" that was repealed effective July 1, 1996. This section simply recognizes that people hired before that date have a right to the level income option.

*Reason: State Constitution requirement.*

\* **Section 48.** This provision would specifically recognize the role of the PERS board in advising on ad hoc post retirement pension adjustments. The TRS parallel is section 11.

*Reason: Codifies practice.*

\* **Section 49.** Amends PERS language to clarify that an alternate payee under a qualified domestic relations order (QDRO) has a right to the contribution account of a member, not just any benefit payment. TRS parallel is Section 15.

*Reason: This clarifies and simplifies QDRO procedures.*

\* **Section 50.** Adds language that allows the PERS to pay a lump sum distribution directly to an Individual Retirement Account - IRA. Also authorizes a retired member to request a deduction from their benefit check to pay membership dues for a nonprofit retirement organization whose membership is limited to members and beneficiaries of a state retirement system. The parallels are sections 14 (TRS), 21 (JRS), 24 (NGNMRS) and 61 (EPORS).

*Reason: Simplifies procedures for members.*

\* **Section 51.** Removes requirement that the PERS board must rule on a waiver of adjustment appeal within 120 days of its receipt. The purpose is to have a consistent process for all appeals. TRS parallel is Section 13.

*Reason: Board request to increase flexibility to appellants and the PERS.*

\* **Section 52.** This repeals language no longer needed with the additions to AS 39.35.077. Makes the hearing process consistent for all types of hearing. This supports section 31.

*Reason: The purpose is to have a consistent process for all appeals.*

\* **Section 53.** This repeals language no longer needed with the additions to AS 39.35.077. Makes the hearing process consistent for all types of hearing. This supports section 31.

*Reason: The purpose is to have a consistent process for all appeals.*

\* **Section 54.** This section adds language in PERS authorizing the division's long-standing practice of deducting retiree insurance premiums (medical, dental, vision, audio, and long-term care) from retirement checks. The parallels are sections 12 (TRS) and 22 (JRS).

*Reason: Codifies practice.*

\***Section 55.** This amendment protects PERS employers from costs arising from requests by employee groups to change their retirement system coverage.

*Reason: System efficiency.*

\***Section 56.** This section updates PERS statutes relating to fraud, making such actions class A misdemeanors. TRS parallel is Section 17

*Reason: Clarification of the law.*

**\*Section 57.** This section clarifies the purposes of Senate Bill 9, enacted during the 1999 legislative session. Under SB9, a person can elect to receive a year of service credit for working at least 172 days in a school year. This amendment clarifies calculation of average monthly compensation for this group.

*Reason: Legal clarification.*

**\* Section 58.** Adds language in PERS that defines a compensation limit for pension plan purposes for all members first hired on or after July 1, 1996. All members hired after that date must follow the limitations set by Section 401(a)(17) of the IRS code (initially set at \$150,000). The parallels are sections 15 (TRS) and 19 (JRS).

*Reason: Compliance with federal law.*

**\* Section 59.** Clarifies that the income and interest earned by the PERS fund belong to the fund. Codifies the practice in place since PERS was established in the 1960s and the trust requirements of the retirement fund. The TRS parallel is section 17.

*Reason: Codifies practice.*

**\* Section 60.** Amends the PERS definition of QDRO to clarify that a former spouse has a right to the contribution account of a member. Current language limits the former spouse to the benefit payable. The parallels are sections 16 (TRS), 23 (JRS), 24 (NGNMRS) and 61 (EPORS).

*Reason: Addresses legal inconsistency.*

**\* Section 61.** Both the PERS and the TRS statutes require appointment of physician board members to hear disability appeals. Due to the disclosure requirements of AS 39.50 (especially disclosure of individual patients), the division and the Governor's Office have had great difficulty recruiting physicians to board appointment. This would amend the law to remove physicians appointed to the PERS and TRS boards from the definition of public official under AS 39.50.

*Reason: Conflict with patient confidentiality.*

\* **Section 62.** Repeals sections relating to PERS board hearings that are no longer necessary with the addition of AS 39.35.077 in Section 31.

*Reason: Addresses statutory consistency.*

\***Section 63.** Allows an EPORS member to receive a refund of any principle or interest paid on prior indebtedness. Also grants EPORS members the right to repay an indebtedness at any time up to the time of retirement. This language makes EPORS rules consistent with other state retirement systems. The TRS parallel is section 20.

*Reason: Makes EPORS statute consistent with PERS and TRS.*

\***Section 64.** Places qualified domestic relations order (QDRO) language in EPORS which is equivalent to that contained in PERS and TRS statutes. Also creates the mechanism for members to transfer their contribution account to another qualified plan or IRA. The parallels are sections 14 and 16 (TRS), 21 and 23 (JRS), 24 (NGNMRS), 47 and 57 (PERS).

