

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

February 23, 2018

3:21 p.m.

**MEMBERS PRESENT**

Representative Sam Kito, Chair  
Representative Adam Wool, Vice Chair  
Representative Andy Josephson  
Representative Louise Stutes  
Representative Chris Birch  
Representative Gary Knopp  
Representative Colleen Sullivan-Leonard

**MEMBERS ABSENT**

Representative Mike Chenault (alternate)  
Representative Bryce Edgmon (alternate)

**COMMITTEE CALENDAR**

HOUSE BILL NO. 340

"An Act repealing the Alaska BIDCO Assistance program and repealing requirements for an annual examination of a BIDCO by the Department of Commerce, Community, and Economic Development."

- HEARD & HELD

HOUSE BILL NO. 341

"An Act relating to the athletic commission and the commissioner of athletics; and relating to boxing, sparring, and wrestling contests, matches, and exhibitions."

- HEARD & HELD

HOUSE BILL NO. 342

"An Act amending and repealing registration filing provisions of the Uniform Land Sales Practices Act; relating to the jurisdiction of the office of administrative hearings; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 343

"An Act relating to examination of premium finance companies."

- HEARD & HELD

HOUSE BILL NO. 346

"An Act relating to the licensure of dentists."

- MOVED CSHB 346(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 303

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

- MOVED CSHB 303(L&C) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 340

SHORT TITLE: REPEAL BIDCO ASSISTANCE PROGRAM

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/09/18 (H) READ THE FIRST TIME - REFERRALS  
02/09/18 (H) L&C  
02/23/18 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 341

SHORT TITLE: REPEAL:ATHLETIC COMM;BOXING/WRESTLING LAW

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/09/18 (H) READ THE FIRST TIME - REFERRALS  
02/09/18 (H) L&C, FIN  
02/23/18 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 342

SHORT TITLE: LAND SALES PRACTICES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/09/18 (H) READ THE FIRST TIME - REFERRALS  
02/09/18 (H) L&C  
02/23/18 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 343

SHORT TITLE: PREMIUM FINANCE COMPANIES : EXAM REQ

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/09/18 (H) READ THE FIRST TIME - REFERRALS  
02/09/18 (H) L&C

02/23/18 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 346

SHORT TITLE: DENTIST: TEMPORARY PERMIT

SPONSOR(S): LABOR & COMMERCE

02/14/18 (H) READ THE FIRST TIME - REFERRALS  
02/14/18 (H) L&C, FIN  
02/19/18 (H) L&C AT 3:15 PM BARNES 124  
02/19/18 (H) Heard & Held  
02/19/18 (H) MINUTE(L&C)  
02/23/18 (H) L&C AT 3:15 PM BARNES 124

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  
02/16/18 (H) Heard & Held  
02/16/18 (H) MINUTE(L&C)  
02/23/18 (H) L&C AT 3:15 PM BARNES 124

**WITNESS REGISTER**

MIKE NAVARRE, Commissioner Designee  
Department of Commerce, Community & Economic Development (DCCED)  
Juneau, Alaska

**POSITION STATEMENT:** Introduced HB 340 on behalf of the House Rules Committee by request of the governor.

PATRICE WALSH  
Chief Examiner  
Division of Banking and Securities  
Department of Commerce, Community & Economic Development (DCCED)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions in the hearing on HB 340.

MIKE NAVARRE, Commissioner Designee  
Department of Commerce, Community & Economic Development (DCCED)  
Juneau, Alaska

**POSITION STATEMENT:** Introduced HB 341 on behalf of the House Rules Committee by request of the governor.

SARA CHAMBERS, Deputy Director

Division of Corporations, Business & Professional Licensing  
Department of Commerce, Community & Economic Development (DCCED)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions in the hearing on HB 341.

