

**ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE**

February 6, 2003

8:01 a.m.

MEMBERS PRESENT

Representative Bruce Weyhrauch, Chair
Representative Jim Holm, Vice Chair
Representative Nancy Dahlstrom
Representative Bob Lynn
Representative Paul Seaton
Representative Ethan Berkowitz
Representative Max Gruenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 20

"An Act relating to reemployment of and benefits for retired teachers and principals, including those who participated in retirement incentive programs, and to the employment as teachers of members of the public employees' retirement system who participated in a retirement incentive program; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 47

"An Act prohibiting discrimination by credit rating or credit scoring in certain insurance rates; and providing for an effective date."

- HEARD AND HELD

PREVIOUS ACTION

BILL: HB 20

SHORT TITLE: REEMPLOYMENT OF RETIRED TEACHERS

SPONSOR(S): REPRESENTATIVE(S) STEVENS

Jrn-Date	Jrn-Page		Action
01/21/03	0036	(H)	PREFILE RELEASED (1/10/03)

01/21/03	0036	(H)	READ THE FIRST TIME - REFERRALS
01/21/03	0036	(H)	STA, FIN
02/06/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 47

SHORT TITLE: INSURANCE DISCRIMINATION BY CREDIT RATING

SPONSOR(S): REPRESENTATIVE(S) CHENAULT

Jrn-Date	Jrn-Page		Action
01/21/03	0043	(H)	PREFILE RELEASED (1/10/03)
01/21/03	0043	(H)	READ THE FIRST TIME - REFERRALS
01/21/03	0043	(H)	STA, L&C
01/21/03	0043	(H)	REFERRED TO STATE AFFAIRS
02/05/03	0135	(H)	COSPONSOR(S): STEVENS
02/06/03		(H)	STA AT 8:00 AM CAPITOL 102

WITNESS REGISTER

REPRESENTATIVE GARY STEVENS

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 20.

GUY BELL, Director

Health Benefits Section

Division of Retirement & Benefits

Department of Administration

Juneau, Alaska

POSITION STATEMENT: Answered question during the hearing on HB 20.

ED McLAIN, Ph.D., Deputy Commissioner of Education

Office of the Commissioner

Department of Education and Early Development (EED)

Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the department and answered questions during the hearing on HB 20.

MICHAEL LESSMEIER, Attorney at Law

Lessmeier & Winters

Lobbyist for State Farm Insurance Company

Juneau, Alaska

POSITION STATEMENT: Testified on HB 47.

SHARALYN WRIGHT, Staff
to Representative Mike Chenault
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 47 on behalf of Representative
Chenault, sponsor.

RUSSINA SGOUREVA, Product Manager
Progressive Insurance
Rancho Cordova, California

POSITION STATEMENT: Testified on HB 47.

ACTION NARRATIVE

TAPE 03-04, SIDE A

Number 0001

CHAIR BRUCE WEYHRAUCH called the House State Affairs Standing Committee meeting to order at 8:01 a.m. Representatives Holm, Seaton, Dahlstrom, and Weyhrauch were present at the call to order. Representatives Lynn, Berkowitz, and Gruenberg arrived as the meeting was in progress.

HB 20 - REEMPLOYMENT OF RETIRED TEACHERS

Number 0039

CHAIR WEYHRAUCH announced that the first order of business was HOUSE BILL NO. 20, "An Act relating to reemployment of and benefits for retired teachers and principals, including those who participated in retirement incentive programs, and to the employment as teachers of members of the public employees' retirement system who participated in a retirement incentive program; and providing for an effective date."

Number 00074

REPRESENTATIVE STEVENS, Alaska State Legislature, as sponsor of HB 20, told the committee that he thinks [the proposed legislation] is important. He said that when he was president of the school board in Kodiak, Alaska, and that [board] considered the Retirement Incentive Program (RIP), it chose to allow its teachers to retire early. Representative Stevens noted that by using the RIP, retiring teachers could receive an additional three years' [credit towards] their retirement. He said, "I'm not sure it was a wise idea because, in fact, we lost some very fine teachers who decided to leave."

REPRESENTATIVE STEVENS stated that he personally knows of cases where teachers wanted to come back to teach, "after going elsewhere," and it was "quite a costly matter for them to pay back the money they had received." He said he has seen teachers who have taught 20 years in Alaska go to Oregon or Washington to teach, for example, where their experience and qualifications are welcomed.

REPRESENTATIVE STEVENS continued as follows:

We put ourselves in a situation where ... it is very difficult to hire those people back, even though our districts may want them. What this bill would do is ... give the school districts that option. It's not a requirement - it doesn't force the school districts to do anything we don't want to do - it just gives them that option.

REPRESENTATIVE STEVENS noted that if [a school district] has a vacancy and needs a particular teacher experienced in a particular field, it can hire back that person. Furthermore, it can make it's own decision regarding salary schedule, for example.

Number 0265

REPRESENTATIVE STEVENS specified that HB 20 would allow the reemployment of retired teachers and principals who took part in a RIP, as well as those teachers who are members of the Public Employees' Retirement System (PERS) who took part in a RIP a few years ago. He reminded the committee that there is currently a shortage of teachers and principals, not only in Alaska, but throughout the [United States] - a problem which will continue to get worse. He noted that two years ago, the Twenty-Second Alaska State Legislature passed a bill allowing the rehiring of retired teachers; however, that bill excluded those who had taken part in a RIP.

Number 0371

REPRESENTATIVE STEVENS said that additionally, [HB 20] would allow the Department of Education to hire "RIP" teachers in the various schools that it controls, such as the Alyeska Central School, Mt. Edgecumbe, the Alaska State School for the Deaf and Hard of Hearing, and the Alaska Vocational Technical Center. Representative Stevens, based upon his personal experience,

expressed that the most important factor in early education is having an excellent teacher. [The proposed legislation] is another tool to use in "getting to that point."

REPRESENTATIVE STEVENS noted that HB 416, a similar bill, passed through the House last year, but did not make it through the Senate because of time [issues]. He indicated a letter from the Association of Alaska School Boards and an email from a former teacher [included in the committee packet] supporting [HB 20].