*Reason: Makes EPORS statute consistent with PERS and TRS.*

\* **Section 65.** Parallels Section 26, which separates the PERS Board from the Personnel Board. Addresses length of initial appointment of PERS Board appointees.

*Reason: Ensures continuity of membership on the PERS Board.*

January 31, 2000

HOUSE BILL NO.  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIRST LEGISLATURE - FIRST SESSION  
SECTIONAL ANALYSIS  
BY REPRESENTATIVE HUDSON

A BILL  
FOR AN ACT ENTITLED

**"An Act relating to..."**

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

\* **Section 1.** This section exempts member records, including retiree records, under the Public Records Act, thereby making member name, address, and other information confidential. The Division of Retirement and Benefits' regulations 02 AAC 35.860 and 02 AAC 36.820 making member records confidential was struck down by the Alaska Superior Court (on the grounds that we needed a specific exemption under the Public Records Act). This change would, once again, protect member records. In addition, this section limits release of member records only under specific, authorized circumstances.

*Reason: Necessary due to Court action.*

\* **Section 2.** Two physicians sit on the TRS and PERS boards when medical disability appeals are heard. The current statute requires the Governor to appoint two physicians from each of the four judicial districts in the state. The statute goes on to require that the physicians residing in the locality of the appeal hearing are first to be called to serve. Practically speaking, the Governor has had a very difficult time recruiting physician board members. This change would simplify the appointment process by requiring the Governor to appoint two physicians and two alternate physicians to serve on the TRS Board. This amendment also provides that when two physicians are not available, one physician may satisfy the quorum rules for a medical disability case.

There is difficulty in appointing physician members and scheduling meetings to mesh with the schedules of those who have been appointed. Efficiencies and cost savings would follow if but one physician member would satisfy the statute, provided there is a need. The PERS parallel is section 28.

*Reason: Board recommendation for efficiency.*

\* **Section 3.** This amendment would provide for an honorarium payment to TRS Board members consistent with that paid to members of the Alaska State Pension Investment Board (currently \$150/day) recognizing the significant workload and responsibility entrusted to board members. This provision requires no general fund money. It is financed by the TRS fund. The PERS parallel is section 29.

*Reason: Board request.*

\* **Section 4.** This allows the TRS board to adopt regulations defining a quorum for the conduct of its business. The PERS parallel is section 30.

*Reason: Board efficiency.*

\* **Section 5.** The first part of this section clarifies that the TRS board has the authority to adopt regulations for the conduct of hearings. The second part addresses an inconsistency in statute relating to the issuance of subpoenas, administration of oaths, depositions and affidavits. The board already has similar authority to that addressed in this subsection, but curiously only for hearings concerning waivers of adjustments under AS 14.25.175. This new subsection extends that authority to all board hearings. However, the scope of the authority is limited to the hearing proceedings themselves, and by its terms does not extend to prehearing discovery. The goal is to ensure that appropriate evidence may be presented at a hearing without complicating proceedings by broadening the scope to prehearing discovery. In addition, the board would be allowed to appoint hearing officers to hear and decide appeals. This provision would allow (but not necessarily require) the board to appoint hearing officers for these situations. By regulation, the Board could identify the types of appeals it might hear

itself and set qualifications for hearing officers. Appellants would always have the option to appeal to the Board, even if a hearing officer has considered their cases.

Subsection (c) adds that if the board's vote on an appeal under this section is a tie vote, the administrator's decision is affirmed; the board, by regulation, shall provide for a method for it to reconsider a decision it has reached. This codifies the current practice of the board.

Subsection (d) allows an aggrieved person to appeal a final administrative decision of the TRS board to the superior court. This provision restates rights that exist as a matter of case law, and also amplifies that a "final" decision by the board is a precondition to further appeal. The PERS parallel is section 31.

*Reason: Board recommendation for efficiency and to reduce costs associated with appeals. This provision tracks a sensible provision now applicable only to waivers of adjustment. It clarifies what has been practice and policy.*

\* **Section 6.** This section eliminates an inequity in current law. Under the current law, a TRS member who retires early (not under the RIP) and returns to work receives a penalty for their early retirement. On returning to work, the member's early retirement benefit stops. When the member subsequently retires, their early retirement benefit resumes and they receive a second benefit based on their reemployment service. There is no adjustment for the early retirement benefits foregone. This section will authorize the division to make an actuarial adjustment to make the member whole. It is anticipated that this section will have no financial impact to the TRS fund. The PERS parallel is section 33.

*Reason: Member request to address inequity.*

\* **Section 7.** This section is amended based on the long-standing policy that the eight year vesting requirement in TRS must be met with at least five years of membership service with the balance made up of Alaska BIA service. The current statute requires a person to have at least three years of BIA service for that service to apply to vesting.

