

HB

191

Alaska State Legislature

Juneau

State Capitol Bldg., Rm. 434
Juneau, AK 99801-1182
Phone (907) 465-4976
Fax (907) 465-3883
Toll Free 866-465-4976



Fairbanks

119 N Cushman, Ste 213
Fairbanks, AK 99701
Phone (907) 452-6084
Fax (907) 452-6096

Representative Mike Kelly

House District 7

SPONSOR STATEMENT

HB 191

(WO 24-LS0461\G)

"An Act relating to defined contribution systems for members of the teachers' retirement system and the public employees' retirement system; and providing for an effective date."

HB 191 is the last of three bills (HB 170 & HB177) introduced by the sponsor in response to the growing unfunded liability in our state retirement systems.

HB 191 creates new tiers for the Public Employees' Retirement System (PERS) and Teachers' Retirement System (TRS). These new tiers involve a substantial shift in the structure of the retirement systems, from a Defined Benefit (DB) model to that of a Defined Contribution (DC).

In drafting this bill, the sponsor used the Tier Redesign Plan-Alternative 2 proposal¹, commissioned by the Division of Retirement and Benefits, with a notable exception. Unlike the Alternative 2 option wherein members are 100% vested at the time of entering the system, HB 191 creates a graduated vesting system over the first five years of employment.

HB 191 follows a growing trend of public and private pension plans converting from DB to DC plans for compelling reasons. A 2000 report² offers some historical background of this trend in the public sector. Since the mid 1990s, government entities are increasingly moving to full or partial DC plans as a means to provide flexibility and mitigate the risk of significant unfunded liability. In 1997, Michigan was the first state to move from a DB plan to a pure DC plan.

In drafting HB 191, the sponsor has identified a number of advantages in adopting a DC plan:

- Contribution amount is easily determined, easy to understand and usually constant from year to year, in the absence of DC amount changes.

¹ Mercer Human Resource Consulting. "State of Alaska: PERS & TRS Tier Redesign Study". 2004.

² "Texas House of Representatives: Interim Report 2000", p. 26

- DC plans often provide more income for non-career employees. In the new millennium, employees will be expected to change employers and careers more often than in the past.
- Account balances may be easily transferred to a terminating employee's next retirement plan hence the plans tend to be very portable.
- Employer and Employee contributions are allocated to individual accounts. Employees can easily identify a specific dollar amount that is earmarked for them.
- Pension benefits are continuously fully funded.
- Cost of administration is generally less than for a defined benefit plan.

We believe it is essential for the State of Alaska and other government employers in our state to be able to attract and retain high quality teachers and employees in order to provide essential services. A competitive retirement system is one tool to accomplish that objective. We believe a DC plan for new employees coupled with retirement health benefits and competitive wages will provide the best all-around method for maintaining a quality workforce in the future. It is essential that the Legislature take immediate action to address the \$5.6 billion unfunded liability of the PERS and TRS systems. A DC plan will help protect Alaskans from such liabilities in the future. A DC plan for new hires will not affect the retirement benefits of existing employees, but will have a positive impact by helping to reduce the unfunded liability over time.

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 14, 2005

SUBJECT: Sectional Summary of HB 191 (Work Order No. 24-LS0461\G)

TO: Representative Mike Kelly
Attn: Heath Hilyard

FROM: Barbara R. Craver *BRC*
Legislative Counsel

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

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

Section 1. This new section lists the sections in AS 14.25 (the Teachers' Retirement System or TRS) which only apply to teachers first hired before July 1, 2005.

Section 2. This new section adds a new article to AS 14.25 (TRS), which describe the retirement benefits that only apply to teachers first hired on or after July 1, 2005 (TRS Tier 3). The new statutes within this bill section are:

Sec. 14.25.310. Listing of the sections which apply to TRS Tier 3.

Sec. 14.25.320. This retirement system is a defined contribution system intended to qualify under the IRS as a qualified retirement plan.

Sec. 14.25.330. Provides the purpose of the retirement plan and the effective date.

Sec. 14.25.340. Members shall contribute 10 percent of base salary.

Sec. 14.25.350. Employers shall contribute a percentage of each member's base salary based on the years of service of a member, with a 100 percent contribution for all members with five or more years of service.

Sec. 14.25.360. Employers to transmit contributions to the retirement plan.

Sec. 14.25.370. Members are fully vested in all member and employer contributions as soon as those contributions are made.

Sec. 14.25.380. The distribution rules for the member's accumulated balance in the retirement plan.

Sec. 14.25.390. Terminated members may take the member's balance out of the plan, subject to limitations for married members (spouses must consent to the refund.)

SECTIONAL

Sec. 14.25.400. Allows for "qualified domestic relations orders" (QDROs) which may require the member's account to be divided as part of a divorce decree.

Sec. 14.25.410. Provides for members to transfer a distribution from the plan into another qualified plan.

Sec. 14.25.420. Requires the plan to begin distribution to members no later than the member's "required beginning date." Distribution must begin due to various circumstances, such as death of the member, date of a distribution election, date of retirement or the member attaining 70 1/2 years of age.

Sec. 14.25.430. Provides for how beneficiaries of the member's account are to be determined if the member dies.

Sec. 14.25.440. The retirement plan must make adjustments to the members' account as provided in this section.

Sec. 14.25.450. Adjustments required under AS 14.25.440 may be waived by the board upon an appeal by a member or beneficiary.

Sec. 14.25.495. Definitions for Tier 3 sections.

Section 3. Amends AS 14.40.671 which concerns University of Alaska teachers and the transfer of assets from a state retirement program into the University's program to include references to TRS Tier 3 and the new Public Employees' Retirement System Tier 4 (PERS Tier 4.)

Section 4. This new section lists the sections in AS 39.35 (the Public Employees' Retirement System or PERS), which only apply to members first hired before July 1, 2005.

Section 5. This new section adds a new article to AS 39.35 (PERS), which describe the retirement benefits that only apply to members first hired on or after July 1, 2005 (PERS Tier 4). The new statutes within this bill section are:

Sec. 39.35.700. The sections which apply only to PERS Tier 4.

Sec. 39.35.710. This retirement system is a defined contribution system intended to qualify under the IRS as a qualified retirement plan.

Sec. 39.35.720. Members serving as peace officers or fire fighters shall contribute 8.5 percent of compensation, and others shall contribute eight percent of compensation.

Sec. 39.35.730. Employers shall contribute a percentage of each member's base salary based on the years of service of a member, with a 100 percent contribution for all members with five or more years of service.

Sec. 39.35.740. Members are fully vested in all member and employer contributions as soon as those contributions are made.

Sec. 39.35.750. The distribution rules for the member's accumulated balance in the retirement plan.

Sec. 39.35.760. Terminated members may take the member's balance out of the plan, subject to limitations for married members (spouses must consent to the refund.)

Representative Mike Kelly

March 14, 2005

Page 3

Sec. 39.35.770. Allows for "qualified domestic relations orders" (QDROs) which may require the member's account to be divided as part of a divorce decree.

Sec. 39.35.780. Provides for members to transfer a distribution from the plan into another qualified plan (rollovers).

Sec. 39.35.790. Requires the plan to begin distribution to members no later than the member's "required beginning date." Distribution must begin due to various circumstances, such as death of the member, date of a distribution election, date of retirement or the member attaining 70 1/2 years of age.

Sec. 39.35.800. Provides for how beneficiaries of the member's account are to be determined if the member dies.

Sec. 39.35.810. The retirement plan must make adjustments to the members' account as provided in this section.

Sec. 39.35.820. Adjustments required under AS 14.25.440 may be waived by the board upon an appeal by a member or beneficiary.

Sec. 39.35.830. Provides that the Alaska State Pension Investment Board is the manager and fiduciary of the retirement fund.

Sec. 39.35.850. Provides for contributions and service credit for qualified military service under federal law.

Sec. 39.35.860. Provides that the retirement funds held for a member are not subject to taxation or seizure.

Sec. 39.35.870. Provides the time limit for an application for distribution.

Sec. 39.35.880. Makes defrauding the retirement system a Class A misdemeanor.

Sec. 39.35.895. Definitions for PERS Tier 4 sections.

Section 6. Tells the Revisor of Statutes to change the terms used in the TRS and PERS statutes to conform to the changes in the retirement plans made in this bill.

Section 7. The effective date section.

If I may be of further assistance, please advise.

BRC:jad

05-157.jad

Alaska State Legislature

Juneau
 State Capitol Bldg., Rm. 434
 Juneau, AK 99801-1182
 Phone (907) 465-4976
 Fax (907) 465-3883
 Toll Free 866-465-4976



Fairbanks
 119 N Cushman, Ste 213
 Fairbanks, AK 99701
 Phone (907) 452-6084
 Fax (907) 452-6096

Representative Mike Kelly
House District 7

SUMMARY CSHB 191 ()

Key Component	HB 191
Pure Defined Contribution Plan?	Yes
Employee Contribution Rates	TRS 10% PERS Public Safety 8.5% Others 8%
Employer Contribution Rates (Retirement/Non-medical)	Employer contributions will eventually reach 8% for TRS and 8.75% for PERS over the course of a five year period in the following increments: Year 1 – 0% Year 2 – 25% Year 3 – 50% Year 4 – 75% Year 5 – 100% (Pg. 3; Pp. 14-15)
Vesting	100% at the time of enrollment
Medical Benefits (Health Reimbursement Arrangement & Retiree Major Medical Insurance)	Yes. There are two components of the medical benefits provided in this bill depending upon the members' status (active or retired). <u>Health Reimbursement Arrangement</u> Established under AS 39.30.300, which creates a managed "trust" account, which is comprised of an employer contribution in the

	<p>amount of 1% employees average annual compensation not to exceed \$500.</p> <p><u>Retiree Major Medical Insurance</u> As noted above, as part of the employer contribution to the individual retirement accounts, the employer will pay 3.75% to provide for an insurance benefit at the time of retirement. In order to access this benefit a member must meet one of several criteria. In summary, these are:</p> <ul style="list-style-type: none">• The member must retire directly from the system;• In order to retire, the member must have 30 years of service to the system or be 65 and have at least 10 years of service with the system• The member has been an active member for the whole school year during the 12 months prior (<i>TRS only</i>)
<i>Investment Flexibility</i>	Yes. A member's ability to select from a number of investment options is expressly provided for.
<i>Rollovers</i>	Yes. This newest version of HB 191 includes provides to allow rollovers to and from qualified programs.
<i>Transfer Existing Employees to DC</i>	Yes. This version provides a one-year enrollment period, from the effective date of the bill, for existing non-vested employees to transfer their current balances to the DC plan.
<i>State Financial Assistance</i>	No. This plan makes no provision for a specific funding source to help mitigate current or future employer liability.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB191
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept Affected: Administration
 Title An Act relation to TRS and PERS creating a RDU Centralized Administrative Services
defined contribution and health reimbursement plans..... Component Retirement and Benefits
 Sponsor Representative Kelly
 Requester House State Affairs Component No. 64

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	265.5	216.5	152.1	152.1	152.1	152.1
Travel	37.5	17.5	3.5	5.0	5.0	5.0
Contractual	587.0	317.0	342.0	387.0	387.0	387.0
Supplies	18.0	5.0	5.0	5.0	5.0	5.0
Equipment	30.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	938.0	556.0	502.6	549.1	549.1	549.1

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	938.0	556.0	502.6	549.1	549.1	549.1
1005 GF/Program Receipts						
10. GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	938.0	556.0	502.6	549.1	549.1	549.1

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

Full Time	1	1	1	1	1	1
Part-time	2	2	2	2	2	2
Temporary	2	1	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill will create a new defined contribution retirement plan and a health reimbursement arrangement for new employees of the PERS and TRS hired after the effective date of July 1, 2005. As the new plan significantly differs from the current defined benefit plans, the division will be required to reprogram its computer systems, set up and account for two new plans, create new plan publications and forms, train staff, employer contacts and new members, create new employee benefit education methods on the web, benefit seminars and one on one appointments, and to contract for financial planning services for members of the new plan. The fiscal note assumes fund manager fees, custody, and record keeper's individual account fees are separate.

Prepared by: Melanie Millhorn, Director Phone 465-4408
 Division: Retirement and Benefits Date/Time 3/29/05 2:18 PM
 Approved by: Mike Tibbles, Deputy Commissioner Date 3/29/2005
 Agency: Department of Administration

FISCAL NOTE

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. HB191

ANALYSIS CONTINUATION

The estimated administrative costs to the division by fiscal year are as follows:

	FY 2006	FY 2007	FY 2008	FY 09-11
PERSONAL SERVICES:				
1 - Analyst-Pgmr III - DC-Benefits Sys - R 16	64.4	64.4	64.4	64.4
1 - Accountant II - Range 16 P/T	41.0	41.0	41.0	41.0
1-R&B Tech I/II-ER Rpting/Contrib. Recon.-Range 12, P/T	46.7	46.7	46.7	46.7
1-Non Permanent Publications Tech II or Spec I - Range 13	49.0	0.0	0.0	0.0
1-Non Permanent Retirement Counselor - Range 18	64.4	64.4	0.0	0.0
	<hr/>	<hr/>	<hr/>	<hr/>
	265.5	216.5	152.1	152.1
TRAVEL:				
Employer Reporting Software Upgrade Install & Help	30.0	15.0	0.0	0.0
Employer Plan Education	7.5	0.0	0.0	0.0
Regional Counselor travel	0.0	2.5	3.5	5.0
	<hr/>	<hr/>	<hr/>	<hr/>
	37.5	17.5	3.5	5.0
CONTRACTUAL:				
Communications & Postage	82.0	17.0	17.0	17.0
Computer system mods - Employer Reporting	80.0	5.0	5.0	5.0
Computer system mods - PERS / TRS Record Integration	80.0	5.0	5.0	5.0
Computer system mods - DC / Web / Remit Modules	80.0	10.0	10.0	10.0
Audit, Accting, Tax, Benefits Consulting, Legal	100.0	75.0	50.0	50.0
Training \ Risk Management	15.0	5.0	5.0	0.0
Employee financial planning services	150.0	200.0	250.0	300.0
	<hr/>	<hr/>	<hr/>	<hr/>
	587.0	317.0	342.0	387.0
SUPPLIES: Office supplies, calculators, desk-top software	18.0	5.0	5.0	5.0
EQUIPMENT: Workstation & cubicle, chairs, file cabinets, computers, telephone, set-up costs	30.0	0.0	0.0	0.0
	<hr/>	<hr/>	<hr/>	<hr/>
	48.0	5.0	5.0	5.0
 TOTAL	 938.0	 556.0	 502.6	 549.1

The above funding source is initially listed as General Fund because the existing tiers of PERS / TRS are Defined Benefit plans, and the present DC plans, SBS and DCP are legally separate from the intended plan. The new tier members would have to repay the startup costs through fees as the size of the fund grows.

The new plan effective date is July 1, 2005. Therefore, startup costs will start in FY 05, although they have not been provided for. Further, such startup costs also have the same issue, they really are not costs of the PERS and TRS Defined Benefit plans. Tiers 1, 2, and 3 are logically related, tier 4 PERS and Tier 3 TRS would not be. The purpose of the bill is to separate the DB and DC side. Some arrangement will have to be worked out to allow expenditure of funds for the startup that will be reimbursed later.

24-LS0461\i

Craver

3/30/05

CS FOR HOUSE BILL NO. 191()**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-FOURTH LEGISLATURE - FIRST SESSION****BY****Offered:****Referred:****Sponsor(s): REPRESENTATIVE KELLY****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to the teachers' and public employees' retirement systems and creating
2 defined contribution, medical insurance benefits, and health reimbursement plans for
3 members of the teachers' retirement system and the public employees' retirement
4 system who are first hired on or after July 1, 2005; and providing for an effective date."

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

6 * **Section 1.** AS 14.25 is amended by adding a new section to read:

7 **Article 1. Teachers First Hired before July 1, 2005.**

8 **Sec. 14.25.005.** Applicability of AS 14.25.005 - 14.25.012, 14.25.040 -
9 14.25.169, 14.25.173, 14.25.175, and 14.25.220. The provisions of AS 14.25.005 -
10 14.25.012, 14.25.040 - 14.25.169, 14.25.173, 14.25.175, and 14.25.220 apply only to
11 members first hired before July 1, 2005.

12 * **Sec. 2.** AS 14.25.220(41) is amended to read:

13 (41) "system" means the Teachers' Retirement System of Alaska,
14 which includes all retirement plans in this chapter;

1 * **Sec. 3.** AS 14.25.220 is amended by adding a new paragraph to read:

2 (46) "plan" means the defined benefit retirement plan provided to
3 members in AS 14.25.005 - 14.25.012, 14.25.040 - 14.25.169, 14.25.173, 14.25.175,
4 and 14.25.220.

5 * **Sec. 4.** AS 14.25 is amended by adding new sections to read:

6 **Article 2. Teachers First Hired on or after July 1, 2005.**

7 **Sec. 14.25.310. Applicability of AS 14.25.310 - 14.25.495.** The provisions of
8 AS 14.25.310 - 14.25.495 apply only to members first hired on or after July 1, 2005.

9 **Sec. 14.25.320. Defined contribution retirement plan established; federal**
10 **qualification requirements.** (a) A defined contribution retirement plan for teachers
11 of the state is created.

12 (b) The retirement plan established by AS 14.25.310 - 14.25.495 is intended to
13 qualify under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified
14 retirement plan established and maintained by the state for its employees, for the
15 employees of school districts and regional educational attendance areas in the state,
16 and for the employees of other employers whose participation is authorized by
17 AS 14.25.310 - 14.25.495 and who participate in this plan.

18 (c) An amendment to AS 14.25.310 - 14.25.495 does not provide a person
19 with a vested right to a benefit if the Internal Revenue Service determines that the
20 amendment will result in disqualification of the plan under the Internal Revenue Code.

21 **Sec. 14.25.330. Purpose and effective date.** (a) The purpose of
22 AS 14.25.310 - 14.25.495 is to encourage qualified teachers to enter and remain in
23 service with participating employers by establishing a defined contribution retirement
24 plan on behalf of the members.

25 (b) All eligible employees first hired on or after July 1, 2005, shall participate
26 in the plan set out in AS 14.25.310 - 14.25.495 in which retirement and death benefits
27 are provided through the purchase of annuity contracts, either fixed, variable, or a
28 combination of fixed and variable.

29 **Sec. 14.25.340. Contributions by members.** Each member shall contribute
30 to the plan an amount equal to 10 percent of the member's compensation accrued from
31 July 1 to the following June 30. The employer shall deduct the contribution from the

1 member's salary at the end of each payroll period, and the contribution shall be
2 credited by the plan to the member individual account. The contributions shall be
3 deducted from employee compensation before the computation of applicable federal
4 taxes and shall be treated as employer contributions under 26 U.S.C. 414(h)(2). A
5 member may not have the option of making the payroll deduction directly in cash
6 instead of having the contribution picked up by the employer.

7 **Sec. 14.25.350. Contributions by employer.** (a) An employer shall
8 contribute to the plan a maximum of eight percent of each member's compensation
9 accrued from July 1 to the following June 30 as provided in this section.

10 (b) The maximum employer contribution rate to a member's individual
11 account is 4.25 percent of each member's compensation from July 1 to the following
12 June 30.

13 (c) The maximum employer contribution rate for retiree major medical
14 insurance is 3.75 percent of each member's compensation from July 1 to the following
15 June 30. This contribution shall be paid into the group health and life benefits fund
16 established by the commissioner of administration under AS 39.30.095 and shall be
17 accounted for in accordance with regulations established by the commissioner.

18 (d) Employer contributions under (b) and (c) of this section are graduated as a
19 percentage of the maximum employer contribution rate based upon the employee's
20 years of service with the employer. The employer contribution during the member's

21 (1) first year of service with the employer is zero percent;

22 (2) second year of service with the employer is 25 percent of the
23 maximum employer contribution rate;

24 (3) third year of service with the employer is 50 percent of the
25 maximum employer contribution rate;

26 (4) fourth year of service with the employer is 75 percent of the
27 maximum employer contribution rate;

28 (5) fifth and all subsequent years of service with the employer is 100
29 percent of the maximum employer contribution rate.

30 (e) For purposes of this section, "year of service" has the meaning given in
AS 14.25.220, except part-time service shall be credited on a pro rata basis only if the

1 part-time service was for regular employment that is at least 50 percent of full-time
2 service.

3 **Sec. 14.25.360. Transmittal of contributions.** (a) All contributions
4 deducted in accordance with AS 14.25.340 shall be transmitted to the plan for deposit
5 in the retirement fund not later than 15 days following the close of the payroll period,
6 with the final contributions due for any school year transmitted not later than July 15.

7 (b) The contributions of employers under AS 14.25.350 must be transmitted to
8 the plan for deposit in the retirement fund at the close of each pay period. If the
9 contributions are not submitted within 15 days after the close of each payroll period,
10 interest must be assessed on the outstanding contributions at one and one-half times
11 the most recent actuarially determined rate of earnings for the plan from the date that
12 contributions were originally due. In addition, the amount of the contributions and
13 interest may be deducted by the Department of Education and Early Development
14 from the state funds due the school district and the amount so deducted transmitted to
15 the plan for deposit in the retirement fund. Amounts due from the University of
16 Alaska and interest as prescribed in this section may be deducted by the commissioner
17 of administration from any state funds due the University of Alaska and the amount
18 deducted transmitted to the administrator for deposit in the retirement fund.

19 **Sec. 14.25.370. Retirement benefits and vesting.** A member is immediately
20 and fully vested in that member's contributions and in the employer contributions
21 made on that member's behalf to the member's individual account.

22 **Sec. 14.25.380. Investment of individual accounts.** (a) The board shall
23 provide a range of investment options and permit a participant to exercise investment
24 control over the participant's assets in the member's individual account as provided in
25 this section. If a participant exercises control over the assets in the individual account,
26 the participant is not considered a fiduciary for any reason on the basis of exercising
27 that control.

28 (b) A participant may direct investment of plan funds held in an account
29 among available investment funds in accordance with rules established by the board.

30 (c) A participant may elect to change or transfer all or a portion of the
31 participant's existing account balance among available investment funds not more

1 often than once each day in accordance with the rules established by the administrator.
2 Only the last election received by the administrator before the transmittal of
3 contributions to the trust fund for allocation to the individual account will be used to
4 direct the investment of the contributions received.

5 (d) Except to the extent clearly set out in the terms of the investment plans
6 offered by the employer to the employee, the employer is not liable to the participant
7 for investment losses if the prudent investment standard has been met.

8 (e) The employer, administrator, state, board, or a person or entity who is
9 otherwise a fiduciary is not liable by reason for any participant's investment loss that
10 results from the participant's directing the investment of plan assets allocated to the
11 participant's account.

12 (f) To the extent that a member's individual account has been divided as
13 provided in a qualified domestic relations order between participants, each participant
14 shall be treated as the holder of a separate individual account for purposes of
15 investment yields, decisions, transfers, and time limitations imposed by this section.

16 (g) In this section, "participant" means the person who has a vested right to an
17 individual account, such as a member, an alternate payee if the account is subject to a
18 qualified domestic relations order, the member's beneficiary if the member is
19 deceased, or an alternate payee's beneficiary if the alternate payee is deceased.

20 **Sec. 14.25.390. Distributions of member individual account.** (a) A
21 member is eligible to receive distribution of that person's member individual account
22 upon termination of service.

23 (b) Upon the death of a member or terminated member, the member individual
24 account of that deceased member is considered to belong to the designated
25 beneficiary, if any, of that deceased member. If a valid nomination of a designated
26 beneficiary is not on file with the board, the board, in a lump sum distribution, shall
27 distribute the member individual account to a legal representative, if any, of the
28 deceased member's estate.

29 (c) A former member or designated beneficiary may elect one or a
30 combination of several of the following methods of distribution of the member
31 individual account:

- 1 (1) a lump sum distribution to the recipient;
- 2 (2) a lump sum direct rollover to another qualified plan, to the extent
- 3 allowed by federal law;
- 4 (3) periodic distributions, as authorized by the board;
- 5 (4) no current distribution, in which case the accumulated balance
- 6 must remain in the plan until the former member or designated beneficiary elects a
- 7 method or methods of distribution under this subsection, to the extent allowed by
- 8 federal law.

9 (d) If the former member's individual account balance is less than \$5,000, the

10 board shall automatically refund the member's individual account balance upon

11 termination of employment. The member may waive the refund if the member

12 submits a written statement to the board, within 120 days after termination, requesting

13 that the member's individual account balance remain in the plan.

14 **Sec. 14.25.400. Refund upon termination.** (a) Except as provided in (b) of

15 this section, a terminated member is entitled to a refund of the balance of the member

16 individual account.

17 (b) A member who is terminated and who is married at the time of application

18 for a refund or whose rights to a refund are subject to a qualified domestic relations

19 order is entitled to receive a refund of the balance of the member individual account

20 only if the member's present spouse and each person entitled under the order consent

21 to the refund in writing on a form provided by the administrator. The administrator

22 may waive written consent from the person entitled under the order if the

23 administrator determines that the person cannot be located or for other reasons

24 established by regulation. The administrator may waive written consent from the

25 spouse if the administrator determines that

- 26 (1) the member was not married to the spouse during any period of the
- 27 member's employment with an employer;
- 28 (2) the spouse has no rights to benefits under AS 14.25.310 -
- 29 14.25.495 because of the terms of a qualified domestic relations order;
- 30 (3) the spouse cannot be located;
- 31 (4) the member and spouse have been married for less than two years

1 and the member establishes that they are not cohabiting; or

2 (5) another reason established by regulation exists.

3 **Sec. 14.25.410. Rights under qualified domestic relations order.** A former
4 spouse shall be treated as a spouse or surviving spouse under AS 14.25.310 -
5 14.25.495 to the extent required by a qualified domestic relations order. Rights under
6 the order do not take effect until the order is filed with the administrator.

7 **Sec. 14.25.420. Rollover distributions and rollover contributions.** (a) A
8 teacher entering the plan may elect, at the time and in the manner prescribed by the
9 administrator, to have all or part of a direct rollover distribution from an eligible
10 retirement plan owned by the member paid directly into the member's individual
11 account.

12 (b) Rollover contributions do not count as a purchase of membership service
13 for the purpose of determining years of service.

14 (c) A distributee may elect, at the time and in the manner prescribed by the
15 administrator, to have all or part of an eligible rollover distribution paid directly to an
16 eligible retirement plan specified by the distributee in the direct rollover.

17 (d) In this section,

18 (1) "direct rollover" means the payment of an eligible rollover
19 distribution by the plan to an eligible retirement plan specified by a distributee who is
20 eligible to elect a direct rollover;

21 (2) "distributee" means a member or a beneficiary who is the surviving
22 spouse of the member or a former spouse;

23 (3) "eligible retirement plan" means

24 (A) an individual retirement account described in 26 U.S.C.
25 408(a);

26 (B) an individual retirement annuity defined in 26 U.S.C.
27 408(b);

28 (C) an annuity plan described in 26 U.S.C. 403(a);

29 (D) a qualified trust described in 26 U.S.C. 401(a);

30 (E) an annuity plan described in 26 U.S.C. 403(b); or

31 (F) a governmental plan described in 26 U.S.C. 457(b);

1 (4) "eligible rollover distribution" means a distribution of all or part of
2 a total account to a distributee, except for

3 (A) distribution that is one of a series of substantially equal
4 installments payable not less frequently than annually over the life expectancy
5 of the distributee or the joint and last survivor life expectancy of the distributee
6 and the distributee's designated beneficiary, as defined in 26 U.S.C. 401(a)(9);

7 (B) a distribution that is one of a series of substantially equal
8 installments payable not less frequently than annually over a specified period
9 of 10 years or more;

10 (C) a distribution that is required under 26 U.S.C. 401(a)(9);

11 (D) the portion of any distribution that is not includable in
12 gross income;

13 (E) a distribution that is on account of hardship; and

14 (F) other distributions that are reasonably expected to total less
15 than \$200 during a year.

