

REFERENCE TITLE: ASRS; eligible rollovers

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2160

Introduced by
Representative Thorpe

AN ACT

AMENDING SECTION 38-747, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA
STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-747, Arizona Revised Statutes, is amended to
3 read:

4 38-747. Purchase of credited service; payment; limitations;
5 definitions

6 A. A member who purchases credited service pursuant to section 38-738,
7 38-742, 38-743, 38-744, 38-745 or 38-922 shall either:

8 1. Make payments directly to ASRS as provided in subsection H of this
9 section.

10 2. Elect to have the member's employer make payments as provided in
11 subsection B of this section.

12 B. A member may elect to have the member's employer make payments for
13 all or any portion of the amounts payable for the member's purchase of
14 credited service pursuant to the sections prescribed in subsection A of this
15 section through a salary reduction program in accordance with the following:

16 1. The amounts paid pursuant to a salary reduction program are in lieu
17 of contributions by the electing member. The electing member's salary or
18 other compensation shall be reduced by the amount paid by the employer
19 pursuant to this subsection. For the purposes of this paragraph, "other
20 compensation" includes a member's termination pay.

21 2. The member shall make an election pursuant to this subsection at
22 any time on or after the date the member elects to purchase credited service
23 pursuant to the sections prescribed in subsection A of this section and
24 before the member's termination of employment. The election shall specify
25 the number of payroll periods that deductions will be made from the member's
26 compensation and the dollar amount of deductions for each payroll period
27 during the specified number of payroll periods. In the case of an election
28 to utilize all or any part of the member's termination pay to purchase
29 credited service, the member's election shall be made at least three full
30 calendar months before the date of the member's termination of employment and
31 entitlement to receive the termination pay. After an election is made
32 pursuant to this subsection, the election is binding on and irrevocable for
33 the member and the member's employer during the member's remaining period of
34 current employment. After a member makes an irrevocable election pursuant to
35 this subsection, the member does not have the option of choosing to receive
36 the contributed amounts directly. For the purposes of this paragraph,
37 "termination pay" means any lump sum that is paid at the member's termination
38 of employment for accrued vacation, sick leave or overtime pay.

39 3. A member who makes an irrevocable election pursuant to this
40 subsection to have the member's employer make payments for less than all of
41 the amounts payable for the member's purchase of credited service may
42 irrevocably elect to have the member's employer make payments for all or any
43 portion of the remaining amounts payable for the member's purchase of
44 credited service. A member who makes one or more irrevocable elections
45 pursuant to this subsection may also make other contributions to ASRS

1 pursuant to subsection H of this section to the extent of any remaining
2 amounts payable for which the member has not made an election pursuant to
3 this subsection. An additional election or contribution with respect to a
4 portion of the amounts payable for the member's purchase of credited service
5 does not alter, amend or revoke an irrevocable election already made pursuant
6 to this subsection for any other portion of the amounts payable for the
7 member's purchase of credited service.

8 4. If on termination of the member's employment with an ASRS employer
9 all amounts have not been paid to ASRS pursuant to the member's irrevocable
10 election pursuant to this subsection, the member may pay ASRS, within thirty
11 days after the member's termination of employment and subject to other
12 limitations prescribed in this section, all or any portion of the unpaid
13 amounts as provided in subsection H of this section. These payments do not
14 alter, amend or revoke any irrevocable election already made pursuant to this
15 subsection with respect to any amount to be paid by the member's employer
16 while the member is employed by the member's employer.

17 5. Amounts paid by an employer pursuant to this subsection shall be
18 treated as employer contributions for the purpose of determining tax
19 treatment under the internal revenue code. The effective date of employer
20 payments pursuant to this subsection shall not be before the date ASRS
21 receives notification from the United States internal revenue service that
22 pursuant to section 414(h)(2) of the internal revenue code the amounts paid
23 by an employer pursuant to this subsection will not be included in the
24 member's gross income for income tax purposes until those amounts are
25 distributed by refund or retirement benefit payments.