*Reason: Clarifies existing practice.*

\* **Section 8.** The TRS statute allows a disabilitant to receive an additional 10 percent for each dependent child. It does not clearly state 10 percent of what. This section clarifies the division's long-standing interpretation that the dependent child benefit is 10 percent of the member's base salary immediately before becoming disabled. This section reflects and clarifies the system's practice to adjust only the base disability benefit for automatic and ad hoc adjustments.

*Reason: Clarifies existing practice*

\* **Section 9.** The TRS statute says that disability benefits stop when a member has recovered from their disability. This section adds language to clarify that a member is considered to have recovered from a disability if the member is reemployed and is earning at least 75% of the member's pre- disability compensation (the calculation includes an inflation adjustment). The PERS parallels are sections 41 and 43.

*Reason: Clarifies existing practice.*

**Section 10.** This adds a section to the TRS statute requiring, unless there are extraordinary circumstances, a member to file a disability application within six months of the date the member's disability began or 90 days after the member terminated employment (whichever is later). The change will make the PERS and TRS filing requirements the same. The PERS parallels are sections 40 and 42.

*Reason: Creates consistency between PERS and TRS systems.*

\* **Section 11.** This provision would specifically recognize the role of the TRS board in advising on ad hoc post retirement pension adjustments. The PERS parallel is section 45.

*Reason: Board request and expression of current practice.*

\* **Section 12.** This section adds language authorizing the division's long-standing practice of deducting retiree insurance premiums (medical, dental, vision, audio, and long-term care) from retirement checks. The JRS parallel is Section 22 and the PERS parallel is Section 51

*Reason: Not addressed in current statute.*

\* **Section 13.** Amends language to clarify that an alternate payee has a right to the contribution account of a member, not just any benefit payment. This will add significant convenience and protection to members and alternate payees. The parallels are sections 23 and 24 (JRS), 46 and 61 (PERS).

*Reason: Efficiency and member request.*

\* **Section 14.** Adds language that allows the retirement system to pay a lump sum distribution directly to another plan or to an Individual Retirement Account - IRA. Without this, TRS must pay the contribution account balance to the former member, who must then write a check to the IRA custodian. The parallels are sections 21 and 24 (JRS), 47 (PERS) and 61 (EPORS).

This section also allows a retired member to request a deduction from their benefit check to pay membership dues for a nonprofit retirement organization whose membership is limited to members and beneficiaries of a state retirement system. The parallels are sections 21 (JRS) and 47 (PERS).

*Reason: Efficiency and member request.*

**Section 15.** Adds language that sets an upper compensation limit for pension plan purposes for all members first hired on or after July 1, 1996. For this purpose, pension plan employee contributions cannot exceed the limits set out in federal regulations.

All members hired after that date must follow the limitations set by Section 401(a)(17) of the IRS code (initially set at \$150,000). This section is necessary for the system to comply with federal law. The parallels are sections 19 (JRS) and 55 (PERS).

*Reason: Required to comply with federal law.*

\* **Section 16.** Companion to Section 14. Amends the TRS Qualified Domestic Relations Order (QDRO) definition to clarify that a former spouse has a right to the contribution account of a member. Current language limits the former spouse to the benefits payable. The parallels are sections 23 and 24 (JRS), 57 and 61 (PERS).

*Reason: Efficiency and member request.*

\* **Section 17.** Clarifies that the income and interest earned by the TRS fund belong to the fund. Codifies the practice in place since TRS was established in the 1950s and the trust requirements of the retirement fund. The PERS parallel is section 56.

*Reason: Codifies practice.*

\* **Section 18.** The current definition of teacher in TRS is very broad in that it includes the "commissioner of education and all supervisory employees in the Department of Education." This section changes the definition to make any Department of Education member subject to the same definition as all other members; namely, certification and being in a position requiring a teaching or administrator's certificate as a condition of employment.

*Reason: Codifies practice.*

\* **Section 19.** Adds language that defines a compensation limit for pension plan purposes for all Judicial Retirement System (JRS) members first hired on or after July 1, 1996. For this purpose, pension plan employee contributions cannot exceed the limits set out in federal regulations. All justices and judges hired after that date must follow the limitations set by Section 401(a)(17) of the IRS code (initially set at \$150,000). The parallels are sections 15 (TRS) and 55 (PERS).

*Reason: Required to comply with federal law*

\* **Section 20.** Adds language to allow judges to receive a refund of any principle and interest paid on prior indebtedness. Removes the one-year limitation to repay any prior refunds and allows the judge to make any repayments up to the time of retirement.

The parallel is section 60 (EPORS).