Number 0455

REPRESENTATIVE STEVENS asked the committee to consider two amendments. Amendment 1 read as follows [original punctuation provided]:

- 1 Page 1, line 9: After "teach", Insert "or work",
After "particular" Insert "education".
- 2 Page 1, line 10: Delete "by resolution".
- 3 Page 1, line 11: After "teach", Insert: "or work".

Amendment 2 read as follows [original punctuation provided]:

1. Page 2, lines 16-20. Instead of deleting the last sentence in section 2. Change it to read: A member who participated in a retirement incentive program under ch 26, SLA 1986; ch 89, SLA 1989, ch 4, FSSLA 1996; or ch 92, SLA 1997, who makes [IS NOT ELIGIBLE TO MAKE] an election under this subsection will not lose the incentive credit provided under the applicable retirement incentive plan and is not subject to any related reemployment indebtedness.

CHAIR WEYHRAUCH read the first line of HB 20 and asked Representative Stevens a question regarding the inclusion of the word "principals".

REPRESENTATIVE STEVENS answered that [including the word "principals"] is equally important. In response to a follow-up question by Chair Weyhrauch, he clarified that [the proposed legislation] would only apply to those people in the Teachers' Retirement System (TRS).

CHAIR WEYHRAUCH asked why it is necessary to pass a bill in order for teachers to be rehired.

REPRESENTATIVE STEVENS explained that current statutes require that if a teacher who has "RIPed" [is rehired], he/she must repay the amount of money that was received. He added that "this" might be a good opportunity to get that money back by allowing those returning teachers to teach for three to four years, at which point they would be "back where they would have been if they had stayed anyway." He said that he is hearing about teachers who retire from Alaska, are welcomed by other states to teach, and "would like to return to Alaska, but find they simply can't." He stated that he thinks [HB 20] would correct that.

Number 0892

REPRESENTATIVE HOLM prefaced his statement by saying that his wife is a schoolteacher. He said he has a problem with the bill. In numerous cases, teachers have been given "great quantities of dollars" to retire early, he said, which gives them an "advantage of taxpayer dollars." He asked Representative Stevens why the people are not being required to return that money. He opined that it is inappropriate for the state to give financial incentives to urge employees [to retire], and then [rehire] those [past] employees without requiring them to pay the [incentive money] back. He asked how many teachers are involved and if all the teachers "out of the university system" have been hired.

Number 1015

REPRESENTATIVE STEVENS explained that at the time when the retirement incentive was offered, there were many teachers at the high end of the salary scale. The teachers who replaced them eventually will become "higher end teachers" in time. He stated that he is not certain that it was a wise thing to do, but, on paper, it saved [the school districts] money. He said that he has heard people express that those [teachers who retired with the incentive program] should, perhaps, be punished for taking "gross advantage" of [the school district]; however, he stated that the truth of the matter is that those teachers are now needed. He said, "The districts are able to look at that and say, 'Well yeah, sure, they were very lucky at that time - they received an advantage.'"

REPRESENTATIVE STEVENS stated his view that [Alaska] is allowing other states' districts to "have the advantage of our experienced teachers when, in fact, ... some of our districts would like to hire some of them back." He said that [if HB 20

is passed] the districts would be able to weigh the benefits of rehiring the aforementioned teachers versus hiring teachers at a lower [pay scale].

Number 1150

REPRESENTATIVE HOLM said that he has not been given evidence that would compel him to agree with [Representative Stevens]. He asked, "How many teachers are we talking about?" He opined that if [Alaska] is to make a significant difference in educational programming, or the ability to have enough teachers to teach its students properly, then [the number of teachers] needs to be significant. He reiterated that he has a problem with [teachers] being rehired without returning the money to the state that they got as a benefit [for retiring].

Number 1235

REPRESENTATIVE STEVENS responded that he does not know what those numbers are, if they even exist, or how they could be found. He said that he is not certain that he agrees that it has to be a significant number. He stated that he thinks [the legislature] should do all it can to offer the [school] districts options, and [HB 20] is an option.

Number 1270

REPRESENTATIVE SEATON noted that the Kenai Peninsula Borough [School District] had a similar program. He recalled that it offered a flat \$7,500 retirement incentive. Some of those teachers are still in the community, he added. He mentioned Kodiak and asked Representative Stevens to compare cases in regard to "reimbursement back to the district."

REPRESENTATIVE STEVENS clarified that the RIP was part of TRS. He stated his understanding that it is separate from a decision by a local school district to offer an incentive on its own, for example. He recommended that Representative Seaton ask "the department people" his question.

Number 1462

REPRESENTATIVE GRUENBERG referred to Amendment 2 [text provided previously]. He asked, "If we adopt Amendment 2, should we then delete Section 3 of the bill, because it would seem to be redundant?"

Number 1505

GUY BELL, Director, Health Benefits Section, Division of Retirement & Benefits, Department of Administration, told the committee that Section 3 relates to PERS employees who participated in a RIP, then enter teaching as a profession under (indisc); therefore, [Section 3] is not redundant, but is specifically in reference to PERS.

REPRESENTATIVE GRUENBERG asked how it is possible to have a zero fiscal note.

MR. BELL reminded the committee that there were several RIPs. He said that when a RIP was implemented, it was up to the district and the teacher to pay the full actuarial cost of the RIP. He continued as follows:

So, at the time that the RIP was approved, there was a cost - provided by the division, through our actuaries, to the school district - that had to be paid, and the school district and the teacher shared in that actuarial cost. The RIP penalty ... on returning is not based on the cost of returning that teacher to the system, but is effectively a penalty.

MR. BELL stated that teachers who "took the RIP" understood that there was going to be a significant cost to them to return to teaching in Alaska.

REPRESENTATIVE GRUENBERG asked if there would still be a penalty if HB 20 passes.

MR. BELL answered that if the bill passes with the proposed amendments, there will be no penalty to returning [teachers]. In response to a question by Representative Gruenberg, he said that [the bill] would be "cost neutral"; it would have a zero fiscal note.

CHAIR WEYHRAUCH asked Mr. Bell to address Representative Seaton's previously stated question.

