

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 16, 2018

3:15 p.m.

MEMBERS PRESENT

Representative Sam Kito, Chair
Representative Adam Wool, Vice Chair
Representative Andy Josephson
Representative Louise Stutes
Representative Colleen Sullivan-Leonard
Representative Mike Chenault (alternate)

MEMBERS ABSENT

Representative Chris Birch
Representative Gary Knopp
Representative Bryce Edgmon (alternate)

OTHER LEGISLATOR PRESENT

Representative Justin Parish

COMMITTEE CALENDAR

HOUSE BILL NO. 303

"An Act relating to workers' compensation benefits for the rehabilitation and reemployment of injured employees."

- HEARD & HELD

HOUSE BILL NO. 110

"An Act relating to the practice of massage therapy; relating to the Board of Massage Therapists; and providing for an effective date."

- MOVED CSHB 110(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 83

"An Act relating to new defined benefit tiers in the public employees' retirement system and the teachers' retirement system; providing certain employees an opportunity to choose between the defined benefit and defined contribution plans of the public employees' retirement system and the teachers' retirement system; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 303

SHORT TITLE: WORKERS' COMP; REHAB/REEMPLOYMENT

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/24/18	(H)	READ THE FIRST TIME - REFERRALS
01/24/18	(H)	L&C, FIN
02/16/18	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 110

SHORT TITLE: MASSAGE THERAPY LICENSING; EXEMPTIONS

SPONSOR(S): KITO

02/08/17	(H)	READ THE FIRST TIME - REFERRALS
02/08/17	(H)	L&C, FIN
02/15/17	(H)	L&C AT 3:15 PM BARNES 124
02/15/17	(H)	Heard & Held
02/15/17	(H)	MINUTE(L&C)
02/17/17	(H)	L&C AT 3:15 PM BARNES 124
02/17/17	(H)	Heard & Held
02/17/17	(H)	MINUTE(L&C)
02/16/18	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 83

SHORT TITLE: TEACHERS & PUB EMPLOYEE RETIREMENT PLANS

SPONSOR(S): KITO

01/27/17	(H)	READ THE FIRST TIME - REFERRALS
01/27/17	(H)	L&C, STA, FIN
03/25/17	(H)	L&C AT 1:00 PM BARNES 124
03/25/17	(H)	Heard & Held
03/25/17	(H)	MINUTE(L&C)
04/12/17	(H)	L&C AT 3:15 PM BARNES 124
04/12/17	(H)	Scheduled but Not Heard
04/14/17	(H)	L&C AT 3:15 PM BARNES 124
04/14/17	(H)	Scheduled but Not Heard
04/19/17	(H)	L&C AT 3:15 PM BARNES 124
04/19/17	(H)	<Bill Hearing Canceled>
02/16/18	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

GREG CASHEN, Acting Commissioner
Office of the Commissioner
Department of Labor & Workforce Development
Juneau, Alaska

POSITION STATEMENT: Testified during discussion of HB 303.

MARIE MARX, Director
Central Office
Division of Workers' Compensation
Department of Labor & Workforce Development
Juneau, Alaska

POSITION STATEMENT: Testified during discussion of HB 303.

BARBARA WILLIAMS
Alaska Injured Workers Alliance
Wasilla, Alaska

POSITION STATEMENT: Testified during discussion of HB 303.

THERESA TOLBERT
Anchorage, Alaska

POSITION STATEMENT: Testified during discussion of HB 303.

KAREN DAVIS, Vocational Rehabilitation Specialist
Davis Vocational Services
Soldotna, Alaska

POSITION STATEMENT: Testified during discussion of HB 303.

SANDY TRAVIS
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 303.

MICHAEL JENSEN, Attorney
Law Offices of Michael J. Jensen
Anchorage, Alaska

POSITION STATEMENT: Testified during discussion of HB 303.

KAYA T. KADE, LPC, CDMS, TEP;
Disability Management Specialist
Kade and Associates
Anchorage, Alaska

POSITION STATEMENT: Testified during discussion of HB 303.

GREG WEAVER
Wasilla, Alaska

POSITION STATEMENT: Testified during discussion of HB 303.

CRYSTAL KOENEMAN, Staff

Representative Sam Kito
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the changes in the committee substitute (CS) for HB 110, for the sponsor of the bill, Representative Sam Kito.

GRETCHEN GRAEFF
Nikiski, Alaska

POSITION STATEMENT: Testified during discussion of HB 110.

TRACI GILMOUR, Owner, TLC Massage Therapy; Member
Board of Massage Therapists
Division of Corporations, Business and Professional Licensing
(DCBPL)
Department of Commerce, Community and Economic Development
(DCCED)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 110.

VOLKER HRUBY, President
American Massage Therapy Association (AMTA), Alaska Chapter
Anchorage, Alaska

POSITION STATEMENT: Testified during discussion of HB 110.

LAUREN PAAP, President
American Organization for Bodywork Therapy of Asia (AOBTA)
Cambridge, Massachusetts

POSITION STATEMENT: Testified during discussion of HB 110.

EDRIC CARRILLO, Staff
Representative Sam Kito
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 83 on behalf of the bill sponsor, Representative Sam Kito.

DIANE OAKLEY, Executive Director
National Institute on Retirement Security
Washington, DC

POSITION STATEMENT: Testified during discussion HB 83.

JESSE KIEHL, Staff
Senator Dennis Egan
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented a section-by-section analysis of HB 83 on behalf of the sponsor, Representative Sam Kito.

JACOB BERA, Public School Teacher
Eagle River, Alaska

POSITION STATEMENT: Testified during discussion of HB 83.

ACTION NARRATIVE

[3:15:33 PM](#)

CHAIR SAM KITO called the House Labor and Commerce Standing Committee meeting to order at 3:15 p.m. Representatives Kito, Wool, Chenault (alternate), and Josephson were present at the call to order. Representatives Stutes and Sullivan-Leonard arrived as the meeting was in progress. Also in attendance was Representative Parish.

HB 303-WORKERS' COMP; REHAB/REEMPLOYMENT

[3:16:31 PM](#)

CHAIR KITO announced that the first order of business would be HOUSE BILL NO. 303, "An Act relating to workers' compensation benefits for the rehabilitation and reemployment of injured employees."

[3:16:59 PM](#)

GREG CASHEN, Acting Commissioner, Office of the Commissioner, Department of Labor & Workforce Development, stated that HB 303 would improve the process of determining eligibility in developing reemployment plans for workers who cannot return to their former jobs as the result of a work-related injury. The bill proposes services to support injured workers, so these injured workers can return to work quickly.

ACTING COMMISSIONER CASHEN stated the reemployment process is meant to provide severely injured workers with new skills to return to work. However, developing workable reemployment plans within the statutory constraints has grown increasingly difficult, he said, noting the reemployment process was last reformed over ten years ago. This bill would update an outdated process with new approaches to provide adequate benefits while controlling costs, and to enhance the system's efficiency and fairness.

3:18:29 PM

MARIE MARX, Director, Central Office, Division of Workers' Compensation, Department of Labor & Workforce Development, began her power point presentation titled, "Workers' Compensation Reemployment Benefits: HB 303," and stated that workers' compensation is a social contract [slide 1].

MS. MARX directed attention to slide 2, titled "What is Workers Compensation, which read as follows [original punctuation provided]:

A system of insurance that protects workers and employers from some of the losses from on-the-job accidents and job-related illnesses.

MS. MARX directed attention to slide 3, titled "The Grand Bargain," which read as follows [original punctuation provided]:

An employer provides prompt, necessary medical and wage loss benefits to an injured worker for a work-related injury.

In exchange, the injured worker receives limited benefits and gives up the right to sue the employer

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MS. MARX elaborated that the employer provides limited benefits, but not compensation for pain and suffering or punitive damages. The benefits employers provide include medical and wage loss benefits, retraining benefits, if eligible and death benefits, in the case of a work-related death. Highlighting the injured workers part of the compromise, she said that the injured worker cannot sue the employer. She explained that workers' compensation programs began during the industrial revolution when large lawsuits would put employers out of business and injured workers either were made whole or got nothing.

MS. MARX turned to slide 4, titled "MISSION," which read, in part [original punctuation provided]:

To ensure the quick, efficient, fair and predictable delivery of indemnity, medical, and vocational rehabilitation benefits to injured workers at a reasonable cost to employers

MS. MARX added that the balancing the five pillars: quick, efficient, fair, predictable, and reasonable cost is what guides the administration of the Workers' Compensation Act [slide 4].