*Reason: Consistency with PERS and TRS.*

\* **Section 21.** Adds language paralleling that in the other retirement systems defining the rights of justices and judges to a refund when a qualified domestic relations order (QDRO) has been filed. Adds language that protects JRS benefits from any voluntary or involuntary garnishment or assignment, with the exception of a Qualified Domestic Relations Order (QDRO) or a Medicaid trust. It also allows the retirement system to make payments to Individual Retirement Accounts. Federal law now requires that the retirement system make direct distributions to the former spouse and to other qualified plans. This change will bring the JRS into compliance with federal law. The parallels are sections 14 (TRS), 47 (PERS) and 61 (EPORS).

This section also allows a retired member to request a deduction from their benefit check to pay membership dues for a nonprofit retirement organization whose membership is limited to members and beneficiaries of a state retirement system. The parallels are sections 14 (TRS) and 47 (PERS).

*Reason: Consistency with PERS and TRS.*

\* **Section 22.** This section adds language authorizing the division's long-standing practice of deducting retiree insurance premiums (medical, dental, vision, audio, and long-term care) from JRS retirement checks. The parallels are sections 12 (TRS) and 51 (PERS).

*Reason: Codifies existing practice.*

\* **Section 23.** Amends language to clarify that a former spouse under a Qualified Domestic Relations Order (QDRO) has the right to the contribution and interest account of a justice or judge. Current language limits the former spouse to the benefits payable. The parallels are sections 16 and 24 (TRS), 57 and 61 (PERS).

*Reason: Consistency with PERS and TRS.*

\* **Section 24.** Adds language paralleling that in the other retirement systems defining the rights of National Guard Naval Militia Retirement System (NGNMRS) members to a refund when a Qualified Domestic Relations Order (QDRO) has been filed. Adds language that protects NGNMRS benefits from any voluntary or involuntary garnishment or assignment, with the exception of a (QDRO) or a Medicaid trust. It also allows the retirement system to make payments to Individual Retirement Accounts. Federal law now requires that the retirement system make direct distributions to a former spouse and to other qualified plans. This change will bring the NGNMRS into compliance with federal law. The EPORS parallel is section 61.

*Reason: Consistency with PERS and TRS.*

\* **Section 25.** Adds language specifically authorizing self-insurance of retiree medical, dental, vision, audio, and long-term care plans. This authorization applies to PERS, TRS, JRS and EPORS.

*Reason: Codifies practice and clarifies current statute.*

\* **Section 26.** This section makes PERS board membership separate from the Personnel Board. Currently the three appointed members on the PERS Board serve by virtue of their appointment to the Personnel Board. This would make PERS Board appointment separate. Rationale: the PERS Board meets almost monthly to hear disability appeals and has other broad responsibilities. The level of activity has risen to the point where separate appointment is appropriate.

*Reason: Board request.*

\* **Section 27.** Adds language to clarify how the winner in a PERS board election is determined. Current language uses the term "majority." A majority of votes cast means the winner must receive greater than 50% of the cast votes. This is virtually impossible since a PERS board election usually draws ten or more candidates. The use of the term "majority" virtually assures a runoff election, therefore doubling the cost of the election process. With this change the winner is the person who receives the most votes. If two seats are open, then the top two vote getters are elected.

*Reason: Board request and efficiency measure.*

\* **Section 28.** Two physicians sit on the TRS and PERS boards when medical disability appeals are heard. The current statute requires the Governor to appoint two physicians from each of the four judicial districts in the state. The statute goes on to require that the physicians residing in the locality of the appeal hearing are first to be called to serve. Practically speaking, the Governor has had a very difficult time recruiting physician board members. This change would simplify the appointment process by requiring the Governor to appoint two physicians and two alternate physicians to serve on the PERS Board. This amendment also provides that when two physicians are not available, one physician may satisfy the quorum rules for a medical disability case. There is difficulty in appointing physician members and scheduling meetings to mesh with the schedules of those who have been appointed. Efficiencies and cost savings would follow if but one physician member would satisfy the statute, provided there is a need. The TRS parallel is section 2.

*Reason: Board request and efficiency measure.*

\* **Section 29.** This amendment provides for an honorarium payment to PERS board members consistent with that paid to members of the Alaska State Pension Investment Board (currently \$150/day) and recognizes the significant workload entrusted to board members. This provision requires no general fund money. It is financed by the PERS fund. The TRS parallel is section 3.

*Reason: Board request.*

\* **Section 30.** This section allows the PERS Board to adopt regulations defining a quorum for the conduct of its business. Subsection 12 is added giving the PERS Board authority over setting the contribution surcharge for noncertificated school district employees who elect to have their service calculated using the TRS schedule. This provision was added through Senate Bill 9, which passed last session. This section brings the setting of the contribution surcharge into an open forum. The TRS parallel is section 4.

