

12065

SENATE

STATE

AFFAIRS

KENAI, CITY OF	235,223
KETCHIKAN GATEWAY BOROUGH	214,696
KETCHIKAN, CITY OF	400,460
KING COVE, CITY OF	50,001
KLAWOCK, CITY OF	31,917
KODIAK ISLAND BOROUGH	118,047
KODIAK, CITY OF	314,368
KOTZEBUE, CITY OF	169,920
KOYUK, CITY OF	1,664
LAKE AND PENINSULA BOROUGH	19,656
MATANUSKA-SUSITNA BOROUGH	583,491
MEKORYUK, CITY OF	611
MOUNTAIN VILLAGE, CITY OF	1,786
NENANA, CITY OF	12,244
NOME, CITY OF	123,946
NOORWICK, CITY OF	12,352
NORTH POLE, CITY OF	80,525
NORTH SLOPE BOROUGH	2,006,956
NORTHWEST ARCTIC BOROUGH	44,779
PALMER, CITY OF	154,333
PELICAN, CITY OF	7,657
PETERSBURG, CITY OF	206,671
QUINHAGAK, CITY OF	1,920
SAINT PAUL, CITY OF	74,829
SAND POINT, CITY OF	38,396
SAXMAN, CITY OF	5,637
SELDOVIA, CITY OF	2,405
SEWARD, CITY OF	186,026
SITKA, CITY AND BOROUGH OF	439,010
SKAGWAY, CITY OF	89,301
SOLDOTNA, CITY OF	136,756
TANANA, CITY OF	7,302
THORNE BAY, CITY OF	10,435
TOKSOOK BAY, CITY OF	583
UNALAKLEET, CITY OF	11,157
UNALASKA, CITY OF	520,772
VALDEZ, CITY OF	250,819
WASILLA, CITY OF	228,380
WHITTIER, CITY OF	49,904
WRANGELL, CITY OF	132,606
YAKUTAT, CITY AND BOROUGH OF	36,178

APPENDIX 4

[Priority 3]

**Legislative Appropriation to Fund Actuarially
Required Contribution - PERS**

Section _____. Retirement system funding to bring fiscal year 2007 contributions closer to actuarial rate. (a) The sum of \$109,836,677 is appropriated from the general fund to the Department of Administration to reduce the contribution shortfall to the public employees' retirement system resulting from an employers anticipated fiscal year 2007 contribution being less than the fiscal year 2007 rate calculated by the actuary. The Department of Administration shall allocate the appropriation to the public employees' retirement system account of each employer as follows:

ALASKA, STATE OF	66,452,622
ALEUTIANS WEST CRSA	978
ALLAKAKET, CITY OF	4,883
ANCHORAGE PARKING AUTHORITY	21,070
ANCHORAGE SD	3,388,980
ANCHORAGE, MUNICIPALITY OF	14,116,880
BRISTOL BAY BOROUGH	69,577
BRISTOL BAY BOROUGH SD	30,321
CHATHAM SD	42,576
CHUGACH SD	25,258
COPPER RIVER SD	49,787
CORDOVA CITY SD	104,731
CORDOVA COMMUNITY MEDICAL CENTER	37,587
CORDOVA, CITY OF	262,023
CRAIG CITY SD	16,897
CRAIG, CITY OF	28,200
DELTA/GREELY SD	36,430
DENALI BOROUGH	19,581
DENALI BOROUGH SD	67,666
DILLINGHAM CITY SD	17,944
DILLINGHAM, CITY OF	35,336
EGEGIK, CITY OF	11
FAIRBANKS NORTH STAR BOROUGH	243,404
FAIRBANKS NORTH STAR BOROUGH SD	1,274,328
FAIRBANKS, CITY OF	5,938,351
HAINES BOROUGH	67,621
HOMER, CITY OF	444,736
HOONAH CITY SD	3,007
HOONAH, CITY OF	6,636
HUSLIA, CITY OF	5,820
HYDABURG CITY SD	12,806
JUNEAU BOROUGH SD	310,143
JUNEAU, CITY AND BOROUGH OF	2,294,026

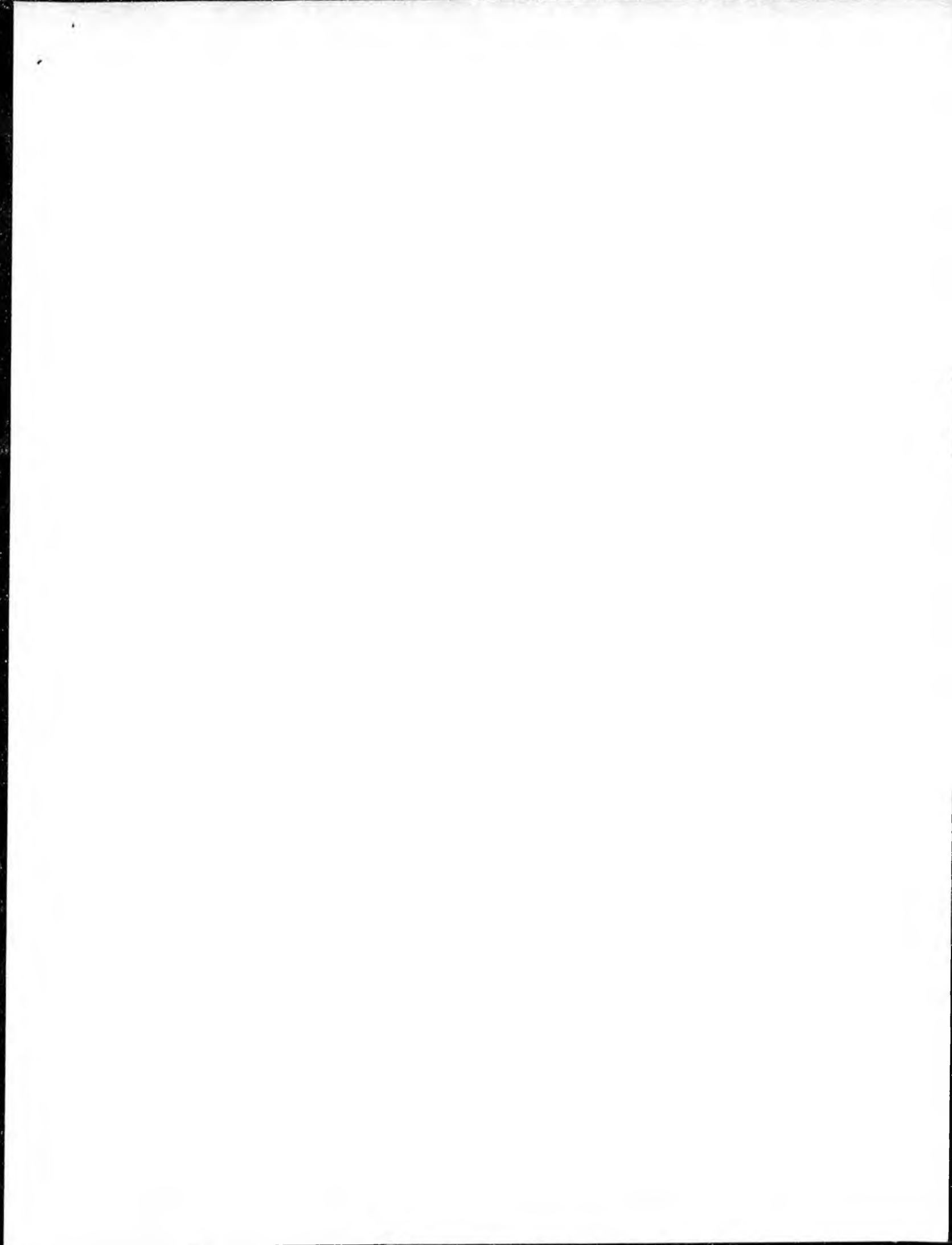
KACHEMAK, CITY OF	5,705
KALTAG, CITY OF	5,135
KENAI PENINSULA BOROUGH	827,562
KENAI PENINSULA BOROUGH SD	1,131,731
KENAI, CITY OF	524,077
KETCHIKAN GATEWAY BOROUGH	210,402
KETCHIKAN GATEWAY BOROUGH SD	125,090
KETCHIKAN, CITY OF	377,233
KING COVE, CITY OF	800
KODIAK ISLAND BOROUGH	420,248
KODIAK ISLAND BOROUGH SD	312,519
KODIAK, CITY OF	733,106
KUSPUK SD	52,049
LAKE AND PENINSULA BOROUGH	7,862
LAKE AND PENINSULA BOROUGH SD	50,153
LOWER YUKON SD	366,532
MATANUSKA-SUSITNA BOROUGH	378,102
MATANUSKA-SUSITNA BOROUGH SD	704,008
NOME, CITY OF	206,246
NORTH PACIFIC FISHERY MGMT COUNCIL	4,038
NORTH POLE, CITY OF	103,877
NORTH SLOPE BOROUGH SD	39,506
NORTHWEST ARCTIC BOROUGH SD	10,554
PALMER, CITY OF	172,544
PELICAN, CITY OF	567
PETERSBURG CITY SD	30,787
PETERSBURG, CITY OF	43,814
SAINT PAUL, CITY OF	5,537
SAND POINT, CITY OF	36,707
SAXMAN, CITY OF	7,982
SEWARD, CITY OF	205,373
SITKA BOROUGH SD	219,700
SITKA COMMUNITY HOSPITAL	69,453
SITKA, CITY AND BOROUGH OF	509,252
SKAGWAY CITY SD	12,046
SOLDOTNA, CITY OF	166,295
SOUTHEAST ISLAND SD	123,765
SOUTHEAST REGIONAL RESOURCE CENTER	29,559
SOUTHWEST REGION SD	31,368
UNALAKLEET, CITY OF	3,325

UNIVERSITY OF ALASKA	4,904,632
VALDEZ CITY SD	300,052
VALDEZ, CITY OF	563,340
WHITTIER, CITY OF	5,489
WRANGELL PUBLIC SD	54,982
WRANGELL, CITY OF	263,355

APPENDIX 5

[Priority 3]

**Legislative Appropriation to Fund Actuarially
Required Contribution - TRS**



Sec. _____ . Retirement system funding to bring fiscal year 2007 contributions closer to actuarial rate. (a) The sum of \$ 98,670,780 is appropriated from the general fund to the Department of Administration to reduce the contribution shortfall to the teachers' retirement system resulting from an employers anticipated fiscal year 2007 contribution being less than the fiscal year 2007 rate calculated by the actuary. The Department of Administration shall allocate the appropriation to the teachers' retirement system account of each employer as follows:

ALASKA DEPARTMENT OF EDUCATION	755,610
ALASKA GATEWAY SD	403,338
ALEUTIAN REGION SD	53,610
ALEUTIANS EAST BOROUGH SD	434,978
ANCHORAGE SD	31,080,150
ANNETTE ISLAND SD	257,550
BERING STRAIT SD	1,764,485
BRISTOL BAY BOROUGH SD	123,319
CHATHAM SD	169,010
CHUGACH SD	161,607
COPPER RIVER SD	404,773
CORDOVA CITY SD	313,449
CRAIG CITY SD	376,667
DELTA/GREELY SD	600,749
DENALI BOROUGH SD	353,802
DILLINGHAM CITY SD	438,140
FAIRBANKS NORTH STAR BOROUGH SD	9,664,455
GALENA CITY SD	704,214
HAINES BOROUGH SD	238,315
HOONAH CITY SD	168,485
HYDABURG CITY SD	117,656
IDITAROD AREA SD	273,013
JUNEAU BOROUGH SD	3,676,927
KAKE CITY SD	119,663
KASHUNAMIUT SD	279,614
KENAI PENINSULA BOROUGH SD	6,136,593
KETCHIKAN GATEWAY BOROUGH SD	1,653,943
KLAWOCK CITY SD	172,363
KODIAK ISLAND BOROUGH SD	2,203,895
KUSPUK SD	422,303
LAKE AND PENINSULA BOROUGH SD	649,593
LOWER KUSKOKWIM SD	3,759,830
LOWER YUKON SD	1,911,109
MATANUSKA-SUSITNA BOROUGH SD	10,161,431

NENANA CITY SD	244,134
NOME CITY SD	514,346
NORTH SLOPE BOROUGH SD	2,331,648
NORTHWEST ARCTIC BOROUGH SD	2,101,730
PELICAN CITY SD	20,744
PETERSBURG CITY SD	450,716
PRIBILOF SD	134,814
SAINT MARY'S SD	126,607
SITKA BOROUGH SD	1,174,120
SKAGWAY CITY SD	117,102
SOUTHEAST ISLAND SD	253,734
SOUTHEAST REGIONAL RESOURCE CENTER	134,813
SOUTHWEST REGION SD	854,893
SPECIAL EDUCATION SERVICE AGENCY	154,318
TANANA SD	51,103
UNALASKA CITY SD	440,981
UNIVERSITY OF ALASKA	6,934,933
VALDEZ CITY SD	704,644
WRANGELL PUBLIC SD	284,908
YAKUTAT SD	123,263
YUKON / KOYUKUK SD	726,339
YUKON FLATS SD	328,945
YUPIIT SD	457,301

