

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

April 16, 2005

9:39 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Jim Elkins
Representative Bob Lynn
Representative Berta Gardner
Representative Max Gruenberg

MEMBERS ABSENT

Representative Carl Gatto, Vice Chair
Representative Jay Ramras

OTHER LEGISLATORS PRESENT

Representative Peggy Wilson

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 90(STA)

"An Act relating to Alaska Territorial Guard Day."

- MOVED CSSB 90(STA) OUT OF COMMITTEE

HOUSE BILL NO. 34

"An Act relating to the expungement of records relating to conviction set asides granted after suspended imposition of sentence."

- HEARD AND HELD

HOUSE BILL NO. 238

"An Act relating to contribution rates for employers and members in the defined benefit plans of the teachers' retirement system and the public employees' retirement system and to the ad-hoc post-retirement pension adjustment in the teachers' retirement system; requiring insurance plans provided to members of the teachers' retirement system, the judicial retirement system, the public employees' retirement system, and the former elected public officials retirement system to provide a list of preferred drugs; relating to defined contribution plans for members of the teachers' retirement system and the public

employees' retirement system; and providing for an effective date."

- HEARD AND HELD

CS FOR SENATE BILL NO. 141(FIN)

"An Act relating to the teachers' and public employees' retirement systems and creating defined contribution and health reimbursement plans for members of the teachers' retirement system and the public employees' retirement system who are first hired after July 1, 2005; relating to university retirement programs; establishing the Alaska Retirement Management Board to replace the Alaska State Pension Investment Board, the Alaska Teachers' Retirement Board, and the Public Employees' Retirement Board; adding appeals of the decisions of the administrator of the teachers' and public employees' retirement systems to the jurisdiction of the office of administrative hearings; providing for nonvested members of the teachers' retirement system defined benefit plans to transfer into the teachers' retirement system defined contribution plan and for nonvested members of the public employees' retirement system defined benefit plans to transfer into the public employees' retirement system defined contribution plan; providing for political subdivisions and public organizations to request to participate in the public employees' defined contribution retirement plan; and providing for an effective date."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: SB 90

SHORT TITLE: ALASKA TERRITORIAL GUARD DAY

SPONSOR(S): SENATOR(S) HUGGINS

02/04/05	(S)	READ THE FIRST TIME - REFERRALS
02/04/05	(S)	STA
02/17/05	(S)	STA AT 3:30 PM BELTZ 211
02/17/05	(S)	Moved CSSB 90(STA) Out of Committee
02/17/05	(S)	MINUTE(STA)
02/18/05	(S)	STA RPT CS 4DP SAME TITLE
02/18/05	(S)	LETTER OF INTENT WITH STA REPORT
02/18/05	(S)	DP: THERRIault, ELTON, WAGONER, HUGGINS
02/23/05	(S)	TRANSMITTED TO (H)
02/23/05	(S)	VERSION: CSSB 90(STA)
02/24/05	(H)	READ THE FIRST TIME - REFERRALS

02/24/05	(H)	MLV, STA
03/17/05	(H)	MLV AT 1:00 PM CAPITOL 124
03/17/05	(H)	Moved Out of Committee
03/17/05	(H)	MINUTE(MLV)
03/18/05	(H)	MLV RPT 4DP
03/18/05	(H)	DP: THOMAS, GRUENBERG, ELKINS, LYNN
04/16/05	(H)	STA AT 9:30 AM CAPITOL 106

BILL: HB 34

SHORT TITLE: EXPUNGEMENT OF SET ASIDES
 SPONSOR(s): REPRESENTATIVE(s) WEYHRAUCH

01/10/05	(H)	PREFILE RELEASED 12/30/04
01/10/05	(H)	READ THE FIRST TIME - REFERRALS
01/10/05	(H)	STA, JUD
03/01/05	(H)	STA AT 8:00 AM CAPITOL 106
03/01/05	(H)	Bill Postponed
03/17/05	(H)	STA AT 8:00 AM CAPITOL 106
03/17/05	(H)	Heard & Held
03/17/05	(H)	MINUTE(STA)
04/16/05	(H)	STA AT 9:30 AM CAPITOL 106

BILL: HB 238

SHORT TITLE: PUBLIC EMPLOYEE/TEACHER RETIREMENT
 SPONSOR(s): STATE AFFAIRS

03/30/05	(H)	READ THE FIRST TIME - REFERRALS
03/30/05	(H)	STA, FIN
03/31/05	(H)	STA AT 8:00 AM CAPITOL 106
03/31/05	(H)	Heard & Held
03/31/05	(H)	MINUTE(STA)
04/02/05	(H)	STA AT 10:00 AM CAPITOL 106
04/02/05	(H)	Heard & Held
04/02/05	(H)	MINUTE(STA)
04/05/05	(H)	STA AT 8:00 AM CAPITOL 106
04/05/05	(H)	Heard & Held
04/05/05	(H)	MINUTE(STA)
04/07/05	(H)	STA AT 8:00 AM CAPITOL 106
04/07/05	(H)	Scheduled But Not Heard
04/09/05	(H)	STA AT 9:30 AM CAPITOL 106
04/09/05	(H)	Heard & Held
04/09/05	(H)	MINUTE(STA)
04/12/05	(H)	STA AT 8:00 AM CAPITOL 106
04/12/05	(H)	Heard & Held
04/12/05	(H)	MINUTE(STA)
04/14/05	(H)	STA AT 8:00 AM CAPITOL 106
04/14/05	(H)	Heard & Held

04/14/05 (H) MINUTE(STA)
04/16/05 (H) STA AT 9:30 AM CAPITOL 106

WITNESS REGISTER

SENATOR CHARLIE HUGGINS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As sponsor of SB 90, offered praise and introduction of his staff member, Ryan Moore.

RYAN MOORE, Staff
to Senator Charlie Huggins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 90 on behalf of Senator Huggins, sponsor.

REPRESENTATIVE MIKE KELLY
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Offered brief comment during the hearing on SB 90.

LINDA SYLVESTER, Staff
to Representative Bruce Weyhrauch
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Reintroduced HB 34 on behalf of Representative Weyhrauch, sponsor.

KATHERINE SHOWS, Staff
to Representative Paul Seaton
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Reviewed information regarding the medical aspect of HB 238 on behalf of Representative Seaton, sponsor.

REPRESENTATIVE MIKE KELLY
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Offered his opinions regarding the medical aspect of HB 238.

JOHN ALCANTRA
Palmer, Alaska

POSITION STATEMENT: Testified on behalf of NEA - Alaska during the hearing on HB 238.

SAM TRIVETTE, President
Retired Public Employees of Alaska (RPEA)
Juneau, Alaska

POSITION STATEMENT: Paraphrased his written testimony and answered questions during the hearing on HB 238.

JERRY PATTERSON, President
NEA-Alaska/Retired
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of NEA-Alaska/Retired and as a former TRS Board member in opposition to HB 238.

MELANIE MILLHORN, Director
Health Benefits Section
Division of Retirement & Benefits
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the division and answered questions during the hearing on HB 238.

ACTION NARRATIVE

CHAIR PAUL SEATON called the House State Affairs Standing Committee meeting to order at [9:39:50 AM](#). Representatives Elkins, Lynn, Gardner, and Seaton were present at the call to order. Representative Gruenberg arrived as the meeting was in progress.

CHAIR SEATON discussed the upcoming calendar.

SB 90-ALASKA TERRITORIAL GUARD DAY

[9:41:40 AM](#)

CHAIR SEATON announced that the first order of business was CS FOR SENATE BILL NO. 90(STA), "An Act relating to Alaska Territorial Guard Day."

[9:41:47 AM](#)

SENATOR CHARLIE HUGGINS, Alaska State Legislature, as sponsor of SB 90, offered praise and introduction of his staff member, Ryan Moore.

[9:42:39 AM](#)

RYAN MOORE, Staff to Senator Charlie Huggins, Alaska State Legislature, presented SB 90 on behalf of Senator Huggins, sponsor. He noted that 6,500, predominately Alaska Native people formed the Alaska Territorial Guard over 60 years ago, and SB 90 is a long time coming in honoring them. He stated the reason for choosing October 8 to be Alaska Territorial Guard Day is that that was the day [in 2004] when the members of the [Alaska] Territorial Guard were recognized as United States veterans by the U.S. Army.