26 6. Unless otherwise provided, member contributions paid by an employer
27 pursuant to this subsection are treated for all other purposes under ASRS in
28 the same manner and to the same extent as member contributions that are not
29 paid by an employer pursuant to this subsection. ASRS shall not grant
30 credited service for contributions made pursuant to this subsection until
31 those contributions are received by ASRS. ASRS may assess interest or
32 administrative charges attributable to any salary reduction election made
33 pursuant to this subsection. The interest or administrative charges shall be
34 added to the amount of contributions that is made to ASRS by the member each
35 payroll period and that is paid by the member's employer. The interest or
36 administrative charges shall not be treated as member contributions for any
37 purposes under this article and a member or a member's beneficiary does not
38 have a right to the return of the interest or administrative charges pursuant
39 to any other provision of this article. Interest assessed pursuant to this
40 subsection shall be at the rate specified by the board pursuant to section
41 38-711, paragraph 2.

42 7. If a member transfers employment from one participating employer
43 with which the member has made an irrevocable election pursuant to this
44 subsection to another participating employer, the member and the successor

1 participating employer shall complete the terms of the irrevocable election
2 that the member made with the original participating employer.

3 C. A member who elects before July 1, 1999 to receive retirement
4 benefits based on section 38-771, subsection C, paragraph 2 or a member who
5 elects to make contributions to ASRS pursuant to section 38-771.01,
6 subsection F, paragraph 4 shall either make the member's additional
7 contributions required pursuant to section 38-771, subsection E or allowed
8 pursuant to section 38-771.01, subsection F, paragraph 4 directly to ASRS as
9 provided in subsection H of this section or shall elect to have the member's
10 employer make payments for those additional contributions as provided in
11 subsection D of this section. A member who elected to be covered or who was
12 deemed to be covered by section 38-771 on or before December 31, 1995 or who
13 elects to make member contributions pursuant to section 38-771.01, subsection
14 F, paragraph 3 is deemed to have made an irrevocable election pursuant to
15 subsection D of this section to make the member's contributions to ASRS that
16 are required by section 38-771, subsection D or allowed by section 38-771.01,
17 subsection F, paragraph 3.

18 D. Any member contributions that are required by section 38-771,
19 subsection D or that are allowed pursuant to section 38-771.01, subsection F,
20 paragraph 3 are deemed to be made by the member to ASRS through a salary
21 reduction program in accordance with the following:

22 1. A member may make member contributions pursuant to section 38-771,
23 subsection E or section 38-771.01, subsection F, paragraph 4 through a salary
24 reduction program elected pursuant to this subsection. If a member makes an
25 irrevocable election pursuant to this subsection before July 1, 1999 to have
26 the member's employer make payments for additional contributions pursuant to
27 section 38-771, subsection E, the election continues in effect from and after
28 June 30, 1999 and shall not be revoked, amended or altered by any election
29 made pursuant to section 38-771.01 or otherwise. The amounts paid pursuant
30 to a salary reduction program are in lieu of contributions by the electing
31 member. The member's salary or other compensation shall be reduced by the
32 amount paid by the employer pursuant to this subsection.

33 2. Before a member's termination of employment, the member may make an
34 election pursuant to this subsection at any time after the date the member
35 elects to receive retirement benefits based on section 38-771, subsection C,
36 paragraph 2 but before July 1, 1999 or at any time after the member elects to
37 make member contributions pursuant to section 38-771.01, subsection F,
38 paragraph 4. The election shall specify the number of payroll periods that
39 deductions will be made from the member's compensation and the dollar amount
40 of deductions for each payroll period during the specified number of payroll
41 periods. After an election is made pursuant to this subsection, the election
42 is binding on and irrevocable for the member and the member's employer during
43 the member's remaining period of employment.

44 3. After a member makes or is deemed to have made an irrevocable
45 election pursuant to this subsection, the member does not have the option of

1 choosing to receive the contributed amounts directly. A member who makes an
 2 irrevocable election pursuant to this subsection to have the member's
 3 employer make payments for less than all of the amounts payable for the
 4 member's additional contributions allowed by section 38-771.01, subsection F,
 5 paragraph 4 may irrevocably elect to have the member's employer make payments
 6 for all or any portion of the remaining amounts payable for the member's
 7 additional contributions. A member who makes one or more irrevocable
 8 elections pursuant to this subsection may also make other contributions to
 9 ASRS pursuant to section 38-771.01, subsection F, paragraph 4 or pursuant to
 10 subsection H of this section to the extent of any remaining amounts payable
 11 for which the member has not made an election pursuant to this subsection.
 12 An additional election or contribution with respect to a portion of the
 13 amounts payable for the member's additional contributions pursuant to section
 14 38-771.01, subsection F, paragraph 4 does not alter, amend or revoke an
 15 irrevocable election already made pursuant to this subsection for any other
 16 portion of the amounts payable for the member's additional contributions
 17 allowed by section 38-771.01, subsection F, paragraph 4.