*Reason: Board request/clarification of legal authority.*

\* **Section 31.** The first part of this section clarifies that the PERS board has the authority to adopt regulations for the conduct of hearings. The second part addresses an inconsistency in statute relating to the issuance of subpoenas, administration of oaths, depositions and affidavits. The board already has similar authority to that addressed in this subsection, but curiously only for hearings concerning waivers of adjustments under AS 39.35.522. This new subsection extends that authority to all board hearings. However, the scope of the authority is limited to the hearing proceedings themselves, and by its terms does not extend to prehearing discovery. The goal is to ensure that appropriate evidence may be presented at a hearing without complicating proceedings by broadening the scope to prehearing discovery. In addition, this is added to allow the board to appoint hearing officers to hear and decide appeals. This provision would allow (but not necessarily require) the board to appoint hearing officers for these situations. By regulation, the Board could identify the types of appeals it might hear itself and set qualifications for hearing officers. Appellants would always have the option to appeal to the Board, even if a hearing officer has considered their cases.

If the board's vote on an appeal is a tie vote of those members present and voting, the administrator's decision is affirmed; the board, by regulation, shall provide for a method for it to reconsider a decision it has reached. This codifies the current and past

practice of the board. Finally, this section adds final decisions of the board may be appealed by an aggrieved party to the superior court. The TRS parallel is section 5.  
*Reason: Board request. This provision restates rights that exist as a matter of case law, and also amplifies that a "final" decision by the board is a precondition to further appeal.*

\* **Section 32.** This amendment clarifies a conflict that existed in statute. This clarification places retirement system eligibility of employees, including compensated elected officials, in the control of the employer.

*Reason: Addresses conflict in statute.*

\* **Section 33.** This section eliminates an inequity in current law. Currently, a PERS member who retires early (not under the RIP) and returns to work receives a penalty for their early retirement. On returning to work, the member's early retirement benefit stops. When the member subsequently retires, their early retirement benefit resumes and they receive a second benefit based on their reemployment service. There is no adjustment for the early retirement benefits foregone. This section will authorize the division to make an actuarial adjustment to make the member whole. This same inequity would be corrected for level income option benefit recipients who return to work before age 65. It is anticipated that this section will have no financial impact to the TRS fund. The TRS parallel is section 6.

*Reason: Addresses inequity in current law and member request.*

\* **Section 34.** This amendment removes the irrevocability of election by a noncertificated school district employee under authority of SB 9, which passed last legislative session.

*Reason: Clarification of SB 9, which passed the last legislative session.*

\* **Section 35.** This amendment removes the irrevocability of an election by a noncertificated school district employee under authority of SB 9, which passed last

legislative session. Revocation would only be allowed when a person changes their work status from seasonal to full year employment (and vice versa).

*Reason: Clarification of SB 9, which passed the last legislative session.*

\* **Section 36.** Adds a new section that sets out the conditions under which a qualified employee of the State of Alaska may make an election once they have passed the initial opportunity at hiring.

*Reason: Clarification of SB 9, which passed the last legislative session.*

\* **Section 37.** This amended to remove the irrevocability of election as this does not consider those instances when a qualified employee of a school district, regional educational attendance area or other qualified employer may change their work status from seasonal to full year employment.

*Reason: Clarification of SB 9, which passed the last legislative session.*

\* **Section 38.** Adds a new section that sets out the conditions under which a qualified employee of a school district, regional educational attendance area or other qualified employer may make an election once they have passed the initial opportunity at hiring.

*Reason: Clarification of SB 9, which passed the last legislative session.*

\***Section 39.** This allows a former member whose member contribution account has been refunded as a result of a tax levy to reinstate their contributions without first becoming reemployed in PERS.

*Reason: Addresses inequity in current law.*

\* **Section 40.** This amends a section of the PERS statute requiring, unless there are extraordinary circumstances, a member to file a nonoccupational disability application within 90 days after the member terminated employment. The TRS parallel is section 10.

*Reason: Establishes consistency between PERS and TRS disability requirements.*

\* **Section 41.** The PERS statute says that an occupational disability benefit stops when a member has recovered from a disability. This section adds language to clarify that a member is considered to have recovered from a disability if the member is reemployed and is earning at least 75% of the member's pre-disability compensation (the calculation includes an inflation adjustment). The TRS parallel is section 9.

*Reason: Codifies current practice.*

\***Section 42.** This adds a subsection to the PERS statute requiring, unless there are extraordinary circumstances, a member must file an occupational disability application within six months of the date the member's disability began or 90 days after the member terminated employment (whichever is later). The TRS parallel is section 10.

*Reason: Establishes consistency between PERS and TRS disability requirements.*

\* **Section 43.** The PERS statute says that a nonoccupational disability benefit stops when a member has recovered from a disability. This section adds language to clarify that a member is considered to have recovered from a disability if the member is reemployed and is earning at least 75% of the member's pre-disability compensation (the calculation includes an inflation adjustment). The TRS parallel is section 9.