16 **Sec. 14.25.4.0. Distribution requirements.** (a) The entire interest of a
17 member must be distributed or must begin to be distributed not later than the member's
18 required beginning date.

19 (b) If a member dies after the distribution of the member's interest has begun
20 but before the distribution has been completed, the remaining portion of the interest
21 shall continue to be distributed at least as rapidly as under the method of distribution
22 being used before the member's death.

23 (c) If a member has made a distribution election and dies before the
24 distribution of the member's interest begins, distribution of the member's entire interest
25 shall be completed by December 31 of the calendar year containing the fifth
26 anniversary of the member's death. However, if any portion of the member's interest
27 is payable to a designated beneficiary, distributions may be made over the life of the
28 designated beneficiary or over a period certain not greater than the life expectancy of
29 the designated beneficiary, commencing on or before December 31 of the calendar
30 year immediately following the calendar year in which the member died, and, if the
31 designated beneficiary is the member's surviving spouse, the date distributions are

1 required to begin may not be earlier than the later of December 31 of the calendar year
2 (1) immediately following the calendar year in which the member died, or (2) in which
3 the member would have attained 70 1/2 years of age, whichever is earlier. If the
4 surviving spouse dies after the member but before payments to the spouse have begun,
5 the provisions of this subsection apply as if the surviving spouse were the member.

6 (d) If a member has not made a distribution election before the member's
7 death, the member's designated beneficiary must elect the method of distribution not
8 later than December 31 of the calendar year (1) in which distributions would be
9 required to begin under this section, or (2) that contains the fifth anniversary of the
10 date of death of the member, whichever is earlier. If the member does not have a
11 designated beneficiary or if the designated beneficiary does not elect a method of
12 distribution, distribution of the member's entire interest must be completed by
13 December 31 of the calendar year containing the fifth anniversary of the member's
14 death.

15 (e) For purposes of (c) of this section, distribution of a member's interest is
16 considered to begin (1) on the member's required beginning date, or (2) if the
17 designated beneficiary is the member's surviving spouse and the surviving spouse dies
18 after the member but before payments to the spouse have begun, on the date
19 distribution is required to begin to the surviving spouse. If distribution in the form of
20 an annuity irrevocably commences to the member before the required beginning date,
21 the date distribution is considered to begin is the date that the distribution actually
22 commences.

23 (f) Notwithstanding any contrary provisions of AS 14.25.310 - 14.25.495, the
24 requirements of this section apply to all distributions of a member's interest and take
25 precedence over any inconsistent provisions of AS 14.25.310 - 14.25.495.

26 (g) All distributions required under this section are determined and made in
27 accordance with 26 U.S.C. 401(a)(2) and regulations adopted under that statute,
28 including any minimum distribution incidental benefit requirement.

29 (h) In this section,

30 (1) "designated beneficiary" means the individual who is designated as
31 the beneficiary under the plan in accordance with 26 U.S.C. 401(a)(5) and regulations

1 adopted under that statute;

2 (2) "interest" means the accumulated balance in the member's
3 individual account;

4 (3) "required beginning date" means the first day of April of the
5 calendar year following the calendar year in which the member either attains 70 1/2
6 years of age or actually retires, whichever is later.

7 **Sec. 14.25.440. Designation of beneficiary.** (a) Each member shall
8 designate the beneficiary or beneficiaries to whom the administrator shall distribute
9 benefits payable under AS 14.25.310 - 14.25.495 as a consequence of the member's
10 death. Notwithstanding a previous designation of beneficiary, a person who is the
11 spouse of a member at the time of the member's death automatically becomes the
12 designated beneficiary if the spouse was married to the member during part of the
13 member's employment for an employer

14 (1) except to the extent a qualified domestic relations order filed with
15 the administrator provides for payment to a former spouse or other dependent of the
16 member; or

17 (2) unless the member filed a revocation of beneficiary accompanied
18 by a written consent to the revocation from the present spouse and each person entitled
19 under the order; however, consent of the present spouse is not required if the member
20 and the present spouse had been married for less than two years on the date of the
21 member's death and if the member established when filing the revocation that the
22 member and the present spouse were not cohabiting.

23 (b) Except as provided in (a) of this section, the member may change or
24 revoke the designation without notice to the beneficiary or beneficiaries at any time.
25 If a member designates more than one beneficiary, each shares equally unless the
26 member specifies a different allocation or preference. The designation of a
27 beneficiary, a change or revocation of a beneficiary, and a consent to revocation of a
28 beneficiary shall be made on a form provided by the administrator and is not effective
29 until filed with the administrator.

30 (c) If a member fails to designate a beneficiary, or if no designated beneficiary
31 survives the member, the death benefit shall be paid

1 (1) to the surviving spouse or, if there is none surviving;

2 (2) to the surviving children in equal parts or, if there are none
3 surviving;

4 (3) to the surviving parents in equal parts or, if there are none
5 surviving;

6 (4) to the estate.

7 (d) A person claiming entitlement to benefits payable under AS 14.25.310 -
8 14.25.495 as a consequence of a member's death shall provide the administrator with a
9 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.
10 Documents establishing entitlement may be filed with the administrator immediately
11 after a change in the member's marital status. If the administrator does not receive
12 notification of a claim before the date 10 days after the member's death, the person
13 claiming entitlement is not entitled to receive from the division of retirement and
14 benefits any benefit already paid by the administrator.

15 **Sec. 14.25.450. Retirement.** (a) In order to obtain medical benefits under
16 AS 14.25.460 and access to the health reimbursement arrangement plan under
17 AS 39.30.300, a member must retire directly from the plan. A member is eligible to
18 retire from the plan if the member has been an active member for the whole school
19 year during the 12 months before application for retirement and

20 (1) the member has at least 30 years of service; or

21 (2) the member reaches the normal retirement age of 65 years of age
22 and has at least 10 years of service.

23 (b) A member must apply to the administrator for retirement and medical
24 benefits enrollment. Application shall be made on forms and in the manner prescribed
25 by the administrator.

26 (c) A member who continues in the employ of the employer after reaching
27 normal retirement age shall continue to participate in the plan and to have
28 contributions allocated to the member's account.

29 **Sec. 14.25.460. Medical benefits.** (a) The medical benefits available to
30 eligible persons are access to the retiree major medical insurance plan and to the
31 health reimbursement arrangement. Access to the retiree major medical insurance

1 plan means that an eligible person may not be denied insurance coverage ~~except~~ for
2 failure to pay the required premium.

3 (b) The following persons are eligible for the retiree major medical insurance
4 plan provided under this section and the health reimbursement arrangement:

5 (1) a member with at least 30 years of service and who retires directly
6 from the plan:

7 (2) the surviving spouse of a member who elected coverage under (1)
8 of this subsection;

9 (3) a member who reaches the normal retirement age of 65 years of
10 age, has at least 10 years of service, and retires directly from the plan;

11 (4) the surviving spouse of a member who elected coverage under (3)
12 of this subsection.

13 (c) Retiree major medical insurance plan coverage elected by an eligible
14 member under this section covers the eligible member, the spouse of the eligible
15 member, and the dependent children of the eligible member.

16 (d) Retiree major medical insurance plan coverage elected by a surviving
17 spouse of an eligible member under this section covers the surviving spouse and the
18 dependent children of the surviving spouse.

19 (e) Major medical insurance coverage takes effect on the first day of the
20 month following the date of the election and stops when the person who elects
21 coverage under (b) of this section dies or fails to make a required premium payment.

22 (f) The coverage for persons 65 years of age or older is the same as that
23 available for persons under 65 years of age. The benefits payable to those persons 65
24 years of age or older supplement any benefits provided under the federal old age,
25 survivors and disability insurance program.

26 (g) The medical and optional insurance premiums owed by the person who
27 elects coverage under (b) of this section maybe deducted from the health
28 reimbursement arrangement. If the amount of the health reimbursement arrangement
29 becomes insufficient to pay the premiums, the person who elects coverage under (a) of
30 this section shall pay the premiums directly.

31 (h) The cost of premiums for retiree major medical insurance coverage for an

1 eligible member or surviving spouse who is

2 (1) not eligible for Medicare is an amount equal to the full monthly
3 group premiums for retiree major medical insurance coverage;

4 (2) eligible for Medicare, is the following percentage of the premium
5 amounts established for retirees who are eligible for Medicare:

6 (A) 30 percent if the member had 10 or more, but less than 15,
7 years of service;

8 (B) 25 percent if the member had 15 or more, but less than 20,
9 years of service;

10 (C) 20 percent if the member had 20 or more, but less than 25,
11 years of service;

12 (D) 15 percent if the member had 25 or more, but less than 30,
13 years of service;

14 (E) 10 percent if the member had 30 or more years of service.

15 (i) The eligibility for and cost of premiums for retiree major medical insurance
16 coverage for an alternate payee under a qualified domestic relations order shall be
17 determined based on the years of service of the member to which the alternate payee is
18 entitled under the order.

19 (j) A person who is entitled to retiree major medical insurance coverage shall

20 (1) be informed by the administrator in writing

21 (A) that the health insurance coverage available to retired
22 members may be different from the health insurance coverage provided to
23 employees;

24 (B) of time limits for selecting optional health insurance
25 coverage and whether the election is irrevocable; and

26 (2) indicate in writing on a form provided by the administrator that the
27 person has received the information required by this subsection and whether the
28 person has chosen to receive optional health insurance coverage.

29 (k) The monthly group premiums for retiree major medical insurance coverage
30 are established by the administrator in accordance with AS 39.30.095. Nothing in
31 AS 14.25.310 - 14.25.495 guarantees a person who elects coverage under (a) of this

1 section a monthly group premium rate for retiree major medical insurance coverage
2 other than the premium in effect for the month in which the premium is due for
3 coverage for that month.

4 (f) In this section.

5 (1) "health reimbursement arrangement" means the plan established in
6 AS 39.30.300;

7 (2) "retires directly from the plan" means that the member is an active
8 member at the time that the member applies to the administrator for retirement and
9 medical benefits enrollment and that the member continues as an active member up
10 through the day before the day the member is eligible for medical benefits enrollment.

11 **Sec. 14.25.495. Definitions.** In AS 14.25.310 - 14.25.495, unless the context
12 requires otherwise,

13 (1) "administrator" has the meaning given in AS 14.25.220;

14 (2) "beneficiary" means a person designated by a member to receive
15 benefits that may be due from the plan upon the member's death;

16 (3) "board" has the meaning given in AS 14.25.220;

17 (4) "compensation" has the meaning given in AS 14.25.220;

18 (5) "employer" has the meaning given in AS 14.25.220;

19 (6) "fund" means the assets of the plan;

20 (7) "Internal Revenue Code" has the meaning given in AS 14.25.220;

21 (8) "member" has the meaning given "teacher" in AS 14.25.220;

22 (9) "member individual account" means the total maintained by the
23 plan of the member's mandatory contributions, employer contributions on behalf of the
24 employee, and interest;

25 (10) "military service" has the meaning given in AS 14.25.220;

26 (11) "plan" means the defined contribution retirement plan established
27 in AS 14.25.310 - 14.25.495;

28 (12) "qualified domestic relations order" has the meaning given in
29 AS 14.25.220;

30 (13) "retirement fund" or "fund" has the meaning given in
31 AS 14.25.220;

1 (14) "school year" has the meaning given in AS 14.25.220;

2 (15) "system" has the meaning given in AS 14.25.220;

3 (16) "teacher" has the meaning given in AS 14.25.220;

4 (17) "terminated" means a person no longer employed by an employer
5 participating in the plan.

6 * Sec. 5. AS 14.40.671(e) is amended to read:

7 (e) An employee whose rights to transfer assets out of a state retirement
8 system are subject to a qualified domestic relations order is entitled to transfer assets
9 from the state retirement system to the program only if the requirements for receiving
10 a refund under AS 14.25.150(b), 14.25.400, [OR] AS 39.35.200(c), or 39.35.770, as
11 appropriate, are met.

12 * Sec. 6. AS 39.30.090(a) is amended to read:

13 (a) The Department of Administration may obtain a policy or policies of group
14 insurance covering state employees, persons entitled to coverage under AS 14.25.168,
15 14.25.460, AS 22.25.090, AS 39.35.535, 39.35.880, or former AS 39.37.145,
16 employees of other participating governmental units, or persons entitled to coverage
17 under AS 23.15.136, subject to the following conditions:

18 (1) A group insurance policy shall provide one or more of the
19 following benefits: life insurance, accidental death and dismemberment insurance,
20 weekly indemnity insurance, hospital expense insurance, surgical expense insurance,
21 dental expense insurance, audiovisual insurance, or other medical care insurance.

22 (2) Each eligible employee of the state, the spouse and the unmarried
23 children chiefly dependent on the eligible employee for support, and each eligible
24 employee of another participating governmental unit shall be covered by the group
25 policy, unless exempt under regulations adopted by the commissioner of
26 administration.

27 (3) A governmental unit may participate under a group policy if

28 (A) its governing body adopts a resolution authorizing
29 participation, and payment of required premiums;

30 (B) a certified copy of the resolution is filed with the
31 Department of Administration; and

1 (C) the commissioner of administration approves the
2 participation in writing.

3 (4) In procuring a policy of group health or group life insurance as
4 provided under this section or excess loss insurance as provided in AS 39.30.091, the
5 Department of Administration shall comply with the dual choice requirements of
6 AS 21.86.310, and shall obtain the insurance policy from an insurer authorized to
7 transact business in the state under AS 21.09, a hospital or medical service corporation
8 authorized to transact business in this state under AS 21.87, or a health maintenance
9 organization authorized to operate in this state under AS 21.86. An excess loss
10 insurance policy may be obtained from a life or health insurer authorized to transact
11 business in this state under AS 21.09 or from a hospital or medical service corporation
12 authorized to transact business in this state under AS 21.87.

13 (5) The Department of Administration shall make available bid
14 specifications for desired insurance benefits or for administration of benefit claims and
15 payments to (A) all insurance carriers authorized to transact business in this state
16 under AS 21.09 and all hospital or medical service corporations authorized to transact
17 business under AS 21.87 who are qualified to provide the desired benefits; and (B) to
18 insurance carriers authorized to transact business in this state under AS 21.09, hospital
19 or medical service corporations authorized to transact business under AS 21.87, and
20 third-party administrators licensed to transact business in this state and qualified to
21 provide administrative services. The specifications shall be made available at least
22 once every five years. The lowest responsible bid submitted by an insurance carrier,
23 hospital or medical service corporation, or third-party administrator with adequate
24 servicing facilities shall govern selection of a carrier, hospital or medical service
25 corporation, or third-party administrator under this section or the selection of an
26 insurance carrier or a hospital or medical service corporation to provide excess loss
27 insurance as provided in AS 39.30.091.

28 (6) If the aggregate of dividends payable under the group insurance
29 policy exceeds the governmental unit's share of the premium, the excess shall be
30 applied by the governmental unit for the sole benefit of the employees.

31 (7) A person receiving benefits under AS 14.25.110, AS 22.25,

1 AS 39.35, or former AS 39.37 may continue the life insurance coverage that was in
2 effect under this section at the time of termination of employment with the state or
3 participating governmental unit.

4 (8) A person electing to have insurance under (7) of this subsection
5 shall pay the cost of this insurance.

6 (9) For each permanent part-time employee electing coverage under
7 this section, the state shall contribute one-half the state contribution rate for permanent
8 full-time state employees, and the permanent part-time employee shall contribute the
9 other one-half.

10 (10) A person receiving benefits under AS 14.25, AS 22.25, AS 39.35,
11 or former AS 39.37 may obtain auditory, visual, and dental insurance for that person
12 and eligible dependents under this section. The level of coverage for persons over 65
13 shall be the same as that available before reaching age 65 except that the benefits
14 payable shall be supplemental to any benefits provided under the federal old age,
15 survivors, and disability insurance program. A person electing to have insurance
16 under this paragraph shall pay the cost of the insurance. The commissioner of
17 administration shall adopt regulations implementing this paragraph.

18 (11) A person receiving benefits under AS 14.25, AS 22.25, AS 39.35,
19 or former AS 39.37 may obtain long-term care insurance for that person and eligible
20 dependents under this section. A person who elects insurance under this paragraph
21 shall pay the cost of the insurance premium. The commissioner of administration
22 shall adopt regulations to implement this paragraph.

23 (12) Each licensee holding a current operating agreement for a vending
24 facility under AS 23.15.010 - 23.15.210 shall be covered by the group policy that
25 applies to governmental units other than the state.

26 * **Sec. 7.** AS 39.30 is amended by adding new sections to read:

27 **Article 5. State of Alaska Teachers' and Public Employees' Retiree Health**
28 **Reimbursement Arrangement Plan.**

29 **Sec. 39.30.300. State of Alaska Teachers' and Public Employees' Retiree**
30 **Health Reimbursement Arrangement Plan established.** The State of Alaska
31 Teachers' and Public Employees' Retiree Health Reimbursement Arrangement Plan is

1 established for teachers who first become members of the defined contribution plan of
2 the teachers' retirement system under AS 14.25.310 - 14.25.895 on or after July 1,
3 2005, and employees of the state, political subdivisions of the state, and public
4 organizations of the state who first become members of the defined contribution plan
5 of the public employees' retirement system under AS 39.35.700 - 39.35.895 on or after
6 July 1, 2005.

7 **Sec. 39.30.310. Purpose and effective date.** (a) The purpose of the plan is to
8 allow medical care expenses to be reimbursed from individual savings accounts
9 established for qualified members.

10 (b) The plan becomes effective July 1, 2005, at which time contributions by
11 employers begin.

12 **Sec. 39.30.320. Attorney general.** The attorney general of the state is the
13 legal counsel for the plan and shall advise the administrator and represent the plan in a
14 legal proceeding.

15 **Sec. 39.30.330. Administrator.** The commissioner of administration or the
16 commissioner's designee is the administrator of the plan.

17 **Sec. 39.30.340. Powers and duties of the administrator.** The administrator
18 shall establish a teachers' and public employees' retiree health reimbursement
19 arrangement plan trust fund in which the assets of the plan shall be deposited and held.
20 The administrator has the same powers and duties with regard to the plan and the trust
21 fund as provided in AS 14.25.170.

22 **Sec. 39.30.350. Employer contribution fund.** The fund established under
23 AS 39.30.340 is an employer contribution fund. The value of the fund reflects
24 employer contributions, expenses, and investment gains and losses. Employee
25 contributions to the fund are not permitted.

26 **Sec. 39.30.360. Management and investment of the fund.** The Alaska State
27 Pension Investment Board is the fiduciary of the fund and has the same powers and
28 duties under this section in regard to the fund as are provided under AS 37.10.220.

29 **Sec. 39.30.370. Contributions by employers.** For each member of the plan,
30 an employer shall contribute to the teachers' and public employees' retiree health
31 reimbursement arrangement plan trust fund an amount equal to one percent of the

1 employer's average annual employee compensation, not to exceed \$500 a member a
2 year. The administrator shall ~~maintain~~ a record for each member to account for
3 employer contributions on behalf of that member. The board shall establish by
4 regulation the rate of interest to be applied annually to the amount in a member's
5 record.

6 **Sec. 39.30.380. Termination of employment.** A person who terminates
7 employment before application and eligibility for normal retirement loses any right to
8 the contributions made on behalf of the person to the teachers' and public employees'
9 retiree health reimbursement arrangement trust fund. If a person returns to
10 employment with the same employer within five years after the date of termination
11 and if the employer is still a participating employer, the person's account balance shall
12 be restored in the amount recorded on the date of termination from the trust, without
13 interest or other adjustment.

14 **Sec. 39.30.390. Eligibility and enrollment.** A member is eligible for
15 reimbursement from the individual account established for that member under the plan
16 when that member becomes eligible for medical benefits under AS 14.25.460 or
17 AS 39.35.880. The administrator shall enroll an eligible member in the plan upon
18 receipt of the eligible member's request for enrollment in retirement and medical
19 benefits.

20 **Sec. 39.30.400. Benefits payable from the individual account.** (a) The
21 administrator may pay the cost of monthly premiums for retiree major medical
22 insurance on behalf of a participant if the participant elected retiree major medical
23 insurance under AS 14.25.460 or AS 39.35.880.

24 (b) Upon application of a participant, the administrator shall reimburse to a
25 participant the costs for medical care expenses as defined in 26 U.S.C. 213(d).

26 (c) When the member's individual account balance is exhausted, the insurance
27 premium payments under (a) of this section and the reimbursement of medical care
28 expenses under (b) of this section end.

29 (d) If a participant dies before exhausting the participant's individual account,
30 the surviving spouse and the surviving spouse's dependent children are eligible to be
31 reimbursed for medical care expenses as defined in 26 U.S.C. 213(d) until the

1 individual account is exhausted. If any amount remains in an individual account after
2 the death of a participant, the account balance shall revert to the trust.

3 **Sec. 39.30.410. Exemption from taxation and process.** (a) Contributions
4 and other amounts held in the plan on behalf of a member or other person who is or
5 may become eligible for benefits under the plan may be used only to reimburse
6 eligible medical expenses, are exempt from Alaska state and municipal taxes and
7 federal taxes to the extent allowed under the Internal Revenue Code, and are not
8 subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or
9 charge of any kind, either voluntary or involuntary, before they are received by the
10 person entitled to the amount under the terms of the plan. Any attempt to anticipate,
11 alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any
12 right to amounts accrued in the plan is void. However, a member's right to receive
13 benefits may be assigned

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

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

17 (b) Notwithstanding AS 09.38.065, contributions and other amounts held in
18 the plan and benefits payable under this plan are exempt from garnishment, execution,
19 or levy.

20 **Sec. 39.30.420. Amendment and termination of plan.** (a) The state has the
21 right to amend the plan at any time and from time to time, in whole or in part,
22 including the right to make retroactive amendments referred to in 26 U.S.C. 401(b).

23 (b) The plan administrator may not modify or amend the plan retroactively in
24 such a manner as to reduce the benefits of any member accrued to date under the plan
25 by reason of contributions made before the modification or amendment except to the
26 extent that the reduction is permitted by the Internal Revenue Code.

27 (c) The state may, in its discretion, terminate the plan in whole or part at any
28 time without liability for the termination. If the plan is terminated, all investments
29 remain in force until all individual accounts have been completely distributed under
30 the plan, and, after all plan liabilities are satisfied, excess assets revert to the employer.

31 (d) Any contribution made by an employer to the plan because of a mistake of

1 fact must be returned to the employer by the administrator within one year after the
2 contribution or ~~discovery~~ whichever is later.

3 **Sec. 39.30.430. Exclusive benefit.** (a) The corpus or income of the assets
4 held in trust as required by the plan may not be diverted or used for other than the
5 exclusive benefit of the participants.

6 (b) The assets of the plan may not be used to pay premiums or contributions of
7 the employer under another plan maintained by the employer.

8 **Sec. 39.30.495. Definitions.** Unless the context requires otherwise, in
9 AS 39.30.300 - 39.30.495,

10 (1) "administrator" means the commissioner of administration or the
11 commissioner's designee;

12 (2) "board" means the Alaska State Pension Investment Board
13 established under AS 37.10.210;

14 (3) "compensation" has the meaning given in AS 14.25.495;

15 (4) "employer" has the meaning given in AS 14.25.495 for employers
16 of teachers in the defined contribution plan established in AS 14.25.310 - 14.25.495
17 and has the meaning given in AS 39.35.895 for employers of public employees in the
18 defined contribution plan established in AS 39.35.700 - 39.35.895;

19 (5) "fund" means the assets of the teachers' and public employees'
20 retiree health reimbursement arrangement plan trust fund;

21 (6) "individual account" means the record established by the
22 administrator for individual employees under the teachers' and public employees'
23 retiree health reimbursement arrangement plan;

24 (7) "member" means a member of the defined contribution plan of the
25 teachers' retirement system in AS 14.25.310 - 14.25.495 or a member of the public
26 employees' retirement system in AS 39.35.700 - 39.35.895;

27 (8) "qualified domestic relations order" has the meaning given in
28 AS 14.25.220;

29 (9) "qualified member" means a member entitled to medical benefits.

30 * **Sec. 8.** AS 39.35 is amended by adding a new section to article 1 to read:

31 **Sec. 39.35.005. Applicability of AS 39.35.010 - 39.35.690 to employees first**

1 hired before July 1, 2005. The following provisions of this chapter apply only to
2 members first hired before July 1, 2005: AS 39.35.010, 39.35.120 - 39.35.165,
3 39.35.180 - 39.35.650, and 39.35.675 - 39.35.680.

4 * Sec. 9. AS 39.35.010 is amended to read:

5 Sec. 39.35.010. Purpose and effective date; federal qualification
6 requirements. (a) The purpose of AS 39.35.010 - 39.35.680 [THIS CHAPTER] is to
7 encourage qualified personnel to enter and remain in the service of the state or a
8 political subdivision or public organization of the state by establishing a plan
9 [SYSTEM] for the payment of retirement, disability, and death benefits to or on behalf
10 of the employees.

11 (b) [THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF ALASKA
12 IS HEREBY CREATED.] The plan [SYSTEM] created becomes effective as of
13 January 1, 1961, at which time contributions by the state and its employees begin.

14 (c) The retirement plan [SYSTEM] established by AS 39.35.010 - 39.35.680
15 [THIS CHAPTER] is intended to qualify under 26 U.S.C. 401(a) and 414(d) (Internal
16 Revenue Code) as a qualified retirement plan established and maintained by the state
17 for its employees and for the employees of political subdivisions, public corporations,
18 and public organizations of the state, and for the employees of other employers whose
19 participation is authorized by AS 39.35.010 - 39.35.680 [THIS CHAPTER] and who
20 participate in this plan [SYSTEM].

21 (d) An amendment to AS 39.35.010 - 39.35.680 [THIS CHAPTER] does not
22 provide a person with a vested right to a benefit if the Internal Revenue Service
23 determines that the amendment will result in disqualification of the plan under the
24 Internal Revenue Code.

25 * Sec. 10. AS 39.35.158 is amended to read:

26 Sec. 39.35.158. Administrative director of courts. An administrative
27 director of the Alaska court system who withdraws from the judicial retirement system
28 under AS 22.25.012 is eligible for membership in the plan [SYSTEM] and shall
29 receive credited service in the plan [SYSTEM] for service rendered as administrative
30 director. To be eligible for membership in the plan [SYSTEM] under this subsection,
31 the administrative director must contribute to the plan [SYSTEM]

1 (1) the amount the director would have contributed if the director had
2 been a member during the director's period of membership in the judicial retirement
3 system; and

4 (2) any contributions for services as administrative director refunded
5 by the plan [SYSTEM] at the time the director became a member of the judicial
6 retirement system.

7 * Sec. 11. AS 39.35.300(a) is amended to read:

8 (a) An active employee is entitled to credited service for periods of
9 employment with the state after January 1, 1961, regardless of the office, department,
10 division, or agency of the state in which the person was employed. For purposes of
11 AS 39.35.010 - 39.35.680 [THIS CHAPTER], the University of Alaska is not an
12 office, department, division, or agency of the state. Service credit may not be granted
13 under AS 39.35.010 - 39.35.680 [THIS CHAPTER] for service that is creditable under
14 the teachers' retirement plan under AS 14.25.010 - 14.25.220 [SYSTEM, AS 14.25].

15 * Sec. 12. AS 39.35.360(i) is amended to read:

16 (i) An employee who completes three years of credited service with an
17 employer, for which the employee makes contributions required by AS 39.35.010 -
18 39.35.680 [THIS CHAPTER], is entitled to credited service on a year-for-year basis
19 for service credited in the Civil Service Retirement System, rendered as an employee
20 of an Alaska Bureau of Indian Affairs (BIA) school, other than service as a teacher.
21 When eligibility for retroactive credited service under this subsection has been
22 established, an indebtedness of the employee to the plan [SYSTEM] shall be
23 determined as follows: (1) the employee's actual annual compensation, or the
24 calculated annual compensation for an employee who work fewer than 12 months, for
25 the most recent calendar year in which service is rendered to an employer before the
26 calendar year in which the employee first becomes eligible to claim service under this
27 subsection, multiplied by (2) the number of years of service in Alaska BIA schools
28 that is credited under this subsection, and this product multiplied by (3) six percent
29 for employees first eligible to claim this service before January 1, 1987, or eight and
30 one-half percent for employees first eligible to claim this service on or after January 1,
31 1987. Interest as prescribed by regulation accrues on the indebtedness beginning on

1 the date the employee may first claim the retroactive credited service. Any
2 outstanding indebtedness that exists at the time the employee retires requires an
3 actuarial adjustment to the benefits that are based on retroactive credited service under
4 this subsection. A retirement benefit payable under this subsection for Alaska BIA
5 service shall be reduced by an amount equal to the retirement benefits paid to the
6 member by the United States government for the same service.

