ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE
March 7, 2014
3:19 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Lora Reinbold, Vice Chair
Representative Mike Chenault
Representative Charisse Millett

MEMBERS ABSENT

Representative Bob Herron
Representative Dan Saddler
Representative Andy Josephson
Representative Craig Johnson

COMMITTEE CALENDAR

HOUSE BILL NO. 247
"An Act relating to the Protective Occupation Retirement Council; relating to participation of certain employees in the defined benefit and defined contribution plans of the public employees' retirement system; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 316
"An Act relating to workers' compensation fees for medical treatment and services; relating to workers' compensation regulations; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 247
SHORT TITLE: PEACE OFFICER/FIREFIGHTER RETIREMENT
SPONSOR(s): REPRESENTATIVE(s) HOLMES, MILLETT, LEDOUX

01/21/14	(H)	PREFILE RELEASED 1/17/14
01/21/14	(H)	READ THE FIRST TIME - REFERRALS
01/21/14	(H)	L&C, FIN
03/07/14	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 316
SHORT TITLE: WORKERS' COMPENSATION MEDICAL FEES
SPONSOR(s): LABOR & COMMERCE

02/19/14	(H)	READ THE FIRST TIME - REFERRALS
02/19/14	(H)	L&C
03/07/14	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE LINDSEY HOLMES
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified as one of the joint prime sponsors of HB 247.

GRACE ABBOTT, Staff
Representative Lindsey Holmes
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Explained the changes to HB 247, Version U, on behalf of one of the joint prime sponsors of HB 247, Representative Lindsey Holmes.

MICHAEL BARNHILL, Deputy Commissioner
Department of Administration (DOA)
Juneau, Alaska
POSITION STATEMENT: Responded to questions during discussion of HB 247.

TOM WESCOTT, President
Alaska Professional Fire Fighters Association (AKPFFA)
Eagle River, Alaska
POSITION STATEMENT: Testified during the discussion of HB 247.

WILLIAM FORNIA, Consultant;
President, Pension Trustee Advisors
Denver, Colorado
POSITION STATEMENT: Testified during the discussion of HB 247.

ANNA LATHAM, Staff
Representative Kurt Olson
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified on behalf of the sponsor, House Labor & Commerce Committee, Representative Kurt Olson, Chair, on HB 316.

JOHN BITNEY, Lobbyist
Alaska Surgery Center
Palmer, Alaska
POSITION STATEMENT: Testified during the discussion of HB 316.

DAVIS PETERSON, Orthopedic Surgeon;
President, Alaska State Orthopaedics Society
Anchorage, Alaska
POSITION STATEMENT: Testified during the discussion of HB 316.

SALLIE STUVEK, Human Resources Director
Fairbanks North Star Borough (FNSB)
Fairbanks, Alaska
POSITION STATEMENT: Testified in support of HB 316.

DAVE JONES, Assistant Superintendent
Kenai Peninsula Borough School District (KPBSD)
Soldotna, Alaska
POSITION STATEMENT: Testified in support of HB 316.

JULIE CISCO, Risk Manager
Kenai Peninsula Borough School District (KPBSD)
Soldotna, Alaska
POSITION STATEMENT: Testified in support of HB 316.

DAVE KESTER, Self
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 316.

CHUCK BRADY, President
Workers' Compensation Committee of Alaska (WCCA);
Manager, Workers' Compensation
Arctic Slope Regional Corporation
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 316.

RACHEL PETRO, President; Chief Executive Officer
Alaska State Chamber of Commerce (Alaska Chamber)
Anchorage, Alaska
POSITION STATEMENT: Testified during the discussion of HB 316.

SARAH LEFEBVRE, Staff
Exclusive Paving and University Redimix;
Member; Alaska Workers' Compensation Board
Fairbanks, Alaska
POSITION STATEMENT: Testified during the discussion of HB 316.

KAREN PURDUE, Chief Executive Officer; President
Alaska State Hospital and Nursing Home Association (ASHNHA)
Fairbanks, Alaska
POSITION STATEMENT: Testified during the discussion of HB 316.

GREG MILLES, Physical Therapist (PT), WCC; Owner
Home Town Physical Therapy
Fairbanks, Alaska
POSITION STATEMENT: Testified during the discussion of HB 316.

RUTH CARSON, Physical Therapist (PT)
Equinox Physical Therapy
Fairbanks, Alaska
POSITION STATEMENT: Testified during the discussion of HB 316.

WALTER PARRISH, Self
Fairbanks, Alaska
POSITION STATEMENT: Testified during the discussion of HB 316.

JULIANA AMENT, Physical Therapist (PT), DPT, MOMT; Owner
North Pole Physical Therapy
North Pole, Alaska
POSITION STATEMENT: Testified during the discussion of HB 316.

RICHARD COBDEN, Orthopedic Surgeon
Fairbanks Orthopaedic Center
Fairbanks, Alaska
POSITION STATEMENT: Testified during the discussion of HB 316.

DEBORAH MURSCH, Financial Director
Willow Physical Therapy
Fairbanks, Alaska
POSITION STATEMENT: Testified in opposition to HB 316.

ACTION NARRATIVE

3:19:48 PM

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:19 p.m. Representatives Millett, Chenault, Reinbold, and Olson were present at the call to order.

HB 247-PEACE OFFICER/FIREFIGHTER RETIREMENT

3:20:00 PM

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 247, "An Act relating to the Protective Occupation Retirement Council; relating to participation of certain employees in the defined benefit and defined contribution plans of the public employees' retirement system; and providing for an effective date."

3:21:11 PM

REPRESENTATIVE REINBOLD moved to adopt the proposed committee substitute (CS) for HB 247, labeled 28-LS0726\U, Wayne, 2/4/14, as the working document.

CHAIR OLSON objected for the purpose of discussion.

3:21:31 PM

REPRESENTATIVE LINDSEY HOLMES, Alaska State Legislature, testifying as a joint prime sponsor, explained that the goal of HB 247 is to create a possible plan for a more secure retirement future for public safety employees, specifically for police and fire employees. The average hiring age for police officers and firefighters in Alaska is 31 years of age with an average age at retirement is 56 years of age. Since the public safety career typically represents a shorter time span it can leave people less time in the system to secure their retirement. The defined contribution plans, the current Tier IV, Public Employees Retirement System (PERS) definitely have great benefits. For example, state employees have access to the supplemental benefits system (SBS), which helps to supplement employee retirement benefits. Unfortunately, the public safety employees do not have SBS benefits, which increase their retirement risks. These employees have what is basically considered a 401(k) program. While their plan has some great advantages, it also has some risks. This bill would define a "hybrid" plan called a Variable Benefit Retirement System (VBRS), somewhere between the Tier III defined benefit and Tier IV benefit contributions plan. This hybrid plan attempts to provide reliance in future years on social benefit programs and the difficulty in recruiting and retaining good employees. The proposed plan has some distinct advantages and efficiencies that go along with defined benefits such as the ability to pool investment funds and achieve greater returns over time. Further, this plan provides additional security for employees during their retirement years. The hybrid plan also has some advantages of a defined contribution plan since it greatly reduces worry of unfunded liability (UL).

Thus the hybrid plan provides more control and security for the state and for employees. Again, people affected by HB 247 are the ones that put their lives on the line for us and the legislature would like to take good care of them in return.

3:24:08 PM

GRACE ABBOTT, Staff, Representative Lindsey Holmes, Alaska State Legislature, on behalf of one of the joint prime sponsors, Representative Lindsey Holmes, explained the changes contained in Version U of HB 247. On page 1, lines 5-14, language was added to permit the Protective Occupation Retirement (PORC) Council to adjust a monthly cost-of-living allowance (COLA) to ensure the health of the VBRS plan from becoming underfunded.

