MINUTES
SENATE FINANCE COMMITTEE
April 3, 2005
1:04 p.m.

CALL TO ORDER

Co-Chair Green convened the meeting at approximately 1:04:16 PM.

PRESENT

Senator Lyda Green, Co-Chair
Senator Gary Wilken, Co-Chair
Senator Con Bunde, Vice Chair
Senator Fred Dyson
Senator Bert Stedman
Senator Lyman Hoffman
Senator Donny Olson

Also Attending: MELANIE MILLHORN, Director, Health Benefits Section, Division of Retirement & Benefits, Department of Administration; JERRY BURNETT, Special Assistant to the Commissioner, Department of Revenue; KEVIN BROOKS, Deputy Commissioner, Department of Administration; TRACI CARPENTER, Staff to Co-Chair Green; MILES BAKER, Staff to Senator Stedman

Attending via Teleconference: There were no teleconference participants.

SUMMARY INFORMATION

SB 141-PUBLIC EMPLOYEE/TEACHER RETIREMENT/BOARDS

The Committee heard from the bill's sponsor and the Department of Administration. Seventeen amendments were considered with thirteen being 7adopted. The bill was held in Committee.

#sb141

> SENATE BILL NO. 141
> "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; 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; and providing for an effective date."

This was the tenth hearing for this bill in the Senate Finance Committee.

Co-Chair Green stated that the purpose of today's hearing is to consider amendments to SB 141, Work Draft, Version 24-LS063\F.

Co-Chair Green pointed out that her office has provided Members a copy of a Legislative Affairs Agency Division of Legal and Research Services Memorandum [copy on file], dated April 2, 2005, from Barbara Craver, Legislative Counsel, that specifies that a severability clause would not be a required component of this legislation. "Adding a severability section to this bill would not add anything to the existing statutory presumption…." The severability clause question was asked by Co-Chair Green to assure that "the core of the bill could remain, even if something was found unconstitutional."

Amendment #1: This amendment replaces all language in Sec. 40, subsections (b) through (i) beginning on page 36, line 27 through page 38, line six of 24-LS0637\G; with the following language. [NOTE: This language must be conformed to Version "F".]

(b) The Alaska Retirement Management Board consists of nine trustees. The commissioner of administration and the commissioner of revenue shall serve on the board. Four trustees shall be appointed by the governor and three shall be elected from the membership of state retirement systems.

(c) The governor shall appoint four trustees who meet the eligibility requirements for an Alaska permanent fund dividend and who are professionally credentialed or have recognized competence in investment management, finance, banking, economics, accounting, pension administration, or actuarial analysis as follows:

(1) two trustees shall be appointed from the general public; a trustee appointed under this paragraph may not hold another state office, position, or employment and may not be a member or beneficiary of a retirement system managed by the board;

(2) one trustee shall be employed as a finance officer for a political subdivision participating in the public

employees' retirement system;

(3) one trustee shall be employed as a finance officer for a political subdivision participating in the teachers' retirement system.

(d) Two trustees shall be members of the public employees' retirement system elected by members of the public employees' retirement system. One trustee shall be a member of the teachers' retirement system elected by members of the teachers' retirement system. Elections shall be conducted by the board. The candidate who receives the most votes cast in the election is elected to the seat. If two seats are to be filled at the election, the candidate who receives the highest number of votes cast and the candidate who receives the second highest number of votes cast are elected to the seats. The term of office of an elected member is three years. The governor shall fill a vacancy in an unexpired elective term by appointment for the period remaining before the next regularly scheduled election held under this subsection. The term limitations of (e)(1) of this section do not apply to trustees elected under this subsection.

(e) The trustees appointed under (c) of this section

(1) shall serve for staggered terms of three years and may be reappointed to the board for a total of three consecutive terms, a person who has served three consecutive terms may not be reappointed to the board for at least one year;

(2) may be removed by the governor for cause by written notice, after a trustee receives written notice of removal, the trustee may not participate in board business and may not be counted for purposes of establishing a quorum.

(f) A vacancy on the board of trustees appointed to the board under (e)(2) of this section shall be promptly filled. A person filling a vacancy holds office for the balance of the unexpired term of the person's predecessor, and the balance of the unexpired term served is not included in the three-term limitation under (e)(1) of this section. A vacancy on the board does not impair the authority of a quorum of the board to exercise all the powers and perform all the duties of the board.

(g) Five trustees constitute a quorum for the transaction of business and the exercise of the powers and duties of the board.

(h) A trustee may not designate another person to serve on the board in the absence of the trustee.

(i) The board shall provide annual training to its members on the duties and powers of a fiduciary of a state fund and other training as necessary to keep the members of the board educated about pension management and investment.

(j) The board shall elect a trustee to serve as chair and a trustee to serve as vice-chair for one-year terms. A

trustee may be reelected to serve additional terms as chair or vice-chair."

Furthermore, this amendment deletes language in Sec. 112, page 90 lines 19 through 26 of Version "G" and replaces it with the following language. [NOTE: This language must be conformed to Version "F".]

* Sec. 112. The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: INITIAL STAGGERED TERMS OF TRUSTEES OF THE ALASKA RETIREMENT SECURITY AND PORTABILITY BOARD. (a) Notwithstanding AS 37.10.210(e), as repealed and reenacted by sec. 40 of this Act, in making the initial appointments under AS 37.10.210(c), as repealed and reenacted by sec. 40 of this Act, the governor shall appoint one member for one year, one member for two years and two members for three years.

(b) Notwithstanding AS 37.10.210(d), as repealed and reenacted by sec. 40 of this Act, the initial term of the candidate who receives the highest number of votes cast in a two-seat election shall be elected to a three-year term, and the candidate in a two-seat election who receives the second highest number of votes cast shall be elected to a one-year term. The initial term of a candidate who receives the highest number of votes cast in a one seat election shall be two years.

Senator Olson moved for the adoption of Amendment #1. He noted that the Amendment's language must be conformed to the current work draft, Version 24-LS0637\F. Thus, the language being referenced is located in Section 41, subsections (b) through (i) beginning on page 37, line 13 through page 38, line 23 of Version "F".]

Co-Chair Green objected to the Amendment.

1:06:29 PM

Senator Olson stated that in order to provide "more balance" on the Board, this amendment would serve to increase the Public Employees Retirement System (PERS) member representation on the Alaska Retirement Management Board (ARMB) from one to two and would decrease the number of general public members representation from three to two. The total number of current PERS employees relative to the current level of TRS employees, as reflected in the "Public Employees/Teachers Retirement System Information Briefing" handout, dated October 11, 2004 [copy on file] justifies the addition of another PERS member on the ARMB.

Senator Olson specified that the second portion of the amendment would continue the practice wherein active and retired employees select their own representation on retirement boards. "The election process has worked well in the past in finding people who have the interest, ability and experience to serve on this type of board. I believe the adoption of this amendment will greatly improve the management and labor partnership that is absolutely necessary for the successful operation of our public employees' retirement systems." In conformance to Version "F", this change would apply to language in Sec. 114, page 91 lines seven through fourteen.

Senator Olson stated that the amendment clarifies how the terms of the elected Board members would be staggered during the phase in of the new Board in that the PERS/TRS member elected to the Board with the highest number of votes would receive the longer term seat. Were a vacancy of an unexpired term to occur, the Governor would appoint a person to that seat for the remaining time.

Senator Hoffman asked that consideration be given to dividing the amendment into two parts: one to address the issue of whether or not Board members should be elected and the other to address whether or not to change the Board membership allocations.

Co-Chair Green asked whether the wording of the amendment would allow for a "logical division".

Senator Olson communicated that dividing the amendment in the manner suggested by Senator Hoffman had been discussed when it was being drafted; however, the determination was to present it in its entirety as the primary purpose of the amendment was to insure "adequate representation from the participants who are involved", specifically the PERS and TRS membership.

Senator Stedman voiced "mixed feelings" in regards to this amendment. He would prefer that Board members were appointed rather than elected. It is difficult, under the current election process, for PERS/TRS members "to even know who they are voting for" as only a pamphlet with limited information is distributed. He voiced greater acceptance of the portion of the amendment that would increase the PERS membership on the Board. Therefore, the will of the Committee should decide the issue.

Senator Stedman pointed out that the Commissioner of the Department of Health and Social Services or any PERS member demonstrating the required professional competency could be considered for Board participation.

Senator Bunde asked whether information is available regarding the

percent of voter participation in PERS/TRS Board elections. He recalled receiving information regarding candidates to the TRS Board because he is a retired educator, but admitted that voting in those elections was not deemed "a high priority" and any participation on his part was probably spurred by the fact that he knew one of the candidates. He recalled telling the University of Alaska student body that, "the ten percent that turn out for the election, create a majority that claims to speak for the other 90 percent".

Co-Chair Green stated that the percentage of PERS/TRS members voting in Board elections would be requested.

Co-Chair Green pointed out that the Board, as proposed in Version "F", would include four PERS members, two TRS Members and three financial "experts … This is a very generous distribution of membership". The goal is to seat a Board with immediate understanding of the situation. The $100,000 expense associated with conducting a two-year election cycle would be paid by Retirement funds.

MELANIE MILLHORN, Director, Health Benefits Section, Division of Retirement & Benefits, Department of Administration informed the Committee that the answer to member participation in PERS/TRS Board elections is being researched.

JERRY BURNETT, Special Assistant to the Commissioner, Department of Revenue, affirmed Ms. Millhorn's remark.

Senator Hoffman pointed out that Sec. 41(b)(4) and (5) on page 37, lines 28 through 30, of Version "F" specify that there would be one PERS member and one TRS member on the Board.

Co-Chair Green stated that included in her calculation were the Commissioners of the Department of Revenue and the Department of Administration who would be classified as PERS members, as well as the person employed as a finance officer for a political subdivision participating in PERS and another person employed as a finance officer for a political subdivision participating in TRS. Therefore, the nine-member board would consist of six total PERS/TRS members: four from PERS and two from TRS.

Senator Hoffman, referencing the aforementioned "PERS/TRS Information Briefing" document provided with Senator Olson's amendment, stated that the information indicates that approximately 75-percent of the total PERS/TRS membership are from PERS and 25-percent are from TRS. Were the Commissioners who represent the Administration removed from the PERS calculation, the evidence

would support a further increase the percent of PERS members on the Board. He again requested the amendment to be divided.

Co-Chair Green voiced the understanding that Senator Olson's earlier response had addressed the question of dividing the amendment.

Senator Olson again commented that the initial desire was to separate the issues; however, due to "constraints that were put upon us, we weren't able to work that out with the drafters."

Co-Chair Green deferred to that decision.

Senator Olson stated that the matter that "caught his attention" is the fact, that as currently detailed in Sec. 41, subsection 37.10.210(b), on page 37, the entirety of the nine ARMB trustees would be appointed by the governor. Even were this amendment adopted, seven of the Board members would be appointed by the governor. Even though holding elections would cost money, "rank and file" employees would support the process. There would also be recognition that the elected members would allow PERS/TRS members to be stakeholders in the decision-making rather than the ramifications of the Board's decisions being regarded as those of the Administration.

Senator Stedman likened the proposed Board appointments to the process in which the governor appoints members to the Permanent Fund (PF) Board. Generally speaking, those appointments have been conducted in a positive manner. The financial decisions made by the ARMB would affect "a substantial amount as beneficiaries", and, like the PF Board, any negative financial impact of their decisions would affect everyone in the State.

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Senator Bunde reiterated that knowing the percentage of the PERS/TRS membership who voted in the PERS/TRS Board elections would be helpful. To that point, he suggested that the amendment be set aside until the answer were provided.

Co-Chair Green concurred.

Senator Olson asked whether there being a high percent or a low percent of voters would affect "the validity of the concern".