7 * **Sec. 13.** AS 39.35.360(l) is amended to read:

8 (l) An administrative director of the Alaska Court System who withdraws
9 from the judicial retirement system under AS 22.25.012(b) is eligible for membership
10 in the public employees' retirement plan [SYSTEM] and shall receive credited service
11 in this plan [SYSTEM] for service rendered as administrative director. To be eligible
12 for membership in this plan [SYSTEM] under this subsection, the administrative
13 director must contribute to the plan [SYSTEM]

14 (1) the amount that would have been contributed if the administrative
15 director had been a member during the period of the membership in the judicial
16 retirement system; and

17 (2) any contributions for service as administrative director refunded
18 from the public employees' retirement plan [SYSTEM] at the time the administrative
19 director became a member of the judicial retirement system.

20 * **Sec. 14.** AS 39.35.375(a) is amended to read:

21 (a) An active or inactive member who has never been vested in this plan
22 [SYSTEM] or in the teachers' retirement plan under AS 14.25.010 - 14.25.220
23 [SYSTEM UNDER AS 14.25], who has at least two years of credited service in this
24 system, and who has membership service in the teachers' retirement plan [SYSTEM]
25 may claim credited service in this plan [SYSTEM] in an amount equal to the
26 membership service the member has in the teachers' retirement plan [SYSTEM]. The
27 claimed credited service may be added to service earned under AS 39.35.010 -
28 39.35.680 [THIS CHAPTER] to enable the member to qualify for a public service
29 benefit under this section. The member may not claim credited service for membership
30 service for which the member has received a refund under AS 14.25.150 unless the
31 member fully pays the indebtedness as established under AS 14.25.063. The member

1 may not claim credited service in this plan [SYSTEM] based on unused sick leave
2 under AS 14.25.115.

3 * Sec. 15. AS 39.35.375(b) is amended to read:

4 (b) To claim credited service under this section, the member shall file a
5 written request with the administrator when the member applies to retire. The
6 administrator shall determine the full actuarial cost of benefits based on the member's
7 total credited service and shall transfer from the teachers' retirement plan [SYSTEM]
8 to this plan [SYSTEM] an amount equal to the sum of the member contributions and
9 any indebtedness payments to the teachers' retirement plan [SYSTEM] and the
10 employer contributions to the teachers' retirement plan [SYSTEM] made on behalf of
11 the employee together with interest earned on those contributions and indebtedness
12 payments. If the amount to be transferred, when combined with the amount of
13 employee contributions and indebtedness payments to this plan [SYSTEM] and the
14 amount of employer contributions on behalf of the employee in this plan [SYSTEM],
15 and interest earned on contributions and indebtedness payments for the employee, is
16 less than the full actuarial cost computed under this subsection, an indebtedness to the
17 plan [SYSTEM] equal to the amount of the difference is established. Interest as
18 prescribed by regulation accrues on the indebtedness. The member must pay any
19 outstanding indebtedness existing at the time the member applies for retirement in full
20 before the member is appointed to retirement under this section.

21 * Sec. 16. AS 39.35.375(c) is amended to read:

22 (c) A member is entitled to receive a public service benefit under this section
23 if the member has at least a total of five years credited service under AS 39.35.010 -
24 39.35.680 [THIS CHAPTER] and credited service from the teachers' retirement plan
25 [SYSTEM] claimed under this section. A public service benefit shall be calculated
26 using the higher of the average monthly compensation for service in this plan
27 [SYSTEM] or the average base salary for service in the teachers' retirement plan
28 [SYSTEM]. The amount of the benefit shall be calculated in accordance with
29 AS 39.35.370(c).

30 * Sec. 17. AS 39.35.375(d) is amended to read:

31 (d) Credited service earned under either this plan [SYSTEM] or the teachers'

1 retirement plan [SYSTEM] that has been claimed for a public service benefit under
2 this section may not be used for any other purpose. A member who claims credited
3 service under this section loses all rights to benefits under AS 14.25.010 - 14.25.220
4 [AS 14.25] based on the claimed credited service. A member may not claim credited
5 service under this section unless the member claims all of the membership service the
6 member has in the teachers' retirement plan [SYSTEM]. A public service benefit
7 does not constitute a normal or early retirement benefit for purposes of qualifying for a
8 conditional service retirement benefit under AS 14.25.125 or AS 39.35.385.

9 * Sec. 18. AS 39.35.375(f) is amended to read:

10 (f) Notwithstanding AS 14.25.063 and AS 39.35.350, a former member of the
11 teachers' retirement plan [SYSTEM] who is an active member or inactive member of
12 this plan [SYSTEM] may reinstate, under this section, membership service earned
13 under AS 14.25.010 - 14.25.220 [AS 14.25] for which the member received a refund
14 of contributions.

15 * Sec. 19. AS 39.35.375(g) is amended to read.

16 (g) If a member retires under this section and subsequently returns to work for
17 an employer under this plan [SYSTEM] or the teachers' retirement plan [SYSTEM],
18 benefits under this section shall cease during the period of reemployment and shall
19 recommence when the reemployment is ended. The credited service earned during the
20 period of reemployment may not be added to the credited service claimed for a public
21 service benefit under this section. If a member vests and meets the other eligibility
22 requirements under this plan [SYSTEM] or the teachers' retirement plan [SYSTEM]
23 during the reemployment, the member is entitled to a benefit under AS 14.25.010 -
24 14.25.220 [AS 14.25] or AS 39.35.010 - 39.35.680 [AS 39.35], as appropriate.

25 * Sec. 20. AS 39.35.381(a) is amended to read:

26 (a) An elected public officer is eligible for a public officer benefit if the officer
27 is retired under AS 14.25.010 - 14.25.220 [AS 14.25] (teachers' retirement plan
28 [SYSTEM]). Only fully paid credited service as an elected public officer of a
29 municipality or other political subdivision, earned while the municipality or political
30 subdivision was an employer under this plan [SYSTEM] and while the person was
31 employed full-time under AS 14.25, may be counted under this section.

1 * Sec. 21. AS 39.35.680(21) is amended to read:

2 (21) "member" or "employee"

3 (A) means a person eligible to participate in the plan
4 [SYSTEM] and who is covered by the plan [SYSTEM];

5 (B) includes

6 (i) an active member;

7 (ii) an inactive member;

8 (iii) a vested member;

9 (iv) a deferred vested member;

10 (v) a nonvested member;

11 (vi) a disabled member;

12 (vii) a retired member;

13 (viii) an elected public officer under AS 39.35.381;

14 (C) does not include

15 (i) former members;

16 (ii) persons compensated on a contractual or fee basis;

17 (iii) casual or emergency workers or nonpermanent
18 employees as defined in AS 35.25.200;

19 (iv) persons covered by the Alaska Teachers'
20 Retirement System except as provided under AS 39.35.131 and
21 39.35.381, or persons covered by the optional university retirement
22 program;

23 (v) employees of the division of marine transportation
24 engaged in operating the state ferry system who are covered by a union
25 or group retirement system to which the state makes contributions;

26 (vi) justices of the supreme court or judges of the court
27 of appeals or of the superior or district courts of Alaska;

28 (vii) the administrative director of courts appointed
29 under art. IV, sec. 16 of the state constitution unless the director
30 becomes a member under AS 39.35.158;

31 (viii) members of the elected public officers' retirement

1 system (former AS 39.37); and

2 (ix) contractual employees of the legislative branch of
3 state government under AS 24.10.060(f);

4 (D) may include employees of the division of marine
5 transportation excluded under (C)(v) of this paragraph provided that

6 (i) the State of Alaska formally agrees to their inclusion
7 through the process of collective bargaining; and

8 (ii) no collective bargaining agreement has the effect of
9 obligating contributions made by the state under AS 39.30.150 in the
10 event the state resumes participation in the federal social security
11 system;

12 * **Sec. 22.** AS 39.35.680 is amended by adding a new paragraph to read:

13 (41) "plan" means the retirement plan established in AS 39.35.010 -
14 39.35.680.

15 * **Sec. 23.** AS 39.35 is amended by adding new sections to read:

16 **Article 9. Employees First Hired on or after July 1, 2005.**

17 **Sec. 39.35.700. Applicability of AS 39.35.700 - 39.35.895.** The provisions of
18 AS 39.35.700 - 39.35.895 apply only to members first hired on or after July 1, 2005.

19 **Sec. 39.35.710. Defined contribution retirement plan established; federal**
20 **qualification requirements.** (a) A defined contribution retirement plan is established
21 for employees of the state or a political subdivision or public organization of the state.
22 All eligible employees first hired on or after July 1, 2005, must participate in this plan
23 in which retirement and death benefits are provided through the purchase of annuity
24 contracts, either fixed, variable, or a combination of fixed and variable.

25 (b) The purpose of AS 39.35.700 - 39.35.895 is to encourage qualified
26 personnel to enter and remain in the service of the state or a political subdivision or
27 public organization of the state by establishing a plan for the payment of defined
28 contribution retirement benefits to or on behalf of the employees.

29 (c) The retirement plan established by AS 39.35.700 - 39.35.895 is intended to
30 qualify under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified
31 retirement plan established and maintained by the state for its employees and for the

1 employees of political subdivisions, public corporations, and public organizations of
2 the state, and for the employees of other employers whose participation is authorized
3 by AS 39.35.700 - 39.35.895 and who participate in the plan set out in AS 39.35.700 -
4 39.35.895.

5 (d) An amendment to AS 39.35.700 - 39.35.895 does not provide a person
6 with a vested right to a benefit if the Internal Revenue Service determines that the
7 amendment will result in disqualification of the plan under the Internal Revenue Code.

8 **Sec. 39.35.720. Contributions by members.** Each peace officer or fire
9 fighter shall contribute to the plan an amount equal to 8.5 percent of the peace officer's
10 or fire fighter's compensation. Each other employee shall contribute to the plan an
11 amount equal to eight percent of the employee's compensation. The contributions
12 shall be deducted by the employer at the end of each payroll period. The contributions
13 shall be deducted from employee compensation before computation of applicable
14 federal taxes, and the contributions shall be treated as employer contributions under 26
15 U.S.C. 414(h)(2). A member may not have the option of making the payroll deduction
16 directly instead of having the contribution picked up by the employer.

17 **Sec. 39.35.730. Contributions by employers.** (a) The maximum employer
18 contribution rate is 8.75 percent of each member's compensation accrued from July 1
19 to the following June 30 for the defined contribution plan.

20 (b) The maximum employer contribution rate to a member's individual
21 account is five percent of each member's compensation from July 1 to the following
22 June 30.

23 (c) The maximum employer contribution rate for retiree major medical
24 insurance is 3.75 percent of each member's compensation from July 1 to the following
25 June 30. This contribution shall be paid into the group health and life benefits fund
26 established by the commissioner of administration under AS 39.30.095 and shall be
27 accounted for in accordance with regulations established by the commissioner.

28 (d) Employer contributions under (b) and (c) of this section are graduated as a
29 percentage of the maximum employer contribution rate based upon the employee's
30 years of service with the employer. The employer contribution during the employee's

31 (1) first year of service with the employer is zero percent;

1 (2) second year of service with the employer is 25 percent of the
2 maximum employer contribution rate;

3 (3) third year of service with the employer is 50 percent of the
4 maximum employer contribution rate;

5 (4) fourth year of service with the employer is 75 percent of the
6 maximum employer contribution rate;

7 (5) fifth and all subsequent years of service with the employer is 100
8 percent of the maximum employer contribution rate.

9 (e) For purposes of this section, "year of service" means one full year of
10 membership service completed by an employee; part-time service shall be credited on
11 a pro rata basis only if the part-time service was for regular employment that is at least
12 50 percent of full-time service.

13 **Sec. 39.35.740. Retirement benefits and vesting.** A member is immediately
14 and fully vested in that member's contributions and in the employer contributions
15 made on that member's behalf to an account under AS 39.35.700 - 39.35.895.

16 **Sec. 39.35.750. Investment of individual accounts.** (a) The board shall
17 provide a range of investment options and permit a participant to exercise investment
18 control over the participant's assets in the employee individual account as provided in
19 this section. If a participant exercises control over the assets in the individual account,
20 the participant is not considered a fiduciary for any reason on the basis of exercising
21 that control.

22 (b) A participant may direct investment of plan funds held in an account
23 among available investment funds in accordance with rules established by the board.

24 (c) A participant may elect to change or transfer all or a portion of the
25 participant's existing account balance among available investment funds not more
26 often than once each day in accordance with the rules established by the administrator.
27 Only the last election received by the administrator before the transmittal of
28 contributions to the trust fund for allocation to the individual account will be used to
29 direct the investment of the contributions received.

30 (d) Except to the extent clearly set out in the terms of the investment plans
31 offered by the employer to the employee, the employer is not liable to the participant

1 for investment losses if the prudent investment standard has been met.

2 (e) The employer, administrator, state, board, or a person or entity who is
3 otherwise a fiduciary is not liable by reason for any participant's investment loss that
4 results from the participant's directing the investment of plan assets allocated to the
5 participant's account.

6 (f) To the extent that an employee's individual account has been divided as
7 provided in a qualified domestic relations order between participants, each participant
8 shall be treated as the holder of a separate individual account for purposes of
9 investment yields, decisions, transfers, and time limitations imposed by this section.

10 (g) In this section, "participant" means the person who has a vested right to an
11 individual account, such as a member, an alternate payee if the account is subject to a
12 qualified domestic relations order, the member's beneficiary if the member is
13 deceased, or an alternate payee's beneficiary if the alternate payee is deceased.

14 **Sec. 39.35.760. Distributions.** (a) A member is eligible to receive
15 distribution of that person's accumulated balance in the plan upon becoming a former
16 member.

17 (b) Upon the death of a member or former member, the accumulated balance
18 of that deceased member is considered to belong to the designated beneficiary, if any,
19 of that deceased member. If a valid nomination of designated beneficiary is not on file
20 with the board, the board, in a lump sum distribution, shall distribute the accumulated
21 balance to a legal representative, if any, of the deceased member's estate.

22 (c) A former member or designated beneficiary may elect one or a
23 combination of several of the following methods of distribution of the accumulated
24 balance:

25 (1) lump sum distribution to the recipient;

26 (2) lump sum direct rollover to another qualified plan, to the extent
27 allowed by federal law;

28 (3) periodic distributions, as authorized by the board;

29 (4) no current distribution, in which case the accumulated balance
30 must remain in the plan until the former member or designated beneficiary elects a
31 method or methods of distribution under this section, to the extent allowed by federal

1 law.

2 (d) If the former member's ~~vested~~ account balance is less than \$5,000, the
3 board shall automatically refund ~~the~~ member's ~~vested~~ account balance upon
4 termination of employment. The ~~member~~ may ~~waive~~ the refund if the member
5 submits a written statement to the ~~board~~, within 120 days after termination, requesting
6 that the member's ~~vested~~ account balance remain in the plan.

7 **Sec. 39.35.770. Refund upon termination.** (a) Except as provided in (b) of
8 this section, a terminated member is ~~entitled~~ to a refund of the balance of the member
9 individual account.

10 (b) A member who is ~~terminated~~ and who is ~~married~~ at the time of application
11 for a refund or whose rights to a refund are subject to a qualified domestic relations
12 order is ~~entitled~~ to receive a refund of the balance of the member individual account
13 only if the member's present spouse ~~and~~ each person ~~entitled~~ under the order ~~consent~~
14 to the refund in writing on a form ~~provided~~ by the administrator. The administrator
15 may ~~waive~~ written consent from the person ~~entitled~~ under the order if the
16 administrator determines that the ~~person~~ cannot be located or for other reasons
17 established by regulation. The administrator may ~~waive~~ written consent from the
18 spouse if the administrator determines that

19 (1) the member was ~~not~~ married to the spouse during any period of the
20 member's employment with an employer;

21 (2) the spouse has ~~no~~ rights to benefits under AS 39.35.700 -
22 39.35.895 because of the terms of a ~~qualified~~ domestic relations order;

23 (3) the spouse cannot be located;

24 (4) the member and spouse have been married for less than two years
25 and the member establishes that they ~~are~~ not cohabiting; or

26 (5) another reason established by regulation exists.

27 **Sec. 39.35.780. Rights under qualified domestic relations order.** A former
28 spouse shall be treated as a spouse or surviving spouse under AS 39.35.700 -
29 39.35.895 to the extent required by a ~~qualified~~ domestic relations order. Rights under
30 the order do not take effect until the order is filed with the administrator.

31 **Sec. 39.35.790. Rollover distributions and rollover contributions.** (a) An

1 employee may elect, at the time and in the manner prescribed by the administrator, to
2 have all or part of a direct rollover distribution from an eligible retirement plan owned
3 by the member paid directly into the member's individual account.

4 (b) Rollover contributions do not count as a purchase of membership service
5 for the purpose of determining years of service.

6 (c) A distributee may elect, at the time and in the manner prescribed by the
7 administrator, to have all or part of an eligible rollover distribution paid directly to an
8 eligible retirement plan specified by the distributee in the direct rollover.

9 (d) In this section,

10 (1) "direct rollover" means the payment of an eligible rollover
11 distribution by the plan to an eligible retirement plan specified by a distributee who is
12 eligible to elect a direct rollover;

13 (2) "distributee" means a member or a beneficiary who is the surviving
14 spouse of the member or a former spouse;

15 (3) "eligible retirement plan" means

16 (A) an individual retirement account described in 26 U.S.C.
17 408(a);

18 (B) an individual retirement annuity defined in 26 U.S.C.
19 408(b);

20 (C) an annuity plan described in 26 U.S.C. 403(a);

21 (D) a qualified trust described in 26 U.S.C. 401(a);

22 (E) an annuity plan described in 26 U.S.C. 403(b); or

23 (F) a governmental plan described in 26 U.S.C. 457(b);

24 (4) "eligible rollover distribution" means a distribution of all or part of
25 a total account to a distributee, except for

26 (A) a distribution that is one of a series of substantially equal
27 installments payable not less frequently than annually over the life expectancy
28 of the distributee or the joint and last survivor life expectancy of the distributee
29 and the distributee's designated beneficiary, as defined in 26 U.S.C. 401(a)(9);

30 (B) a distribution that is one of a series of substantially equal
31 installments payable not less frequently than annually over a specified period

1 of 10 years or more;

2 (C) a distribution that is required under 26 U.S.C. 401(a)(9);

3 (D) the portion of any distribution that is not includable in
4 gross income;

5 (E) a distribution that is on account of hardship; and

6 (F) other distributions that are reasonably expected to total less
7 than \$200 during a year.

8 **Sec. 39.35.800. Distribution requirements.** (a) The entire interest of a
9 member must be distributed or must begin to be distributed not later than the member's
10 required beginning date.

11 (b) If a member dies after the distribution of the member's interest has begun
12 but before the distribution has been completed, the remaining portion of the interest
13 shall continue to be distributed at least as rapidly as under the method of distribution
14 being used before the member's death.

15 (c) If a member has made a distribution election and dies before the
16 distribution of the member's interest begins, distribution of the member's entire interest
17 shall be completed by December 31 of the calendar year containing the fifth
18 anniversary of the member's death. However, if any portion of the member's interest
19 is payable to a designated beneficiary, distributions may be made over the life of the
20 designated beneficiary or over a period certain not greater than the life expectancy of
21 the designated beneficiary, commencing on or before December 31 of the calendar
22 year immediately following the calendar year in which the member died, and, if the
23 designated beneficiary is the member's surviving spouse, the date distributions are
24 required to begin may not be earlier than the later of December 31 of the calendar year
25 (1) immediately following the calendar year in which the member died, or (2) in which
26 the member would have attained 70 1/2 years of age, whichever is earlier. If the
27 surviving spouse dies after the member but before payments to the spouse have begun,
28 the provisions of this subsection apply as if the surviving spouse were the member.

29 (d) If a member has not made a distribution election before the member's
30 death, the member's designated beneficiary must elect the method of distribution not
31 later than December 31 of the calendar year (1) in which distributions would be

1 required to begin under this section, or (2) ~~that contains~~ the fifth anniversary of the
2 date of death of the member, whichever is ~~earlier~~. If the member does not have a
3 designated beneficiary or if the designated ~~beneficiary~~ does not elect a method of
4 distribution, distribution of the member's ~~entire~~ interest must be completed by
5 December 31 of the calendar year containing ~~the fifth~~ anniversary of the member's
6 death.

7 (e) For purposes of (c) of this section, ~~distribution~~ of a member's interest is
8 considered to begin (1) on the member's ~~required~~ beginning date, or (2) if the
9 designated beneficiary is the member's ~~surviving spouse~~ and the surviving spouse dies
10 after the member but before payments to the ~~spouse~~ have begun, on the date
11 distribution is required to begin to the ~~surviving spouse~~. If distribution in the form of
12 an annuity irrevocably commences to the member ~~before~~ the required beginning date,
13 the date distribution is considered to begin is ~~the date~~ that the distribution actually
14 commences.

15 (f) Notwithstanding any contrary provisions of AS 39.35.700 - 39.35.895, the
16 requirements of this section apply to all distributions of a member's interest and ~~take~~
17 precedence over any inconsistent provisions of AS 39.35.700 - 39.35.895.

18 (g) All distributions required under this section are determined and made in
19 accordance with 26 U.S.C. 401(a)(9) and ~~regulations~~ adopted under that statute,
20 including any minimum distribution incidental ~~benefit~~ requirement.

21 (h) In this section,

22 (1) "designated beneficiary" means ~~the~~ individual who is designated as
23 the beneficiary under the plan in accordance with 26 U.S.C. 401(a)(9) and regulations
24 adopted unde, that statute;

25 (2) "required beginning date" means the first day of April of the
26 calendar year following the calendar year in ~~which~~ the member either attains 70 1/2
27 years of age or actually retires, whichever is ~~later~~.

28 **Sec. 39.35.810. Designation of beneficiary.** (a) Each member shall
29 designate the beneficiary or beneficiaries to ~~whom~~ the administrator shall distribute
30 benefits payable under AS 39.35.700 - 39.35.895 as a consequence of the member's
31 death. Notwithstanding a previous designation of ~~beneficiary~~, a person who is the

1 spouse of a member at the time of the member's death automatically becomes the
2 designated beneficiary if the spouse was married to the member during part of the
3 member's employment for an employer

4 (1) except to the extent a qualified domestic relations order filed with
5 the administrator provides for payment to a former spouse or other dependent of the
6 member; or

7 (2) unless the member filed a revocation of beneficiary accompanied
8 by a written consent to the revocation from the present spouse and each person entitled
9 under the order; however, consent of the present spouse is not required if the member
10 and the present spouse had been married for less than two years on the date of the
11 member's death and if the member established when filing the revocation that the
12 member and the present spouse were not cohabiting.

13 (b) Except as provided in (a) of this section, the member may change or
14 revoke the designation without notice to the beneficiary or beneficiaries at any time.
15 If a member designates more than one beneficiary, each shares equally unless the
16 member specifies a different allocation or preference. The designation of a
17 beneficiary, a change or revocation of a beneficiary, and a consent to revocation of a
18 beneficiary shall be made on a form provided by the administrator and is not effective
19 until filed with the administrator.

20 (c) If a member fails to designate a beneficiary, or if no designated beneficiary
21 survives the member, the death benefit shall be paid

22 (1) to the surviving spouse or, if there is none surviving;

23 (2) to the surviving children in equal parts or, if there are none
24 surviving;

25 (3) to the surviving parents in equal parts or, if there are none
26 surviving;

27 (4) to the estate.

28 (d) A person claiming entitlement to benefits payable under AS 39.35.700 -
29 39.35.895 as a consequence of a member's death shall provide the administrator with a
30 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.
31 Documents establishing entitlement may be filed with the administrator immediately

1 after a change in the member's marital status. If the administrator does not receive
2 notification of a claim before the date 10 days after the member's death, the person
3 claiming entitlement is not entitled to receive from the division of retirement and
4 benefits any benefit already paid by the administrator.

5 **Sec. 39.35.820. Management and investment of fund.** (a) The Alaska State
6 Pension Investment Board is the fiduciary of the fund. In managing the fund, the
7 Alaska State Pension Investment Board shall

8 (1) consider the status of the fund's investments and the plan's
9 liabilities on both a current and a probable future basis;

10 (2) determine the appropriate investment objectives for the fund;

11 (3) establish investment policies aimed at achieving the objectives; and

12 (4) act only in regard to the best financial interests of the plan and
13 beneficiaries.

14 (b) The Alaska State Pension Investment Board may invest the fund on the
15 basis of probable total rate of return without regard to the distinction between principal
16 and income or to the generation of income.

17 (c) In carrying out investment duties under AS 39.35.700 - 39.35.895, the
18 Alaska State Pension Investment Board has the same powers and duties in regard to
19 the teacher's retirement trust fund as are provided in AS 37.10.071, except that the
20 standard of prudence that the board must obey under AS 37.10.071(c) shall be in
21 regard to the management of large trust investments rather than large investments.

22 **Sec. 39.35.830. Special rules for treatment of qualified military service.**
23 Notwithstanding any contrary provisions of AS 39.35.700 - 39.35.895, with respect to
24 qualified military service, contributions shall be made and benefits and service credit
25 shall be provided in accordance with 26 U.S.C. 414(u).

26 **Sec. 39.35.840. Exemption from taxation and process.** (a) Except as
27 provided in AS 29.45.030(a)(1) or in (c) of this section, member contributions and
28 other amounts held in the plan on behalf of a member or other person who is or may
29 become eligible for benefits under the plan are exempt from Alaska state and
30 municipal taxes and are not subject to anticipation, alienation, sale, transfer,
31 assignment, pledge, encumbrance, or charge of any kind, either voluntary or

1 involuntary, before they are received by the person entitled to the amount under the
2 terms of the plan. Any attempt to anticipate, alienate, sell, transfer, assign, pledge,
3 encumber, charge, or otherwise dispose of any right to amounts accrued in the plan is
4 void. However, a member's right to receive benefits or the member individual account
5 may be assigned

6 (1) under a qualified domestic relations order;

7 (2) to a trust or similar legal device that meets the requirements for a
8 Medicaid-qualifying trust under AS 47.61.020(f) and 42 U.S.C. 1396p(d)(4); or

9 (3) as provided in (c) of this section.

10 (b) Member contributions and other amounts held in the plan and benefits
11 payable under AS 39.35.700 - 39.35.895 are exempt from garnishment, execution, or
12 levy as provided in AS 09.38.

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

17 **Sec. 39.35.850. Time limit for application.** If an application for benefits or
18 for refund has not been filed with the administrator by July 1 following the date on
19 which an inactive member, except a member on leave of absence without pay, would
20 attain age 75, or if an application for benefits or for refund has not been filed with the
21 administrator within the 50 years following the most recent date on which the person
22 was an active member, benefits or refunds may not be paid under AS 39.35.700 -
23 39.35.895 and the member's records may be destroyed.

24 **Sec. 39.35.860. Penalty for false statements.** (a) A person who knowingly
25 makes a false statement, or falsifies or permits to be falsified any record of this plan,
26 in an attempt to defraud this plan, is guilty of a class A misdemeanor and forfeits all
27 rights under AS 39.35.700 - 39.35.895.