[3:19:54 PM](#)

MS. MARX referred to slide 5, titled "Benefits Provided," which read as follows [original punctuation provided]:

- Medical Care
- Indemnity (Wage Loss) Benefits
- Death Benefits
- Reemployment (Retraining) Benefits

MS. MARX, referred to slide 6, titled "Reemployment Benefits," which read as follows [original punctuation provided]:

Intended to return an injured worker to work when the worker cannot return to the job of injury or to jobs for which the worker has relevant training or experience.

MS. MARX turned to slide 7, titled "Current Challenges," which read as follows [original punctuation provided]:

- Mandatory reemployment benefits eligibility evaluations
- Maximum plan cost of \$13,300
- Retraining plans focus on quickest return to work option, regardless of worker's interest in that vocational goal
- Declining pool of rehabilitation specialists
- No rehabilitation specialist fee schedule

MS. MARX highlighted that there has long been a call for reform. She explained that after being off work for 90 days, injured workers are forced into the reemployment system, whether they are interested in retraining, whether they are ready for retraining, or whether they return to work on the 91st day. She characterized these requirements as a waste of time and

resources. Further, forcing workers into reemployment training when some do not want to be there often does not lead to good or successful outcomes.

MS. MARX elaborating on another challenge, said that the the maximum plan cost of \$13,300 was established in 2000 and has not been adjusted since then. This amount is often insufficient to retrain someone. With respect to another challenge, she stated that the retraining plans focus on the quickest return to work option, which, if the employee is not interested, leads to outcomes that are not successful. She pointed out the declining pool of reemployment specialists results in some delays, especially in areas such as Anchorage where demand is high. She said the lack of a specialist fee schedule combined with the declining pool of rehabilitation specialists really limits the effectiveness of the system.

[3:22:05 PM](#)

MS. MARX directed attention to slide 8, titled "HB 303," which read as follows [original punctuation provided]:

- Improves the delivery of reemployment benefits to injured workers
- Provides eligible employees with more choices in reemployment goals and plans
- Encourages injured employees' early return to work
- Helps employers control costs

MS. MARX offered her belief that proposed HB 303 would address these challenges. Recently, the Workers' Compensation Board issued a resolution, signed by members of both labor and industry that supported reemployment system changes and specified general areas needing to be addressed. The resolution is listed as a supporting document in members' packets, she stated. In developing the bill, the department met with many stakeholders, including industry, labor, and workers' compensation attorneys. In addition, the department met with specialists and received significant input on crafting changes to the reemployment benefit system. Early in the process, the administration considered the policy of whether to cash out injured workers or to retrain them. She emphasized that the administration decided it wanted to retrain them.

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REPRESENTATIVE STUTES asked if they met with the injured employees.

MS. MARX answered that the department met with labor organization representatives, who often represent the interests of injured workers.

[3:23:48 PM](#)

REPRESENTATIVE WOOL asked whether anyone represented non-union workers.

MS. MARX answered that the department met with the workers' compensation claimants bar, and the claimants' attorneys raised a lot of issues that were aligned with injured workers, as well.

MS. MARX, in response to a question for clarification, said she was not aware of an organization of injured workers to meet with, but the department met with the workers' compensation claimants bar, who often represent injured workers and are familiar with the challenges they face. This group brought many concerns and the department incorporated many of the suggestions offered.

MS. MARX emphasized that reemployment benefits are meant to provide retraining skills and provide an opportunity for the injured worker to become employable.

[3:25:29 PM](#)

MS. MARX continued with the section-by-section analysis of HB 303, stating that Sections 1 and 2 [included in members' packets], which read as follows [original punctuation provided]:

Section 1 amends AS 23.30.005(h), by allowing implementation of a fee schedule for rehabilitation specialist services.

Section 2 amends AS 23.30.012(a), by no longer permitting employees to settle reemployment benefits with their employers.

MS. MARX clarified Section 1, noting that the currently fees are unregulated. Under the change, fees would be adopted as per regulation and this change would help control costs.

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MS. MARX reiterated the department's goal to retrain for reemployment. She said that in instances when the injured workers have opted for a lump sum, the injured worker will often not use the funds for retraining. For example, injured workers may use the settlement funds to pay their home mortgages and deplete their funds. Once that happens the injured workers often ask the division for retraining; however, the division will advise them that they waived their right to reemployment benefits and nothing further can be done. Currently, injured workers also have an option for job dislocation benefits instead of the reemployment benefit for retraining. She advised that the department is retaining the dislocation benefit but is raising the amount; however, the settlement offers will no longer be an option since only eight percent of injured workers are retrained.

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REPRESENTATIVE WOOL offered his belief that most of the injured workers take time to heal and return to their jobs. He asked whether the department has statistics for those who return to their jobs and for those who are retrained.

MS. MARX answered that to be eligible for the reemployment retraining program, the injured workers must be unable to return to their jobs. If the injured workers can return to their jobs, they are not eligible for retraining. She remarked that it is great when injured workers can return to their jobs, but if they cannot, reemployment retraining is available.

REPRESENTATIVE WOOL asked for clarification for workers who voluntarily choose not to go back to their old jobs. He related a scenario in which a worker fell off a ladder and was injured. That worker might decide he/she wants a desk job instead.

MS. MARX answered that the injured worker would not be eligible to learn a new skill set, but the determination is based on the doctor's recommendation and is not a voluntary decision. She emphasized that parties generally agree to an amount greater than the minimum plan costs, which are \$13,300. The proposed bill raises that amount to \$19,300 to adjust for inflation. She emphasized that this bill did not limit the parties' flexibility to pay more. They can agree to pay more than the minimum

amount; however, the maximum amount covers instances where the parties are not in agreement.

[3:30:54 PM](#)

REPRESENTATIVE JOSEPHSON asked for clarification that an employer might pay more than the amount listed.

MS. MARX answered that the insurance companies are the ones who pay the benefits and it is quite common for them to pay more since insurance companies are invested in workers getting back to work. She noted that the bill did not change this.

[3:32:19 PM](#)

MS. MARX then referred to Section 3, which read as follows [original punctuation provided]:

Section 3 amends AS 23.30.041(b), by allowing the reemployment benefit administrator (RBA) to offer consultation services for employers on early return-to-work policies and programs and providing the RBA greater flexibility to assign and manage specialists and their services.

MS. MARX said that Section 3 provides for the "early return-to-work" program. The division would add a position to run a program, based on a pilot program in New Mexico, to create return-to-work materials for employers and offer consultation services for injured workers to help them figure out how to get back to work earlier. In fact, studies have shown the longer injured workers are out of work, the less likely they will ever return. In instances in which employers already have great programs in place, such as the State of Alaska, the program would not interfere with their programs. In fact, the division might turn to some of these larger employers for assistance to work with smaller employers who do not have the resources to implement a solid return-to-work program.

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MS. MARX turned to Section 4, which read as follows [original punctuation provided]:

Section 4 amends AS 23.30.041(c), by making eligibility evaluations voluntary instead of mandatory

and establishing a deadline for an injured worker to request reemployment benefits.

MS. MARX added that Section 4 would also establish a deadline for injured workers to request reemployment benefits. The state tried voluntary system years ago and it did not work, she said. The difference in this voluntary system is that it would establish a deadline by which injured workers must request reemployment benefits. Injured workers must apply 90 days after the temporary disability ends. The second piece, which is new, is that this section establishes a mandatory meeting between the reemployment benefits office and the injured workers to provide them information about their rights and duties and options for retraining.

[3:34:32 PM](#)

MS. MARX turned to Section 5, which read as follows [original punctuation provided]:

Section 5 amends AS 23.30.041(d), by extending the deadline for specialists to complete eligibility evaluations to 60 days and allowing reconsideration or modification of the RBA's decision.

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MS. MARX referred to Section 6, which read as follows [original punctuation provided]:

Section 6 amends AS 23.30.041(e), by requiring an injured worker's post injury job meet the worker's remunerative wage to be considered in the evaluation for eligibility.

MS. MARX explained that currently injured workers are not eligible for reemployment benefits if the workers can return to a job the workers have previously held in the past ten years or any job the injured workers have held after the injury. If an injured worker takes a new job after the injury, the division adds language that requires the job must meet a minimum threshold of 60 percent of their gross wages. She emphasized that 60 percent represents the standard. She reiterated that the division's goal is to incentivize injured workers to return to work; however, not to use a low-paying job against them for reemployment retraining. She related a scenario in which a worker falls off a roof and suffers an injury, and when healed

enough to work, takes a desk job and answer phones as an interim job. Since that job would not return the person to the same skilled job level prior to the injury, the injured worker would not be penalized. She reiterated the goal is to incentivize injured workers to return to work.