3:24:59 PM

MS. ABBOTT referred to page 2, line 24, which added language to allow the governor to appoint a member of the public at large to serve on the PORC to broaden the representation of the public. She referred to page [3], line 17, which provides that the PORC may reduce or increase the annual medical stipend. Finally, on page 7, lines 25-28, it establishes the monthly retirement benefit of the protective occupation employees cannot exceed Tier III benefit levels. The only other changes in Version U are conforming changes, she said.

3:26:05 PM

MS. ABBOTT advised members that the bill contains two fiscal notes from the Department of Administration (DOA), Office of the Commissioner and the DOA, Division of Retirement and Benefits.

3:26:59 PM

MICHAEL BARNHILL, Deputy Commissioner, Department of Administration (DOA), referring to the fiscal notes, stated that the first fiscal note is the actuarial note on the system. Essentially, the fiscal note [dated 2/28/14 for the Office of the Commissioner, DOA] represents the actuarial analysis of HB 247. This provides the impact to the state in terms of the additional assistance the state would need to pay from Senate Bill 125 from 2008, which starts at $3.8 million and grades up to $7.4 million in 2020. The reason for this is somewhat complex; however, he reported that the actuary that worked with the firefighters agreed with state's actuaries on the figures. The reason for the impact relates to the method the state uses to pay assistance and past service cost in the Public Employees Retirement System (PERS).

MR. BARNHILL stated the committee may recall the state has a very large unfunded liability in the PERS in the amount of $7 billion. The state also provides substantial state assistance to municipalities in paying off the unfunded liability. In 2008, the state capped the employer contributions rate at 22 percent, which is the percentage of payroll that employers contribute to the PERS to pay their share of the contributions to fund their eventual benefit. However, the actuarial rate fluctuates. The actuarial rate has been in the 30 percent range, but has risen to 44 percent for FY 15. The 22 percent employer contribution is allocated in a number of ways. First, the defined benefit normal cost is estimated at 6 percent of payroll. The second allocation is for defined contribution costs that the employer contributes on behalf of the defined contribution employees, which contains a number of components.

3:29:35 PM

MR. BARNHILL said that third, the employer contributes 5 percent of payroll, which the employee can manage and invest; fourth, 3 percent is deposited to a health reimbursement account that can be used to pay for premium share and deductibles. Fifth, the employer contributes 1.5 percent to major medical contributions to the employee's health care. The remaining amount is the employer contribution for occupational death and disability, which is 1 percent for police and fire. This totals 9 percent within the 22 percent that goes to the defined contribution normal cost. This is computed on basis of the defined contribution payroll only. When it is computed on the basis of the total payroll the 9 percent reduces to 4 percent overall. This bill would remove public safety employees out of the defined contribution plan to a Tier V, and the contribution costs would increase from 9 percent to 14 percent; with 12 percent for the non-peace officer staff. Those costs will increase and therefore the remaining amount within the 22 percent, which normally goes to past service costs decreases and won't, means the state must pick up more past service cost.

3:31:54 PM

CHAIR OLSON asked for the effect if all the 42 or 43 percent of the people in Tier IV that it would be significantly higher.

MR. BARNHILL answered yes; that the state will be paying more for this portion of the population within the 22 percent cap. Therefore, the amount that goes to past service cost decreases and the state must pick those costs up. The actuary estimates that the costs will start at $3.8 million and increase to $7.4 million over six years.

3:32:32 PM

CHAIR OLSON asked whether the sponsor has been contacted by other unions that would like to participate in this bill.

REPRESENTATIVE HOLMES answered that there have been some inquiries as to the plan.

3:32:55 PM

REPRESENTATIVE MILLETT referred to the second fiscal note. She asked for the differences between this fiscal note and the one for Senate Bill 141 [in 2005 Special legislative session]. She asked why there would be differences in costs between Tier IV and Tier V.

MR. BARNHILL said he hasn't looked at the fiscal note for Senate Bill 141 in some time; however, this proposal puts employees into two tiers at the same time. The employees would remain in Tier IV for the purposes of placing credit associated with overtime into an investment account. For all other credit, contributions will go into a defined benefit account in Tier V. Thus the DOA's system must be reprogrammed to accommodate individuals being in two tiers. He anticipated this effort would require a substantial amount of reprogramming to accommodate two tiers at once.

3:34:12 PM

REPRESENTATIVE MILLETT said the fiscal note analysis is exactly the same analysis. She highlighted some of the details, including a request for cubicles. She has asked the Legislative Finance Division to check the figures.

MR. BARNHILL responded that adding an additional tier will require additional staff support to administer the new tier, but the fundamental difference is that this bill adds an additional tier while leaving the employees in the existing tier, which is different. The state has never had a pension plan proposal in which employees are in two separate tiers. This explains the additional work plus it is fundamentally different than anything the legislature has considered in the past.

3:35:48 PM

REPRESENTATIVE MILLETT found it odd that additional cubicles would be necessary after the new space requirements.

MR. BARNHILL answered that he wished he could say it would be easy to administer a pension plan; unfortunately, it is incredibly complex. He said that the data comes from over 200 employers on a daily basis. Under this bill employees come in and out of different tiers so a secretary could be a Tier V in the Department of Public Safety (DPS), but if the secretary transfers to the Department of Law (DOL), the position then moves to Tier IV. Thus, people move in and out of tiers, leave status, and employment status so the department must track eligibility for accuracy to correctly compute the service credit. He maintained that the system is complex.

3:37:08 PM

REPRESENTATIVE MILLETT related her own service and asked whether it is complicated for DOA to track a Tier II vested employee to one with a Tier IV with a 401(k) plan.

MR. BARNHILL answered that in the scenario the accumulated service does not go into two different tiers at the same time. A peace officer at the DPS earning overtime has earnings in Tier IV and Tier V.

3:38:21 PM

REPRESENTATIVE HOLMES interjected that the overtime is put in Tier V to avoid spiking.

MR. BARNHILL agreed the reasons are sound and he doesn't have any quarrel with the objective, but the process is complicated.

3:38:39 PM

REPRESENTATIVE MILLETT questioned the $1.6 million fiscal note to readjust the computers.

MR. BARNHILL answered that it is complicated.

3:39:14 PM

REPRESENTATIVE CHENAULT referred to the other fiscal note and asked whether the actuarial has performed computations of the costs of the program over time. He noted that the program costs double in five years. He asked for costs over the life of the employees affected.

MR. BARNHILL believed the actuary has done so. The cost for a peace officer and firefighter would be 14 percent of defined contribution payroll that will grow over time, which would be compared to the existing costs of the Tier IV population - at approximately 9 to 10 percent. Thus, the program increases the cost for 9 to 10 percent to 14 percent for peace officers and firefighters, although the DPS staff is at 12 percent. Certainly the actuary can "run those numbers" very easily if they haven't already done so. In response to Chair Olson, Mr. Barnhill said he would request the figures. In further response to a question, he indicated that Buck Consultants was the actuary the state used.

3:41:22 PM

TOM WESCOTT, President, Alaska Professional Fire Fighters Association, (AKPFFA), said the AKPFFA has listened to the defined benefits versus the defined contributions debate. The AKPFFA has researched the issues, and examined some successful plans, including Wisconsin and in the State of Washington's laws to find elements of the plan that made it successful. The goal was to create self-sufficient retires who are able to exit a physically strenuous career at an appropriate time. This led to the Variable Benefit Retirement System (VBRS), he said.

3:43:30 PM

MR. WESCOTT reviewed the plan via a PowerPoint presentation. Tier IV has some areas that are lacking in terms of the police and firefighter careers. He noted Mr. Barnhill talked extensively about the employer's 22 percent contribution breakdown. He referred to the pie chart entitled "Tier IV Employer Contribution Breakdown." Tier IV has a 401 (k), health retirement account, occupational death and disability, and post-Medicare health insurance; however, the big thing is that Tier IV employee contributions help pay off the unfunded liability associated with Tiers I-III. The Tier IV participants do not participate in Tiers I-III at all and obtain no benefit. This creates some problems, he said.