Senator Bunde responded that had only two or three percent of PERS and TRS employees voted in an election would not be representative of the majority of the eligible individuals who could vote nor

would spending thousands of dollars per vote be "the best use" of fund money.

After conferring with Senator Olson, Co-Chair Green ordered Amendment #1 to be SET ASIDE for later consideration.

Amendment #2: This amendment deletes all material in Section 29 subsection Sec. 14.25.348 on page 14, lines 22-31.

In addition, "contribution to a member's individual account" is deleted and replaced with "member's defined contribution plan contributions" following the word "a" in Section 29, subsection Sec. 14.25.370 on page 16, line 28.

Furthermore, "AS 14.25.410" is deleted in Section 29, subsection 14.25.440(a)(5), on page twenty-one, line eleven, and replaced with "AS 14.25.430".

In addition, the words "determined on the basis of actuarial value" are deleted in Section 29, subsection (G) on page 31, line 26 following "AS 14.25.490,".

Following "AS 14.25.150(b)," in Section 32, on page thirty-three, line twenty-eight, "14.25.390" is deleted and replaced with "14.25.360".

"AS 37.10.220" is inserted following "AS 37.10.210" in Section 53 on page forty-six, line eight.

The words "application and eligibility for normal retirement" are deleted in Section 62, subsection Sec. 39.30.380, on page 49, line 11 and replaced with "meeting the eligibility requirements of AS 14.25.470 or AS 39.35.870".

The words "Dependent children of an eligible member, until such time as those persons no longer meet the definition of a dependent child, are eligible for reimbursements if the eligible member and surviving spouse have both died." is inserted in Section 62, subsection Sec. 39.30.390 on page 49, following "plan." on line 20.

The word "in" is deleted following the word "account" in Section 102, subsection Sec. 39.35.730, on page 70, line 23.

Insert the words "entering the plan" following "employee" on line 22 in Section 102, subsection Sec. 39.35.760 on page 71.

"AS 39.35.830" is deleted in Section 102, subsection 39.35.840(a)(5 on page 77, line 20, and replaced with "AS 39.35.810".

Re-letter subsections (i), (j), (k), and (1) to (h), (i), (j), and (k) in Section 102 on page 83.

"AS 39.30.730" is deleted in Section 102, subsection 39.35.990(7)(A)(ii) on page 85, line 26, and replaced with "AS 39.35.730".

Insert the words "and the Department of Revenue" in Section 119(a) following "Administration" on page 92, line 25.

Insert the words "and the Department of Revenue" in Section 119(b) following "Administration" on page 92, line 27.

Co-Chair Green moved for the adoption of Amendment #2.

Senator Stedman objected for discussion.

TRACI CARPENTER, Staff to Co-Chair Green, informed the Committee that this "is basically a technical amendment" in that it would correct and change inadvertent errors or omissions that occurred during the drafting of the bill.

Co-Chair Green stated that the changes proposed would correct inadvertent drafting errors or omissions that had occurred either in the original bill or updated versions of the bill.

Ms. Carpenter pointed out that the amendment would also allow the two sets of Statutes, one relating to TRS and one relating to PERS, to align with each other.

Co-Chair Green explained that AS 14.25 and AS 39.35 are the Statures pertaining to TRS and PERS, respectfully.

Senator Olson asked the impact of deleting language in Section 29, subsection 14.25.348 on page 14, lines 22 -31 as indicated in the amendment. This section reads as follows.

> Sec. 14.25.348. Teachers of Alaska Native language and culture. An employee employed by a participating employer shall participate in the plan if the employee
>
> (1) teaches Alaska Native language or culture in a permanent full-time or permanent part-time position;
>
> (2) learned about the subject to be taught by living in the culture or using the language in daily life; and
>
> (3) is qualified to teach the subject to elementary or secondary students as required by regulations adopted by the Department of Education and Early Development.

Ms. Carpenter replied that this language is currently included in existing TRS Defined Benefit Plan (DBP) Statutes, and the drafter included it in this bill "thinking it might be required". However, the language is not required, as, while those employees were not certificated, they were allowed to participate in the TRS program. The Department of Education and Early Development has since developed a certification program for these teachers, and therefore, they are allowed to participate in TRS.

Senator Olson understood therefore that teachers of the Alaska Native culture and language who are already enrolled in the TRS system would continue to be eligible.

Ms. Carpenter affirmed.

Senator Stedman removed his objection.

There being no further objection, Amendment #2 was ADOPTED.

Amendment #3: This amendment specifies that the references to AS 14.25.142 and AS 39.35.480 should be removed from the Repealer Instruction language in Sec. 112 on page 91. The Reviser of Statutes is instructed to make conforming amendments in order to continue Cost of Living Adjustment (COLA) payments.

Co-Chair Green moved for the adoption of Amendment #3 and objected for explanation.

Ms. Carpenter stated that this amendment would strike from the bill all language eliminating the Alaska resident Cost of Living Adjustment (COLA). Thus, "the COLA language is restored".

Co-Chair Green stated that COLA and its related issues have been a point of separate Committee discussion. At one point, the decision was made to eliminate COLA from the Defined Contribution Plan (DCP); however, upon further consideration, "it was not advisable to do that".

Senator Olson asked whether this bill would alter any COLA conditions; specifically "the adjustment or the formula for the COLA".

Ms. Carpenter stated that no changes to existing COLA provisions have been made.

Senator Olson understood therefore that the COLA language specified in Version "F" is unchanged from existing regulations.

Ms. Carpenter stated that approval of this amendment would serve to negate the repeal of the Alaska resident COLA provisions as specified in Version "F". The result would be that the ten-percent Alaska Resident COLA provisions would continue as specified in current Statute.

Co-Chair Green removed her objection.

There being no further objection, Amendment #3 was ADOPTED.

Amendment #4: This amendment inserts "providing for political subdivisions and public organizations to request to participate in the public employees' defined contribution retirement plan;" into the bill's title on page one, line eight, following "hearings;"

In addition a new section is inserted into the bill in Sec. 102 on page 85, following line five.

> "Sec. 39.35.940. Request by political subdivision to participate and adoption of resolution. A municipality or other political subdivision of the state may request to become an employer in this plan. The request shall be made after adoption of a resolution by the legislative body of the political subdivision and after approval of the resolution by the person required by law to approve the resolution. A certified copy of the resolution shall be filed with the administrator. If the administrator approves the request for participation, the political subdivision is an employer of the plan.
>
> Sec. 39.35.945. Request by public organization to participate and adoption of resolution. A public organization may request to become an employer in this plan. The request shall be made after adoption of a resolution by the governing body of the public organization. A certified copy of the resolution shall be filed with the administrator. If the administrator approves the request for participation, the public organization is an employer of the plan."

Co-Chair Green moved for the adoption of Amendment #4.

Senator Stedman objected.

Ms. Carpenter explained that this amendment is offered at the request of the Division of Retirement and Benefits, Department of Administration. Including this Statute in the bill would "simply" provide "a mechanism through which political subdivisions and public organizations who do not currently participate in the

retirement programs to opt into the programs if they choose".

Co-Chair Green understood therefore that the adoption of this amendment would allow such entities to participate in the DCP.

Ms. Carpenter affirmed. These statutes are identical to existing provisions in the current DBP.

Co-Chair Green stated therefore that the inclusion of these Statutes would be consistent with current language.

Senator Stedman clarified that this amendment would allow other political subdivisions such as cities and municipalities "to come into" the new DCP, "but would not allow them to join the existing tier structure."

Ms. Carpenter affirmed. "The existing program would be closed to new entrants on the effective date of this legislation".

Senator Stedman removed his objection.

Senator Hoffman asked the number of political subdivisions that would be affected by this amendment.

Ms. Carpenter voiced being unfamiliar with the number of political subdivisions that do not participate.

Co-Chair Green expressed that this language would provide consideration to "future cities, entity, or school district".

Senator Hoffman asked whether "it would be fair to say that it" would apply to any political subdivision that is not on the [unspecified] list that was distributed".

Ms. Carpenter expressed that "that would be accurate".

There being no further objection, Amendment #4 was ADOPTED.

Amendment #5: This amendment inserts a new subsection into Section 46 of the bill on page 42 following line six as follows.

> (3) "recognized competence" means a minimum of ten years professional experience in the fields of investment management, finance, banking, economics, accounting, pension administration or actuarial analysis.

Senator Stedman moved Amendment #5.

Co-Chair Green objected for explanation.

Senator Stedman stated that this amendment would address the qualifications required for Board membership.

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Senator Stedman read the amendment and explained that the intent is to seat citizens on the Board who possess the knowledge "to understand, comprehend, and possibly challenge the items under discussion." The ARMB duties would be "substantially different" from those of the current PERS and TRS Boards; specifically that, unlike the current Boards that spend approximately 80-percent of their time hearing appeals, this Board would be charged with handling investments and monitoring of the liabilities, with the goal of "eventually" balancing the liabilities with the assets.

Co-Chair Green removed her objection.

Senator Bunde asked whether this amendment "is an attempt to address" his concern regarding possible difficulties that the PERS member and the TRS member of the ARMB might encounter when trying to meet the current Board qualifications as identified in Sec. 41, subsection Sec. 37.10.210 located on page 37 of Version "F".

1:30:00 PM

Senator Stedman stated that the intent is to seat PERS and TRS members who possess the qualifications required for Board members.

AT EASE: 1:30:26 PM / 1:31:23 PM

Senator Stedman, in addressing Senator Bunde's concern, voiced that in developing the qualification language, efforts were made "not to exclude" as Board candidates, for example, educators who might have experience in teaching such related fields as statistics, business, or mathematics. To that point, the current language might require further modification in order to more thoroughly address the issue.

1:32:15 PM

Senator Bunde suggested that rather than simply allowing the teaching of statistics, for example, to be a qualifier, language requiring practical experience or application in the field or active participation in the State's Supplement Benefits System (SBS) or activity in the stock market, might suffice.

Co-Chair Green suggested that the words "instruction in the related

fields" be considered.

Senator Stedman voiced support for Co-Chair Green's suggestion as opposed to "looser language" through which someone might suggest that administration of their personal portfolio would provide the necessary qualifications.

Co-Chair Green noted that the words "or as an instructor" might also be incorporated.

Senator Hoffman asked whether the current language would apply to all ARMB members as, he opined that the language as written is not "too restrictive" were it to only apply to the qualifications of the PERS and TRS financial officer member. It would be too restrictive were it applied to the two public members representing TRS and PERS.

Senator Stedman expressed that the language, as written, would apply to all members.

1:34:13 PM

Senator Stedman reiterated his willingness to modify the PERS and TRS Board members' qualification requirements, and, to that point suggested that language requiring a minimum of "ten years of practical experience working or teaching in the field" might address it. He cautioned about opening the qualifications too broadly, as that would negate the goal of seating people with the desired knowledge. He noted that testimony before the Committee has substantiated the fact that Board members who possess "substantial" knowledge of the field would enhance the Board.

Senator Hoffman asked how the current definitions pertain to the commissioners of the Department of Revenue and the Department of Administration.

Co-Chair Green clarified that those Board member positions would be exempt from the qualification language, as they are "named designees".

Senator Hoffman questioned this interpretation.

Co-Chair Green read the language in Sec. 42, Subsection Sec. 37.10.210(b), line 15, page 37, which specifies that in addition to the commissioners of the Department of Administration and the Department of Revenue, "the governor shall appoint seven additional trustees who meet the eligibility requirements for an Alaska permanent fund dividend and who are professionally credentialed or

have recognized competence …".

Senator Hoffman acknowledged.

1:37:08 PM

Senator Olson asked whether the number of PERS and TRS candidates who could meet the qualifications would be sufficient.

Co-Chair Green surmised that there would be "a lot of people in both the PERS and TRS systems" who would meet the qualifications.

Senator Stedman suggested that the words "working or teaching" be inserted following the word "experience" on the second line of the amendment. The addition of this language would allow individuals in the school system who teach business or math classes, to qualify.