MR. BELL responded as follows:

Unfortunately, I'm not an expert on ... each school district's collective bargaining agreement with the teachers' union, so it would really be dependent on

the terms of the agreement between the district and its own employee units.

REPRESENTATIVE SEATON asked Mr. Bell if he is aware of any [instance] when a district has allowed teachers to be hired, regardless of their years of service.

MR. BELL answered that he is not aware of any, but reiterated that this is not his area of expertise.

Number 1680

CHAIR WEYHRAUCH clarified as follows:

So if the question is: "Can they rehire a teacher at any pay range, whether it's a beginning or exit level?" Under this program, we don't know - unless we go district by district - whether they would have to rehire them at the level they left, or the beginning level.

MR. BELL answered, "I believe so, yes."

Number 1701

REPRESENTATIVE SEATON stated that, having formerly been a teacher, he has not seen a situation where a district has had the opportunity to disregard people's time of service. He said there is a set pay scale in all the contracts he has ever seen. He stated that unless there is a specific amendment made to [HB 20] which requires that teachers be rehired at a lower pay rate, he thinks a situation may occur whereby teachers are rehired at the highest pay rate possible. He added that he is not even sure that [those teachers] might not even get credit for "the additional years of service, under periods that they were granted." He stated that his concern is that schools might actually incur high costs by [re]hiring teachers at the highest pay scale. He clarified that he is not totally opposed to the bill; however, he wants to see [language in it] that will make it economical.

Number 1784

MR. BELL described the way "this return" works as follows: First, even by virtue of the RIP, the individual must have received a normal retirement benefit. Second, the school district declares a shortage in its particular area or

discipline. Then, if it rehires a retiree, that retiree then "makes an election," which is to either continue receiving the retirement benefit and not accrue an additional retirement under a new salary, or to stop his/her retirement benefit and then continue accruing retirement credit. The return provision is the former, he said. He noted, "That's another way that we made this actuarially neutral; there's no additional cost to the system, and at the same time, neither the employer nor the employee - the teacher - is making contributions to the retirement system." He noted that, in effect, there is some savings to the school district, by virtue of their not contributing to the retirement system for that particular teacher.

CHAIR WEYHRAUCH asked Mr. Bell to confirm that "the teacher coming back under this ... bill" would get no retirement benefits as part of their employment, but would have to set up his/her own individual retirement plan.

MR. BELL replied, "In the case of a school district, it would be a 403(b), tax-deferred savings." He defined that as the opportunity [teachers] would have to make additional retirement savings, because they would not be contributing to the Teachers' Retirement System.

CHAIR WEYHRAUCH asked whether there is anything to prohibit the district from reducing, by that margin, the amount of pay that teacher would receive through contract with that district.

MR. BELL reiterated that that would be subject to the contract with the district.

Number 1930

REPRESENTATIVE STEVENS told the committee he believes that, currently, teachers who retire "under normal retirement," with no RIP involved, can return to teaching and choose to remove themselves from that retirement system, no longer receive retirement pay, and accrue time in the system again. He reiterated that it is at the districts' discretion whether or not to rehire a teacher. He said, "There are several checks on this program, I believe."

Number 1991

REPRESENTATIVE GRUENBERG referred to Section 3 [of the proposed bill]. He said that it refers to people who retired under PERS;

therefore, the bill must [also] cover people who are not retired teachers, but who, technically, retire under PERS, as well as TRS. He asked Mr. Bell to confirm that.

MR. BELL said, "Correct."

REPRESENTATIVE GRUENBERG suggested, that being the case, page 1, line 11, should be amended to permit the employment of retired teachers and "other people," to conform with Section 3.

MR. BELL said that he does not think [an amendment] is necessary.

REPRESENTATIVE GRUENBERG interjected that it may not be necessary, but he wants to eliminate any questions for those interpreting [the language of the bill in the future].

MR. BELL explained that Section 1 relates only to people retired under TRS. He stated that the reason Section 3 has been added is because it makes specific reference to PERS retirees. He said, "Under the retirement center programs, both retired public employees are excluded or are subject to paying penalties if they return in PERS or in [TRS]." For example, he said, a retired fisheries biologist who gets a teaching certificate and teaches in a school district will be subject to paying the penalty if he/she is a RIP retiree.

Number 2100

REPRESENTATIVE GRUENBERG suggested Conceptual Amendment 3, as follows:

So, shouldn't we also say "retired teachers or public employees" or something like that, to cover the former retired biologist? A technical amendment to make sure we don't have a problem.

MR. BELL replied, "It might help, but it wouldn't do any harm." In response to follow-up questions from Representative Gruenberg, he suggested that, on Page 1, Line 11, the words "public employees" be added after the words "retired teachers". He said he did not think it necessary to add the word "retired" before "public employees".

CHAIR WEYHRAUCH asked if the language being discussed would change the entire nature of the bill.

MR. BELL said, "If that amendment were to be adopted, I would suggest a consultation with [Legislative Legal and Research Services]."

Number 2207

REPRESENTATIVE GRUENBERG said that he does not want to change the bill, but he wants to "make it conform."

Number 2247

CHAIR WEYHRAUCH indicated Amendment 2. He referred to the RIPS in [the years 1986, 1989, 1996, and 1997]. He asked if those were the referenced RIP programs for teachers and principals.

MR. BELL concurred.

CHAIR WEYHRAUCH asked about the basic intent of creating a RIP and "wanting to get them back now." He stated that he agrees with Representative Stevens regarding retired teachers as a valuable resource that the state doesn't want to lose. He emphasized that he thinks it is critically important to the state to get teachers back out in the Bush to teach. Regarding the RIP, he asked what the public policy is that drives it and if it's in the state's overall interest.

Number 2295

REPRESENTATIVE STEVENS said, in hindsight, "I'm sort of sorry that I was involved in that as the president of the school board." He qualified that there were immediate savings from replacing teachers at the high end of the salary scale with those at the low end; however, a few years later, the teachers hired [as replacements] are at the high end of the salary scale and many qualified teachers have been lost.