Alaska Retirement Management Board

PRESENTATION TO HOUSE FINANCE COMMITTEE

HB 375

April 24, 2006

Larry Semmens, Chair Report Committee
Gary Bader, Chief Investment Officer



Teachers' Retirement System

Pension and Postemployment Healthcare

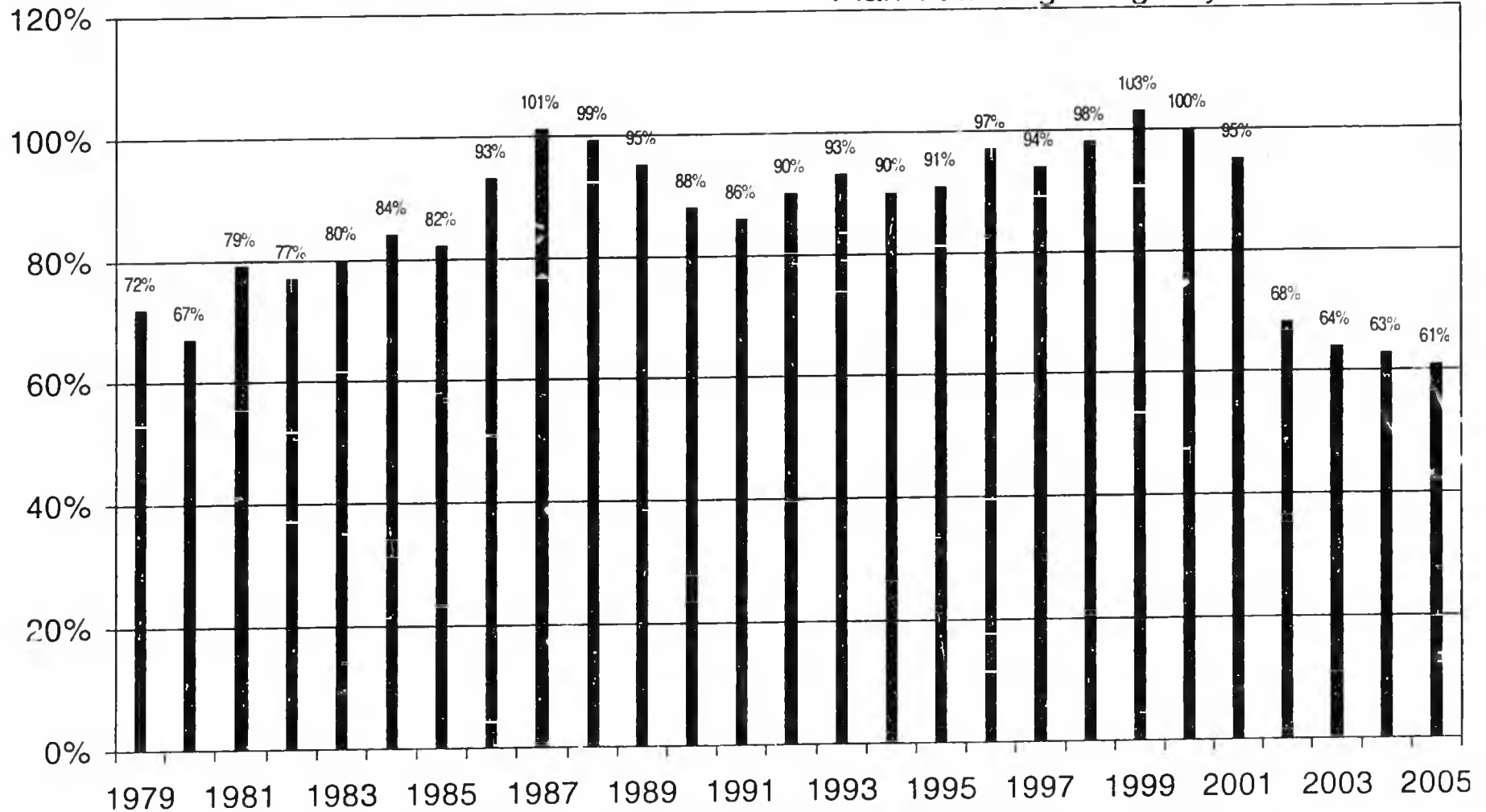
Actuarial Contribution Under Projected Unit Credit Method (\$ in millions)

Funding	July 1, 2004	July 1, 2005
1. Actuarial Accrued Liability	\$ 6,123	\$ 6,499
2. Actuarial Value of Assets	<u>3,845</u>	<u>3,959</u>
3. Unfunded Actuarial Accrued Liability	\$ 2,278	\$ 2,540
4. Funded Ratio	62.8%	60.9%
5. Annual Actuarial Contribution		
- Normal Cost	\$ 117	\$ 119
- Amortization of Unfunded (25) Years	<u>146</u>	<u>166</u>
- Total Contribution	\$ 263	\$ 285
- % of Pay	50.46%	50.83%
6. Member Contribution		
- Amount	\$ 45	\$ 49
- % of Pay	8.68%	8.69%
7. Employer Required Contribution		
- Amount	\$ 218	\$ 236
- % of Pay	41.78%	42.14%

Source: Buckconsultants, March 23-24 Report to ARMB and House Ways and Means Committee

TRS Funding Ratio History Pension and Postemployment Healthcare Based on Valuation Assets

Plan Year Beginning July 1



Source: Buckconsultants, March 23-24 Report to ARMB and House Ways and Means Committee

Public Employees' Retirement System

Police/Fire and Others Combined

Pension and Postemployment Healthcare

Actuarial Contribution Under Projected Unit Credit Method (\$ in millions)

Funding	July 1, 2004	July 1, 2005
1. Actuarial Accrued Liability	\$ 11,444	\$ 12,815
2. Actuarial Value of Assets	<u>8,030</u>	<u>8,443</u>
3. Unfunded Actuarial Accrued Liability	\$ 3,414	\$ 4,402
4. Funded Ratio	70.2%	65.7%
5. Annual Actuarial Contribution		
– Normal Cost	\$ 296	\$ 338
– Amortization of Unfunded (25) Years	<u>219</u>	<u>285</u>
– Total Contribution	\$ 515	\$ 623
– % of Pay	35.00%	39.27%
6. Member Contribution		
– Amount	\$ 100	\$ 109
– % of Pay	6.81%	6.84%
7. Employer Required Contribution		
– Amount	\$ 415	\$ 514
– % of Pay	28.19%	32.43%

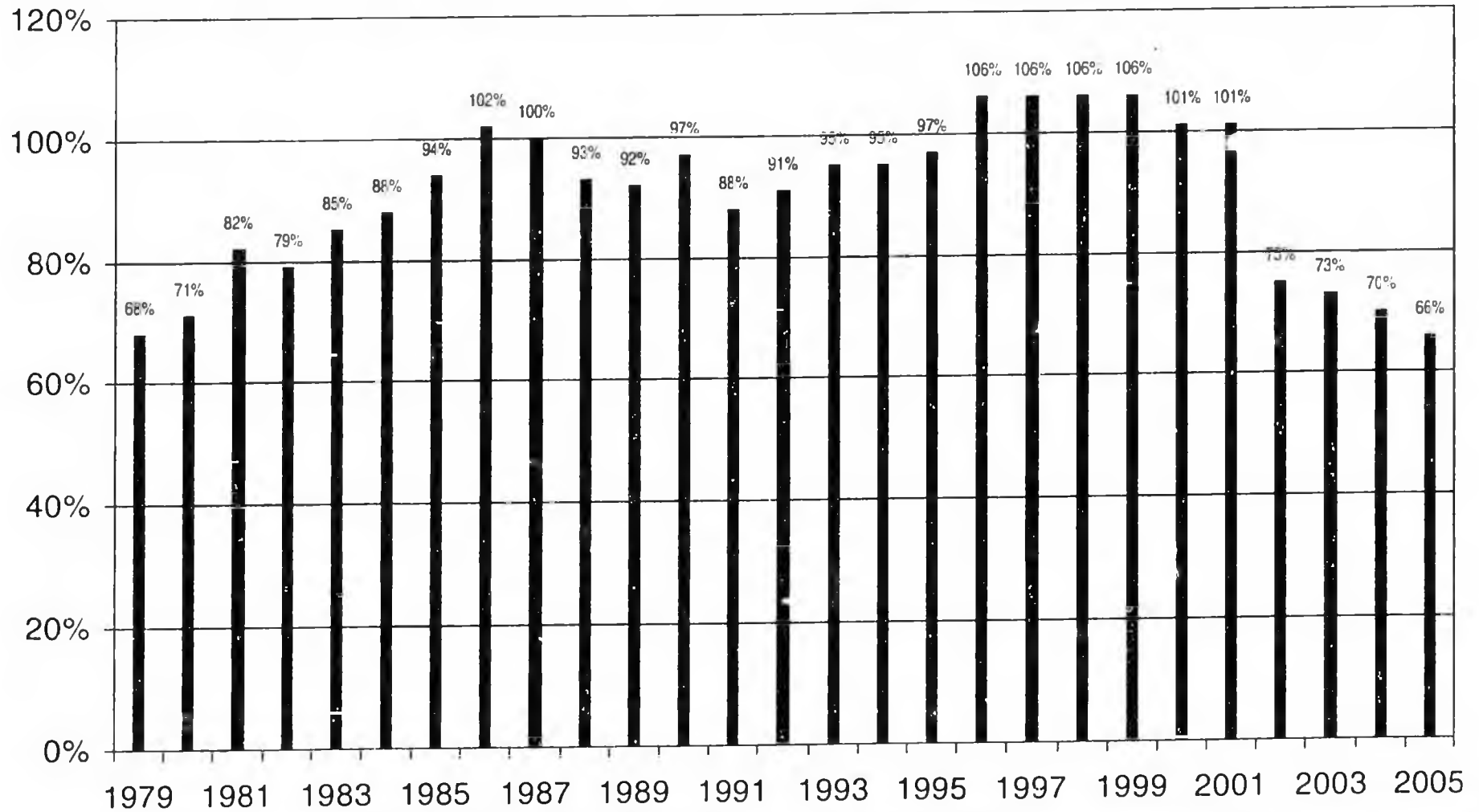
Source: Buckconsultants, March 23-24 Report to ARMB and House Ways and Means Committee

PERS Funding Ratio History

Pension and Postemployment Healthcare

Based on Valuation Assets

Plan Year Beginning July 1



Source: Buckconsultants, March 23-24 Report to ARMB and House Ways and Means Committee

Conclusions and Comments

- Increased employer contribution rates required for PERS and TRS

	<u>PERS</u>	<u>TRS</u>
- 2004	28.19%	41.78%
- 2005	32.43%	42.14%
- Change	+4.24%	+0.36%

- Funded ratios declined over last year

	<u>PERS</u>	<u>TRS</u>
- 2004	70.2%	62.8%
- 2005	65.7%	60.9%
- Change	(4.5%)	(1.9%)

Source: Buckconsultants, March 23-24 Report to ARMB and House Ways and Means Committee

Extend Amortization Period

Teachers' Retirement System Employer Supplemental Contributions, as of June 30, 2005

(\$ in thousands)

Amortization Period (years)	Employer Contribution Rate	Normal Cost Rate	Average Member Contribution Rate	Past Service Rate	Supplemental Contribution Rate	Supplemental Contributions
25	16%	21.25%	8.69%	29.58%	26.14%	\$146,655
30	16%	21.25%	8.69%	26.27%	22.83%	\$128,085
35	16%	21.25%	8.69%	24.06%	20.62%	\$115,686
40	16%	21.25%	8.69%	22.51%	19.07%	\$106,990
25	21%	21.25%	8.69%	29.58%	21.14%	\$118,603
30	21%	21.25%	8.69%	26.27%	17.83%	\$100,033
35	21%	21.25%	8.69%	24.06%	15.62%	\$87,634
40	21%	21.25%	8.69%	22.51%	14.07%	\$78,938
25	26%	21.25%	8.69%	29.58%	16.14%	\$90,552
30	26%	21.25%	8.69%	26.27%	12.83%	\$71,981
35	26%	21.25%	8.69%	24.06%	10.62%	\$59,582
40	26%	21.25%	8.69%	22.51%	9.07%	\$50,886

Total Salaries: \$561,038

Source: Buckconsultants

Extend Amortization Period

Public Employees' Retirement System
 Employer Supplemental Contributions, as of June 30, 2005
 (\$ in thousands)

Amortization Period (years)	Employer Contribution Rate	Normal Cost Rate	Average Member Contribution Rate	Past Service Rate	Supplemental Contribution Rate	Supplemental Contributions
25	16%	21.32%	6.84%	17.95%	16.43%	\$260,726
30	16%	21.32%	6.84%	15.98%	14.46%	\$229,464
35	16%	21.32%	6.84%	14.66%	13.14%	\$208,517
40	16%	21.32%	6.84%	13.73%	12.21%	\$193,759
25	21%	21.32%	6.84%	17.95%	11.43%	\$181,382
30	21%	21.32%	6.84%	15.98%	9.46%	\$150,120
35	21%	21.32%	6.84%	14.66%	8.14%	\$129,173
40	21%	21.32%	6.84%	13.73%	7.21%	\$114,415
25	26%	21.32%	6.84%	17.95%	6.43%	\$102,037
30	26%	21.32%	6.84%	15.98%	4.46%	\$70,775
35	26%	21.32%	6.84%	14.66%	3.14%	\$49,828
40	26%	21.32%	6.84%	13.73%	2.21%	\$35,070

Total Salaries: \$1,586,891

Source: Buckconsultants

Calculating the Past Service Cost Rate

(1)	Accrued Liability	\$ 5,835,609
(2)	Valuation Assets	<u>\$ 3,752,285</u>
(3)	Total Unfunded Liability, (1) – (2)	\$ 2,083,324
(4)	Expected Unfunded Liability	<u>\$ 1,749,948</u>
(5)	(Gain)/Loss, (3) – (4)	\$ 333,376
(6)	Amortization Factor (25 years)	<u>16.246963</u>
(7)	(Gain)/Loss Amortization, (5) ÷ (6)	\$ 20,519
(8)	Pre-Existing Past Service Cost Amortizations	<u>\$ 110,359</u>
(9)	Total Amortization Payments, (7) + (8)	\$ 130,878
(10)	Total Salaries	<u>\$532,630</u>
(11)	Past Service Rate, (9) ÷ (10)	24.57%

Source: State of Alaska Teachers' Retirement System as of June 30, 2003, Mercer Human Resource Consulting

Allocation for TRS Employers

- Creates a past service liability account.
- Requires an annual appropriation.
- Payments to TRS employers, other than the State and University of Alaska are based on 85% of the past service cost rate 3 years prior.
- Payments are pro-rated if less money appropriated than needed.
- Unexpended funds lapse at the end of the fiscal year.

Allocation for PERS Employers

- Creates a past service liability account.
- Requires an annual appropriation.
- Payments would be made to municipalities, school districts, and REAA employers, other than the State and University of Alaska and would be based on the lesser of:
 - The past service rate and covered payroll of the employer three years earlier less 5%.
 - The average of the past service cost rates of all PERS employers three years earlier times the employer's covered payroll three years earlier.
- Provides a 50% incentive three years later for covered employers to prepay their unfunded liability.
 - Would reward municipalities that are paying full rate in FY 06 on top of the 5% assistance provided by the legislature.
 - Could be used to leverage the sale of pension obligation bonds.
 - Could be used by municipalities with large cash balances to transfer 50% of the liability to the state.
- Payments are pro-rated if less money appropriated than needed.
- Unexpended funds lapse at the end of the fiscal year.