Senator Bunde stated, for the record, that the earlier suggestion of including the language "professional or practical experience" was not intended to exclude people with a reasonable background in these areas. A working knowledge would suffice. He pointed out that he had no actuarial experience, but after one week of discussing actuarial reports, he was quite comfortable in discussing the issue. Therefore, he stated that people possessing a "reasonable background could achieve a level of competency". In addition, Board membership by one of their peers in the decision making process would provide the people in the system "some level of comfort." His concerns would be addressed by the addition of the suggested language.

1:39:48 PM

Senator Stedman clarified the proposed language.

Amendment-to-Amendment #5: This amendment to the amendment inserts the words "working or teaching" following the word "experience". The revised language would read as follows.

> (3) "recognized competence" means a minimum of ten years professional experience working or teaching in the fields of investment management, finance, banking, economics, accounting, pension administration or actuarial analysis.

Senator Stedman moved the Amendment-to-Amendment #5.

There being no objection, the Amendment to the Amendment was ADOPTED.

Amendment #5, as Amended, was before the Committee.

There being no objection, Amendment #5, as Amended, was ADOPTED.

Amendment #6: This amendment deletes "the same" after the word "with" and replaces it with "a participating" in Section 62, subsection 39.30.380, on page 49, line 14 of Version "F". In addition, the words "and if the employer is still a participating employer" are deleted on line 15 of that subsection.

Co-Chair Green moved Amendment #6.

Senator Bunde objected for explanation.

Ms. Carpenter explained that the amendment would allow a person who terminated employment and then returned within a five-year period, to have their health reimbursement arrangement (HRA) balance restored. Current bill language requires that the employee return to the same employer. This amendment would alter the language to allow the re-employment to be with a participating employer.

Senator Bunde removed his objection.

There being no further objection, Amendment #6 was ADOPTED.

Senator Hoffman asked whether Amendment #6 would allow a teacher leaving a TRS system position to be rehired in a PERS position.

Ms. Carpenter affirmed that that would qualify.

Amendment #7: This Amendment inserts "providing for non-vested members of the teachers' retirement system defined benefit plans to transfer into the teachers' retirement system defined contribution plan; and for non-vested members of the public employees' retirement system defined benefit plans to transfer into the public employees' retirement system defined contribution plan;" into the bill's title on page one, line eight, following the word "hearings;".

In addition, ", or to members who transfer into the defined contribution plan under AS 14.25.540" is inserted following "July 1, 2005" in Section 29 page 13, line 11.

Furthermore a new bill subsection is inserted in Sec. 29, on page 28, following line 26 as follows.

"Sec. 14.25.540. Transfer into defined contribution plan by non-vested members of defined benefit plan. (a) An active

member of the defined benefits retirement plan of the teachers' retirement system is eligible to participate in the defined contribution retirement plan established under AS 14.25.310 - 14.25.590, if that member has not vested. Participation in the defined contribution retirement plan is in lieu of participation in the defined benefits plan established under AS 14.25.009 - 14.25.220.

(b) A member who has vested in a defined benefits retirement plan is not eligible to transfer under this section.

(c) Each eligible member who elects to participate in the defined contribution retirement plan shall have transferred to a new account the present value of the member contribution account balance held in trust for the member under the defined benefits retirement plan of the teachers' retirement system. A matching employer contribution shall be made on behalf of that employee to the new account. Upon transfer of the member contribution account balance, all service credit previously earned under the defined benefits plan shall be nullified for purposes of entitlement to a future benefit under the defined benefits plan, but shall be credited for purposes of eligibility to elect medical benefits under AS 14.25.470. An eligible member whose accounts are subject to a qualified domestic relations order may not make an election to participate in the defined contribution retirement plan under this section unless the qualified domestic relations order is amended or vacated and court-certified copies of the order are received by the administrator.

(d) As directed by the participant, the board shall transfer or cause to be transferred the appropriate amounts to the designated account. The board shall establish transfer procedures by regulation, but the actual transfer may not be later than 30 days after the effective date of the member's participation in the defined contribution retirement plan unless the major financial markets for securities available for a transfer are seriously disrupted by an unforeseen event that also causes the suspension of trading on any national securities exchange in the country where the securities were issued. In that event, the 30-day period of time may be extended by a resolution of the board of trustees. Transfers are not commissionable or subject to other fees and may be in the form of securities or cash as determined by the board. Securities shall be valued as of the date of receipt in the participant's account.

(e) If the board or the administrator receives notification from the United States Department of the Treasury, Internal Revenue Service, that this section or a portion of this section will cause the retirement system, or a portion of the retirement system, to be disqualified for tax

purposes under the Internal Revenue Code, the portion that will cause the disqualification does not apply and the board and the administrator shall notify the presiding officers of the legislature.

(f) The election to participate in the defined contribution retirement plan must be made in writing on forms and in the manner prescribed by the administrator. Before accepting an election to participate in the defined contribution plan, the administrator must provide the employee planning on making an election to participate in the defined contribution plan with information including calculations to illustrate the effect of moving the employee's retirement plan from the defined benefit plan to the defined contribution plan as well as other information to clearly inform the employee of the potential consequences of the employee's election. An election made under this section to participate in the defined contribution retirement plan is irrevocable. Upon making the election, the participant shall be enrolled as a member of the defined contribution retirement plan, the member's participation in the plan shall be governed by the provisions of AS 14.25.310 - 14.25.590 and the member's participation in the defined benefits retirement plan under AS 14.25.009 - 14.25.220 shall terminate. The participant's enrollment in the defined contribution retirement plan shall be effective the first day of the month after the administrator receives the completed enrollment forms. An election made by an eligible member who is married is not effective unless the election is signed by the individual's spouse.

(g) In this section,

(1) "defined benefits retirement plan" means the retirement plan established in AS 14.25.009 - 14.25.220;

(2) "defined contribution retirement plan" means the retirement plan established in AS 14.25.310 - 14.25.590."

The words ", or to members who transfer into the defined contribution plan under AS 39.35.940" are inserted in Section 102, subsection Sec. 39.35.700 on page 70, line two following "July 1, 2005".

A new subsection is inserted following line five in Section 102, on page 85.

"Sec. 39.35.940. Transfer into defined contribution plan by non-vested members of defined benefit plan. (a) Subject to (g) of this section, an active member of the defined benefits retirement plan of the public employees' retirement system is eligible to participate in the defined contribution retirement plan established under AS 39.35.700 - 39.35.990, if that member has not vested. Participation in the defined contribution retirement plan is in lieu of participation in

the defined benefits plan established under AS 39.35.095 - 39.35.680.

(b) A member who has vested in a defined benefits retirement plan is not eligible to transfer under this section.

(c) Each eligible member who elects to participate in the defined contribution retirement plan shall have transferred to a new account the present value of the member contribution account balance held in trust for the member under the defined benefits retirement plan of the public employees' retirement system. A matching employer contribution shall be made on behalf of that employee to the new account. Upon transfer of the member contribution account balance, all service credit previously earned under the defined benefits plan shall be nullified for purposes of entitlement to a future benefit under the defined benefits plan, but shall be credited for purposes of eligibility to elect medical benefits under AS 39.35.870. An eligible member whose accounts are subject to a qualified domestic relations order may not make an election to participate in the defined contribution retirement plan under this section unless the qualified domestic relations order is amended or vacated and court-certified copies of the order are received by the administrator.

(d) As directed by the participant, the board shall transfer or cause to be transferred the appropriate amounts to the designated account. The board shall establish transfer procedures by regulation, but the actual transfer may not be later than 30 days after the effective date of the member's participation in the defined contribution retirement plan unless the major financial markets for securities available for a transfer are seriously disrupted by an unforeseen event that also causes the suspension of trading on any national securities exchange in the country where the securities were issued. In that event, the 30-day period of time may be extended by a resolution of the board of trustees. Transfers are not commissionable or subject to other fees and may be in the form of securities or cash as determined by the board. Securities shall be valued as of the date of receipt in the participant's account.

(e) If the board or the administrator receives notification from the United States Department of the Treasury, Internal Revenue Service, that this section or a portion of this section will cause the retirement system, or a portion of the retirement system, to be disqualified for tax purposes under the Internal Revenue Code, the portion that will cause the disqualification does not apply, and, the board and the administrator shall notify the presiding officers of the legislature.

(f) The election to participate in the defined

contribution retirement plan must be made in writing on forms and in the manner prescribed by the administrator. Before accepting an election to participate in the defined contribution plan, the administrator must provide the employee planning on making an election to participate in the defined contribution plan with information including calculations to illustrate the effect of moving the employee's retirement plan from the defined benefit plan to the defined contribution plan as well as other information to clearly inform the employee of the potential consequences of the employee's election. An election made under this section to participate in the defined contribution retirement plan is irrevocable. Upon making the election, the participant shall be enrolled as a member of the defined contribution retirement plan, the member's participation in the plan shall be governed by the provisions of AS 39.35.700 - 39.35.990, and the member's participation in the defined benefits retirement plan under AS 39.35.095 - 39.35.680 shall terminate. The participant's enrollment in the defined contribution retirement plan shall be effective the first day of the month after the administrator receives the completed enrollment forms. An election made by an eligible member who is married is not effective unless the election is signed by the individual's spouse.

(g) A member may make an election under this section only if the member's employer participates in both the defined benefits retirement plan and the defined contribution retirement plan and consents to transfers under this section. The employer shall notify the administrator if the employer consents to allowing the employer's members to choose to transfer from the defined benefits retirement plan to the defined contribution retirement plan under this section. An employer's notice to allow transfers is irrevocable and applicable to all eligible employees of the employer.

(h) In this section,

(1) "defined benefits retirement plan" means the retirement plan established in AS 39.35.095 - 39.35.680;

(2) "defined contribution retirement plan" means the retirement plan established in AS 39.35.700 - 39.35.990."

Co-Chair Green moved and objected to Amendment #7. She noted that a conceptual amendment to this amendment would be forthcoming.

1:42:13 PM

Ms. Carpenter explained that this amendment would provide non-vested PERS and TRS members the option to transfer their individual account balances from the DBP to the DCP, provided their employer chooses to participate. No time limit for enrollment is specified.

Senator Bunde asked for further clarification; specifically in regards to whether the employer "chooses to participate in allowing the transfer or chooses to participate in a PERS or TRS program".

Ms. Carpenter clarified that the employer must participate "in allowing the transfer. A participating employer has to first choose to allow their employees to transfer into the new plan because they're required to make a match".

Senator Hoffman asked whether the employee could conduct a partial transfer or whether a total transfer would be required.

Ms. Carpenter clarified that the employee would be required to totally transfer their funds, "in lieu of participating in the DBP". This would forfeit any participation in the DBP from that point forward. This would be an "irrevocable decision" in that, once made, the decision could not be reversed.

Senator Bunde referenced remarks made to the Committee by a current TRS Board member, Dr. Richard Solie, in which he voiced support for a combination, or "hybrid" DBP and DCP retirement benefit program. To that point, he asked whether any consideration had been given to stopping vested PERS and TRS employees' DBP at a certain point. This would provide "a floor", as referenced by Dr. Solie, and, from that point forward, the employees would be transitioned to a DCP for future participation in the system.

Ms. Carpenter stated that discussion of such a proposal has not occurred.

Senator Bunde acknowledged and stated that he would not further "adding a complication this late in the game".

1:45:03 PM

Co-Chair Green surmised that such a plan would have "financial implications".

Senator Stedman stated that such a proposal "would be challenging" to implement as, for example, Tier III employees are eligible for employer funded retirement health care premiums at the age of 60; in contrast, there would be an employer/employee sharing of retirement health care premiums under the DCP. In addition, the State could not require employees to change to the DCP because there are Constitutional protections in place regarding the benefit structure.