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MR. WESCOTT highlighted that the average 31-year-old firefighter or police officer who exits at 55 or 60 years of age will obtain a 31 percent income replacement in Tier IV, which is compounded since these employees are not participating in social security or the Supplemental Benefits System. Traditionally the public safety sector does not participate in social security since they typically do not work until the social security age for retirement. Instead this sector participates in pension systems in which the funds are dedicated to early retirement.

CHAIR OLSON offered his belief that approximately 90 political subdivisions participate in the social security system, the Public Employees Retirement System (PERS) and the Teachers Retirement System (TRS).

MR. WESCOTT agreed. He suggested that Kenai, Anchorage, and Fairbanks are examples.

CHAIR OLSON acknowledged that some opted out at the same time but the Kenai Peninsula Borough (KPB) and school district stayed in. He offered his belief that the KPB is the largest but some small and medium sized towns still participate. He related that the cities opted out for various reasons. He suggested that some organizations, such as the NEA opted out since their employees didn't want to pay twice. People were young and didn't think about retirement so often employees requested to opt out. He further suggested that U.S. Senator Lisa Murkowski has worked for years to allow communities one additional chance to participate; however, he hasn't heard anything recently. He offered his belief that "one leg of stool" is gone for many people.

3:46:46 PM

MR. WESCOTT answered that Chair Olson is correct. Most people opted out when they were covered under defined benefit pension plans. That influenced their decision. He did not recall any reconsideration when Tier IV was adopted.

3:47:14 PM

MR. WESCOTT turned to the slide entitled "Tier IV Shortcomings." He outlined areas of improvements to Tier IV. First, Tier IV individuals lack professional money management services and employees must pay a fee for these services. All the risk is at the individual level. For example, the downturn in the economy in 2000-2003 and again in 2008 can have a shocking effect on retirement savings. The VBRS provides professional money management services in its plan. When Tier IV was built the employer contributes five percent to the employee's 401(k). The TIAA-CREF, a financial services institution, issued recommendations for best practices for defined contribution plans. Their recommendation was for a 20 percent contribution for individuals not covered by social security. He offered his belief that it would need to be considerably more for public safety to account for shorter careers. He stated that currently the contribution is at 13 percent with 8 percent from employee contributions. The health savings in the [health reimbursement account] HRA are not projected to cover health care costs, particularly since this population tends to retire earlier so its retirees will need additional pre-Medicare coverage. The market corrections are very severe on the individual level. Finally, due to economies of scale, funds such as the Alaska Permanent Fund and the Alaska Retirement Management (ARM) Board pay lower fees than individuals would pay.

3:49:49 PM

REPRESENTATIVE SEATON asked whether he was analyzing this from the perspective that the individuals control their investments instead of the [Supplemental Benefits System - Annuity Plan] (SBS AP) having to choose among market managers.

MR. WESCOTT answered that employers under Tier IV can make their own investment decisions. Thus two individuals with the same income could invest in different ways and obtain different retirement amounts at the end of their careers. For example, individuals averse to risk might select fixed income investments and earn a lower rate of return.

REPRESENTATIVE SEATON asked whether he was talking about choosing the investment strategy not selecting individual investments.

3:50:56 PM

MR. WESCOTT said the VBRS adopts the professional money management similar to the ARM Board, in which professionals are hired to manage the funds.

3:51:17 PM

REPRESENTATIVE SEATON expressed interest in whether the options are the same as the SBS management or if he was considering individual investment or stock purchases that affect variables.

MR. WESCOTT said he wasn't completely familiar with SBS since he doesn't participate in it; however, under Tier IV individuals can choose a host of mutual funds, but not individual stocks to make their investments or they can pay to have the account managed.

3:52:07 PM

MR. WESCOTT outlined some consequences highlighted in the TIAA-CREF's best practices for defined contributions' paper. He offered to provide that to the committee.

3:52:31 PM

MR. WESCOTT raised the issue of the probability of an aged work force. He predicted that individuals will need to make decisions to stay or not based on financial reasons. Sometimes the decisions are reasonable, but when coupled with the physical nature of the job and the stresses it places on individuals employers can expect workers' compensation increases or in the worst case scenario deaths. This sector also experiences difficulty in recruitment and retention. While defined contribution plans are gaining in popularity, nationwide few police and fire organizations are subject to strictly defined contribution plans. He also predicted that if Alaska doesn't craft its defined contribution plan correctly Tier IV retirees can possibly become a burden to the social welfare system. He said this country takes care of the elderly. He related a scenario in which a Tier IV employee depleted his retirement funds at 80 years of age, without any social security funds, means that society would need to pick up the costs if the person lives to be 88 years of age.

3:54:12 PM

MR. WESCOTT stated the solution crafted for the VBRS plan provides members the distinct advantages and efficiencies of a defined benefit plan and provides the state with fiscal discipline and control of funding similar to a defined contribution funding plan with a flat rate. He pointed out the VBRS requests the "14 and 12 percent" contributions Mr. Barnhill discussed earlier [Tier V employer contributions in the fiscal notes.]

MR. WESCOTT stated that the VBRS plan would be managed without additional funding by altering benefits. Thus, poor market experiences would result in diminished benefits, which he offered to discuss later; however, a portion is variable in nature. The retiree's advantages under this plan include professional money management, lower fees, and long-term investment strategies. Individuals with one career who retire in a disastrous year, such as 2009, can experience disastrous results whereas participants in a large pool spread the risk. This plan pools the risk among the participants of the plan instead at the individual level so members receive stable and predictable retirement income. This doesn't absolve members of the responsibility of saving in a 401(k) plan or a 457 plan to supplement their income. Thus, the VBRS doesn't provide 100 percent of income, but it provides one stable plan, which he likened as returning "one leg of that stool."

3:56:16 PM

MR. WESCOTT acknowledged the bill is complicated. He referred to the charts entitled "Public [Employees] Retirement System (PERS) and Variable Benefit Retirement System (VBRS) Plan Comparison Chart." He explained that started with the chart used by the Division of Retirement and Benefits (DRB) for Tier III and added a column for VBRS, listed benefits and cited page numbers in HB 247.

MR. WESCOTT explained the significant differences in the VBRS. A portion of benefits are guaranteed and a benefit level is targeted. The plan is designed to provide Tier III benefits, but has the ability to make adjustments rather than ask the employer for more money.

3:58:01 PM

MR. WESCOTT outlined safeguards of the VBRS. For example, overtime does not count in final calculations. One problem with some pension systems is that overtime spiking will occur during the "high three" years and members retire on a higher pension. Under the VBRS plan overtime contributions do not count towards retirement. He questioned Mr. Barnhill's testimony that indicated employees would participate in two tiers since there is a defined contribution component and the variable component; however, the only contributions to the defined contribution account would be for overtime to ensure that overtime is not calculated in the final equation. Additionally, the bill adds a minimum of age 55 for public safety and 60 for other employees. Under the old PERS system, the retirement was based on time and the VBRS is based on a 7 percent rate of return as opposed to 8 percent, which is a more conservative rate.

3:59:41 PM

MR. WESCOTT reviewed the slide entitled "Tools." He related that employee contributions are adjustable for the post-pension adjustment (PPA) and cost of living adjustments (COLA) based on the funding status of the plan. The VBRS also has a variable benefit that it can award. Lastly, the plan would guarantee the 2013 health care premium. The best way to explain this is that the plan uses the 2013 figure of $1,647 for health care costs. He projected 30 years from that date and hoped the costs would be within the projected amount, including inflation adjustments, but if not, the plan would only pay out based on the funds available. He pointed out that the PERS older tiers promised health care regardless of cost. This plan promises a stipend, he said.