[9:43:46 AM](#)

MR. MOORE, in response to a question from Representative Gardner, offered his understanding that approximately 300 of the Alaska Territorial Guard are still alive today.

[9:44:03 AM](#)

SENATOR HUGGINS emphasized "how quickly these people are passing."

[9:44:22 AM](#)

REPRESENTATIVE GARDNER said she's sure it would mean a lot to the members and to their children.

[9:44:54 AM](#)

SENATOR HUGGINS noted that Representative Carl Moses was in the Alaska Territorial Guard at the age of 13. He said many rural Alaska Natives share stories of an uncle or grandfather who served in that guard. He also noted that there were also a number of females who served.

[9:45:19 AM](#)

REPRESENTATIVE MIKE KELLY, Alaska State Legislature, to share a case in point, noted that his cousin, Joe Kelly, was associated with the [Alaska Territorial] Guard.

[9:45:58 AM](#)

CHAIR SEATON, in response to comments by Representatives Elkins and Lynn, offered his understanding that the bill is available for cross sponsorship.

[9:46:01 AM](#)

SENATOR HUGGINS confirmed that's correct.

[9:46:34 AM](#)

SENATOR HUGGINS, in response to a comment from Representative Gruenberg, mentioned a desire to honor certain families.

[9:47:03 AM](#)

CHAIR SEATON closed public testimony.

[9:47:10 AM](#)

REPRESENTATIVE LYNN moved to report CSSB 90(STA) out of committee with individual recommendations and the accompanying fiscal notes. There being no objections, CSSB 90(STA) was reported out of the House State Affairs Standing Committee.

[9:47:55 AM](#)

HB 34-EXPUNGEMENT OF SET ASIDES

[9:48:01 AM](#)

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 34, "An Act relating to the expungement of records relating to conviction set asides granted after suspended imposition of sentence."

[9:48:29 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt the committee substitute (CS) for HB 34, Version 24-LS0240\Y, Luckhaupt, 4/15/05, as a work draft. There being no objection, Version Y was before committee.

[9:49:05 AM](#)

LINDA SYLVESTER, Staff to Representative Bruce Weyhrauch, Alaska State Legislature, reintroduced HB 34 on behalf of Representative Weyhrauch, sponsor. She reminded the committee that statute allows judges to suspend imposition of sentences and set aside the conviction following the defendant's completion of the conditions of that suspended sentence. Many,

including some judges, have assumed that a "set aside" means that the person walks away from the criminal conviction. However, in 1995, the [Alaska] Supreme Court ruled that that's really not the case.

MS. SYLVESTER stated that "criminal convictions are discoverable" on applications for a new job or apartment, or on credit references. She offered an example. The proposed legislation, Ms. Sylvester explained, would enable the set aside to "actually do what we thought it was supposed to do: let somebody ... walk away from their record of their criminal conviction." The expungement statute would breath life into the set aside statute, she said.

[9:52:03 AM](#)

MS. SYLVESTER highlighted the new language in Section 1, to illustrate how the process would take place; Section 1 of Version Y read as follows:

***Section 1.** AS 12.55.085(e) is amended to read:

(e) Upon the discharge by the court without imposition of sentence, the court may set aside the conviction and issue to the person a certificate [TO] that provides that, under state law, the person has not been convicted of a crime. The person may, within the two-year period following the issuance of the certificate, petition the court for an order sealing the records of the arrest, the judgment, the suspended imposition of sentence, and the set aside. The court shall issue the order if the court finds that the person is not likely to reoffend. The order must state that the effect of the order under state law is that the person has not been arrested, been adjudged, convicted, or received a suspended imposition of sentence or a set aside unless the person reoffends. The person shall provide the order to the Department of Public Safety and the clerk of court along with payment for the cost of sealing the records. The department and the clerk of court shall seal all records pertaining to the arrest, judgment, suspended imposition of sentence, conviction, and set aside. The records sealed may be accessed only by law enforcement or court officers for the purpose of investigating crimes or assisting with criminal prosecutions [EFFECT].

MS. SYLVESTER emphasized the importance of giving judges control over the issuance of an expungement order. She noted that the federal government has an expungement statute for certain federal crimes. When a crime is expunged, a person is able to check "no" where an application asks if he/she has ever been convicted of a crime.

[9:54:54 AM](#)

MS. SYLVESTER indicated that some states' expungement orders totally erase the conviction, while other states' expungement statutes allow [the record to be readily accessible by the criminal justice system. She said Representative Weyhrauch's position is that Alaska's expungement statute should go far and allow the person to have his/her record totally erased; however, that presents some problems. First, the criminal justice system has an interest in retaining the sealed records. Second, the courts disseminate information by computer on discs and various databases, and it would be "physically impossible for them to collect that information back."

MS. SYLVESTER said she has language ready for an amendment to Version Y that would specify that the state could not be held responsible for "information that was disseminated or broadcast in the world prior to the date of the expungement." Ms. Sylvester described [HB 34] as "a little bit of grace that we would like to offer society."

[9:59:19 AM](#)

MS. SYLVESTER, in response to a question from Representative Gardner, noted that those crimes that would be expunged are tied to those crimes that current statute allows for set asides. She listed those major crimes that would be excluded: drunk driving, any degree of homicide, manslaughter, kidnapping - with the exception of noncustodial interference, reckless endangerment, stalking, robbery, all forms of sexual assault, unlawful exploitation of a minor, indecent exposure, and arson.

[10:01:01 AM](#)

REPRESENTATIVE LYNN questioned if this would really be in the interest of society. He said he was taught that actions have consequences.

[10:01:39 AM](#)

MS. SYLVESTER responded that "someone can commit a minor infraction of the law and society will never let them move on from that." She offered an example.

[10:02:46 AM](#)

REPRESENTATIVE LYNN said there is usually a place on an application that allows for explaining the circumstances of a crime.

[10:03:14 AM](#)

MS. SYLVESTER replied that it's true; however, most often [a prospective employer, for example] won't look at the circumstances. She reiterated that the current set aside statute leads people to believe that "they walk away from it," but they only get a certificate that leaves out the actual word "expungement."

[10:04:41 AM](#)

CHAIR SEATON offered clarification.

[10:06:46 AM](#)

REPRESENTATIVE GRUENBERG said he strongly supports the policy behind the bill, but he sees a lot of problems with the way the bill is currently drafted. He stated his concern that no one from the Department of Law is present to testify. He requested a copy of the citation from the previously mentioned Alaska Supreme Court case. He noted that the fiscal note has "raised a lot of problems," yet no one is present from the Department of Public Safety.

[10:07:21 AM](#)

CHAIR SEATON emphasized that he would feel uncomfortable moving [HB 34] without giving a copy of [Version Y] to those who generated the fiscal note.

[10:07:59 AM](#)

REPRESENTATIVE GRUENBERG remarked that usually the defendant has the burden of proof. He referred to page 1, line 11, which read: **"The court shall issue the order if the court finds that the person is not likely to reoffend."** He noted that the

language doesn't specifically say who has the burden of proof on that issue.

[10:09:08 AM](#)

REPRESENTATIVE GRUENBERG said his second concern is in regard to "the applicability" and effective dates. For example, page 2, line 10, addresses destruction, but he noted, "You don't destroy the records here, all you do is seal them." He expressed his wish that the House State Affairs Standing Committee deal with these issues before moving the bill out of committee.

[10:10:12 AM](#)

CHAIR SEATON stated his intent to send any amendments to the Alaska State Troopers and the court system for comment and revised fiscal notes. He reviewed that ideas for possible amendments are to address preponderance of evidence, limitation on liability to the state, and applicability.

[10:11:10 AM](#)

REPRESENTATIVE GRUENBERG said he would like to work with anyone else interested to come up with a new committee substitute.

[10:11:53 AM](#)

CHAIR SEATON suggested that a word change may be needed on page 2, line 10, regarding the sealing of documents.

CHAIR SEATON announced that HB 34 was heard and held.

The committee took an at-ease from [10:14:44 AM](#) to [10:23:22 AM](#).

HB 238-PUBLIC EMPLOYEE/TEACHER RETIREMENT

[Contains brief mention of SB 141 and HB 191.]