HB 375 Past Service Calculations

Employer	Employer Covered Payroll 3 years Earlier	Employer Past Services Rate 3 years Earlier	Employer Past Service Rate 3 years Earlier less 5%	Average Past Service Rate of All Employers 3 years Earlier	Lower of Actual less 5% or Average	Computation on Rate	Cost to State
A	138,265,234	15.54%	10.54%	14.87%	10.54%	10.54%	14,573,156
B	6,673,054	111.34%	106.34%	14.87%	14.87%	14.87%	992,283
C	6,673,054	19.87%	14.87%	14.87%	14.87%	14.87%	992,283

Solution Goals

- Full Funding within 30 years
- Not cause severe disruption in public service
- State should participate in solution
- Accelerated contributions from employers should be rewarded
- State support should be equitable
- Should minimize supplanting Federal and other non-general fund costs

Alaska Retirement Management Board

PRESENTATION on

HB 375

Larry Semmens, Chair Report Committee
Gary Bader, Chief Investment Officer

Teachers' Retirement System

Pension and Postemployment Healthcare

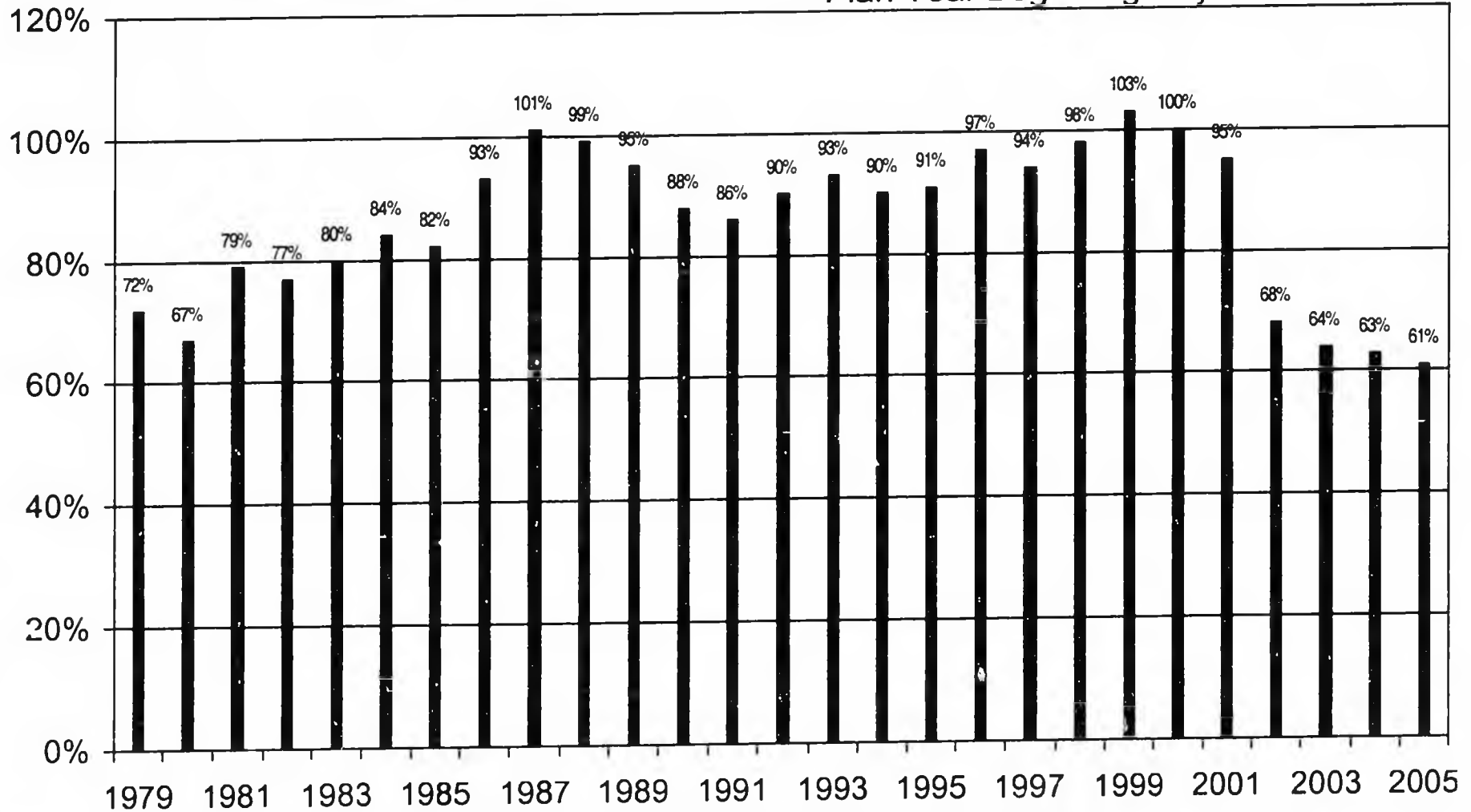
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Funding	July 1, 2004	July 1, 2005
1. Actuarial Accrued Liability	\$ 6,123	\$ 6,499
2. Actuarial Value of Assets	<u>3,845</u>	<u>3,959</u>
3. Unfunded Actuarial Accrued Liability	\$ 2,278	\$ 2,540
4. Funded Ratio	62.8%	60.9%
5. Annual Actuarial Contribution		
- Normal Cost	\$ 117	\$ 119
- Amortization of Unfunded (25) Years	<u>146</u>	<u>166</u>
- Total Contribution	\$ 263	\$ 285
- % of Pay	50.46%	50.83%
6. Member Contribution		
- Amount	\$ 45	\$ 49
- % of Pay	8.68%	8.69%
7. Employer Required Contribution		
- Amount	\$ 218	\$ 236
- % of Pay	41.78%	42.14%

Source: Buckconsultants, March 23-24 Report to ARMB and House Ways and Means Committee

TRS Funding Ratio History Pension and Postemployment Healthcare Based on Valuation Assets

Plan Year Beginning July 1



Source: Buckconsultants, March 23-24 Report to ARMB and House Ways and Means Committee

Public Employees' Retirement System

Police/Fire and Others Combined

Pension and Postemployment Healthcare

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- % of Pay	6.81%	6.84%
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- % of Pay	28.19%	32.43%

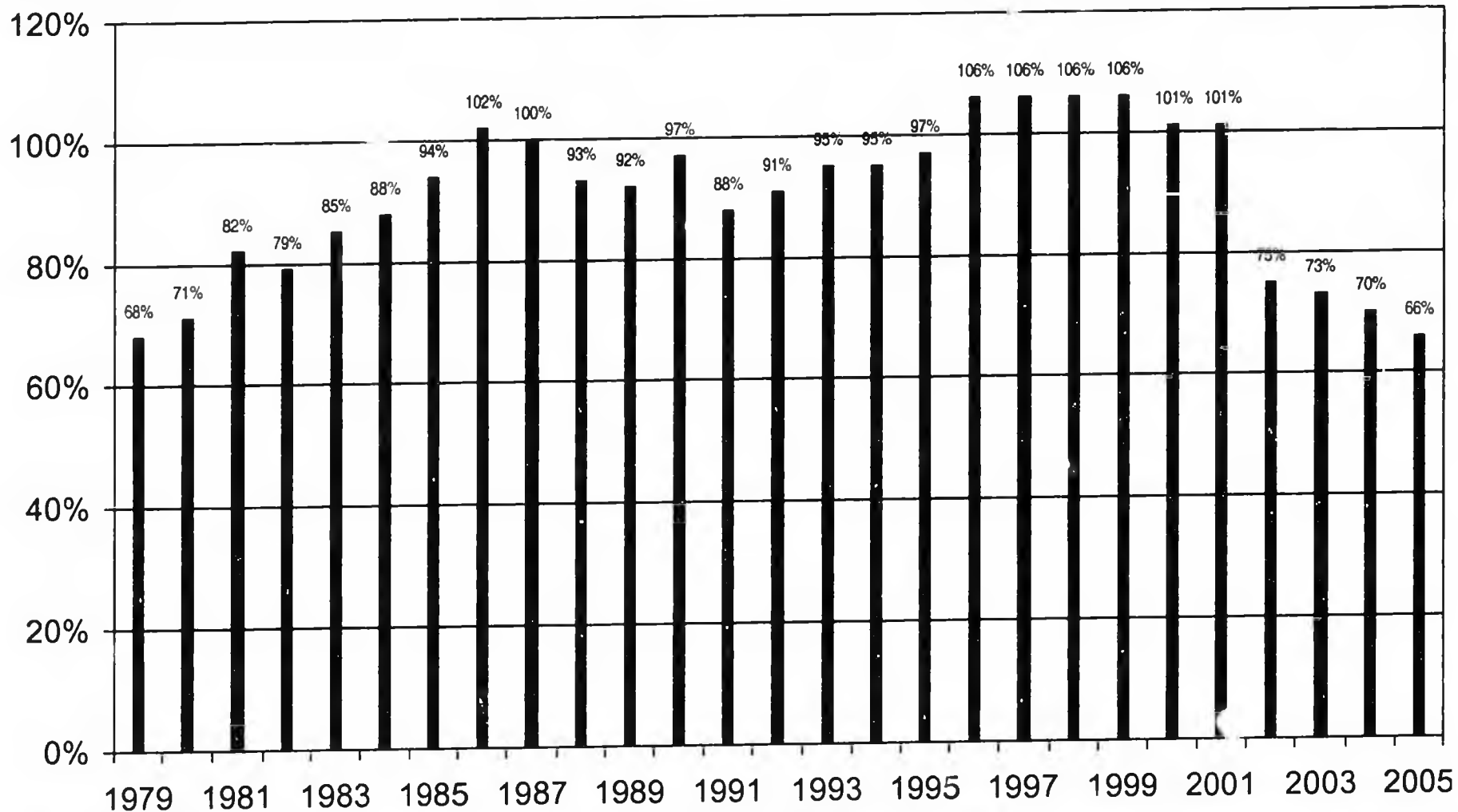
Source: Buckconsultants, March 23-24 Report to ARMB and House Ways and Means Committee

PERS Funding Ratio History

Pension and Postemployment Healthcare

Based on Valuation Assets

Plan Year Beginning July 1



Source: Buckconsultants, March 23-24 Report to ARMB and House Ways and Means Committee

Conclusions and Comments

- Increased employer contribution rates required for PERS and TRS

	<u>PERS</u>	<u>TRS</u>
- 2004	28.19%	41.73%
- 2005	32.43%	42.14%
- Change	+4.24%	+0.36%

- Funded ratios declined over last year

	<u>PERS</u>	<u>TRS</u>
- 2004	70.2%	62.8%
- 2005	65.7%	60.9%
- Change	(4.5%)	(1.9%)

Source: Buckconsultants, March 23-24 Report to ARMB and House Ways and Means Committee

Extend Amortization Period

Teachers' Retirement System
Employer Supplemental Contributions, as of June 30, 2005
(\$ in thousands)

Amortization Period (years)	Employer Contribution Rate	Normal Cost Rate	Average Member Contribution Rate	Past Service Rate	Supplemental Contribution Rate	Supplemental Contributions
25	16%	21.25%	8.69%	29.58%	26.14%	\$146,655
30	16%	21.25%	8.69%	26.27%	22.83%	\$128,085
35	16%	21.25%	8.69%	24.06%	20.62%	\$115,686
40	16%	21.25%	8.69%	22.51%	19.07%	\$106,990
25	21%	21.25%	8.69%	29.58%	21.14%	\$118,603
30	21%	21.25%	8.69%	26.27%	17.83%	\$100,033
35	21%	21.25%	8.69%	24.06%	15.62%	\$87,634
40	21%	21.25%	8.69%	22.51%	14.07%	\$78,938
25	26%	21.25%	8.69%	29.58%	16.14%	\$90,552
30	26%	21.25%	8.69%	26.27%	12.83%	\$71,981
35	26%	21.25%	8.69%	24.06%	10.62%	\$59,582
40	26%	21.25%	8.69%	22.51%	9.07%	\$50,886

Total Salaries: \$561,038

Source: Buckconsultants

Extend Amortization Period

Public Employees' Retirement System
Employer Supplemental Contributions, as of June 30, 2005
(\$ in thousands)

Amortization Period (years)	Employer Contribution Rate	Normal Cost Rate	Average Member Contribution Rate	Past Service Rate	Supplemental Contribution Rate	Supplemental Contributions
25	16%	21.32%	6.84%	17.95%	16.43%	\$260,726
30	16%	21.32%	6.84%	15.98%	14.46%	\$229,464
35	16%	21.32%	6.84%	14.66%	13.14%	\$208,517
40	16%	21.32%	6.84%	13.73%	12.21%	\$193,759
25	21%	21.32%	6.84%	17.95%	11.43%	\$181,382
30	21%	21.32%	6.84%	15.98%	9.46%	\$150,120
35	21%	21.32%	6.84%	14.66%	8.14%	\$129,173
40	21%	21.32%	6.84%	13.73%	7.21%	\$114,415
25	26%	21.32%	6.84%	17.95%	6.43%	\$102,037
30	26%	21.32%	6.84%	15.98%	4.46%	\$70,775
35	26%	21.32%	6.84%	14.66%	3.14%	\$49,828
40	26%	21.32%	6.84%	13.73%	2.21%	\$35,070

Total Salaries: \$1,586,891

Source: Buckconsultants

Calculating the Past Service Cost Rate

(1)	Accrued Liability	\$ 5,835,609
(2)	Valuation Assets	<u>\$ 3,752,285</u>
(3)	Total Unfunded Liability, (1) – (2)	\$ 2,083,324
(4)	Expected Unfunded Liability	<u>\$ 1,749,948</u>
(5)	(Gain)/Loss, (3) – (4)	\$ 333,376
(6)	Amortization Factor (25 years)	<u>16.246963</u>
(7)	(Gain)/Loss Amortization, (5) ÷ (6)	\$ 20,519
(8)	Pre-Existing Past Service Cost Amortizations	<u>\$ 110,359</u>
(9)	Total Amortization Payments, (7) + (8)	\$ 130,878
(10)	Total Salaries	<u>\$532,630</u>
(11)	Past Service Rate, (9) ÷ (10)	24.57%

Source: State of Alaska Teachers' Retirement System as of June 30, 2003, Mercer Human Resource Consulting

Allocation for TRS Employers

- Creates a past service liability account.
- Requires an annual appropriation.
- Payments to TRS employers, other than the State and University of Alaska are based on 85% of the past service cost rate 3 years prior.
- Payments are pro-rated if less money appropriated than needed.
- Unexpended funds lapse at the end of the fiscal year.

Allocation for PERS Employers

- Creates a past service liability account.
- Requires an annual appropriation.
- Payments would be made to municipalities, school districts, and REAA employers, other than the State and University of Alaska.
- Payments are based on 85% of the employer's past service cost rate 3 years prior.
- Provides a 50% incentive three years later for covered employers that prepaid their unfunded liability.
 - Would reward municipalities that are paying full rate in FY 06 on top of the 5% assistance provided by the legislature.
 - Could be used to leverage the sale of pension obligation bonds.
 - Could be used by municipalities with large cash balances to transfer 50% of the liability to the state.
- Payments are pro-rated if less money appropriated than needed.
- Unexpended funds lapse at the end of the fiscal year.