Co-Chair Green commented that the two would not "blend very well

from past to future".

Senator Bunde countered that "the financial impact on the system would be no different" than were someone to quit and take another job; leaving their defined benefit" alone "until they reached the appropriate age." In addition to the Constitutional protection issue, another complication would be that this proposal would only apply to people who were currently vested and "no one in the future" would be provided this option. This might result in legal action.

Amendment-to-Amendment #7: This amendment to the amendment inserts the words "Subject to (g) of this section," following "(a)" in Sec. 14.25.540.

In addition, the entirety of subsection (g) as depicted in Sec. 39.35.940 of the amendment, is duplicated and inserted following the word "spouse" in Sec. 14.25.540(f). This language reads as follows.

> (g) A member may make an election under this section only if the member's employer participates in both the defined benefits retirement plan and the defined contribution retirement plan and consents to transfers under this section. The employer shall notify the administrator if the employer consents to allowing the employer's members to choose to transfer from the defined benefits retirement plan to the defined contribution retirement plan under this section. An employer's notice to allow transfers is irrevocable and applicable to all eligible employees of the employer.

Furthermore, a typographical error is corrected in Sec. 14.25.540(f) of the amendment by replacing "defined retirement contribution plan" with the words "defined contribution retirement plan". This language is again corrected in Sec. 39.35.940(f) of the amendment. Another grammatical correction to Amendment #7 is the changing of the word "chose" to "choose" in Sec. 39.35.940(g). [NOTE: These changes were handwritten into the proposed amendment and therefore are reflected as such in the original amendment.]

Co-Chair Green explained that while subsection (g) was included in the PERS section of Amendment #7, it was inadvertently omitted from the TRS section of the amendment. Amending the amendment to include the references to subsection (g) would make the PERS and TRS language in the amendment "identical".

[NOTE: Although no formal motion was made to adopt the changes to the amendment and thus amend the amendment that was the implied

intent of the Committee.]

Co-Chair Green removed her objection.

There being no further objection, Amendment #7, as Amended, was ADOPTED.

Amendment #8: This amendment provides the authority to the bill's drafter to conform the following existing sections, which are specific to the current retirement tiers of AS 14.25 and AS 39.35, to the concept of the defined contribution retirement plan and to make any other changes necessary as a result of adding these new sections to the bill.

AS 14.25.040(b) and (c). Legislators who were teachers.
AS 14.25.045. Participation by National Education Association employees.
AS 14.25.047. Participation by Special Education Service Agency employees.
AS 39.35.131. Membership in teachers' and public employees' retirement systems.
AS 39.35.153. Army and air national guard employees.
AS 39.35.154. North Pacific Fishery Management Council employees.
AS 39.35.158. Administrative director of courts.

Co-Chair Green moved and objected to Amendment #8 for purpose of explanation.

Ms. Carpenter informed the Committee that when the bill was originally drafted, "no consideration" was provided to "other types of employees that participate now in the existing retirement programs" such as legislators who have the option to participate in TRS; National Education employees, special education service employees, army and air national guard employees, Northern Pacific Fishery Management Council employees, and the Administrative director of courts.

Ms. Carpenter stated that information [copy on file] regarding these employees is attached to the amendment. The purpose of the amendment would be to allow future employees of these entities to participate in the DCP.

Co-Chair Green expressed that "this is not new language"; it would simply serve to duplicate these employees' current DBP eligibility provisions in the DCP provisions.

Ms. Carpenter affirmed; however, pointed out that section AS

39.35.131. Membership in teachers' and public employees' retirement systems., is a section "that prevents" people from receiving "double credit in the systems". In that regard, it must be duplicated in the DCP. The inclusion of this language would prevent a teacher who qualifies for a full year's credit by working the required 172-day school year and who, in addition, might work during that same year in the PERS system, from accumulating more than a full year's credit.

Senator Hoffman asked whether the bill includes language that would prevent anyone from receiving double-time.

Ms. Carpenter understood that the aforementioned situation is the only one to which this concern would apply.

Senator Hoffman contended that there "may be others".

There being no objection, Amendment #8 was ADOPTED.

AT EASE 1:53:24 PM / 1:57:11 PM

Amendment #9: This amendment inserts a new bill section into the bill on page 34 following line twelve as follows.

> Sec.____. AS 24.08.035(a) is amended to read:
>
> (a) Before a bill or resolution, except an appropriation bill, is reported from the committee of first referral, there shall be attached to the bill a fiscal note containing an estimate of the amount of the appropriation increase or decrease that would result from enactment of the bill for the current fiscal year and five succeeding fiscal years or, if the bill has no fiscal impact, a statement to that effect shall be attached. The fiscal note of a bill that makes any change to the benefit structure of the state's retirement system shall include the additional analysis required in AS 24.08.036. The fiscal note or statement shall be prepared in conformity with the requirements of this section by the department or departments affected and may be reviewed by the office of management and budget. Except as allowed in AS 24.08.036, [T]the fiscal note or statement shall be delivered to the committee requesting it within five days of the request or within two days if the request is made after the 90th day of a regular session, or during a special session of the legislature. If the bill is presented by the governor for introduction in accordance with AS 24.08.060(b) and the uniform rules of the legislature, the fiscal note or statement shall be attached to the bill before the bill is introduced.

An amendment or substitute bill proposed by a committee of referral that changes the fiscal impact of a bill shall be explained in a revised fiscal note or statement attached to the bill.

Sec ___. AS 24.08.035(b) is amended to read:

(b) In addition to the fiscal note required by this section and AS 24.08.036, the sponsor of a bill or resolution may prepare a fiscal note in conformity with the requirements of this section, and submit it to the committee of first referral by the finance committee. A committee may prepare an additional fiscal note in conformity with the requirements of this section.

Sec ___. AS 24.08.036 is repealed and reenacted to read:

Sec. 24.08.036. fiscal notes on bill affecting the benefit structure of state retirement systems. (a) In addition to the requirements of AS 24.08.035, the fiscal note of a bill that makes any changes to the benefit structure of the state's retirement system shall include an actuarial analysis of the bill's affect on the assets and liabilities of the retirement systems. This analysis shall be prepared and certified by a member of the American Academy of Actuaries and coordinated through the division of retirement and benefits.

(b) The completed fiscal note shall be reviewed by the Commissioner of Administration and forwarded to the chair of the Alaska Retirement Management Board for comment and recommendations.

(c) A committee of referral proposing an amendment or substitute bill that changes the inputs or assumptions used by the actuary in preparing the fiscal note required in this section must obtain a revised actuarial analysis prior to reporting the amended bill or committee substitute from committee. This revised actuarial analysis shall be preformed in accordance with this section.

Senator Stedman moved to adopt Amendment #9.

Co-Chair Green objected for explanation.

Senator Stedman noted that, while this amendment would require further revision, "the issue at hand" is that the Legislature should be provided an "accurate estimate of the impacts and the liabilities" that any future Legislative change might have on the benefit structure of the PERS and TRS systems. This does not necessarily occur under the current structure. This amendment would require a fiscal note of any bill that would change the benefit structure of the State's retirement system to include an additional

analysis as required under AS 24.08.36 in the amendment.

1:59:44 PM

Senator Stedman noted that the amendment should be amended in order to exclude the requirement that a fiscal note reflecting the impact of any legislation affecting the benefits State's retirement system be provided within a five-day period as currently specified in AS 24.08.035, as such an analysis could not be conducted in that length of time.

Senator Bunde asked whether both the five-day and two-day rule specified in that Statute should be exempted, as, were the legislation considered after the 90-day of the Legislative Session, the two-day rule would apply.

Amendment-to-Amendment #9: This amendment to the amendment adds a new section following subsection (c) as follows.

> (d) The five day and two day requirement specified in AS 24.08.35 does not apply to bills affecting the benefit structure of state retirement systems.

Senator Stedman offered Amendment-to-Amendment #9.

Co-Chair Green understood the validity of conducting a thorough review; however, she voiced concern regarding the length of time the process might take. She also questioned which entities would be recognized as a certified member of the American Academy of Actuaries. She asked how "a must pass bill" regarding some crisis occurring late in a Legislative Session could be addressed were this language adopted. Limiting legislation in this manner, absent some practical methodology, could be worrisome as it might require a lengthy process. The question is whether the language might "create a bar that could not be stepped over".

Senator Stedman responded that, "we're definitely increasing that hurtle". The concern is that once a benefit is granted, "under the current Tier structure", it cannot be removed. Therefore, slowing down the process would allowing a more thorough review could decrease unanticipated consequences. In the past, some bills' "fiscal notes were moving all over the place" and, as time advanced, some initial cost estimates were increased substantially.

Senator Stedman addressed Co-Chair Green's concern regarding how to address an unexpected crisis in a timely manner by stating that he did not anticipate any crisis occurring to the benefit structure that would require quick Legislative action.

Co-Chair Green asked the anticipated timeframe for development of these fiscal notes.

Senator Stedman replied that the timeframe would depend on "the complexity of the change". The actuary under contract with the State would have the pertinent data and the ability to calculate the effects on the system of any proposed change. The timeframe involved in developing a fiscal note could be as long as 120 days. Minor revisions would not require as much time.

Senator Bunde agreed that, at times, problems have occurred when changes have been made and the fiscal note only focused on "the implementation of the change" without any review of the impact the change might impose on the system. Those impacts should be considered. To further address Co-Chair Green's concern, he suggested that, in a time of an emergency, the Legislature could repeal subsection Sec. 24.08.036.

Senator Bunde wondered whether any Legislator would have the authority to ask the State's actuary to review a proposed piece of legislation. Such requests, depending on the proposal, could incur expenses ranging from $10,000 or $100,000. To that point, the expense of that actuarial modeling must also be included in the fiscal note.

While waiting for a response to Senator Bunde's question regarding the actuarial costs associated with a modeling request, Senator Stedman qualified that the State's actuarial consulting firm, Mercer Human Resource Consulting, is a member of the American Academy of Actuaries. The intent would be to use the State's contracted actuary when developing legislative analysis; otherwise "the cost would be prohibitive".

2:07:14 PM

KEVIN BROOKS, Deputy Commissioner, Department of Administration, stated that, based on the experience involved in the development of this legislation, it would not be inconceivable that a minimum of several weeks would be required to develop a fiscal note regarding the impact of a change to the retirement system. The complexity of the issue would be the primary factor. While the desire to not rush through the analysis is "admirable", it could extend the current five-day process by two or three weeks.

Mr. Brooks shared that, oftentimes, an analysis is requested with a one-day turnaround. This is not a problem when the issue is a minor one; however, some issues have been more extensive and have

required more time. He was unaware of any issue addressed by SB 141 that would exceed a two-week turnaround.

Ms. Millhorn agreed with that developing an impact analysis for legislation that would effect the benefits of the State retirement system could require two or three weeks to develop, depending on the complexity of the legislation.

Ms. Millhorn shared that when the fiscal note for HB 91, which provided medical enhancements to firefighters and police, was being developed, Mercer had reviewed "the current retirement parties within that segment based on the historical data" and consultation with a number of employers. However, the Department recognized the fact that "Mercer had not prepared the fiscal analysis to project what would happen in the event that it incentivized police and fire members to retire early". Therefore, the Department adjusted the initial fiscal note upward from eight million dollars to $18 million. That Department review did lengthen the time of the process.

Senator Bunde asked regarding how Mercer is compensated, specifically whether they billed by the hour.

Mr. Millhorn replied that the State's professional services contract with Mercer includes a one-year renewal option the Department could exercise. Mercer bills by the hour, up to $500,000 annually. The cost of each billable hour is approximately $400. Mercer provides an itemized breakout of each request that has been addressed. A non-complex issue might bill out between $5,000 and $7,000.