BILLY CHRISTENSEN  
Wasilla, Alaska

**POSITION STATEMENT:** Testified in the hearing on HB 341.

MIKE NAVARRE, Commissioner Designee  
Department of Commerce, Community & Economic Development (DCCED)  
Juneau, Alaska

**POSITION STATEMENT:** Introduced HB 342 on behalf of the House Rules Committee by request of the governor.

MIKE NAVARRE, Commissioner designee  
Department of Commerce, Community & Economic Development (DCCED)  
Juneau, Alaska

**POSITION STATEMENT:** Introduced HB 343 on behalf of the House Rules Committee by request of the governor.

PATRICE WALSH  
Chief Examiner  
Division of Banking and Securities  
Department of Commerce, Community & Economic Development (DCCED)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions in the hearing on HB 343.

CAITLYN ELLIS, Staff  
Representative Sam Kito  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided a review of the proposed CS Version D to HB 346.

GREG CASHEN, Acting Commissioner  
Department of Labor & Workforce Development (DLWD), Juneau, Alaska

**POSITION STATEMENT:** Introduced HB 303 on behalf of the House Rules Committee by request of the governor.

MARIE MARX, Director  
Alaska Workers' Compensation Division  
Department of Labor & Workforce Development (DLWD)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions in the hearing on HB 303.

BETH TUSTEN, Reemployment Benefits Manager  
Workers Compensation Division  
Department of Labor & Workforce Development (DLWD)  
Fairbanks, Alaska

**POSITION STATEMENT:** Answered questions in the hearing on HB 303.

**ACTION NARRATIVE**

[3:21:28 PM](#)

**CHAIR SAM KITO** called the House Labor and Commerce Standing Committee meeting to order at 3:21 p.m. Representatives Sullivan-Leonard, Wool, Stutes, Knopp, Josephson, Birch, and Kito were present at the call.

**HB 340-REPEAL BIDCO ASSISTANCE PROGRAM**

[3:22:46 PM](#)

CHAIR KITO announced that the first order of business would be HOUSE BILL NO. 340, "An Act repealing the Alaska BIDCO Assistance program and repealing requirements for an annual examination of a BIDCO by the Department of Commerce, Community, and Economic Development."

[3:23:01 PM](#)

MIKE NAVARRE, Commissioner Designee, Department of Commerce, Community & Economic Development (DCCED), introduced HB 340 on behalf of the House Rules Committee by request of the governor. He explained that the proposed bill would repeal the BIDCO assistant program. He added that only one BIDCO had ever been licensed in Alaska, to Alaska Growth Capital. He said most of the loans are guaranteed by the United States Small Business [Administration].

[3:24:31 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked for information on BIDCO, including what the acronym stands for.

COMMISSIONER DESIGNEE NAVARRE deferred to the department.

CHAIR KITO explained that he had some experience with Alaska Growth Capital in the past and the goal of Business Industrial Development Corporation (BIDCO) in the late 1980s or early 1990s was to assist businesses to get started.

[3:25:58 PM](#)

PATRICE WALSH, Chief Examiner, Division of Banking and Securities, Department of Commerce, Community & Economic Development (DCCED), answered questions in the hearing on HB 340. She described the mission of BIDCO as an assistance program for capital for rural and distressed areas and minority-owned businesses. She gave the example of loans to aviation companies in Nome and Barrow.

[3:27:26 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD said she was looking at the fiscal note (FN) and paraphrased from the analysis [included in committee packet] which reads as follows [original punctuation provided]:

"The revisions to the Alaska Business and Industrial Development Corporation (BIDCO) Act will eliminate the annual examination requirement yet retain the division's authority to conduct an examination when needed."

REPRESENTATIVE SULLIVAN-LEONARD asked whether the change would fulfill the division's need for oversight.

MS. WALSH answered in the affirmative. She added that the division is required to do an examination every twelve months. She said the examination usually takes about two weeks, requires around four examiners, and the process can average close to \$30 thousand. She explained that having the requirement to have exams as needed would lead to big savings for the department.

REPRESENTATIVE BIRCH disclosed that his son is the CEO and President of Alaska Growth Capital.

[3:29:30 PM](#)

CHAIR KITO opened public testimony on HB 340 and left it open.