Solution Goals

- Full Funding within 30 years
- Not cause severe disruption in public service
- State should participate in solution
- Accelerated contributions from employers should be rewarded
- State support should be equitable
- Should minimize supplanting Federal and other non-general fund costs

HB

399

Alaska State Legislature

Interim:

145 Main St. Loop, Suite 220

Kenai, AK 99611

Phone: (907) 283-7223

Fax: (907) 283-7184

**Session:**

Alaska State Capitol, Room 505

Juneau, AK 99801-1182

Phone: (907) 465-3779

Fax: (907) 465-2833

Toll Free: (800) 469-3779

Representative Mike Chenault

District 34

Sponsor Statement

HB 399

Title: "An Act establishing the office of elder fraud and assistance; and relating to fraud involving older Alaskans."

Elder financial abuse is a crime that is on the rise and is a growing problem in Alaska. Financial abuse takes many forms, including credit card fraud, real estate scams, identity theft and burglary. Even though reports of elder financial abuse are growing, estimates indicate that only 1 in 25 of these cases are reported. A study conducted by The National Center on Elder Abuse (NCEA) found that for every reported case of elder abuse, another five cases went unreported.

Elderly victims of financial abuse can suffer declining physical and emotional well being, depression, reliance on public benefits and even death. A possible reason why elders are targeted is because seventy percent of the nation's net worth is owned by those aged 50 and older. Other explanations include the fact that older people are more trusting, that they may not realize the value of their assets, and that they are easily identifiable as victims. In addition, they are more likely to have conditions or disabilities that make them easy targets. They are also less likely to take action against their abusers, especially if the abuser is a family member. Abusers may also recognize that older people who are in extremely poor health may not survive long enough to follow through legally.

To combat fraud against elders, effective state responses require collaboration by a range of state and local agencies, including law enforcement, adult protective services, victim service agencies and private partners. However, coordination remains a major challenge and the lack of interagency coordination means that victims remain hidden. This bill would help ensure the necessary coordination among agencies to address this problem.

HB 399 establishes an office of elder fraud and assistance within the Office of Public Advocacy (OPA) to investigate complaints of fraud committed against elder residents of Alaska. This bill authorizes OPA to bring civil enforcement actions for injunctive and other relief for fraud committed against older Alaska .

Alaska State Legislature

State Capitol, Room 505
Juneau, AK 99801-1182
Phone: 465-3779
Fax: 465-2833
Toll Free (800) 465-3779
Representative_Mike_Chenault@legis.state.ak.us



145 Main St. Loop
Second Floor
Kenai, Alaska 99611
Phone: 907-283-7223
Fax: 907-283-7184

REPRESENTATIVE Mike Chenault

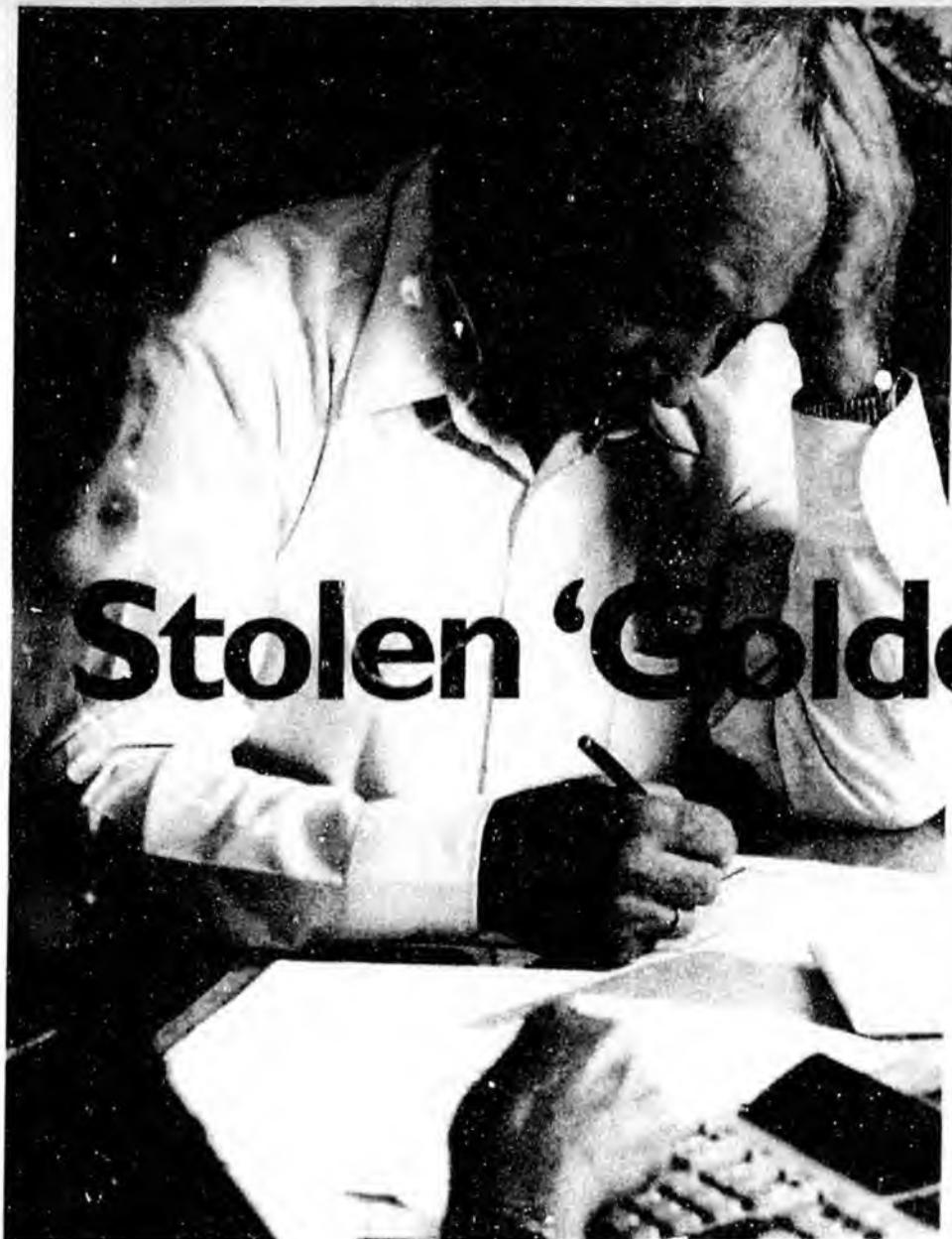
District 34

Memorandum

Date: April 27, 2006
To: Senator Therriault, Chair
Senate State Affairs Committee
From: Representative Mike Chenault
Subject: CS for House Bill 399 (FIN)

Please schedule CS for House Bill 399 (FIN) to be heard in the Senate State Affairs Committee at your earliest convenience. This bill would establish an Office of Elder Fraud and Assistance, within the Office of Public Advocacy, to help assist and protect elders who are victims of fraud in Alaska.

If you have any questions regarding this bill, please contact Sue Wright in my office at (907) 465-3779.



Stolen 'Golden Years'

States address the silent epidemic of elderly financial victimization

By Carrie Abner

As many as 5 million elderly Americans are victims of financial exploitation each year; although estimates suggest that victims report the crime in only one of 25 cases. States are beginning to recognize this growing trend and are working to stop the abuse.

In a March 2005 address announcing a new initiative to combat financial exploitation against the elderly in Illinois, Gov. Rod Blagojevich said, "Our seniors have worked hard, raised their families and they deserve a peaceful and safe retirement." The governor created a special statewide unit of investigators to provide a variety of services to seniors, including investigation of financial abuse cases, advocacy and education. The need for such state-led initiatives is growing.

In Missouri, a 91-year-old woman lives in a nursing home. Although mentally competent, she was taken to the facility for a visit and left there. While in the nursing home, she learned that one of her farms and a number of her household items had

been sold. Someone she trusted had obtained power of attorney when she was extremely ill and hospitalized. She had no memory of signing the document and had no intention of selling any of her property.

In Oregon, an elderly woman was living alone. At the age of 90, she was deaf, partially blind and in a wheelchair. She hired a full-time caregiver, who bilked her out of \$56,000 between March and September 1999, draining her accounts completely. Sadly, the woman's family and public officials only became aware of the abuse following her death.

While these true-life cases, reported to state and local officials, may seem extreme, they unfortunately represent a growing crisis in the United States. Too many Americans find their

"golden years"—a time to relax and enjoy family and friends—stolen from them as a result of financial exploitation and abuse.

A Growing Crisis

The National Center on Elder Abuse (NCEA) defines elder financial exploitation as "the illegal or improper use of an elder's funds, property or assets." According to Paul Greenwood, the lead prosecutor on senior abuse cases in San Diego County, California, financial abuse takes many forms, including credit card fraud, real estate scams, identity theft and burglary.

And reports of elder financial exploitation, experts say, are on the rise.

Reported cases of elder financial exploitation have more than tripled in Oregon since 1993. Representatives of the Elder Safe Program in Washington County, Oregon, recently noted that senior citizens in that county lost almost \$2 million to financial exploitation and crime in 2004. And county officials estimate that actual losses may be even greater due to gross underreporting of such crimes. According to Joyce DeMomin, coordinator for the program, "While the number is shockingly high, we know it is still a fraction of the amount of money seniors lost in Washington County last year." She adds that true losses to Washington County seniors could total \$10 million.

"Elder financial abuse is a crime of opportunity and it's on the rise," said Maine Attorney General Steven Rowe to participants at a May 2004 conference on elder abuse. "Seventy percent of the nation's net worth is owned by those aged 50 or older. This makes seniors a rich target. Forty percent of all reported elder abuse cases involve financial exploitation."

According to Rowe, Maine's Bureau of Elder and Adult Services referred substantiated cases totaling more than \$22 million to the Attorney General's Office between July 2001 and May 2004. The average victim reported losing \$39,000, Rowe said.

While reports of elder financial abuse are increasingly common, experts are unaware of the true scope of the crisis nationwide.

Like other forms of elder abuse, few cases of financial exploitation are reported to officials. A study conducted by NCEA in 1998 found that for every reported case of elder abuse, another five cases went unreported. And elders are less likely to report incidents of financial exploitation than any other category of abuse, according to a paper by The Archstone Foundation. NCEA recently cited estimates indicating that only 1 in 25 cases of elder financial abuse is reported to officials, suggesting that as many as 5 million seniors may be victims of financial exploitation each year.

And as the U.S. population ages, the incidence of elder financial abuse is likely to rise. In 2000, there were an estimated 35 million individuals age 65 or older in the United States, comprising nearly 13 percent of the total population. The Federal Interagency Forum on Aging-Related Statistics reports that the size of the older population is expected to double by 2030, growing to 70 million. This will create an even larger population of seniors vulnerable to financial exploitation.

According to a report issued in 2002 by the National Research Council, "The occurrence and severity of elder mistreatment are likely to increase markedly over the coming decades, as the population ages, caregiving responsibilities and

"The occurrence and severity of elder mistreatment are likely to increase markedly over the coming decades, as the population ages, caregiving responsibilities and relationships change, and increasing numbers of older persons require long-term care."

—The National Research Council



"Elder financial abuse is a crime of opportunity and it's on the rise."

—Maine Attorney General Steven Rowe

relationships change, and increasing numbers of older persons require long-term care.”

The Cost of Abuse

While little is known about the exact costs associated with elder abuse, experts note they are likely significant. “When elder abuse victims lose their homes or financial resources through exploitation and end up in a nursing home on Medicaid or in government-subsidized housing, the taxpayers pick up those costs,” noted Lori Striegel of the American Bar Association’s Commission on Law and Aging at a 2003 hearing of the U.S. Judiciary Committee. “When elder abuse victims need services from adult protection programs, long-term care ombudsman programs, state regulatory agencies, law enforcement agencies, prosecutors, public guardian or the resources of a court system to help protect them from further abuse, the taxpayers bear those costs.” The cost to the elderly victims is equally troubling.

“Losing the fruits of a lifetime’s labor through financial exploitation can be devastating,” said a recent paper on elder financial crimes by NCEA and the Goldman Institute on Aging. “It may compromise victims’ independence and security, destroy legacies and lead to depression, hopelessness or even suicide. Although financial crimes are committed against members of all age groups, the impact is particularly great on the elderly.”

For seniors, victimization can mean the loss of lifelong savings and pension benefits. As a result, elder victims may find themselves suddenly dependent on public assistance programs or going without food, medication or other necessities.

At a 1999 hearing of the U.S. Senate Judiciary Committee, Susan Herman of the National Center for Victims of Crime noted that financial exploitation of the elderly can have serious, lifelong impacts for victims. “Generally, senior citizens do not have the time or opportunity for financial recovery—their prime earning years are behind them. At a time when one tries to conserve assets, a blow to financial security is often a permanent and life-threatening setback,” she stated.

Challenges for State Officials

As state and local officials try to address the incredibly complex problem of elder financial abuse, they face a number of challenges.

Experts point out that seniors are uniquely vulnerable to financial exploitation. Many live independently and are isolat-

“When elder abuse victims lose their homes or financial resources through exploitation and end up in a nursing home on Medicaid or in government-subsidized housing, the taxpayers pick up those costs.”

—Lori Striegel
ABA’s Commission on Law and Aging

ed from the rest of the community. Elders tend to be home during the day, more trusting of strangers, less likely to report exploitation and increasingly dependent on others for daily tasks, such as home repairs. American seniors also hold a disproportionate percentage of the country’s wealth and often have quick access to significant amounts of cash. Together, these factors render seniors at high risk of becoming victims of financial exploitation and fraud.

Yet, little is known about the extent of financial crimes against the elderly. While some research has been conducted on elderly victimization by telemarketing frauds, only limited information exists on other areas of elder financial abuse, including fraud and theft by family members and domestic caregivers.

Further complicating the matter is the fact that few cases of elder financial abuse are reported to officials. According to experts, seniors may be reluctant to report such crimes against them out of shame or embarrassment. For other aging adults, financial matters remain a taboo subject—not one that is discussed openly. Some may fear being seen as incompetent, or worse, being deprived of their independence should they report having been defrauded. Elders who are victimized by family members, meanwhile, may be hesitant to report crimes against them, reluctant to get loved ones in trouble.

Experts also point out difficulties in regulating in-home care providers, one of the fastest growing job segments in the country. Individual caregivers are rarely subjected to background checks, which poses a major risk to the well-being of elders. Greenwood reports, “The majority of cases I prosecute now are convicted felons . . . taking care of the elderly.”