*Reason: Codifies current practice.*

\* **Section 44.** Clarifies language regarding the "level income option" that was repealed effective July 1, 1996. This section simply recognizes that people hired before that date have a right to the level income option.

*Reason: State Constitution requirement.*

\* **Section 45.** This provision would specifically recognize the role of the PERS board in advising on ad hoc post retirement pension adjustments. The TRS parallel is section 11.

*Reason: Codifies practice.*

\* **Section 46.** Amends PERS language to clarify that an alternate payee under a qualified domestic relations order (QDRO) has a right to the contribution account of a member, not just any benefit payment.

*Reason: This clarifies and simplifies QDRO procedures.*

\* **Section 47.** Adds language that allows the PERS to pay a lump sum distribution directly to an Individual Retirement Account - IRA. Also authorizes a retired member to request a deduction from their benefit check to pay membership dues for a nonprofit retirement organization whose membership is limited to members and beneficiaries of a state retirement system. The parallels are sections 14 (TRS), 21 (JRS), 24 (NGNMRS) and 61 (EPORS).

*Reason: Simplifies procedures for members.*

\* **Section 48.** Removes requirement that the PERS board must rule on a waiver of adjustment appeal within 120 days of its receipt. The purpose is to have a consistent process for all appeals.

*Reason: Board request to increase flexibility to appellants and the PERS.*

\* **Section 49.** This repeals language no longer needed with the additions to AS 39.35.077. Makes the hearing process consistent for all types of hearing. This supports section 31.

*Reason: The purpose is to have a consistent process for all appeals.*

\* **Section 50.** This repeals language no longer needed with the additions to AS 39.35.077. Makes the hearing process consistent for all types of hearing. This supports section 31.

*Reason: The purpose is to have a consistent process for all appeals.*

\* **Section 51.** This section adds language in PERS authorizing the division's long-standing practice of deducting retiree insurance premiums (medical, dental, vision, audio, and long-term care) from retirement checks. The parallels are sections 12 (TRS) and 22 (JRS).

*Reason: Codifies practice.*

\***Section 52.** This amendment protects PERS employers from costs arising from requests by employee groups to change their retirement system coverage.

*Reason: System efficiency.*

\***Section 53.** This section updates PERS statutes relating to fraud, making such actions class A misdemeanors.

*Reason: Clarification of the law.*

\***Section 54.** This section clarifies the purposes of Senate Bill 9, enacted during the 1999 legislative session. Under SB9, a person can elect to receive a year of service credit for working at least 172 days in a school year. This amendment clarifies calculation of average monthly compensation for this group.

*Reason: Legal clarification.*

\* **Section 55.** Adds language in PERS that defines a compensation limit for pension plan purposes for all members first hired on or after July 1, 1996. All members hired after that date must follow the limitations set by Section 401(a)(17) of the IRS code (initially set at \$150,000). The parallels are sections 15 (TRS) and 19 (JRS).

*Reason: Compliance with federal law.*

\* **Section 56.** Clarifies that the income and interest earned by the PERS fund belong to the fund. Codifies the practice in place since PERS was established in the 1960s and the trust requirements of the retirement fund. The TRS parallel is section 17.

*Reason: Codifies practice.*

\* **Section 57.** Amends the PERS definition of QDRO to clarify that a former spouse has a right to the contribution account of a member. Current language limits the former spouse to the benefit payable. The parallels are sections 16 (TRS), 23 (JRS), 24 (NGNMRS) and 61 (EPORS).

*Reason: Addresses legal inconsistency.*

\* **Section 58.** Both the PERS and the TRS statutes require appointment of physician board members to hear disability appeals. Due to the disclosure requirements of AS 39.50 (especially disclosure of individual patients), the division and the Governor's Office have had great difficulty recruiting physicians to board appointment. This would amend the law to remove physicians appointed to the PERS and TRS boards from the definition of public official under AS 39.50.

*Reason: Conflict with patient confidentiality.*

\* **Section 59.** Repeals sections relating to PERS board hearings that are no longer necessary with the addition of AS 39.35.077 in Section 31.

*Reason: Addresses statutory consistency.*

\* **Section 60.** Allows an EPORS member to receive a refund of any principle or interest paid on prior indebtedness. Also grants EPORS members the right to repay an indebtedness at any time up to the time of retirement. This language makes EPORS rules consistent with other state retirement systems. The TRS parallel is section 20.

*Reason: Makes EPORS statute consistent with PERS and TRS.*

**\*Section 61.** Places qualified domestic relations order (QDRO) language in EPORS which is equivalent to that contained in PERS and TRS statutes. Also creates the mechanism for members to transfer their contribution account to another qualified plan or IRA. The parallels are sections 14 and 16 (TRS), 21 and 23 (JRS), 24 (NGNMRS), 47 and 57 (PERS).