Number 2360

CHAIR WEYHRAUCH mentioned an inspiring teacher from his past. He pointed to the zero fiscal note. He noted that the Alaska Association of School Boards is in favor of [HB 20]. He asked, "What is the relationship between this organization and individual school districts?"

REPRESENTATIVE STEVENS answered that he hoped they would speak in favor of [HB 20].

Number 2420

REPRESENTATIVE HOLM stated his understanding that there are two issues involved. The first, he said, is regarding PERS and a question of "whether or not you ... have to return any incentive to retire." The second issue, he highlighted, is the [retirement] incentive given by the school boards to the teachers. Representative Holm cited an example of a person who received a \$10,000 cash bonus [to retire from the Fairbanks School District], in addition to the retirement paid. The person is now in the Anchorage School District as a teacher. He reiterated that he has a problem with not requiring pay back of the monies received in regard to the RIP.

Number 2535

MR. BELL noted that there are a number of school districts that offer incentive bonuses - generally through a collective bargaining process - that are completely separate from the retirement system. He clarified that the retirement system has no say over the awarding of those bonuses, and the law states nothing regarding people who subsequently return to another district after receiving a separation or a second bonus from another district. [Neither] the "rehired retirement" law [nor] the retirement incentive law have [any] connection at all with district-sponsored bonuses. He stated the following:

So, I would suggest that that should be separated from this particular bill, because this bill has no impact - either positive or negative - on that particular type of situation. That would occur regardless of whether this bill passed or did not pass. This bill strictly relates to teachers who participated in the state-sponsored Retirement Incentive Program - TRS Retirement Incentive Program - those four that Representative Weyhrauch mentioned.

Number 2602

REPRESENTATIVE STEVENS noted the importance of local control over education. Whatever the districts decide to do [in regard to offering bonuses] is beyond the purview of HB 20. He clarified that his previous statement that bonuses [in the RIP] were not a good idea was his own personal one.

Number 2648

REPRESENTATIVE SEATON asked if the teachers that are rehired would immediately have tenure. He said, "If we're looking at a short-term need, and the highest paid individuals are people we bring back into the system, I'm wondering if we're stuck there for the long term and whether there's any impact here at all."

REPRESENTATIVE STEVENS said that he retired after 25 years as a university professor, and he had tenure. He stated that he never thought that tenure was an important issue. He asked what difference it makes whether a teacher has tenure or not, if the school district has decided it needs that valuable teacher back [regardless of the money].

REPRESENTATIVE SEATON described a situation in which budget cuts might require a district to let go of its lower-paid teachers and retain the rehired, higher-paid teachers with tenure. He stated that his concern was that [the proposed] legislation might build a longer-term budgetary problem.

REPRESENTATIVE STEVENS responded, "It might be an important issue to ask of the bargaining units." He added that it is an issue that would be controlled by the contracts with bargaining units.

Number 2770

REPRESENTATIVE BERKOWITZ stated his belief that legislation has been passed in the last couple of years that allows people to be reemployed without, in essence, negating their seniority.

Number 2796

CHAIR WEYHRAUCH asked the committee if there was any objection to Amendment 1 [text provided previously].

REPRESENTATIVE BERKOWITZ objected to point out that the deletion on [page 1, line 10] should also [delete] the commas.

CHAIR WEYHRAUCH again asked whether there was any objection to Amendment 1. There being no objection, Amendment 1 was adopted.

Number 2830

CHAIR WEYHRAUCH asked if there was any objection to Amendment 2 [text provided previously]. There being none, Amendment 2 was adopted.

Number 2850

CHAIR WEYHRAUCH referred to Conceptual Amendment 3, a handwritten, photocopied amendment, which read as follows [original punctuation provided]:

p 1 1 11 after "teachers" insert "or public employees

[subject to technical correction by legal counsel]

He asked if there was any objection to [Conceptual] Amendment 3. There being no objection, Conceptual Amendment 3 was adopted.

CHAIR WEYHRAUCH asked the sponsor if he would like to comment on [Conceptual] Amendment 3.

Number 2870

REPRESENTATIVE STEVENS concurred with the aforementioned comments of Mr. Bell, that [Amendment 3] is not necessary, but will do no harm.

Number 2887

CHAIR WEYHRAUCH outlined the steps that would be taken to include the above three amendments in a committee substitute.

Number 2910

ED McLAIN, Ph.D., Deputy Commissioner of Education, Office of the Commissioner, Department of Education and Early Development (EED), said that he recalls the legislation previously mentioned by Representative Berkowitz, although he does not remember the bill [number]. He urged the committee to consider [the content of] that legislation, which provided allowance for districts to negotiate "the number of years they would get." He said that would be consistent with "current policy - negotiated agreements." He said that districts vary in the amount of years allowed to be "brought in." He explained that that is probably why a person might leave one district to go to another and might not only receive retirement pay, but also might "get credited with 'X' number of years."

TAPE 03-04, SIDE B

Number 2996

DR. McLAIN stated that the issue, critical to savings, was heavily debated last year.

DR. McLAIN noted that he has served as both assistant superintendent and superintendent in several districts throughout the state. Regarding bonuses, he said that some districts, for various reasons, did decide to offer incentives, which were separate from any state agreement. He added, "It had an impact in that that salary quite often raised the pay, which would raise the average, which increased the amount of retirement. But those were really outside of this bill and outside of the one that was passed last session or the session before."

DR. McLAIN said that another component of [HB 20] is that it [would] allow "the department" to "take advantage of this program." He mentioned an amendment added in so that "our people and our teaching-learning support system would be able to participate." He added, "It's a critical division in our department." He explained that the people [in that division] are required to be "certificated," and they provide direct support services to teachers, schools, districts, and the administration, for example, regarding curriculum and instructional matters. Mr. McLain noted that the salary structure and the "twelve-month contract nature of that work" sometimes make it hard for [the department] to attract people. He urged the committee to consider "anything that we can do to open up that as a possibility, to make it more attractive." He said that [HB 20] would allow retired people to elect to work with "us," and that the state as a whole would benefit from their experience. He reiterated that there would be no cost to the state; there is a zero fiscal note. He demonstrated that point as follows: "The person, if they ... took the retirement and left - went down to Oregon - we're still paying out the retirement benefit. Now, we still pay out the retirement, but we also get the benefit of their expertise back with us."