[10:23:29 AM](#)

CHAIR SEATON announced that the last order of business was HOUSE BILL NO. 238, "An Act relating to contribution rates for employers and members in the defined benefit plans of the teachers' retirement system and the public employees' retirement system and to the ad-hoc post-retirement pension adjustment in the teachers' retirement system; requiring insurance plans provided to members of the teachers' retirement system, the

judicial retirement system, the public employees' retirement system, and the former elected public officials retirement system to provide a list of preferred drugs; relating to defined contribution plans for members of the teachers' retirement system and the public employees' retirement system; and providing for an effective date."

[10:23:33 AM](#)

CHAIR SEATON said the hearing's focus will be on the medical element. He noted that SB 141 was recently received from the Senate and has medical elements similar to those in HB 191.

[10:24:14 AM](#)

KATHERINE SHOWS, Staff to Representative Paul Seaton, Alaska State Legislature, on behalf of Representative Seaton, sponsor of HB 238, directed attention to a [two-page] handout showing possible medical scenarios for members of [the Public Employees' Retirement System (PERS)] and [the Teachers' Retirement System (TRS)] before Medicare eligible age. She said the handout was created by extrapolating data from a chart prepared by [Mercer Human Resource Consulting ("Mercer")], which was distributed at the House State Affairs Standing Committee meeting on 4/14/05.

[10:25:13 AM](#)

CHAIR SEATON clarified that the charts from Mercer total [16 pages, including the contents page] and showed "Projected Values for Health Reimbursement Accounts."

[10:25:31 AM](#)

MS. SHOWS noted one change in the aforementioned two-page handout is that in all the examples, the retirement age has been changed from 55 to 60. She highlighted that [shown at the top of the first page] the PERS "other" early hire, who works for 30 years and retires at age 60 would receive a 90 percent subsidy. The medical cost would be \$304,491, the subsidy amount would be \$200,739, and the amount paid by the health reimbursement account (HRA) would be \$160,578. When the last two amounts are subtracted from the first amount, the net out-of-pocket expense to the retiree for his/her 60-month pre-Medicare medical coverage would be -\$56,826.

[10:28:10 AM](#)

CHAIR SEATON clarified that the negative amount means that there is still \$56,826 in the health reimbursement account for that employee. In response to questions from Representative Gruenberg, he reviewed how the new handout correlates with the Mercer handout, including that the page numbers shown just below each chart in the new handout correlate with the pages of the Mercer charts. He offered examples and further details.

[10:33:26 AM](#)

MS. SHOWS highlighted the two other possible medical scenarios shown for PERS: "other" late hire, retiring at 60 with 20 years and a 60 percent subsidy, with and without spouse. She explained that the second page shows the same three scenarios for TRS retirees.

[10:35:35 AM](#)

MS. SHOWS, in response to a question from Chair Seaton, explained that the reason that the net amount left in the account is higher for TRS than PERS is because the average salary for TRS employees is higher and the percentage that was put into the HRA would be larger.

[10:36:06 AM](#)

CHAIR SEATON reminded the committee that when there is a percentage shown next to the HRA - for example 2 percent - that percentage is on the average salary, not an individual salary. Everyone gets the same HRA contribution, because a U.S. anti-discrimination clause provides that there can be no discrimination between people based on salary. He stated that the same is not true for the percentage that goes into a person's subsidy amount.

[10:38:52 AM](#)

REPRESENTATIVE GARDNER offered her understanding that the scenarios in the two-page handout are just "examples of how the system works." She observed that the examples are for a person who retires at the age of 60, when Medicare eligibility doesn't begin for 60 months - at age 65; however, the age at which Medicare eligibility begins is apt to change.

[10:39:22 AM](#)

CHAIR SEATON answered that's correct. He clarified that the intent of the bill is to have the retirement age be 60 months [five years] before whatever the Medicare eligibility age is. Therefore, the age is set at 60 for the current Medicare eligibility age of 65, but it could shift should the Medicare eligibility age be raised.

[10:40:37 AM](#)

MS. SHOWS concluded highlighting the scenarios for TRS.

[10:41:55 AM](#)

CHAIR SEATON reminded the committee that the scenarios are based on the current actuarial assumptions, which he briefly reviewed.

[10:43:24 AM](#)

REPRESENTATIVE GRUENBERG stated his concern about the possibility that the actuarial figures may not be accurate.

[10:45:07 AM](#)

CHAIR SEATON reminded the committee that Milliman was hired to conduct an audit on the Mercer Human Resource Consulting actuarial numbers and, beyond that, he indicated that he doesn't know what else can be done.

[10:46:32 AM](#)

REPRESENTATIVE GRUENBERG suggested that the only assumption that the committee can use is that it cannot predict. He indicated that the only sure thing is that [medical costs] will increase. He suggested that something be built into the system that requires the legislature, every few years, to reexamine the health care plan.

[10:49:11 AM](#)

CHAIR SEATON responded that SB 141 tackles that issue through its proposed reconstruction of the [retirement] board. He said the committee has a plan that is based on estimates, so the question is how to get a plan that works well, provides benefits, attracts and retains employees, and has fiscal stability. He said if nothing is done, the legislature would basically be okaying the status quo. He stated his intent to get all the choices on the table.

[10:51:12 AM](#)

REPRESENTATIVE GARDNER listed her view of the possible choices: the state has known costs and the employees' costs vary according to what the true costs are; the employees' costs are set and the states' vary; or the risk is shared by employee and employer. She observed, "But the plan that protects the employer and the state by limiting costs is a discouragement under our current system for ... recruitment and retention of employees, unless pay scales are higher." She said a lot of people have stated that they deal with lower pay scales in exchange for a more secure retirement. If additional costs are built into retirement, [the employer] will have to give more [salary] to keep the employee.

[10:52:18 AM](#)

CHAIR SEATON talked about the 30-year employee and the scenario shown in the previously reviewed two-page handout. He said the legislature has to decide what comparisons it wants to make and what it wants to "be able to afford to do."

[10:53:27 AM](#)

REPRESENTATIVE GARDNER responded that much of [the outlined scenario] is for an employee who works for 30 years, and she questioned how many people stay 30 years in the same job today.

[10:53:45 AM](#)

CHAIR SEATON said, "You're right," yet reminded Representative Gardner that two of each of the PERS/TRS scenarios were set up for retirement after 20 years.

[10:53:51 AM](#)

REPRESENTATIVE LYNN asked if there might be a way to design a system whereby employer/employee costs fluctuate depending on health care costs.

[10:54:28 AM](#)

REPRESENTATIVE GRUENBERG said Chair Seaton has used a variable whereby the retirement age shifts with the Medicare eligible age, with 60 months between the two. He suggested allowing other variables.

[10:55:19 AM](#)

CHAIR SEATON proffered, "As a percentage, it's not a fixed dollar. It's a limited dollar, but it's a contribution that does change as a percentage of the medical cost."

[10:55:57 AM](#)

REPRESENTATIVE LYNN clarified that he is trying to think of a new idea that the committee has yet not considered.

[10:56:13 AM](#)

REPRESENTATIVE MIKE KELLY, Alaska State Legislature, said this issue is so overwhelming in terms of future dollars that it would behoove the legislature to be extremely conservative "on the theory that ... once you lock it in, that is going to be locked in and remembered for all time to come for that new class of employee." He said the numbers show that young employees are brought in the door by things other than retirement benefits.

[10:58:51 AM](#)

REPRESENTATIVE GRUENBERG noted that Representative Kelly said retirement benefits don't bring new people into the system, yet he has been told the opposite. He emphasized that that is an essential issue to address.

[11:00:13 AM](#)

CHAIR SEATON said he thinks there are two separate issues: attracting people to the system and retaining people in the system.

[11:01:55 AM](#)

CHAIR SEATON said it would be known what the unfunded liability would be going forward, because it would be set at a maximum 5 percent increase per year.

[11:03:11 AM](#)

REPRESENTATIVE ELKINS stated that he agrees with Representative Kelly that the young are focused on dollars in the pocket rather than retirement savings. In regard to pushing the bill forward,

he said he would rather see a task force work on the bill over the interim to put to a vote the first part of the next session.

[11:04:18 AM](#)

CHAIR SEATON said he appreciates Representative Elkins' comments, but wants the committee to work as hard and fast as possible.