18 4. If on termination of the member's employment all amounts have not
 19 been paid to ASRS pursuant to the member's irrevocable election pursuant to
 20 this subsection, the member may pay ASRS, within thirty days after the
 21 member's termination of employment and subject to other limitations
 22 prescribed in this section, all or any portion of the unpaid amounts as
 23 provided in subsection H of this section. These payments do not alter, amend
 24 or revoke any irrevocable election already made pursuant to this subsection
 25 with respect to any amount to be paid by the member's employer while the
 26 member is employed by the member's employer.

27 5. Amounts paid by an employer pursuant to this subsection shall be
 28 treated as employer contributions for the purpose of determining tax
 29 treatment under the internal revenue code. The effective date of employer
 30 payments pursuant to this subsection shall not be before the date ASRS
 31 receives notification from the United States internal revenue service that
 32 pursuant to section 414(h)(2) of the internal revenue code the amounts paid
 33 by an employer pursuant to this subsection will not be included in the
 34 member's gross income for income tax purposes until those amounts are
 35 distributed by refund or retirement benefit payments.

36 6. Unless otherwise provided, member contributions paid by an employer
 37 pursuant to this subsection are treated for all other purposes under ASRS in
 38 the same manner and to the same extent as member contributions that are not
 39 paid by an employer pursuant to this subsection.

40 7. If a member transfers employment from one participating employer
 41 with which the member has made an irrevocable election pursuant to this
 42 subsection to another participating employer, the member and the successor
 43 participating employer shall complete the terms of the irrevocable election
 44 that the member made with the original participating employer.

1 E. The following limits apply to contributions to ASRS:

2 1. Except to the extent paragraphs 2 and 3 of this subsection apply to
3 certain contributions made by a member to ASRS and to the extent permitted
4 under section 414(v) of the internal revenue code, if applicable, in any one
5 limitation year, the annual additions contributed or allocated to ASRS for or
6 on behalf of a member shall not exceed the lesser of either:

7 (a) Forty thousand dollars or a larger amount that is prescribed by
8 the board and that is due to any cost of living adjustment announced by the
9 United States secretary of the treasury pursuant to section 415(d) of the
10 internal revenue code. The board shall increase the amount prescribed by
11 this subdivision as of the effective date of the increase announced by the
12 United States secretary of the treasury.

13 (b) One hundred ~~per cent~~ PERCENT of the member's compensation for the
14 limitation year. The compensation limit prescribed in this subdivision does
15 not apply to any contribution to ASRS for medical benefits after a member's
16 separation from service, within the meaning prescribed in section 401(h) or
17 419A(f)(2) of the internal revenue code, that is otherwise treated as an
18 annual addition.

19 2. Unless paragraph 4 of this subsection applies, for plan years
20 beginning on or after July 1, 1998, in any one limitation year, the annual
21 additions credited to ASRS for or on behalf of a member who makes
22 contributions to ASRS to purchase credited service pursuant to section
23 38-743, 38-744, 38-745 or 38-922 and with respect to which an irrevocable
24 election has not been made pursuant to subsection B of this section shall not
25 exceed the greater of either:

26 (a) The requirements of section 38-769. For the purposes of applying
27 the limits prescribed in section 38-769 under this subdivision, the accrued
28 benefit derived from the contributions shall be treated as an annual benefit
29 and the reduced limit for certain early retirement in section 38-769,
30 subsection C, paragraph 2 does not apply.

31 (b) Except as provided in paragraph 3 of this subsection, the
32 requirements of paragraph 1 of this subsection. The contributions shall be
33 treated as annual additions and any of the member's other annual additions
34 for the limitation year shall be taken into account. For the purposes of
35 applying the requirements of paragraph 1 of this subsection under this
36 subdivision, the percentage of compensation limit in paragraph 1, subdivision
37 (b) of this paragraph does not apply.