*Reason: Makes EPORS statute consistent with PERS and TRS.*

**\* Section 62.** Parallels Section 26, which separates the PERS Board from the Personnel Board. Addresses length of initial appointment of PERS Board appointees.

*Reason: Ensures continuity of membership on the PERS Board.*

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. HB 335

Revision Date 2/14/00 Dept. Affected Administration  
 Title An Act relating to information contained in BRU Centralized Administrative Services  
retirement systems... Component Retirement and Benefits  
 Sponsor Representative Hudson  
 Requester (H) State Affairs Component No. 64

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel	29.2	29.2	29.2	29.2	29.2	29.2
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>29.2</b>	<b>29.2</b>	<b>29.2</b>	<b>29.2</b>	<b>29.2</b>	<b>29.2</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (PERS/TRS)	29.2	29.2	29.2	29.2	29.2	29.2
<b>TOTAL</b>	<b>29.2</b>	<b>29.2</b>	<b>29.2</b>	<b>29.2</b>	<b>29.2</b>	<b>29.2</b>

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached

Prepared by: Guy Bell Phone 465-4471  
 Division Retirement and Benefits Date/Time 2/14/00 8:42 AM  
 Approved by Commissioner Robert Poe Jr. Date 2/14/00 2/15/00  
 Agency Department of Administration

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## HB335 Fiscal Note Analysis

Section 3 (Teachers' Retirement System) and Section 29 (Public Employees' Retirement System) are the only sections in this bill which have any fiscal impact on the retirement funds. These sections would provide an honorarium payment to board members consistent with that paid to members of the Alaska State Pension Investment Board (currently \$150 per day).

For the purposes of this fiscal note we have assumed that the PERS Board will meet 25 days per year and the TRS Board 14 days per year. Each board has five members. Therefore the fiscal impact is calculated as follows:

PERS Board:	25 days x \$150/day x 5 members =	\$ 18,750
TRS Board:	14 days x \$150/day x 5 members =	<u>10,500</u>
Total Cost:		\$ 29,250

**HB**

**337**

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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 2, 2000

The Honorable Brian Porter  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Porter:

Some state agencies are currently allowed to seek from individuals overdue payments of money due the state through a simple administrative collection of permanent fund dividends. But most state agencies still need to use a time consuming and costly court action to attach an individual's permanent fund dividend. It makes sense for all our state agencies to have access to this "fast track" method of collecting from a person who receives a permanent fund dividend while in arrears with payments lawfully due to the state. This bill I transmit today accomplishes this change in law.

Examples of agencies now able to attach permanent fund dividends with a simple administrative action include the Department of Health and Social Services, for reimbursement of certain court-ordered treatment, and the Alaska Commission on Postsecondary Education for student loans in default.

But the Department of Labor and Workforce Development, for example, must file a small claims court action or seek criminal prosecution to recover overpaid unemployment insurance benefits and fraud penalties. Partly as a result of this cumbersome method, the department estimates the state is owed \$4.5 million in outstanding benefits received by fraudulent means, \$3.6 million in statutory penalties, and \$1.6 million for overpaid benefits. Not only will this bill increase recovery rates, but because these owed benefits are paid by employer taxes, it will reduce employer tax rates within the state.

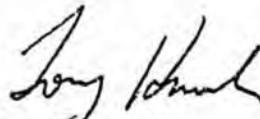
A state agency would not be required to use the new procedures for collection. Any agency that elects to use the new procedures would be required to notify the individual of the claim with a fair opportunity for a hearing at which the individual could contest the

The Honorable Brian Porter  
February 2, 2000  
Page 2

agency's claim to the permanent fund dividend. If a hearing is not requested or the claim is resolved in favor of the state agency, the agency may collect the money from the individual's permanent fund dividend without filing a court action.

Passage of this measure gives state agencies an additional tool to recover money that is lawfully owed to the state under existing state laws.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Knowles". The signature is written in a cursive style with a large initial "T".

Tony Knowles  
Governor

(7)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: February 4, 2000

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 2/22/00

The STATE AFFAIRS Committee considered:

HB 337

HOUSE BILL NO. 337

CLAIMS AGAINST PERM FUND DIVIDENDS

"An Act relating to claims against permanent fund dividends to pay certain amounts owed to state agencies and to fees for processing claims against and assignments of permanent fund dividends; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HR 337 (STA)  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)

fiscal note(s) \_\_\_\_\_

fiscal note(s) DOL

zero fiscal note(s) REV

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Shannette James</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>				✓
<i>Bill Budz</i>	✓			
<i>M. [Signature]</i>		✓		
<i>S. Ogan</i>		✓		

CHAIR'S SIGNATURE *Shannette James*

*Relate fees to permanent fund dividends.*

1-GH2060\G  
Cook  
2/17/00

**CS FOR HOUSE BILL NO. 337(STA)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY THE HOUSE STATE AFFAIRS COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to claims against permanent fund dividends to pay amounts  
2 owed to the Department of Labor and Workforce Development under the Alaska  
3 Employment Security Act and to fees for processing certain claims against  
4 permanent fund dividends; and providing for an effective date."