Another challenge for state leaders is the complexity of elder financial abuse and the need for interagency coordination at state and local levels. Like other forms of elder abuse, effective state responses to financial exploitation require collaboration by a range of state and local agencies, including law enforcement, adult protective services, victim service agencies and private partners. Without adequate mechanisms in place for interagency coordination, for example, incidents of elder fraud reported to APS may never be passed on to law enforcement officials, preventing prosecution of cases and restitution to elder victims. Yet, coordination remains a major challenge for states due to limited agency mandates, finite resources, competing priorities and work force shortages.

Experts caution that the lack of coordination can be disastrous for elder victims. According to A. Rickett Hamilton, protective program administrator for Maine and past president of the National Adult Protection Services Association, the lack of interagency coordination means that "victims remain hidden. Elder abuse continues to be undetected and underreported. We need to develop a systemic response to elder abuse before we become victims."

States Respond

Despite these and other challenges, states are becoming increasingly aware of elder financial abuse and are taking steps to address the problem through legislative and programmatic initiatives.

For instance, in a 2003 survey by the National Association of Adult Protective Services Administrators, 29 out of the 35 responding states noted that they had a mandatory reporting statute that included financial exploitation. According to a recent study by the University of Iowa, state mandatory report-

"We must do everything we can to guard the elderly from fraud and abuse and afford them the respect and security they deserve."

Elmore Cole, Paul Blaylock

ing laws are linked to significantly higher investigation rates of elder abuse cases among states.

In Maine, the Improvident Transfers of Title law allows seniors who have transferred property as a result of undue influence to get court orders for its return. The law applies to both financial and real property that has been transferred to someone with a confidential or fiduciary relationship to the victim, including family members, accountants, brokers, financial advisors, health care providers, attorneys, caregivers and friends.

According to Arizona law, individuals in a position of trust who use deception or intimidation to gain permanent control of a senior's assets are considered guilty of theft. Individuals guilty of violating their duties to elders are further subject to damages in civil actions equal to three times the amount of monetary damages to the elder and forfeit their claims to an elder's estate.

Continued on page 35

State Initiatives: Getting Banks Involved

Some states are including banks in their effort to combat elder financial abuse, recognizing the potential for frontline bank employees to detect suspected cases of financial exploitation of seniors on a daily basis.

The Oregon Elder Financial Exploitation Program is a partnership between the Oregon Department of Justice, local agencies serving the elderly, the Oregon Bankers Association and AARP. With funding from the U.S. Department of Justice's Office for the Victims of Crime, the program has developed training materials to educate bank personnel on recognizing the warning signs of elder financial exploitation and the appropriate mechanisms for reporting suspected cases. Oregon law grants immunity to banks and their staffs when reporting suspicions of elder financial abuse.

Meanwhile, the California Bankers Association is sponsoring AB 1664, the Elder Abuse Reporting Bill. Introduced by Assemblyman Mike Gordon, the bill authorizes the staff of financial institutions to report incidents of suspected financial abuse of an elder or dependent adult. The bill also authorizes APS officials to request and receive financial information of a bank client when investigating the financial abuse of an elder. The bill passed the House of Representatives and is currently under consideration in the Senate.



Stolen 'Golden Years'

—Continued from page 21

An Oregon law protects banks from liability when they report suspected cases of elder financial exploitation. While the law does not represent a mandatory reporting law for bank personnel, it provides protection for banking institutions and their employees when reporting suspicions of abuse.

States are also initiating programs to respond to elder financial abuse.

Illinois Gov. Rod Blagojevich's new program would enable investigators to develop liaisons with senior service providers, prosecutors, other law enforcement agencies and financial representatives to more effectively refer cases. In addition, the unit would provide educational programs for senior citizen groups and others throughout the state about the warning signs of financial abuse and fraud. Investigators would also provide support and guidance to elders throughout the investigation and prosecution process. Gov. Blagojevich said of the program and stopping elder financial abuse, "We must do everything we can to guard the elderly from fraud and abuse and afford them the respect and security they deserve."

Meanwhile, the primary force behind Florida's battle against elder fraud is the state's senior citizens themselves. As part of the Seniors vs. Crime Project, elders serve as volunteers to educate their peers on the dangers of consumer fraud and possible warning signs. The Senior Sleuths, as they are known, also assist the attorney general's office and other law enforcement agencies to detect fraud in their communities. With the help of more than 2,000 Senior Sleuths performing such tasks as checking to ensure that prescriptions are accurately filled and conducting undercover sting operations to detect businesses using false or deceptive practices, the attorney general's office has been successful in handling more than 2,000 complaints, prosecuting over 40 cases and recovering more than \$3 million since the program's inception.

For many states, becoming more aware of the threat of elder financial abuse represents the first step in developing innovative state responses. While limited information exists on the exact scope of the problem at the national level, individual cases like those of the abused women in Missouri and Oregon underscore the serious threats seniors face in protecting the assets on which they depend.

As the U.S. population ages, states will continue to face the challenges of elder financial abuse and exploitation. While states have already taken important steps to address this growing problem, much more remains to be done.

—Carrie Abner is a public safety and justice policy analyst at The Council of State Governments.

Fact File

- Nearly 33 percent of the complaints for telemarketing frauds in 2004 were made by individuals age 60 and older, up from 27 percent in 2002.
- The proportion of individuals losing \$5,000 or more through Internet fraud is higher for victims 60 years and older than for any other age group.
- From 1992 to 1997, seniors were the victims of 2.7 million property and violent crimes; 2.5 million burglaries, motor vehicle thefts and household thefts; 46,000 purse snatchings and pocket-pickings; and 165,000 non-lethal violent crimes including rape, robbery and aggravated and simple assault.
- Estimates indicate that only 1 in 25 cases of elder financial abuse is reported. There may be as many as 5 million elders victimized by financial exploitation each year.

Sources: National Fraud Information Center, National White Collar Crime Center, U.S. Department of Justice/Bureau of Justice Statistics, and the National Center on Elder Abuse.



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Couple indicted on fraud charges

GUARDIANS: Elderly father was target of alleged crimes.

By LISA DEMER

Anchorage Daily News

(Published: January 20, 2006)

A federal grand jury says a Chugiak couple used their position as legal guardians to bilk the woman's aged father out of nearly \$500,000.

An indictment returned this week charges Frank and Phyllis Talas with conspiracy and misappropriation of funds by a fiduciary, or person entrusted with another's property or money. In addition, Frank Talas is charged with three counts of wire fraud.

According to the charges, it all began back in July 2001, when Frank R. Talas Jr. petitioned in state Superior Court for temporary guardianship of his father-in-law, Donald Mitchell, and was approved. On April 18, 2002, Talas and his wife, Phyllis, became full guardians for her father, the indictment says.

This isn't an isolated situation. The problem of vulnerable people being taken advantage of appears to be increasing in Alaska, says the state's public advocate.

Guardians manage their wards' money and property and make medical and other key life decisions "to promote and protect the well-being of the person," Alaska law says.

The Talases weren't supposed to accept money from Mitchell without prior court approval. According to his family, he is in his 70s and has Alzheimer's disease.

But, the charges say, they illegally siphoned \$495,010 and spent some of it creating a business that failed. The money also went to travel and other personal expenses, the indictment said.

The situation came to light when they failed to pay Mitchell's bill at the Chugiak Senior Center, an assisted living home where he lived, said Lisa Stanley, a court investigator appointed to review the case when matters started falling apart a couple of years ago. Mitchell since has been moved to a different home.

"I am glad to hear this was followed through on," Stanley said Friday.

Allegations of guardians preying on people are hard to prove, especially when it's all in the family or among supposed friends. If the victim has Alzheimer's or otherwise can't communicate well, it's even tougher, she said.

There is a tendency to think: "Oh, they are family. They are not going to hurt this person. But that is not always the case," Stanley said.

Frank Talas said Friday he didn't want to talk about the matter in detail until he had spoken with an attorney. He didn't even know he and his wife had been indicted, he said. The matter seemed to have blown over in 2003 when questions about the spending arose at the senior center and responsibility was transferred to a state public guardian, he said.

"Things happened," Talas, 52, said. But there was no big plan to go after Mitchell's money, he said.

The case was investigated by the inspector general's office in the U.S. Department of Veterans Affairs, and the U.S. Postal Inspection Service, officials said. Mitchell is retired from the Air Force, and his veterans benefits were

among the assets wrongly taken, according to the indictment.

Guardians appointed by judges hold tremendous power over the lives and property of adults who cannot make decisions for themselves because of incapacity or disability.

Most guardians are relatives or friends willing to serve for free. But not everyone has someone close to them able and willing to do the job. The state employs public guardians for people with low income. In other cases, professional guardians take on the job for a fee.

Around the state, there appears to be a growing problem of elderly and vulnerable individuals being exploited, said Josh Fink, director of the state Office of Public Advocacy, where public guardians work.

"There are charlatans out there that are really taking advantage of people," Fink said.

Family members or friends who serve as guardians get very little training and face little oversight.

Sometimes, cases of vulnerable people being ripped off are discovered only when guardianships are transferred from private guardians to the public guardians in his office, Fink said. Other times, shady characters take advantage of the individual, even moving into the ward's home, and it's up to the guardian to kick them out, he said.

Cases have popped up recently in Juneau, Fairbanks and on the Kenai Peninsula, Fink said.

His office can try to recover small amounts of money and property through Small Claims Court or can ask a private attorney to take complex cases on a contingency basis, if there's enough at stake. But other financial exploitation cases fall in between. The state hasn't put enough resources into this area, either to pursue them criminally or through civil avenues, Fink said.

Oversight comes mainly from judges. Guardians are supposed to make detailed annual reports to the courts. But in the case of the Talases, they had not even completed their first year as full guardians when the problems emerged, Stanley said.

At the time the Talases became his guardians, Mitchell had various assets worth more than \$300,000 and a steady retirement income: \$39,108 annually from the Air Force, \$6,096 from the civil service, and \$6,486 from Social Security, the indictment said.

On March 13, 2002, Frank Talas had \$58,290 belonging to Mitchell wired to an account in the Mat-Su that the couple controlled, the indictment said. The next day, he had \$144,391 transferred, the document said. Then, that same day, he opened a credit union account for Silver Wolf and Cub Enterprises, which Talas said was a handyman venture. About \$60,000 of Mitchell's money went into the failed business, the indictment said.

If convicted, the couple faces the possibility of prison time and hefty fines, according to the U.S. Attorney's Office.

Daily News reporter Lisa Demer can be reached at ldemer@adn.com and 257-4390.

Types of guardians in Alaska

There are three types of guardians in Alaska. All must be appointed by a judge. They are:

- **FAMILY OR FRIENDS:** They must first take one hour of training.

- PAID, PROFESSIONAL GUARDIANS. Under reforms that took effect last year, they must be licensed by the state, pass criminal background checks, be certified by a national organization, and be able to prove they can be bonded and insured.
- PUBLIC GUARDIANS. They are state employees and usually serve as guardians for low- income people.

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FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 399
 (H) Publish Date: 2/27/06
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title ESTABLISHING THE OFFICE OF ELDER
FRAUD AND ASSISTANCE

RDU Senior and Disabilities Svcs
 Component Senior/Disabilities Svcs Admin

Sponsor CHENAULT
 Requester HOUSE (STA)

Component No. 2663

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: _____

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB399 will not impact (operational) expenses related to the Adult Protective Services Unit within the Division of Senior and Disability Services. The functional responsibility and authority proposed by HB 399 will be vested with The Office of Public Advocacy within the Department of Administration. DSADS is coordinating with OPA and other extensions of State Government that manage or respond to reports of elder abuse/fraud as appropriate to present an action model should the tenants of HB399 be passed as legislation to ensure all concerned entities operate accordingly within the bill provisions in a responsive manner.

Prepared by: Rod Moline, Director
 Division Senior and Disabilities Services
 Approved by: Karleen Jackson, Commissioner
 Agency Department of Health and Social Services

Phone 465-1605
 Date/Time 02/09/2006
 Date 02/09/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 399(FIN)
 (H) Publish Date: 4/20/06

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act establishing the office of elder fraud and RDU Civil
assistance; and relating to fraud involving older Alaskans." Component Commercial and Fair Business
 Sponsor Representative Chenault
 Requester House Finance Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill adds the duty to investigate complaints involving fraud committed against Alaska's senior citizens to the Office of Public Advocacy's list of responsibilities in AS 44.21.410(a).

 Passage of this legislation will not have fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division Administrative Services Division Date/Time 3/6/06 8:22 AM
 Approved by: Kathryn Daughhete for David Márquez, Attorney General Date 3/6/2006
 Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 399(FIN)
 (H) Publish Date: 4/20/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title "An Act establishing the office of elder fraud and assistance..." RDU Alaska State Troopers
 Component AST Detachments
 Sponsor Representative Chenault
 Requester House Finance Committee Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

As written, this legislation will not have a fiscal impact on the Department of Public Safety.

Prepared by: Special Assistant Cliff Stone Phone 907-465-2649
 Division: Office of the Commissioner Date/Time 3/6/06 1:39 PM
 Approved by: Commissioner William Tandeske Date 3/6/2006
 Agency: Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSHB 399(FIN)
 (H) Publish Date: 4/20/2006

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act Relating to the Office of Elder Fraud... RDU Legal and Advocacy Services
 Component Office of Public Advocacy
 Sponsor Chenault
 Requester Chenault Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	161.0					
Travel	10.0					
Contractual						
Supplies	8.0					
Equipment	10.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	189.0	0.0	0.0	0.0	0.0	0.0

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	189.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	189.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 100.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would create the Office of Elder Fraud and Assistance within the Office of Public Advocacy. It would empower OPA to investigate complaints involving fraud committed against older residents of the State of Alaska who are 60 years of age and older.

This fiscal note is however smaller than that submitted by the Department of Administration in that it authorizes one Attorney III, a part time investigator and a part time paralegal. No national standards exist but elder fraud is becoming the number two crime against the elderly. To this date no known cases have been prosecuted in the State of Alaska.