Number 2860

REPRESENTATIVE GRUENBERG stated that the amendment he had offered was designed to ensure that the employees who are non-teachers could be hired back. They would be former public employees who would be employed to work in the system. He said he thinks that it is important that "we make certain there is no question that they can be reemployed."

DR. McLAIN responded to Representative Gruenberg as follows: "I appreciate the amendment that you offered, and I also hesitate, without legal counsel, on the exact wording." He said that he understood Representative Gruenberg's intent and that it would not cause the department any problems. He stated his understanding that Representative Gruenberg's proposed amendment would mean that a biologist, for example, who left employment, then gained a teaching certificate, could "come back in and take on the teaching." He clarified that he did not interpret Representative Gruenberg as saying that a person could leave "as a custodian and come back in as a custodian."

REPRESENTATIVE GRUENBERG said that Mr. McLain had focused on Amendment 1 and the addition of the phrase, "or work". Since someone had asked to have that phrase added, he opined, "It sounds like there are people who are going to be brought back in, not just to teach, but to work." He asked if that was correct.

Number 2770

DR. McLAIN clarified that Teaching and Learning Support is a particular division of EED. Those individuals [in it] are required to have teaching certification in order to do their job; they are required to have the background and skill set that would make them eligible for TRS. They are not PERS employees, he said. That is why the language [of the proposed legislation] was changed from "teach" to "work", because what they do is work with curriculum development and grant management, for example. He said that he would not have a problem with the addition of adding "PERS opportunities" to the proposed legislation.

Number 2714

REPRESENTATIVE GRUENBERG said that it sounded as though the certification was the key issue.

DR. McLAIN said yes. He listed some areas where certification is necessary.

CHAIR WEYHRAUCH recognized Representative Crawford in the room.

Number 2651

REPRESENTATIVE GRUENBERG clarified that the intent of his [proposed] amendment was not to expand, but to conform. He stated that his intent was to include only the people who Mr.

McLain intends to include. Furthermore, [to that purpose], the bill must be carefully drafted.

Number 2625

DR. McLAIN reiterated that he had understood that Representative Gruenberg had been bringing in the idea that someone retired under PERS might earn a teaching certificate and come back [to teach] as a second career. He said, "I think that's an exciting extension and builds into our statewide efforts on retention and recruitment, and to that degree, I thought it fit in well."

REPRESENTATIVE GRUENBERG concurred that that had been his exact intent.

DR. McLAIN noted that the state's university system only prepares about 30 percent of its teachers; there is a general teaching shortage in the state, which is acute in some areas and chronic in others. In the past 23 years, application files have decreased in size. He [encouraged] anything that can be done to attract and retain teachers. He stated that it's difficult to watch a teacher with twenty years of experience leave to teach in another state. He offered to make a report regarding teacher retention and recruitment available to the committee.

Number 2529

CHAIR WEYHRAUCH suggested that Mr. McLain not limit the distribution to only the House State Affairs Standing Committee, because he said he thinks everyone in the legislature is concerned about the issue. He stated that "whatever your department can do" to provide incentives [to teachers], while implementing any cost-effective programs would be of benefit. In response to a comment by Mr. McLain, he clarified that there was a zero [fiscal] note to the state, but he wasn't sure about a cost to the district.

DR. McLAIN said that the districts would have the option not to exercise [the proposed legislation] if it did not work out for them to do so.

[HB 20 was heard and held.]

HB 47 - INSURANCE DISCRIMINATION BY CREDIT RATING

[Contains brief mention of HB 5.]

CHAIR WEYHRAUCH announced that the final order of business would be HOUSE BILL NO. 47, "An Act prohibiting discrimination by credit rating or credit scoring in certain insurance rates; and providing for an effective date."

Number 2395

CHAIR WEYHRAUCH noted that a great deal of information came in late yesterday and the committee hasn't had time to digest it all. Therefore, the committee won't take any action on HB 47 today. However, he invited testimony.

Number 2346

REPRESENTATIVE GRUENBERG pointed out that HB 5 is similar to HB 47. Regardless which legislation moves forward from the committee, he asked if it was the chair's intention to allow testimony on both pieces of legislation.

CHAIR WEYHRAUCH expressed the need to use the committee's time efficiently.

Number 2303

MICHAEL LESSMEIER, Attorney at Law, Lessmeier & Winters, Lobbyist for State Farm Insurance Company, recalled that there was quite a bit of legislation on credit scoring last session. Furthermore, as a result of the work on that legislation, much was learned. For example, he noted, it was learned that there is a strong correlation between a high credit score and the predictability of loss. He said he doesn't believe that there's any reasonable dispute about that.

MR. LESSMEIER stated that another thing learned was that the insurance industry in Alaska uses credit [scoring] in different ways, depending upon the company. As far as Mr. Lessmeier knew, he said, there is only one company in Alaska that is approved to use credit [scoring] for purposes of making rates, although there are probably a number of companies that use credit [scoring] for underwriting. He remarked that work on the legislation last session also educated everyone with regard to the lack of history of a problem with the use of credit [scoring] in Alaska.

Number 2153

MR. LESSMEIER identified the issue before the committee as one of fairness. If the ability exists to predict which groups of people will cause the most losses, should the [insurance industry] be able to price their insurance accordingly? He proffered that fundamental fairness seems to dictate that if the aforementioned ability exists, the [insurance industry] should be able to use it. Those presenting a lower risk should pay a lower premium, while those presenting a higher risk should pay a higher premium.

MR. LESSMEIER explained that State Farm reviewed many of its closed records and many of the factors involved, in an attempt to determine which factors are predictive of loss. The actuaries then developed a formula that was applied to a number of closed cases in order to determine whether it had predictive value, he said. The predictive value turned out to be very high. Therefore, Alaska State Farm uses credit scoring.