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

29 **Sec. 39.35.870. Retirement.** (a) In order to obtain medical benefits under
30 AS 39.35.880 and access to the health reimbursement arrangement plan under
31 AS 39.30.300, an active member must retire directly from the plan. A member is

1 eligible to retire from the plan if

2 (1) the member has at least 25 years of service as a peace officer or fire
3 fighter or 30 years of service for all other employees;

4 (2) the member reaches the normal retirement age of 65 years of age
5 and has at least 10 years of membership service; and

6 (3) the member has been an active member for at least 12 months
7 before application for retirement.

8 (b) A member must apply to the administrator for retirement and medical
9 benefit enrollment. Application shall be made on forms and in the manner prescribed
10 by the administrator.

11 (c) A member who continues in the employ of the employer after reaching
12 normal retirement age shall continue to participate in the plan and to have
13 contributions allocated to the member's account.

14 **Sec. 39.35.880. Medical benefits.** (a) The medical benefits available to
15 eligible persons are access to the retiree major medical insurance plan and to the
16 health reimbursement arrangement. Access to the retiree major medical insurance
17 plan means that an eligible person may not be denied insurance coverage except for
18 failure to pay the required premium.

19 (b) The following persons are eligible for the retiree major medical insurance
20 plan provided under this section and the health reimbursement arrangement:

21 (1) a member

22 (A) with at least

23 (i) 25 years of service as a peace officer or fire fighter;

24 or

25 (ii) 30 years of service for all other employees; and

26 (B) who retires directly from the plan;

27 (2) the surviving spouse of a member who elected coverage under (1)
28 of this subsection;

29 (3) a member who reaches the normal retirement age of 65 years of
30 age, has at least 10 years of service, and retires directly from the plan;

31 (4) the surviving spouse of a member who elected coverage under (3)

1 of this subsection.

2 (c) Retiree major medical insurance plan coverage elected by an eligible
3 member under this section covers the eligible member, the spouse of the eligible
4 member, and the dependent children of the eligible member.

5 (d) Retiree major medical insurance plan coverage elected by a surviving
6 spouse of an eligible member under this section covers the surviving spouse and the
7 dependent children of the surviving spouse.

8 (e) Major medical insurance coverage takes effect on the first day of the
9 month following the date of the election and stops when the person who elects
10 coverage under (b) of this section dies or fails to make a required premium payment.

11 (f) The coverage for persons 65 years of age or older is the same as that
12 available for persons under 65 years of age. The benefits payable to those persons 65
13 years of age or older supplement any benefits provided under the federal old age,
14 survivors and disability insurance program.

15 (g) The medical and optional insurance premiums owed by the person who
16 elects coverage under (b) of this section may be deducted from the health
17 reimbursement arrangement. If the amount of the health reimbursement arrangement
18 becomes insufficient to pay the premiums, the person who elects coverage under (a) of
19 this section shall pay the premiums directly.

20 (h) The cost of premiums for retiree major medical insurance coverage for an
21 eligible member or surviving spouse who is

22 (1) not eligible for Medicare is an amount equal to the full monthly
23 group premium for retiree major medical insurance coverage;

24 (2) eligible for Medicare is the following percentage of the premium
25 amounts established for retirees who are Medicare:

26 (A) 30 percent if the member had 10 or more, but less than 15,
27 years of service;

28 (B) 25 percent if the member had 15 or more, but less than 20,
29 years of service;

30 (C) 20 percent if the member had 20 or more, but less than 25,
31 years of service;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

(D) 15 percent if the member had 25 or more, but less than 30, years of service;

(E) 10 percent if the member had 30 or more years of service.

(i) The eligibility for and cost of premiums for retiree major medical insurance coverage for an alternate payee under a qualified domestic relations order shall be determined based on the years of service of the member to which the alternate payee is entitled under the order.

(j) A person who is entitled to retiree major medical insurance coverage shall

(1) be informed by the administrator in writing

(A) that the health insurance coverage available to retired members may be different from the health insurance coverage provided to employees;

(B) of time limits for selecting optional health insurance coverage and whether the election is irrevocable; and

(2) indicate in writing on a form provided by the administrator that the person has received the information required by this subsection and whether the person has chosen to receive optional health insurance coverage.

(k) The monthly group premiums for retiree major medical insurance coverage are established by the administrator in accordance with AS 39.30.095. Nothing in AS 39.35.700 - 39.35.895 guarantees a person who elects coverage under (a) of this section a monthly group premium rate for retiree major medical insurance coverage other than the premium in effect for the month in which the premium is due for coverage for that month.

(l) In this section,

(1) "health reimbursement arrangement" means the plan established in AS 39.30.300;

(2) "retires directly from the plan" means that the member is an active member at the time that the member applies to the administrator for retirement and medical benefits enrollment and that the member continues as an active member up through the day before the day the member is enrolled in retirement and medical benefits.

1 **Sec. 39.35.895. Definitions.** In AS 39.35.700 - 39.35.895, unless the context
2 requires otherwise,

3 (1) "active member" has the meaning given in AS 39.35.680;

4 (2) "actuarial adjustment" has the meaning given in AS 39.35.680;

5 (3) "administrator" has the meaning given in AS 39.35.680;

6 (4) "beneficiary" has the meaning given in AS 39.35.680;

7 (5) "board" has the meaning given in AS 39.35.680;

8 (6) "calendar year" has the meaning given in AS 39.35.680;

9 (7) "compensation" has the meaning given in AS 39.35.680;

10 (8) "employee individual account" means the total maintained by the
11 plan of the employer's contributions, employee's mandatory contributions, voluntary
12 contributions, indebtedness principal, interest contributions, and interest credited to
13 that account;

14 (9) "employer" has the meaning given in AS 39.35.680;

15 (10) "former member" means a terminated member;

16 (11) "fund" means the assets of the plan;

17 (12) "inactive member" has the meaning given in AS 39.35.680;

18 (13) "member" or "employee" has the meaning given in AS 39.35.680;

19 (14) "member individual account" means the total maintained by the
20 plan of the member's mandatory contributions, employer contributions on behalf of the
21 employee, and interest;

22 (15) "military service" has the meaning given in AS 39.35.680;

23 (16) "peace officer" or "fire fighter" has the meaning given in
24 AS 39.35.680,

25 (17) "plan" means the retirement benefit plan established in
26 AS 39.35.700 - 39.35.895;

27 (18) "public organization" has the meaning given in AS 39.35.680;

28 (19) "qualified domestic relations order" has the meaning given in
29 AS 39.35.680;

30 (20) "retired member" means an employee who is terminated, who has
31 not received a refund from the plan, and who is receiving a retirement benefit from the

1 plan;

2 (21) "retirement" means that period of time from the first day of the
3 month following (A) the date of termination, and (B) application for retirement, in
4 which a person is appointed to receive a retirement benefit;

5 (22) "surviving spouse" means the spouse of an employee who has
6 been married to the employee for at least one year at the time of the employee's death;

7 (23) "terminated" means a person no longer employed by an employer
8 participating in the plan.

9 * Sec. 24. AS 39 35.680(39) is repealed.

10 * Sec. 25. The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 OPTION TO PARTICIPATE IN DEFINED CONTRIBUTION RETIREMENT
13 PLAN AND ENROLLMENT PERIOD FOR NONVESTED, ACTIVE MEMBERS OF THE
14 TEACHERS' RETIREMENT DEFINED BENEFIT PLAN. (a) Notwithstanding
15 AS 14.25.310, added by sec. 4 of this Act, an active member of the defined benefit retirement
16 plan of the teachers' retirement system is eligible to participate in the defined contribution
17 retirement plan established under AS 14.25.310 - 14.25.495, added by sec. 4 of this Act, if
18 that member has not vested in the defined benefit retirement plan. Participation in the defined
19 contribution retirement plan is in lieu of participation in the defined benefit plan established
20 under AS 14.25.010.

21 (b) A member who has vested in a defined benefit retirement plan is not eligible to
22 transfer under this section. An active member who is on a leave of absence during the entire
23 12-month enrollment period is not eligible.

24 (c) Each eligible member who elects to participate in the defined contribution
25 retirement plan shall have transferred to a new account the present value of the member
26 contribution account balance held in trust for the member under the defined benefit retirement
27 plan of the teachers' retirement system. The employer contribution made on behalf of that
28 employee shall also transfer, and the appropriate percentage of the employer contribution
29 shall be applied to the employee's health reimbursement account and to the employee's
30 medical benefits. Upon a transfer, all service credit previously earned under the defined
31 benefit plan shall be nullified for purposes of entitlement to a future benefit under the defined

1 benefit plan, but shall be credited for purposes of vesting in the medical benefits under
2 AS 14.25.460, added by sec. 4 of this Act. A participant is precluded from transferring the
3 member contribution account balance from the defined benefit retirement plan upon the
4 expiration of the period afforded to enroll in the defined contribution retirement plan. An
5 eligible member whose accounts are subject to a qualified domestic relations order may not
6 make an election under this subsection unless the qualified domestic relations order is
7 amended or vacated and court-certified copies of the order are received by the administrator.

8 (d) As directed by the participant, the board shall transfer or cause to be transferred
9 the appropriate amounts to the designated account. The board shall establish transfer
10 procedures by regulation.

11 (e) The period of enrollment for eligible members electing to participate in the
12 defined contribution retirement plan is the 12-month period that begins on the effective date
13 of this Act. The election must be made in writing on forms and in the manner prescribed by
14 the administrator. Before accepting an election to participate in the defined contribution plan,
15 the administrator must provide the employee planning on making an election to participate in
16 the defined contribution plan with information, including calculations to illustrate the effect of
17 moving the employee's retirement plan from the defined benefit plan to the defined
18 contribution plan as well as other information to clearly inform the employee of the potential
19 consequences of the employee's election. An election made under this subsection to
20 participate in the defined contribution retirement plan is irrevocable. Upon making the
21 election, the participant shall be enrolled as a member of the defined contribution retirement
22 plan, the member's participation in the plan shall be governed by the provisions of
23 AS 14.25.310 - 14.25.495, added by sec. 4 of this Act, and the member's participation in the
24 defined benefit retirement plan under AS 14.25.010 shall terminate. The participant's
25 enrollment in the defined contribution retirement plan shall be effective the first day of the
26 month after the administrator receives the completed enrollment forms. An election made by
27 an eligible member who is married is not effective unless the election is signed by the
28 individual's spouse.

29 (f) A member who fails to elect to participate in the defined contribution retirement
30 plan within the prescribed time period is considered to have elected to retain membership in
31 the defined benefit plan of the teachers' retirement system, and the member's option to elect to

1 participate in the defined contribution retirement plan is forfeited.

2 (g) In this section,

3 (1) "administrator" has the meaning given in AS 14.25.220;

4 (2) "board" has the meaning given in AS 14.25.220;

5 (3) "defined benefit retirement plan" means the retirement plan established in
6 AS 14.25.010;

7 (4) "defined contribution retirement plan" means the retirement plan
8 established in AS 14.25.320;

9 (5) "Internal Revenue Code" has the meaning given in AS 14.25.220;

10 (6) "member" has the meaning given in AS 14.25.220;

11 (7) "member contribution account" has the meaning given in AS 14.25.220;

12 (8) "qualified domestic relations order" has the meaning given in
13 AS 14. 5.220.

14 * Sec. 26. The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 OPTION TO PARTICIPATE IN DEFINED CONTRIBUTION RETIREMENT
17 PLAN AND ENROLLMENT PERIOD FOR NONVESTED, ACTIVE MEMBERS OF
18 PUBLIC EMPLOYEES' RETIREMENT SYSTEM DEFINED BENEFIT PLAN. (a)
19 Notwithstanding AS 39.35.700, added by sec. 23 of this Act, an active member of the defined
20 benefit retirement plan of the public employees' retirement system is eligible to participate in
21 the defined contribution retirement plan established under AS 39.35.700 - 39.35.895, added
22 by sec. 23 of this Act, if that member has not vested in the defined benefit retirement plan.
23 Participation in the defined contribution retirement plan is in lieu of participation in the
24 defined benefit plan established under AS 39.35.010.

25 (b) A member who has vested in a defined benefit retirement plan is not eligible to
26 transfer under this section. An active member who is on a leave of absence during the entire
27 12-month enrollment period is not eligible.

28 (c) Each eligible member who elects to participate in the defined contribution
29 retirement plan shall have transferred to a new account the present value of the employee
30 contribution account and the employee savings account held in trust for the member under the
31 defined benefit retirement plan of the public employees' retirement system. The employer

1 contribution made on behalf of that employee shall also transfer, and the appropriate
2 percentage of the employer contribution shall be applied to the employee's health
3 reimbursement account and to the employee's medical benefits. Upon a transfer, all service
4 credit previously earned under the defined benefit plan shall be nullified for purposes of
5 entitlement to a future benefit under the defined benefit plan, but shall be credited for
6 purposes of vesting in the medical benefits under AS 39.35.880, added by sec. 23 of this Act.

7 A participant is precluded from transferring the employee contribution account balance and
8 the employee savings account balance from the defined benefit retirement plan upon the
9 expiration of the period afforded to enroll in the defined contribution retirement plan. An
10 eligible member whose accounts are subject to a qualified domestic relations order may not
11 make an election under this subsection unless the qualified domestic relations order is
12 amended or vacated and court-certified copies of the order are received by the administrator.

13 (d) As directed by the participant, the board shall transfer or cause to be transferred
14 the appropriate amounts to the designated account.

15 (e) The period of enrollment for eligible members electing to participate in the
16 defined contribution retirement plan is the 12-month period that begins on the effective date
17 of this Act. The election must be made in writing on forms and in the manner prescribed by
18 the administrator. Before accepting an election to participate in the defined contribution plan,
19 the administrator must provide the employee planning on making an election to participate in
20 the defined contribution plan with information, including calculations to illustrate the effect of
21 moving the employee's retirement plan from the defined benefit plan to the defined
22 contribution plan as well as other information to clearly inform the employee of the potential
23 consequences of the employee's election. An election made under this subsection to
24 participate in the defined contribution retirement plan is irrevocable. Upon making the
25 election, the participant shall be enrolled as a member of the defined contribution retirement
26 plan, the member's participation in the plan shall be governed by the provisions of
27 AS 39.35.700 - 39.35.895, added by sec. 23 of this Act, and the member's participation in the
28 defined benefit retirement plan under AS 39.35.010 shall terminate. The participant's
29 enrollment in the defined contribution retirement plan shall be effective the first day of the
30 month after the administrator receives the completed enrollment forms. An election made by
31 an eligible member who is married is not effective unless the election is signed by the

1 individual's spouse.

2 (f) A member who fails to elect to participate in the defined contribution retirement
3 plan within the prescribed time period is considered to have elected to retain membership in
4 the defined benefit plan of the public employees' retirement system, and the member's option
5 to elect to participate in the defined contribution retirement plan is forfeited.

6 (g) In this section,

7 (1) "administrator" has the meaning given in AS 39.35.680;

8 (2) "board" has the meaning given in AS 39.35.680;

9 (3) "defined benefit retirement plan" means the retirement plan established in
10 AS 39.35.010;

11 (4) "defined contribution retirement plan" means the retirement plan
12 established in AS 39.35.710;

13 (5) "employee contribution account" has the meaning given in AS 39.35.680;

14 (6) "employee savings account" has the meaning given in AS 39.35.680;

15 (7) "Internal Revenue Code" has the meaning given in AS 39.35.680;

16 (8) "member" has the meaning given in AS 39.35.680;

17 (9) "member contribution account" has the meaning given in AS 39.35.680;

18 (10) "qualified domestic relations order" has the meaning given in
19 AS 39.35.680.

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

22 REVISOR INSTRUCTION. (a) In the following statute sections, the revisor of
23 statutes shall substitute the spanned reference "AS 14.25.010 - 14.25.220" for references to
24 "this chapter": AS 14.25.010, 14.25.012, 14.25.040, 14.25.045, 14.25.047, 14.25.048,
25 14.25.061, 14.25.062, 14.25.063, 14.25.070, 14.25.075, 14.25.105, 14.25.107, 14.25.110,
26 14.25.142, 14.25.150, 14.25.153, 14.25.160, 14.25.165, 14.25.166, and 14.25.220.

27 (b) In the following statute sections, the revisor of statutes shall substitute "the plan"
28 for references to "the system": AS 14.25.012(b), 14.25.015, 14.25.020(a), 14.25.022(g),
29 14.25.030, 14.25.035(c), 14.25.035(d), 14.25.035(e), 14.25.035(j), 14.25.040(d),
30 14.25.045(a), 14.25.047, 14.25.048(a), 14.25.048(c), 14.25.050(a), 14.25.055, 14.25.060(a),
31 14.25.060(b), 14.25.060(d), 14.25.061(a), 14.25.062, 14.25.065, 14.25.070, 14.25.075(a),

1 14.25.075(c), 14.25.075(d), 14.25.075(e), 14.25.075(g), 14.25.075(h), 14.25.075(i),
 2 14.25.107, 14.25.110(a), 14.25.110(k), 14.25.110(l), 14.25.110(m) 14.25.143(b),
 3 14.25.163(b), 14.25.163(c), 14.25.165(i), 14.25.167(g), 14.25.168(a), 14.25.168(c),
 4 14.25.173(a), 14.25.173(d), 14.25.175(d), 14.25.220(1), 14.25.220(2), 14.25.220(7),
 5 14.25.220(14), 14.25.220(20), 14.25.220(22), 14.25.220(23), 14.25.220(31), 14.25.220(34),
 6 14.25.220(36), 14.25.220(37), 14.25.220(40), and 14.25.220(42).

7 (c) In the following statute sections, the revisor of statutes shall substitute "the plan"
 8 for references to "the system": AS 39.35.010(a), 39.35.010(c), 39.35.011, 39.35.020,
 9 39.35.030(c), 39.35.040, 39.35.042(g), 39.35.050(a), 39.35.060, 39.35.070, 39.35.090,
 10 39.35.100, 39.35.120, 39.35.125, 39.35.131, 39.35.154, 39.35.160(a), 39.35.165(a),
 11 39.35.165(c), 39.35.165(d), 39.35.165(e), 39.35.165(g), 39.35.165(h), 39.35.165(i),
 12 39.35.170, 39.35.180, 39.35.195, 39.35.250, 39.35.280, 39.35.300(c), 39.35.310(a),
 13 39.35.310(c), 39.35.340(a), 39.35.342(a), 39.35.342(d), 39.35.345(a), 39.35.345(d),
 14 39.35.360(a), 39.35.360(g), 39.35.360(h), 39.35.360(i), 39.35.360(j), 39.35.360(k),
 15 39.35.370(f), 39.35.370(g), 39.35.370(h), 39.35.370(i), 39.35.370(j), 39.35.370(k),
 16 39.35.371(i), 39.35.381(b), 39.35.381(g), 39.35.385(c), 39.35.400(e), 39.35.450(g),
 17 39.35.475(a), 39.35.475(b), 39.35.475(d), 39.35.500(a), 39.35.505, 39.35.520(a),
 18 39.35.520(d), 39.35.522(d), 39.35.527(a), 39.35.527(b), 39.35.530, 39.35.535(a),
 19 39.35.535(d), 39.35.550, 39.35.560, 39.35.570, 39.35.580, 39.35.590, 39.35.600, 39.35.610,
 20 39.35.620(a), 39.35.620(h), 39.35.650, 39.35.670, 39.35.675(a), 39.35.680(1), 39.35.680(2),
 21 39.35.680(5), 39.35.680(9), 39.35.680(12), 39.35.680(15), 39.35.680(16), 39.35.680(17),
 22 39.35.680(20), 39.35.680(29), 39.35.680(32), 39.35.680(33), 39.35.680(34), and
 23 39.35.680(35).

24 (d) In the following statute sections, the revisor of statutes shall substitute the spanned
 25 reference "AS 39.35.010 - 39.35.680" for references to "this chapter": AS 39.35.165,
 26 39.35.200, 39.35.250, 39.35.300, 39.35.340, 39.35.350, 39.35.360(a), 39.35.360(b),
 27 39.35.360(i), 39.35.360(j), 39.35.370, 39.35.371, 39.35.381, 39.35.480, 39.35.490, 39.35.495,
 28 39.35.505, 39.35.530, 39.35.546, 39.35.547, 39.35.615, 39.35.620, 39.35.675, 39.35.677, and
 29 39.35.680.

30 * Sec. 28. This Act takes effect July 1, 2005.

Employee
10
8.5
8.0
Employer may
TRS - 8% P 3 line 13
PERS 8.75
PERS 8.75
P14 line 6

Where is Post Service Cost

24-LS0461NG

HOUSE BILL NO. 191

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE KELLY

Introduced: 3/2/05
Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to defined contribution systems for members of the teachers'
2 retirement system and the public employees' retirement system; and providing for an
3 effective date."

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

5 * Section 1. AS 14.25 is amended by adding a new section to read:

6 **Article 1. Teachers First Hired before July 1, 2005.**

7 **Sec. 14.25.005. Applicability of AS 14.25.005 - 14.25.012, 14.25.040 -**
8 **14.25.169, 14.25.173, 14.25.175, and 14.25.220.** The provisions of AS 14.25.005 -
9 14.25.012, 14.25.040 - 14.25.169, 14.25.173, 14.25.175, and 14.25.220 apply only to
10 members first hired before July 1, 2005.

11 * Sec. 2. AS 14.25 is amended by adding new sections to read:

12 **Article 2. Teachers First Hired on or after July 1, 2005.**

13 **Sec. 14.25.310. Applicability of AS 14.25.310 - 14.25.495.** The provisions of
14 AS 14.25.310 - 14.25.495 apply only to members first hired on or after July 1, 2005.

1 **Sec. 14.25.320. Defined contribution retirement system established;**
 2 **federal qualification requirements.** (a) A defined contribution retirement system
 3 for teachers of the state is created.

4 (b) The retirement system established by AS 14.25.310 - 14.25.495 is intended
 5 to qualify under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified
 6 retirement plan established and maintained by the state for its employees, for the
 7 employees of school districts and regional educational attendance areas in the state,
 8 and for the employees of other employers whose participation is authorized by
 9 AS 14.25.310 - 14.25.495 and who participate in this system.

10 (c) An amendment to AS 14.25.310 - 14.25.495 does not provide a person
 11 with a vested right to a benefit if the Internal Revenue Service determines that the
 12 amendment will result in disqualification of the plan under the Internal Revenue Code.

13 **Sec. 14.25.330. Purpose and effective date.** (a) The purpose of
 14 AS 14.25.310 - 14.25.495 is to ~~encourage~~ qualified teachers to enter and remain in
 15 service with participating employers by establishing a defined contribution retirement
 16 system on behalf of the members.

17 (b) All eligible employees first hired on or after July 1, 2005, shall participate
 18 in the system set out in AS 14.25.310 - 14.25.495 in which retirement and death
 19 benefits are provided through the purchase of annuity contracts, either fixed, variable,
 20 or a combination of fixed and variable.

21 **Sec. 14.25.340. Contributions by members.** Each member shall contribute
 22 to the system an amount equal to 10 percent of the member's base salary accrued from
 23 July 1 to the following June 30. The employer shall deduct the contribution from the
 24 member's salary at the end of each payroll period, and the contribution shall be
 25 credited by the system to the member contribution account. The contributions shall be
 26 deducted from employee compensation before the computation of applicable federal
 27 taxes and shall be treated as employer contributions under 26 U.S.C. 414(h)(2). A
 28 member may not have the option of making the payroll deduction directly in cash
 29 instead of having the contribution picked up by the employer.

30 **Sec. 14.25.350 Contributions by employer.** (a) An employer shall
 31 contribute to the system a percentage of each member's base salary accrued from

107°

1 July 1 to the following June 30, including any adjustments to contributions required by
 2 AS 14.25.440(a). The employer contribution to the system as a percentage of a
 3 member's base salary for employees during the member's

4 (1) first year of service with the employer is zero percent;

5 (2) second year of service with the employer is 25 percent of the
 6 maximum employer contribution rate;

7 (3) third year of service with the employer is 50 percent of the
 8 maximum employer contribution rate;

9 (4) fourth year of service with the employer is 75 percent of the
 10 maximum employer contribution rate;

11 (5) fifth and all subsequent years of service with the employer is 100
 12 percent of the maximum employer contribution rate.

13 (b) The maximum employer contribution rate is eight percent of each
 14 member's base salary accrued from July 1 to the following June 30 for the defined
 15 contribution plan.

16 (c) For purposes of this section, "year of service" has the meaning given in
 17 AS 14.25.220, except part-time service shall be credited on a pro rata basis only if the
 18 part-time service is for regular employment that is at least 50 percent of full-time
 19 service.

20 **Sec. 14.25.360. Transmittal of contributions.** (a) All contributions
 21 deducted in accordance with AS 14.25.340 shall be transmitted to the system for
 22 deposit in the retirement fund not later than 15 days following the close of the payroll
 23 period, with the final contributions due for any school year transmitted not later than
 24 July 15.

25 (b) The contributions of employers under AS 14.25.350 must be transmitted to
 26 the system for deposit in the retirement fund at the close of each pay period. If the
 27 contributions are not submitted within 15 days after the close of each payroll period,
 28 interest must be assessed on the outstanding contributions at one and one-half times
 29 the most recent actuarially determined rate of earnings for the system from the date
 30 that contributions were originally due. In addition, the amount of the contributions
 31 and interest may be deducted by the Department of Education and Early Development

TRS
8%

1 from the state funds due the school district and the amount so deducted ~~transmitted~~ to
 2 the system for deposit in the retirement fund. Amounts due from the University of
 3 Alaska and interest as prescribed in this section may be deducted by the commissioner
 4 of administration from any state funds due the University of Alaska and the amount
 5 deducted transmitted to the administrator for deposit in the retirement fund.

6 **Sec. 14.25.370. Retirement benefits and vesting.** A participating member is
 7 immediately and fully vested in that member's contributions and in the employer
 8 contributions made on that member's behalf to an account under AS 14.25.310 -
 9 14.25.495.

10 **Sec. 14.25.380. Distributions.** (a) A participating member is eligible to
 11 receive distribution of that person's accumulated balance in the plan upon becoming a
 12 former participating member.

13 (b) Upon the death of a participating member or former participating member,
 14 the accumulated balance of that deceased participant is considered to belong to the
 15 refund beneficiary, if any, of that deceased participant. If a valid nomination of refund
 16 beneficiary is not on file with the board, the board, in a lump sum distribution, shall
 17 distribute the accumulated balance to a legal representative, if any, of the deceased
 18 participant's estate.

19 (c) A former participating member or refund beneficiary may elect one or a
 20 combination of several of the following methods of distribution of the accumulated
 21 balance:

- 22 (1) a lump sum distribution to the recipient;
 23 (2) a lump sum direct rollover to another qualified plan, to the extent
 24 allowed by federal law;
 25 (3) periodic distributions, as authorized by the board;
 26 (4) no current distribution, in which case the accumulated balance
 27 must remain in the plan until the former participating member or refund beneficiary
 28 elects a method or methods of distribution under this section, to the extent allowed by
 29 federal law.

30 (d) If the former participating member's vested account balance is less than
 31 \$5,000, the board shall automatically refund the member's vested account balance

1 upon termination of employment. The member may waive the refund if the member
 2 submits a written statement to the board, within 120 days after termination, requesting
 3 that the member's vested account balance remain in the plan.

4 **Sec. 14.25.390. Refund upon termination.** (a) Except as provided in (b) of
 5 this section, a terminated member is entitled to a refund of the balance of the member
 6 contribution account.

7 (b) A member who is terminated and who is married at the time of application
 8 for a refund or whose rights to a refund are subject to a qualified domestic relations
 9 order is entitled to receive a refund of the balance of the member contribution account
 10 only if the member's present spouse and each person entitled under the order consent
 11 to the refund in writing on a form provided by the administrator. The administrator
 12 may waive written consent from the person entitled under the order if the
 13 administrator determines that the person cannot be located or for other reasons
 14 established by regulation. The administrator may waive written consent from the
 15 spouse if the administrator determines that

16 (1) the member was not married to the spouse during any period of the
 17 member's employment with an employer;

18 (2) the spouse has no rights to benefits under AS 14.25.310 -
 19 14.25.495 because of the terms of a qualified domestic relations order;

20 (3) the spouse cannot be located;

21 (4) the member and spouse have been married for less than two years
 22 and the member establishes that they are not cohabiting; or

23 (5) another reason established by regulation exists.