Prepared by: Rep. Chenault

Phone 465-3779

Date 4/19/2006 2:15 p.m.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS HB 399 (FIN)
() Publish Date: _____

Revision Date/Time (Note if correction): 4/25/06 2:50 p.m. Dept. Affected: Administration
Title: An act establishing the office of elder fraud and assistance, and relating to fraud... RDU: Legal and Advocacy Services
Component: Office of Public Advocacy
Sponsor: Representative Chenault
Requester: (S) State Affairs Component No.: 43

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	450.1	450.1	450.1	450.1	450.1	450.1
Travel	15.0	15.0	15.0	15.0	15.0	15.0
Contractual	132.0	132.0	132.0	132.0	132.0	132.0
Supplies	8.0	8.0	8.0	8.0	8.0	8.0
Equipment	33.5	4.0	4.0	4.0	4.0	4.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	638.6	609.1	609.1	609.1	609.1	609.1

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	638.6	609.1	609.1	609.1	609.1	609.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	638.6	609.1	609.1	609.1	609.1	609.1

Estimate of any current year (FY2006) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	5	5	5	5	5	5
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would create the Office of Elder Fraud and Assistance within the Office of Public Advocacy. It would empower OPA to investigate complaints involving fraud committed against residents of the state who are sixty (60) years or older, and to bring civil actions on their behalf for injunctive and other relief. Other relief could include actions sounding in tort, unjust enrichment, property, contract, or small claims. Currently, no state agency has this authority, excepting the long term care ombudsman where the fraud relates to a long term care facility. (Continued on next page).

Prepared by: Joshua P. Fink, Director Phone (907) 269-3501
Division: Office of Public Advocacy Date/Time 4/25/06 at 2:50 p.m.
Approved by: Michael Tibbles, Deputy Commissioner Date 4/26/2005
Agency: Administration

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

BILL NO. CS HB 399 (FIN)

ANALYSIS CONTINUATION

In fiscal year 2005, Adult Protective Services (APS) received 500 complaints of financial abuse or exploitation (of the more than 1800 total complaints for abuse, neglect, and exploitation). A hand count of financial abuse cases from fiscal year 2004 indicated 397 financial exploitation cases reported. APS indicates that it has seen a "strong upward trend" in the number of financial abuse and fraud cases in the last five years.

Of the 500 cases investigated by APS in 2005, 87% of the cases were verified; approximately 65% of the 500 cases involved individuals over sixty (60). Based on the FY '05 numbers, and not factoring in the increasing trend, OPA would anticipate being referred at least 280 cases in its first year. These cases range from significant exploitation and misappropriate use of property and funds worth considerable sums, to smaller claims involving forged checks and misuse of credit cards. Fraud cases can be very complicated and involve significant civil discovery and auditing of paper trails. If significant sums are at issue, defendants often dig in and can increase costs.

It is difficult to project the costs necessary to establish this office. National organizations and numerous states have been contacted in an attempt to ascertain how many financial exploitation cases can be handled by an attorney in a calendar year. No national standards exist, and from the information OPA has obtained, its best estimation is that a single attorney can handle up to 65 cases a year with 3-5 of those 60 being complicated cases and the remaining less so.

Based upon that estimation, OPA anticipated it would need the following staff:

1 Attorney V	\$116.2
1 Attorney IV	\$109.2
1 Attorney III	\$ 96.7
1 Investigator II	\$ 68.6
1 Paralegal	<u>\$ 59.4</u>
	\$450.10
Leasing Costs	\$ 52.0
(General Services Est.)	

HB

475

ALASKA STATE LEGISLATURE

Chair
STATE AFFAIRS

Member
RESOURCES

Member
HEALTH, EDUCATION AND SOCIAL SERVICES

Member
WAYS AND MEANS



REPRESENTATIVE PAUL SEATON
House District 35

Session:
State Capitol Building
Juneau, Alaska 99801
Phone 907-465-2689
Fax 907-465-3472
1-800-665-2689

Rep.Paul.Seaton@legis.state.ak.us

Interim:
345 W. Sterling Highway
Suite 102B
Homer, Alaska 99603
Phone 907-235-2921
Fax 907-235-4008

MEMORANDUM

TO: Senator Gene Therriault, Chair
Senate State Affairs Committee

FROM: Representative Paul Seaton

DATE: Friday, May 5, 2006

RE: Request for a hearing on CSHB 475(CRA)

I respectfully request a hearing before the Senate State Affairs Committee on HB 475

In summary, HB 475 is a clean-up bill to the Retirement Security Act (SB 141) that passed in 2005. Due to the length of SB 141, errors and oversights were made that need to be changed for a smooth transition to Tier IV. HB 475 was a technical bill. The only policy change it includes is retroactive and deferred effective dates for mandated normal cost contributions by employers (per the requested of over funded employers).

Attached please find: CSHB 475(CRA) version C; sponsor statement; subject guide to sectional analysis; detailed departmental sectional analysis; letter from Buck Consulting; comparison of current DB and new DC plans; chart 'what is the cost difference to an employer between a PERS Tier 4 and PERS Tier 3 employee and a TRS Tier 3 and TRS Tier 2 employee?'; letter from Ice Miller LLP dated May 3, 2006; letter from Ice Miller LLP dated April 17, 2006.

Staff contact: Katie Shows, 2028



ALASKA STATE LEGISLATURE

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REPRESENTATIVE PAUL SEATON
House District 35

Session:
State Capitol Building
Juneau, Alaska 99801
Phone 907-465-2689
Fax 907-465-3472
1-800-665-2689
Rep.Paul.Seaton@legis.state.ak.us

Interim:
345 W. Sterling Highway
Suite 102B
Homer, Alaska 99603
Phone 907-235-2921
Fax 907-235-4008

Sponsor Statement CSHB 475

HB 475 is a clean up bill to the Retirement Security Act (SB 141) that passed in 2005. Due to the length of SB 141, a handful of errors and oversights were made that need to be changed for a smooth transition to Tier IV. HB 475 is a technical bill. It is not intended to include any policy changes.

Revisions encompassed in HB 475:

1. Clarifies the procedure for an appeal to the Office of Administrative Hearings
2. Requires employers to contribute at least the normal cost rate starting in 2008
3. Changes the requirements to receive a conditional/public service benefit
4. Clarifies provisions regarding PERS/TRS death and disability benefits, including how those benefits will be funded
 - a. Funding death and disability benefits
 - b. The structure of death and disability benefits
 - c. Survivor benefit
5. Clarifies the eligibility requirements for medical benefits
6. Clarifies requirements for non-vested Tier II or Tier III employees who wish to transfer to Tier IV
7. Clarifies the basis for calculating employer contribution rates
8. Gives regulatory authority to the appropriate party
9. Changes the basis for calculating HRA employer contributions to meet IRS tax qualifications
10. Definitions
11. Disallows employment with NEA as counting towards Tier IV retirement eligibility
12. Establishes provisions for employer termination of participation in the plan
13. Clarifies defined benefit and defined contribution components of the plan
14. Establishes adherence to IRS limitations

The above listed changes are not absolutely necessary for Tier IV to come on line July 1, 2006. However, these revisions clarify many aspects of the statutes, providing a benefit both to the plan and members. If changes are not made, many crucial decisions will be left to the Administrator of the plan without proper guidance from the legislature.



Subject Guide to the Sectional Analysis Finance Committee Substitute for HB 475

Internal Revenue Code (IRC) §414(k)

- Makes conforming changes to clarify that the retirement plans established by SB 141 are hybrid plans which fall under IRC §414(k). [Sec. 5, 6, 9, 10, 23, 43, 44, 47, 48, 62]

Occupational Disability and Occupational Death Benefits

- Provides statutory authority for funding TRS occupational disability/death benefits. [Sec.8]
- Clarifies the definition of occupational disability and the termination of disability benefits when a person (1) no longer meets the requirements or (2) qualifies for normal retirement. [Sec. 12, 15, 17, 50, 53, 56]
- Clarifies that a period of disability benefits constitutes membership service for retiree medical benefits and the HRA. [Sec. 13, 51]
- Clarifies that a member or survivor is not entitled to elect distributions from the member's individual account while receiving disability benefits or a survivor's pension. [Sec. 14, 16, 20, 52, 55, 59]
- Upon appointment to disability, immediately vests a member 100% in all *employer* contributions made to the member's individual account, regardless of years of service. [Sec. 14, 52]
- Revises the method for funding the retirement benefit for survivors to conform to the IRC. [Sec. 16, 21, 55, 60]
- Clarifies that a period of survivor benefits constitutes membership service for retiree medical benefits, vesting in employer contributions, and the HRA. [Sec. 16, 21, 55, 60]
- Clarifies the termination of a survivor's pension for dependent children. [Sec. 16, 19, 55, 58]
- Adds an annual increase to disability benefits and P/F retirement benefits equal to 75% of the increase in the Anchorage Consumer Price Index or 9%, whichever is less. [Sec. 18, 57]
- Clarifies that the continuing contributions required by the employer are made on behalf of the surviving spouse and member's dependent children rather than "beneficiaries." [Sec. 20, 59]
- Adds an annual increase to the survivor's pension benefit equal to 50% of the increase in the Anchorage Consumer Price Index or 6%, whichever is less. [Sec. 22, 61]
- Adds cost-sharing of medical premiums for persons younger than Medicare age whose disability or survivor benefits are terminated due to eligibility for normal retirement. [Sec. 22, 61]
- Provides statutory authority for funding of PERS disabled P/F monthly retirement benefits. [Sec. 46, 54]

Regulations and Appeals

- Returns authority for adopting regulations for the SBS Plan to the Commissioner of Administration. [Sec. 29, 30]
- Adds appeals under SBS, Deferred Compensation, the HRA, and PERS waivers of adjustment requests to the Office of Administrative Hearings. [Sec. 31, 32, 41, 71, 72]

Miscellaneous Definitions

- Incorporates the reference to the new administrator section AS 39.35.003 into the definition of "administrator" under the PERS DB plan. [Sec. 42]
- Clarifies that "member" and "employee" have the same meaning throughout the PERS DCR statutes. [Sec. 69]
- Provides a clear definition of "peace officer" and "fire fighter" under the DCR plan. [Sec. 70]

Sectional Analysis
Senate Committee Substitute for House Bill 475

Sec. 1 AS 14.25.070(a). Changes the calculation of the employer contributions so that the normal cost rate is applied only to the payroll base of DB plan members and the past service rate is applied to the employer's entire payroll base.

Reason: The current statutes defining contributions by employers reference contributions to the "plan" and specify that the employer contribution rate will be applied to the salaries paid to "members." This amendment allows the contribution rate for past service costs to be applied to the entire payroll base of the employers' workforce without regard to plan (tier) membership, and will keep employer contribution rates for the DB plan lower than would otherwise be calculated.

Consequence: Without amendment, employer rates for past service costs under the DB plan will continue to rise as the amortized liability is applied to a shrinking payroll paid to members of the DB plan. However, this will neither increase the employers' liability nor will it relieve the employers of the liability, it merely restates the liability as a higher percentage of applicable payroll.

Related bill sections: Sec. 2, AS 14.25.070(d)-(e); Sec. 37, AS 39.35.270(a).

Sec. 2 AS 14.25.070(d)-(e). Adds definitions for "employer normal cost rate" and "past service rate."

Reason: In combination with Sec. 1 of this bill, this amendment changes the calculation of the employer contributions so that the normal cost rate is applied only to the payroll base of DB plan members and the past service rate is applied to the employer's entire payroll base. The TRS employer contribution statutes have never contained these definitions because the TRS is a multi-employer shared cost pool. However, the TRS rates developed by the actuary are still based upon normal costs and past service costs.

Related bill sections: Sec. 1, AS 14.25.070(a); Sec. 36 AS 39.35.250.

Sec. 3 AS 14.25.070(f). Establishes a floor on the employer contribution rate at no less than the normal cost rate, effective July 1, 2008.

Reason: This change, combined with the repeal of AS 14.25.070(b) and the effective date in Sec. 79, delays the effective date of the requirement of SB 141 that the employer contribution rate must be not less than the normal cost rate.

Related bill sections: Sec. 38, AS 39.35.270(d); Sec. 75; Sec. 78; Sec. 79.

Sec. 4 AS 14.25.125(c). Effective July 1, 2010, removes the provision that allows members to repay refunded contributions for the purpose of obtaining a conditional service benefit.

Reason: This statute was overlooked in the repeal by SB 141 of the reinstatement of service provisions. AS 14.25.125 allows persons who are eligible for a normal or early retirement salary under PERS to qualify for a normal or early "conditional service" retirement benefit under TRS if he or she has at least two years of credited service in TRS. Members are allowed to reinstate refunded service credit in order to qualify for the conditional service benefit under AS 14.25.125(c). The conditional service benefit is very expensive because it results in payment of medical premiums and other medical charges from both the PERS and TRS for a single retiree.

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

Related bill sections: Sec. 40, AS 39.35.385(c).

Sec. 5 AS 14.25.320(b). Clarifies that the retirement plans established by SB 141 are hybrid plans, containing both defined benefits and defined contributions, which fall under the Internal Revenue Code section 414(k).

Reason: This is one of several conforming amendments necessary to pay all the benefits required in accordance with the intent of SB 141 and the retirement plans contained therein. SB 141 provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account, medical benefits, and medical expense reimbursements. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans in order to successfully obtain a favorable ruling from the IRS.

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

Related bill sections: Sec. 6, AS 14.25.320(c); Sec. 9, AS 14.25.380; Sec. 10, AS 14.25.400(b); Sec. 23, AS 14.25.510; Sec. 43, AS 39.35.710(b); Sec. 44, AS 39.35.710(c); Sec. 47, AS 39.35.780; Sec. 48, AS 39.35.800(b); Sec. 62, AS 39.35.910.

- Sec. 6 AS 14.25.320(c).** Clarifies that the retirement plans established by SB 141 are hybrid plans, containing both defined benefits and defined contributions, which fall under the Internal Revenue Code section 414(k).

Reason: This is one of several conforming amendments necessary to pay all the benefits required in accordance with the intent of SB 141 and the retirement plans contained therein. SB 141 provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account, medical benefits, and medical expense reimbursements. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans in order to successfully obtain a favorable ruling from the IRS.

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

Related bill sections: Sec. 5, AS 14.25.320(b); Sec. 9, AS 14.25.380; Sec. 10, AS 14.25.400(b); Sec. 23, AS 14.25.510; Sec. 43, AS 39.35.710(b); Sec. 44, AS 39.35.710(c); Sec. 47, AS 39.35.780; Sec. 48, AS 39.35.800(b); Sec. 52, AS 39.35.910.

- Sec. 7 AS 14.25.340(c).** Clarifies that any voluntary contributions made by an employee under AS 14.25.340(b) can only be made with pre-tax dollars to the extent permitted under federal law.

Reason: The Internal Revenue Code allows pre-tax contributions only if the employee does not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the retirement plan. This is the case for contributions mandated by statute; however, a voluntary contribution clearly does not meet this test. Under certain restricted arrangements that involve a one-time irrevocable election, the IRS will allow voluntary contributions on a picked-up (pre-tax) basis. This amendment allows the State the flexibility to define such a restricted arrangement in both regulation and in its Private Letter Ruling request.

Related bill sections: Sec. 45, AS 39.35.730(c).