MR. LESSMEIER noted that State Farm refers to it as underwriting scoring rather than credit scoring because it isn't intended to predict whether someone is a good credit risk or not; rather, it's intended to predict whether someone is a good underwriting risk. The aforementioned was used for a short period of time for homeowner's insurance when State Farm was attempting to write more business; that is, the [underwriting scoring] was used to "write people" that State Farm wouldn't have otherwise written. State Farm no longer uses it for homeowner's insurance in Alaska, although it is used for automobile insurance, but only for new business. State Farm doesn't use [underwriting scoring] to cancel or renew policies.

Number 1982

MR. LESSMEIER recalled that at the end of last session, he worked very hard with the Senate to develop a compromise. However, there was a lack of time. Since last year there have been a number of developments that deserve review, he said. For example, he noted that the National Council on Insurance Legislators (NCOIL) has [introduced] model legislation which is included in the committee packet. He said that the committee packet should also have a recent study by the State of Washington's Division of Insurance that doesn't reach any significant conclusion. He noted that Alaska's Division of Insurance study should be available February 10, 2003.

MR. LESSMEIER related State Farm's belief that [credit scoring] is a valuable tool that is in the interest of State Farm's

policyholders. State Farm is willing to work with the legislature to accomplish ways to ensure that this tool is used fairly. Mr. Lessmeier stressed that Alaska's Division of Insurance has the power, the authority, and the responsibility to investigate any instances of unfair discrimination in insurance. Therefore, if credit [scoring] is being used unfairly by any company, the division has the power, responsibility, and authority to address it and stop it. He added that the division also has the power, responsibility, and authority to approve rates for insurance companies in Alaska. If an insurance company is using credit [scoring] to determine rates in Alaska, it is being done with the approval of the Division of Insurance.

Number 1764

MR. LESSMEIER suggested that, for future hearings, it would be helpful to have a State Farm actuary available for questions. However, he informed the committee that State Farm doesn't review records that are identified as medical or utility collections. Also, State Farm writes people without a credit history with traditional underwriting factors. He said that if an individual believes that their credit history is inaccurate, there are mechanisms for correcting it. Mr. Lessmeier specified that the ultimate goal is to ensure that people are charged a rate that's commensurate with their risk.

MR. LESSMEIER informed the committee that there are maybe one or two states that have completely banned the use of credit, which is the goal of [HB 47 and HB 5]. However, under the provisions of the Fair Credit Reporting Act, the direct writers of insurance will still be able to use credit [scoring] in terms of how insurance is solicited, because those direct writers will continue to target who they want to solicit through the mail.

Number 1613

REPRESENTATIVE BERKOWITZ inquired as to what other criteria besides credit scoring [State Farm] uses to assess an individual's risk and ultimately how that risk is used in the calculation of the rate. He asked about the credit rating of Alaskans as a whole compared to national averages. Representative Berkowitz expressed the need to see the evidence that credit scoring correlates to loss.

REPRESENTATIVE BERKOWITZ turned to Mr. Lessmeier's earlier statement that it's okay to use credit [scoring] to assess,

based on groupings of people, and he said that it doesn't always seem to be appropriate to do so. He noted, for example, that rates can't be based on one's race, gender, religion, and he said he suspected someone's economic status couldn't be used either. He added that if rates somehow had a de facto effect of reflecting these other criteria, that would be suspect as well. Therefore, [using credit scoring] as a means of de facto discrimination against poor people may be one of the concerns driving this legislation, he suggested.

MR. LESSMEIER said Representative Berkowitz's questions are all good and he believes all of those issues have been reviewed, in particular the last issue. He informed the committee that [State Farm] does not discriminate based on income, race, or gender.

REPRESENTATIVE BERKOWITZ expressed concern that if there is an unnaturally high correlation between poor credit scoring and economic status, then that would mean that people are being discriminated against based on their economic status.

MR. LESSMEIER related that he believes that Representative Berkowitz's concern has been addressed and that he would provide that information to the committee.

REPRESENTATIVE GRUENBERG inquired as to who NCOIL is.

MR. LESSMEIER answered that every state is invited to have a legislative delegate to NCOIL, which is a group of state legislators interested in insurance issues. In the past, Senator Donley was Alaska's representative. He said he didn't believe there is currently an Alaskan legislator in NCOIL.

Number 1375

REPRESENTATIVE SEATON recalled Mr. Lessmeier's earlier statement regarding [the need] for the rate to be commensurate with the risk. However, he said he understood Mr. Lessmeier to say that State Farm isn't using credit scoring to base the rates but rather in determining whether to offer insurance. Therefore, he inquired as to how credit scoring can impact a rate to be commensurate with the risk.

MR. LESSMEIER explained that State Farm's use of credit scoring is primarily used in determining whether to write insurance or not for an individual and whether that individual would be placed in a mutual company or standard company. He noted that

it's possible that those placed in the mutual company may receive a better rate than those placed in a standard company. Mr. Lessmeier further explained that one group ends up subsidizing the other. He expressed the need to accomplish fairness in terms of what people pay and the risk they present, which can be accomplished in different ways.

REPRESENTATIVE SEATON surmised then that the credit score is going to determine an individual's rate because of the policy or company in which the individual will be placed.

MR. LESSMEIER related his understanding that [credit scoring] could determine what company the individual is placed with, and that could determine the individual's premium.

Number 1190

REPRESENTATIVE DAHLSTROM related her understanding that various insurance companies determine at certain points during the year that the company will not write certain types of insurance policies for the remainder of the year, depending upon the number of policies written and money made in that area. She asked if that is correct.

MR. LESSMEIER said he didn't know the answer. However, he offered that economic conditions may impact whether a company chooses to continue writing a particular line of business, which is of concern in Alaska. Mr. Lessmeier related that what State Farm has experienced with automobile insurance has been disastrous. He specified that one of the things that may impact a company's desire to write business in a state such as Alaska is the question of how much market share the company wants. Mr. Lessmeier noted that State Farm stopped writing homeowner's insurance for a period of time, but has begun to do so again. He indicated a concern that State Farm was holding too much of the market as well as the loss experience.