Senator Bunde stated therefore that were he, being just one of 60 Legislators, to author a bill and ask Mercer to review it as proposed in this amendment, he could "run up tens of thousands of dollars in actuarial expenses just because" he would be required to ask for the information. This should be a consideration.

Senator Stedman agreed with Senator Bunde's comments. Sixty Legislators could propose a multitude of bills, some of which might not ever advance. Some of those bills could be very complex and might consume a lot of actuarial time, for naught. The solution evaded him.

2:12:44 PM

Co-Chair Green asked for further discussion regarding the process of requesting fiscal notes, as she understood that Legislators could not "arbitrarily request one". The process should be further

clarified.

Senator Bunde suggested that, in order to allow a fiscal note to properly address certain necessary issues, language could be included in the amendment to specify that the Commissioner of the Department of Administration must request the fiscal note regarding the actuarial impact. This would allow a person with expertise to make a decision that might cost tens of thousands of dollars.

Senator Olson asked whether Mercer's compensation plan is "completely independent of the performance of the investment".

Ms. Millhorn and Mr. Brooks responded yes, the compensation is a stand-alone contract, billable by the hour.

Senator Bunde continued that were the Commissioner of the Department of Administration responsible for fiscal note requests, then the associated actuarial service expenses would be reflected in the Department's budget and therefore, subject to Legislative review.

Mr. Brooks stated that Mercer has been "engaged on a number of" issues this Legislative session, in addition to this bill, as other Legislators have sponsored bills needing actuarial review. Charges have been accumulating. The Department is attempting to be responsible with administering its budget while at the same time being responsive to "crafting the best pieces of legislation that we can going forward".

Co-Chair Wilken noted that while the discussion has expanded to discussing who could request a fiscal note, the amendment to the amendment under consideration addresses whether a pertinent fiscal note must be held to the five or two day rule. To that point, he suggested that the inclusion of subsection (d), as proposed in the Amendment-to-Amendment #9 might serve to "tie our hands" in the future and might not be required. The goal is to develop solid information upon which a decision could be made. Therefore, rather than "flavoring" the fiscal note request "by the press of time", it should be flavored by" the desire to acquire the best information available in predicting the future. Therefore rather than time exerting pressure, the committee chair, who would be waiting for that information, in order to move forward, would exert the pressure. In conclusion, he suggested that deleting the five and two-day timeframe specified in AS 24.08.035 would be the best course of action. Doing so would eliminate the need to add subsection (d) to Sec. 24.08.036.

Co-Chair Green clarified that AS 24.08.035 is in current statute

and serves its purpose well. Were Sec. 24.08.036(d), adopted, AS 24.08.035 would continue to apply to other legislation.

Co-Chair Green asked whether the impact analysis being sought could be a function assumed by the Alaska Retirement Management Board. The Legislature could specify a date upon which a report from the ARMB would be expected. In the meantime, a moratorium could be placed "on anything that enhances benefits".

Senator Stedman stated "that that would accomplish the intent … of not getting into the trap that we've got into in the past where we don't have the information we should" from which to make the best decision. The goal is to get both the AMRB and the actuary "in the loop".

2:19:34 PM

Senator Bunde understood therefore that the purpose would be to require any legislation that would change the funding or benefits of the retirement system and result in financial impact on that system, to have a fiscal note from the Board. The Board would have the discretionary authority to use Mercer if desired.

In response to a remark by Co-Chair Green, Mr. Brooks stated that the fact that the Board would meet on a quarterly basis would be an issue.

Co-Chair Green suggested that the Board could be charged with establishing guidelines for a process that would allow for greater scrutiny; specifically one that would involve the Commissioner of the Department of Administration, the Legislature, the actuary, and the Board. Any change to the system's structure would require an additional review by the actuary.

AT EASE 2:21:16 PM / 2:26:44 PM

Senator Stedman offered a motion to withdraw the amendment to the amendment.

There being no objection, the Amendment-to-Amendment #9 was WITHDRAWN.

Senator Stedman offered a motion to withdraw Amendment #9.

There being no objection, Amendment #9 was WITHDRAWN.

Senator Bunde informed the Committee that Ms. Millhorn could provide information clarifying how the Department of Administration

addresses fiscal note requests from legislators.

Ms. Millhorn communicated that when Legislators request a fiscal analysis from the Department of Administration, they are provided an "approximate cost" estimate pertaining to their request. At times, the request has been withdrawn due to its anticipated cost. Were a Legislator to continue their request of an analysis that might cost thousands of dollars, that request would be advanced to the Commissioner for approval. The Retirement Fund would fund the expense of the analysis.

Amendment #10: This amendment inserts new language into Sec. 43, Sec. 37.10.220(a) as specified on page 39, following line 30 as follows.

> (8) contract for annual review of the primary actuarial valuation and the primary actuarial assumptions by a secondary nationally recognized actuarial firm. The review shall be prepared no later than 90 days after the primary actuarial recommendations are received by Alaska Retirement Management Board. Alaska Retirement Management Board shall consider substantial concerns raised by the second firm within 60 days of receiving the review and shall make rate adjustments or take other appropriate actions in order to fulfill their fiduciary duties under this section.

Co-Chair Wilken moved for the adoption of Amendment #10.

Co-Chair Green objected.

Co-Chair Wilken noted that in consideration of a previous Committee discussion relating to garnering a second opinion about the findings of the State's primary actuarial consultant, this amendment would insert under Board duties, language that would require the recommendations of the State's primary actuarial to be substantiated by a peer review from a second actuarial firm. He reviewed the timeline in which the second actuarial review must be conducted as well as the Board's response time to reviewing the secondary actuarial report of the primary actuarial findings. The language could be revised if deemed necessary.

Co-Chair Green understood therefore, that each year a secondary actuarial firm would be asked to review the annual primary actuarial assumptions and recommendations.

Co-Chair Wilken affirmed that a second actuarial consultant would review the primary actuary's assumptions and recommendations and either agree or disagree with the findings. In hindsight, had a

secondary actuarial firm scrutinized the primary actuarial recommendations in 1995, the decision to adopt "the corridor method" might not have been supported. That decision is one of "the major" reasons that the State has a deficit in its retirement systems today. This language would serve to minimize that "singular advice".

Senator Bunde asked whether the review would be conducted on an annual basis.

Co-Chair Wilken replied that the frequency of when the actuary makes recommendations is "unclear"; it does not appear that it occurs on an annual basis. At times, actuarial assumptions have been unchanged for four to six years.

AT EASE 2:31:06 PM / 2:32:46 PM

Mr. Brooks asked, for clarification, whether the desire is for an audit of the actuarial assumptions to be conducted on a regular basis or whether the desire is that the annual evaluation report be subject to a second review each year.

Co-Chair Wilken responded that the intent is not to conduct an audit, as he defined an audit as a "look backwards". His desire is to conduct a review of "the recommendations as we move forward". The desire would be to anticipate events going forward rather than making decisions based on historical data.

Mr. Brooks communicated that there is a distinction between a standard financial audit, which is a backwards look, and the audit of the actuary. The actuarial audit, rather than being a backwards look, is a review of the assumptions being used to insure that the actuarial valuations being made into the future are based on assumptions that "are accurate".

Co-Chair Green noted that she, rather than Co-Chair Wilken, had inferred the term "audit" in her remarks. Continuing, she asked how often actuarial assumptions are reviewed.

Ms. Millhorn stated that, from this time forward, medical assumptions would be reviewed annually. The June 30, 2004 valuation, which is currently in draft form, conducted an "analysis on the medical tier reconfiguration, and as a consequence of that", new medical methodology was incorporated that included such things as age, trends and the separation of medical claims from prescription drug claims. While this "added additional liabilities to the system", this is "the new methodology that is being advanced right now under the valuation". The remainder of the assumptions,

as specified "in Section 2.3 of the valuation would be reviewed under an experience and an assumption study" which is currently on a four-year review cycle. The most recent "experience assumption study conducted on the PERS/TRS system occurred in the year 2000; the next one is scheduled for the fall of 2005.

Co-Chair Green asked "how many additional times" the secondary actuarial firm would conduct a review were this amendment adopted; specifically whether an annual review of both medical and retirement assumptions would be required.

Ms. Millhorn understood that the amendment would require "a review of the actuarial assumptions, not an audit, but just a review and a confirmation that that meets with generally accepted actuarial national assumptions".

Co-Chair Wilken concurred with Ms. Millhorn's remark. The word "annual" could be eliminated from the amendment were it an ill fit with the intent of the amendment. "The concept is" that whenever "the primary actuarial makes the recommendation to change the plan looking forward", a second actuarial consultant should conduct "an analysis of that recommendation".

In response to a comment from Senator Hoffman, Co-Chair Wilken agreed that the amendment would require something akin to "a second review of the primary recommendation".

Co-Chair Green stated therefore that the intent would be for this to apply to a change in any assumption.

Senator Dyson commented that the second actuarial should provide a second opinion in regards to both a change in an assumption and the ensuing recommendation; both must be "sound", as the change in an assumption would precede the change in a recommendation.

Co-Chair Wilken concurred.

Co-Chair Green asked for confirmation that it would be the actuary who would make the recommendation.

Ms. Millhorn affirmed. The recommendation would then be considered by the ARMB for adoption.

Co-Chair Wilken stated that the decision to specify the 90 and 60-day timeframes in the amendment was an arbitrary one and could be changed. He voiced that, were the timeframes altered, a shorter rather than longer timeframe would be preferred.

Co-Chair Green, giving consideration to the intent of the amendment, asked whether the term "the primary actuarial "valuation" as reflected in the amendment is the appropriate language or would "the primary actuarial assumptions" be more appropriate.

Co-Chair Wilken deferred to Ms. Millhorn.

Ms. Millhorn replied that the term "primary actuarial valuation" would suffice; actuarial assumptions, as specified in Sec. 2.3, underlie the "primary actuarial valuation".

Ms. Carpenter commented that were the intent not to require a second valuation to be conducted on an annual basis, then it is possible that the concerns being brought forward in the amendment are addressed in Version "F" of the bill, as a second valuation is specified in Sec. 43, subsection Sec. 37.10.220(8) and (9) beginning on page 39, line 31.

> (8) review actuarial assumptions prepared and certified by a member of the American Academy of actuaries and conduct experience analyses of the retirement systems not less than once every four years, except for health care assumptions, which shall be reviewed annually.
>
> (9) contract for an independent audit of the state's actuary not less than once every four years.

Ms. Carpenter noted that Sec. 37.10.220(8) would require a review of the actuarial assumptions, with the exception of the health care assumption review that would be done annually, to be conducted "once every four years". Sec. 37.10.220(9) would require "a peer review of the actuary" to occur not less than once every four years.

Co-Chair Wilken did not interpret this language to address his concern due to the fact that this section, Section 43 of the bill, addresses the powers and duties of the ARMB. Therefore, subsection (8) would specify that the Board, rather than a second actuary, would review the actuarial assumptions of the State's primary actuary. Furthermore, the review could not be conducted more than once every four years. This is a concern because the current PERS and TRS Boards "did not catch that assumption". This is "one of the reasons we are in trouble today". The Board would also be responsible for reviewing health care assumptions on an annual basis.

Co-Chair Wilken argued that, other than the fact that a new Board would be in place, the language in subsections (8) and (9) would

essentially mirror existing practice. "One more step" should be implemented to specify that someone should review the primary actuary, and more often than every four years. That is the language offered in his amendment. A peer review that looks forward rather than an audit that looks backward is the preferred course of action. He concluded that his amendment, in contrast to the language in Section 43, subsection (8), "would contemplate a review of assumptions marching forward".

Co-Chair Green commented that a benefit of conducting "an audit that looks back" is that it would indicate whether the actuary's assumptions were correct or incorrect. This would be beneficial to the Board because it could substantiate that actuary's assumptions going forward.