- Sec. 8 AS 14.25.350(e).** Requires employers in the Teachers' Retirement System (TRS) to pay occupational disability and death benefits through contributions actuarially calculated, which will be deposited to a separate trust account.

Reason: This was an inadvertent omission in drafting the bill in conference committee. The "trust account" language clarifies that these contributions are treated differently and kept separate from the contributions to the plan's individual member accounts.

Consequence: The consequence of not enacting this amendment is that there will be no funding source from which to pay TRS occupational disability and death benefits.

Related bill sections: Sec. 46, AS 39.35.750(e); Sec. 77.

Sec. 9 AS 14.25.380. Clarifies that only the defined contributions paid into a member's individual account are subject to the limitations of 26 USC 415(c) and not the contributions employers make for the fixed benefits contained in the plans (occupational disability, survivor's pension, etc.). Additionally, the fixed benefits paid to eligible persons are subject to the limitations of §415(b) under the Internal Revenue Code.

Reason: This is one of several conforming amendments necessary to pay all the benefits required in accordance with the intent of SB 141 and the retirement plans contained therein. SB 141 provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account, medical benefits, and medical expense reimbursements. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans in order to successfully obtain a favorable ruling from the IRS.

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

Related bill sections: Sec. 5, AS 14.25.320(b); Sec. 6, AS 14.25.320(c); Sec. 10, AS 14.25.400(b); Sec. 23, AS 14.25.510; Sec. 43, AS 39.35.710(b); Sec. 44, AS 39.35.710(c); Sec. 47, AS 39.35.780; Sec. 48, AS 39.35.800(b); Sec. 62, AS 39.35.910.

Sec. 10 AS 14.25.400(b). Clarifies that a participant may only direct the investment of the funds held in the participant's individual account by making the distinction between the defined contribution accounts and the fixed benefit accounts established under the plans.

Reason: This is one of several conforming amendments necessary to pay all the benefits required in accordance with the intent of SB 141 and the retirement plans contained therein. SB 141 provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account, medical benefits, and medical expense reimbursements. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans in order to successfully obtain a favorable ruling from the IRS.

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

Related bill sections: Sec. 5, AS 14.25.320(b); Sec. 6, AS 14.25.320(c); Sec. 9, AS 14.25.380; Sec. 23, AS 14.25.510; Sec. 43, AS 39.35.710(b); Sec. 44, AS 39.35.710(c); Sec. 47, AS 39.35.780; Sec. 48, AS 39.35.800(b); Sec. 62, AS 39.35.910.

Sec. 11 AS 14.25.470(g). Requires a person who originally chose not to participate in the retiree major medical plan, but who later chooses to participate, to provide a letter of continuous coverage or proof of insurability.

Reason: The Division of Retirement and Benefits had anticipated the provisions for application for retirement and medical benefits would be handled by regulation. However, the plain wording of the statute seems to leave the choice to the eligible person regardless of their health status.

Consequence: Without amendment, the statute leaves the retiree major medical insurance plan open to adverse selection and unpredictable costs.

Related bill sections: Sec. 49, AS 39.35.870(g).

Sec. 12 AS 14.25.485(b). Clarifies the termination of a disability benefit when a person no longer meets the requirements to receive occupational disability benefits.

Reason: The intent of an occupational disability benefit is to provide an income for a person who is no longer able to work due to an injury sustained on-the-job. In combination with Sec. 17 of this bill, the amendment makes it clear that if a person is able to perform the duties of another available and comparable position, regardless of employer, then that person no longer meets the requirements to receive occupational disability benefits.

Related bill sections: Sec. 17, AS 14.25.485(j); Sec. 50, AS 39.35.890(b).

Sec. 13 AS 14.25.485(c). Clarifies that a period of disability benefits constitutes membership service in regard to determining eligibility for retirement and medical benefits including the Health Reimbursement Arrangement (HRA).

Reason: The statutes do not mention vesting in medical benefits during a period of disability benefits. However, the intent is implied by the requirement for continuing employer contributions into the individual account, the HRA, and health insurance fund while a member is receiving disability benefits. The employer must also make the member's contributions to the individual contribution account.

Related bill sections: Sec. 51, AS 39.35.890(c).

Sec. 14 AS 14.25.485(d). Provides that a member who receives disability benefits from the plan is 100% vested in all the employer contributions made to the member's individual account, regardless of years of service worked, once the member is appointed to disability. Clarifies that a member is not entitled to elect distributions from the member's individual account while receiving disability benefits.

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

Because a disabled member must terminate employment, the disabled member will arguably become eligible for distributions from the individual contribution account under AS 14.25.410. The apparent intent of the disability benefit is to provide an income until such time as a disabled member becomes eligible for the benefits from a "normal retirement." During a period of disability benefits, the employer is required to make continuing employer contributions into the individual account, the HRA, and health insurance fund. The employer must also make the member's contributions to the individual contribution account. The purpose of these contributions would seem to be to accumulate funding for retirement benefits available to the member once the normal retirement date is reached and disability benefits end.

Consequence: If this amendment is not adopted, the special rules of 26 USC 415(c)(3)(C) would not apply, the member's compensation would be zero for the year following disability, and the allowable contributions would therefore be zero. As a result, the benefits could not be paid in accordance with AS 14.25.485. Also, a disabled member may be able to elect distributions from the member's individual account prior to becoming eligible for normal retirement. This could be regarded as "double dipping," and as thwarting the intent of the legislature to provide a retirement benefit once the disability benefit ends.

Related bill sections: Sec. 20, AS 14.25.487(c); Sec. 52, AS 39.35.890(d); Sec. 59, AS 39.35.892(c).

Sec. 15 AS 14.25.485(g). Clarifies the termination of disability benefits when a disabled member first qualifies for normal retirement.

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

Related bill sections: Sec. 53, AS 39.35.890(g).

Sec. 16 AS 14.25.485(i). Changes made to this subsection, which is related to the benefits for a survivor of a disabled member who dies while receiving disability benefits, mirror other changes being made to the disability and death statutes throughout this bill. The changes are: (1) clarifies the termination of a survivor's pension; (2) clarifies that a survivor cannot access the member's individual account while receiving a survivor's pension; (3) clarifies the normal retirement benefits available to a survivor; and (4) clarifies that the period of disability benefits and the period of survivor benefits constitute membership service for vesting in employer contributions, and eligibility for medical benefits and the Health Reimbursement Arrangement.

Reason: This is a conforming amendment. See the related bill sections referenced below.

Related bills sections: Sec. 13, AS 14.25.485(c); Sec. 19, AS 14.25.487(b); Sec. 20, AS 14.25.487(c); Sec. 21, AS 14.25.487(e); Sec. 55, AS 39.35.890(k).

Sec. 17 AS 14.25.485(j). Clarifies the definition of occupational disability.

Reason: The intent of an occupational disability benefit is to provide an income for a person who is no longer able to work due to an injury sustained on-the-job. This definition is slightly different from the definition under AS 39.35.680. In combination with Sec. 12 of this bill, the amendment makes it clear that if a person is able to perform the duties of another available and comparable position, regardless of employer, then that person no longer meets the requirements to receive occupational disability benefits.

Related bill sections: Sec. 12, AS 14.25.485(b); Sec. 56, AS 39.35.890(l).

Sec. 18 AS 14.25.486. Adds an annual adjustment to disability benefits equal to 75% of the increase in the Anchorage Consumer Price Index or 9%, whichever is less.

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

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

Related bills sections: Sec. 57, AS 39.35.891.

Sec. 19 AS 14.25.487(b). Clarifies the termination of a survivor's pension under the occupational death benefit provisions, including the end of death benefits when a dependent child no longer meets the definition of dependent.

Reason: The death benefit statute unambiguously states when the benefits will begin and when they will end, omitting termination of the death benefit the last month in which there is an eligible child. A dependent child receiving occupational death benefits might argue that death benefits must be paid until the date the deceased member would have retired, without regard to the age of the child. The disability statute [AS 14.25.485(i)], however, includes language terminating a survivor's benefit (from a disabled member who died while receiving disability) the last month in which there is an eligible surviving spouse or child. This appears to be a conflict of intent.

Consequence: Failure to amend this statute may jeopardize plan qualification because the IRC definition of "dependent" [26 USC, §151 and §152] includes age requirements for distribution to a dependent child under a qualified plan.

Related bill sections: Sec. 58, AS 39.35.892(b).

Sec. 20 AS 14.25.487(c). Clarifies that a survivor of a deceased member is not entitled to elect distributions from the member's individual account while receiving survivor benefits. Clarifies that the continuing contributions required by the employer are made on behalf of the surviving spouse and member's dependent children rather than "beneficiaries." Directs all continuing contributions by the employer into the occupational disability and death trust account in accordance with the Internal Revenue Code (IRC).

Reason: The death benefit provides an income, and eventually retirement benefits, for the family of a member who dies in the line of duty. However, the beneficiaries of a deceased member are arguably immediately eligible for distributions from the individual contribution account under AS 14.25.410. This change preserves the individual account until the survivor is eligible for the normal retirement benefit. The situation is similar to that described under Sec. 14 [AS 14.25.485(d)]. Please see Sec. 21 below for an explanation of the changes required by the IRC.

Consequence: If the clarifications are not enacted, a deceased member's surviving spouse, dependent children, or other beneficiaries may be able to elect distributions from the member's individual account prior to the date the member would have qualified for normal retirement had the member lived. As with distributions taken during a member's disability, this could be regarded as "double dipping," and as thwarting the intent of the legislature to provide eligible survivors with a retirement benefit once the death benefit ends. This scenario has more complications – including possible tax reporting requirements – than the disability provisions because the member's surviving spouse and/or dependent children may not be the only beneficiaries.

Related bill sections: Sec. 14, AS 14.25.485(d); Sec. 21, AS 14.25.487(e); Sec. 59, AS 39.35.892(c).

Sec. 21 AS 14.25.487(e). Revises the language regarding the continuing contributions employers make on behalf of survivors of members who died occupationally. The contributions will be an actuarially calculated amount required to yield the same results as under SB 141; however, the contributions will be made into the trust account established for occupational disability and death benefits rather than into the member's individual account. The benefits will also be paid from the occupational disability and death trust account. This amendment also clarifies that the period of death benefits constitutes membership service for determining vesting in employer contributions and eligibility for medical benefits and the Health Reimbursement Arrangement.

Reason: Unlike the special rules under 26 USC 415(c)(3)(C) that allow the compensation of a disabled member for any year subsequent to the disability to be considered equivalent to the rate of compensation immediately prior to the disability, there is no corresponding rule for a deceased participant. Thus, there would be no compensation for a deceased member in the year after death and, therefore, no allowable contributions to the deceased member's individual account. The solution this amendment proposes is to make contributions to an account that is allowable under the Internal Revenue Code and add an "additional benefit" that is equal to the amount that would have been contributed to the member's individual account had the member survived, plus an earnings credit.

Consequence: If this amendment is not adopted, the State will not receive a favorable ruling from the Internal Revenue Service and will not be able to pay the intended retirement benefits to survivors.

Related bill sections: Sec. 16, AS 14.25.485(i); Sec. 20, AS 14.25.487(c); Sec. 60, AS 39.35.892(e).

Sec. 22 AS 14.25.488. Adds an annual adjustment to the survivor's pension benefit equal to 50% of the increase in the Anchorage Consumer Price Index or 6%, whichever is less. Persons who are receiving a survivor's pension who are age 60 or older and persons who have received a survivor's pension for at least 8 years are eligible for the COLA.

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

Reason: This amendment provides a formula for annual increases to the monthly amount of a disability benefit that is the same as the formula for TRS Tier II members. It also applies the medical cost-sharing provisions of the new retirement tier so that benefit recipients do not have to bear the full burden of medical insurance premiums when they reach normal retirement.

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

Related bills sections: Sec. 61, AS 39.35.893, AS 39.35.894.

Sec. 23 AS 14.25.510. Clarifies that the nonguarantee clause relates only to the defined contribution portion of the retirement plans. The fixed benefits contained under these plans are defined by statute.

Reason: This is one of several conforming amendments necessary to pay all the benefits required in accordance with the intent of SB 141 and the retirement plans contained therein. SB 141 provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account, medical benefits, and medical expense reimbursements. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans in order to successfully obtain a favorable ruling from the IRS.

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

Related bill sections: Sec. 5, AS 14.25.320(b); Sec. 6, AS 14.25.320(c); Sec. 9, AS 14.25.380; Sec. 10, AS 14.25.400(b); Sec. 43, AS 39.35.710(b); Sec. 44, AS 39.35.710(c); Sec. 47, AS 39.35.780; Sec. 48, AS 39.35.800(b); Sec. 62, AS 39.35.910.

Sec. 24 AS 14.25.540(c). Clarifies that the employer match required under the conversion from the defined benefit plan to the defined contribution plan is subject to Internal Revenue Code contribution limitations. The amendment limits the total employer match to the maximum allowed during the limitation year in which the transfer occurs.

Reason: Because the amount that an employer must match under the conversion option is "new money," it has never been subject to Code limitations. 26 USC 415(c) imposes an annual limit on contributions to a defined contribution plan to the lesser of \$44,000 or 100% of employee compensation. In addition, the contributions of the PERS and TRS defined contribution retirement plans are required to be aggregated with the contributions of the SBS Plan.

Consequence: Contributions above the limitations of §415(c) are not allowable under federal law, therefore, any excess contributions must be returned to the employer.

Related bill sections: Sec. 63, AS 39.35.940(c).

Sec. 25 AS 14.25.540(d). Clarifies that transferred membership from the defined benefit (DB) plan to the defined contribution retirement (DCR) plan will be applied to vesting in both the employer's matching contribution and subsequent contributions.

Reason: The bill is silent on this issue. Ambiguity about whether a member's DB plan service applies to vesting in DCR plan employer contributions may prevent members who would otherwise benefit from transferring from making the decision to transfer.

Related bill sections: Sec. 64, AS 39.35.940(d).

Sec. 26 AS 14.25.540(h). Provides a time limit – 12 months from the date the employer consents to the conversion -- within which an eligible member must make the decision to transfer from the DB plan to the DCR plan.

Reason: Under SB 141, an employer's decision to allow its employees to convert is irrevocable and employees have up until the day before they become vested in the Teachers' Retirement System DB plans to convert. However, a plan does not satisfy the qualifications of a §401(a) plan if it includes a cash or deferred arrangement. Treasury Regulation 1.401(k)-1(a)(3) does provide for certain one-time elections. The Division of Retirement and Benefits has received legal tax counsel that implementing a time limit for the decision-making process would meet the requirements of the Treasury Regulation.