CHAIR KITO held over HB 340.

**HB 341-REPEAL:ATHLETIC COMM;BOXING/WRESTLING LAW**

[3:29:59 PM](#)

CHAIR KITO announced that the next order of business would be HOUSE BILL NO. 341, "An Act relating to the athletic commission and the commissioner of athletics; and relating to boxing, sparring, and wrestling contests, matches, and exhibitions."

[3:30:36 PM](#)

MIKE NAVARRE, Commissioner Designee, Department of Commerce, Community & Economic Development (DCCED), introduced HB 341 on behalf of the House Rules Committee by request of the governor. He gave the history of the commission and spoke to the licensing fees and the statute governing the commission. He stated that the department was looking to repeal the commission.

[3:32:11 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD mentioned a boxing group in Mat-Su and asked whether the group was overseen by any state entity.

[3:32:42 PM](#)

SARA CHAMBERS, Deputy Director, Division of Corporations, Business & Professional Licensing, Department of Commerce, Community & Economic Development (DCCED), answered questions in the hearing on HB 341. She answered that the Muhammad Ali Boxing Reform Act establishes parameters for state boxing organizations. The federal law states that if there is no state oversight, the organizations will be under federal oversight.

[3:33:33 PM](#)

REPRESENTATIVE WOOL gave the example of a big championship fight in Alaska and suggested it would have to be backed by another state's license.

MS. CHAMBERS answered that was her understanding. She added that industry members may be better suited to answer.

[3:34:38 PM](#)

CHAIR KITO opened public testimony on HB 341.

[3:34:55 PM](#)

BILLY CHRISTENSEN testified in the hearing on HB 341. He shared his background in the boxing industry. He expressed his concerns with the removal of the current athletic commission and explained why he thinks the federal boxing reform act is not a good fit for Alaska. He read the final sentence in Governor Walker's transmittal letter [including in committee packet], which reads as follows [original punctuation provided]:

Further, under the Muhammad Ali Boxing Reform Act, the Attorney General, as chief law enforcement officer, count maintain a civil action in federal district court to enjoin a professional boxing match, enforce compliance with federal law, or obtain fines.

MR. CHRISTENSEN said the existing commission already has details specified within it and he stated his concern that the federal act did not make sense in Alaska. He offered his time and knowledge of the industry to answer any questions or find solutions moving forward. He added his background is in the compliance industry and he is familiar with the language.

[3:37:56 PM](#)

REPRESENTATIVE BIRCH asked which permits or licenses are currently needed to stage a boxing competition.

MR. CHRISTENSEN answered there is not currently a governing body in Alaska. He stated the industry is successfully self-governing with the appropriate insurance.

REPRESENTATIVE BIRCH asked whether Mr. Christensen wanted to see the commission continue.

MR. CHRISTENSEN said he wanted to see things stay the way they are. He said he had concerns about Governor Walker's statement that the state would adhere to the federal act.

[3:40:46 PM](#)

REPRESENTATIVE STUTES pointed out that the commission hasn't been active since 1997, so she surmised deactivating the commission would only mean things continue to operate as they have since 1997.

[3:41:21 PM](#)

COMMISSIONER DESIGNEE NAVARRE answered in the affirmative.

REPRESENTATIVE STUTES said she presumed that Mr. Christensen, under those conditions, would not have consternation about the commission, knowing that things would continue as they have since 1997.

MR. CHRISTENSEN answered that was correct.

[3:41:59 PM](#)

REPRESENTATIVE WOOL asked what removing the boxing commission would change.

MS. CHAMBERS answered that the department has been carrying around "the trappings of the old commission" and stated that includes \$15 thousand in deficit. She added the debt could be erased and the inactive statutes could be removed.

[3:44:14 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked about licensing.

MS. CHAMBERS answered there is not currently any related professional license for boxers and wrestlers. Business licenses are always required but there is no professional license.

[3:45:22 PM](#)

CHAIR KITO asked Mr. Christensen whether boxers who were sanctioned under another state's commission could operate in Alaska.