2:43:54 PM

Co-Chair Green stated that there is a question as to whether requiring a second actuarial to review the assumptions of the primary actuary would usurp the power of the ARMB. Currently, the ARMB would be responsible for deciding whether another actuary should be involved.

Co-Chair Wilken referenced a [unspecified] chart in the "What went wrong?" section of the March 16, 2005 "Retirement Security Act" presentation [copy on file] and stated that the decision in 1995 to utilize the "corridor" methodology for five years in determining liability and asset values, was later determined by an audit to have been "the wrong decision". Were this amendment in affect at the time, it would have required a review of the recommendation to implement the corridor method. A second opinion might have prevented the 1995 decision from occurring.

2:45:39 PM

Senator Bunde opined that, "the four-year gap" between audits is one of our problems". He pointed out that the language in subsection (8) specifies that the Board could not conduct the experience analysis "less than once every four years". Therefore, in order to allow "for more current information more often", the question is whether language should be added to specify that an analysis must be conducted no less than once every four years "unless the Board determines its in the best interest of the fund" or "that it must be conducted every two years" Continuing, he stated that language could be added that would require the Board to acquire a second opinion when they determine "it would be in the best interest of the Fund".

Senator Stedman voiced agreement with the concept of a peer review, as "if there is an error, it would be picked up quicker". He suggested that a peer review could occur every other year and an audit every three or four years.

Mr. Brooks supported the language proposed by Senator Stedman and suggested new language to read, "An independent peer review not less than every two years" could be inserted on page 40 line four of the bill following Sec. 43, Sec.37.10.220.(8). This would provide "an independent look at this every two years", either in the form of a peer review or a full audit. This "frequency" might accomplish the goal desired.

Co-Chair Green asked the definition of a peer review.

Mr. Brooks responded that it would mean a review of the assumptions.

Co-Chair Wilken asked whether it would be more cost effective for the State to contract with both a primary and secondary actuary in order to allow the secondary to be familiar with the State's system and the on-going recommendations as opposed to contracting with a second actuary every two years. He determined that it would be more expensive to have a second actuary "start from zero" every two years.

Ms. Millhorn stated that there would be merit in having an actuary who was already familiar with the existing assumptions. However, she shared the philosophy of a [unidentified] Certified Public Accountant who works for a school district and who supports the hiring of an independent auditor "every four years only" because initially "they work really, really hard for you and then" as they get comfortable with the relationship, their performance might "slip". This situation might also apply to the case of "an independent actuary who comes in who's not the same actuary looking at your primary actuary's performance".

Co-Chair Wilken asked whether the Department would be comfortable working with a secondary actuary and, in addition, would the two-year time frame for the review be required regardless of whether or not there were changes in the recommendations.

Ms. Millhorn understood that subsection (8) would consist of an experience study looking back at the State's actual experience. "What it does is, it looks at the actual experience and recalibrates your assumptions based on your actual experience … that represents a re-review of the underlying assumptions and any recommendations for change at that point". Therefore, it would be

beneficial to have a secondary actuarial "look at the experience assumption study" before the recommendations advanced to the Board for final adoption as that study "forms the basis for any recommendations for changes that then are in the system for the next four-year period".

Co-Chair Wilken asked that Amendment #10 be withdrawn in order to allow replacement language to be drafted by the Department.

There being no objection, Amendment #10 was WITHDRAWN.

2:53:15 PM

Amendment #11: This amendment inserts a new section into the bill on page ten, following line 16.

> Sec. __. AS 14.25.143(a), as that subsection read following amendment by sec. 3, ch. 146, SLA 1980, until amended by sec. 12, ch.106, SLA 1988, is amended to read:
>
> (a) When the administrator determines that the cost of living has increased and that the financial condition of the retirement fund permits, the administrator shall increase benefit payments to persons receiving benefits under this system. For purposes of this section, the financial condition of the retirement fund would permit an increase only if the ratio of total fund assets to accrued liabilities meets or exceeds 110%.

In addition, the amendment inserts a new section into the bill after Section 94 on page 67, following line 22.

> Sec. ___. AS 39.35.475(a), as that subsection read following amendment by sec. 3, ch. 146, SLA 1980, until amended by sec. 12, ch. 106, SLA 1988, is amended to read:
>
> (a) When the administrator determines that the cost of living has increased and that the financial condition of the retirement fund permits, the administrator shall increase benefit payments to persons receiving benefits under this system. For purposes of this section, the financial condition of the retirement fund would permit an increase only if the ratio of total fund assets to accrued liabilities meets or exceeds 110%.

Senator Stedman moved Amendment #11.

Senator Stedman explained that this amendment would address the situation in which additional demands might be placed on the assets

of the Retirement Fund as a result of the "paying out an extra benefit, on occasions", relating to cost of living increases. Such a liability had previously occurred when the plan was approximately 94-percent funded; currently the plans are approximately 70-percent funded. This equates to an approximate $5,700,000,000 funding shortfall. In addition to requiring the Fund's assets to equal the liabilities, the amendment would require there to be "an extra ten-percent in assets". The reason "being that these liabilities aren't reflected in the actuarial analysis". A 100-percent asset base rather than the 110 percent asset base proposed in the amendment would not provide sufficient funds "at the time the benefit was triggered and paid out", and, as a result, the Fund would move into an under-funded status. Thus the need to require the fund's status to be at the 110-percent level. While the State is obligated to fund this liability, sufficient assets must be available with which to operate the system. In addition, the cost of living benefits "are cumulative benefits" in that, the years in which the benefit was not paid, would be calculated into the benefit when it is paid out in five, ten or fifteen years, This would be "a substantial hit to the portfolio".

2:55:54 PM

Co-Chair Green asked whether language could be developed that would confine the benefit to a specific year, as opposed to allowing "the look-back … as clearly, there was not a 110-percent in those years". The account should not be allowed to drop below 110-percent funding.

Senator Stedman surmised that the answer to that suggestion is "probably no".

Co-Chair Green inquired whether this would also be the case in the future.

Senator Stedman replied that that was his understanding, as the existing language is "written so tight". He asked that his Legislative staffer, Miles Baker, be allowed to further address the question.

Co-Chair Green voiced surprise that this language could not be altered as she thought that only changes to the DB language would be prohibited.

AT EASE 2:57:06 PM / 2:57:10 PM

Co-Chair Green restated the question regarding whether language could be incorporated into the bill that would limit the Cost of

Living Allowance adjustment to the year in which it was determined feasible: this would prevent the prior years in which the adjustment was not feasible, from being included in that obligation.

MILES BAKER, Staff to Senator Stedman, expressed that "the simple answer is no, although" further review of the Statute would be required.

AT EASE 2:58:22 PM / 2:58:41 PM

Mr. Baker, after reviewing the Statute, communicated that the provision being discussed "only applies to Tier I PERS/TRS" employees. The Statute does not apply to any other Tier group and would not be applicable under the proposed DCP. The amendment would amend "a section of the Statute that's currently in the editor's notes about a previous section of Statutes". It would add the definition stating for purposes of this section, the award of an ad hoc Post Retirement Pension Adjustment (PRPA) would be based upon the financial condition of the retirement fund would permit an increase the COLA only if the ratio of total assets to the accrued liabilities meets or exceeds 110 percent.

Co-Chair Green stated that the term "ad hoc" is not specified in the amendment.

Mr. Baker clarified that the term is not included because "it is not described as an ad hoc in Statute".

2:59:58 PM

Senator Bunde asked whether the Fund has ever been over-funded by ten percent.

Senator Stedman replied that the aforementioned March 16th financial chart and others exhibited that the corridor method modification artificially lowered the Funds "actuarial computed asset value", and subsequently the funding ratio was lowered to approximately "100". This, combined with a miscalculation of the liabilities, served to inaccurately indicate an over-funding scenario in the range of ten to fourteen percent. The reason for suggesting that assets should exceed liabilities by ten percent is that the actuaries do not calculate the COLA expense. That expense should be a consideration, for, when the State is forced to pay this liability, it might "push the fund into under funded status". This liability could accumulate upwards of twenty years. The actuary has projected that it would take twenty-five years to obtain a 100-percent funding status. "A substantial claim on the

assets" would occur whenever the specified funding status is reached. The claim would be "so egregious" that it would demand a funding status of 110 percent in order to "not adversely impact the plan" … "when it was triggered".

3:02:17 PM

Senator Bunde surmised that there could be a variety of opinions in this regard; another actuary might support a 104-percent funding status. The 110-percent level would provide some "cushion".

Senator Stedman agreed that the numbers are a forecast out into the future, and as such there should be consideration of incorporating a band, or range, in regard to the numbers. "The magnitude" is what is important.

Senator Hoffman understood therefore that the level of unfunded liability would prevent this issue from being addressed for a minimum of another 20 to 25 years. He wondered if this language "that would take something away that had been granted" to employees would be contrary to language included in the Alaska Constitution.

Co-Chair Green recalled a discussion in which it was inferred that this provision "was undefined".

Senator Stedman affirmed.

Co-Chair Green continued that this amendment might be an attempt to provide a definition.

Senator Stedman agreed and recalled that the last time COLA was paid, the funding status was approximately 94 percent.

Mr. Baker informed that the funding status at the times the COLA has been provided has fluctuated. The PERS funding ratio was as low as 84-percent on one occasion when it was awarded as part of a lawsuit settlement.

Senator Hoffman stated that the basis of the question is in regards to the cost of living allowance, "regardless of [what] the liquidity or wellness of the fund is". The language specifies that the State has an obligation to address cost of living increases, and the fact that the Fund has been badly managed and that liabilities exist is not the fault of the employees. "The premise was set" when it was established that no employee would contribute towards this liability. The question is why was the cost of living included in the PRPA. The answer could be that it was included to protect the value of the retirement, and accrued liabilities were

not an issue. Now, the State is attempting to implement parameters in regards to the COLA.

Mr. Baker reminded the Committee that in addition to Tier I employees receiving the COLA, they and all other eligible employees would receive the PRPA. Tier I employees would receive a higher adjustment.

Co-Chair Green understood that there a provision stating that the awarding of the COLA was dependent on the condition of the Fund.

Mr. Baker affirmed. "The old version" which was repealed by the Legislature was referred to "as ad hoc or discretionary because it depended on this poorly defined condition of the fund". Subsequent language attempted to develop criteria through which the COLA would be automatic but more accurately tied to the CPI "and not necessarily to the funding ratio of the fund".

Senator Hoffman stated that had the original language not been supplanted with new provisions then "perhaps this would work". However, this amendment is attempting to eliminate it by "making it virtually impossible" to meet, as projections are that the Funds unfunded liability status would not dissipate until approximately the year 2032.

Co-Chair Green stated that that timeframe would serve to preserve "the sanctity and security of the Fund.

3:08:33 PM

Senator Bunde expressed that rather than impacting COLA, the amendment would serve to identify the funding status of the Fund that would be appropriate to support it.

There being no objection, Amendment #11 was ADOPTED.

AT EASE 3:09:33 PM / 3:20:37 PM

Amendment #12: This amendment inserts intent language into Sec. 41 before the beginning of subsection Sec. 37.10.210, on page 37, line one.

> It is the intent of the legislature that after the members of the Alaska Retirement Management Board are appointed and the board is assembled, that they report to the legislature within 120 days or at the start of the next legislative session which ever is sooner, on the following:

a. Their preliminary assessment of the health of the retirement system.
b. Their assessment of the state's actuary.
c. Their recommendations for what additional policy measures might be taken by the administration or the legislature to further improve the health of the system.
d. Their recommendations of possible long and short-term financial solutions to the system's unfunded accrued liabilities.

This amendment was not offered. Refer to Amended Amendment #12.

Amended Amendment #12: This amendment inserts intent language into Sec. 41 before the beginning of subsection Sec. 37.10.210, on page 37, line one.