Consequence: Without amendment, the State may not receive a favorable plan ruling. Also, because of the open-ended timeframe, employers that would otherwise benefit from consenting to transfers may make the decision not to consent because of annual budgeting uncertainty.

Related bill sections: Sec. 27, AS 14.25.540(i); Sec. 65, AS 39.35.940(h).

Sec. 27 AS 14.25.540(i). An employer who makes a conversion election will have an initial 12-month window open to its eligible employees for transfer from the DB plan to the DCR plan. At the end of the initial 12-month period, the employer may consent to an additional 12-month period open only to those eligible employees to whom the option was not available during the initial period.

Reason: Allowing an employer to elect to consent to transfers during an additional 12-month period provides the employer with the opportunity to achieve greater cost savings if the employer determines that consenting to additional transfers is beneficial. However, in order to meet the requirements of Treasury Regulation 1.401(k)-1(a)(3) for certain one-time elections, the second period will be limited to those employees who did not have the choice during the initial period. The Division of Retirement and Benefits has received legal tax counsel that this particular arrangement has received favorable rulings by the IRS for other plans.

Consequence: Without amendment, the State may not receive a favorable plan ruling.

Related bill sections: Sec. 26, AS 14.25.540(h); Sec. 66, AS 39.35.940(i).

Sec. 28 AS 14.25.540(j). Adds a definition of "membership service" for purposes of clarifying what service credit is eligible for transfer from the DB plan to the DCR plan and disallows years of service for which contributions have not been fully repaid; i.e., reinstatement of refunded contributions, or indebtedness.

Reason: If a DB plan member has an outstanding indebtedness for refunded contributions, the years of service associated with that indebtedness are not credited back to the member until the indebtedness, including interest, has been fully paid. This change clarifies this process for the conversion option so there is no ambiguity as to: (1) the dollar amount of the member's contributions to be transferred and matched by the employer; and (2) the number of years of service to be counted toward vesting in benefits of the DCR plan.

Consequence: Without amendment, it is unclear whether full service, partial service, or no service credit associated with an indebtedness should be transferred to the new plan. To allow such service to be transferred would be inconsistent with the current statutory provisions of the DB plan (AS 14.25.062).

Related bill sections: Sec. 67, AS 39.35.940(j).

Sec. 29 AS 39.30.160(a). Changes the authority for adopting regulations for the Supplemental Benefits System-Annuity Plan (SBS) program from the Alaska Retirement Management Board (ARMB) to the Commissioner of Administration.

Reason: Part of the reform to the retirement systems was a regulation authority change from the prior Public Employees' Retirement Board (PERB) to the Commissioner of Administration. The reference to the PERB in the SBS statute that provides authority for adoption of regulations was changed to the ARMB along with the many other reference changes. SBS regulations, like PERS regulations, relate to administrative matters to be adopted by the Commissioner.

Consequence: If the amendment is not made, in practice, the Division of Retirement and Benefits will draft regulations for administration of the SBS plan for the ARMB's review and approval.

Related bill sections: Sec. 30, AS 39.30.160(e).

Sec. 30 AS 39.30.160(e). Changes the reference from "board" to "commissioner".

Reason: This completes the change of authority for adopting regulations for the SBS program. See Sec. 29 above.

Related bill sections: Sec. 29, AS 39.30.160(a).

Sec. 31 AS 39.30.165. Adds a provision under the Supplemental Benefits System-Annuity Plan program for a member, annuitant, or beneficiary to appeal a decision of the administrator to the Office of Administrative Hearings (OAH).

Reason: This was an inadvertent omission in transferring all appeals functions to the OAH.

Consequence: Without amendment, appeals will have to be sent to the superior court.

Related bill sections: Sec. 32, AS 39.30.335; Sec. 71, AS 39.45.055; Sec. 72, AS 44.64.030(a).

Sec. 32 AS 39.30.335. Adds a provision under the Health Reimbursement Arrangement Plan for a member to appeal a decision of the administrator to the Office of Administrative Hearings.

Reason: This was an inadvertent omission in transferring all appeals functions to the OAH.

Consequence: Without amendment, appeals will have to be sent to the superior court.

Related bill sections: Sec. 31, AS 39.30.165; Sec. 71, AS 39.45.055; Sec. 72, AS 44.64.030(a).

Sec. 33 AS 39.30.370. Changes the employer contribution from an individual employer contribution amount to a uniform employer contribution amount for all participants of the Health Reimbursement Arrangement Plan.

Reason: As currently written, the HRA statutes require a separate calculation for each employer on that employer's average annual employee compensation, resulting in a different employer contribution amount for each of the 214 participating employers under PERS and TRS. Employer data for FY 2005 shows the average annual employee compensation for employers is diverse, especially within the PERS. Calculations for PERS demonstrate a probable range of monthly employer contributions from as little as \$11 per member to as high as \$205 per member (see Attachment #1). There is less difference among TRS employers but there is still disparity. Additionally, the data shows a PERS employer *group* average would result in a \$100 per month per member contribution whereas a TRS employer *group* average would result in a \$138 per month per member contribution. Employers that participate in both PERS and TRS (primarily school districts) will have different contributions for their PERS and TRS employees.

The disparity in the amount of contributions that will be made by employers to the HRA if it is implemented as it is currently written raises issues of discrimination under federal tax law [Internal Revenue Code 105(h)]. The Department of Law and the Division of Retirement and Benefits are consulting with contracted outside tax counsel on this. There is no discrimination issue if the contribution rate is changed to a uniform amount for all HRA Plan participants.

Consequence: There are several consequences of not changing the statute. Members of the same plan will be receiving different contribution amounts depending on their employer, and members that work for the same school district will receive different amounts depending on their retirement system membership (PERS or TRS). The Division of Retirement and Benefits will need to submit a private letter ruling request to the IRS regarding compliance of the current formula. That ruling is likely to take a year or longer (the IRS is not addressing section 105(h) issues at this time) and may still require a legislative amendment.

Sec. 34 AS 39.30.380. Removes the conflict between eligibility for retirement and medical benefits and the statutes that define eligibility for the Health Reimbursement Arrangement Plan.

Reason: One of the medical benefits available under AS 14.25.480 and AS 39.35.880 is access to the HRA. It is not clear whether the eligibility language in AS 14.25.470 and AS 39.35.870 requiring a member to have been an active member for 12 months before application for retirement is only associated with the "retire directly from the system" requirement or whether it is one of the eligibility requirements the legislature intended to apply for purposes of eligibility for HRA reimbursements.

Consequence: Without amendment, there is an ambiguity in the HRA eligibility provisions.

Sec. 35 AS 39.30.390. Changes eligibility for reimbursement from the Health Reimbursement Arrangement to persons who meet the eligibility requirements for retirement and medical benefits under either PERS or TRS, rather than under both.

Reason: This is a clarification. It is unlikely that the legislature intended that a member be eligible for retirement and medical benefits under both TRS and PERS in order to be eligible for HRA benefits.

Sec. 36 AS 39.35.250. Clarifies the definitions of "consolidated employer normal cost rate" and "past service rate."

Reason: This section has not been updated since 1977. These are technical changes recommended by the State's actuary to accurately reflect that the last benefit enhancements to the DB plan were enacted in 2001 and the entire amortization schedule was reset in 2002 when the process for valuing assets was changed from the corridor method to the smoothing method.

Related bill sections: Sec. 2, AS 14.25.070(d)-(c); Sec. 37, AS 39.35.270(a).

Sec. 37 AS 39.35.270(a). Changes the calculation of the employer contributions so that the normal cost rate is applied only to the payroll base of DB plan members and the past service rate is applied to the employer's entire payroll base.

Reason: The current statutes defining contributions by employers reference contributions to the "plan" and specify that the employer contribution rate will be applied to the salaries paid to "members." This amendment allows the contribution rate for past service costs to be applied to the entire payroll base of the employers' workforce without regard to plan (tier) membership, and will keep employer contribution rates for the DB plan lower than would otherwise be calculated.

Consequence: Without amendment, employer rates for past service costs under the DB plan will continue to rise as the amortized liability is applied to a shrinking payroll paid to members of the DB plan. However, this will neither increase the employers' liability nor will it relieve the employers of the liability, it merely restates the liability as a higher percentage of applicable payroll.

Related bill sections: Sec. 1, AS 14.25.070(a); Sec. 36, AS 39.35.250.

Sec. 38 AS 39.35.270(d). This change, combined with the repeal of AS 39.35.270(b) and the effective date in Sec. 79, delays the effective date of the requirement of SB 141 that the employer contribution rate must be not less than the normal cost rate.

Reason: This is the same language that currently exists under AS 39.35.270(b) as enacted by sec. 96, ch. 9, FSSLA 2005, which was effective July 1, 2005. A number of employers that did not have the opportunity to budget for the new contribution rates that resulted from this new requirement have been assessed contribution rates that are higher than anticipated for the current fiscal year.

Consequence: If this amendment and Sec. 75, Sec. 78, and Sec. 79 are not enacted, 24 currently active PERS employers will pay an increased contribution rate in FY 2006.

Related bill sections: Sec. 3, AS 14.25.070(f); Sec. 75; Sec. 78; Sec. 79.

Sec. 39 AS 39.35.375(a). Effective July 1, 2010, removes the provision that allows employees to repay refunded contributions for the purpose of obtaining a public service benefit.

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

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

Related bill sections: Sec. 76, AS 39.35.375(f).

Sec. 40 AS 39.35.385(c). Effective July 1, 2010, removes the provision that allows employees to repay refunded contributions for the purpose of obtaining a conditional service benefit.

Reason: This statute was overlooked in the repeal by SB 141 of the reinstatement of service provisions. AS 39.35.385 allows persons who are eligible for a normal or early retirement salary under TRS to qualify for a normal or early "conditional service" retirement benefit under PERS if he or she has at least two years of credited service in PERS. Members are allowed to reinstate refunded service credit in order to qualify for the conditional service benefit under AS 39.35.385(c). The conditional service benefit is very expensive because it results in payment of medical premiums and other medical charges from both the PERS and TRS for a single retiree.

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

Related bill sections: Sec. 4, AS 14.25.125(c).

Sec. 41 AS 39.35.522(d). Adds a provision for appeal to the Office of Administrative Hearings of the Commissioner's decisions on waiver requests under PERS.

Reason: SB 141 established a new procedure for persons seeking a waiver of adjustment to benefits paid made by the administrator. The new procedure requires filing a request with the Commissioner of Administration for the waiver. While the TRS statutes allow an appeal of the Commissioner's decision to the OAH, the PERS statutes do not. This was a drafting error.

Consequence: If the amendment is not made, PERS appeals from the Commissioner's waiver decisions will have to be sent to the superior court, which is costly. An alternative would be for the Commissioner to delegate authority to the OAH to make the PERS waiver decisions [AS 44.64.030(b)]. Under this scenario, the OAH could bill the Division for these services.

Related bill sections: Sec. 72, AS 44.64.030(a).

Sec. 42 AS 39.35.680(3). Incorporates the reference to the new administrator section AS 39.35.003 into the definition of "administrator" under the PERS DB plan.

Reason: AS 39.35.050(a) is repealed in section 74 of the bill. This is a duplicative section regarding the administrator that was replaced with AS 39.35.003 in SB 141.

Sec. 43 AS 39.35.710(b). Clarifies that the retirement plans established by SB 141 are hybrid plans, containing both defined benefits and defined contributions, which fall under the Internal Revenue Code section 414(k).

Reason: This is one of several conforming amendments necessary to pay all the benefits required in accordance with the intent of SB 141 and the retirement plans contained therein. SB 141 provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account, medical benefits, and medical expense reimbursements. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans in order to successfully obtain a favorable ruling from the IRS.

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

Related bill sections: Sec. 5, AS 14.25.320(b); Sec. 6, AS 14.25.320(c); Sec. 9, AS 14.25.380; Sec. 10, AS 14.25.400(b); Sec. 23, AS 14.25.510; Sec. 44, AS 39.35.710(c); Sec. 47, AS 39.35.780; Sec. 48, AS 39.35.800(b); Sec. 62, AS 39.35.910.

Sec. 44 AS 39.35.710(c). Clarifies that the retirement plans established by SB 141 are hybrid plans, containing both defined benefits and defined contributions, which fall under the Internal Revenue Code section 414(k).

Reason: This is one of several conforming amendments necessary to pay all the benefits required in accordance with the intent of SB 141 and the retirement plans contained therein. SB 141 provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account, medical benefits, and medical expense reimbursements. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans in order to successfully obtain a favorable ruling from the IRS.

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

Related bill sections: Sec. 5, AS 14.25.320(b); Sec. 6, AS 14.25.320(c); Sec. 9, AS 14.25.380; Sec. 10, AS 14.25.400(b); Sec. 23, AS 14.25.510; Sec. 43, AS 39.35.710(b); Sec. 47, AS 39.35.780; Sec. 48, AS 39.35.800(b); Sec. 62, AS 39.35.910.

- Sec. 45 AS 39.35.730(c).** Clarifies that any voluntary contributions made by an employee under AS 39.35.730(b) can only be made with pre-tax dollars to the extent permitted under federal law.

Reason: The Internal Revenue Code allows pre-tax contributions only if the employee does not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the retirement plan. This is the case for contributions mandated by statute; however, a voluntary contribution clearly does not meet this test. Under certain restricted arrangements that involve a one-time irrevocable election, the IRS will allow voluntary contributions on a picked-up (pre-tax) basis. This amendment allows the State the flexibility to define such a restricted arrangement in both regulation and in its Private Letter Ruling request.

Related bill sections: Sec. 7, AS 14.25.340(c).

- Sec. 46 AS 39.35.750(e).** Adds a fund source in statute to pay for the monthly pension that may be elected by a disabled peace officer or fire fighter upon eligibility for normal retirement. Clarifies that the employer contributions for the defined benefits under this subsection (occupational disability, occupational death, and disabled peace officer/fire fighter retirement benefits) will be deposited to a separate trust account.

Reason: The legislature specified that a monthly pension benefit calculated under AS 39.35.370(c) elected by a disabled peace officer or fire fighter would *not* be paid out of the PERS defined benefit trust (AS 39.35.890((h)(2))); however, the legislature did not specify a funding source for those benefits. The "trust account" is new language to clarify these employer contributions are treated differently and kept separate from the contributions to the plan's individual member accounts. This language is also present in new subsection (e) of AS 14.25.350.

Consequence: The consequence of not enacting this amendment is that there will be no funding source from which to pay retirement benefits for disabled peace officers and fire fighters who elect to have their retirement benefits calculated under AS 39.35.370(c) once the normal retirement date is reached and disability benefits end.

Related bill sections: Sec. 8 AS 14.25.350(e); Sec. 54, AS 39.35.890(h).