[3:36:08 PM](#)

MS. MARX referred to Section 7, which read as follows [original punctuation provided]:

Section 7 repeals and reenacts AS 23.30.041(f), removing "previously rehabilitated" language and replacing it with more specific language.

MS. MARX said this provides language to clarify what it means to be "previously rehabilitated" such that the injured worker accepted a job dislocation benefit, completed a relocation plan, or completed a retraining plan.

MS. MARX referred to Section 8, which read as follows [original punctuation provided]:

Section 8 repeals and reenacts AS 23.30.041(g), allowing injured workers more time to choose the job dislocation benefit over continuing to participate in the reemployment process.

MS. MARX explained that right now, an injured worker has 30 days to decide whether to accept a small lump sum or move forward with retraining; however, the injured worker often does not know what an eligibility plan would look like. Thus, this bill would extend that to 150 days from eligibility to decide. That would allow injured workers to take classes at a university and still decide that the new field is not for them. Under the bill, the injured workers would have an option. Under current law, after 30 days these injured workers would not have a choice, she said.

[3:37:13 PM](#)

MS. MARX referred to Section 9, which read as follows [original punctuation provided]:

Section 9 amends AS 23.30.041(h), by requiring a rehabilitation specialist progress report at 60 days and allowing an employee in some circumstances to

select a desired occupational goal that might result in wages lower than what the law usually allows.

MS. MARX explained that Section 9 would allow the division to check in on the process. She stated that a specialist has 90 days to create a plan, but if the plan is not moving forward at 60 days, the reemployment benefit administrator can check in and figure out how to proceed.

MS. MARX referred to Section 10, which read as follows [original punctuation provided]:

Section 10 repeals and reenacts AS 23.30.041(j), requiring the employee and employer within 30 days to either approve and sign a reemployment plan, or deny the plan by providing a specific reason for the denial, and allowing reconsideration or modification of the RBA's decision approving, denying, or changing the plan.

MS. MARX explained that Section 10 would require the parties to act on a plan. Currently, a specialist can come with a plan, but the parties may not agree to it. If neither party asks for the administrator to approve or deny it, it remains stagnant, sometimes for years, while stipend benefits are being paid. This proposed change would require some action to be taken within 30 days, either agree or disagree. This provision would also allow parties to ask for reconsideration or modification of the reemployment benefit.

[3:38:43 PM](#)

MS. MARX referred to Section 11, which read as follows [original punctuation provided]:

Section 11 amends AS 23.30.041(k), by limiting payment of stipend benefits to not more than one year before a plan is approved and not more than two years after a plan is approved.

MS. MARX explained that the two-year limit already exists in statute; however, before a plan is developed the stipend benefit continues. There currently is not any incentive to move forward with a plan. This proposed change would help employers know the amount of the liability and help keep costs reasonable, she said.

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REPRESENTATIVE JOSEPHSON pointed out that he did not see the cost savings for the "rebalancing" reflected in the fiscal note.

MS. MARX deferred to Division of Risk Management, Department of Administration to respond. She agreed that the Division of Risk Management's fiscal note was zero.

[3:40:19 PM](#)

MS. MARX referred to Section 12, which read as follows [original punctuation provided]:

Section 12 amends AS 23.30.041(1), by increasing the maximum cost for a reemployment plan to \$19,300 and providing an annual adjustment based on the consumer price index.

MS. MARX reiterated that nothing would prevent parties from paying more than the maximum amount. The amount was increased to adjust for inflation.

MS. MARX referred to Section 13, which read as follows [original punctuation provided]:

Section 13 amends AS 23.30.041(n), by allowing an employer to controvert benefits if an injured worker does not cooperate with the reemployment process.

MS. MARX referred to Section 14, which read as follows [original punctuation provided]:

Section 14 amends AS 23.30.041(o), by allowing reconsideration or modification of the RBA's decision on noncooperation.

MS. MARX highlighted that currently, if the administrator missed something or if new evidence or a new doctor's opinion arose, the only option is to go before the board for a full hearing instead of sending it back to the reemployment benefit administrator for review.

[3:41:35 PM](#)

MS. MARX referred to Section 15, Section 16, and Section 17, which read as follows [original punctuation provided]:

Section 15 repeals and reenacts AS 23.30.041(q), no longer permitting employees to settle reemployment benefits with their employers.

Section 16 amends AS 23.30.041(r)(6), by providing the RBA greater flexibility to assign and manage specialists and their services.

Section 17 adds new subsections to AS 23.30.041, allowing an injured worker 150 days after eligibility to choose the job dislocation benefit over continuing to participate in the reemployment process, increasing the job dislocation benefit amount, allowing the RBA to suspend the reemployment process under certain circumstances, allowing parties to request plan modification based on a change in conditions or a factual mistake, permitting an injured worker to voluntarily exit the reemployment process at any time, allowing parties to request reconsideration of certain RBA decisions, and establishing a process for reconsideration.

MS. MARX briefly read the sectional analysis and added, as she previously mentioned, that Section 17 would extend the deadline to accept the job relocation benefit amount. It would give the injured worker 150 days after eligibility to choose whether to accept the job dislocation benefit. As previously discussed, the plan needs to be in place within the 90-day period, so this language would provide injured workers additional time to develop a plan or try one out for a few months.

[3:42:28 PM](#)

MS. MARX referred to Sections 18 and 19, which read as follows [original punctuation provided]:

Section 18 adds a new subsection to AS 23.30.130, allowing parties to request modification based on a change in conditions or a factual mistake, and establishing a process for modification.

Section 19 repeals AS 23.30.041(i), because the language was moved to Section 9.

MS. MARX explained that the language in Section 19 was reorganized and was moved to a new section. In addition, the

requirement that plans be the shortest amount of time was removed and allows other factors to be considered.

[3:43:01 PM](#)

MS. MARX referred to Section 20, which read as follows [original punctuation provided]:

Section 20 amends the uncodified law of the State of Alaska, by adding applicability language.

[3:43:15 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked whether the Division of Workers' Compensation currently has reemployment administrator positions on staff.

MS. MARX answered that the reemployment benefit administrator position exists in statute. The division seeks to add a position specifically to manage and create materials for the early to work return program. The proposed bill would not add a reemployment benefit administrator.

REPRESENTATIVE SULLIVAN-LEONARD further asked whether there was a fiscal note for the new position.

MS. MARX directed attention to the fiscal note from the Division of Workers' Compensation, which is \$57,852 for salary and with benefits a total of \$95,322. The position would coordinate the early return-to-work program [added in Section 3]. In response to Representative Sullivan-Leonard, she answered that the position is in the attached fiscal note from the Division of Risk Management. In further response, she offered to provide the fiscal note.

MS. MARX restated the salary is \$57,852 and the total cost with benefits is \$95,322. She indicated this person would be responsible for running the early return-to-work program, which is like New Mexico's pilot program. The Workers' Compensation Board requested this position. In fact, many of the stakeholders advised that states which have been successful have had an early-to-work program, a program that is proactive in getting injured workers back to work with their employer. She remarked that it benefits everyone.

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CHAIR KITO opened public testimony on HB 303.

[3:46:57 PM](#)

BARBARA WILLIAMS, Certified ADA Advocate, Alaska Injured Workers Alliance, Research and Development Corporation, stated that she has been helping injured workers for the past years with educational information. She offered her belief that none of the injured workers have been contacted.

MS. WILLIAMS said that it has been 17 years since she has seen an increase in the benefits for rehabilitation. She offered her belief that the bill does not provide adequate funding for injured workers to retrain. Further, vocational reemployment and stipend benefits were eliminated. In addition, injured workers would receive a voucher based on an impairment rating, yet \$19,000 was not enough compensation for workers to retrain; instead, it should start it around \$30,000. Under proposed HB 303, workers would be forced to cover costs while out of work, she said.

MS. WILLIAMS stated that current reemployment retraining only offers 60 percent of the remunerative wage, which does not include overtime some workers regularly receive. She characterized the bill as unfair to injured workers, who would receive cuts to their benefits and not enough money to support their families. She emphasized the reason for reemployment training is to support injured workers while they are retraining so they have a chance to successfully return to the workplace. Many workers would not receive a voucher for retraining, unless they have a permanent, partial impairment (PPI) rating of at least five percent or more. Under the current guidelines for permanent disability, there are many conditions rated less than five percent. The reemployment process often commences the impairment is even determined, she said. Some payments in the proposed bill would not be allowed, but injured workers often use these monies to retrain on their own, start businesses, and complete their degree. Employers would not have incentives to hire disabled workers, she said. Washington and Oregon offer more options for workers who need to be rehabilitated or retrained. Injured workers need support, rehabilitation, and retraining when these workers cannot return to the jobs that they held at the time of injuries.