24 **Sec. 14.25.400. Rights under qualified domestic relations order.** A former
 25 spouse shall be treated as a spouse or surviving spouse under AS 14.25.310 -
 26 14.25.495 to the extent required by a qualified domestic relations order. Rights under
 27 the order do not take effect until the order is filed with the administrator.

28 **Sec. 14.25.410. Rollover distributions and rollover contributions.** (a) A
 29 distributee may elect, at the time and in the manner prescribed by the administrator, to
 30 have all or part of an eligible rollover distribution paid directly to an eligible
 31 retirement plan specified by the distributee in the direct rollover.

1 (b) The system does not accept contributions of eligible rollover distributions.

2 (c) In this section,

3 (1) "direct rollover" means the payment of an eligible rollover
4 distribution by the system to an eligible retirement plan specified by a distributee who
5 is eligible to elect a direct rollover;

6 (2) "distributee" means a member or a beneficiary who is the surviving
7 spouse of the member;

8 (3) "eligible retirement plan" means

9 (A) an individual retirement account described in 26 U.S.C.
10 408(a);

11 (B) an individual retirement annuity defined in 26 U.S.C.
12 408(b);

13 (C) an annuity plan described in 26 U.S.C. 403(a);

14 (D) a qualified trust described in 26 U.S.C. 401(a);

15 (E) an annuity plan described in 26 U.S.C. 403(b); or

16 (F) a governmental plan described in 26 U.S.C. 457(b);

17 (4) "eligible rollover distribution" means a distribution of all or part of
18 a total account to a distributee, except for

19 (A) a distribution that is one of a series of substantially equal
20 installments payable not less frequently than annually over the life expectancy
21 of the distributee or the joint and last survivor life expectancy of the distributee
22 and the distributee's designated beneficiary, as defined in 26 U.S.C. 401(a)(9);

23 (B) a distribution that is one of a series of substantially equal
24 installments payable not less frequently than annually over a specified period
25 of 10 years or more;

26 (C) a distribution that is required under 26 U.S.C. 401(a)(9);

27 (D) the portion of any distribution that is not includable in
28 gross income;

29 (E) a distribution that is on account of hardship; and

30 (F) other distributions that are reasonably expected to total less
31 than \$200 during a year.

*how does
this
interact
with 401
line 25*

1 **Sec. 14.25.420. Distribution requirements.** (a) The entire interest of a
2 member must be distributed or must begin to be distributed not later than the member's
3 required beginning date.

4 (b) If a member dies after the distribution of the member's interest has begun
5 but before the distribution has been completed, the remaining portion of the interest
6 shall continue to be distributed at least as rapidly as under the method of distribution
7 being used before the member's death.

8 (c) If a member has made a distribution election and dies before the
9 distribution of the member's interest begins, distribution of the member's entire interest
10 shall be completed by December 31 of the calendar year containing the fifth
11 anniversary of the member's death. However, if any portion of the member's interest
12 is payable to a designated beneficiary, distributions may be made over the life of the
13 designated beneficiary or over a period certain not greater than the life expectancy of
14 the designated beneficiary, commencing on or before December 31 of the calendar
15 year immediately following the calendar year in which the member died, and, if the
16 designated beneficiary is the member's surviving spouse, the date distributions are
17 required to begin may not be earlier than the later of December 31 of the calendar year
18 (1) immediately following the calendar year in which the member died, or (2) in which
19 the member would have attained 70 1/2 years of age, whichever is earlier. If the
20 surviving spouse dies after the member but before payments to the spouse have begun,
21 the provisions of this subsection apply as if the surviving spouse were the member.
22 An amount paid to a child of the member will be treated as if it were paid to the
23 surviving spouse if the amount becomes payable to the surviving spouse when the
24 child reaches the age of majority.

25 (d) If a member has not made a distribution election before the member's
26 death, the member's designated beneficiary must elect the method of distribution not
27 later than December 31 of the calendar year (1) in which distributions would be
28 required to begin under this section, or (2) that contains the fifth anniversary of the
29 date of death of the member, whichever is earlier. If the member does not have a
30 designated beneficiary or if the designated beneficiary does not elect a method of
31 distribution, distribution of the member's entire interest must be completed by

1 December 31 of the calendar year containing the fifth anniversary of the member's
2 death.

3 (e) For purposes of (c) of this section, distribution of a member's interest is
4 considered to begin (1) on the member's required beginning date, or (2) if the
5 designated beneficiary is the member's surviving spouse and the surviving spouse dies
6 after the member but before payments to the spouse have begun, on the date
7 distribution is required to begin to the surviving spouse. If distribution in the form of
8 an annuity irrevocably commences to the member before the required beginning date,
9 the date distribution is considered to begin is the date that the distribution actually
10 commences.

11 (f) Notwithstanding any contrary provisions of AS 14.25.310 - 14.25.495, the
12 requirements of this section apply to all distributions of a member's interest and take
13 precedence over any inconsistent provisions of AS 14.25.310 - 14.25.495.

14 (g) All distributions required under this section are determined and made in
15 accordance with 26 U.S.C. 401(a)(9) and regulations adopted under that statute,
16 including any minimum distribution incidental benefit requirement.

17 (h) In this section,

18 (1) "designated beneficiary" means the individual who is designated as
19 the beneficiary under the system in accordance with 26 U.S.C. 401(a)(9) and
20 regulations adopted under that statute;

21 (2) "required beginning date" means the first day of April of the
22 calendar year following the calendar year in which the member either attains 70 1/2
23 years of age or actually retires, whichever is later.

24 **Sec. 14.25.430. Designation of beneficiary.** (a) Each member shall
25 designate the beneficiary or beneficiaries to whom the administrator shall distribute
26 benefits payable under AS 14.25.310 - 14.25.495 as a consequence of the member's
27 death. Notwithstanding a previous designation of beneficiary, a person who is the
28 spouse of a member at the time of the member's death automatically becomes the
29 designated beneficiary if the spouse was married to the member during part of the
30 member's employment for an employer

31 (1) except to the extent a qualified domestic relations order filed with

1 the administrator provides for payment to a former spouse or other dependent of the
2 member; or

3 (2) unless the member filed a revocation of beneficiary accompanied
4 by a written consent to the revocation from the present spouse and each person entitled
5 under the order; however, consent of the present spouse is not required if the member
6 and the present spouse had been married for less than two years on the date of the
7 member's death and if the member established when filing the revocation that the
8 member and the present spouse were not cohabiting.

9 (b) Except as provided in (a) of this section, the member may change or
10 revoke the designation without notice to the beneficiary or beneficiaries at any time.
11 If a member designates more than one beneficiary, each shares equally unless the
12 member specifies a different allocation or preference. The designation of a
13 beneficiary, a change or revocation of a beneficiary, and a consent to revocation of a
14 beneficiary shall be made on a form provided by the administrator, and is not effective
15 until filed with the administrator.

16 (c) If a member fails to designate a beneficiary, or if no designated beneficiary
17 survives the member, the death benefit shall be paid

18 (1) to the surviving spouse or, if there is none surviving;

19 (2) to the surviving children in equal parts or, if there are none
20 surviving;

21 (3) to the surviving parents in equal parts or, if there are none
22 surviving;

23 (4) to the estate.

24 (d) A person claiming entitlement to benefits payable under AS 14.25.310 -
25 14.25.495 as a consequence of a member's death shall provide the administrator with a
26 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.
27 Documents establishing entitlement may be filed with the administrator immediately
28 after a change in the member's marital status. If the administrator does not receive
29 notification of a claim before the date 10 days after the member's death, the person
30 claiming entitlement is not entitled to receive from the division of retirement and
31 benefits any benefit already paid by the administrator.

1 **Sec. 14.25.440. Adjustments.** (a) When a change or error is made in the
2 records maintained by the system or in the contributions made on behalf of an
3 employee or an error is made in computing a benefit, and, as a result, a teacher or
4 member or beneficiary is entitled to receive from the system more or less than the
5 teacher or member or beneficiary would have been entitled to receive had the records
6 or contributions been correct or had the error not been made, the records,
7 contributions, or error shall be corrected. An adjustment to contributions shall be
8 picked up by the employee in accordance with AS 14.25.360 or treated as an
9 adjustment to the employer's contributions in accordance with this section, depending
10 upon the nature of the adjustment. If no future benefit payments are due, a person
11 who was paid any amount to which the person was not entitled is liable for repayment
12 of that amount, and a person who was not paid the full amount to which the person
13 was entitled shall be paid that amount.

14 (b) An adjustment that requires the recovery of benefits may not be made
15 under this section if

16 (1) the incorrect benefit was first paid two years or more before the
17 member or beneficiary was notified of the error;

18 (2) the error was not the result of erroneous information supplied by
19 the member or beneficiary; and

20 (3) the member or beneficiary did not have reasonable grounds to
21 believe that the amount of the benefit was in error.

22 (c) At each regularly scheduled meeting of the Alaska Teachers' Retirement
23 Board, the administrator shall report to the board on all situations since the
24 administrator's last report in which an adjustment has been prohibited under (b) of this
25 section. If the board finds that there is reason to believe that one or more of the
26 conditions set out in (b) of this section have not been met, the administrator shall
27 notify the member or beneficiary that an adjustment will be made to recover the
28 overpayment. A member or beneficiary who receives notice of adjustment under this
29 subsection may appeal to the board for a waiver of the adjustment under
30 AS 14.25.450. An adjustment that requires the repayment of benefits may not be
31 required while the appeal is pending.

1 (d) The system shall pay interest on amounts owed to a member or
2 beneficiary. Interest shall be charged on amounts owed to the system by a member or
3 beneficiary if the amount owed is the result of erroneous information supplied by the
4 member or beneficiary, or the member or beneficiary had reasonable grounds to
5 believe the amount of the benefit was in error. The interest paid under this subsection
6 is at the rate established by regulation for indebtedness contributions owed. Interest
7 accrues from the date on which the correct payment was due and continues until an
8 actuarial adjustment to the benefit is effective or the amount owed is paid. Accrued
9 interest for periods less than 60 days or in amounts less than the limit established in
10 regulation for writing off small indebtedness and refund balances may not be collected
11 or paid under this subsection.

12 Sec. 14.25.450. Waiver of adjustments. (a) Upon appeal by an affected
13 member or beneficiary under (b) of this section, the board may waive an adjustment or
14 a portion of an adjustment made under AS 14.25.440 if, in the opinion of the board,

15 (1) the adjustment or portion of the adjustment will cause undue
16 hardship to the member or beneficiary;

17 (2) the adjustment was not the result of erroneous information supplied
18 by the member or beneficiary;

19 (3) before the adjustment was made, the member or beneficiary
20 received confirmation from the administrator that the member's or beneficiary's
21 records were correct; and

22 (4) the member or beneficiary had no reasonable grounds to believe
23 the records were incorrect before the adjustment was made.

24 (b) In order to obtain consideration of a waiver under this section, the affected
25 member or beneficiary must appeal to the board in writing within 30 days after receipt
26 of notice that the records have been adjusted. The ruling of the board shall be in
27 writing.

28 (c) The board may conduct a hearing on an appeal under this section.

29 (d) The board may impose conditions on granting a waiver that it considers
30 equitable. These conditions may include requiring the member or beneficiary to make
31 additional contributions to the system.

1 (e) The board may reconsider a ruling under this section upon request of the
 2 member or beneficiary or the administrator if the request is received within 30 days
 3 after the initial ruling. Any modification of the initial ruling must be made within 30
 4 days after receipt of a request for reconsideration.

5 Sec. 14.25.495. Definitions. In AS 14.25.310 - 14.25.495, unless the context
 6 requires otherwise,

- 7 (1) "administrator" has the meaning given in AS 14.25.220;
 8 (2) "base salary" has the meaning given in AS 14.25.220;
 9 (3) "beneficiary" has the meaning given in AS 14.25.220;
 10 (4) "board" has the meaning given in AS 14.25.220;
 11 (5) "compensation" has the meaning given in AS 14.25.220;
 12 (6) "employer" has the meaning given in AS 14.25.220;
 13 (7) "former participating member" means a terminated member;
 14 (8) "fund" means the assets of the system;
 15 (9) "Internal Revenue Code" has the meaning given in AS 14.25.220;
 16 (10) "member" has the meaning given "teacher" in AS 14.25.220;
 17 (11) "member contribution account" means the total maintained by the
 18 system of the member's mandatory contributions, employer contributions on behalf of
 19 the employee, indebtedness principal and interest payments, interest credited to each
 20 of those accounts, and adjustments to the account in accordance with AS 14.25.440;
 21 (12) "military service" has the meaning given in AS 14.25.220;
 22 (13) "qualified domestic relations order" has the meaning given in
 23 AS 14.25.220;
 24 (14) "retirement fund" or "fund" has the meaning given in
 25 AS 14.25.220;
 26 (15) "school year" has the meaning given in AS 14.25.220;
 27 (16) "system" has the meaning given in AS 14.25.220;
 28 (17) "teacher" has the meaning given in AS 14.25.220;
 29 (18) "terminated" means a person no longer employed by an employer
 30 participating in the system.

31 * Sec. 3. AS 14.40.071(e) is amended to read:

1 (e) An employee whose rights to transfer assets out of a state retirement
 2 system are subject to a qualified domestic relations order is entitled to transfer assets
 3 from the state retirement system to the program only if the requirements for receiving
 4 a refund under AS 14.25.150(b), 14.25.390, [OR] AS 39.35.200(c), or 39.35.760, as
 5 appropriate, are met.

6 * Sec. 4. AS 39.35 is amended by adding a new section to Article I to read:

7 **Sec. 39.35.005. Applicability of AS 39.35.010 - 39.35.690 to employees first**
 8 **hired before July 1, 2005.** The following provisions of this chapter apply only to
 9 members first hired before July 1, 2005: AS 39.35.010, 39.35.120 - 39.35.165,
 10 39.35.180 - 39.35.650, and 39.35.675 - 39.35.680.

11 * Sec. 5. AS 39.35 is amended by adding new sections to read:

12 **Article 9. Employees First Hired on or after July 1, 2005.**

13 **Sec. 39.35.700. Applicability of AS 39.35.700 - 39.35.895.** The provisions of
 14 AS 39.35.700 - 39.35.895 apply only to members first hired on or after July 1, 2005.

15 **Sec. 39.35.710. Defined contribution retirement system established;**
 16 **federal qualification requirements.** (a) A defined contribution retirement system is
 17 established for employees of the state or a political subdivision or public organization
 18 of the state. All eligible employees first hired on or after July 1, 2005, must
 19 participate in this system in which retirement and death benefits are provided through
 20 the purchase of annuity contracts, either fixed, variable, or a combination of fixed and
 21 variable.

22 (b) The purpose of AS 39.35.700 - 39.35.895 is to encourage qualified
 23 personnel to enter and remain in the service of the state or a political subdivision or
 24 public organization of the state by establishing a system for the payment of defined
 25 contribution retirement benefits to or on behalf of the employees.

26 (c) The retirement system established by AS 39.35.700 - 39.35.895 is intended
 27 to qualify under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified
 28 retirement plan established and maintained by the state for its employees and for the
 29 employees of political subdivisions, public corporations, and public organizations of
 30 the state, and for the employees of other employers whose participation is authorized
 31 by AS 39.35.700 - 39.35.895 and who participate in the system set out in

AS 39.35.700 - 39.35.895.

(d) An amendment to AS 39.35.700 - 39.35.895 does not provide a person with a vested right to a benefit if the Internal Revenue Service determines that the amendment will result in disqualification of the plan under the Internal Revenue Code.

Sec. 39.35.720. Contributions by members. Each peace officer or fire fighter shall contribute to the system an amount equal to 8.5 percent of the peace officer's or fire fighter's compensation. Each other employee shall contribute to the system an amount equal to eight percent of the employee's compensation. The contributions shall be deducted by the employer at the end of each payroll period. The contributions shall be deducted from employee compensation before computation of applicable federal taxes, and the contributions shall be treated as employer contributions under 26 U.S.C. 414(h)(2). A member may not have the option of making the payroll deduction directly instead of having the contribution picked up by the employer.

Sec. 39.35.730. Contributions by employer. (a) An employer shall contribute to the system a percentage of each member's base salary accrued from July 1 to the following June 30, including any adjustments to contributions required by AS 39.35.810. The employer contribution to the system as a percentage of an employee's base salary for employees during the employee's

- (1) first year of service with the employer is zero percent;
- (2) second year of service with the employer is 25 percent of the maximum employer contribution rate;
- (3) third year of service with the employer is 50 percent of the maximum employer contribution rate;
- (4) fourth year of service with the employer is 75 percent of the maximum employer contribution rate;
- (5) fifth and all subsequent years of service with the employer is 100 percent of the maximum employer contribution rate.

(b) The maximum employer contribution rate is 8.75 percent of each member's base salary accrued from July 1 to the following June 30 for the defined contribution plan.

employee
Peace
8.57.
PERS
8.75

8.75

1 (c) For purposes of this section, "year of service" means one full year of
 2 membership service completed by an employee; part-time service shall be credited on
 3 a pro rata basis only if the part-time service was for regular employment that is at least
 4 50 percent of full-time service.

5 **Sec. 39.35.740. Retirement benefits and vesting.** A participating member is
 6 immediately and fully vested in that member's contributions and in the employer
 7 contributions made on that member's behalf to an account under AS 39.35.700 -
 8 39.35.895.

9 **Sec. 39.35.750. Distributions.** (a) A participating member is eligible to
 10 receive distribution of that person's accumulated balance in the plan upon becoming a
 11 former participating member.

12 (b) Upon the death of a participating member or former participating member,
 13 the accumulated balance of that deceased participant is considered to belong to the
 14 refund beneficiary, if any, of that deceased participant. If a valid nomination of refund
 15 beneficiary is not on file with the board, the board, in a lump sum distribution, shall
 16 distribute the accumulated balance to a legal representative, if any, of the deceased
 17 participant's estate.

18 (c) A former participating member or refund beneficiary may elect one or a
 19 combination of several of the following methods of distribution of the accumulated
 20 balance:

- 21 (1) lump sum distribution to the recipient;
 22 (2) lump sum direct rollover to another qualified plan, to the extent
 23 allowed by federal law;
 24 (3) periodic distributions, as authorized by the board;
 25 (4) no current distribution, in which case the accumulated balance
 26 must remain in the plan until the former participating member or refund beneficiary
 27 elects a method or methods of distribution under this section, to the extent allowed by
 28 federal law.

29 (d) If the former participating member's vested account balance is less than
 30 \$5,000, the board shall automatically refund the member's vested account balance
 31 upon termination of employment. The member may waive the refund if the member

1 submits a written statement to the board, within 120 days after termination, requesting
2 that the member's vested account balance remain in the plan.

3 **Sec. 39.35.760. Refund upon termination.** (a) Except as provided in (b) of
4 this section, a terminated member is entitled to a refund of the balance of the member
5 contribution account.

6 (b) A member who is terminated and who is married at the time of application
7 for a refund or whose rights to a refund are subject to a qualified domestic relations
8 order is entitled to receive a refund of the balance of the member contribution account
9 only if the member's present spouse and each person entitled under the order consent
10 to the refund in writing on a form provided by the administrator. The administrator
11 may waive written consent from the person entitled under the order if the
12 administrator determines that the person cannot be located or for other reasons
13 established by regulation. The administrator may waive written consent from the
14 spouse if the administrator determines that

15 (1) the member was not married to the spouse during any period of the
16 member's employment with an employer;

17 (2) the spouse has no rights to benefits under AS 39.35.700 -
18 39.35.895 because of the terms of a qualified domestic relations order;

19 (3) the spouse cannot be located;

20 (4) the member and spouse have been married for less than two years
21 and the member establishes that they are not cohabiting; or

22 (5) another reason established by regulation exists.

23 **Sec. 39.35.770. Rights under qualified domestic relations order.** A former
24 spouse shall be treated as a spouse or surviving spouse under AS 39.35.700 -
25 39.35.895 to the extent required by a qualified domestic relations order. Rights under
26 the order do not take effect until the order is filed with the administrator.

27 **Sec. 39.35.780. Rollover distributions and rollover contributions.** (a) A
28 distributee may elect, at the time and in the manner prescribed by the administrator, to
29 have all or part of an eligible rollover distribution paid directly to an eligible
30 retirement plan specified by the distributee in the direct rollover.

31 (b) The system does not accept contributions of eligible rollover distributions.

1 (c) In this section,

2 (1) "direct rollover" means the payment of an eligible rollover
3 distribution by the system to an eligible retirement plan specified by a distributee who
4 is eligible to elect a direct rollover;

5 (2) "distributee" means a member or a beneficiary who is the surviving
6 spouse of the member;

7 (3) "eligible retirement plan" means

8 (A) an individual retirement account described in 26 U.S.C.
9 408(a);

10 (B) an individual retirement annuity defined in 26 U.S.C.
11 408(b);

12 (C) an annuity plan described in 26 U.S.C. 403(a);

13 (D) a qualified trust described in 26 U.S.C. 401(a);

14 (E) an annuity plan described in 26 U.S.C. 403(b); or

15 (F) a governmental plan described in 26 U.S.C. 457(b);

16 (4) "eligible rollover distribution" means a distribution of all or part of
17 a total account to a distributee, except for

18 (A) a distribution that is one of a series of substantially equal
19 installments payable not less frequently than annually over the life expectancy
20 of the distributee or the joint and last survivor life expectancy of the distributee
21 and the distributee's designated beneficiary, as defined in 26 U.S.C. 401(a)(9);

22 (B) a distribution that is one of a series of substantially equal
23 installments payable not less frequently than annually over a specified period
24 of 10 years or more;

25 (C) a distribution that is required under 26 U.S.C. 401(a)(9);

26 (D) the portion of any distribution that is not includable in
27 gross income;

28 (E) a distribution that is on account of hardship; and

29 (F) other distributions that are reasonably expected to total less
30 than \$200 during a year.

31 **Sec. 39.35.790. Distribution requirements.** (a) The entire interest of a

1 member must be distributed or must begin to be distributed not later than the member's
2 required beginning date.

3 (b) If a member dies after the distribution of the member's interest has begun
4 but before the distribution has been completed, the remaining portion of the interest
5 shall continue to be distributed at least as rapidly as under the method of distribution
6 being used before the member's death.

7 (c) If a member has made a distribution election and dies before the
8 distribution of the member's interest begins, distribution of the member's entire interest
9 shall be completed by December 31 of the calendar year containing the fifth
10 anniversary of the member's death. However, if any portion of the member's interest
11 is payable to a designated beneficiary, distributions may be made over the life of the
12 designated beneficiary or over a period certain not greater than the life expectancy of
13 the designated beneficiary, commencing on or before December 31 of the calendar
14 year immediately following the calendar year in which the member died, and, if the
15 designated beneficiary is the member's surviving spouse, the date distributions are
16 required to begin may not be earlier than the later of December 31 of the calendar year
17 (1) immediately following the calendar year in which the member died, or (2) in which
18 the member would have attained 70 1/2 years of age, whichever is earlier. If the
19 surviving spouse dies after the member but before payments to the spouse have begun,
20 the provisions of this subsection apply as if the surviving spouse were the member.
21 An amount paid to a child of the member will be treated as if it were paid to the
22 surviving spouse if the amount becomes payable to the surviving spouse when the
23 child reaches the age of majority.

24 (d) If a member has not made a distribution election before the member's
25 death, the member's designated beneficiary must elect the method of distribution not
26 later than December 31 of the calendar year (1) in which distributions would be
27 required to begin under this section, or (2) that contains the fifth anniversary of the
28 date of death of the member, whichever is earlier. If the member does not have a
29 designated beneficiary or if the designated beneficiary does not elect a method of
30 distribution, distribution of the member's entire interest must be completed by
31 December 31 of the calendar year containing the fifth anniversary of the member's

1 death.

2 (e) For purposes of (c) of this section, distribution of a member's interest is
3 considered to begin (1) on the member's required beginning date, or (2) if the
4 designated beneficiary is the member's surviving spouse and the surviving spouse dies
5 after the member but before payments to the spouse have begun, on the date
6 distribution is required to begin to the surviving spouse. If distribution in the form of
7 an annuity irrevocably commences to the member before the required beginning date,
8 the date distribution is considered to begin is the date that the distribution actually
9 commences.

10 (f) Notwithstanding any contrary provisions of AS 39.35.700 - 39.35.895, the
11 requirements of this section apply to all distributions of a member's interest and take
12 precedence over any inconsistent provisions of AS 39.35.700 - 39.35.895.

13 (g) All distributions required under this section are determined and made in
14 accordance with 26 U.S.C. 401(a)(9) and regulations adopted under that statute,
15 including any minimum distribution incidental benefit requirement.

16 (h) In this section,

17 (1) "designated beneficiary" means the individual who is designated as
18 the beneficiary under the system in accordance with 26 U.S.C. 401(a)(9) and
19 regulations adopted under that statute;

20 (2) "required beginning date" means the first day of April of the
21 calendar year following the calendar year in which the member either attains 70 1/2
22 years of age or actually retires, whichever is later.

23 **Sec. 39.35.800. Designation of beneficiary.** (a) Each member shall designate
24 the beneficiary or beneficiaries to whom the administrator shall distribute benefits
25 payable under AS 39.35.700 - 39.35.895 as a consequence of the member's death.
26 Notwithstanding a previous designation of beneficiary, a person who is the spouse of a
27 member at the time of the member's death automatically becomes the designated
28 beneficiary if the spouse was married to the member during part of the member's
29 employment for an employer

30 (1) except to the extent a qualified domestic relations order filed with
31 the administrator provides for payment to a former spouse or other dependent of the

1 member; or

2 (2) unless the member filed a revocation of beneficiary accompanied
3 by a written consent to the revocation from the present spouse and each person entitled
4 under the order; however, consent of the present spouse is not required if the member
5 and the present spouse had been married for less than two years on the date of the
6 member's death and if the member established when filing the revocation that the
7 member and the present spouse were not cohabiting.

8 (b) Except as provided in (a) of this section, the member may change or
9 revoke the designation without notice to the beneficiary or beneficiaries at any time.
10 If a member designates more than one beneficiary, each shares equally unless the
11 member specifies a different allocation or preference. The designation of a
12 beneficiary, a change or revocation of a beneficiary, and a consent to revocation of a
13 beneficiary shall be made on a form provided by the administrator and is not effective
14 until filed with the administrator.

15 (c) If a member fails to designate a beneficiary, or if no designated beneficiary
16 survives the member, the death benefit shall be paid

17 (1) to the surviving spouse or, if there is none surviving;

18 (2) to the surviving children in equal parts or, if there are none
19 surviving;

20 (3) to the surviving parents in equal parts or, if there are none
21 surviving;

22 (4) to the estate.

23 (d) A person claiming entitlement to benefits payable under AS 39.35.700 -
24 39.35.895 as a consequence of a member's death shall provide the administrator with a
25 marriage certificate, divorce or dissolution judgment, or other evidence of entitlement.
26 Documents establishing entitlement may be filed with the administrator immediately
27 after a change in the member's marital status. If the administrator does not receive
28 notification of a claim before the date 10 days after the member's death, the person
29 claiming entitlement is not entitled to receive from the division of retirement and
30 benefits any benefit already paid by the administrator.

31 **Sec. 39.35.810. Adjustments.** (a) When a change or error is made in the

1 records maintained by the system or in the contributions made on behalf of an
2 employee or an error is made in computing a benefit, and, as a result, a member or
3 beneficiary is entitled to receive from the system more or less than the member or
4 beneficiary would have been entitled to receive had the records or contributions been
5 correct or had the error not been made, the records, contributions, or error shall be
6 corrected. An adjustment to contributions shall be picked up by the employer in
7 accordance with AS 39.35.720 or treated as an adjustment to the employer's
8 contributions in accordance with this section, depending upon the nature of the
9 adjustment. If no future benefit payments are due, a person who was paid any amount
10 to which the person was not entitled is liable for repayment of that amount, and a
11 person who was not paid the full amount to which the person was entitled shall be paid
12 that amount.