[11:04:28 AM](#)

REPRESENTATIVE KELLY indicated that he doesn't want to "buckle under the pressure" and "ship it forward into an election year." He stated that he is a strong advocate of putting a new board in place with the charge of tuning up the plan. He concluded, "We can do it, if we have the will."

[11:05:19 AM](#)

REPRESENTATIVE LYNN, regarding the motivation of employees, said, "The closer you get to retirement the more likely you are to stay in there." Regarding Representative Kelly's comments about an election year, he said, "I don't think we should vote yeah and nay on this or any other bill in the legislature based upon what is and is not an election year."

[11:06:54 AM](#)

MS. SHOWS mentioned a study that shows that "salary's far more important than benefits" for beginning teachers.

[11:07:19 AM](#)

CHAIR SEATON directed attention to a one-page handout entitled, "Comparison of the States Normal Retirement by Age/Service," compiled by the Senate Finance Committee from [National Association of State Retirement Administrators (NASRA)] public fund survey data. The data shows the years and ages for various retirement scenarios for teachers and "other" for all 50 states.

[11:09:09 AM](#)

REPRESENTATIVE GRUENBERG said he would like to see related numbers for federal government jobs.

[11:09:47 AM](#)

MS. SHOWS reviewed two individual pages, labeled "A" and "B," showing details of major medical coverage for HB 238 and SB 141, respectively. [This information is available in the committee packet.]

[11:12:32 AM](#)

REPRESENTATIVE GARDNER offered her understanding that, under the proposed plan, if the retiree does not keep up with his/her premium cost, he/she loses both access to the system, as well as the 60-month subsidy prior to Medicare.

[11:12:38 AM](#)

MS. SHOWS answered that's correct. She said this is an encouragement for "employment up to age 60." She added that if, for example, an employee serves for 30 years and retires early, he/she would have to "bridge the gap between [his/her] early retirement age and 60 months pre-Medicare with some other qualified medical insurance."

[11:13:14 AM](#)

CHAIR SEATON added that "other qualified medical insurance" could be insurance from a spouse or through previous employment, for example. He offered further details.

[11:15:15 AM](#)

REPRESENTATIVE GARDNER stated that it seems unfair that if an employee has worked 30 years and earned the 60 months pre-Medicare care coverage but can't afford to keep up the premiums for the 10-12 years between retirement and eligibility, it will cost him/her "that entire 60 months." She said, "As you said, it's an incentive to keep working, but it seems to sort of unfairly stack the deck in favor of the employer."

[11:16:01 AM](#)

CHAIR SEATON said that's not the intent. He clarified that the intent is to say that the employee cannot bring in to the system five years of unserviced [accumulated and unaddressed medical problems] medical costs. He said that's the purpose for requiring that someone retire directly out of the system. He said it's a conundrum that is difficult to solve.

[11:16:49 AM](#)

REPRESENTATIVE LYNN proffered that the intent is not as important as what actually happens to the employee.

[11:17:14 AM](#)

CHAIR SEATON predicted that 30 years from now employees will have a very definite incentive to remain employed, because medical costs will have risen so substantially.

[11:18:14 AM](#)

CHAIR SEATON, in response to a question from Representative Gardner, confirmed that HRA funds can be used for insurance premiums. He added that they can also be used for any medical deductible or co-pay, for example. He described [the HRA] as dollars in an employee's pocket to spend on any qualified medical expense, including insurance.

[11:18:43 AM](#)

REPRESENTATIVE GRUENBERG asked if older people who are changing careers will be attracted to work for the state or if they will be discouraged because they will "never be able to have a portable health care system."

[11:19:20 AM](#)

CHAIR SEATON reminded Representative Gruenberg that some of the scenarios that the committee has seen are for employees beginning at age 40 and working for 20 years. He offered further details.

[11:22:07 AM](#)

REPRESENTATIVE KELLY emphasized the importance of portability in a plan.

[11:23:11 AM](#)

REPRESENTATIVE GRUENBERG indicated that it is important to many to be able to change careers mid-stream, and [the result of doing so as it relates to HB 238] would have to be carefully explained to the public.

[11:24:02 AM](#)

CHAIR SEATON directed attention back to the aforementioned handout "A" and the list of employee percentages of premium at various years of service. In response to a question from Representative Gardner, he stated that the subsidy base is variable and can escalate up to 5 percent a year. If it rose to 7 percent, the employee would have to pick up 2 percent.

[11:27:09 AM](#)

CHAIR SEATON highlighted aspects of handout "B" to SB 141. He noted, "There's less difference between the two plans in the length of service and the subsidy you'll get." The component for having 60 months pre-Medicare eligibility does not exist in SB 141.

[11:28:48 AM](#)

CHAIR SEATON reviewed some of the decisions before the committee regarding the medical aspects of a retirement plan. He asked the committee members if they could decide whether they want to support a pre-Medicare eligible plan or to "be looking at everything post-Medicare eligible."

[11:31:04 AM](#)

MS. SHOWS directed attention to a one-page, double-sided handout [available in the committee packet], entitled, "Comparison of Other States' Experience with Widespread Defined Contribution Plans."

The committee took an at-ease from [11:32:32 AM](#) to [11:37:51 AM](#).

[11:38:03 AM](#)

MS. SHOWS returned to the aforementioned handout - "Comparison of Other States' Experience with Widespread Defined Contribution Plans" - and noted that Nebraska, West Virginia, and Michigan are the states most talked about when referring to defined contribution (DC) plans, hence those are the states compared here. She highlighted the details on the handout, which include: which employees have a defined contribution plan, what the employee and employer contribution rates are, the employee investment options, aspects of vesting and medical coverage, and whether the state is a social security employer.

[11:40:33 AM](#)

MS. SHOWS, in response to a question from Representative Gardner regarding Michigan's employee contribution rate, said she does not know what the IRS maximum is, but it is a significant amount. She offered an example illustrating scenarios for employer match amounts in Michigan, which she clarified are significantly less than [HB 238] is suggesting.

[11:41:52 AM](#)

MS. SHOWS, in response to a question from Representative Gruenberg, said there are states that allow employees to choose between DC and DB plans. She noted that there are also approximately 20 states that have a small portion of their public employees under some form of defined contribution plan.

[11:42:30 AM](#)

REPRESENTATIVE GRUENBERG observed that two of the three states represented on the handout are changing back to DB plans.

[11:42:45 AM](#)

MS. SHOWS reiterated that there are many states that have elements of a DC plan for some of their employees. She specified that the DB plan that Nebraska switched to is called a "cash balance benefit" and is similar to a DC plan. She said that type of plan guarantees an investment return of a certain percentage on an employee's account. She offered further details. In response to a question from Representative Gruenberg, she stated that currently there are 48 states that are primarily using a defined benefit plan.

[11:45:19 AM](#)

MS. SHOWS returned to her review of the handout.

[11:47:33 AM](#)

MS. SHOWS, in response to a question from Chair Seaton, offered her understanding that "vesting" means, "Once you're vested in your defined contribution account, you can take the full dollar amount with you when you leave employment."

[11:47:46 AM](#)

CHAIR SEATON offered an example.

11:47:54 AM

MS. SHOWS continued with her comparison of the three states.

CHAIR SEATON observed that the Michigan plan is quite similar to HB 238.

MS. SHOWS noted the difference is that in the Michigan plan the employee doesn't have to retire directly from the system and the percentage subsidy is "of the premium, not of a subsidy base."

11:50:10 AM

MS. SHOWS drew attention to the backside of the handout, which illustrates "the experience of the different states." She said she read a union position paper regarding West Virginia's experience, which concluded that, similar to Nebraska, when employees have to manage their own accounts, they do not get high enough returns. She reiterated that many states have plans with DC components, and she noted that those states are listed on the back page as being: Florida, Montana, New Jersey, North Dakota, Ohio, Louisiana, and South Carolina. Ms. Shows paraphrased from the bottom of the page, "In the private sector more than twice as many employees are under defined contribution plans as defined benefit plans."

11:52:06 AM

REPRESENTATIVE KELLY pointed out:

Some of those people that just moved into a DC began to manage their own money to some extent or another, ... then hit the perfect storm that we're all here because of, and it devastated the individual investor, as well as everyone else. So, just as they got into their own management, they got punched hard. So, it's not surprising that given the timing of the conversions, that that happened.