MR. CHRISTENSEN answered in the affirmative. He added that many famous boxers such as George Foreman and Sugar Ray Leonard had boxed in the state.

CHAIR KITO asked whether events sanctioned under another state would be precluded from adhering to the Muhammad Ali Reform Act.

MR. CHRISTENSEN said the Muhammad Ali Reform Act refers to the Association of Boxing Commissions (ABC) standard. He specified that the ABC meets and exceeds the Muhammad Ali Reform Act.

CHAIR KITO asked whether Mr. Christensen's concern was that everything in the state would fall under the [federal] reform act if there were no state commission.

MR. CHRISTENSEN said that was correct. He explained that the act was created in 1959 and the game is very different today. He added the industry in Alaska is more an entertainment industry than a professional venue industry. He suggested the average fighter in Alaska has no more than two or three fights in their career. He added that the reform act has more to do with professional promoters and other things that are not seen in Alaska.

CHAIR KITO asked if Mr. Christensen would be willing to work with his staff.

MR. CHRISTENSEN answered that he would be more than happy to do so.

[3:49:11 PM](#)

REPRESENTATIVE BIRCH reiterated the last sentence of the governor's transmittal license and surmised the concern was with the enforcement by the attorney general.

COMMISSIONER DESIGNEE NAVARRE said there is no plan to have the attorney general take any action unless there is a problem. He restated that the boxing organization is already self-governing.

[3:51:02 PM](#)

CHAIR KITO held over HB 341.

### **HB 342-LAND SALES PRACTICES**

[3:51:18 PM](#)

CHAIR KITO announced that the next order of business would be HOUSE BILL NO. 342, "An Act amending and repealing registration filing provisions of the Uniform Land Sales Practices Act; relating to the jurisdiction of the office of administrative hearings; and providing for an effective date."

[3:51:30 PM](#)

MIKE NAVARRE, Commissioner Designee, Department of Commerce, Community & Economic Development (DCCED), introduced HB 342 on

behalf of the House Rules Committee by request of the governor. He explained that the proposed bill would repeal an obsolete law which had been adopted by nine states before it was deemed obsolete. He said it had been identified as something that was no being used and there are more than adequate laws in place to address similar protections.

[3:52:48 PM](#)

CHAIR KITO opened public testimony on HB 342.

CHAIR KITO commented that he appreciates that Alaska has the smallest number of statutes governing state activities.

CHAIR KITO held over HB 342.

**HB 343-PREMIUM FINANCE COMPANIES : EXAM REQ**

[3:53:44 PM](#)

CHAIR KITO announced that the next order of business would be HOUSE BILL NO. 343, "An Act relating to examination of premium finance companies."

[3:53:56 PM](#)

MIKE NAVARRE, Commissioner designee, Department of Commerce, Community & Economic Development (DCCED), introduced HB 343 on behalf of the House Rules Committee by request of the governor. He explained that the proposed bill would exempt premium finance companies from a required 18-month examination cycle because no problems had been found with the companies. He added there would be ongoing examinations, just not every 18 months.

[3:55:12 PM](#)

CHAIR KITO asked if the examinations would only take place if there were a complaint.

[3:55:33 PM](#)

PATRICE WALSH, Chief Examiner, Division of Banking and Securities, Department of Commerce, Community & Economic Development (DCCED), answered questions in the hearing on HB 343. She answered in the affirmative. She added that the exams currently are only carried out every 18 months and there had not been any significant findings.

CHAIR KITO said that he has a concern that if someone is looking over his shoulder every 18 months, he's going to behave better than if he knows there will only be controls if there is a complaint.

MS. WALSH said that licensees do have an annual renewal with a mini-exam.

CHAIR KITO asked if the department would be doing "desk audits" to check for anomalies.

MS. WALSH answered in the affirmative.

3:57:53

CHAIR KITO opened public testimony on HB 343.

CHAIR KITO held over HB 343.