38 3. For plan years beginning on or after July 1, 1998, the requirements
39 of paragraph 1 of this subsection shall not be applied to reduce the amount
40 of credited service that may be purchased by an eligible member pursuant to
41 section 38-743, 38-744, 38-745 or 38-922 to an amount that is less than the
42 amount of credited service allowed to be purchased pursuant to those sections
43 on August 5, 1997 without the application of any of the limits prescribed in
44 this section or section 415 of the internal revenue code. For the purposes

1 of this paragraph, "eligible member" means a person who first becomes a
2 member of ASRS before July 1, 1999.

3 4. Member contributions to ASRS to purchase credited service pursuant
4 to section 38-743, 38-744 or 38-922 shall not be made by a member if
5 recognition of that service would cause a member to receive a retirement
6 benefit for the same service from ASRS and one or more other retirement
7 plans. This paragraph does not apply to either of the following:

8 (a) Contributions made by an eligible member as defined in paragraph 3
9 of this subsection, except that any service purchase by an eligible member is
10 subject to any other limitations, including limitations on duplicative
11 service purchase, otherwise provided in this article.

12 (b) Any member contributions with respect to which an irrevocable
13 election has been made by a member pursuant to subsection B of this section,
14 except that the service purchase is subject to any other limitations,
15 including limitations on duplicative service purchase, otherwise provided in
16 this article.

17 F. If a member's contributions are subject to the limitations of
18 subsection E of this section, the contributions shall be treated as being
19 made to a separate defined contribution plan. If the member's contributions
20 exceed the limits prescribed in subsection E of this section when taking into
21 account other member and employer contributions to ASRS on behalf of the
22 member for the limitation year, the amount to be paid by the member shall be
23 reduced to not exceed the limits prescribed in subsection E of this section
24 and the remaining amount shall be carried forward to the next limitation
25 year, unless the limits are exceeded in the next limitation year. If the
26 limits are exceeded in the next limitation year, the procedure prescribed by
27 this subsection shall be repeated until all payments have been made.

28 G. If, after the application of subsection F of this section, the
29 annual additions on behalf of a member exceed the limitations prescribed in
30 subsection E of this section, ASRS shall dispose of excess amounts by either
31 of the following:

32 1. Returning to the member any contributions that are made by the
33 member and that are nondeductible under the internal revenue code.

34 2. Holding the amounts in a suspense account established pursuant to
35 subsection L of this section and allocating the amounts as either member or
36 employer contributions for the benefit of the member in the next limitation
37 year and before any further member or employer contributions are made that
38 would constitute annual additions made to a defined contribution plan
39 pursuant to section 415 of the internal revenue code. ASRS shall allocate
40 contributions as prescribed in this section, and the amount allocated shall
41 reduce the amount of the member or employer contributions for the limitation
42 year in which the allocation is made.

43 H. To the extent that a payment under this subsection does not alter,
44 amend or revoke any one or more currently effective irrevocable elections
45 made by the member pursuant to subsection B or D of this section, the board

1 may accept contributions made pursuant to section 38-771 or member
2 contributions for the payment for credited service purchases pursuant to
3 section 38-738, 38-742, 38-743, 38-744, 38-745 or 38-922 or contributions
4 made pursuant to section 38-771.01, subsection F, paragraph 4, in whole or in
5 part, by any one or a combination of the following methods:

6 1. In lump sum payments.
7 2. Subject to the limitations prescribed in sections 401(a)(31) and
8 402(c) of the internal revenue code and subsection J of this section,
9 accepting a direct transfer of any eligible rollover distribution ~~or a~~
10 ~~contribution by a member of an eligible rollover distribution~~ from one or
11 more:

12 (a) Retirement programs that are qualified under section 401(a) or
13 403(a) of the internal revenue code.

14 (b) Annuity contracts described in section 403(b) of the internal
15 revenue code.

16 (c) Eligible deferred compensation plans described in section 457(b)
17 of the internal revenue code that are maintained by a state, a political
18 subdivision of a state or any agency or instrumentality of a state or a
19 political subdivision of a state.