4:01:00 PM

MR. WESCOTT turned to the slide entitled "PERS Tier III Benefit Compared to Variable Benefit." He highlighted the main change is that a 25 year employee retiring would receive 57 percent; whereas a retiree under the VBRS plan would receive 50 percent with a variable 7.5 percent. He indicated the 7.5 percent variable can be adjusted to reduce the benefit. The COLA and PPA adjustments are also a tool to adjust under the VBRS, as well as the health care costs previously mentioned.

MR. WESCOTT turned to the slide entitled "Private Sector Contributions". He compared the total contributions of Wells Fargo, Alaska Airlines, the Alaska State Legislature, and recently modified police and fire plans for other states to the VBRS. He said, "You can look at the numbers there. We're right in the ballpark."

4:02:20 PM

MR. WESCOTT turned to the slide entitled "In Closing" and emphasized that due to the unique nature of the shorter timeframe, lack of SBS, and social security for public safety employees and firefighters, that Tier IV shortfalls are predicted. He suggested that the solution in HB 247 represents a compromise and addresses many legitimate concerns and issues that people have raised in terms of unfunded liability. He hoped to continue to work on the VBRS plan and address any concerns.

4:02:55 PM

REPRESENTATIVE MILLETT asked whether the peace officers underwent a retention study and examined the turnover rate since passage of Senate Bill 141, and prior to the change from a defined benefit to a defined contribution plan.

MR. WESCOTT recalled reviewing figures from the ARM Board and from the administration, although he has not seen any current figures. He deferred to the police department who can speak to the issues the police department is having.

REPRESENTATIVE MILLETT recalled a study and expressed an interest in knowing the retention rate of public safety officers since Tier IV was adopted.

CHAIR OLSON answered that he can only speak for his district. He said that anecdotally it appears that the younger firefighters and police officers like the new plan since it gives them portability, control, and vesting.

4:04:33 PM

REPRESENTATIVE MILLETT expressed concern that the portability might mean the officers leave so Alaska would train them and they subsequently leave the state. She pointed out that this adds a cost to the state that has not been considered. She highlighted that training costs are extremely expensive for any public safety officer. She offered her belief that the training academy at Sitka could attest to the high costs, which she believed were over $100,000 per officer. She reiterated that the younger officer might like the portability, but it also means they are leaving the state.

4:05:10 PM

CHAIR OLSON stated that the exit interview asks why people are leaving. Some people leave because one spouse doesn't like Alaska or family members in the Lower 48 have medical issues. He reiterated that the retirement plan has not been an issue in his area.

REPRESENTATIVE MILLETT said that she hears just the opposite in her district. In her experience the younger officers have indicated they came [to Alaska] for training and experience but that the 401(k) plan is insufficient. She hoped the training costs will also be considered. She appreciated the anecdotal information but would like statistical information, too.

CHAIR OLSON answered that the information has been requested from Mr. Barnhill and Mr. Wescott.

4:06:42 PM

WILLIAM FORNIA, Consultant; President, Pension Trustee Advisors, stated that he is a credential actuary with his own firm. He has been hired by Alaska Professional Firefighters Associates and the police union to analyze this plan. He stated that he testified previously before the Alaska State Legislature as well as in Colorado, Utah, Rhode Island, New Mexico, and North Dakota, as well as before city councils. He described his experience as broad, and he works for labor unions, pension funds, city, and state governments.

4:08:13 PM

MR. FORNIA referred to page 2 of a presentation entitled "Alaska Variable Retirement Plan." He said he will focus on why the plan change is necessary, the proposed structure of the variable retirement plan [VBRS], and he will give examples.

4:09:03 PM

MR. FORNIA turned to page 3 entitled "Why is change necessary." He acknowledged that the previous testifiers have covered some of the information already. He directed attention to the police and fire column since most of the employees affected in Alaska would fall under this column. The typical hire age is 31 and the average retirement age has been 56 years of age with 25 years of service. Under the old Tier III provisions the retiree would receive a benefit of 57.5 percent of pay. His calculations, based on the 13 percent projected deposits to Tier IV defined contribution retirement [DCR], would be 31 percent. Basically, this means a difference in pay between Tier III and Tier IV retirees would be just under half of the total benefits. He turned to the portability issue discussed earlier, and from an actuarial perspective the employee could work in Alaska for 5-6 years, then go to Washington or Colorado and join a defined benefit plan, work an additional 20 years and retire under that plan. He characterized that as strategically the smartest thing to do, so it doesn't surprise him that the younger police and firefighters like the current plan. However, he predicted that in 5-10 years when they have less future time to earn money, they will not like it as much.

4:11:17 PM

CHAIR OLSON referred to page 3 and asked Mr. Fornia to extend the graph to add a column for the private sector to provide a broader-based perspective and comparison.

MR. FORNIA offered to do so. In response to a question, he indicated that the average private sector employee would not be a police and firefighter employee so it would be more like the first column. He predicted these employees would come in during their mid-30s, would work to ages 62-65, and would not have any pension so there wouldn't be a Tier III row. The DCR benefit would be slightly better, and since they were older it would likely result in approximately 40 percent of pay. He said what has been happening is that these people are not retiring since they haven't saved up enough. He offered to simulate retirement at 62-65, but he reiterated the figures would likely be in the 40 percent range.

CHAIR OLSON said the committee will appreciate the figures.

4:13:09 PM

MR. FORNIA turned to slide 5, with respect to DCR health care. He stated that part of the Tier IV contributions will go to the DCR health contribution account. A person who is hired at 32 and is now 36 would need 8 additional years of service to retire at age 57 with 25 years of service. That retiree will have enough to pay for 30 percent of the health insurance cost for the member plus spouse based on projections. This retiree will need to find additional sources to pay for the remaining 70 percent of their health care costs.

4:13:59 PM

REPRESENTATIVE REINBOLD referred to page 4 to the final average salary of $80,000 and asked for the number of years of service the salary represents.

Mr. FORNIA said this would be for someone retiring after 25 years in today's dollars. He did not recall whether the figures were based on actuals, but the two left hand bars for Tier II defined benefit and Tier IV defined contribution were based on a scale. He said a lower paid person would have a higher social security benefit relative to the other two columns.

4:14:59 PM

MR. FORNIA explained that slide 5 demonstrates that pre-Medicare costs would exceed the contributions. He outlined the pros and cons of the defined benefit and defined contribution programs. This bill is something truly in between and tries to take advantages of each program and craft it into a plan.

MR. FORNIA indicated that a defined contribution plan provides a more cost effective way to pay for retirement benefits. First, each individual doesn't know the length of time they will live so they hedge living longer than average. Thus, these retirees tend to draw down their accounts more slowly. In a pooled plan the actuary can predict how long the average person will live. Thus, the actuary can predict how many people will die who participate in the pooled plan. Under the defined contribution approach, the typical person dies with some balance left for their children; however, he offered his belief that this is not an efficient use of the plan. Thus, instead of paying a pension benefit, it has the effect of paying a life insurance benefit.

4:17:09 PM

MR. FORNIA said the second advantage is that as individuals get older they can't take the investment risk, whereas the ARM Board can due to the long horizon.

4:17:29 PM

REPRESENTATIVE SEATON asked for clarification on the reasons the defined benefit plans will be more cost effective. He offered his belief that the problem with the defined benefit plans is that the unfunded liability has increased, which is typical of what has happened across the country. He asked because the contributions to the plan are less than the payouts.

MR. FORNIA said that it is cost effective if it is done right and this plan will be structured appropriately. Secondly, the unfunded liability would be the same for those employees that have been in the defined contribution plan all along. However, it would fall on the backs of the workers, who would not have a guaranteed retirement and the retirees that have overspent their savings would not have much left. Thus, the unfunded liability, which is now the responsibility of the state and employer, would either be deficits for workers wishing to retire, or would show up as deficits in the accounts of those who have already retired.