REPRESENTATIVE DAHLSTROM asked if Mr. Lessmeier is able to provide the committee with information specifying the percentage of business State Farm is interested in writing in Alaska for homeowners and automobile as well as for small businesses. She related constituent concerns regarding the lack of insurance being written for small businesses.

Number 0974

MR. LESSMEIER stated that there are many factors determining whether companies choose to write insurance. He provided the following example with automobile insurance: He explained that Alaska requires mandatory insurance and mandated authors of uninsured and underinsured motorists. The Lawrence decision interpreted the mandated offers under umbrella policies. As a result, there are companies that have stopped writing that coverage. Although State Farm continues to write it, it's a large problem. The uninsured/underinsured coverage has become dramatically more expensive.

MR. LESSMEIER said that one of the reasons for the increase is due to the Alaska Supreme Court's ruling that if one's liability policy can cover punitive damages, then the uninsured/underinsured motorist coverage would have to provide protection for punitive damages as well. He said it doesn't make sense that anyone would want to buy that kind of protection for himself or herself. This needs to be fixed, he said. Although he agreed that [coverage for] uninsured motorists has to be addressed, he stated that there will always be a certain number of people driving without insurance and thus uninsured/underinsured motorist coverage is necessary. However, the more expensive it is the more difficult it is to have.

MR. LESSMEIER noted that insurance is a necessity, but also noted that the more impediments that are created in a state such as Alaska, the more problems there will be. Mr. Lessmeier suggested talking with some of the agents regarding the availability of insurance. He related that he has anecdotal knowledge that a number of insurance companies have left the state because it isn't an easy place to do business.

REPRESENTATIVE DAHLSTROM directed her earlier question to business insurance.

Number 0688

MR. LESSMEIER noted that most businesses have to provide insurance for vehicles. He said that he wasn't familiar with the issue of the availability of commercial insurance. However, he said that he was more familiar with the types of problems that have occurred with commercial construction and issues such as mold coverage. Those types of problems have created significant problems for insurance, he said.

Number 0592

REPRESENTATIVE LYNN inquired as to the health of the insurance industry in Alaska as compared to other states. Furthermore, he inquired as to how passage of HB 47 would impact the overall insurance business in Alaska for insurers as well as for consumers.

Number 0536

MR. LESSMEIER related his understanding that in the years 1999, 2000, and 2001 State Farm had an underwriting loss with automobile insurance in Alaska that amounted to close to \$50 million. Although he said he understood that the rest of the country has also experienced a bad trend [in this area], he couldn't compare Alaska to the rest of the country. He informed the committee that there will have to be rate increases. State Farm's experience with homeowner's insurance was better and he recalled that for 2002 there was an underwriting profit.

MR. LESSMEIER, with regard to how HB 47 would impact this, said that an underwriting score is the best tool to predict loss. Mr. Lessmeier said that he didn't think this state, an already difficult market, would want to create barriers for insurers to do business. He noted that although the insurance industry is a highly regulated industry, it's fiercely competitive. The more competition, the better it is for the consumer, he said. He noted that historically, Alaska's insurance rates have been good when one considers the cost of living. Mr. Lessmeier concluded, "This is something that would help. How much of a difference it would make I can't tell you."

Number 0132

REPRESENTATIVE DAHLSTROM asked whether an individual with bad credit from the point of view of the insurance company would ever have the ability to restore good credit.

MS. LESSMEIER responded that he didn't know, but offered to find out.

TAPE 03-5, SIDE A

Number 0001

MR. LESSMEIER, in response to a question by Representative Holm, said that he believes all insurers, in terms of the insurance pool, have to take a certain number of people in that pool. He noted that State Farm has a mutual company and a standard company.

REPRESENTATIVE HOLM asked if the \$50 million loss is related to the pool participation.

MR. LESSMEIER answered that he didn't believe it was related to the pool participation. He said he believes that loss is across the board.

REPRESENTATIVE HOLM remarked that he believes that HB 47 is good because it elevates the idea that people have a responsibility to pay their bills on time and pay for their insurance. Although there is no constitutional right to insurance, he said he believes that it's important of the state's economic survival to have insurance companies. Representative Holm inquired as to how Mr. Lessmeier would rate HB 47 with regard to State Farm's desire to remain in Alaska and do business here.

MR. LESSMEIER replied that it isn't his belief that State Farm isn't going to do business in Alaska if HB 47 is passed. However, it's one factor in an overall struggle for State Farm to try to keep its products available and affordable. He mentioned that there is also legislation regarding whether [insurance companies] can use after-market automobile parts, which is a huge issue for automobile insurance.

Number 0352

SHARALYN WRIGHT, Staff to Representative Mike Chenault, Alaska State Legislature, presented HB 47 on behalf of Representative Chenault, sponsor. She informed the committee that over two-thirds of the states are reviewing abolishing credit scoring. The states of Kentucky and Washington are in the group of several states that have abolished credit scoring. Ms. Wright characterized some of the facts presented today as misleading.

MS. WRIGHT mentioned the legislature's responsibility to young people, some who have difficulty obtaining insurance of any type due to their lack of a credit record. Insurance companies are using bad credit records as well as no credit records to elevate insurance rates in Alaska, she charged. For instance, her own daughter would have faced double insurance rates had she obtained insurance on her own; she attributed this to her daughter's lack of credit [history]. Therefore, Ms. Wright's husband placed his name on the vehicle and insured the vehicle for less than half the premium she was quoted by several insurance companies. She mentioned that some of the younger fishermen in the state are having difficulty obtaining boat

insurance due to the lack of a credit [history], a bad credit rating, or questionable credit rating. Ms. Wright said that everyone has had financial problems at some point, and if insurance had been required and that individual couldn't afford it, she suggested that the individual would've driven without insurance. Forcing the economically deprived into the arena of not paying their insurance and driving without insurance is a concern of Representative Chenault, she related.