REPRESENTATIVE KELLY mentioned the state's Supplemental Benefits System (SBS) as being a model.

11:52:56 AM

CHAIR SEATON highlighted that Nebraska, West Virginia, and Michigan are all social security employers. He noted that PERS

employees have SBS and social security, while TRS employees do not.

[11:54:22 AM](#)

REPRESENTATIVE GRUENBERG questioned why TRS doesn't have the option for SBS.

[11:54:50 AM](#)

MS. SHOWS responded that it's because teachers' salaries are significantly more than that of PERS employers. Furthermore, many school districts have their own retirement plans for their employees that are similar to a defined contribution account.

[11:55:55 AM](#)

CHAIR SEATON indicated that the reason the states with defined contribution plans are not happy with them has to do with the contribution rates. He stressed, "It's not so much whether it's defined contribution or defined benefit, but it's how well we structure the plan so that it's ... attracting and retaining employees. And that's going to depend on how much of a percentage ... we are willing to put into the plan."

[11:57:26 AM](#)

REPRESENTATIVE GARDNER, regarding the "Comparison of Other States' Experience with Widespread Defined Contribution Plans" handout, noted that a lot of private employers can offer different incentives for employees to stay, such as extra vacation time, sabbaticals, and bonuses - all things that she said "we don't generally have available."

[11:58:10 AM](#)

CHAIR SEATON said one consideration would be to have [the Alaska State Pension Investment Board (ASPIB)] "do the investment." A decision would have to be made whether to have a broader variety of investment opportunities or to keep investment costs down as much as possible within the system "and let that grow."

[12:01:18 PM](#)

CHAIR SEATON asked members to review SB 141 before it comes before the committee on Tuesday, 04/19/05. He discussed a plan

to hear the bill in the morning and recess to a call of the chair until Tuesday night.

12:03:00 PM

REPRESENTATIVE GARDNER mentioned Representative Lynn's earlier comments about [not pushing something through the legislature based on whether an election years is or is not to follow]. She noted for the record that she received a letter from Tim Steele, President, Anchorage School Board, which suggested that PERS/TRS issues should be carried over into the interim so that all the key players can be involved. Mr. Steele also suggested that hearings should be held around the state, with opportunities for all sides.

REPRESENTATIVE LYNN clarified that he would like the committee to "proceed with all deliberate speed" without rushing to judgment.

JOHN ALCANTRA, testifying on behalf of NEA-Alaska, said that organization is comprised of 12,500 public school employees and retirees. He noted that Governor Arnold Schwarzenegger of the State of California recently decided to "go against the DC plan for the time being." He opined that several committee members have brought up a good point in recommending taking the time to do things the correct way. He suggested that perhaps the reason that some states are changing directions is that they didn't initially take the time to do things properly.

MR. ALCANTRA noted that about 8,000 of his members are in TRS, and he said 7 out of 10 teachers in the state are recruited from the Outside. He admitted that salary and intrigue about the state is "a draw," but said in order to retain quality personnel the state needs a quality retirement system.

MR. ALCANTRA said teachers in TRS have a higher pension amount because, as a general rule, they spend more time in the profession and make more money than PERS employees. Teachers don't have access to social security. He applauded the committee's efforts, but asked that the legislature take time over summer and fall to work with various groups, communities, and task forces to ensure a quality plan is adopted that will recruit and retain personnel in both PERS and TRS. In closing, Mr. Alcantra disclosed, "I'm a vested member of PERS, and I'll be one of those folks that only had 6.5 years in the system but will get a quality retirement."

12:08:42 PM

SAM TRIVETTE, President, Retired Public Employees of Alaska (RPEA), paraphrased from the following written testimony [with some format, grammatical, and punctuation changes]:

I'm retired from the Department of Corrections after 32 years. Nineteen years of that time I served as the Director of the Alaska Parole Board, and in that capacity, worked closely with the legislature in a complete rewrite of the Parole Administration Act and in rewriting other legislation and regulations. I also worked as the Director & Deputy Director of Probation & Parole, Chief Probation Officer, Parole Officer, and Correctional Officer. I have extensive involvement in leadership positions in various non-profit organizations at the local, state, and national level spanning 5 decades.

I am currently the President of the Retired Public Employees of Alaska, having served in various capacities on its Executive Board since 1999. In my capacity as President, I have attended many of the PERS/TRS Board and ASPIB meetings in recent years. I have watched them work and participated extensively in their meetings.

I have attended or watched almost all of the Senate Finance Committee hearings on their retiree bill since it was introduced and spent countless hours discussing issues surrounding retiree legislation with numerous people. I have attended many of the hearings and work sessions of this committee in the last few weeks. I don't consider myself an expert on the retirement system, but I do think I have gained much knowledge about the system over the last five years that gives me a reasonable perspective.

12:10:09 PM

Let me first complement the committee in being willing to respectfully listen to a diverse group of people with an open mind and ask important questions. Folks that I talked to in recent weeks that attended or watched your hearings and work sessions were heartened by your approach.

In spite of some rhetoric to the contrary, everyone I've talked to thinks the system needs change. But citizens are asking that the problem areas be clearly & accurately identified before we try to design fixes. Mr. Chair, I thought you did an excellent job of your overview of the system in your work session of March 24. I hope all of the members were able to listen to those comments as well as the testimony provided at your April 6 work session when the members of PERS/TRS and ASPIB, and their attorney testified. I think that information is critical to committee members as you develop new legislation.

Rolling all this together, here are some of my observations:

1. The State's contracted actuaries made major errors in judgment and in calculations that were responsible for seriously understating the current and future liabilities of the retiree systems - a few mortality tables, salary schedules, medical benefits, [and] statutory change impacts.
2. Because of the significant errors beginning in the mid-90s, the actuaries' advice to the PERS/TRS Board resulted in the adoption of artificially low rates at a time when full funding would have resulted in a much lower shortfall today.
3. The many intended and unintended "enhancements" created by the legislature or employers over the years have resulted in unintended significant additional liabilities for the systems. These "enhancements" refer to any law, regulation, or practice that allows an employee to capture a benefit that is not fully actuarially funded. Many are legislative decisions: allowing local governments to provide retirement benefits to elected officials with minimal system contributions; allowing legislative staff to vest in the retirement system with full benefits with minimal contributions; [and] allowing some Tier II employees Tier I medical benefits and not requiring full funding of this change. Some others are the result of local government decisions, such as allowing senior employees significant overtime pay during the three high years or paying bonuses to encourage retirement, significantly increasing the employees retirement pay.
4. Many of these practices have existed for decades, including the transferring of employees to [the] Bush

- high geographical pay differential areas - for the last three to five years of employment to allow for large increases in retirement pensions. Let me stress: Not one employee is committing fraud on the system or in anyway doing anything improper by following these laws, regulations, or rules. They are not. The employees are only using the rules set up by the system. But I believe these benefits that are not fully funded must be altered.

12:13:12 PM

The logical question is: If all these laws and rules were changed to disallow the unfunded benefits, how much money would be saved? Would there even be a need to consider the drastic move to a defined contribution system? If you review the minutes of the PERS and TRS meetings last fall when they did not recommend a new defined contribution plan, they believed there were many other options that they were not allowed to put forth and study that could put the retirement systems on sound footing. Besides removing the "enhancements" already discussed, the other options included increasing the employee contribution, reducing the employer Supplemental Benefits System contributions, raising the number of years of service before vesting, and of course adjusting the health benefits package. These options need to be fully considered before adopting a defined contribution plan.

So, where do we go from here? I agree with you, Mr. Chair, there is no evidence any of the three boards - PERS, TRS, [and] ASPIB - have made decisions in the recent past that have adversely affected the funding of the retiree systems. Quite the contrary, let me mention a few decisions by these boards that positively affected the status of the funds. Most are decisions by the PERS/TRS Boards that deal with the "cost savings" or liability side of the equation. Many more examples exist if you need additional information.

Most of you have heard about the education program on generic drugs that is now saving \$5-\$6 Million a year by encouraging retirees to use generic versus brand name medications and also [have] prescriptions filled

by mail order, resulting in further savings to the state.

You probably haven't heard about the savings to the state on payments to the Term Life Insurance Program. Retirees and the state had been overpaying premiums and fees to the firm administering the retiree self-funded program for years, resulting in much higher payments than necessary. This problem was identified after continued probing of the PERS/TRS Board members.