4:19:07 PM

REPRESENTATIVE SEATON maintained that he still did not view the defined benefit plan as being more cost effective for the state.

MR. FORNIA answered that the state would not provide adequate retirement benefits for defined contribution employees since the state would need to make higher contributions. He pointed out that the advantage of the defined contribution plan for employers is that there isn't any risk of unfunded liability. However, any shortfalls are shifted to the employees. Under the current state structure for PERS Tier I, Tier, and Tier III defined benefit plans is that the employees receive adequate retirement benefits, but it is done through the unfunded liability costs. He indicated that in order for the state to provide an adequate retirement through a defined contribution program, the state would spend the same amount, but it would have needed to contribute more to employee retirement accounts earlier.

4:20:43 PM

REPRESENTATIVE SEATON pointed out that the state is still employing people and can at least schedule it in and make decisions on the number of employees and the amount of wages. He stated that it will be very difficult if the state doesn't know the future cost.

MR. FORNIA acknowledged that his concern is a legitimate concern, which is why the VBRS is structured in this way. The state has a big unfunded liability. The variable plan capitalizes on three advantages of a defined benefit plan while it maintains many of the advantages of a defined contribution plan, particularly the "no risk of unfunded liabilities to employer."

MR. FORNIA related that the defined contribution is more portable, it is under their full control, and the defined contribution plans are transparent and clear to employees, the state, and municipalities.

4:22:26 PM

MR. FORNIA discussed the compromise contained in HB 247 [slide 7]. The key feature of the defined contribution plan is that the employer knows the exact cost. The VBRS starts with that fixed contribution and agrees to manage the plan within the budget. The VBRS designs target benefit levels, comparable to Tier III, but adjustment mechanisms are built in. Thus, the plan has lower guaranteed levels. From the actuarial side, a lower discount rate is used to provide a cushion against future adverse experience.

4:23:28 PM

MR. FORNIA discussed the contributions for police and fire members [slide 8]. He acknowledged that Mr. Barnhill is right that this is complicated. He directed attention to the two right hand columns to see how the fiscal note was derived. Under the VBRP 14 percent of the 22 percent would go toward pensions and 8 percent will go towards the legacy unfunded liability. He explained the DCR under the 22 percent Tier IV defined contribution, with 5 percent for the DCR pension account, 3 percent for the health retirement account, 2.72 percent for other liabilities, such as death and disability (D&D) and post-65 health care. The total is 11.28 percent. The DOA's actuary figures are slightly different, although similar. Since only 11.28 percent of the contributions are designation to cover the Tier I, II, and III unfunded liability, while under Tier IV only 8 percent goes to unfunded liability under the VBRS proposal, the state would need to cover the extra 3.98 percent for the unfunded liability, which explains the FN cost. He said the fiscal note covers the difference between the 8 percent under the VBRS and the 11.28 percent under Tier IV today.

4:25:29 PM

MR. FORNIA referred to the $4 million to 7.8 million in fiscal costs and explained that the reason this is going up so rapidly is because it accounts for the new people coming into the system. At some point, virtually everyone will be included in Tier V and it will stabilize and at that point will only increase 3 to 4 percent per year. He said that the initial increased cost is significant. He anticipated that the costs will increase for up to ten years and then stabilize. He said that slide 9 covers non police and fire members, but is similar.

4:26:49 PM

REPRESENTATIVE SEATON asked why the contributions for non-police and firefighter members differ than for the entire PERS field and asked whether it encompasses everyone in the PERS system.

MR. FORNIA answered that two left columns represent everyone throughout PERS. The right hand column covers individuals working in protective occupations, basically the non-police and non-fire employee, for example secretaries and dispatchers.

4:27:53 PM

REPRESENTATIVE SEATON expressed an interest in the rationale for this system having a higher percentage for pension for secretaries and dispatchers within police and fire whose job descriptions are the same as for other PERS employees throughout the state.

MR. FORNIA suggested that Mr. Abbott or Mr. Wescott could respond. He offered his belief that it was a fairly small group and perhaps it would be for the convenience of the department, but he did not know the precise logic.

4:28:49 PM

REPRESENTATIVE MILLETT offered her belief that these employees belong to the same union. She regrettably reported that the Anchorage Fire Department's senior Captain Jeff Bayless died on duty today. She recalled police officers that had been shot. She reminded members that this group is laying down their lives for us so this type of employee is different than other employees. She indicated that the state has a distinction between public safety peace officers and other state workers. She stated that all of the employees are in the same union, including the administrative officers. She said, "For me, this bill is about covering people that will put their lives on the line like Captain Bayless, who lost his life about 30 minutes ago. This is the first time in a long time that we've lost a fireman on duty." She went on to report that in the last three years the state has lost three police officers from her police department who had been shot. She hoped that members would be thinking about people who put their lives on the line and not compare them to other administration staff, such as the Division of Motor Vehicles. She emphasized the duties the peace officers perform are important for Alaskans.

4:30:53 PM

REPRESENTATIVE SEATON clarified that he is talking about non-officer category. He wondered how that equates with the differential that would be employer's contribution of 12 percent and not the 14 percent in the other category for active police and fire employees.

CHAIR OLSON reminded members that committee time is short and asked Mr. Fornia to continue.

4:31:25 PM

MR. FORNIA discussed actuarial and governance safeguards to ensure an adequately funded program [slide 10]. He stated that the plan is built around the employer's contribution being safeguards; 12 or 14 percent without any additional bargaining. This differs from the current plan in which an unfunded liability happens. This plan is designed to make the pension council make tough decisions to keep the plan adequately funded and manage benefits so we can do that. This happens in several ways. First, the VBRS plan uses a lower actuarial discount rate. Second, overtime worked is not part of the plan. Third, the employee contributions can be increased, if necessary. Fourth, any transition benefits for Tier IV are at the full actuarial costs. Fifth, during good times reserves will be built up so the reserves can be used during bad economic times. Lastly, the VBRS will increase to ages 55 and 60 rather than using years of service rules.

4:33:00 PM

MR. FORNIA referred to the Protective Occupational Retirement Council (PORC), which will be able to adjust employee contributions, cost-of-living adjustment (COLA), benefit formula, and health care cost sharing [slide 11].

MR. FORNIA highlighted that more specifically the PORC, which is similar to a bard, can make different decisions each year [slide 12]. Annually, the PORC will make adjustments. The actuarial will provide the target benefit basis and guaranteed benefit basis; however, there will not be any changes to the employer contributions rate, which will be fixed. He identified this as the compromise.

4:34:04 PM

MR. FORNIA compared the flexible benefit design safeguard to ensure an adequately funded program [slide 13]. He suggested that Mr. Wescott previously discussed most of these. He referred to the two bottom times: the post retirement purchasing adjustments and health reimbursement, which he characterized as being huge changes. For example, the health reimbursement starts out with premium reimbursement being based on 2013 rates; however, as the experience improves, it can be bumped up to 2014-2015. He said that the good news is that not many people will retire under this plan for many years so by the time a meaningful number of employees retire, the plan will have obtained sufficient experience to know what it can afford.

4:34:48 PM

MR. FORNIA discussed the second safeguard, the actuarial methods [slide 14]. The actuarial has built in a margin for the actual assumptions, will use an asset valuation to minimize and smooth impacts, and will build up reserves during good times. He touched on reduced discount rate as a safeguard [slide 15] and reported that the actuarials performed variable benefit plan simulations [slide 16]. First, the plan considered how it would have looked if it had started at various times over the last fifty years, after first receiving all the data from the Alaska Public Employees' Retirement System returns since 1981. The actuarial also used statistics from prior to 1981 and national return statistics prior to 1981 to examine the model.