**HB 346-DENTIST: TEMPORARY PERMIT**

3:58:09 PM

CHAIR KITO announced that the next order of business would be HOUSE BILL NO. 346, "An Act relating to the licensure of dentists."

CAITLYN ELLIS, Staff, Representative Sam Kito, Alaska State Legislature, provided a review of the proposed CS Version D to HB 346. She explained that the changes came about following a dental examiners' board meeting which determined that the original version of the proposed bill would still involve a burdensome process. She added that the new version designates the requirements for temporary license holders.

REPRESENTATIVE WOOL moved that the committee adopt the CS for HB 346 Version D as a working document. There being no objection, it was so ordered.

4:00:48 PM

CHAIR KITO said public testimony was still open from the previous hearing. Upon ascertaining that no one was available to testify, he closed public testimony on HB 346.

4:01:19 PM

REPRESENTATIVE WOOL moved to report HB 346 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, it was so ordered.

[4:01:35 PM](#)

The committee took an at-ease from 4:01 p.m. to 4:04 p.m.

**HB 303-WORKERS' COMP; REHAB/REEMPLOYMENT**

[4:04:40 PM](#)

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

[4:05:13 PM](#)

GREG CASHEN, Acting Commissioner, introduced HB 303 on behalf of the House Rules Committee by request of the governor. He gave a brief introduction of the proposed bill. He said HB 303 would improve the process of determining eligibility and developing reemployment plans for workers who cannot return to their previous jobs due to work-related injury. He stated HB 303 would update an outdated system for getting workers back to work quickly.

[4:06:17 PM](#)

REPRESENTATIVE STUTES asked who makes the determination of whether \$19,300 is enough money for rehabilitation services.

[4:06:43 PM](#)

MARIE MARX, Director, Alaska Workers' Compensation Division, Department of Labor & Workforce Development (DLWD), answered questions in the hearing on HB 303. She answered the amount was set in statute at \$13,300 and that amount was adjusted for inflation.

REPRESENTATIVE STUTES asked whether the cost of the service could exceed that amount.

MS. MARX said that \$19,300 would be the maximum amount that the parties can pay. She added that the parties can always agree to

pay more via a settlement agreement. She gave the example of a case in which the parties agreed to pay the full amount of the service in the interest of getting the employee back to work.

[4:08:30 PM](#)

REPRESENTATIVE JOSEPHSON asked whether a person gets temporary disability prior to medical stabilization.

MS. MARX answered in the affirmative. She explained that under workers compensation law, a person with personal partial impairment received temporary total disability every two weeks until they can return to work.

REPRESENTATIVE JOSEPHSON asked for confirmation that an injured employee would have to use permanent partial impairment money for their living expenses.

MS. MARX said that an injured worker will always get wage loss benefits while they are recovering. If they are owed a permanent partial impairment amount, that must be paid out every two weeks and that would not change in the proposed bill. She added the proposed bill would allow injured employees to choose when to enter the reemployment program starting 90 days from when the benefits ceased.

[4:10:48 PM](#)

REPRESENTATIVE STUTES asked for confirmation that it would be the attending physician who would make the determination of whether an individual is medically stable.

MS. MARX said the reemployment benefit administrator is the one who makes a determination on eligibility based on the recommendation of the rehabilitation specialist in charge. There is no requirement for the doctor, although generally the treating doctor's opinion is given deference.

[4:11:59 PM](#)

REPRESENTATIVE JOSEPHSON said that even though there is a requirement that a reemployment plan begin at the 91st day, it seems to him that people are not moving forward in a timely way.

MS. MARX said that part of the bill does provide clear timeframes within which a plan has to move forward. She said that currently, if a specialist comes up with a plan, the

parties must either agree with or deny the plan within 30 days. If there is a denial, the plan administrator has to make a determination. She said currently there is no requirement to take action and the proposed bill would fix that problem. She added in fiscal year 2017 [FY 17], 564 injured workers were referred for the evaluation process, and 148 were found eligible. She explained that many were not ready for the evaluation. She added that 14 workers had completed reemployment plans. She said the primary driver was workers settling for benefits and not reentering the reemployment system. She underlined the primary goal is returning injured workers to work.