PERS/TRS retirees for years were paying more than necessary into the self-funded retiree dental/audio/visual plan. By pushing for accurate expense information on the plan, the Board recommended the state increase the benefits. The plan continued to make these increased reimbursements for three years before the premiums had to be increased. This bought a huge amount of good will from the retirees for the system's attempts to hold down retiree expenses.

[12:15:43 PM](#)

Let's take a look at one mistake made without the direct involvement in the details by the PERS/TRS Boards or RPEA volunteers, which caused much grief for [the Division of] Retirement & Benefits when trying to successfully control system expenses. [The division] correctly identified some retirees were using personal credit cards to charge medications, without notifying the pharmacies the customer was a retired employee. Therefore, the retirement system was charged a much higher price for the drug. However, letters were mistakenly sent to many retirees that were not a part of the problem, making them angry at the state for falsely accusing these retirees of increasing the costs to the state. Also the letter threatened to make the retirees pay the difference in costs, further alienating the retirees, and making it more difficult to engage them in cost cutting measures in the future.

Another important decision was made by the PERS/TRS Boards several years ago. After receiving the disturbing news in the early 2000s, the funds that had been over 100% funded were now projected to be less than 80% funded, the Boards asked for a second opinion from another actuary. This second [actuarial] report

pointed out some of the major problems with the state's [actuarial] assumptions, and these huge errors have been corrected.

Our belief is that some significant potential solutions to cost cutting still have not been identified. Most employees understand the current gap in funding and would be more than willing to offer information and potential solutions to this problem. Publicly solicit their input.

Everyone involved with the systems has identified health care costs as one of the primary culprits in the funding shortfall. Skyrocketing health care costs are a national crisis. There is nothing the employees, the employers, the retirees, or any of the 3 boards have done to cause this problem. Until all of us put pressure on Congress and the health care industry to make changes, we will be stuck with this continued pressure on the retirement funds. One clear example is the new Medicare [prescription] drug law. It prohibits the federal government from negotiating drug prices with the pharmaceutical companies. Now, if you are trying to contain and reduce costs, how much sense does that make? Different segments of the federal government, including the Veterans Administration and the Department of Defense, have been successfully saving huge sums of money annually by negotiating drug prices. We need to make health care cost reductions the number one priority. It affects all publicly funded and private health care systems. Skyrocketing health care costs are behind the massive increases in Medicare, Medicaid, [and] Worker Compensation costs, as well.

Mr. Chair, your committee bill is the only one introduced this session dealing with retiree issues that even attempts to deal with the current funding deficit. We applaud you for focusing on this critical issue. And we appreciate your understanding that the employers do need relief this year and the next year in meeting their financial obligations to the pension funds. Hopefully, the upcoming [actuarial] review by the Michigan firm hired by the Legislative Council will shed more light on [actuarial] issues resulting in such a quick downturn of the calculation of the fund projections. As you all have learned, it is

these projections that are the largest factor in the employer premium increases today.

As the PERS/TRS/ASPIB contract attorney said, whatever solutions you come up with must be very carefully crafted to avert additional unintended consequences in the future. Thank you again for the opportunity to testify.

CHAIR SEATON, in response to a question from Representative Gardner, said Legislative Council is spending \$20,000 to ask another actuary to look at "the projections - the assessment." He characterized this as a "second opinion of assumptions," rather than a full audit.

[12:21:37 PM](#)

REPRESENTATIVE GRUENBERG stated that he would like the committee to glean ideas for further legislation from Mr. Trieste's testimony. He asked Mr. Trivette how long ago the errors were made by the actuarial firm.

[12:22:11 PM](#)

MR. TRIVETTE responded that the first error he is aware of is the failure to adopt the 1994 mortality table. He added, "My impression is that most of those errors were discovered." In response to a follow-up question from Representative Gruenberg, he said he recently received information from NEA-Alaska that there still may be some errors in the current system, in terms of the calculation of projected salary increases.

[12:23:20 PM](#)

REPRESENTATIVE GRUENBERG expressed concern regarding whether there may be some legal recourse if the standard of care required in the industry was not met.

[12:23:41 PM](#)

MR. TRIVETTE replied, "That was mentioned at some of the testimony presented at [a] Senate Finance Committee teleconference," and he said he doesn't know if anyone has followed up on that. He said he thinks it would be prudent to talk to the members of PERS and TRS who were available "when these reports were being presented to them."

12:24:50 PM

JERRY PATTERSON, President, NEA-Alaska/Retired, testifying on behalf of NEA-Alaska/Retired, noted that he is also a former TRS Board member. Mr. Patterson read from his written testimony [included in the committee packet], as follows:

I would like to start by making some observations. My first observation is that what goes up will come down and what goes down will go up. Unfortunately, when the stock market was up, the PERS Board took the recommendation of the actuaries and lowered contribution rates excessively costing PERS about seven hundred million dollars in contributions and earnings. While the TRS Board only dropped its rate by a point, they were hit by a flood of early retirements that combined with the rate drop and lost earnings, resulted in a loss of over one hundred and fifty million. Currently, the market has rebounded and PERS and TRS combined earned around seven hundred million over the 8.25% assumed return that is not reflected in the current actuarial report. In addition ASPIB has a history of outperforming the return assumption so already the condition of the retirement funds are improving.

My second observation is that things are never as good or bad as they appear. When I was on the TRS Board, we received twenty-five year projections showing that the contribution rate could drop to one percent. Now we are getting reports that the contribution rate needs to exceed thirty percent. Of course those projections are made from the low point in the cycle. Depending on the current condition of the retirement funds, projections can paint a very rosy picture, the sky can be falling, or we can be somewhere in between. It would not be good policy to make a decision that has a drastic effect on the system forty years out based on one snapshot in time.

My third observation is that it is most likely there will always be an un-funded liability. Only once in recent memory have our retirement funds been fully funded and it has never before been a cause for concern. It is not uncommon to have an un-funded liability. Even in 2001, at the peak of the stock market rise, fifty-three of the top one hundred public

pension funds were less [than] a hundred per cent funded. A pension fund that is ninety percent funded is considered very healthy.

My last observation is that the condition of the fund changes all the time. Even now, the information in the reports you have received is outdated. When the boards adopt contribution rates for two years ahead, it is [based] on information that is nine months old. Most of the time those changes are slight so it doesn't matter if the data is slightly behind the times. But occasionally the changes are significant. Between 2001 and 2002 our funding ratio dropped about thirty points. However, half of that drop was due to a change in the health cost assumption. It then becomes very important to examine the health care assumption. In the fall of 2003 Retirement and Benefits raised the health care premium twelve percent. At the same time they did a reserve study and found that they had been accumulating excess reserves over the previous three years in the amount of twenty-two million dollars. They then turned back to ASPIB twenty million. In the fall of 2004 health care premiums went up less than six percent while the anticipated rate was over eleven percent. Clearly, there is a problem with the health care assumption and it needs to be reexamined.

In looking to the future there are bright spots. The division's campaign to encourage members to move from name brand drugs to generics has met with success and there is room for more savings. There are over fifteen thousand members between the ages of fifty-five and sixty-four that will reach Medicare age in the next ten years saving the retirement system large amounts of money, as Medicare becomes the primary insurer and the retirement system secondary. We have yet to take full advantage of PER's tiers two and three and TRS tier two. Take TRS tier two for example. In 2011 the first tier two teachers will have twenty years of service and will be eligible to retire. However, they need twenty-five years of service to receive medical benefits. They will not retire without medical benefits. So for five years, teacher retirements will be reduced to a trickle. The contributions to the system will increase while the outlay for new retirements will be reduced. And ASPIB

has a long history of outperforming the earnings assumption. Each one percent of excess earnings is worth over a hundred and twenty million.

[12:28:59 PM](#)

The thrust of this new bill has been to reduce costs to the system. That does not mean that it will reduce costs to the employer. In fact, this bill could increase future costs to the employer. Whenever you change retirement law you change retirement behavior. Currently, the average age at the start of retirement is fifty-five for teachers and fifty-seven for public employees. The difference between a starting teacher's salary and a teacher at the top of the salary scale is about thirty-five thousand dollars in salary and benefits. If we average three hundred teacher retirements a year and those three hundred teachers can not retire because they have no health benefits, it will cost school districts ten million dollars a year to keep those people. If for instance teachers feel they need to be close to Medicare age to retire and add seven years to their career, it would cost school districts seventy million dollars a year.