4:35:57 PM

MR. FORNIA compared how the program would have worked if it began in 1985 [slide 17]. He discussed the graph, noting that 1985 represented an average case. He pointed out the bottom green line on the chart shows the funded ratio of the plan on the level of the target benefits. The guaranteed level, for lower level benefits, would have started out at 120 percent funded and would have skyrocketed to 158 percent by 2000, and by 2009 would be 80 percent funded. Thus, the state would have paid out the guaranteed benefit level in 2009. During this time the PORC would have been making tough decisions and during the 90s would likely have ratcheted the benefits up to the guaranteed level, but as the economy had a downturn, would perhaps have suspended COLA for a few years in the early 2000s, and not granted the 2.5 percent. He predicted that the VBRS will fall between these two lines on the graph and have recovered by now and the state will be paying benefits closer to the target benefit level.

4:37:34 PM

MR. FORNIA explained that the pro forma findings show "a ton of numbers" that show the typical case in 1985 compared to the 1963 and 1996 best case and worst case scenarios. The 1985 typical case today would be 93 percent funded at the target funded ratio as of 2013 and 15 years in it would be 134 percent funded, but the worst it ever would have been would be 96 percent funded, but today the guaranteed funded ratio would be at 110 percent funded [slide 18]. He asked members to keep in mind that he shows an extreme case of the market value of assets; however, actuaries use a smooth value of assets to smooth out the fluctuations. If that was performed, the good years would be lower and the bad years would have been higher.

4:38:36 PM

MR. FORNIA discussed the best case scenario if the program would have begun in 1963 [slide 19]. This plan would have been funded at 216 percent funded by the time the "dot-com bubble" would have burst on a guaranteed level. Although probably the benefits would be given out at the target level the state would have been 180 percent funded, that today the state would still be over 100 percent.

4:39:17 PM

MR. FORNIA reviewed the worst case scenario, if the program would have begun in 1996, the fund would have just started so the funding ratios would have crept up to 126 percent, but would have plummeted twice. In this instance the benefits would be paid at the target level; however, the plan would not have had any retirees to speak of since 1996 was still less than 20 years ago so the plan would have paid out the benefits only at the guaranteed level.

4:40:09 PM

MR. FORNIA related the next five pages reviewed case studies for four other states with similar plans [slides 21-25]: Wisconsin, South Dakota, Colorado, and Ohio. The main thing with Wisconsin is that its COLA is dependent upon the fund returns so each year they announce the amount of the variable benefit based on a built in formula and following the most recent crash the variable benefit decreased. He pointed out that retirees 'benefits could actually go down to their retirement level, but not lower. In Alaska's case the benefit is fixed and the PORC will make a decision as to whether a cost-of-living adjustment or pension protection benefit can be granted.

4:41:39 PM

MR. FORNIA stated that Colorado's fire and police pension plan contributions are fixed at 8 percent for employees and for employers. He said that he was Colorado's actuary starting in 1997. If the plan was overfunded Colorado put the extra funds into a defined contribution account. Those funds were depleted when the returns were bad. Colorado also has discretion over COLA. He said that they must keep their costs below 16 percent just like Alaska would need to keep its cost below 14 percent plus 9 percent [for a total of 23 percent]. He cautioned that this plan does not include health care; in fact, very few plans include health care as part of the pension and instead, health care has usually been considered a separate entity.

MR. FORNIA stated that South Dakota's plan is similar to Wisconsin since it has a variable COLA. He said that Ohio's contributions are now fixed. He explained that Ohio underwent major pension reforms in 2012 and their systems are required to keep their plans fully funded in 30 years. In most instances the states are imposing plan reductions, particularly the police and fire plans with some reductions to their benefits. He stated that Ohio does include retiree health care.

4:43:30 PM

MR. FORNIA indicated the proposed 14 percent and 12 percent employer contribution is fairly consistent with what other employers around the country provide. He stated that Wells Fargo with a 12.2 percent and Alaska Airlines at 14.7 percent total employer contributions [slide 26].

MR. FORNIA recapped the proposed VBRS [slide 27]. He explained the catalyst for the VBRS structure is that the state is concerned with potential future unfunded liabilities, including that Tier IV defined contribution plan does not provide a solution. This plan could provide a potential solution under HB 247. If the 7 percent average return is achieved, then benefits will be pretty close to the state's Tier III benefits. However, if the experience is not so good, the benefits will not be increased to the Tier II level. He explained that under a pure defined contribution plan each individual takes the risk whereas under a typical defined benefit plan the employer takes the risk. He stated that in this case [under the VBRS] the risk is a shared risk among all of the individuals so each individual doesn't have to predict how long they will live, invest their own money, or which asset class is appropriate, since the plan as a whole does it. That removes significant risk, which is the reason this type of structure works, he said.

[HB 247 was held over.]

The committee took an at-ease from 4:44 p.m. to 4:47 p.m.

4:45:37 PM

HB 316-WORKERS' COMPENSATION MEDICAL FEES

4:47:00 PM

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 316, "An Act relating to workers' compensation fees for medical treatment and services; relating to workers' compensation regulations; and providing for an effective date."

4:47:04 PM

ANNA LATHAM, Staff, Representative Kurt Olson, Alaska State Legislature, stated that for the past decade, Alaska has faced the highest workers compensation rates in the nation. The Alaska Workers’ Compensation Board, the legislature, and the administration agree that effective reform is needed. She said this bill proposes to change the fee schedule for workers' compensation claims to a schedule based on the federal Centers for Medicare and Medicaid Services fees with a conversion factor set by the Alaska Workers’ Compensation Advisory Board (AWCAB). She reviewed the section-by-section analysis of the bill.

4:47:48 PM

MS. LATHAM stated that Section 1 would amend the physician, outpatient and ambulatory surgical center, and inpatient hospital fee schedules to be based on the federal Centers for Medicare and Medicaid Services fees. Section 2 refers to the fee schedule that is currently in statute. This section would go back into effect on January 1, 2019. She related that there is a sunset provision for this new schedule.

4:48:04 PM

MS. LATHAM stated that Section 3 would require the Workers' Compensation Advisory Board (WCAB) to annually review and adjust fees set under Section 1. It also requires the WCAB to set a conversion factor for the fee schedules in Section 1. It provides for maximum reimbursement for fees rendered in another state. It requires the board to set the rate for air ambulance service and to set the markup and reimbursement limits for durable medical equipment. It requires the board to set the markup, dispensing fee, and reimbursement limits for prescription drugs. It also requires a prescription drug dispensed by a physician to include in an invoice the code from the National Drug Code Directory published by the U.S. Food and Drug Administration (FDA). Section 4 lists reference materials the department may incorporate, including future amended versions, into regulations. Sections 5-8 are part of the sunset clause, which she'll explain in a few minutes.

4:49:10 PM

MS. LATHAM stated that the fee schedule currently in use is not working. In 2004, the state established a usual, customary, and reasonable fee schedule that was set at the 90th percentile and reflective of the geographic area in which services were rendered. The UCR schedule has been in effect since 2004 and since then the state has had the highest workers' compensation rates in the nation. Medical costs constitute $.76 of every dollar spent on workers' compensation in Alaska, which has had a serious impact on premium rates paid by all Alaskan employers. Medicare costs have risen 25 percent over the past year despite a 14 percent decline in the frequency of workers' compensation claims over the same period. Alaska's premiums are priced at 160 percent above the national median. High premiums are a drain on resources in both the public and private sectors. Clearly the fee schedule Alaska is using is not effective in reducing costs. Upward pressure is constantly applied to the UCR schedule and once a fee schedule is published; charges tend to rise to and above the level of payment, which guarantees an annual increase in the UCR charges.