Number 0682

MS. WRIGHT turned to the issue of underinsured premiums. She informed the committee that her uninsured/underinsured rate was less than \$20 annually, and that insures four vehicles. That [rate] isn't a huge factor. Ms. Wright said the aforementioned isn't under discussion here; rather, the discussion involves individuals with obligations and children buying a new car. The decisions related to HB 47 will impact whether or not such individuals can afford insurance or medicine for their children, she said. Furthermore, some older citizens can't afford the premiums. Ms. Wright related her belief that [credit scoring] does discriminate against young and old individuals as well as those less fortunate. In closing, Ms. Wright suggested that the committee needs to take a good look at this before the insurance companies present their statistics and say that they don't use [credit scoring]. She noted that her credit rating has been set before her during a settlement conference and thus she charged that insurance companies do use [credit scoring].

Number 0908

REPRESENTATIVE LYNN asked if the passage of HB 47 as written would raise the cost of insurance for everyone.

MS. WRIGHT related that a wise lawyer once told her that insurance companies aren't in the business to pay claims or determine risks, but rather are in the business to collect premiums. Ms. Wright related her belief that HB 47 isn't a cure-all, but it will address one portion of the problem. Furthermore, she stated that she didn't believe that any insurance company making money in this state would pull out.

Number 1058

RUSSINA SGOUREVA, Product Manager, Progressive Insurance, informed the committee that she is responsible for overseeing all of the company's business that flows through its independent

agents in Alaska. Ms. Sgoureira pointed out that Progressive Insurance, the fourth largest auto insurer, is the largest writer of private passenger auto insurance through independent agents in the nation. Progressive Insurance does business in 48 states with over 30,000 independent agents in the nation. Progressive Insurance is the fifth largest writer of auto insurance in Alaska with over 16 independent agents through which Progressive Insurance sells insurance. Progressive Insurance also sells insurance through its call center and the Internet. In total, Progressive Insurance has over 17,000 policies in the State of Alaska and last year over 13,000 of those policies were sold to Progressive Insurance's independent agents. Ms. Sgoureira explained that she wanted to provide the committee with some background on how Progressive Insurance uses credit [scoring] and the measures the company has taken to address the concerns of the general public and legislators.

Number 1220

MS. SGOUREVA echoed Mr. Lessmeier's earlier comment that credit [scoring] is a powerful and important predictor of future losses. Credit is one of many things that insurers consider when determining rates. An individual's driving record, type of vehicle, location of the insurer, gender, and age are used when determining an individual's rate. Age is already a factor included in the rate order of calculations for most insurance companies. All of the actuarial support associated with using age has been filed with the Alaska Division of Insurance. Ms. Sgoureira said that the use of credit [scoring] allows insurance companies to more accurately predict future losses for policyholders. There are many studies that have demonstrated the predictive power of credit [scoring] and she offered to share those with the committee and the legislature.

MS. SGOUREVA said that since Progressive Insurance started using credit [scoring], it was able to offer better rates to many consumers who otherwise wouldn't have been eligible for these rates. She related that Progressive Insurance estimates that over 60 percent of its policyholders were eligible for a lower rate once credit was used as a rating variable. She explained that credit scores focus on an individual's bill paying behavior and how they use their available credit; for a consumer who has been responsible with his/her use of credit, it reflects positively on the score.

Number 1476

MS. SGOUREVA specified that the credit information Progressive Insurance reviews doesn't contain any reference to income, race, color, creed, or physical handicap or disability. As a company, Progressive Insurance has worked hard to use credit [scoring] responsibly in order to ensure that the process is transparent to the regulators, consumers, and agents in the state. Progressive Insurance doesn't use credit history to refuse to insure a consumer or to cancel an existing customer. Furthermore, credit information that is disputed by the consumer with the credit reporting agency isn't considered in the credit scoring. All medical, business, and commercial debts and liens are excluded from consideration. She announced that Progressive Insurance is willing to share with the regulators, media, and consumers, information about how it uses credit [scoring] in the process of determining rates.

MS. SGOUREVA noted that Progressive Insurance was very actively involved in the discussions of credit scoring during the last Alaska State Legislature. She noted that, since that time, Progressive Insurance has employed a number of measures to address issues that were brought to the company's attention. For instance, Progressive Insurance has filed its credit scoring methodology with the Alaska Division of Insurance. Furthermore, Progressive Insurance has modified its credit scoring methodology in order to ensure that medical and business debt are excluded. Ms. Sgoureva told the committee that Progressive Insurance has also collaborated extensively with the Alaska Division of Insurance in the preparation of the report that will be out on Monday.

Number 1500

MS. SGOUREVA turned to what Progressive Insurance sees as dangers associated with an outright ban on credit [scoring]. First, consumers will see significant increases if credit [scoring] were banned because there would be less accurate pricing. Progressive Insurance estimates that over 11,000 policies in the state might experience increased premiums as a result of the elimination of credit [scoring]. She highlighted the issue of fairness and asked if those policyholders who currently experience better rates due to their better financial responsibility deserve to lose those rates. Second, the removal of credit [scoring] would create an uneven playing field for agents and the insurance companies that write through agents. The Federal Credit Reporting Act allows the use of credit [scoring] in designing solicitations for insurance for direct companies and chapter companies. With the elimination of

credit, Progressive Insurance's agents in Alaska will be disadvantaged because they won't be able to obtain the more profitable and higher attention business. Therefore, Progressive Insurance doesn't feel that the aforementioned is a fair decision with regard to its agents.

Number 1600

MS. SGOUREVA turned to the challenges of doing business in Alaska. In 2001, Alaska fared significantly worse than most other western states. She referred to an analysis from AM Best (ph), which illustrates that insurers in Alaska lost about \$.24 per \$1.00 of premium that they wrote in 2001 in Alaska, compared with about \$.12 in other states. In regard to an earlier comment that [the elimination of credit scoring] is a nationwide trend, Ms. Sgoureva emphasized that no state banned credit [scoring] last year. Furthermore, the State of Washington passed legislation limiting the use of credit [scoring], but does not ban it. Similarly, the states of Kentucky, Michigan, and Maryland have legislation providing various restrictions on how credit [scoring] can be used and monitored; however, credit [scoring] has not been banned.

Number 1725

CHAIR WEYHRAUCH announced that HB 47 would be held over.

ADJOURNMENT

Number 1725

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 10:00 a.m.