20 ~~3. Subject to the limitations prescribed in section 408(d)(3)(A)(ii)~~
21 ~~of the internal revenue code, accepting from a member a rollover contribution~~
22 ~~of that portion of a distribution from an individual retirement account or~~
23 ~~individual retirement annuity described in section 408(a) or 408(b) of the~~
24 ~~internal revenue code that is eligible to be rolled over and would otherwise~~
25 ~~be includable as gross income.~~

26 3. ACCEPTING FROM A MEMBER A DIRECT TRANSFER FROM AN INDIVIDUAL
27 RETIREMENT ACCOUNT OR INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN SECTION
28 408(a) OR 408(b) OF THE INTERNAL REVENUE CODE OF AN AMOUNT THAT WOULD
29 OTHERWISE BE ELIGIBLE TO BE ROLLED OVER TO ASRS UNDER THE PROVISIONS OF
30 SECTION 408(d)(3)(A)(ii) OF THE INTERNAL REVENUE CODE IF THE AMOUNT HAD BEEN
31 RECEIVED BY THE MEMBER AND WOULD HAVE OTHERWISE BEEN INCLUDIBLE IN THE
32 MEMBER'S GROSS INCOME BUT FOR THE DIRECT TRANSFER.

33 4. Providing by rule that the contributions may be made in installment
34 payments over a period of time.

35 I. To the extent that a payment under this subsection does not alter,
36 amend or revoke any one or more currently effective irrevocable elections
37 made by a member pursuant to subsection B or D of this section, the board may
38 accept a direct trustee-to-trustee transfer from retirement programs that are
39 qualified under section 401(a) or 403(a) of the internal revenue code, an
40 annuity contract described in section 403(b) of the internal revenue code or
41 an eligible deferred compensation plan described in section 457(b) of the
42 internal revenue code for the payment for credited service purchases pursuant
43 to section 38-742, 38-743, 38-744, 38-745 or 38-922. If a direct
44 trustee-to-trustee transfer is from a retirement program that is qualified
45 under section 401(a) of the internal revenue code and that includes a cash or

1 deferred arrangement described in section 401(k) of the internal revenue
2 code, the member on whose behalf the transfer was made is not eligible to
3 retire under section 38-764, subsection I before the date the member attains
4 fifty-nine and one-half years of age.

5 J. ASRS shall separately account for all amounts rolled over or
6 directly transferred to ASRS. Subject to the limitations contained in the
7 internal revenue code applicable to the type of plan from which an eligible
8 rollover distribution is transferred, to the extent any eligible rollover
9 distribution that is directly transferred to ASRS consists wholly or
10 partially of amounts that would otherwise not be included in the member's
11 gross income if not so transferred, ASRS shall separately account for the
12 amounts so transferred, and earnings on those amounts, including separately
13 accounting for the portion of the amount that is includable in gross income
14 and the portion of the amount that is not includable in gross income.

15 K. ASRS shall not grant credited service under section 38-738, 38-742,
16 38-743, 38-744 or 38-922 for contributions made pursuant to subsection H of
17 this section until the contributions are received by ASRS. ASRS may assess
18 interest or administrative charges attributable to any installment payment
19 made pursuant to subsection H, paragraph 4 of this section to purchase
20 credited service pursuant to section 38-738, 38-742, 38-743, 38-744 or
21 38-922. The interest or administrative charges shall be added to the amount
22 of contributions made to ASRS by the member. The interest or administrative
23 charges shall not be treated as member contributions for any purposes under
24 this article, and a member or a member's beneficiary does not have a right to
25 the return of the interest or administrative charges pursuant to any other
26 provision of this article. Interest assessed pursuant to this subsection
27 shall be at the rate specified by the board pursuant to section 38-711,
28 paragraph 2.

29 L. Notwithstanding any provision of this article to the contrary, if
30 the annual additions credited on behalf of an ASRS member during any
31 limitation year exceed the limits of section 415(c) of the internal revenue
32 code and subsection E of this section, ASRS may only correct the excess
33 pursuant to the employee plans compliance resolution system prescribed in
34 internal revenue service revenue procedure 2008-50 or any future guidance
35 issued by the internal revenue service, including the preamble of the final
36 treasury regulations issued under section 415 of the internal revenue code.

37 M. If the member retires before all payments are made pursuant to this
38 section, ASRS shall calculate the member's benefits based only on the
39 payments actually made.

40 N. On satisfaction of the requirements of this section, ASRS shall
41 adjust the member's credited service history and add any additional service
42 credits acquired.