MS. WILLIAMS said the proposed bill, HB 303, is not only an oppressive plan, but it is unfair. She did not believe the premise of cost savings at the expense of injured workers was

the legislature's intent. Other states that have made drastic changes to programs like this have failed, and she reported that these states have subsequently reversed their changes. Injured workers need support and retraining to successfully make it back to the workplace after being injured. Many injured workers do not belong to labor organizations and it is difficult to obtain and interpret the information, particularly for those who lack education. In closing, she said the rehabilitation specialists need to work more closely with the injured workers to obtain input on the current reemployment rehabilitation process instead of making it a more adversarial process.

[3:50:35 PM](#)

THERESA TOLBERT stated that she is an unemployed injured worker on workers' compensation and her case has not been resolved in four years. She has not been given the tools necessary to return to work, she said. She reported that she has been to two IME's [insurance medical exams]; yet, she is currently being sent out of state for another one. She has animals she cannot leave while she goes out of state, but she cannot obtain reimbursement for pet housing. The board does not want to pay for injured workers' education, but many injured workers who want to work cannot obtain the tools to do so.

[3:52:59 PM](#)

KAREN DAVIS, Vocational Rehabilitation Specialist, Davis Vocational Services, stated she is currently performing eligibility evaluations to determine whether injured workers are eligible for workers' compensation reemployment benefits. She said she shares concerns raised by a previous testifier, Ms. Williams, about injured workers with PPI [permanent partial impairment] ratings of less than five percent. She remarked that the proposed bill, HB 303, does not seem to provide much protection for those injured workers. Numerous injured workers have PPI ratings less than five percent. She liked some of the changes, she said, but overall the bill has room for improvement.

[3:54:02 PM](#)

SANDY TRAVIS stated that she is an injured worker who is representing injured workers. In response to Chair Kito's request that she not impugn any testifier, Ms. Travis agreed that everyone including injured workers should be respected. She voiced her opposition to HB 303 because she does not think

the voucher system or settlements would work. Further, she did not believe that stripping stipend benefits would work. She offered her belief what would work is to listen to someone who would provide facts; however, she could not give the facts in less than two minutes. She characterized HB 303 as a very bad bill. She emphasized that taking away from injured workers would not get them back to work or provide rehabilitation. She said that when she first started the rehabilitation process, injured workers had more than 90 days to determine whether the injured worker could go back to work. She characterized the new limits as ridiculous as they would not help the injured worker. Instead, she suggested that if the division wants to get injured workers back to work they need to provide them with benefits to do so, not take away benefits or not listen to them. In closing she characterized the bill as a "very bad bill" that should be thrown in the trash and not be considered.

CHAIR KITO offered to accept additional written comments by letter or email.

[3:57:18 PM](#)

MICHAEL J. JENSEN, Attorney, Law Offices of Michael J. Jensen, said he has been representing workers since 1984. In 1995, he opened the Law Offices of Michael J. Jensen. As a sole proprietor, he has continued to predominantly handle claims for benefits under the Alaska Workers' Compensation Act, he stated. Although he has also worked on some longshore and social security cases, his primary effort is on workers' compensation cases. He commented that significant changes have been made to the Workers' Compensation Act since 1984. His intent was not to condemn this bill, HB 303, but he pointed out that it did not give any incentives to hire disabled workers, unlike Oregon and Washington. Instead this bill seeks to further restrict benefits to injured workers, he said. He referred to Section 11, noting the stipend is limited to one year from the date the temporary and permanent benefits end until the start of the plan. Frequently, this is not enough since the plan development may take much longer depending on the circumstances of the injured worker, he explained. Temporary benefits are limited until the injured worker reaches stability. It does not mean the worker is cured, just that the doctor does not believe the patient will get any better. Under the current system, the permanent benefits are very limited with low ratings considering the nature of the injury. Thus, he recommended two years instead of the one year in this provision.

[3:59:08 PM](#)

MR. JENSEN referred to Section 12, offering that it was a good start to increase the rehabilitation cost maximum from \$13,300 to \$19,300; however, even that number is insufficient. For example, that does not include modifications for injured workers, such as an ergonomic chair, desk, computer, or tools. Further, \$19,300 is insufficient to cover tuition, books, lab fees or other equipment to allow injured workers to return to work. He suggested the figure be increased to reflect realistic costs for retraining and to include additional modifications necessary for them to return to work. He turned to the remunerative wage, stating his belief this is the main reason the rehabilitation process does not work. The remunerative wage goal was too low, he stated, since it represents 60 percent of the gross hourly wage at the time of injury. He highlighted that firemen, policemen, and oil field workers make the bulk of their income in overtime wages, which is not reflected in the remunerative wage goal. For example, he calculated 60 percent of a \$20 per hour job equals \$12 per hour, which would be much less than the injured workers earned at the time of their injuries.

[4:00:47 PM](#)

MR. JENSEN directed attention to Section 15, which prevents workers from receiving a lump sum settlement. Thus, if injured workers discover their plans are not suitable, and will not allow them to support their families, they are prohibited from settling the value of their plans. They cannot use the funds to pay off their debts for a fresh start, or for additional education, or to add other funds to obtain additional training, or start their own businesses. He emphasized he has mentioned only a few motivations that exist for injured workers to settle their stipends in a lump sum. He suggested one way to improve the lump sum settlements of their stipends would be for the board to predetermine whether injured workers have good cause to settle and if it is in their best interest to do so.

[4:01:59 PM](#)

MR. JENSEN directed attention to Section 17, which would increase the job dislocation benefits by \$1,000 to \$6,500, which is not a significant change or much of an improvement over the current system. Further, the dislocation benefits would only apply to anyone rated at 15 percent or less PPI; however, he has represented workers with 5 percent impairment who cannot go back

in construction, oil field work, or work as firemen and in law enforcement. If those injured workers opt out of the vocational rehabilitation system, they would be limited to \$6,500 in total settlements, he said. He suggested that provision could be improved by increasing the amount.

[4:02:58 PM](#)

REPRESENTATIVE JOSEPHSON asked for clarification of when the proposed \$6,500 figure for dislocation was last adjusted.

MR. JENSEN offered his belief that the current amount of \$5,000 figure was last updated during the Murkowski administration.

[4:03:52 PM](#)

KAYA T. KADE, LPC, CDMS, TEP, Disability Management Specialist, Kade and Associates, stated she is a vocational rehabilitation specialist. She began her testimony by relating an anecdote about an injured worker. She stated that during the IME process the injured worker was withheld surgery for almost a year until he finally obtained a secondary medical evaluation that allowed him to have surgery. She advised members that because surgery was delayed, the injured worker had suffered additional damage. She said she wrote his reemployment benefits plan. She said he was very upset at his treatment by the insurance company. He finished his plan a year ago and worked for a year yet could not continue to work with his insurance company, so he settled for a lump sum. She considered this plan to be a failure, due to the insurance company's negativity, noting the injured worker needed to be out from under the insurance company.

MS. KADE offered her belief that many people settle because they think they are strong enough to proceed on their own. Said has had numerous clients finish their plans, and some who settle because she cannot write a plan to meet the regulations. For example, she currently has an injured worker who is considering settling, that the person has been attending a university to seek a double major; however, a double major fell outside the regulations, she said.

MS. KADE said she did not understand why the department wanted to adopt regulations to set fees and establish fines. She could understand establishing qualifications; however, she said the administration does not understand her business and expensive costs, including insurance coverage, and medical coverage. She recalled 20 years ago when the eligibility evaluation process

was voluntary, which did not work. She reminded members that injured workers face surgeries, are on pain medications, and are trying to get their lives back together. She did not believe the deadline was appropriate, that 90 days was too soon. She suggested that injured workers with injuries such as broken arms or having surgeries also need physical therapy, that four to six months would be better for reemployment eligibility evaluations. At that point, most injured workers would be better able to determine whether they would need more services. She applauded the increase to \$19,300, since the provision allows for annual increases, which would be better.