MS. LATHAM asked why the state should switch to a resource-based relative value scale. This methodology was created in the late 80s by a team of researchers from Harvard, which included statisticians, physicians, and economists. They determined that each procedure was equated to a relative value unit that included a combination of physician's work, practice expenses, and malpractice insurance. This system is owned and updated by the American Medical Association (AMA). The AMA assigns a relative value unit to each current procedural technology (CPT) code. Other states using this system commonly apply a geographical adjustment factor. The value is multiplied by a fixed conversion factor, which is a dollar amount that converts a relative value unit into a payment amount for service. This is the basis for Medicare and Medicaid's payment schedule and 32 states have adopted this methodology.

4:51:12 PM

MS. LATHAM stated that HB 316 specifies that there are three fee schedules that will be used for workers' compensation billing. The physician fee schedule, an outpatient and ambulatory surgical fee schedule, and an in-patient hospital fee schedule. The WCAB would then be responsible for setting conversion factors for all of the three fee schedules and annually renewing and adjusting fees. They would also set the fees for air ambulance or Medevac. They would set the markup for durable medical equipment, the dispensing fee and markup rates for reimbursement of prescription drugs. She highlighted the safety net in HB 316, in the form of the sunset provision. This bill will give the WCAB four years to set the new rates and measure the success of those reforms. The new resource-based relative value scale and the conversion factors would go into effect January 1, 2015 and sunset January 1, 2019. Section 2, which includes all of the old language using the UCR schedule go back into effect January 1, if the legislature did not take any action. She stated that HB 316 is the first step in developing a solution to the escalating medical costs that Alaska faces with its workers' compensation system. The concepts introduced in HB 316 were unanimously approved by the WCAB this last September.

4:52:43 PM

MS. LATHAM outlined some concern about the WCAB setting the conversion factors, in particular, due to their expertise in setting fee schedules. Another board, the Medical Services Review Committee (MSRC), is defined under AS 23.30.095. Its mission is to assist and advise the Department of Labor & Workforce Development (DLWD) and the WCAB in matters involving appropriateness, necessity, and cost of medical and related services. However, the current a nine member MCRC has not met since 2009. She related that four members have medical expertise and the committee will develop a proposed committee substitute requesting the MSRC to advise the WCAB when setting conversion factors. She anticipated that the proposed committee substitute would be before the committee soon.

4:53:35 PM

CHAIR OLSON remarked that several months ago the committee started contacting all the stakeholders to solicit advice. The committee has begun to receive information back that is being incorporated into the CS.

4:54:24 PM

JOHN BITNEY, Lobbyist, stated that he represents the Alaska Surgery Center. He indicated that the concern the Alaska Surgery Center expressed was having the board be a rate-setting entity. He believed that some provisions in the proposed committee substitute will address this. He indicated he has provided written comments, but reiterated that he thinks the proposed committee substitute will address this; however, he will review the committee substitute once it is finalized.

4:55:17 PM

DAVIS PETERSON, Orthopedic Surgeon; President, Alaska State Orthopaedics Society, stated he has previously submitted a written statement that includes details. He said that his society would prefer an RVRVS type for billing purposes for the administrative simplicity and since the RVRVS system is maintained for updated codes and modifications of codes as technology develops, which is readily maintained. In the past problems have existed with private coding services that were not maintained appropriately and were quickly outdated. He emphasized that his organization would prefer a conversion factor system, and like some of the other stakeholders, including the Alaska State Medical Association, would prefer that rate setting and conversion factor adjustment be completed by a separate entity, preferably made up of commission level individuals. Additionally, his group would prefer uniformity be developed among employers and stakeholders, in terms of forms, paperwork, and submissions, so physicians will not need to deal with multiple entities that make administrative changes more complicated. He said that, currently, his society is being faced with the ICD 10 changes that require software adaption and billing for Medicare purposes that will entail additional cost to officers, including hiring additional employees for coding. As much as possible, he hoped for consistency in order to save time, training, and money in the long run, which will help with efficiencies.

4:58:22 PM

SALLIE STUVEK, Human Resources Director, Fairbanks North Star Borough (FNSB), stated that she oversees the Division of Risk Management, which handles the workers' compensation benefit program for the FNSB and the FNSB School District, which are self-insured plans. The FNSB continues to see increases in medical cost and believes that the changes proposed in HB 316 are a step in the right direction, and the FNSB is in full support of those changes. She stated that the FNSB administration and the assembly support the proponents of the WCAB's adopted resolution in September 2013. She referred to a letter of support and FNSB Resolution [Number 2014-09] in support of the changes outlined [in Resolution 13-01 of the Alaska Workers' Compensation Board].

4:59:29 PM

DAVE JONES, Assistant Superintendent, Kenai Peninsula Borough School District (KPBSD), stated that he previously testified before this committee with respect to the large medical cost increases the KPBSD's workers' compensation plan has experienced. He said he will not repeat the testimony. He stated that the fee schedules within HB 316 represent a good start toward addressing the state's medical cost concerns. He would like to see treatment guidelines developed to regulate usage, too. He urged members to move HB 316, which will help control the workers' compensation costs.

5:00:38 PM

JULIE CISCO, Risk Manager, Kenai Peninsula Borough School District (KPBSD), said she seconded everything Mr. Jones said. Any steps that the state can make to get workers' compensation costs under control will be greatly appreciated. She said the KPBSD will continue to support HB 316.

5:01:10 PM

DAVE KESTER stated he is representing himself. He said he is a commercial insurance broker and prior to that worked as a workers' compensation underwriter for an insurance company. He also said he has served for ten years as a member of the Workers' Compensation Board, having just been reappointed to his fourth term. He clarified that he is not representing the Workers' Compensation Board. He participated in the working group this summer that heard from a large array of stakeholders in Fairbanks, Juneau, Kenai, and Anchorage, including large and small employers, members of labor, medical providers, adjusters, attorneys and others. Many public members expressed their concern about the rising medical costs in workers' compensation. As a result, the board adopted Resolution 13-01 to support addressing system costs under the Alaska Workers' Compensation Act. He offered his belief that HB 316 is taking a lot of those into account and offered his support for the bill. He indicated that the current system cannot sustain these types of escalating medical costs and a different medical fee methodology as presented in HB 316 will have a big impact. He cautioned that without it he feared employers would be subject to additional increases, which will make them uncompetitive and the state uncompetitive. The legislative intent for the Alaska Workers' Compensation Act was to ensure the quick, efficient, fair, and predictable delivery of indemnity and medical benefits to injured workers at a reasonable cost to employers. He said that reasonable cost is far exceeded for employers. He asked members to carefully consider the sunset clause. He suggested that fixing the problem and then returning to a methodology that got us into this problem in the first place seems counterproductive. He also advocated implementing evidence-based treatment guidelines and encouraged the committee to consider implementing the guidelines into the bill. Additionally, the suggested that having the MSRC give input to help the board is a very good idea. He admitted that the board doesn't consist of medical experts. The WCB had considered seeking that kind of expertise when it adopted the resolution. He appreciated the committee's time and efforts to try to fix the system.

5:05:12 PM

CHUCK BRADY, President, Workers' Compensation Committee of Alaska (WCCA);, Manager, Workers' Compensation, Arctic Slope Regional Corporation, stated that he is primarily responsible for workers' compensation in the Lower 48; however, he is very much involved with Alaska, too. He referred to a letter submitted today on behalf of the WCCA voicing support of HB 316 with suggestions. The suggestions are consistent with what he previously heard, including that input by the MSRC is probably a good idea since they have medical expertise. Another suggestion is that the fee schedule alone will not get the state where it needs to be. In his experience in the claims field, every state that has introduced fee schedules as a means of controlling costs has experienced a limited effect over a short period of time until medical providers find a way to bill around it. He said that medical fee schedules alone are not effective but they can be if they are introduced with utilization and frequency standards to control treatment. Additionally, there needs to be changes to AS 23.30.090 (a) to deal with the effects of the 1999 U.S. Supreme Court decision for Hebden v. WCAB [Bethenergy Mines, Inc..), 632 A.2d 1302 (Pa.Commonwealth 1993)] which essentially gave treating doctors a blank check for two years with no real recourse by employers or insurance carriers to question what was being done or to limit the cost within the first two years. Finally, the sunset clause is of concern since the state could be right back where it started in four years. He offered support HB 316 with the additional comments.