To summarize, we shot ourselves in the foot when we dropped the rates excessively. We stressed the system when we had a flood of early retirements as the employers' cost shifted their most expensive employees onto the retirement system. We have a health care assumption that doesn't appear valid. We have an investment board that has historically outperformed the earnings assumption. We have projections that are taken from the lowest point in the cycle and are already outdated. We have yet to reap the full benefit of the new tiers already on the books. And we know this bill will not save any money for years to come and in the end will probably cost the employers more than they save. This is not a good recipe for such a drastic change to the retirement system. I would urge you to vote no on this bill.

Thank you.

[12:31:45 PM](#)

MR. PATTERSON addressed the previously mentioned fact that teachers have no social security. He reminded the committee that during the end of the Twenty Third Legislative Session, a resolution was passed asking the federal government to repeal the social security [Windfall Elimination Provision (WEP)] and the [Government Pension Offset (GPO)] provisions. He indicated that when teachers become vested in the system, they lose 60 percent of their social security, and he noted that teachers currently vest at eight years. He interpreted the proposed legislation to mean that a teacher would be vested on the first day of employment and thus would lose 60 percent of his/her social security on that first day, "unless you get out of the system and go back and continue your social security membership."

MR. PATTERSON said he is concerned that he has heard no projections regarding when the defined benefit plan will run out of money. He stated that if the defined benefit plan is currently underfunded and closed, then there should be a projection as to when and how long the money will last and how much the liability will be to the state when the fund runs out of money.

[12:34:02 PM](#)

CHAIR SEATON reviewed that there are two ways the legislature can fund the past service cost: by appropriating money, and by raising the contribution rates. He said the contribution rates are not based solely on people who are in the defined benefit program, but on the total employer salary base. He said, "We've got a constitutional obligation - a supreme court decision - that says we're going to pay the benefits. So, for ... anybody that's currently in the system, the benefits are guaranteed; they've earned those benefits and they're fixed."

[12:36:35 PM](#)

MR. PATTERSON, in response to Representative Gardner, clarified that the bill he urged the committee to vote against is HB 238. In response to a question from Chair Seaton, he said the problems exist in the medical portion of the system. He indicated that the changes that need to be made are primarily on the TRS side of the system. For example, he said he thinks eight years to vest and get medical benefits for a short-term employee is too generous.

[12:38:44 PM](#)

CHAIR SEATON said he doesn't want anyone to get the idea that "we're counting everybody as if they're retiring at Tier I." He offered further details.

[12:39:42 PM](#)

MELANIE MILLHORN, Director, Health Benefits Section, Division of Retirement & Benefits, Department of Revenue, testifying on behalf of the division, directed attention to [a memorandum included in the committee packet] dated April 16, 2005, which she sent to Chair Seaton. She highlighted from the memorandum that, as of the most recent actuarial valuation report of June 30, 2004, the accrued liability for retiree medical obligations to the state's retirees is \$6.1 billion. In response to questions from Representative Gruenberg, she said she doesn't know what percentage of [the accrued liability] is immediately payable today, but there are no outstanding bills. She said, "We are currently 70 percent funded for PERS ... [and] 62 [percent] is our funding ratio for TRS."

[12:42:48 PM](#)

REPRESENTATIVE GRUENBERG proffered:

As I understand it, it's like looking at your mortgage: ... you might have a \$100,000 mortgage on your \$150,000 house, but it's not all due today. Isn't that a good analogy?

[12:43:03 PM](#)

MS. MILLHORN said it is, because currently there are active members who are eligible to retire and may or may not do so. What is known is that 2,025 members retired from all of the systems in 2004, and in 2003, 1,800 parties retired.

[12:44:21 PM](#)

MS. MILLHORN, complying with Representative Gruenberg's request to use his mortgage analogy, said, "We are current on our payments." She stated she does not believe that

[12:44:30 PM](#)

REPRESENTATIVE GRUENBERG asked, "Do you see anticipated deficit in our ability to keep current in our bills in the next ... five years?"

[12:44:39 PM](#)

MS. MILLHORN responded that she thinks the State of Alaska is fully capable of paying its financial obligations under its retirement systems.

REPRESENTATIVE GRUENBERG asked, "Then why are we worrying?"

MS. MILLHORN replied, "Because we are at funding ratios of 70 percent and 62 percent when our targeted funding ratio is 100 percent, and we are approximately \$5.7 billion underfunded. And that under funding is expected ... to increase unless some very key things take place." She detailed that those things would include: an infusion of \$5.7 billion into the systems to make them whole; having investment returns higher than the expected return of 8.25 [percent], which though it may be possible, has not been determined to be probable; and creating a new tier level as a long-term solution to the existing problem. She concluded that she does not want to see a continuation of the unfunded system because of the obvious pain it causes employers.

[12:47:01 PM](#)

REPRESENTATIVE GRUENBERG explained that he is trying to look at the issue from the perspective of young people trying to decide whether to choose making state service a career, rather than from the point of view of the employer.

[12:47:43 PM](#)

REPRESENTATIVE LYNN asked if an economic boon to Alaska would be of great assistance to PERS and TRS.

[12:48:23 PM](#)

MS. MILLHORN responded that the legislature is the policy maker regarding benefits and would have to decide what the benefit level is and whether to provide additional relief to the current underfunded status. In other words, whatever beneficial economic developments occur to benefit the state have to be translated into what the legislature is intending to do to deal with the underfunded status for PERS and TRS.

[12:49:14 PM](#)

REPRESENTATIVE LYNN stated that to do anything, the state has to have enough money in its treasury.

[12:49:29 PM](#)

CHAIR SEATON stated that there is enough money currently, because there is \$6 billion in the earnings reserve and approximately \$2.2 [billion] in the constitutional budget reserve (CBR), but "I don't think we're going to do that."

[12:50:14 PM](#)

REPRESENTATIVE LYNN reiterated that if the state becomes wealthier, then some portion of its money could be used to help resolve the problem.

[12:50:36 PM](#)

CHAIR SEATON said if that were the case, the legislature would still have to create a bill that would transfer general funds to the Division of Retirement & Benefits in "the kind of numbers we're talking about." Regarding the three options listed by Ms. Millhorn, he said there is a fourth option: to increase the employer contribution rate to pay off the past service cost. He said, "We've got those scheduled in there right now. I mean, I don't know that we can live with them, but those are the proposed schedule at this point in time." He asked Ms. Millhorn if that is correct.

[12:51:15 PM](#)

MS. MILLHORN responded that's correct.

[12:51:59 PM](#)

MS. MILLHORN, in response to a question from Representative Gardner, explained that the introduction of a new tier would not be an immediate relief to employers, but would keep "the line" from going up. Furthermore, it would continue to bring "that line" down until, after approximately 2029, the unfunded liability would be paid off and a new normal cost would come into the system that is predictable, stable, and would provide benefits to members. She spoke of comments on a survey of employers [discussed at a previous committee meeting and included in the committee packet], which indicated that "the

elements in a new tier is what they wanted." She said, "Those are the parties who have to recruit and retain and pay the dollars for these plans; and I think their voice is especially important."

[12:54:00 PM](#)

REPRESENTATIVE GARDNER offered her understanding that even if a new tier were adopted today, [the unfunded liability] would continue to grow, because it is not being addressed in any way with the new tier.

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MS. MILLHORN offered her belief that introducing a new tier wouldn't allow the unfunded liability to continue to escalate and grow at "a larger proportion."

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CHAIR SEATON confirmed that the new tier wouldn't solve the past service cost, because it's establishing a new normal service cost and would be constructed in a way that it can acquire no past service cost. He indicated that the benefit of the new tier would be to stop the pattern of new employees being hired under the defined benefit system, which results in a new past service cost beyond that which already exists. He offered further details.

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REPRESENTATIVE ELKINS offered an anecdote to lighten the room.