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

6 \* Section 1. AS 43.23.071 is amended to read:

7       **Sec. 43.23.071. Fees for processing claims and assignments.** The department  
8 shall by regulation adopted under AS 44.62 (Administrative Procedure Act) establish  
9 fees for processing claims on dividends received by the department under  
10 AS 43.23.065, [OR] 43.23.067, or 43.23.072 and for processing assignments of  
11 dividends received by the department under AS 43.23.069(b). The fees shall cover the  
12 administrative expenses of the department associated with the claims and assignments.  
13 Fees shall be deducted from the amount of the dividend remaining after payment of  
14 the portion claimed or assigned, or, if the entire dividend is claimed or assigned, the

1 fees shall be deducted before the dividend is paid to the creditor or assignee.

2 \* Sec. 2. AS 43.23 is amended by adding a new section to read:

3 **Sec. 43.23.072. Claims for amounts owed under the Alaska Employment**  
4 **Security Act.** (a) AS 09.38 does not apply to permanent fund dividends taken by the  
5 Department of Labor and Workforce Development for a claim for payment for money  
6 owed under AS 23.20 (Alaska Employment Security Act). Notwithstanding AS 09.35,  
7 execution on a dividend claimed under this section is accomplished by delivering a  
8 certified claim to the Department of Revenue containing the following information:

9 (1) the name and social security number of the individual whose  
10 dividend is being claimed; if the Department of Labor and Workforce Development  
11 does not have access to the individual's social security number for this purpose, the  
12 department may supply other identification information authorized under regulations  
13 to make a claim under AS 43.23.065;

14 (2) the amount the individual owes on the claim for payment;

15 (3) a statement that

16 (A) the Department of Labor and Workforce Development has  
17 notified the individual that future permanent fund dividends of the individual  
18 will be taken to satisfy the claim for payment;

19 (B) the individual was notified of the right to request a hearing  
20 and allowed at least 30 days after the date of the notice described in (A) of this  
21 paragraph to request the Department of Labor and Workforce Development to  
22 hold a hearing on the claim;

23 (C) the claim for payment has not been contested, or, if  
24 contested, the issue has been resolved in favor of the Department of Labor and  
25 Workforce Development; and

26 (D) if the claim for payment has been contested and resolved  
27 in favor of the Department of Labor and Workforce Development, an appeal  
28 is not pending, the time limit for filing an appeal has expired, or the appeal has  
29 been resolved in favor of the department.

30 (b) If a permanent fund dividend is claimed under (a) of this section, the  
31 Department of Labor and Workforce Development shall, before submitting a claim for

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payment under this section, notify the individual. The notice shall be sent to the mailing address provided in the individual's permanent fund dividend application and must provide the following information:

(1) the amount of the claim for payment;

(2) notice that the permanent fund dividend, or that portion of the permanent fund dividend that does not exceed the amount of the claim for payment, shall be paid to the Department of Labor and Workforce Development in accordance with priorities established in state law;

(3) notice that the individual has a right to request a hearing and has a specific time after the date that the notice is mailed in which to file with the Department of Labor and Workforce Development an objection to paying the claim from the individual's permanent fund dividend.

(c) Except as provided in (d) of this section, AS 44.62.330 - 44.62.630 apply to a hearing requested by an individual under (b) of this section. The hearing

(1) is limited to issues of identity of the individual and whether an amount is still owing in the claim for payment; and

(2) may be conducted telephonically or in writing.

(d) If the Department of Labor and Workforce Development has a notification or hearing procedure established in statute or regulation, the department may instead use that notification and hearing procedure so long as

(1) the procedure provides at least the minimum time for notice specified in (a)(3)(B) of this section for the individual to request a hearing;

(2) the notice includes the statements required by (b) of this section; and

(3) the hearing is limited to the issues specified in (c)(1) of this section.

(e) The Department of Labor and Workforce Development may adopt regulations to implement or interpret this section under AS 44.62 (Administrative Procedure Act).

(f) In a claim for payment under this section, the Department of Labor and Workforce Development may include fines, fees, penalties, overpayments, attorney fees, costs, and other amounts owed the department under other provisions of state law

*omit*  
*am # 1 - passed*  
*[Handwritten signatures]*

L