43 O. Annual additions on behalf of a member in any limitation year shall
44 be the sum of:

1 1. The amount of the member contributions made to ASRS to purchase
2 credited service pursuant to section 38-738, 38-743, 38-744, 38-745 or 38-922
3 and with respect to which an irrevocable election made pursuant to subsection
4 B of this section is not in effect.

5 2. The amount of member and employer contributions made to ASRS on
6 behalf of a member who elected or was deemed to have elected to receive
7 retirement benefits pursuant to section 38-771 or who is entitled to benefits
8 pursuant to section 38-771.01, except that, other than as provided in
9 subsection P of this section, corrective contributions shall be considered
10 annual additions for the limitation years to which the contributions relate
11 and interest and gains shall not be considered as annual additions for the
12 purpose of any limitation prescribed in this article or in section 415 of the
13 internal revenue code. If the corrective contributions exceed the limit on
14 annual additions for a limitation year prior to the limitation year in which
15 the corrective contributions are contributed by the employer to ASRS, the
16 retirement benefit attributable to the excess corrective contributions shall
17 be treated as an excess benefit and shall be payable to the member as any
18 other excess benefit is payable pursuant to section 38-774, and the employer
19 shall pay the excess corrective contributions to the separate unfunded
20 governmental excess benefit arrangement administered by the board pursuant to
21 section 38-774.

22 3. Any member or employer contributions made to ASRS or any other plan
23 that are treated as being made to a defined contribution plan maintained by
24 an employer of the member.

25 4. Any forfeitures, including any income attributable to forfeitures,
26 allocated for or on behalf of a member of ASRS or any other plan that are
27 treated as being allocated under a defined contribution plan maintained by an
28 employer of the member.

29 P. To the extent any portion of the subject benefits, if treated as
30 subject to the benefit limitations of section 415(b) of the internal revenue
31 code, exceed the applicable limitation on benefits pursuant to section 38-769
32 for the form of distribution, a percentage of corrective contributions and
33 interest and gains shall be treated as annual additions for the limitation
34 year in which contributed by the employer to ASRS. This percentage of
35 corrective contributions and interest and gains shall be equal to the
36 percentage determined by dividing the subject benefits that exceed the
37 limitation on benefits pursuant to section 38-769 by the subject benefits.
38 If the corrective contributions and interest and gains that are treated as
39 annual additions for the limitation year in which the corrective
40 contributions and interest and gains are contributed by the employer to ASRS
41 exceed the limit on annual additions for the limitation year, the retirement
42 benefit attributable to the excess shall be treated as an excess benefit and
43 shall be payable to the member as any other excess benefit is payable
44 pursuant to section 38-774, and the employer shall pay the excess to the

1 separate unfunded governmental excess benefit arrangement administered by the
2 board pursuant to section 38-774.

3 Q. Subsection 0 of this section shall be construed and interpreted in
4 accordance with section 415 of the internal revenue code and the final
5 treasury regulations issued under that section.

6 R. For the purposes of this section:

7 1. "Compensation" has the same meaning prescribed in section 38-769.
8 2. "Corrective contributions" means any contributions that are paid by
9 an employer pursuant to section 38-771.01, subsection C, paragraph 3 and that
10 are attributable to employer contributions that should have been made for
11 prior limitation years.

12 3. "Defined contribution plan" has the same meaning prescribed in
13 section 38-769.

14 4. "Eligible rollover distribution" has the same meaning prescribed in
15 section 38-770.

16 5. "Interest and gains" means employer contributions to ASRS pursuant
17 to section 38-771.01, subsection C, paragraphs 3, 5 and 6 that are
18 attributable to earnings and supplemental credits that would have been earned
19 or added to a member's annuity payment.

20 6. "Limitation year" has the same meaning prescribed in section
21 38-769.

22 7. "Participating employer" means an employer that participates in
23 ASRS.

24 8. "Subject benefits" means the retirement benefit received by a
25 member pursuant to section 38-771.01 minus the sum of the portion of such
26 retirement benefit attributable to contributions that were made by or on
27 behalf of the member to the defined contribution program administered by ASRS
28 for periods before July 1, 1981 and contributions that were made by the
29 member after June 30, 1981 and that were not picked up as provided in section
30 414(h)(2) of the internal revenue code.