13 (b) An adjustment that requires the recovery of benefits may not be made
14 under this section if

15 (1) the incorrect benefit was first paid two years or more before the
16 member or beneficiary was notified of the error;

17 (2) the error was not the result of erroneous information supplied by
18 the member or beneficiary; and

19 (3) the member or beneficiary did not have reasonable grounds to
20 believe that the amount of the benefit was in error.

21 (c) At each regularly scheduled meeting of the Public Employees' Retirement
22 Board, the administrator shall report to the board on all situations since the
23 administrator's last report in which an adjustment has been prohibited under (b) of this
24 section. If the board finds that there is reason to believe that one or more of the
25 conditions set out in (b) of this section have not been met, the administrator shall
26 notify the member or beneficiary that an adjustment will be made to recover the
27 overpayment. A member or beneficiary who receives notice of adjustment under this
28 subsection may appeal to the board for a waiver of the adjustment under
29 AS 39.35.820. An adjustment that requires the repayment of benefits may not be
30 required while the appeal is pending.

31 (d) The system shall pay interest on amounts owed to a member or

1 beneficiary. Interest shall be charged on amounts owed to the system by a member or
 2 beneficiary if the amount owed is the result of erroneous information supplied by the
 3 member or beneficiary, or the member or beneficiary had reasonable grounds to
 4 believe the amount of the benefit was in error. The interest paid under this subsection
 5 is at the rate established by regulation for indebtedness contributions owed. Interest
 6 accrues from the date on which the correct payment was due and continues until an
 7 actuarial adjustment to the benefit is effective or the amount owed is paid. Accrued
 8 interest for periods less than 60 days or in amounts less than the limit established in
 9 regulation for writing off small indebtedness and refund balances may not be collected
 10 or paid under this subsection.

11 **Sec. 39.35.820. Waiver of adjustments.** (a) Upon appeal by an affected
 12 member or beneficiary under (b) of this section, the board may waive an adjustment or
 13 a portion of an adjustment made under AS 39.35.810 if, in the opinion of the board,

14 (1) the adjustment or portion of the adjustment will cause undue
 15 hardship to the member or beneficiary;

16 (2) the adjustment was not the result of erroneous information supplied
 17 by the member or beneficiary;

18 (3) before the adjustment was made, the member or beneficiary
 19 received confirmation from the administrator that the member's or beneficiary's
 20 records were correct; and

21 (4) the member or beneficiary had no reasonable grounds to believe
 22 the records were incorrect before the adjustment was made.

23 (b) In order to obtain consideration of a waiver under this section, the affected
 24 member or beneficiary must appeal to the board in writing within 30 days after receipt
 25 of notice that the records have been adjusted. The ruling of the board shall be in
 26 writing.

27 (c) The board may conduct a hearing on an appeal under this section.

28 (d) The board may impose conditions on granting a waiver that it considers
 29 equitable. These conditions may include requiring the member or beneficiary to make
 30 additional contributions to the system.

31 (e) The board may reconsider a ruling under this section upon request of the

1 member or beneficiary or the administrator if the request is received within 30 days
2 after the initial ruling. Any modification of the initial ruling must be made within 30
3 days after receipt of a request for reconsideration.

4 **Sec. 39.35.830. Management and investment of fund.** (a) The Alaska State
5 Pension Investment Board is the fiduciary of the fund. In managing the fund, the
6 Alaska State Pension Investment Board shall

7 (1) consider the status of the fund's investments and the system's
8 liabilities on both a current and a probable future basis;

9 (2) determine the appropriate investment objectives for the fund;

10 (3) establish investment policies aimed at achieving the objectives; and

11 (4) act only in regard to the best financial interests of the system's plan
12 and beneficiaries.

13 (b) The Alaska State Pension Investment Board may invest the fund on the
14 basis of probable total rate of return without regard to the distinction between principal
15 and income or to the generation of income.

16 (c) In carrying out investment duties under AS 39.35.700 - 39.35.895, the
17 Alaska State Pension Investment Board has the same powers and duties in regard to
18 the teacher's retirement trust fund as are provided in AS 37.10.071, except that the
19 standard of prudence that the board must obey under AS 37.10.071(c) shall be in
20 regard to the management of large trust investments rather than large investments.

21 **Sec. 39.35.850. Special rules for treatment of qualified military service.**
22 Notwithstanding any contrary provisions of AS 39.35.700 - 39.35.895, with respect to
23 qualified military service, contributions shall be made and benefits and service credit
24 shall be provided in accordance with 26 U.S.C. 414(u).

25 **Sec. 39.35.860. Exemption from taxation and process.** (a) Except as
26 provided in AS 29.45.030(a)(1) or in (c) of this section, member contributions and
27 other amounts held in the system on behalf of a member or other person who is or may
28 become eligible for benefits under the system are exempt from Alaska state and
29 municipal taxes and are not subject to anticipation, alienation, sale, transfer,
30 assignment, pledge, encumbrance, or charge of any kind, either voluntary or
31 involuntary, before they are received by the person entitled to the amount under the

1 terms of the system. Any attempt to anticipate, ~~alienate, sell, transfer, assign, pledge,~~
 2 encumber, charge, or otherwise dispose of any right to amounts accrued in the system
 3 is void. However, a member's right to receive benefits or the member contribution
 4 account may be assigned

5 (1) under a qualified domestic relations order;

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

8 (3) as provided in (c) of this section.

9 (b) Member contributions and other amounts held in the system and benefits
 10 payable under AS 39.35.700 - 39.35.895 are exempt from garnishment, execution, or
 11 levy as provided in AS 09.38.

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

16 **Sec. 39.35.870. Time limit for application.** If an application for benefits or
 17 for refund has not been filed with the administrator by July 1 following the date on
 18 which an inactive member (except a member on leave of absence without pay) would
 19 attain age 75, or if an application for benefits or for refund has not been filed with the
 20 administrator within the 50 years following the most recent date on which the person
 21 was an active member, benefits or refunds may not be paid under AS 39.35.700 -
 22 39.35.895 and the member's records may be destroyed.

23 **Sec. 39.35.880. Penalty for false statements.** (a) A person who knowingly
 24 makes a false statement, or falsifies or permits to be falsified any record of this
 25 system, in an attempt to defraud this system, is guilty of a class A misdemeanor and
 26 forfeits all rights under AS 39.35.700 - 39.35.895.

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

28 **Sec. 39.35.895. Definitions.** In AS 39.35.700 - 39.35.895, unless the context
 29 requires otherwise,

30 (1) "active member" has the meaning given in AS 39.35.680;

31 (2) "actuarial adjustment" has the meaning given in AS 39.35.680;

- 1 (3) "administrator" has the meaning given in AS 39.35.680;
- 2 (4) "beneficiary" has the meaning given in AS 39.35.680;
- 3 (5) "board" has the meaning given in AS 39.35.680;
- 4 (6) "calendar year" has the meaning given in AS 39.35.680;
- 5 (7) "compensation" has the meaning given in AS 39.35.680;
- 6 (8) "employee contribution account" means the total maintained by the
- 7 system of the employer's contributions, employee's mandatory contributions, voluntary
- 8 contributions, indebtedness principal, and interest contributions, interest credited to
- 9 each of those accounts, and adjustments to the accounts in accordance with
- 10 AS 39.35.810;
- 11 (9) "employer" has the meaning given in AS 39.35.680;
- 12 (10) "former participating member" means a terminated member;
- 13 (11) "fund" means the assets of the system;
- 14 (12) "inactive member" has the meaning given in AS 39.35.680;
- 15 (13) "member" or "employee" has the meaning given in AS 39.35.680;
- 16 (14) "military service" has the meaning given in AS 39.35.680;
- 17 (15) "peace officer" or "fire fighter" has the meaning given in
- 18 AS 39.35.680;
- 19 (16) "public organization" has the meaning given in AS 39.35.680;
- 20 (17) "qualified domestic relations order" has the meaning given in
- 21 AS 39.35.680;
- 22 (18) "retired member" means an employee who is terminated, who has
- 23 not received a refund from the system, and who is receiving a retirement benefit from
- 24 the system;
- 25 (19) "retirement" means that period of time from the first day of the
- 26 month following (A) the date of termination, and (B) application for retirement, in
- 27 which a person is appointed to receive a retirement benefit;
- 28 (20) "surviving spouse" means the spouse of an employee who has
- 29 been married to the employee for at least one year at the time of the employee's death;
- 30 (21) "system" has the meaning given in AS 39.35.680;
- 31 (22) "terminated" means a person no longer employed by an employer

1 participating in the system.

2 * Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 REVISOR INSTRUCTION. (a) In the following statute sections, the revisor of
5 statutes shall substitute the spanned reference "AS 14.25.010 - 14.25.220" for references to
6 "this chapter": AS 14.25.010, 14.25.012, 14.25.040, 14.25.045, 14.25.047, 14.25.048,
7 14.25.061, 14.25.062, 14.25.063, 14.25.070, 14.25.075, 14.25.105, 14.25.107, 14.25.110,
8 14.25.142, 14.25.150, 14.25.153, 14.25.160, 14.25.165, 14.25.166, and 14.25.220.

9 (b) In the following statute sections, the revisor of statutes shall substitute the spanned
10 reference "AS 39.35.010 - 39.35.680" for references to "this chapter": AS 39.35.010,
11 39.35.165, 39.35.200, 39.35.250, 39.35.300, 39.35.340, 39.35.350, 39.35.360, 39.35.370,
12 39.35.371, 39.35.375, 39.35.381, 39.35.480, 39.35.490, 39.35.495, 39.35.505, 39.35.530,
13 39.35.546, 39.35.547, 39.35.615, 39.35.620, 39.35.675, 39.35.677, and 39.35.680.

14 * Sec. 7. This Act takes effect July 1, 2005.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB191
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relation to TRS and PERS creating a RDU Centralized Administrative Services
defined contribution and health reimbursement plans..... Component Retirement and Benefits
 Sponsor Representative Kelly
 Requester House State Affairs Component No. 64

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	265.5	216.5	152.1	152.1	152.1	152.1
Travel	37.5	17.5	3.5	5.0	5.0	5.0
Contractual	587.0	317.0	342.0	387.0	387.0	387.0
Supplies	18.0	5.0	5.0	5.0	5.0	5.0
Equipment	30.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	938.0	556.0	502.6	549.1	549.1	549.1

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	938.0	556.0	502.6	549.1	549.1	549.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	938.0	556.0	502.6	549.1	549.1	549.1

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

Full-time	1	1	1	1	1	1
Part-time	2	2	2	2	2	2
Temporary	2	1	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill will create a new defined contribution retirement plan and a health reimbursement arrangement for new employees of the PERS and TRS hired after the effective date of July 1, 2005. As the new plan significantly differs from the current defined benefit plans, the division will be required to reprogram its computer systems, set up and account for two new plans, create new plan publications and forms, train staff, employer contacts and new members, create new employee benefit education methods on the web, benefit seminars and one on one appointments, and to contract for financial planning services for members of the new plan. The fiscal note assumes fund manager fees, custody, and record keeper's individual account fees are separate.

Prepared by: Melanie Millhorn, Director
 Division: Retirement and Benefits
 Approved by: Mike Tibbles, Deputy Commissioner
 Agency: Department of Administration

Phone 465-4408
 Date/Time 3/29/05 2:18 PM
 Date 3/29/2005

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. HB191

ANALYSIS CONTINUATION

The estimated administrative costs to the division by fiscal year are as follows:

	FY 2006	FY 2007	FY 2008	FY 09-11
PERSONAL SERVICES:				
1 - Analyst-Pgmr III - DC-Benefits Sys - R 16	64.4	64.4	64.4	64.4
1 - Accountant II - Range 16 P/T	41.0	41.0	41.0	41.0
1-R&B Tech I/II-ER Rptng/Contrib. Recon.-Range 12, P/T	46.7	46.7	46.7	46.7
1-Non Permanent Publications Tech II or Spec I - Range 13	49.0	0.0	0.0	0.0
1-Non Permanent Retirement Counselor - Range 18	64.4	64.4	0.0	0.0
	<hr/>	<hr/>	<hr/>	<hr/>
	265.5	216.5	152.1	152.1
TRAVEL:				
Employer Reporting Software Upgrade Install & Help	30.0	15.0	0.0	0.0
Employer Plan Education	7.5	0.0	0.0	0.0
Regional Counselor travel	0.0	2.5	3.5	5.0
	<hr/>	<hr/>	<hr/>	<hr/>
	37.5	17.5	3.5	5.0
CONTRACTUAL:				
Communications & Postage	82.0	17.0	17.0	17.0
Computer system mods - Employer Reporting	80.0	5.0	5.0	5.0
Computer system mods - PERS / TRS Record Integration	80.0	5.0	5.0	5.0
Computer system mods - DC / Web / Remit Modules	80.0	10.0	10.0	10.0
Audit, Accting, Tax, Benefits Consulting, Legal	100.0	75.0	50.0	50.0
Training \ Risk Management	15.0	5.0	5.0	0.0
Employee financial planning services	150.0	200.0	250.0	300.0
	<hr/>	<hr/>	<hr/>	<hr/>
	587.0	317.0	342.0	387.0
SUPPLIES: Office supplies, calculators, desk-top software	18.0	5.0	5.0	5.0
EQUIPMENT: Workstation & cubicle, chairs, file cabinets, computers, telephone, set-up costs	30.0	0.0	0.0	0.0
	<hr/>	<hr/>	<hr/>	<hr/>
	48.0	5.0	5.0	5.0
 TOTAL	 938.0	 556.0	 502.6	 549.1

The above funding source is initially listed as General Fund because the existing tiers of PERS / TRS are Defined Benefit plans, and the present DC plans, SBS and DCP are legally separate from the intended plan. The new tier members would have to repay the startup costs through fees as the size of the fund grows.

The new plan effective date is July 1, 2005. Therefore, startup costs will start in FY 05, although they have not been provided for. Further, such startup costs also have the same issue, they really are not costs of the PERS and TRS Defined Benefit plans. Tiers 1, 2, and 3 are logically related, tier 4 PERS and Tier 3 TRS would not be. The purpose of the bill is to separate the DB and DC side. Some arrangement will have to be worked out to allow expenditure of funds for the startup that will be reimbursed later.

Changes to Current Tiers Under the Proposed Bills

Bills	SB 141	HB 177 and HB 170	State Affairs Bill
Prescription drug Changes	None	None	Requires retirees to purchase prescription drugs from a preferred drug list unless otherwise recommended
Employee Contribution Rates	One-half the NCR ¹ set at an increase of .5% every year until the employer contribution rate reaches ½ the NCR.	HB 177- One-half the amount needed to fund the system (ACR) ² with a maximum increase of 5% per year. Police/fire contribute additional 1%	One-half the amount needed to fund the system (ACR) capped at 13% for PERS ³ and 14% for TRS ⁴ . Maximum increase of 5% per year.
Employer Contribution Rates	No more than 5% increase in PSC ⁵ rate per year. Not less than the difference between the NCR and the employee contribution.	No more than 5% increase in PSC rate per year	No more than 5% increase in PSC rate per year. One-half the NCR with a floor at 10% PERS, 11% TRS
Ad hoc PRPA's	Places limiting conditions on ad hoc PRPA's ⁶	None	Places limiting conditions on ad hoc PRPA's
PERS/TRS Board	Eliminates PERS & TRS Board and ASPIB ⁷ . Creates new ARM ⁸ Board with fiduciary responsibility only, and designates other aspects of current boards.	HB 170. Changes the requirements for members of the PERS & TRS Boards.	None
COLA	Repeal COLA ⁹	None	None
Refunded re-hires	No longer allow re-instating past employees at current tier status. A past employee who has cashed out of the system cannot buy back that time, vest and collect benefits.	None	None

¹ NCR – Normal Cost Rate

² ACR - Actuarial Computed Rate

³ PERS – Public Employees Retirement System

⁴ TRS – Teacher's Retirement System

⁵ PSC - Past Service Cost

⁶ PRPA – Post Retirement Pension Adjustment

⁷ ASPIB – Alaska State Pension Investment Board

⁸ ARM – Alaska Retirement Management

⁹ COLA – Cost of living adjustment

	Current PERS Tier I/II TRS Tier I DB Plan	Current PERS Tier II/III & TRS Tier II DB Plan	State Affairs DC PERS/TRS Bill	Senate Bill 141 - DC	House Bill 191 - DC
PERS employee contribution rate	6.75% other 7.5% Police/fire 9.6% school district	6.75 or 7.5% other 7.5% Police/fire 9.6% school district	10% all members	8% all members voluntary % up to IRS limit	8% other police/fire 8.5%
TRS employee contribution rate	8.65%	8.65%	11% all members	8% all members	10% all members
Vesting	5 years PERS 8 years TRS	5 years PERS 8 years TRS	Employee is immediately vested in both employee and employer contribution	Immediate for employee contributions Fully vested in employer contributions after 5 years (graduated scale of 25%/yr)	Employee is immediately vested in both employee and employer contribution (however employer contribution is graduated)
Retirement Age	55 normal - 50 early 30 "others" 20 police/fire 20 teachers	60 normal - 55 early 30 "others" 20 police/fire 20 teachers	Any age	Any age	Any age
PERS & TRS Benefit Formula	2% up to 2.5% multiplier per year DB multiplier X years of service X high 3 year average salary	2% up to 2.5% multiplier per year DB multiplier X years of service X high 3 (TRS) or 5 (PERS) year average salary	20% PERS (includes 1% for HRA & 3.5% for medical) 22% TRS (includes 1.5% for HRA & 3.75% for medical)	16% per year to a DC account and investment earnings (includes 1% for HRA & 3.5% for medical) 5 yr graduated vesting scale of 25% increase per year HRA - 1% average salary of employee subgroup up to \$500 annual limit	16% after five years of service - before 5 years a percentage of the employer contribution is distributed at (1 st yr 0%, 2 nd yr 25%, 3 rd yr 50%, 4 th yr 75%, 5 th yr+ 100%)
Medical	Do not have to retire directly from the system to be service or age eligible for medical coverage Medical plan premium paid by retirement system for all retirees and dependents. Except Tier II retirees	Do not have to retire directly from the system to be service or age eligible for medical coverage Must have 10 years of service for system-paid coverage over age 60. Employees with less than 10 years pay full	Must retire directly from the system with either 60 years adjusted to the change in mortality rate when adopted w/ 10 years of service OR 30 years service Early retirees -	Must retire directly from the at age 65 w/ 10 years of service OR 25 yrs police/fire 30 yrs other Access to medical coverage with one year of active service prior to retirement and age 65 with 10 years of service.	Must retire directly from the system at age 65 w/ 10 years of service OR 25 yrs police/fire 30 yrs other Access to medical coverage with one year of active service prior to retirement and age 65 with 10 years of service.

	Current PERS Tier I/II TRS Tier I DB Plan	Current PERS Tier II/III & TRS Tier II DB Plan	State Affairs DC PERS/TRS Bill	Senate Bill 141 - DC	House Bill 191 - DC
	and survivors pay full premium under age 60.	premium for access to coverage.	Access to system, no subsidy till age 60 adjusted Retirees over 60 adjusted- Access to defined dollar medical with subsidy depending on length of service. Retirees over Medicare eligible age - Access to medical with a reduced premium and percent subsidy based on years of service Reimbursed for qualified medical expenses from HRA.	or at any age after (1) 25 years for peace officer/firefighter, or (2) 30 years for all others Retiree and survivors pay full premium until Medicare eligible After Medicare eligible, retiree shares cost based on years of service. Reimbursed for qualified medical expenses from HRA.	or at any age after (1) 25 years for peace officer/firefighter, or (2) 30 years for all others Retiree and survivors pay full premium until Medicare eligible After Medicare eligible, retiree shares cost based on years of service. Reimbursed for qualified medical expenses from HRA.
Employer Normal Cost Rate PERS	Current Normal Cost Rate 13.24% 20 year average 10.86%	Current Normal Cost Rate 13.24% (8.68% medical, rest pension) 20 year average 10.86%	10% (3.5% medical, 1% HRA)	8.25% (3.5% pension, 3.75% medical, 1% max \$500 HRA)	8% w/ following conditions - 1 st yr 0%, 2 nd yr 25%, 3 rd yr 50%, 4 th yr 75%, 5yr+ 100%
Employer Normal Cost Rate TRS	Current Normal Cost Rate 13.24% 20 year average 11.16%	Current Normal Cost Rate 13.24% (9.07% medical, rest pension) 20 year average 11.16%	11% (3.75% medical, 1.5% HRA)	8.25% (3.5% pension, 3.75% medical, 1% HRA)	8.75% w/ following conditions - 1 st yr 0%, 2 nd yr 25%, 3 rd yr 50%, 4 th yr 75%, 5yr+ 100%
Risk	Employer bears all the risk	Employer bears all the risk	Employer risk is minimal, employee bears investment risk	Employer risk is minimal, employee bears investment risk	Employer risk is minimal, employee bears investment risk
Salary only	All salary (including overtime, bonuses, etc)	All salary (including overtime, bonuses, etc)	Employee option base salary or total salary	Unknown	Base salary only
Roll Over	Accepts rollover from	Does not accept roll	Roll over accepted	Roll over accepted from	Does not accept roll over

	Current PERS Tier I/II TRS Tier I DB Plan	Current PERS Tier I/III & TRS Tier II DB Plan	State Affairs DC PERS/TRS Bill	Senate Bill 141 - DC	House Bill 191 - DC
--	---	---	--------------------------------	----------------------	---------------------

	qualified programs	over from qualified programs nor can you rollover into a qualified program	from qualified programs and you can roll over into a qualified program	qualified programs and you can roll over into a qualified program	from qualified programs but you rollover into a qualified program
Investment Options	ASPIB manages investments	ASPIB manages investments	ASPIB manages investments similar to SBS	Participant controls investments and has access to a range of investment options from the ARM Board ARM has all fiduciary responsibility. Managed similar to SBS	ASPIB manages investments
State Financial Help	N/A	N/A	Past Service Cost Offset Account 2.681 billion	69.5 million to compensate 5% increase in employer costs FY05 -FY06 (for school districts this is inc. in the BSA)	None
Transfer of employee to a DC plan	N/A	N/A	Allows the transfer of current, non-vested employees to a DC account within 90 days from the enactment of legislation	None	None

Advantages of Defined Contribution Plans

By Peter J. Ferrara
Americans for Tax Reform

Advantages to Workers

Portability. The most obvious advantage of defined contribution plans for workers is portability. Since the contributions are paid directly into individual accounts for each worker, it is easy simply to allow workers to take their accumulated funds with them when they change jobs. As a result, workers get to keep the full past contributions made on their behalf and their full accrued benefits. In a defined benefit plan, by contrast, the contributions for each worker are in a common pool where each worker's share is not separately identified. Because of vesting requirements and other features of the benefit formula, withdrawals and other payments from the common pool for workers who depart before attaining long term service do not reflect their fair share of past employer contributions, as discussed further below.

Immediate Vesting. In a pure defined contribution plan, the employer's contributions to the individual account become the full property of the worker upon payment. As a result, the worker enjoys immediate vesting of employer retirement contributions. This greatly benefits the majority of state and local government workers who are not going to stay with one employer for the rest of their careers.

In a typical defined benefit plan, by contrast, the employer contributions are again kept by the government in a common pool, and the worker's rights to them typically vest only after long periods of 10 years or so. As a result, most workers lose out, as most remain with one state or local employer for less than 10 years. For example, in California 70% of state and local workers lose all employer retirement contributions because they stay with one employer for less than 10 years, and consequently fail to meet the 10 year vesting requirement. Moreover, even workers who stay longer do not receive the full benefit of the employer contributions until they have worked well beyond 10 years.

Personal Control. In the defined contribution plan, the retirement funds for each worker are under the control of the worker in their own individual accounts. Workers can consequently adopt the investment strategies and benefit plans that best suit their own individual needs and preferences. As a result, they may well end up with higher benefits than under a traditional defined benefit plan, as discussed further below. Moreover, under the defined contribution plan they don't have to worry about politicians taking away benefits or bureaucrats mishandling funds and losing their retirement assets.

Fair Benefits. Under a traditional defined benefit plan, the benefits are skewed to favor the longer term and oldest workers over others, in at least 3 ways. First, the vesting requirements eliminate benefits for those working less than 10 years or so, with the funds then devoted to the longest term workers. Secondly, the benefits are a percentage of final salary, which tends to be much higher for those who have worked for the employer the longest, or for older workers.

Thirdly, granting the same percentage of final salary for each year worked (1%-2%) does not grant the full benefit of the contributions for younger workers who remain employed for several years, then leave. For example, take a worker who enters government employment at 22, works for 15 years, and then leaves for a private sector job. Under a traditional defined benefit plan, he will qualify for benefits when he reaches retirement. But he will only receive the same 1%-2% of final salary for each year worked as other workers under the benefit formula. Yet, the contributions paid for him during employment continued to earn investment returns for many years after he left employment. The worker, however, receives no benefit from these additional investment returns.

Indeed, contrast this younger worker with an older worker who enters government employment at age 50 and continues to work there for 15 years, retiring at age 65. The contributions for this worker earned investment returns for far fewer years than those for the younger worker. Yet, this worker will get the same 1%-2% of final salary for each year worked as the younger worker. If the older worker's salary was higher, as is likely, he will actually get more benefits in retirement than the younger worker, even though the contributions for the younger worker earning returns for many more years would have accumulated to much more by retirement. The younger workers are consequently denied the full benefit of their contributions, which are redistributed in large measure to others.

None of these distortions occur in a standard defined contribution plan. The contributions to the worker's account immediately vest as the property of the worker, so the worker gets to keep those full contributions in any event. The worker also gets to keep the full returns earned by those contributions over the years, rather than leaving them to others based on a calculated percentage of final salary. The defined contribution plan consequently provides fair, undistorted benefits to each worker, granting each the full value of the contributions made for them.

Higher Benefits. The defined contribution plan includes no limit on the benefits workers can receive. Those who achieve strong investment performance in their individual accounts will receive substantially higher benefits than offered under a standard defined benefit plan. In fact, there is good reason to believe that on average workers in defined contribution plans will receive substantially higher benefits than offered by defined benefit plans.

Those managing the common investment pool for a defined benefit plan are investing only to finance the targeted benefit levels. For career workers, these will range from 30% to 80% of final salary and cluster around 45%-65%.² The managers will not invest more aggressively to achieve higher benefits, even when that can be done safely. If they do attain higher investment returns, the employer will likely reduce contributions or withdraw the excess assets.

Contributing a standard 10% of salary each year to a defined contribution plan that earns the full standard investment returns available in the market will produce higher benefits than those targeted under a typical defined benefit plan. And those who would benefit the most are the longest term workers who thought they were getting the most out of the skewed benefits of defined benefit plans.

The average real rate of return earned in the stock market going back over the last 70 plus years, all the way back to 1926, is 8%.³ The average real rate of return on corporate bonds over that period is 3% or more.⁴ A conservative portfolio with half of each would earn 5.5%

Assume a worker who earns around \$30,000 per year over his career in constant inflation adjusted dollars. If 10% of that salary is contributed to a personal investment account for the worker earning a real return of 5.5% each year, then after 40 years that investment account would total \$432,357, again in constant, inflation adjusted dollars. (See Table 1) That amount would finance an annuity paying about \$60,000 per year each year for the rest of the worker's career. A defined benefit plan paying 1.5% of final salary for each year of work would pay only \$18,000 per year. A defined benefit plan paying 2% of final salary for each year of work would pay only \$24,000 per year. So the defined contribution plan would pay 2 1/2 to 3 1/2 times the benefits of the defined benefit plan. (See Table 1)

A worker's earning \$40,000 each year would reach retirement after 40 years of work with a retirement account total of \$576,476, again in constant dollars. That amount would finance an annuity of \$80,000 per year, compared to \$24,000 - \$32,000 for a defined benefit plan. A worker earning \$50,000 each year would retire with a fund of \$720,595, paying about \$100,000 per year, compared to \$30,000 to 40,000 for a defined benefit plan. Again, the defined contribution benefits are 2 1/2 to 3 1/2 times the defined benefit plan payments. (See Table 1).