It is the intent of the legislature that there be a moratorium of legislation affecting the retirement systems until after the members of the Alaska Retirement Management Board are appointed and the board is assembled. The Board will report to the legislature within 120 days or 15 days after the start of the next legislative session whichever is sooner, on the following:

a. Their preliminary assessment of the health of the retirement system.
b. Their assessment of the state's actuary.
c. Their recommendations for what additional policy measures might be taken by the administration or the legislature to further improve the health of the system.
d. Their recommendations of possible long and short-term financial solutions to the system's unfunded accrued liabilities.
e. Their recommendations on what new procedures should be adopted by the legislature regarding fiscal notes for any new legislation affecting the state's retirement system.

Senator Stedman moved for the adoption of Amended Amendment #12.

Co-Chair Green objected for purposes of explanation.

Senator Stedman explained that this amendment would address concerns regarding changes to the "benefit schedule that would have major implications on the liability side". He noted that the amended language might require revisions for clarity.

Senator Bunde, while endorsing the intent of the amendment; opined that a moratorium on such legislation would not be binding on

future Legislatures.

Co-Chair Green countered that, since this is the first session of the Twenty-Fourth Alaska State Legislature, the report would be provided to the seated Legislature.

Senator Bunde acknowledged.

Senator Stedman declared that the intent would be for the report to be provided in January 2006. Were no report forthcoming at that time, the Committee should address "in earnest, the unfunded liability and the restructuring issue".

Co-Chair Wilken asked whether this amendment would incorporate "the concept of the Board wiping the slate clean as to current actuarials", the intent being that of having the ARMB issue a Request for Proposal (RFP) for a new actuarial, and perhaps a secondary actuarial.

Co-Chair Green suggested that this might be addressed by subsection "b." of the amendment.

Senator Stedman voiced the understanding that the Mercer actuarial contract would soon be up for renewal or revision. The creation of the new Board could allow this issue to be automatically furthered. Section "b." was included in the amendment due to the interest that has been focused on this area. While the language "their assessment of the state's actuary" is "softer language" than directly asking for an RFP, the intent is there.

Co-Chair Green asked whether Co-Chair Wilken would prefer the incorporation of stronger language.

Co-Chair Wilken suggested that the words "and replacement if necessary" could be added to the language in subsection (b.).

Senator Bunde reminded the Committee that "the new Board would be held to a high level of accountability" and efforts should be taken to not "tie their hands with specific directions" as this would negate their ability to utilize their own "judgment and wisdom". Too much specificity would narrow "the parameters" in which they would work.

Co-Chair Wilken withdrew his suggestion as he agreed that the new Board would consist of professional people. Were they determine that the actuary should be replaced, they could further that determination.

Senator Stedman clarified that the actuarial contract is with the Department of Administration rather than with the Board. To that point, the desire would be that the Department would seek competitive bids for the actuary position.

Senator Bunde voiced the opinion that the new Board would have an "obligation to recommend continuation, changes, or modifications to the Department". To that point, he asked whether the Department would be required to respond to the Board's advice.

Co-Chair Green understood there to be no obligation on the part of the Department.

Senator Stedman opined that the Department should listen to the Legislature, the appropriator of financial resources, as it endeavors to address the $5.7 billion under funding issue. All entities should "work together" in an effort to solve the problem.

Co-Chair Green asked whether there was any further objection to the amendment.

There being no further objection, Amended Amendment #12 was ADOPTED.

Amendment #13: This amendment changes language in Sec. 29, subsection Sec. 14.25.350(a) on page 15, lines one through three as well as language in Sec. 102, subsection Sec. 39.35.750(a) on page 71, lines eleven through thirteen to read as follows.

> (a) An employer shall contribute to the member's individual account an amount equal to 4.5 [3.5] percent of each member's compensation from July 1 to the following June 30.

In addition, the amendment changes language in Sec. 62, subsection Sec. 39.30.370 on page 49, lines two through nine, to read as follows.

> Sec. 39.30.370. Contributions by employers. For each member of the plan, an employer shall contribute to the teachers' and public employee's retiree health reimbursement arrangement plan trust fund an amount equal to two [ONE] percent of the employer's average annual employee compensation [, NOT TO EXCEED $500 A MEMBER A YEAR].
>
> New Text Underlined [DELETED TEXT BRACKETED]

Senator Stedman moved to adopt Amendment #13.

Co-Chair Green objected for explanation.

Senator Stedman reminded the Committee that the calculation models developed in regard to the employer contribution funding indicated there to be two percentage points "that could be moved around". The second portion of this amendment would increase the employer's contribution into the employee's health reimbursement account (HRA) by one-percent. The HRA contribution would be 100-percent funded by the employer, would be "compounded tax free", and could be withdrawn by the employee tax-free. The remaining one-percent would be contributed to the employee's retirement fund, would be "compounded tax-deferred", and would be taxed as regular income when withdrawn.

Senator Hoffman asked whether schedules were drafted to reflect the change in the HRA account, as he suspected that the additional one percent would make a significant difference.

Upon conferring with Ms. Carpenter, Co-Chair Green stated that the "Projected individual account balances" chart on page seven of the April 2, 2005 "Health Reimbursement Arrangement" presentation [copy on file] contained the model reflecting the two-percent HRA rate. Upon reviewing that chart, she declared that, "it would make a substantial difference."

In response to a comment by Co-Chair Wilken, Senator Stedman affirmed that, in addition to increasing the employer contribution to the HRA account by one percent, the amendment would also eliminate the $500 limit on the employer's HRA contribution. He stated that the ability to withdraw the HRA funds tax-free would be "very attractive".

Co-Chair Wilken, referencing the aforementioned chart, understood that the affect of the amendment on a person's HRA account, with an 8.25 percent return, would be to increase the balance from $56,465 to $138,513.

Senator Stedman furthered that the balance of a person with 25 years of service would increase from $39,400 to $84,200. The balance for a person with 20 years of service would increase from $22,000 to approximately $50,000. A six-percent return for a person with 20 years of service would increase from $17,000 to $39,000. A significant increase would occur.

3:33:13 PM

Senator Stedman noted that were this one percent placed in the retirement fund, it would be subject to taxes and the individual

would not fare as well. Increasing the amount placed in the HRA would advantage the employee.

Co-Chair Green concluded that this would provide "a very nice benefit."

Senator Olson agreed.

Co-Chair Green asked whether there was any further objection.

There being none, Amendment #13 was ADOPTED.

Co-Chair Green stated that Amendment #1, which had been offered by Senator Olson and set aside in order to obtain further information regarding the number of PERS/TRS members voting in a Board member election, was again before the Committee.

Amendment #1: This amendment replaces all language in Sec. 40, subsections (b) through (i) beginning on page 36, line 27 through page 38, line six of 24-LS0637\G; with the following language. [NOTE: This language must be conformed to Version "F".]

> (b) The Alaska Retirement Management Board consists of nine trustees. The commissioner of administration and the commissioner of revenue shall serve on the board. Four trustees shall be appointed by the governor and three shall be elected from the membership of state retirement systems.
> (c) The governor shall appoint four trustees who meet the eligibility requirements for an Alaska permanent fund dividend and who are professionally credentialed or have recognized competence in investment management, finance, banking, economics, accounting, pension administration, or actuarial analysis as follows:
> (1) two trustees shall be appointed from the general public; a trustee appointed under this paragraph may not hold another state office, position, or employment and may not be a member or beneficiary of a retirement system managed by the board;
> (2) one trustee shall be employed as a finance officer for a political subdivision participating in the public employees' retirement system;
> (3) one trustee shall be employed as a finance officer for a political subdivision participating in the teachers' retirement system.
> (d) Two trustees shall be members of the public employees' retirement system elected by members of the public employees' retirement system. One trustee shall be a member of the teachers' retirement system elected by members of the teachers' retirement system. Elections shall be conducted by

the board. The candidate who receives the most votes cast in the election is elected to the seat. If two seats are to be filled at the election, the candidate who receives the highest number of votes cast and the candidate who receives the second highest number of votes cast are elected to the seats. The term of office of an elected member is three years. The governor shall fill a vacancy in an unexpired elective term by appointment for the period remaining before the next regularly scheduled election held under this subsection. The term limitations of (e)(1) of this section do not apply to trustees elected under this subsection.

(e) The trustees appointed under (c) of this section

(1) shall serve for staggered terms of three years and may be reappointed to the board for a total of three consecutive terms, a person who has served three consecutive terms may not be reappointed to the board for at least one year;

(2) may be removed by the governor for cause by written notice, after a trustee receives written notice of removal, the trustee may not participate in board business and may not be counted for purposes of establishing a quorum.

(f) A vacancy on the board of trustees appointed to the board under (e)(2) of this section shall be promptly filled. A person filling a vacancy holds office for the balance of the unexpired term of the person's predecessor, and the balance of the unexpired term served is not included in the three-term limitation under (e)(1) of this section. A vacancy on the board does not impair the authority of a quorum of the board to exercise all the powers and perform all the duties of the board.

(g) Five trustees constitute a quorum for the transaction of business and the exercise of the powers and duties of the board.

(h) A trustee may not designate another person to serve on the board in the absence of the trustee.

(i) The board shall provide annual training to its members on the duties and powers of a fiduciary of a state fund and other training as necessary to keep the members of the board educated about pension management and investment.

(j) The board shall elect a trustee to serve as chair and a trustee to serve as vice-chair for one-year terms. A trustee may be reelected to serve additional terms as chair or vice-chair."

In addition, language in Sec. 112 page 90, lines 19 through 26 is deleted and replaced with the following language. [NOTE: This language must be conformed to Version "F".]

* Sec. 112. The uncodified law of the State of Alaska is

amended by adding a new section to read:

TRANSITION: INITIAL STAGGERED TERMS OF TRUSTEES OF THE ALASKA RETIREMENT SECURITY AND PORTABILITY BOARD. (a) Notwithstanding AS 37.10.210(e), as repealed and reenacted by sec. 40 of this Act, in making the initial appointments under AS 37.10.210(c), as repealed and reenacted by sec. 40 of this Act, the governor shall appoint one member for one year, one member for two years and two members for three years.

(b) Notwithstanding AS 37.10.210(d), as repealed and reenacted by sec. 40 of this Act, the initial term of the candidate who receives the highest number of votes cast in a two-seat election shall be elected to a three-year term, and the candidate in a two-seat election who receives the second highest number of votes cast shall be elected to a one-year term. The initial term of a candidate who receives the highest number of votes cast in a one seat election shall be two years.

Senator Olson reiterated that the sectional references in the amendment relate to Version "G" and must be conformed to Version "F". Thus, the language referenced in Sec. 40 is located in Sec. 41, subsections (b) through (i) beginning on page 37, line 13 through page 38, line 23 of Version "F". The changes proposed for Sec. 112 would apply to language in Sec. 114, page 91 lines seven through fourteen of Version "F".

Co-Chair Green informed the Committee that the Department of Administration has informed that 11,077 out of 62,720 ballots that were mailed out to members in the 2002 PERS Retirement Board election were cast. This would equate to approximately a 17 percent voter turnout. The Department has indicated that election participation in other years has ranged between 30 to 40 percent.

Co-Chair Green maintained her objection to the amendment.

A roll call was taken on the motion.

IN FAVOR: Senator Hoffman, Senator Olson

OPPOSED: Senator Bunde, Senator Dyson, Senator Stedman, Co-Chair Wilken, and Co-Chair Green.

The motion FAILED (2 - 5)

Amendment #1 FAILED to be adopted.

Senator Olson asked that Amendment #1 be divided and offered as Amendment #14.

AT EASE 3:37:00 PM / 3:37:57 PM

Amendment #14: This amendment replaces the word "three" with the word "two" in Sec. 41, subsection Sec.37.10.210(b)(1) on page 37, line 20 of Version "F" to read as follows.