5:07:40 PM

CHAIR OLSON answered that some components will come out shortly. He indicated that next year, the committee could take up best practices for pain management and other components that will interface with this bill.

5:08:03 PM

RACHEL PETRO, President; Chief Executive Officer, Alaska State Chamber of Commerce (Alaska Chamber), stated that the Alaska Chamber represents hundreds of businesses across Alaska as well as local chambers. She stated that the Alaska Chamber submitted a letter that articulated all of their concerns. She emphasized workers' compensation reform is a top priority for the Alaska Chamber and all of the members. It's a competitiveness issue. She appreciated the committee introducing the bill. She stated that the Alaska Chamber's letter made recommendations to improve the bill. More specifically, it would like to see more policy direction given to the board in respect to giving them the responsibility of setting the fee schedules. Additionally, the Alaska Chamber would like to see a more robust and defined public process for the promulgation of regulations through the board. She agreed with earlier comments regarding adoption of evidence based treatment guidelines and utilization review standards. Finally, the Alaska Chamber considers the MSRC as a great option to help provide advice to the Workers' Compensation Board. She said the Alaska Chamber looks forward to working with the committee to achieve real reform on workers' compensation in Alaska.

5:09:55 PM

SARAH LEFEBVRE, Staff, Exclusive Paving and University Redimix; Member; Alaska Workers' Compensation Board, agreed with Mr. Kester, especially with respect to the sunset clause. She doesn't believe that type of mechanism works well and said further changes are needed. She said this is an excellent bill and an excellent start. She discouraged any changes that could possibly impede its progress, and her only concern was the sunset clause.

CHAIR OLSON said the committee will consider the sunset clause.

5:11:30 PM

KAREN PURDUE, Chief Executive Officer; President; Alaska State Hospital and Nursing Home Association (ASHNHA), stated that hospitals and nursing homes are large private sector employers so they bear the burden of workers' compensation costs. As employers and health care providers, ASHNHA supports the concept of workers' compensation fee reform. She indicated that where it makes sense AHNHA is willing to be paid less than they are today. However, she outlined a few concerns about fees and rates set out in the bill. It might seem easy to use Medicare and multiply those rates geographically; however, hospitals and nursing homes are paid in five different ways under Medicare law. She said that ASHNHA submitted a letter that covers more details. She highlighted that Medicare is a poor payer for Providence Alaska Regional; Fairbanks Memorial, Kenai, and Bartlett Memorial Hospital. She cautioned against using Medicare since it pays about $.30 on the dollar in Alaska. She said ASHNHA needs some reassurance in the process. The commercial rates that Premera and Aetna pay might be a target that the committee could consider to provide a minimum or backstop in this discussion. Secondly, in terms of the critical access hospitals, which are 13 of the small hospitals in Alaska, Congress has already exempted them from Medicare fee schedules. She explained that these small hospitals have an exemption, since they cannot kept their doors open based on volume so they have a cost-based reimbursement system. For example, Idaho exempts "cause" from their workers' compensation Medicare based fee schedule and she recommended that this be the case in Alaska. She pointed out that the letter also outlines skilled nursing facilities. She said that the ASHNHA stands ready to work with the committee.

5:14:57 PM

GREG MILLES, Physical Therapist; WCC, Owner, Home Town Physical Therapy, stated that he has a small private outpatient clinic. He supported ASHNHA's comments but asked to tread lightly. Currently this bill is based off Medicare fee schedule. He related his understanding that this practice has occurred in the Lower 48. Small practices and some larger facilities are beginning to minimize the health care exposure to Medicare. He thought this could impact how much health care coverage will be provided for the workers' compensation patients, which could have the effect of minimizing patients' health care and how quickly these patients return to work.

CHAIR OLSON pointed out this is a work in progress and the committee is receiving a lot of feedback.

5:17:00 PM

RUTH CARSON, Physical Therapist, Equinox Physical Therapy, stated she has a small physical therapy practice in Fairbanks. She agreed with Ms. Purdue and Dr. Milles that the current Medicare and Medicaid fee schedule will make it more difficult to run her business. She understands the need to reform, but she must work harder to keep her doors open.

5:18:01 PM

WALTER PARRISH, testifying on behalf of himself, stated that cutting these costs will interfere with his health care. He said he thought it is a savings to the workers' compensation board to have that in effect. He said, "My old saying is if it ain't broke don't fix it."

5:18:44 PM

JULIANA AMENT, Physical Therapist, DPT, MOMT Owner, stated that she is a small business owner, a health care provider as a physical therapist, and a member of the Alaska Chapter of the American Physical Therapy Association. While the association supports the efforts to reform and improve this workers' compensation system, she still has a number of questions and concerns about the bill. The proposal is broad and far reaching and may have serious ramifications if all of its implications are not fully vetted or understood. She urged members to proceed with caution. The proposed RBRVS-based system may not be ideal for Alaska. The proposed workers' compensation fee schedule would have its foundation in the Medicare physician fee schedule, which is a fundamentally flawed and broken system.

She did not think it will be a good fit for Alaska. It has taken only focused management strategies and cost shifting in her clinic to be able to continue to see patients whose payers are currently using an RBRVS system like Medicare. This bill appears to have a five year sunset; which would greatly affect her business's ability to continue to see workers' compensation patients in North Pole. Given the potential for unintended consequences and some of the ramifications this bill could potentially have on small business health care providers and the patients she sees, she strongly recommended the bill be turned over to a subcommittee to review the variables and potential outcomes. She offered to submit her statement in writing.

5:21:05 PM

RICHARD COBDEN, Orthopedic Surgeon, Fairbanks Orthopaedic Center, stated that he is a sole practitioner, immediate past Chief of Staff at Fairbanks Memorial Hospital, and a member of the Alaska State Orthopaedics Association. He said he has two problems with the bill. First, the CMS RBRVS Medicare based fee schedule creates big problems for him and his colleagues. He also said that most of them are barely getting by even though the reimbursement rates are reported as very high. In fact, a lot of the CMS reimbursement rates will change. On April 1 it will revert back to 26 percent lower rates than the current rates based on issues that the Congress has experienced. Basing it on that kind of reimbursement system could be a catastrophe for Alaska. Secondly, the average wholesale price (AWP) for medications has always been used for reimbursement for prescription medications, which should continue since the actual invoice price included in the bill is significantly lower. He said that physicians will no longer be able to give patients prescription medications at a great convenience to them. He asked members to consider the basic reimbursement rate, the Medicare rate, and the other rates before deciding that Alaska is just like the rest of the 50 states. He asserted that Alaska is not, that it has big problems, very difficult medical and orthopedic problems with injured patients and the state and physicians have an obligation to take care of them. He would like to continue to do this, but his colleagues have told him that if the CMS rates drop and if the workers' compensation rates drop, that they simply won't be able to see these patients. He concluded that this is a huge problem for patients who should be the number one priority.

5:23:11 PM

REPRESENTATIVE REINBOLD asked whether he could provide written testimony outlining his concerns. She expressed an interest in the April 1, 2014 rates dropping by 26 percent.

DR. COBDEN offered to do so. He indicated that he has already prepared a written statement and will add to it.

5:23:47 PM

DEBORAH MURSCH, Financial Director, Willow Physical Therapy, stated that she has a small physical therapy business and agreed with the previous testimony. She said that her practice disagrees with this bill. She hoped the committee will consider the small physical therapist's practices in Fairbanks so they can stay open and be able to provide medical care for patients.

[HB 316 was held over.]

5:24:38 PM

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:24 p.m.