MS. KADE pointed out that many of her clients lack formal education. She emphasized that many peer review articles indicate the importance of vocational rehabilitation, as key aspects for returning workers to the workplace. She stated that the division director met with vocational rehabilitation specialists; however, it was after the Workers' Compensation Board's (WCB) decisions were made. She lamented that the WCB does not have any representation of either vocational rehabilitation specialists or injured workers to provide input. In closing, she reiterated that many injured workers have obtained significant benefit from vocational rehabilitation, she said. She offered her belief that those finishing their plans without insurance company involvement exceeded 80 percent.

[4:11:26 PM](#)

GREG WEAVER stated that as a disabled worker he has been one of many workers let down by the workers' compensation system in Alaska. Further, he is a disabled U.S. Marine Corps veteran and a second-generation Alaska construction worker. He remarked that workers like him supply all Alaskans with the goods and services they use, perform rig-ups on the North Slope, log, fish, and extract Alaska's natural resources.

MR. WEAVER provided chronological details of his injury and subsequent workers' compensation case number, 201320030. At the time, he worked for the Arctic Slope Regional Corporation (ASRC) as a construction worker and had worked for them for five or six years. In 2013, which was a particularly strenuous year for him and his co-worker, he became injured. They had been flying throughout the state, working at remote U.S. Air Force, FAA radar sites, performing maintenance and upgrades to these sites. While working in Kaktovik, he realized he could barely walk and was flown to Anchorage for treatment and his doctor referred to Algone Pain Management in the Matanuska-Susitna Valley (Mat-Su).

At that time, he opened a workers' compensation claim and his case was initially handled by a senior workers' compensation adjuster at ASRC, who subsequently assigned a nurse case manager to guide him through the health care and workers' compensation system. After an independent medical examination (IME) his case was controverted, which means he was taken off his workers' compensation claim, and the Division of Workers' Compensation (DWC) did not object.

MR. WEAVER asked to "fast forward" a bit. He expressed his gratitude for his Veterans' Administration benefits. After having several other IMEs, he was referred to a leading neurological surgeon, [Louis L.] Kralick, M.D. [Anchorage Neurosurgical Association] at Providence Hospital, who eventually performed surgery, fusing three of his vertebrae together and completely replacing two discs in his lower back. After three years of taking opioid pain medication, he has recently been able to wean off opioids, he said. He could not understand why the Workers' Compensation Board denied his claim, he said. His attorney, Mr. Jensen, filed a claim for reconsideration on appeal where he cited over 20 instances where the board erred in its judgment; however, those errors were completely ignored in his workers' compensation case. He said that the workers' compensation system is broken and needs to be completely rebuilt. Further, he would like Ms. Marx to review his case. In addition, he has recently spoken to the Ombudsman's office about his case who also agreed the workers' compensation system is broken, he said. He remarked that he has lost everything. He advised members that he has subsequently been awarded disability by the Social Security Administration (SSA), who recognized the 2013 date as the initial date of injury. In closing, he reiterated that he would like Ms. Marx to look at his claim. He thanked members for allowing him to describe his workers' compensation case.

[4:18:18 PM](#)

[HB 303 was held over.]

HB 110-MASSAGE THERAPY LICENSING; EXEMPTIONS

[4:18:35 PM](#)

CHAIR KITO announced that the next order of business would be HOUSE BILL NO. 110, "An Act relating to the practice of massage therapy; relating to the Board of Massage Therapists; and providing for an effective date."

[4:19:00 PM](#)

The committee took a brief at-ease.

[4:19:21 PM](#)

REPRESENTATIVE WOOL moved to adopt the proposed committee substitute (CS) for HB 110, labeled 30-LS0157\U, Radford, 2/9/18, as the working draft.

CHAIR KITO objected for discussion purposes.

[4:19:36 PM](#)

CRYSTAL KOENEMAN, Staff, Representative Sam Kito, Alaska State Legislature, reviewed the changes contained in Version U of HB 110. First, on page 1, a new section was inserted that modifies the language regarding the qualifications of the public member for the Board of Massage Therapists by removing the restriction of being a former member of another occupational licensing board. This recommendation was also mentioned in the state's Legislative Audit Division, [Audit 08-20109-17], Audit Recommendation three, she said.

MS. KOENEMAN reported the second change, noting that Version U removes all language regarding an application for exemption for those currently in the exception category under Alaska Statute (AS) 08.61.080, which relates to energy workers, reflexologists, and structural integrators. She said with that change Version U would only apply to licensure of massage therapists under AS 08.61]. The final change is in Section 4 of Version U, which amends the standards of license renewal by changing the annual fingerprint requirement from every renewal cycle to once every six years or every three licensing cycles.

[4:21:19 PM](#)

CHAIR KITO removed his objection. There being no further objection, Version U was adopted as the working document.

[4:22:43 PM](#)

GRETCHEN GRAEFF, Massage Therapist and Rolfer, shared her concerns with the proposed bill. She said she was unclear why the board has been slow to require infection control in its safety education requirements. She previously testified on this

last year, noting this change was recommended at previous board meetings. She expressed concern that the board refers to last century's recommendations instead of more current ones. An additional concern was that the issue of massage therapy establishments has distracted the board from regulating the practice of massage therapy. She added that the current Code of Ethics and Standards of Practice are ambiguous and confusing. The interpretation by licensed massage therapists of the Health Insurance Privacy and Portability Act (HIPPA) and the Centers for Disease Control and Prevention (CDC) are broad, occasionally inaccurate, and quite varied throughout the state.

MS. GRAEFF added that at the board's December 2017 meeting, the board had stated, "The standards of practice are currently a recommendation and do not have a disciplinary matrix." It was time that was put in place, although it may be possible that it already is, she said. That was problematic, she said, given the letter from David Edward Smith, who advised that massage therapists must adhere to the standards of practice and code of ethics in our state. She said that the biggest concern was for the licensing of businesses in the state. The implication of the board needing to help law enforcement by having a massage therapy establishment indicates that currently, unless a business in Alaska is under the regulation of a professional board, that business may sell illegal services. She was unsure if that is true.

MS. GRAEFF said that if the board is going to recognize the Board of Massage's jurisdiction to the regulation of massage establishments to help law enforcement with trafficking, sexual assault, and exploitation, she would like this committee to recognize these potential crimes are more extensive than the nefarious use of her profession as a front. She lauded the work by the board for regulations for governing the licensing of massage therapists. Since the massage therapists are in their third year of licensure, the standards should be clear, she said. She offered her belief that the law enforcement issues are large enough to be concerned at the business licensing level, she said. She was unsure why law enforcement could not stop prostitution advertising as massage services when the licensing requirement governing massage therapists is in place.

[4:28:47 PM](#)

TRACI GILMOUR, Owner, TLC Massage Therapy; Member, Board of Massage Therapists, Division of Corporations, Business and Professional Licensing (DCBPL), Department of Commerce,

Community & Economic Development (DCCED), as a licensee, stated her support for the proposed committee substitute for HB 110. She emphasized that increased continuing education hours and licensure has created better consumer expectations for massage. Therapists can coordinate better with medical professionals to serve clients and provide a better course of treatment for clients. Massage therapists are learning to network with outside agencies and better represent their professions in working with state, local, and federal law enforcement. She added that licensure for massage therapists, as well as requiring fingerprinting for background checks can help stop human trafficking. She fully supported the decrease in continuing education for the bloodborne pathogens since it has been difficult to find providers for a four-hour course. She added that reducing the burden of fingerprinting to once every third renewal period reduces costs to licensees. She offered her support for the proposed CS for HB 110.

[4:31:42 PM](#)

REPRESENTATIVE WOOL asked about board regulation of establishments. He said it was difficult to understand previous testimony; however, he recalled that some businesses engaging in illegal activity would be easier to identify and monitor if the [legitimate] massage therapy businesses had physical licenses on their premises.

MS. GILMOUR agreed. She identified a professional massage business in Anchorage that has been cited four times for illegal activity. Since businesses are not licensed, it is difficult to determine if the business is providing legitimate services. Although not required to do so, she posts her professional license and puts her license number on all correspondence. Without investigations, the [illegal] businesses can operate. She said she supports professional business licenses for massage therapists; however, she would like to keep licensure costs low.

[4:33:37 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked whether bloodborne pathogen training is available at hospitals or the [American] Red Cross.

MS. GILMOUR said that the new exam would be administered through massage therapist schools, but continuing education could be online or available as part of a first aid course. She explained that it has been difficult to obtain four-hour online

courses in bloodborne pathogens. In further response to Representative Sullivan-Leonard, she said it was difficult to find the four-hour courses.