Now suppose the worker retires after only 30 years of work. At a salary of \$30,000 per year, the worker would retire with a fund of \$313,457, which would pay about \$43,000 per year in benefits compared to \$13,500 to \$18,000 for a defined benefit plan. The defined contribution benefits are still 2.4 to 3.2 times the defined benefit plan payments. (See Table 1). The \$40,000 per year worker would retire after 30 years with a fund of \$417,942, paying about \$58,000 per year in benefits, compared to \$18,000- \$24,000 for the defined benefit plan. The \$50,000 per year worker would retire after 30 years with a fund of \$522,428, which would pay about \$73,000 per year, compared to \$22,500 - \$30,000 in the defined benefit plan. (See Table 1) Again, the defined contribution plan pays 2.4 to 3.2 times the defined benefit plan.

Now suppose the worker's retirement account doesn't perform as well as others for some reason and earns only a 4 % real return, which is just half the average return in the stock market over the last seventy years. A \$30,000 per year worker would retire after 40 years of work with a trust fund of almost \$300,000. That fund would pay almost \$37,000 per year for the rest of the worker's life, again all in constant, inflation adjusted dollars. The defined benefit plan would pay \$18,000 - \$24,000 per year. (See Table 2) So the defined contribution plan would pay 50-100% more.

A \$40,000 per year worker would retire after 40 years with a trust fund of almost \$400,000, which would pay almost \$50,000 per year, compared to \$24,000 - \$32,000 for the defined benefit plan. A \$50,000 per year worker would retire with a trust fund of almost \$500,000 per year paying over \$61,000 per year, compared to \$30,000 to \$40,000 for the defined benefit plan. (See Table 2) In these cases, the defined contribution plan again pays 50-100% more than the defined benefit plan.

Now suppose the worker's retires after only 30 years. The \$30,000 per year worker would retire with a trust fund of about \$175,000, paying about \$21,000 per year, compared to \$13,500 to \$18,000 for the defined benefit plan. The \$40,000 per year worker would retire with a trust fund of \$233,000 paying about \$28,000 per year, compared to \$18,000-\$24,000 for the defined benefit plan. The \$50,000 per year worker would retire with a trust fund of almost \$300,000, paying about \$36,000 per year compared to \$22,500 to \$30,000 for the defined benefit plan. (see Table 2). The defined contribution benefits are still substantially more than the defined benefit plan payments.

These calculations all assume retirement at the standard Social Security retirement age, which is 65 today and will rise to 67 over the next 25 years. To the extent workers can receive retirement benefits under the defined benefit plans at earlier ages those plans would do much better compared to the defined contribution plans. But such defined benefit plans also require much higher contribution rates than 10% of salary, which was used as the basis for the defined contribution benefits alone. At a minimum, however, these calculations show that the longer term workers would do quite well under defined contribution plans, and would quite possibly receive significantly higher benefits than under a typical defined benefit plan.

Freedom of Choice: Finally, the defined contribution reform proposals maximize the freedom of choice of workers. Under the defined contribution plans, workers can choose their own investments, investments strategies, and investment managers. They can also choose their own benefit structures and vary their benefits over time, perhaps leaving more in the accounts to accumulate further earnings. Current workers can also choose whether they want to be in the defined contribution plans or stay in the defined benefit plans, and under most proposals this is true for future workers as well. The bottom line is that the defined contribution reform proposals give workers maximum freedom of choice and control over their own money.

Advantages for Taxpayers

No Investment Risk: The most obvious advantage for taxpayers of a defined contribution plan is that it eliminates investment risk for them. With the government managing a common pool of investment funds under a defined benefit plan, the taxpayers bear the complete risk of poor investment performance. If such poor performance leaves the pool unable to pay the promised defined benefits, then the taxpayers will have to make up the difference.

Under the defined contribution plan, however, the taxpayers simply make a specific contribution to the accounts of the workers each month. The government is then not liable for the investment performance of the funds. Workers' benefits equal whatever the accumulated funds can finance. Taxpayers consequently are not subject to any risk of investment performance.

No Political Risk: Defined contribution plans eliminate another set of risks that are usually overlooked - political risks. With the government specifying benefits far in the future, as under defined benefit plans, there is always a strong danger of political giveaways by short-sighted politicians. These politicians can promise higher retirement benefits, while leaving future officials and taxpayers to pay for them. Under a defined contribution plan, where the government

does not specify future benefits but only makes regular investment contributions, this risk is eliminated.

Moreover, a large government investment pool, as under a defined benefit plan, is always subject to the danger of political interference that could raise costs. Political favoritism may influence investment policy, prohibiting some investments and forcing the fund into others. By taking the focus off of simply maximizing investment returns, such political favoritism will reduce investment returns and increase the cost of funding the specified defined benefits.

Politicians may seek to raid the large, tempting investment pool in other ways as well. They may seek to withdraw funds for other uses, claiming an excess of funds which may be temporary or chimerical. Or they may try to use the funds for short-term added benefits. These actions would again raise costs for taxpayers.

Government management of the funds also creates the risk of mishandling of the funds by bureaucrats who lack the incentives, competitive pressures, and expertise of private investment managers. Attempts to insulate the funds from bureaucratic control by contracting out to private investment managers may not be entirely successful.

Finally, a large government investment pool creates the risk for taxpayers of greater government control of the private economy. Through such a pool, the government may end up owning large shares of private companies. The government would also hold a large share of investment capital that it could use to impose mandates on the private sector. Even where there has been a good record of avoiding such abuse in the past, the danger is always present.

None of these risks arising from a large government investment pool exist in a defined contribution plan, where the government does not maintain such a pool.

No Unfunded Liability. The defined contribution plan also eliminates the danger of any unfunded liability that must be covered by taxpayers. Under a defined benefit plan, any shortfall in the common investment pool that leaves the pool unable to pay the promised benefits, creating an unfunded liability, must be covered by the taxpayers, regardless of the cause of the shortfall. In the defined contribution plan, where the government does not maintain a common investment pool but only pays a specified amount to each worker's individual account each month, and benefits equal what those accounts can finance, there is no possibility of an unfunded liability that taxpayers would have to cover.

Greater Control Over Costs. The defined contribution plan also provides the government and taxpayers greater control over costs. Costs under a defined benefit plan, where the government has pledged to provide a certain benefit regardless of cost, can vary greatly, depending on a wide range of factors outside the government's control. Retirees can live longer, greatly increasing costs. More workers may stay with the government employer long term, increasing costs. Interest rates or the stock market may decline, requiring increased contributions to make up the difference.

A defined contribution plan by contrast, the government is responsible only for a specified contribution each year. This is completely under the government's control, depending only on what the government agrees to pay. This means in turn greater certainty and predictability in budgeting. There is no possibility that taxpayers will be surprised with a large, unexpected cost that will require increased taxes.

Reduced Costs. A defined contribution plan can also significantly reduce costs. Defined benefit plans have large administrative costs for the government employer. The government must maintain and pay for the management of the large common pool of assets. Moreover, federal law imposes many regulatory requirements on such plans, regarding distribution of benefits, eligibility, investment policies, etc. Complying with and reporting on these requirements significantly adds to costs.

With a defined contribution plan, by contrast, administrative costs are negligible. The government simply pays an amount into each employee's own account as part of payroll processing. The worker takes over administration of the account after that.

A defined contribution plan may save the government on funding cost as well. The discussion above showed that workers can get high benefits, paying more even than their final salaries, with only 10% of salary paid into the individual defined contribution accounts. Indeed, these benefits can be substantially higher than under typical defined benefit plans. Yet, such plans typically cost more than 10% of payroll. With a defined contribution plan, government employers may be able to get a better deal for their workers while paying less into the plan.

In California, the state Department of Finance estimated that the defined contribution plan offered by Assemblyman Howard Kaloogian would save the state's taxpayers \$1,642 per employee each year, due to the above factors. That adds up to a very large benefit for taxpayers.

Improved Employee Recruitment. Finally, because of the advantages to employees noted above, defined contribution plans can help employers attract better employees. Highly talented workers may not be willing to commit to state government employment long-term. But they may be willing to work for a state or local government for a few years. The defined contribution plan would make it easier to recruit such workers because it is fully portable, and the workers can take the saved contributions with them when they leave. Moreover, these and other workers would favor the freedom of choice, personal control, and possibly higher benefits that they could get through defined contribution plans.

STUDY OF RETIREMENT PLAN DESIGNS

FOR

THE STATE OF COLORADO

OFFICE OF THE STATE AUDITOR

PURSUANT TO SENATE BILL 01-149

**Prepared by
Buck Consultants, Inc.**

November 20, 2001

COLORADO PLANS

**LEGISLATIVE AUDIT COMMITTEE
2001 MEMBERS**

Representative Fran Coleman
Chairman

Senator Jack Taylor
Vice-Chairman

Sena. Jr Normal Anderson
Representative Glenn Scott
Senator Stephanie Takis
Senator Ron Tupa
Representative Val Vigil
Representative Tambor Williams

Office of the State Auditor Staff

Joanne Hill
Acting State Auditor

Monica Bowers
Brenda Berlin
Legislative Auditors

Buck Consultants
Contract Auditor



November 20, 2001

Members of the Legislative Audit Committee:

This report contains the results of the study of retirement plan designs for Colorado. The study was conducted pursuant to Senate Bill 01-149, which authorized the State Auditor to conduct a comprehensive study of defined benefit and defined contribution retirement plan designs for members of the Colorado Public Employees' Retirement Association. The report presents our findings and conclusions.

Buck Consultants, Inc.
Tabor Center
1700 17th Street Suite 1200
Denver, Colorado 80202

720|359-7700

Fax 720|359-7701

www.buckconsultants.com

TABLE OF CONTENTS

PAGE

EXECUTIVE SUMMARY	1
I. PROJECT PURPOSE AND SCOPE	10
II. BACKGROUND	11
A. GENERAL DESCRIPTION OF RETIREMENT PLAN TYPES	11
B. COMPARISON OF DEFINED BENEFIT AND DEFINED CONTRIBUTION PLANS	12
C. CORPORATE VS. PUBLIC PLANS	13
D. TREND TO INCORPORATE DC ELEMENTS IN PUBLIC PLANS	14
III. DESCRIPTION OF COLORADO PERA	16
A. OVERVIEW	16
B. PERA BENEFITS	16
C. PERA CONTRIBUTIONS	20
D. PERA MEMBER DEMOGRAPHICS	20
IV. BENEFITS	23
A. ADEQUACY OF THE PENSION BENEFIT	23
B. VALUE TO MEMBERS	26
C. COMPARISON OF PERA TO OTHER PUBLIC PLANS	29
D. COMPARISON OF PERA TO PRIVATE SECTOR PLANS	38
V. COSTS	43
A. COMPARISON OF PERA COSTS TO OTHER PUBLIC SECTOR PLANS	43
B. OVERALL VALUE OF COSTS AND BENEFITS: PERA VS. OTHER PUBLIC SECTOR PLANS	46
C. COMPARISON OF PERA COSTS TO COLORADO PRIVATE EMPLOYERS	47
D. FINANCIAL CONDITION	48
E. RETURN ON INVESTMENT	50
VI. PORTABILITY	53
A. DEFINITION OF PORTABILITY	53
B. IMPORTANCE OF TRANSFERABILITY	53
C. IMPROVEMENTS IN PORTABILITY WITHIN DB PLANS	54
D. PORTABILITY OF PERA BENEFITS	54
VII. RECRUITMENT AND RETENTION	56
A. EFFECTIVENESS OF RETIREMENT PLAN DESIGN IN ATTRACTING AND RETAINING EMPLOYEES	56
B. EMPLOYEE TURNOVER	57

TABLE OF CONTENTS

VIII. ALTERNATIVES FOR COLORADO.....	60
A. ALTERNATIVE 1 – MAKE NO CHANGES.....	60
B. ALTERNATIVE 2 – ADD MINOR ENHANCEMENTS.....	60
C. ALTERNATIVE 3 – ENHANCE HYBRID FEATURES.....	62
D. ALTERNATIVE 4 - OFFER A FULL DC PLAN.....	63

APPENDICES

A. PERA PROVISIONS FOR STATE AND SCHOOL EMPLOYEES.....	A-1
B. EXAMPLE OF DETERMINATION OF INCOME REPLACEMENT NEEDS.....	B-1
C. SUMMARY OF BENEFIT PROVISIONS OF OTHER STATE RETIREMENT SYSTEMS.....	C-1
D. SELECTED DEFINED CONTRIBUTION AND HYBRID PLANS IN OTHER SYSTEMS.....	D-1
E. COLORADO PERA STATE & SCHOOL DIVISION HISTORICAL FUNDING INFORMATION.....	E-1
F. COMPARISON OF HISTORICAL RATES OF RETURN BETWEEN PERA AND VARIOUS ASSET ALLOCATION POLICIES FROM 1970 THROUGH 2000.....	F-1
G. PROJECTION OF ESTIMATED PERA COSTS – CURRENT PLAN.....	G-1
H. SUMMARY OF SIGNIFICANT STATEWIDE RETIREMENT SYSTEM CHANGES SINCE 1991 REGARDING PORTABILITY.....	H-1
I. KEY PUBLIC PENSION AND BENEFIT PROVISIONS IN THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.....	I-1
J. DEFERRED RETIREMENT OPTION PLANS IN OTHER SYSTEMS.....	J-1
K. PERA RESPONSE.....	K-1
L. DISTRIBUTION LIST.....	L-1

EXECUTIVE SUMMARY

PURPOSE AND SCOPE

This study was conducted by Buck Consultants under contract to the State Auditor in accordance with Senate Bill 01-149, enacted by the General Assembly in 2001. The bill authorized the State Auditor to:

"conduct a comprehensive study of defined benefit and defined contribution retirement plan designs for state employees and for other employees who are members of the [Colorado Public Employees' Retirement] Association or eligible to be members. The study shall include a comparison of the benefits, cost, and portability of Association benefits with the benefits, cost, and portability of benefits provided by other defined benefit and defined contribution retirement plans for public and private sector employees in Colorado and other states, including Social Security, and a review of the effectiveness of retirement plan designs for attracting and retaining qualified state and school employees. The study shall also include any topics recommended by the [Colorado Public Employees' Retirement Association] Board or by the Legislative Audit Committee for the study."

This report presents the results of our work.

BACKGROUND

The two main types of retirement plans referred to in this report are Defined Benefit (DB) and Defined Contribution (DC). DB plans provide income for retirement based on a formula that is fixed; thus there are "defined benefits." DC plans define the contribution level rather than the retirement income level. The benefit provided in a DC plan is determined by the contributions and investment earnings accumulated in an individual employee's account over the course of his or her career. A variation on the traditional DB plan, a Cash Balance plan calculates benefits in a manner similar to a DC plan. Under a Cash Balance plan, benefits accrue at a steady pace throughout a worker's years of service, and are available to the employee on termination.

The pattern of benefit values over an employee's working career is typically different between DB and DC plans. For example, a DC benefit pattern is generally higher than a DB benefit during an employee's early years but lower during later stages of an employee's career. Some employers offer both types of plans or have hybrid designs that blend features of each plan.

DESCRIPTION OF COLORADO PERA

The Public Employees' Retirement Association (PERA) of Colorado covers State employees, all Colorado school districts except Denver, the State's judicial system, numerous municipalities, special districts, public health departments, and other local government agencies. As of January 1, 2001, PERA's membership included just over 53,000 active state members and nearly 97,000 active school members, as well as about 52,000 current retirees and beneficiaries. PERA was conceptualized as a complete retirement program and still maintains that philosophy today. PERA does not participate in Social Security and therefore is designed and funded with the intent of supplying retirees with the income replacement needed at retirement to sustain the approximate lifestyle the members enjoyed prior to retirement.

EXECUTIVE SUMMARY

The current PERA retirement program is a comprehensive plan that includes the following components:

- The Defined Benefit (DB) plan provides a minimum pension based on employee contributions of 8% of pay, with interest, and employer contribution. (currently 8.8% of pay). PERA also provides a cost-of-living increase (currently 3.5% per year).
- The Cash Balance plan (Money Purchase Retirement Benefit) allows members to receive a refund of both employee and some employer contributions, payable in a lump sum, in lieu of a monthly pension.
- The Defined Contribution (DC) plan (MatchMaker) provides an employer match for voluntary member contributions to a DC plan. The matching amount, set annually by the PERA Board, is currently 100% of the member contribution to a maximum of 3% of pay.
- The Health Care Trust Fund subsidizes the medical premium costs of retired members who participate in PERA's health care program. Employer contributions of 1.1% of pay fund the Health Care Trust Fund.

PERA pre-funds pension payments to members. Employee and employer contributions are placed into a trust fund and invested for future growth. The PERA Board sets the investment policy, including the asset allocation. As of December 31, 2000, the majority of PERA's assets are allocated to domestic and international stocks (over 67%) with the remainder being allocated to fixed income, real estate, cash and alternative investments.

PERA's funded ratio has improved over the last sixteen years, reaching 102% as of December 31, 2000. A funded ratio of 100% or greater indicates a well-funded plan. From 1970 through 1984, PERA's annualized rate of return on investments was 9.31% and from 1985 through 2000 it was 12.49%. These returns have far exceeded the assumed actuarial rate of return during the period, helping to improve PERA's funded status and funding benefit increases.

BENEFITS

We used various approaches to assess the benefits provided by PERA. First, we evaluated the extent to which PERA provides an adequate post-retirement income to members. We found the PERA defined benefit plan generally provides a career employee (one who works for 30 to 35 years and who retires at an unreduced retirement age) with a benefit which permits the employee to retire with total retirement income approximately equal to his or her pre-retirement take-home-pay.

Second, we analyzed PERA's DB benefits relative to a hypothetical DC plan. We concluded that employees who remain in employment until they are eligible for early retirement generally are better off under the current PERA defined benefit plan than they would be under a defined contribution plan. Viewed from this perspective, the PERA defined benefit plan provides greater retirement security than a defined contribution plan having the same employer and employee contribution rates. Employees who terminate before age 50 generally are better off under a defined contribution plan than under the current PERA defined benefit plan.

EXECUTIVE SUMMARY

Third, we compared PERA to other public sector plans. We calculated the present value of benefits payable for Normal Retirement, Early and Vested Retirement (where applicable), Post-retirement Death, and COLAs for an average employee using consistent assumptions. We compared these calculations for PERA with ten other state retirement systems and assigned scores to rank the systems. As the following table shows, PERA ranks second among the comparison states when all benefits are considered.

BENEFIT ANALYSIS FOR COLORADO PERA AND TEN OTHER STATE RETIREMENT SYSTEMS							
Rank	State	Benefit Points					Total Points
		Normal	Early	Vested	COLA	Post-Ret Death	
1	New Mexico	88	20	12	14	12	146
2	Colorado ⁽¹⁾	62	16	15	17	10	120
3	Missouri	67	15	8	15	13	118
4	Utah	63	14	8	17	12	114
5	South Dakota	46	14	13	16	12	101
6	Wyoming	47	17	10	14	9	97
7	Nebraska ⁽²⁾	43	16	19	8	10	96
8	Iowa	45	18	11	15	5	94
9	North Dakota	55	12	6	10	6	89
10	Kansas	50	14	5	10	5	84
11	Minnesota	35	11	5	14	5	70

¹ Not participating in Social Security.
² Defined contribution plan.
Source: Buck Consultants analysis of data provided by PERA and other states.

We also used Buck's Retirement Designer software to compare PERA benefits to a number of other statewide systems that maintain both DB and DC plans or that have made changes recently to implement a DC plan or hybrid. We found that PERA benefits are higher at all age/years of service levels than other DB plans in our comparison. In addition, the income replacement provided by PERA is higher than that provided by the DC only and DB plus DC plans of other states in our comparison.

Fourth, Buck contacted ten large Colorado employers to obtain relevant information on their retirement programs for comparison with PERA. We concluded that PERA has a competitive retirement benefit package due to higher benefits and lower employee contributions. Most private employers provide lesser benefits, particularly because of the trend to reduce benefits and switch from more generous defined benefit plans to less generous defined contribution plans. It is important to note that all private employers are required to participate in Social Security which is funded through employer and employee contributions of 6.2% of payroll each, up to the Social Security wage base. The bottom line is that only one of the ten employers in our comparison provides benefits as high as those provided under the current PERA structure and three provide benefits at only about half the level of PERA. The following table compares PERA with the average private employer.

EXECUTIVE SUMMARY

PERCENT OF REPLACEMENT INCOME PROVIDED				
Replacement Income From:	PERA Covered Employee	Avg. Private Employee with Annual Salary of:		
		\$25,000	\$50,000	\$75,000
Social Security	0.0%	23.0%	17.1%	14.0%
DB Plan	75.9%	12.2%	12.4%	13.6%
DC Plan - Employer non-elective	0.0%	2.2%	2.2%	2.2%
Subtotal Non-elective	75.9%	37.4%	31.7%	29.8%
DC Plan - Employee Voluntary	13.4%	25.9%	25.9%	25.9%
DC Plan -- Match	13.4%	17.3%	17.3%	17.3%
Subtotal - Voluntary and Match	26.8%	43.2%	43.2%	43.2%
Total Replacement Income	102.7%	80.6%	74.9%	73.0%
Required Employee Contributions	8.0%	6.2%	6.2%	6.2%
Voluntary Employee Contributions	3.0%	5.8%	5.8%	5.8%
Total Employee Contributions	11.0%	12.0%	12.0%	12.0%

Source: Data provided by private companies and PERA.
 Assumptions: Employee is hired today at age 30 and retires at age 62. Compensation increases by an average of 5.5% per year. DC plan investments earn 7.5% per year. Benefit levels do not change.

COSTS

As described above, we collected information on other state and school retirement plans and analyzed the overall value of PERA relative to other public sector plans when costs and benefits are considered together. We concluded that PERA has the lowest retirement benefit cost of any of the public systems in our comparison. The comparative contribution rates for both employees and employers in other systems include an added 6.2% for Social Security where applicable. Systems like PERA that do not participate in Social Security generally have lower costs due to the efficiency of pre-funding retirement benefits. The following chart shows how PERA contribution rates compare to the average of the other state and school systems we reviewed.

CONTRIBUTION RATES FOR STATE AND SCHOOL RETIREMENT SYSTEMS AS OF 12/31/2000				
State/System	Social Security Coverage?	With Social Security (6.2%)		
		Employee	Employer	Total
<i>Colorado State & School</i>	<i>No</i>	<i>8.00%</i>	<i>8.80%</i>	<i>16.80%</i>
Average State System	Yes	9.84%	13.53%	23.37%
Average School System	Yes	10.82%	12.78%	23.60%

Source: Buck Consultants analysis of data provided by PERA and other states.

We also found that PERA scores the highest within our comparison with other public systems for both State and School employees when considering both cost and benefit levels. The relative value of benefits delivered by each public retirement system in our comparison can be measured when considering both costs and benefit levels. To determine a value score, the score for costs and benefits are added together.

EXECUTIVE SUMMARY

Finally, we reviewed the costs of retirement plans offered by private employers. It is difficult to compare the costs of the DB plans offered by private employers because most of them are overfunded and no contributions are currently being made. However, the 2000 Employee Benefits Study recently published by the U.S. Chamber of Commerce surveyed the benefit programs of 532 companies and found the average employer cost for retirement and savings plans was 6.6% of pay. When mandatory Social Security cost of 6.2% of pay (up to the maximum wage base) is added, the average cost of a retirement program in the private sector is over 12% of pay, about 3 percentage points higher than the current employer cost under PERA. When compared to private employers, PERA has a competitive retirement benefit package due to higher benefits and lower employee contributions.

In order for DC plans, which are common to the private sector, to provide the same benefit value as PERA's DB plan for an employee at age 60 after 30 years of service, the DC plans would need to earn a higher investment return or be funded with higher contributions than the PERA DB plan. Hence, it is more expensive for a DC plan to provide a career employee with the same level of retirement benefits as a DB plan with the same investment return, although DC plans are often more valuable for short service employees.

PERA's status as a well-funded plan relates to its investment returns which are the result of investment policy and asset allocation decisions of the PERA Board and its investment managers. We calculated an expected rate of return for PERA of 9.03%, after expenses, and an average rate of return for an average DC plan of 7.52%, after expenses.

PORTABILITY

Portability is an important element of retirement plans, particularly for shorter-term, younger employees who change jobs and want to be able to receive value for the contributions and earnings in their retirement accounts. Portability can be characterized by the following three important features:

- **Vesting** – the years of service required for an employee to be eligible to receive the benefit funded by the employer contribution upon termination of service. Vesting of employer-funded benefits generally occurs earlier in defined contribution plans than in defined benefit plans.
- **Amount** – the value of the benefit the terminating employee is eligible to receive. The benefit amount or value of a traditional final average pay DB plan is generally lower than a DC account balance for younger, shorter service employees but the value of the DB plan benefit almost always exceeds the DC account balance by the time an employee is eligible to retire.
- **Transferability** – the ability to transfer, rollover, or cash-out the value of the retirement benefit upon termination of service. While lump sum cash-outs are available in a limited number of DB plans, virtually all DC plans offer lump sum payments. Transferability is probably the most valued aspect of portability.

EXECUTIVE SUMMARY

Some states are adding portability features to their existing DB plans as an alternative to offering a DC plan. Along with Colorado, South Dakota and Wisconsin added improved refund benefits to their DB plans. This feature, which allows a refund to include either all or a portion of the employer contribution, operates much like a cash balance plan benefit within the existing DB plan. The contribution balances are credited with interest at a defined rate under the plan. When a member terminates or retires, he or she can choose a lump sum refund of the cash balance or a monthly pension.

We found the portability of employee and employer contributions is a substantial strength of PERA. The following is a breakdown of the contributions that are immediately vested and available to PERA members who terminate service prior to reaching retirement age, for members who are and are not making voluntary contributions to a DC plan.

	<u>Contribution Rate</u>		
	<u>Employee</u>	<u>Employer</u>	<u>Total</u>
<u>No DC Plan Contributions</u>			
Portable DB Contributions	8.0%	4.0%	12.0%
Total Contributions	8.0%	8.8%	16.8%
Portability Rate (Portable Contributions ÷ Total)			71.4%
<u>With DC Plan (MatchMaker) Contributions</u>			
Portable DB Contributions	8.0%	4.0%	12.0%
Portable DC Contributions	<u>3.0%</u>	<u>3.0%</u>	<u>6.0%</u>
Total Portable Contributions	11.0%	7.0%	18.0%
Total Contributions	11.0%	8.8%	19.8%
Portability Rate (Portable Contributions ÷ Total)			90.9%

Source: Buck Consultants analysis of data provided by PERA.

RECRUITMENT AND RETENTION

An important element of our study was to review the effectiveness of retirement plan designs in attracting and retaining qualified state and school employees. In our review of employee attraction and retention research, health insurance was found to be the most important employee benefit, while savings and pension plan benefits were a distant second and third, respectively. These results indicate that employers looking to adjust or improve their benefit packages to meet employee recruitment and retention goals are more likely to achieve their goals by improving health insurance benefits than by enhancing retirement benefits. Of the workers surveyed in the research, only 6% of those covered by a DB plan, and only 5% of those covered by a DC plan, said they have accepted, quit, or changed jobs because of the type of retirement plan offered.

Benefits definitely play a role in attracting and retaining qualified employees but they are not the only factor, nor are they usually the most important factor, in an organization's ability to attract and retain employees.

We do not believe that any changes in the PERA benefit design would significantly improve recruitment and retention. If other evidence is found which demonstrates that a recruitment or retention problem exists, we would recommend that prior to further consideration of changes to

EXECUTIVE SUMMARY

PERA, the State identify if the problem is related to pay issues, work environment issues, or other benefit issues. We also believe that an enhancement in the communication of PERA's strong portability benefits may improve recruitment.