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MS. MILLHORN reported that there will be an actuarial assumption study conducted this fall for PERS and TRS, at which time the 2000 mortality tables will be looked at, as well as all the other underlying assumptions, including the health trend. She said there is some consternation that the current health trend is too low. She continued:

It is expected that a new assumption study will be performed on both of those systems, and it's expected that there will be additional liabilities as a consequence. So, when the valuation comes back to all of you, as of June 30, 2005, every change right now --

The five percent liability change - if that's discovered with the mortality table - or [a] change that increases the health trend assumptions ... translates into an increase to [the] PERS employer rate of 3.4 percent. If locate 5 percent additional liability, that rate is going up 3.4 percent to those employers. For TRS, it's 4.7 [percent]. ...

That's the reality right now, and that's why I'm concerned. ... We cover 54,000 lives under the retiree medical plan right now. We also have exposure with all categories of 90,000, which, when they have one dependent, that's 180,000 members. That's the universe of the population that we're going to have medical system-paid coverage available to in the future, at some point in time. That is our defined benefit plan.

REPRESENTATIVE GRUENBERG observed that there are only [approximately] 600,000 people in Alaska.

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MS. MILLHORN directed attention to the fourth page of the aforementioned memorandum, which is titled, "PUBLIC EMPLOYEES'/TEACHERS' RETIREMENT SYSTEM HOUSE STATE AFFAIRS - MEDICAL INFORMATION." She said the page shows a breakdown of all members in PERS and TRS. The total number of PERS and TRS combined is approximately 90,000, and each member brings with them one dependent. She said, "Under Tier I, the projections show that, between [age] 55 and 65, the cost to the system, just for the one member - not including the dependent - is half a million dollars."

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CHAIR SEATON concluded that means the cost to the system for each dependent would be another half million.

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MS. MILLHORN said the half million dollars is "a locked-in exposure that we have right now." She illustrated, for example, that the low-end cost, just for the Tier I member who retires at age 55, is half a million dollars times [42,674] members.

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REPRESENTATIVE KELLY reminded the committee that, [regarding projections], the first thing the consultant hired by Legislative Council said was, "Don't be surprised if I come back and tell you that it's too low."

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MS. MILLHORN, in response to questions from Representative Gardner, said the mortality table currently being used is from 1994. She said Mercer Human Resource Consulting has indicated that it will bring the 2000 mortality table into the assumption experience study and will be making a recommendation "for that adoption."

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REPRESENTATIVE GARDNER asked, "Why would it take five years to get a recommendation to adopt data that we know is the most accurate?"

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MS. MILLHORN explained that the 1994 mortality tables are nationally used and "the newest mortality table has recently been available." She noted that the 1994 mortality table projects forward increases in mortality. She said, "I think if you were to check most pension systems right now, there are not that many that are using the 2000 table; it has recently been made available." She explained that there is some time lag associated with [the adoption of mortality tables]. In response to a request for clarification from Representative Gardner, she said the recommendation in 2005 would be from the actuary to adopt the 2000 table, whereas, in 2000, the recommendation was to adopt the 1994 table.

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REPRESENTATIVE GARDNER asked why the tables are not being adopted as soon as they are available.

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MS. MILLHORN offered her understanding that there are experience and assumption studies done, the last one was done in 2002. The factors from the studies are considered, and changes are made

accordingly. She indicated that the studies are conducted every four to five years.

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REPRESENTATIVE GARDNER said she would like to find out from the actuaries why the latest data isn't just routinely incorporated as soon as it's available. She said she is also curious what the average employee spends on medical costs over the lifetime of employment and retirement. She said she is wondering if the system could offer up to a certain amount, for example.

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MS. MILLHORN said she would look into that question.

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REPRESENTATIVE GARDNER offered further details regarding the information she would like.

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CHAIR SEATON recollected that the legislature "recently increased from 1 million to 2 million ... per individual." He said there is also an availability so that if there are two people within the state system, "you can get the same coverage under the spouse." He asked Ms. Millhorn, "When was that that the legislature increased [the] state benefit?"

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MS. MILLHORN answered:

That was actually the commissioner of [the Department of] Administration. In 1999 there were a number of plan changes that occurred with the retirees - probably about eight or nine - and that was one of the changes that took place. And the thought process in 1999 was that there would be a number of enhancements to the retiree medical plan, and there were a number of corresponding decreases to the medical plan. They were supposed to be offset and be neutral to the plan. So, for example, the increase for lifetime benefit was ... from \$1 million to \$2 million There was also an increase in the deductibles, ... [and] the co-share

portion. There were a number of changes with corresponding enhancements and decreases, as well.

What happened there is ... when those changes were implemented, the State of Alaska was sued ... by [the Retired Public Employees' Association (RPEA) and NEA-Alaska], and that lawsuit is still pending resolution. It went to the Alaska Supreme Court; it's come back to the superior court for an analysis of those changes. And the State of Alaska argued that the framers of the constitution could not possibly have included the medical component, based on when the constitution was enacted, because medical costs were not added to the retiree plan until the 1970s. They lost that argument. ... The Alaska Supreme Court concluded that medical benefits are part of an accrued benefit to the retirees.

MS. MILLHORN, in response to a question from Representative Lynn, said the mortality tables that are constructed are national tables.

REPRESENTATIVE LYNN indicated that, "for these purposes," he cares only about what the death rate is in Alaska.

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CHAIR SEATON said the committee would "have to get the [actuary] to give us the answer on how they apply that to Alaska." He pointed out, "Not only does it not make any sense for Alaska, it has to be the working population of Alaska."

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REPRESENTATIVE ELKINS asked Ms. Millhorn if he understood her correctly to say that there is a "formula within the actuary that allows us to adjust for the lapse of time for ... moving up toward the new actuary."

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MS. MILLHORN stated her understanding that even when the mortality table is labeled 1994, there are built-in projections in that table that project into the future.

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REPRESENTATIVE ELKINS observed that, in reality, the lapse isn't as bad as it looks. In response to comments from Chair Seaton, said, "Somewhere along the line, somebody did not make the call to upgrade it, and it caused the shortfall." He said he is not trying to appoint blame.

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MS. MILLHORN said, "Essentially, what you're doing is you don't have an accurate accounting of your liability when you have waited 2.5 years to have a mortality table that is more updated, because the benefits to all your benefit recipient - 27,000 - is to increase those by 2.8 years."

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REPRESENTATIVE GRUENBERG said it sounds like there was insufficient control in auditing of the actuary and other states are experiencing similar deficits in their systems.

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MS. MILLHORN confirmed that most, if not all, defined benefit plans are "facing some very serious struggles."

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REPRESENTATIVE GRUENBERG said he is wondering if there are common roots of the problems, and whether some of those roots are problems with the actuarial methods that have been used across the country.

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MS. MILLHORN responded, "Each ... system would have to be analyzed ... independently to make a determination about the underlying factors that are causing their particular circumstance. But universally, what we have heard in the media is that some of those factors that are common to all of the defined benefits plans right now include: rising health care costs, ... loss of investment income, [and] ... actuarial assumptions that have changed that have increased our liabilities." She stated that she is certain if other defined benefit plans were studied, they would be similarly situated. She offered an example.

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REPRESENTATIVE GRUENBERG noted that a few years ago there were similar problems in the private pension system and the federal government stepped in. He questioned whether there should be standardized methodology "so we don't continue to face these problems."

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MS MILLHORN noted that Milliman did not find that the state's actuary [Mercer Human Resource Consulting] had "made assumptions that were anywhere out of the tolerance level that would be acceptable." She encouraged the committee to read the findings included [in Milliman's report].

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MS. MILLHORN directed attention to an article from the Wall Street Journal, dated March 2005, which talked about the fact that large employers are moving away from "coverage for dependents for retirees." In response to a question from Representative Gruenberg, she confirmed that "as of that date of retirement, anyone who retired after that date did not have dependent coverage" even though they thought they would have it. She said, "It may not be fair, but it is legal."

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CHAIR SEATON clarified that that is not the situation in Alaska, because the constitution says that accrued benefits "have to be followed through."

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REPRESENTATIVE GRUENBERG asked, "Does this include dependents of the executives, or just the workers who are covered by collective bargaining agreements?"

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MS. MILLHORN responded that she doesn't know that the article speaks to that directly, but she assumes it makes no difference. In response to a follow-up question from Representative Gruenberg, she offered further details regarding the article in the Wall Street Journal.

[HB 238 was heard and held.]

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [1:31:23 PM](#).