CHAIR KITO stated that the initial training was available to massage therapists; however, for renewal purposes, two-hour courses were available in first aid courses, but it was more difficult to find four-hour courses.

[4:35:33 PM](#)

VOLKER HRUBY, President, American Massage Therapy Association (AMTA), Alaska Chapter, stated that he is a life-long Alaskan who has been a massage therapist for 13 years in the spa industry, medical massage, and in private practice. The AMTA, Alaska Chapter, represents many massage therapists in Alaska. and offers its support of the proposed committee substitute (CS) for HB 110. The new version of the bill [Version U] requires massage boards to adopt regulations governing massage therapy establishments in addition to individual therapists. He offered his belief that this would give the state the authority to shut down operations of human trafficking and prostitution activities by those who use massage therapy as a front. In addition, the proposed bill would increase the minimum course of study for licensure from 500 to 625 hours, which represents the current national minimum standard. It would also reduce the requirement of safety education for bloodborne pathogens from four to two hours as recommended by the national standard. Finally, the proposed bill would change the requirement for fingerprinting every six years instead of every two years. The enabling legislation established the Board of Massage Therapists, statutes, and requirements for licensure of massage therapists almost four years ago. Thus, the need for minor adjustments to licensure has arisen. He urged members to move this bill from committee.

[4:37:50 PM](#)

LAUREN PAAP, President, American Organization for Bodywork Therapy of Asia (AOBTA), stated that she represents Asian Bodywork therapists, such as shiatsu, acupressure, amma or qigong. She asked for clarification on whether her members, if not exempted would have been required to pay a fee. She further asked if her group was required to be licensed under the proposed CS for HB 110.

CHAIR KITO said that portion of the bill was removed and is not in the current CSHB 110, {Version U}.

MS. PAAP referenced whether there was an intent to include Asian bodywork members in the future. If so, she had specific questions.

CHAIR KITO assured Ms. Papp that the only bill before the committee was the current committee substitute for HB 110, [Version U], that includes three changes to licensing of massage therapists.

MS. PAAP directed attention to the provision that requires 625 hours.

CHAIR KITO asked her to limit questions to the bill version before the committee and to contact his staff for discussion questions.

MS. PAAP offered to do so.

[4:40:25 PM](#)

CHAIR KITO closed public testimony on HB 110.

[4:40:44 PM](#)

REPRESENTATIVE WOOL moved to report the proposed committee substitute (CS) for HB 110, Version 30-LS0157\U, Radford, 2/9/18, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, the CSHB 110(L&C) was reported from the House Labor and Commerce Standing Committee.

[4:41:10 PM](#)

The committee took an at-ease from 4:41 p.m. to 4:42 p.m.

HB 83-TEACHERS & PUB EMPLOYEE RETIREMENT PLANS

[4:42:08 PM](#)

CHAIR KITO announced that the final order of business would be HOUSE BILL NO. 83, "An Act relating to new defined benefit tiers in the public employees' retirement system and the teachers' retirement system; providing certain employees an opportunity to choose between the defined benefit and defined contribution

plans of the public employees' retirement system and the teachers' retirement system; and providing for an effective date."

[4:42:48 PM](#)

EDRIC CARRILLO, Staff, Representative Sam Kito, Alaska State Legislature, presented the bill. He stated that HB 83 would allow public employees to choose one of two state retirement systems, the defined contribution (DC) or defined benefit (DB) pension. Alaska's teachers and public employees do not earn social security benefits, and many lose their social security benefits earned under previous employment. This bill would also allow newly-hired public servants in Alaska to choose the benefit plan that best serves them, he said. For most, the DB pension makes sense; however, other choose the DC plan that allows flexibility, portability, and control. This bill would keep smart reforms to retirement benefits made several years ago and makes Alaska's pensions stronger than ever, he said. This bill would create a more stable, predictable, and DB pension tier. Since the DB pensions include sharing the risk of rising health costs, the employees would never cost employers more than the DC system, saving money for schools, cities, and the state. He thanked members for their support.

[4:44:07 PM](#)

DIANE OAKLEY, Executive Director, National Institute on Retirement Security the (NIRS), stated the NIRS is a not for profit, non-partisan, research organization based in Washington D.C. She directed attention to a Power Point presentation in members' packets. She turned to slide 2, titled "DB Pension are Cost Efficient: Still a Better Bang for the Buck," which read as follows [original punctuation provided]:

Cost Comparison

NIRS looked at the cost to replace 53% of final income under three retirement plan structures.

The DB pension cost 48% less than using Individual Accounts in a DC Savings Plan to provide the same amount of income.

MS. OAKLEY explained that the DB plan cost 16 percent of pay, which is designed to provide the same amount of income from a DC

plan; alternatively, for the same cost retirees will receive more income per the actuaries.

MS. OAKLEY directed attention to the next slide, titled "3 Key Reasons Why Defined Benefit Pension (DB) Plans Cost Less than Defined Contribution (DC) Plans," which read as follows [original punctuation provided]:

1. Pool the longevity risks.
2. Maintain optimally balanced investment portfolio compared to down-shifting to a lower risk/return asset allocation in DC plan.
3. DB plan have higher investment returns and lower fees compared to individual investors in DC accounts.

[4:47:19 PM](#)

The committee took a brief at-ease from 4:47 p.m. to 4:49 p.m.

[4:49:23 PM](#)

JESSE KIEHL, Staff, Senator Dennis Egan, Alaska State Legislature, paraphrased the section-by-section analysis HB 83, Sections 1-8, which read as follows [original punctuation provided]:

Sections 1 and 2 Clarify that the Teachers Retirement System (TRS) defined benefit (DB) statutes apply only to employees who participate in the DB plan and did not convert to defined contribution (DC). No employee can participate in both the DB and DC plans. Sec. 1 also puts all TRS employers on an equal footing by requiring them to offer new employees the choice between DB and DC systems.

Sections 3 and 4 Set employee contributions for the new DB tier at eight percent of pay, while leaving prior tier employees' contributions unchanged.

Sections 5 and 6 Require a person receiving disability benefits under the DB tiers to seek work and receive a medical examination. Sets limits on the frequency of the exams.

Section 7 Closes the Tier II DB health plan to new hires and those DC members who choose to convert to the new TRS DB tier.

Section 8 Establishes the eligibility standard for retiree medical benefits in the new TRS DB tier. In the new DB tier, a member with 25 years of service may receive medical benefits partially paid by the system at any age. A member without 25 years must have at least eight years of service and be eligible for Medicare. Disabled members also get system-paid medical benefits.

A TRS DB retiree who does not meet those qualifications can buy health care coverage from the system, but must pay the full cost of premiums.

Establishes a premium share schedule for retirees to pay a portion of their health insurance and requires actuarial adjustments to keep the pre-funding rate of the new DB tier no higher than the cost of the DC plan.

Sets vesting rules for the premium share percentages so that the schedule can change during an employee's working life, but is fixed at the date of retirement.

[4:51:24 PM](#)

MR. KIEHL elaborated that Section 8 is one of the significant cost savings provisions in this bill compared to previous tiers since all retirees will pay a portion of their monthly health premium based on their years of service. This provision sets up that schedule. One safety mechanism in this bill to ensure that the new pension tier does not cost the school districts or the state more than the DC tier is a periodic five-year review by the actuaries. During an employee's working life those shares of the premium at retirement can vary. Thus, it sets vesting rules for the premium share percentages so that the schedule can change during an employee's working life, but it is fixed at the date of retirement. He reiterated that this refers to the percentage of the health premium, not the dollar amount since health premiums may rise and this is a risk shared by all.

[4:52:44 PM](#)

MR. KIEHL continued the section-by-section analysis of HB 83, Sections 9-11, which read as follows [original punctuation provided]:

Section 9 Clarifies that the TRS DC statutes apply only to employees who participate in the DC plan and did not convert to DB. No employees can participate in both the DB and DC plans.

Section 10 Puts all TRS employers on an equal footing by requiring them to offer new employees the choice between DB and DC.

Section 11 Gives a newly hired teacher the choice between DB and DC systems. This is a one-time irrevocable choice. Sets timeframes and rules for the process.

MR. KIEHL emphasized that it is noteworthy to emphasize that this provides a one-time irrevocable choice. He said that this decision requires an employee must receive some education prior to making the choice so that no one makes the irrevocable choice blind.