ALTERNATIVES FOR COLORADO

We identified no significant weaknesses in the current structure of PERA since the plan offers a blend of both DB and DC features and a high degree of portability, and compares favorably to other public and private sector plans. Based on our analysis of PERA turnover and the PERA plan design, we do not believe that any significant change in PERA benefit design would improve recruitment and retention. Communication of PERA's strong portability features to potential recruits may need to be enhanced. Unless a major problem arises with the PERA retirement program, we see no compelling reason for significant changes. Therefore, the Legislature is in a favorable position in terms of considering the need for and extent of any changes to PERA. The following four alternatives offer options for consideration, but are dependent on the State's overall goals and objectives. Some of the alternatives are geared toward enhancing benefits for workers who value portability; others toward workers who seek full retirement benefits. It is important to note that the cost estimates for all the alternatives presented are general in nature. PERA's actuary would need to prepare official fiscal analysis on proposals before any alternative plan designs are implemented.

Alternative 1 - Make No Changes: Maintain PERA as is with both DB and DC elements, including the gain sharing program as a mechanism to reduce future employer contributions. Benefits and costs would remain unchanged. Under gain sharing, 20% of the ten-year amortization of overfunding, determined as a percentage of pay, reduces the employer contribution rate otherwise payable in the following year. Communication of PERA's MatchMaker and portability benefits should be increased to improve understanding of the portability benefits available to both current employees and in materials available to potential new employees.

Alternative 2 - Add Minor Enhancements: Maintain the current PERA DB structure and consider making one or more of the changes described below. The new features suggested in this alternative would not result in a change in the basic public policy with regard to providing retirement income for Colorado public employees since the basic PERA DB plan structure remains unchanged. The changes could be implemented in a time frame of several months with minimal additional costs to PERA.

- a) Redesign the DC benefit to help attract younger employees. This change would replace the MatchMaker program with an employer basic contribution to the DC plan for all employees, thereby allocating the MatchMaker contribution more evenly to younger and lower paid employees. The employer basic contribution would be set by the PERA Board each year, with approximately 2.5% of pay available long-term. As a further alternative, the basic contribution could be directed to a flexible benefit plan, giving employees the choice of using the funds to pay for health insurance premiums, or in cash which can be contributed to a DC plan.

EXECUTIVE SUMMARY

- b) Enhance portability for younger workers. Any of the following three changes would improve portability which may improve recruitment and retention of younger workers:
- *Increase the employer match on the Cash Balance plan feature from 50% to 75% of the Member Contribution Balance after five years of service.* This would increase the amount employees could receive if they terminate service before retirement, increasing the employer match feature from 50% to 75% of the Employee Contribution Balance after five years of service. This change would reduce the funds available to match contributions to the DC plan from the current maximum of 3% of pay to an estimated 2.4% of pay.
 - *Provide a full refund of employer contributions in the Cash Balance benefit after five years of service.* The full employer contribution rate would be allocated to the Cash Balance benefit, thus redirecting most of the additional DB funding to younger members. This change would reduce the funds available to match contributions to the DC plan from the current maximum of 3% of pay to an estimated 1.4% of pay.
 - *Index the deferred vested benefit from the DB plan by 3.5% per year.* Cost-of-living adjustments would be applied to the DB retirement benefit equal to a fixed annual increase of 3.5% per year from date of termination to the benefit commencement date. The DB retirement benefit would have a greater value for younger terminated members. This change would reduce the funds available to match contributions to the DC plan from the current maximum of 3% of pay to an estimated 1.3% of pay.
- c) Enhance features to retain experienced staff. Adding a Deferred Retirement Option Plan (DROP) provision may help retain older skilled workers by offering lifetime retirement income *plus* a lump sum benefit. DROPs allow a retirement-eligible employee to promise to retire on a date certain in the future. The employee's benefit entitlement is calculated immediately and the monthly benefit amount is paid to an escrow account on the employee's behalf. On the agreed date, the employee retires with the monthly lifetime benefit as calculated when he or she entered the DROP and the DROP account (with accrued interest) is distributed as a lump sum at actual retirement.

Alternative 3 – Enhance Hybrid Features: In addition to the current PERA program, make a combination DB/DC plan available to future PERA members only. This alternative would increase the contribution to the DC plan, most likely resulting in enhanced benefits for employees leaving PERA at younger ages which may increase the perceived value for potential employees. However, the change would also result in smaller benefits for most career employees at retirement. This alternative results in a shift in public policy since it reduces the guaranteed lifetime income provided by PERA and allocates some of the current funding to enhanced DC benefits.

Alternative 3 would be designed to have the same relative costs as the current program when compared to the funding available but the DB plan cost is expected to be 9.0% of pay. This alternative would require that PERA develop a new program for new members that would have a different or reduced benefit structure. This would significantly increase administrative costs. We estimate that Alternative 3 would require up to one year to implement. To maintain cost-

EXECUTIVE SUMMARY

neutrality of the plan, no MatchMaker contribution would likely be available to new members who elect the combination DB/DC plan.

Alternative 4 – Offer a Full DC Plan: Add a full DC option plan, giving current and future employees the opportunity to elect out of the PERA guaranteed benefits at retirement, disability, and death in return for exclusive participation in a DC plan. Choice between DB and DC is seen as appealing to new employees. DC plan members could be given an irrevocable choice after five years of service to opt into the DB plan, transferring their DC account balance to the DB plan, thereby gaining credit under the DB plan for past service. An important policy consideration for the General Assembly is that employees who opt for the DC plan under this alternative would have no "safety net" in retirement since they are not covered by Social Security while they are PERA members. Alternative 4 would result in a significant change in public pension policy because employees who elect the DC plan will have no guarantee of adequate retirement income and will bear all the risk for adequacy. The adoption of a defined contribution plan as an option to an existing defined benefit plan may place a burden of responsibility on individuals for their investments both during active work-life and in retirement.

Alternative 4 would introduce a level of uncertainty to the PERA funding requirements and likely increase the cost of the current benefit structure for those remaining in the DB plan due to the choice feature. The additional cost occurs when employees who are given a choice of benefits successfully choose the more valuable benefit. Younger members would tend to elect the DC plan and older members would tend to elect the DB plan. The DB plan benefit cost is higher for older members due to a shorter period between hire date and retirement date required to fund the benefit. The DC plan would be based on the same employee/employer contribution levels and include Health Care Trust Fund participation, but there is the likelihood of higher contribution requirements or a decrease in the funds available for the current DC funding by PERA. The amount of cost increase cannot be accurately predicted until experience develops under any program so offered, although we believe an increase in the DB plan cost of 0.3% of pay is a reasonable estimate. Alternative 4 adds significant administrative and communication complexities to the program. We estimate that 18-36 months would be required for implementation.

PERA RESPONSE

This report has been reviewed by the Public Employees' Retirement Association of Colorado. Their comments concerning this report is attached in Appendix K.

Rep. Paul Seaton

From: Harvey, Tom [AK] [Tom.Harvey@neaalaska.org]
Sent: Thursday, March 24, 2005 2:23 PM
To: Rep. Paul Seaton
Cc: Alcantra, John [AK]; Bjork, William (contact) [MB]
Subject: TRS/PERS Board

Rep. Seaton,

Thank you for your efforts to make the TRS/PERS issue an open exchange of information and a process that allows all interested parties to have constructive input. You and your staff, particularly Katie, have been very cooperative in exchanging information and exploring options. I must express NEA-Alaska's concern that the attempt by the Senate to keep education funding hostage for specific defined contribution plan should be avoided by the House. The issues are separate issues. If funding TRS/PERS needs to be outside the BSA then so be it. But demanding that a bill be passed in less than 42 days, when it has taken more than 60 days to get bills out for consideration, is unrealistic. Haste makes waste.

In regards to the composition of the Boards, I would suggest that the method by which trustees get on the Boards should be the same. It does make sense that the Governor gets to appoint a majority of the trustees. Thus, the largest beneficiary, the state of Alaska, has a majority of the trustees and gets to be sure the management and fiscal knowledge criteria are met. Having the criteria in the bill also makes sense. The participants in the system should also have guaranteed representation. NEA-Alaska believes they should be a majority of the Board; however the real issue is how they get on the Board and the preferred process is by election by the participants. Thus, utilizing the election process in the PERS law for TRS would seem appropriate.

Given the many differences in benefits in the two systems, it does not make sense to have the Boards combined into one Board. A major function of the Boards is the appeals process and therefore requires people who understand the particular system.

It is clear that the Boards share many things in common regarding financial and actuarial data. They have been meeting jointly more often recently. A statutory requirement for quarterly joint sessions may be a better approach than combining the Boards.

At the work session today, a suggestion was made to provide for management representation (municipal, university and school district) was made. That would bring all parties to the table. That could be done by expanding the Boards OR by making one of the Governor's appointments come from a list of nominees presented by the three entities. If you wish we could have language drafted for your consideration on all the above.

NEA-Alaska will continue its efforts to work with you to better define the real issues before us and to fashion good solutions. We are not convinced that a defined contribution system only is the sole or right solution.

Thanks.

Tom Harvey
NEA-Alaska Executive Director
1-800-996-3225, ext. 527
1-907-274-0551 (FAX)

Supporting public education that achieves excellence and equity for every Alaskan child.

Louie Flora

From: Ron Rich [csexton@xyz.net]
Sent: Monday, March 28, 2005 11:43 PM
To: Louie Flora
Subject: PERs

I want you to know that i believe the retirement system has been too good for state workers . And the future should not be so good for those workers.

I spent 17 yrs with the alaska army guard and get 100 dollars a month until age 70 or 72 . my sister in law will get 300 dollars a month after 55yr of age for working for the state for 5 years.

I think the state should cut back the big bucks they give to state workers in pensions., and i trust you will make the best decision on these matters for me.

good luck and just be honest when you make your vote.

Love; Ron & Carol on the Old Sterling Hwy, Anchor Point, Alaska

Rep. Paul Seaton

From: Patricia Parsch [audi@gci.net]
Sent: Monday, March 28, 2005 5:00 AM
To: Rep. Paul Seaton
Subject: TRS & PERS Retirement

Patricia Parsch
6551 Cimarron Circle
Anchorage, AK 99504-3944

March 28, 2005

The Honorable Paul K. Seaton
Alaska House of Representatives
House of Representatives, Room 102
Juneau, AK 99801-1182

Dear Representative Seaton:

Dear Mr. Seaton,
As an Alaskan educator for 23 years, I have grave concerns about the five current bills legislators are considering. I'm opposed to the proposed changes and urge you to stop the abuses. If we can do this and close the loopholes, an excellent system will continue to operate effectively for retirees without mortgaging the future of working Alaskans.

Sincerely,

Patricia Parsch
907-742-1182

Louie Flora

From: Willy Dunne [wdunne@xyz.net]
Sent: Saturday, April 02, 2005 11:38 AM
To: Ian Laing
Subject: report for HSA committee

David Reaume: State's salaries are falling behind

DAVID REAUME
COMMENT

Published: March 6th, 2005

Last Modified: March 6th, 2005 at 07:23 AM

State government payroll per worker has dropped 31 percent since 1984, after adjustment for inflation. Over that same time period Alaska personal income per capita, also adjusted for inflation, has dropped only 3.7 percent. Although changes in the job composition of Alaska's work force readily account for the drop in real per capita income for all Alaskans, changes in the job composition of the state of Alaska work force cannot possibly account for the drop in inflation-adjusted payroll per state government worker.

The year 1984 was the height of the early 1980s oil price boom in Alaska. State coffers were bulging. One might, therefore, question the choice of 1984 as a base year for comparison purposes. But a look at 1991 pay schedules shows that paychecks for state government employees have continued to erode at a rapid pace.

For example, a range 18E supervisory worker earned \$3,893 per month in July 1991, base pay. The pay schedule that went into effect in December 2002 (the most recent available, shows a range 18E supervisory worker earning \$4,429 per month. Had that range 18E supervisor been fully compensated for inflation since July 1991, the worker's December 2002 base pay would have been \$5,796. On an annual basis the shortfall comes to more than \$16,000.

So how do state salaries compare to those paid elsewhere for people of comparable skills and educational attainments? Comparisons that have been made in the past seem to suggest that state workers are doing reasonably well. But there are several problems with those past comparisons. One big problem that arises when comparisons are made with out-of-state workers is that only cost-of-living differentials have been accounted for. Other factors have been ignored, such as the possible need for a post differential.

A post differential is a percentage amount that must be added to salaries, over and above a cost-of-living allowance, to compensate for factors that are not included in the cost-of-living allowance. Such factors include climate, hours of daylight, quality of schools, interstate and intrastate air transportation costs, special housing maintenance costs, goods and services needed in the COLA area but not needed in the representative city, and remoteness and isolation. What little evidence is available suggests that the post differential for Anchorage may be considerably higher than one might have expected.

In a study released by the federal Office of Personnel Management in July 2000

titled "Special Research Relating to the Nonforeign Area Cost-Of-Living Allowance (COLA) Program," economist Joel Popkin estimated that the post differential needed in 1996 to fully compensate federal workers in Anchorage was about 30 percent of what they would have been paid in Washington, D.C. This 30 percent was in addition to the existing 25 percent tax-free COLA. The combination of the 30 percent required post differential and the existing 25 percent tax-free COLA was over 60 percent of the base salary paid in Washington, D.C., after converting the COLA to a taxable equivalent percentage.

I understand that many Alaskans prefer living in Alaska to living Outside and would be happy to work at today's wages. To those workers a post differential is just another bonus. But employers, state government included, cannot count on finding all or even most of the skilled new people they need if the search is restricted just to those residents who happen to love Alaska for itself. The state, like other Alaska employers, must recruit workers from Outside if it is to maintain a competent work force. To do so, it rather clearly needs to rethink its compensation policy.

David M. Reaume is a Washington state-based economist who was based for many years in Juneau. His opinion column appears every fourth Sunday.

THE REPORT "Special Research Relating to the Nonforeign Area Cost-Of-Living Allowance (COLA) Program" can be seen at www.opm.gov/oca/COLA/html/Research.pdf

--
No virus found in this outgoing message.

Checked by AVG Anti-Virus.

Version: 7.0.308 / Virus Database: 266.9.1 - Release Date: 4/1/2005

Louie Flora

From: Willy Dunne [wdunne@xyz.net]
Sent: Saturday, April 02, 2005 11:39 AM
To: Ian Laing
Subject: Report for HSA committee

Workers for state see little pay raise

DAVID REAUME
COMMENT

Published: February 6th, 2005

Last Modified: February 6th, 2005 at 03:05 AM

Recently I was hired by the Alaska Public Safety Employees Association to examine the pay history of the Alaska state troopers and to testify to my findings at an arbitration hearing held in Anchorage the week of Jan. 17. What I discovered deserves some publicity. Briefly put, Alaska does have a personal income tax, albeit one that is not on the books. That tax is levied only on state government workers. Here are the facts.

In 1984, average annual payroll per worker for Alaska state government workers stood at \$32,376. By 2003 it had risen to \$39,540. Although that may seem like a reasonable increase at first glance, the \$39,540 earned in 2003 was actually worth only \$22,327 in 1984 dollars, a decline of some 31 percent.

It is not possible to account for this 31 percent real (inflation-adjusted) decline by reference to changes in the composition of state government employment. It happened because state government workers have been getting pay increases for the past 20 years that simply do not keep up with inflation. Comparing what each got with what each would have received under full inflation adjustment, we find that, on average, state government workers paid an implicit state income "tax" in 2003 on the order of \$10,000 in constant 1984 dollars. Restated in 2003 dollars, the average 2003 "tax" per employee comes to more than \$17,000.

Other Alaskans seem to have done much better because per capita personal income for all Alaskans nearly kept up with inflation over this period. Restated in constant 1984 dollars Alaska per capita personal income stood at \$18,778 in 2003, down only 3.7 percent from the \$19,503 posted in 1984. Given the change in the composition of Alaska employment over this period, toward lower paying retail trade and service-sector jobs, it seems likely that the earnings of most individual workers in the private sector, in contrast to those in state government, more than kept up with inflation over the past 20 years even if they received no promotions.

We can look at this in another way. I have constructed 20-year "could-have-been" salary profiles for three hypothetical state government workers, one who earned \$15,000 in 1984, one who earned \$25,000 in 1984 and one who earned \$35,000 in 1984. I have assumed that each received promotions that increased their pay by an average of 1.7 percent per year plus an annual average cost-of-living increase equal to one-half the previous year's increase in the Anchorage consumer price index. These assumptions are not out of line with actual

experience.

Compared with what each would have received had they been fully compensated for inflation, the first state worker lost \$82,000 over the past 20 years, the second state worker lost \$137,000 and the third lost \$192,000. Given that their pensions are determined in part by their earnings, their total losses inclusive of pension loss are only a little less than double their salary loss.

In other words, many if not most state government workers have realized little or no increase in their standard of living since 1984. Between 1983 and 2003 the Anchorage consumer price index rose at an annual average rate of 3.1 percent. The numbers that I have looked at suggest that, even including promotions, the average state government worker's annual salary increased something less than 3.5 percent!

It is no secret that government workers are not the most loved people in Alaska. I suspect that if a poll were taken they might rank somewhere down near trial lawyers in public esteem. But they have a job to do, and that job will not get done competently if the state cannot hire enough good people. If Alaskans want a state government work force heavily loaded with people who are asked to do jobs for which they are not fully qualified, then stay the course. If you want competent, well-qualified people looking out for your interests, then it is time to reverse the trend of the last 20 years.

Some readers may wonder if the use of 1984 as a base year for salary comparisons biases the results in favor of the conclusion that state workers are underpaid. Others may wonder how Alaska state salaries compare to those in other states. I will address these issues in my next column, on March 6. In brief: The conclusion is unchanged when these additional questions are answered. State workers are underpaid.

David M. Reaume is a Washington-state-based economist who was based for many years in Juneau. His opinion column appears every fourth Sunday.

--
No virus found in this outgoing message.

Checked by AVG Anti-Virus.

Version: 7.0.308 / Virus Database: 266 9.1 - Release Date: 4/1/2005

3/30 Wed am
Senpai

Good Morning . My name is Gayle Harbo and I have been a resident of Alaska since 1957. I am a mother, a grandmother and a teacher and most recently a member of the Teacher Retirement System Board. As a parent and a grandmother I am most concerned about the quality and stability of the education employees in the state of Alaska. When I came to Alaska there were many applicants for each job, with prospective teachers often subbing for years before they were hired to a permanent position. Salaries in the late '60's and early '70's were very competitive. That is no longer true. I believe teacher job fairs are no longer held in either Anch or Fairbanks. The point is Alaska is no longer the place to come to get a good salary . A friend in Wasilla said if she had stayed in Wisconsin for her teaching career she would have a better retirement then she will have here.

I want the best and brightest to teach my grandchildren. To attract teacher's it is important we keep the DB system. Many of the changes recommended by the Tier Subcommittee of the Joint BDs could be adopted without going to a defined contribution system. One, in particular, would change the number of years over which an average salary is computed.

It is important to realize that, under the proposed system, seniors would be given a "pot" of money when they retire and then have to manage a resource that is to last them for a lifetime in terms of annual income. They would have no inflation proofing(PRPA, which even SS provides)and they would be at the mercy of investment advisors and unknown investment costs. As individuals, they would not be able to get the breaks ASPIB gets by investing large sums of money, putting their dollars at even greater risk. You have all read the horror stories of retirees who have lost everything because they did not have the expertise to invest. Most are emotional, not long term investors and their resources may not match their lifetime expectancy.

Another issue for seniors is health. I personally know many seniors who have suffered from stroke, Parkinson's, and dementia in their late 60's and early '70's. Who will look out for their well-being and security? Our retirees who invest their lives working for the state of Alaska deserve more.

The proposed legislation is particularly unfair to members of TRS who were pulled from Social Security, but not given the option PERS employees received when SBS was formed and the state matched the employee contribution of 6.13% . In addition PERS employees may participate in a

deferred comp plan. Teachers not only do not have a parallel SBS plan, they often receive little or no benefits under Social Security because of the provisions of the Government Pension Offset (spousal offset) and the Windfall Elimination Provision. These provisions eliminate or greatly reduce promised benefits from Social Security for quarters worked. Not only that, because the state mandates participation in Medicare Part B when a retiree reaches age 65, every retiree must pay almost \$80 a month out of pocket.

Last year this Legislature unanimously passed a resolution requesting our Alaska Delegation in Congress work for the repeal of GPO/WEP. They recognized the inequities for public employees not covered by SS.

I urge you to give this matter more thought before you make sweeping changes. Let's work together for a year to get the health care costs down and look at some of the suggestions made by the Joint Boards at the presentation of the Tier subcommittee's proposal in November. I am sure working together we can reach a solution that will be beneficial to future employees and also to Alaska's children. I want young people to come to Alaska and to stay in Alaska. We have much to offer. Thank you for this opportunity.

Bayle Harbo

July 3/29
Sen. Jor

Good afternoon. My name is Gayle Harbo and I have been a resident of Alaska since 1957, most of the time living in Fairbanks. I taught in Fairbanks for 25 years, most of the time at Lathrop High School and was Chair of the Math Dept and Advanced Placement Coordinator for almost 20 years. I am here as a member of the Teacher Retirement Board. The joint boards thank Senator Stedeman for his willingness to teleconference with us on Friday Mar. 25. We are sorry his plans changed but since he could not teleconference hope he and the Committee will read the verbatim transcript of the morning's discussion so they realize the depth of true concern that each Board member has regarding all the bills which seriously impact a retirement system which has worked well for 50 years. The only significant changes that have been made in recent years have been enhancements of benefits due to legislation. The Joint Boards have sent letters to the Legislature these past two years asking that you not introduce any bills which enhance benefits and the Administration has agreed to testify against these bills because all would increase the unfunded liability.

I am going to address 3 topics in my remarks and will be happy to answer any questions. If I don't know the answer I will try to find out.

My first issue is the interaction of the 3 Pension Boards. As you know the main work of the TRS and PERS Boards is listening to appeals of members, recommending employer contribution rates and adopting actuarial assumptions every 5 years based on the recommendations of the Commissioner of Administration and the actuary. ASPIB manages and invests the contributions to the system. The Joint Board members have great admiration and respect for the way ASPIB and the staff of Revenue, who work with Gary Bader, invest and care for our funds. Over the past 10 years the funds have earned almost 9% annually, at or near the assumed rate of our actuary. Earnings are not the problem causing the unfunded liability.

This leads to my second issue. The main driver of the decrease in the funding ratio has been the rapid increase in health care costs., a problem not unique to Alaska. You have seen in past presentations that without the inclusion of medical costs the funding ratio is a respectable 91% for TRS and 120% for PERS. Health care costs have accounted for 50% of the employer contribution rate increases in past few years. The Administration can make changes in the Health Care plan without legislation. First, changes can be made to the plan for current tiers if they do not diminish benefits, but are a matter of choice or convenience. (An example would be requiring members use hospitals, both in and out of Alaska, which are preferred providers so

significant savings could be negotiated - Providence in Anch. is not a PP yet over 80% of retirees go there, the hospitals in Juneau and Sitka are owned by their respective cities. They are not preferred providers and there is little savings to the state.) Secondly, significant changes can be made to the plan for employees hired after a specific date.

About 5 years ago the Joint Boards recommended an education program to encourage members to use Generic Drugs. The members responded and now 42% of the drugs used are generic. Every percent of brand name drugs replaced by generics saves the plan 1M. (see Oct. '04 Newsbreak). The Health Care Committee has for several years recommended the state pilot a disease mgt. program, particularly for diabetes, but we were told that the start up cost of \$240000 was too much. In speaking with other health plan administrators who utilize disease mgt. I have been told that the cost savings in the first four years are considerable and would more than recoup the start up costs. Mr. Mike Humphries, from the benefits division at the U of A, the NEA Health Trust and, perhaps Mr. Jarrell, our new trustee from Bering Straits School District, indicate their plans incorporate this element. For retirees this past year, 474 members had claims of over \$50000 each and accounted for 53M of the medical expenses to the state plan. Surely disease mgt could have reduced some of this cost. Other than the generic drug campaign no substantive cost savings measures have been taken. The Health Care Committee has presented a list of several cost savings measures that we, and the entire Jt Board, would like to see initiated. The Boards can only recommend, however, not implement. I feel we would not be at this juncture, with drastic changes recommended to the system, if this Administration and past Administrations had held a Forum with employers, legislators, representatives of unions and the Municipal League and medical professionals to discuss methods of resolving these skyrocketing costs. We all recognize the problem and would like to be part of the solution, not adversaries. Senator Seaton has a bill regarding generics and closed formularies. This does not have to be legislated - the Administration can make those changes now as long as they do not diminish benefits to the current tiers.

My third issue deals with the comments by some that the Boards have not been responsible in recommending the employer contribution rate and with the awarding of the ad hoc PRPA. Wrt TERS and the employer rate, it is a

recommendation, the Administration can set the rate higher. The Boards act with information provided them by the Administration and the actuary. In the early '90's the TRS Bd adopted a 12% employer rate and to ensure stability for employers for future planning, they intended this rate be used for at least 20 years. In 2000 and 2001, however, when setting the rates for FY'02 and FY'03, Mercer, our actuary, recommended rates as low as 7.09% and 8.29% for those fiscal years. The TRS Bds did, in those two years, drop the rate to 11%; had they not, the employers may have been upset. In '03 we set the rate at 16%, though the first motion was for 17%. The contribution rate has been higher - in FY' 83 and '84 the combined rate for state and school district was close to 18%. When I started teaching in the '60's, employee, employer and the state each contributed 7%. The employee population at the University that is not under TRS, but under private accounts has a match by the employer of roughly two to one.

The other issue of Ad Hoc PRPA's apparently needs to be clarified since you were given a paper dated Mar. 18 from Mercer regarding the funding status due to plan changes, mostly enhancements through legislation, and Ad Hoc PRPAs. As you know the Boards recommend Ad Hocs on the basis of information provided by the actuary and the Commissioner of Administration. The Boards have only made recommendations when the funds were healthy. No Ad Hoc has been recommended since 2003. A retiree gets either the Ad Hoc or the automatic PRPA, not both. In the past years when the Ad Hoc has been awarded it only causes a small "blip" in the increase of the employer contribution rate, probably less than .06%. The Mar. 18 letter fails to indicate that probably 99% of the ad hoc cost mentioned, resulted from the settlement of a lawsuit in the mid '90's. The state lost the lawsuit and as a result had to make all retirees whole, from the time they retired, wrt the PRPA. The dollars paid out include not only past prpas but the interest earned. Many individual retirees who had been retired 30 to 40 years received checks close to \$10000. The lawsuit, as many of you may remember resulted because past administrations had not awarded a prpa when the fund was "healthy".

The Mar. 18 letter also attributes nearly 1B of the increase to the unfunded liability to benefit enhancements by the legislature. The Boards have said many times that "tinkering" with the tiers, once they have been established has not been in the best interest of the funds and for some of

these changes the actuary has not accurately predicted the rapid rise in health care costs. In the assumptions adopted by the Boards, the last time in Dec. of 2000, Mercer had a Medical assumption rate of 5.5%. We now know was not a realistic assumption. The Boards requested an Actuarial Audit in 2001 and the resulting report indicated that we should look at Medical assumptions on an annual basis. You also know that the RIP programs advocated by the Legislature in the early '90's were to be cost neutral, but this past year Mercer indicated they have had a negative affect on the funding ratio, primarily because of escalating Medical costs. Despite this poor advice, if you examine Mercer's budget line item over the past few years, you will see there has been a 100% increase in their fees.

I thank you again for your time and hope you will carefully consider whether drastic measures need to be taken at this time. We all agree there is a problem and we hope by working together we can begin to solve it, but please do not burden future hires for the mistakes of others. Changes can be made, without legislation, to control current and future costs. Please let us work together to make Alaska continue to be the place young people will want to come to work, as you and I once did.

Gayle Harbo