> (1) two trustees shall be appointed from the general public; a trustee appointed under this paragraph may not hold another state office, position, or employment and may not be a member or beneficiary of a retirement system managed by the board;

In addition, the amendment deletes "one" and replaces it with the word "two" in Sec. 41, subsection Sec.37.10.210(b)(4) on page 37, line 28 to read as follows.

> (4) two trustee shall be an member of the public employees' retirement system;

Senator Olson moved Amendment #14.

Co-Chair Green objected to the amendment. She continued to view a minimum of three professional members on the Board as essential.

A roll call was taken on the motion.

IN FAVOR: Senator Hoffman, Senator Olson, and Senator Stedman

OPPOSED: Senator Dyson, Senator Bunde, Co-Chair Wilken, and Co-Chair Green.

The motion FAILED (3-4)

Amendment #14 FAILED to be adopted.

Conceptual Amendment #10A: This amendment replaces language in Sec. 43, subsection Sec.37.10.220(8), beginning on line 31, page 39 with new language as follows.

> (8) review actuarial assumptions prepared and certified by a member of the American Academy of Actuaries and conduct experience analyses of the retirement systems not less than once every four years the results of the assumption experience study will include a "peer review" before going to the ARM for review. Health cost assumptions shall be reviewed annually.

Co-Chair Wilken explained that the Department of Administration developed this conceptual language to replace that previously

offered in Amendment #10. [NOTE: Amendment #10 was previously discussed and withdrawn from consideration.]

At this point, Co-Chair Green briefly conducted housekeeping in regards to a continuing delay of a University of Alaska amendment, pertinent to this bill.

AT EASE 3:41:39 PM /3:42:23 PM

Co-Chair Wilken moved for the adoption of the Amendment and objected for discussion.

Ms. Millhorn reminded the Committee that a new experience assumption study would be conducted on the systems every four years. Prior to the new experience assumption study being presented to the ARMB for either adoption, review, or revision, two things must occur. The first being that the primary actuarial firm must review "the actual experience by the system" and recalibrate each of the system's assumptions. Recommendations regarding any revision of an assumption must be developed. Secondly, at this point, another independent, peer actuarial firm would review the primary actuary's "study and provide their recommendation for change".

Co-Chair Wilken asked whether the assumption experience study could occur more frequently than every four years.

3:44:08 PM

Ms. Millhorn replied that only the medical assumption studies would be conducted on an annual basis.

Co-Chair Wilken asked whether any significance is assigned to the four-year review timeline for other studies.

Ms. Millhorn replied that no specific significance is attached to the timeframe. The experience study would be a look back over the actual experiences of the system for the previous three or four years in order to re-evaluate and perhaps revise or modify the assumptions. The assumption study would be a look forward. A period of time would be necessary when conducting an experience study and an assumption study simultaneously.

Co-Chair Wilken ascertained therefore that a four-year review cycle would be an acceptable timeframe and is "standard practice". The peer review would occur following that study.

Ms. Millhorn acknowledged.

Co-Chair Wilken asked whether the language would also require a peer review to occur in regards to the medical assumptions.

Ms. Millhorn replied that, "yes, it could".

Co-Chair Wilken, to clarify the answer, asked whether that would be "yes, it would."

Ms. Millhorn affirmed.

Co-Chair Wilken understood therefore that the four-year review timeframe is standard procedure in this industry.

Co-Chair Green commented that the amendment's language specifies that the analyses of the retirement system occur "not less than once every four years". This language would allow an analysis to be conducted every four years or every year if the ARMB chose.

Co-Chair Wilken appreciated Co-Chair Green's clarification as he had misunderstood the language.

In response to further questioning from Co-Chair Wilken, Co-Chair Green clarified that an analysis could be conducted yearly, every two years, three years or four years. The language would not allow for an analysis to be conducted every five or six years.

Senator Hoffman and Senator Bunde affirmed Co-Chair Green's interpretation that an analysis must be conducted in a timeframe of "four years or less" or "at least once every four years".

Co-Chair Green suggested that a semicolon should be inserted in the conceptual amendment after the words "four years".

Co-Chair Green clarified, for the record, that the Amendment before the Committee is Conceptual Amendment 10A.

[NOTE: Co-Chair Wilken did not formally remove his objection, which has been offered for the sake of discussion; however, that was the implied intent.]

There being no further objection, Amendment 10A was ADOPTED.

Conceptual Amendment #15: This amendment requires that a "hybrid" or "blended" retirement program, consisting of both a defined contribution and defined benefit plan, be established in Tier IV, as supported by the PERS/TRS Tier Review subcommittee.

Senator Hoffman moved Conceptual Amendment #15. He recalled

testimony before the Committee from Dr. Richard Solie, a current TRS Board member and a member of the PERS/TRS Tier Review Subcommittee, in which Dr. Solie had shared information about the two retirement program alternatives the subcommittee had developed: one being the DCP being presented in this bill and the second being a blended or hybrid plan which was a combination of both a DBP and a DCP. The subcommittee favored the hybrid plan. Rather than the two-percent retirement benefit calculation modified by length of service as specified in the current DBP, the proposed hybrid alternative would encompass a flat one-percent DBP retirement benefit calculation combined with a one-percent DCP element.

Senator Hoffman voiced that the fact that the 100-percent DCP plan proposed in this legislation has "no floor" is the reason he supports the blended plan. In addition, there is concern that some State employees might not qualify for the federal social security program. A hybrid program could be developed that would remove half of the State's DBP obligation while providing assurance to the employee that, regardless of how they invested the money in their DCP component, the DBP component would provide some benefit. Another "compelling argument" voiced by Dr. Solie against the adopting of a 100-percent DCP, would be that Alaska would be one of only a few states doing so, and in that regard, might experience some "drawbacks". These are the reasons the blended plan received unanimous support from the Tier Review Subcommittee. Therefore, "at least the concept [of a hybrid plan] should be discussed and voted upon by this Committee".

Co-Chair Green objected to the amendment.

Senator Stedman communicated that the DCP being considered in this legislation is Option Two of the two alternative plans developed by the PERS/TRS Board Tier Review Subcommittee. The minutes of the Subcommittee's discussions affirm that the Subcommittee favored Option One, which was the combined or "hybrid" DC and DB plan. That hybrid plan option was forwarded to the full PERS and TRS Boards where it failed both Boards: it failed with a 50/50 split vote in the PERS Board.

Senator Stedman stated that "there are pros and cons to each type of a plan" and that both options were reviewed during the development of this legislation. The determination was to further the 100-percent DCP, even with the absence of a "floor". The floor issue could be addressed through "the investment selection where there could be a fixed rate" such as a Certificate of Deposit or a six-month rolling rate option "so that the employee can pick if they so choose a fixed rate and not take any market volatility". Therefore the floor issue was addressed with the concept being that

when the Administration develops the investment selections, such things as a Fixed Rate option and a balanced fund option would be included.

Senator Stedman warned that once a DB component is defined in a plan, "you can never take it back". This is the experience of the DBP that is currently in place. "It is very unforgiving". Consideration should be given to the fact that were a DCP adopted, the decision could be made in the future to make it a hybrid plan by revising it and adding a DB component. He reiterated, however, that, "once it's in, you can never get it out". Significant costs to the employer are associated with a DBP as the result of actuarial expenses and financial market risks. These facts contributed to the reason a DCP was selected. He noted that, over the past few decades, most private sector retirement systems in the nation have moved away from DBPs, and, more recently, public sectors are anticipating this action too.

Senator Stedman opined that "the employer is in a better position dealing with a 100-percent" DCP as it would provide more flexibility. The adoption of a 100-percent DCP would assist in balancing the constraints the State faces with the current "rigid" tier structure.

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Senator Hoffman countered that PERS and TRS Boards' votes on the hybrid plan should not "be interpreted" as supporting the DCP. That vote would be better interpreted as saying that "they prefer the existing plan over the blended plan". Were the current plan "off the table, their vote might have a different outcome. He opined that in that case, the Boards would "overwhelmingly support the blended plan".

Senator Stedman responded that were an employee poll taken, all respondents would support participation in Tier I. Were Tier I not an option, they would support Tier II, and so on. Efforts were made to develop a DCP that would be comparable to or provide advantages that would be "at least on equal footing with the Tier III". There would be agreement with the statement that while Tier I is attractive to the employee, it is "extremely financially burdensome and risk riddled" to the employer. That is the reason the State moved from Tier I to Tier II to Tier III.

Senator Stedman reminded that the PERS and TRS Boards did not recommend adoption of either Option One or Option Two. In that regard, "they walked away from their obligation to help us deal with this issue".

Senator Hoffman agreed that employees would be attracted to the best plan. Organized labor associations would also endeavor to develop the best plan for their members. The Boards must consider such things as the solvency of the plans and what is best for the State as well as how their decisions would effect employer retention and recruitment efforts. To that point, "the better the plan", the more successful retention and recruitment efforts are. The proposed plan should be compared to those offered in similar markets, specifically those in the Pacific Northwest. The fact that this plan might be "outside" of the ones offered in this area might be another reason that Dr. Solie, who is more familiar with the Northwest market, supported the hybrid plan. The Boards should be asked whether "they were leaving the slate clean" or were indicating support for continuing the existing plan. The Boards have addressed the concerns associated with the plans longer than the Legislature has although the Legislature is responsible "for writing" approximately "half of the check".

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Senator Stedman commented that the current Boards conducted "an exhaustive analyses to create the two options: the 100-percent defined benefit plan that is being recommended in this legislation and the hybrid plan that is being referenced in Amendment #15. Extensive research regarding the two plans, including comparisons to other plans in Alaska and the Pacific Northwest, was conducted in order to allow the State to remain competitive in the recruitment and retention of employees. This legislation, which considered both options developed by the Boards, "picked up where they dropped the ball".

A roll call was taken on the motion to adopt Amendment #15.

IN FAVOR: Senator Olson and Senator Hoffman

OPPOSED: Senator Stedman, Senator Dyson, Co-Chair Wilken, and Co-Chair Green

ABSENT: Senator Bunde

The motion FAILED (2-4-1)

Amendment #15 FAILED to be adopted.

Amendment #16: This amendment reduces the percent of each member's compensation from 3.75 percent to 1.75 percent as specified in Sec. 14.25.350(b) on page 15, line four and in Sec. 39.35.750(b) on page

71, line 14.

Co-Chair Green moved for the adoption of Amendment #16. She explained that this amendment is necessary as a result of the adoption of Amendment #13.

Senator Stedman affirmed.

There being no objection, Amendment #16 was ADOPTED.

In order to allow the bill's drafter to make appropriate changes, Co-Chair Wilken clarified that Amendment #10A was a conceptual amendment.

Senator Hoffman asked when updated fiscal notes might be expected.

Co-Chair Green expected that the fiscal notes would be developed by Tuesday, April 5, 2005.

Senator Hoffman asked whether the proposed compensation of the ARMB members might be affected by the changes in the bill.

Co-Chair Green commented that the compensation would not be altered.

Senator Hoffman inquired as to whether the compensation proposed for the ARMB would be similar to that provided to the Permanent Fund Corporation Board.

Co-Chair Green stated that it is different. The PFC Board receives a compensation of $400 per day. This Board would receive $150 per day. That amount would be increased slightly as travel days, which are not currently accounted for, would be recognized. She stated that the compensation would be considered to be a "modest" amount when considering the financial responsibility associated with such a Board.

Senator Hoffman asked how the amount would compare to other financial management boards.

Senator Stedman commented that the members of this "public service" Board would receive $150 per day. The amount could be revisited were it to become an obstacle. He shared that one of the current PERS/TRS Board members participates at a substantially lesser amount that his traditional consultation fee.

Co-Chair Green characterized the compensation as a pittance compared to what their service is probably worth. This is the case

with a number of appointed boards.

The bill was HELD in Committee.
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ADJOURNMENT

Co-Chair Green adjourned the meeting at 04:07 PM