[4:53:36 PM](#)

MR. KIEHL continued the section-by-section analysis of HB 83, Sections 12-13, which read as follows [original punctuation provided]:

Section 12 Clarifies that the Public Employee Retirement System (PERS) DB statutes apply only to employees who participate in the DB plan and did not convert to DC. No employee can participate in both the DB and DC plans. This section also puts all PERS employers on an equal footing by requiring them to offer new employees the choice between DB and DC systems.

Section 13 Sets the same minimum wage threshold for elected officials in the new DB tier as the 2004 reforms implemented for prior tiers.

[4:54:02 PM](#)

MR. KIEHL said that Section 13 is unique to PERS and it matches the DC system by setting a minimum wage threshold for elected officials in the new DB tier. This is one of the safety net features that Mr. Carrillo mentioned earlier, noting that elected officials who only make an honorarium now would have a minimum salary if they were to be employed as full PERS members,

he said. There would need to be an adequate contribution to the system to fund that. He turned to Section 14-18 of the Sectional Analysis of HB 83, which read as follows [original punctuation provided]:

Sections 14 and 15 Set employee contributions for the new PERS DB tier at eight percent of pay, while leaving prior tier employees' contributions unchanged.

Sections 16 and 17 Require a person receiving disability benefits under the PERS DB tiers to seek work and receive a medical examination. Sets limits on the frequency of the exams.

Section 18 Establishes an eligibility standard for retiree medical benefits in the new PERS DB tier. In the new DB tier, a peace officer or firefighter with 25 years of service may receive medical benefits partially paid by the system at any age. A peace officer or firefighter who does not have 25 years of service must be eligible for Medicare and have at least 10 years. Other PERS employees require 30 years of service to get medical benefits partially paid by the system unless they are Medicare eligible, in which case they require a minimum of 10 years. Disabled members also get system-paid medical benefits.

A PERS DB retiree who does not meet those qualifications can buy health care coverage from the system, but must pay the full cost of premiums.

Establishes a premium share schedule for retirees to pay a portion of their health insurance and requires actuarial adjustments to keep the pre-funding rate of the new DB tier no higher than the cost of the DC plan.

Sets vesting rules for the premium share percentages so that the schedule can change during an employee's working life, but is fixed at the date of retirement.

MR. KIEHL emphasized that Section 18 sets up the eligibility standards for retiree medical benefits, which is comparable to the TRS and will provide a significant cost savings in the new pension system as compared to the old system. Every retiree pays a share of his/her monthly premium which provides for risk sharing for those retiree health insurance costs.

[4:55:29 PM](#)

MR KIEHL continued the section-by-section analysis of HB 83, Sections 19-24, which read as follows [original punctuation provided]:

Sections 19 and 20 Put all PERS employers on an equal footing by allowing employers that return to PERS after terminating participation to hire employees the same way other PERS employers do, and allows employees to earn service credits in the appropriate tier when working for those employers.

Section 21 Clarifies that the PERS DC statutes apply only to employees who participate in the DC plan and did not convert to DB. No employees can participate in both the DB and DC plans.

Section 22 Puts all PERS employers on an equal footing by requiring them to offer new employees the choice between DB and DC systems.

Section 23 Gives a newly hired public employee the choice between DB and DC systems. This is a one-time irrevocable choice. Sets timeframes and rules for the process.

Section 24 Repeals sections that let non-vested employees convert from DB to DC and required employers to match the funds transferred dollar for dollar. Repeals sections related to political subdivisions that participate only in the DC plan. Repeals a requirement that DB employees who refunded contributions from the system and return to work after July 1, 2010 participate only in the DC plan. (Such employees will thus be treated as new hires.)

MR. KIEHL added that Section 24 would allow non-vested employees convert from DB to DC and take employer funds along, which is no longer necessary because the window is closed and under the bill new hires have a choice.

[4:56:42 PM](#)

MR KIEHL continued the section-by-section analysis of HB 83, Sections 25, which read as follows [original punctuation provided]:

Section 25 Gives employees hired into the TRS and PERS DC plans who have not refunded out of those plans a 90-day period from the effective date of the bill to irrevocably convert into the new DB tier. Contributions move from the DC plan to the DB plan trust if they make the switch.

MR. KIEHL clarified that Section 25 is the first of the conversion options. This would allow employees who are working in the DC system a one-time option to make irrevocable conversion into the new DB tier. He directed attention to Section 26, which read as follows [original punctuation provided]:

Section 26 Sets the procedure for the conversion election in Sec. 25 and allows the administrator to adopt regulations related to the conversion. The choice to convert is irrevocable, and certain information must be provided to the employee. An employee who transfers receives credited service in the defined benefit plan equal to the value of the employee's DC account. If that amount is insufficient to 'buy' the employee's actual service time, the employee may create an indebtedness to purchase the difference. If the employee's individual account has an excess, the difference is transferred into the Supplemental Benefits System or a comparable account, in keeping with federal tax law.

[4:57:05 PM](#)

MR. KIEHL explained that Section 26 lays out the rules of the conversion. He highlighted that if an employee wants to earn a pension instead, the value of the employee's account, including employer contributions, is actuarially calculated and buys up to the employee's actual years of service time. If insufficient funds exist to purchase the employee's actual years of service, the employee may create an indebtedness to purchase the difference, but the employee is not entitled to it as a matter of right. The state or municipality would not "kick in" extra funds to buy the time. He offered his belief that in rare instances in which an employee had more money in his/her account, the federal government would require it to be rolled

over into a supplemental benefits account or an individual retirement account. It would not be taken from the employee, he said.

MR KIEHL continued the section-by-section analysis of HB 83, Sections 27-29, which read as follows [original punctuation provided]:

Section 27 Allows the Commissioner of Administration to adopt regulations to implement and make specific the bill's provisions.

Section 28 Is an immediate effective date for sections 26 and 27 of the bill.

Section 29 Makes the bill effective July 1, 2017, except as provided in Sec. 28.

[4:58:26 PM](#)

MR. KIEHL stated that this provision makes the effective date July 1, 2017, which needs to be adjusted going forward.

CHAIR KITO agreed that the date would be fixed.

[4:58:51 PM](#)

MS. OAKLEY reiterated the three "Key Reasons" as the longevity pool, maintaining an investment portfolio, and since typically a DB plan will have more assets than an individual account, the fees are lower. Historically, in reviewing DB and DC plans, what economists call behavioral drag exists, in that individual investors invest on their own, she said. She clarified that sometimes employees do not make the right investment decisions, for example, buying or selling at the wrong time.

MS. OAKLEY referred to slide 4, titled "Colorado State Auditor: DB Pension Higher Income Replacement over DC." She referred to the graph on the slide that summarizes data from a report that is produced by the Colorado State Auditor. She explained that Colorado does give its employees a choice between a DB pension and a DC plan. The auditor's analysis shows the percent of income being replaced by PERA, [Public Employee Retirement Association], the side-by-side DB/DC plan, and a specific DB "Cash Balance" plan. She further clarified the DB "Cash Balance" plan is one that works like a DB plan with contributions, but unlike a regular DB plan in which the individual has control

over the investment, this gives them a fixed investment return. She referred to the bottom line of the chart, which shows the amount of income that would be replaced in a self-directed DC. Each column represents an employee at a given age, for example, an employee age 40 with 3 years of service is compared to someone who retires at 65 with 30 years of service. Over time, the DB plan will ultimately provide a career employee with a higher income than for a short-term employee. It would provide a higher amount of income than a self-directed DC plan would, she said.

[5:02:26 PM](#)

MS. OAKLEY referred to slide 5, titled "Different Workforces: Public Sector Has Job Tenure Twice that of Private Sector." She explained that this slide gives an indication of the tenure of employees derived from data by the United States Department of Labor. Referring to a graph on slide 5, she indicated the gold line reflects the public sector and the green line reflects private employees. She explained that the public employees typically have a longer tenure than the private sector employees, about twice that of the private sector. This provides one reason why the DB plan is attractive to many employees in the public sector. In addition, the DB plan encourages them to stay longer and maintain their employment relationship with the state or local agency.

[5:03:44 PM](#)

MS. OAKLEY referred to slide 6, titled "DB Plan's Role in the Public Sector: Workforce Management," which read as follows [original punctuation provided]:

- DBs improve public sector productivity: - Employees are more likely to value their work and tend to invest more in their skills.
- Pensions help recruit and retain quality workers. Moving to a DC design could affect recruitment, retention, and productivity.
- Teacher effectiveness increases with experience. Greater teacher retention means higher overall teacher productivity. When a mid-career teacher is replaced by an inexperienced teacher, the school as a whole sees a drop in productivity.

MS. OAKLEY said this slide represents a summary of some of the research that has been done to examine how the DB plans help the

public sector manage its workforce. She paraphrased the bullet points, commenting that firemen, police officers, and teachers are all valued members of the community. Further, greater teacher retention means higher overall educational productivity. When a mid-career teacher is replaced by an inexperienced teacher, the overall productivity in the school tend to drop, she stated.

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MS. OAKLEY directed attention to slide 7, titled "Palm Beach Case Study: Costs Due to Employee Turnover Wasn't Considered," which read, in part, as follows [original punctuation provided]:

In 2012, Palm Beach closed its DB pension and opened a Combined DB/DC plan, greatly reducing benefits. During the next four years (2012-2015), a total of 109 police officers and firefighters left the forces before retirement, including 53 vested officers.

MS. OAKLEY explained that slide 7 summarizes the result of a case study. She said that the City of Palm Beach closed its DB pension and opened a combined DB/DC plan, which greatly reduced benefits in the DB plan. She noted that the matching contribution was 100 percent for the employees' contribution of four percent, which went into the DC plan. In 2011, a year prior to the plan change, the city had about 60 police and firefighter employees. In the next four years, the department lost 109 employees, who left before they were eligible to retire. In addition, 20 percent of the workforce retired as soon as the new DB/DC plan was adopted. Thus, police and firefighter employees left in droves, she said. In fact, in the four years prior to the change only two vested employees left. In the four years after the combined plan was adopted, 53 experienced police and firefighters left. She compared that to the trend for new police and firefighter employees. In the four years prior to the change, only four new employees left, yet in 2015, 31 firefighters left. She explained that the young officers came to Palm Beach, went through the academy and rookie training, but left as soon as an opportunity arose to join a force with a DB plan. Ultimately, the lost training funds exceeded \$20 million, she said. She implied that the city was short-sighted, thinking it was saving money in pension funds, but losing not only training costs, but overtime costs, as well, due to short staffing.

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MS. OAKLEY turned to slide 8, titled "92% of Americans: Public Pensions a Good Way to Recruit and Retain Employees," and to the illustration on the slide that captured the public sentiment in a survey. She reiterated that plans are valuable for recruiting and retaining employees. In a survey, when the public was asked whether the person agreed or disagreed that pensions are a good way to recruit and retain qualified teachers, police officers, and firefighters, 92 percent agreed, of which 6 out of 10 strongly agreed. She concluded that demonstrates the level of support that many public pensions have in the broader public arena.

[5:10:05 PM](#)

MS. OAKLEY turned to slide 9, titled "Economic Impact of Alaska Public Retirees Spending," which read, in part, as follows [original punctuation provided]:

Expenditures by state retirees provide steady economic stream to Alaska. In 2016, these expenditures supported in Alaska:

- Over 7,600 jobs that paid \$400 million in wages.
- \$1.2 billion in total economic output. Each dollar in DB benefits supported \$1.12 in total economic activity.
- \$168 million in federal, state, and local tax revenues.
- Each taxpayer dollar "invested" in plans supported \$4.39 in total economic activity in the state.

MS. OAKLEY paraphrased statistics on expenditures by retirees in Alaska. She recapped that the pension enables the retirees to spend, knowing they have an income stream. If retirees in a DC plan were worried about running out of money, they would be less likely to take more money out of their pensions and spend it.

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REPRESENTATIVE CHENAULT, referring to slide 7, asked about the Palm Beach employee turnover. He suggested that the chart seemed a bit deceiving. He asked for clarification on the actual numbers of employees between 2011 and 2015.

MS. OAKLEY answered that in each case the [year listed] is capturing the prior four years, from 2012 to 2015. She further explained that 2011 is capturing from 2008 to 2011. She offered to provide information that details the difference in the composition of the staff at that time. She recalled that by 2015 half of the firefighters and police officers had less than five years of service.

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REPRESENTATIVE SULLIVAN-LEONARD asked whether she had discussed with the Department of Administration (DOA) what it would take to change to the proposed system and any actuarial valuation that would need to be done prior to a change in retirement systems.

MS. OAKLEY answered no; that she has not had the opportunity to have that discussion with the department. Currently, the state operates a DB plan for employees hired prior to 2006. The skill sets to invest those dollars exists within the departments that administer the retirement system. She offered her belief that the state has been operating the two systems, so it would not be difficult to take it back to one system. She offered that these choices are ones occurring throughout the country, that state employees in approximately 12 states currently have a choice between a DB and DC plan.

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REPRESENTATIVE SULLIVAN-LEONARD recalled prior committee discussions that indicated an actuarial study and analysis would need to be performed so the legislature could decide whether the state could afford to move forward with this type of system.

CHAIR KITO answered that his office had held discussions with DOA. He reported that the department has advised that it is not prepared to perform such an intensive actuarial analysis until the bill is before the House Finance Committee. The DOA would like the committee to provide any recommended policy changes and the actuarial would only perform the analysis once.

[5:17:43 PM](#)

REPRESENTATIVE JOSEPHSON asked for clarification on subsequent hearings. He offered his support for the bill.

CHAIR KITO was unsure of the time commitment. He expressed an interest in having the actuarial review done at the time the bill is before the House Finance Committee.

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REPRESENTATIVE WOOL asked whether the existing Palm Beach employees were forced into the new plan.

MS. OAKLEY answered that the city council voted to move the employees into the new plan, thus, employees were forced into the new plan. She indicated that many of the employees did not feel there were any benefits to stay in Palm Beach. Their benefits were frozen based on their salaries and would not increase, she explained. She pointed out that nearby communities were offering retirement plans like their old plans. The "churning part" by the new employees in the Palm Beach study is something that the state would likely want to consider.

5:20:32 PM

JACOB BERA, Public School Teacher, shared his personal background, offering his support for HB 83, based on his experience as a public-school teacher for the past 15 years in Eagle River. His goal is to help the committee understand how the current retirement plan affects student learning and the effective use of the limited budget and core education. After he finished his time in the United States Marine Corps Reserve, he and his wife, who is also a teacher, moved from Wisconsin to Alaska to start their careers in education. The beauty of the state attracted them since they both like to run and spend time in the mountains; however, they also want to start a family and put down roots. He emphasized that the retirement plan has made a big difference for his decision to stay in Alaska. Since their teacher service started in 2003, they fall under the Tier II DB plan, which allows them to contribute to a pension plan after they retire. When the plan changed in 2006, public employees could no longer contribute to the DB plan. If they had been considering moving to Alaska after 2006, they simply would not have done so as it would not have made economic sense. He said they learned that all new public employees cannot participate in the Social Security [Old-Age, Survivors, and Disability Insurance (OASDI) program administered by the Social Security Administration (SSA)]. In fact, employees lose Social Security benefits in Alaska by becoming public employees in Alaska. They could contribute to both plans in Wisconsin, but

they opted to stay to supplement their losses by opening a Roth IRA [individual retirement account].

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MR. BERA said that when he explains the public employee's choices to other Alaskans, especially those not in the public sector, they better understand the risks that public employees take. He acknowledged that he and his wife feel lucky to be under the Tier II plan, even absent the ability to contribute to the OASDI [Social Security], that they are still trying to make their retirement system work for them. Other colleagues moved to Alaska for a few years for the adventure, but have taken their savings and left, in part due to budget cuts and increased demands. For those reasons, Alaska is becoming less attractive for teachers to stay, he said. The state has continued to lose the money it invested in attracting and training teachers. Teacher turnover is rising in Alaska and schools and educators suffer.

MR. BERA said he hopes the committee will understand the quality of the educators who remain, noting he is one of four nationally board-certified teachers in his school, and one of 200 in the state. His college friend who teaches in his school just won the Milken Educator Award. He described a recent experience that illustrated teacher dedication. Despite his son's teacher's facing family medical issues that day, the teacher immediately focused on the school conference and his son's progress in school. He emphasized the importance of retaining teachers, noting he often hears students express an interest in teaching. He said the state is not competitive with other states in terms of salary and benefits. Teacher positions are being cut and relatively new teachers must make choices to stay in Alaska or to leave, invest and build up their retirement plans, including building their social security benefits. Even he and his wife must consider their options due to job security issues.

MR. BERA offered his belief that HB 83 could provide an incentive for public employees to stay in Alaska by providing the ability for them to earn a better retirement security for their future. Attracting and keeping the best educators makes the most economic sense for Alaska, especially for the children who attend public schools.

[5:25:24 PM](#)

[HB 83 was held over.]

5:25:59 PM

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:25 p.m.