[4:15:05 PM](#)

REPRESENTATIVE JOSEPHSON asked how the stakeholders would manage the system and why so few workers are found eligible.

MS. MARX answered the first question by stating the proposed bill would change the system to a voluntary system that begins once the worker is medically stable. She added there is a declining pool of certified specialists in the state.

REPRESENTATIVE JOSEPHSON restated his question.

MS. MARX answered the question was why so many people are referred for an evaluation. She stated if an individual returns to work on the 91st day, they still have to go through the time and expense of a reemployment evaluation.

[4:18:32 PM](#)

REPRESENTATIVE KNOPP asked how long the total temporary disability (TTD) payments continue.

MS. MARX said TTD is outside the reemployment system. She listed the benefits as medical, lost wages, death benefits in the case of loss of life, and retraining.

REPRESENTATIVE KNOPP suggested the continuation of payments may be a motivator not to reenter employment. He asked when the 90-day time period begins.

MS. MARX said it is 90 days of consecutive time off work.

REPRESENTATIVE KNOPP asked if the time frame is why the employee does not meet the eligibility requirement.

MS. MARX answered that some have already returned to work or simply do not want to go through the training program and there is no way for them to exit the system.

REPRESENTATIVE KNOPP said that what they are required to do is go through the evaluation.

MS. MARX described the process and stated it takes quite a long time. She reiterated the process may be going on once the individual is already back at work.

[4:23:50 PM](#)

CHAIR KITO asked if the evaluation has to take place after 90 days from filing of the injury.

MS. MARX said the 90 days refers to days off work. She added once the division is informed that the employee has been off work 90 days, the process begins.

CHAIR KITO asked if the process was mandated to begin at day 91.

MS. MARX said that process has to begin even if "everyone knows" the person is back at work, recovering from back surgery, or simply does not want to go through the program.

CHAIR KITO said that with this change the department has the discretion to determine whether a reevaluation has to take place and therefore focus on the individuals that do want to participate.

MS. MARX answered the proposed bill would change it to a voluntary system. The department would still have a mandatory meeting with the employee to explain the system.

[4:26:22 PM](#)

REPRESENTATIVE JOSEPHSON provided a hypothetical situation in which a plumber breaks an arm and then returns to work on the 90th day. He asked whether that person is still eligible for the money even though they are fine for work.

MS. MARX clarified that an individual is ineligible [for payments] under statute when they return to work, however currently they still have to go through the evaluation process.

The proposed bill would change that and focus on the goal of aiding workers who cannot return to work.

[4:28:28 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked about the change in date on page 2, line 30 of the proposed bill from May 1 to October 1.

MS. MARX answered that currently data collection is part of the system. She added the insurance companies are relied upon for that data. She said audits have to be carried out on those reports and May was too early for the one person in the department to complete those audits.

[4:30:12 PM](#)

REPRESENTATIVE KNOPP asked why the department is involved in the process when the insurance companies are paying out.

MS. MARX said ideally, they would not be needed, but the department was there to ensure any issues are resolved.

[4:31:53 PM](#)

CHAIR KITO, after ascertaining that there was no one who wished to testify, closed public testimony on HB 303.

CHAIR KITO said there are amendments to be offered to HB 303. Before continuing with the amendments, he stated the following:

This bill was drafted by the Department of Law, which is not the same as having our Legislative Legal Department draft it; so, there will be something in motion when we get to the point of being able to move the bill that will just say that we request our legal department to make our legislative drafting manual conforming amendments to the bill. Those amendments will not have the impact of substantively changing anything we're doing; they are just the technical way we write bills different than the Department of Law. So, that will be part of our motion when we move forward.

[4:33:07 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 1, labeled 30-GH2709\A.1, Wallace, 2/20/18, which read as follows:

Page 11, line 2:

Delete "\$19,300"

Insert "\$30,000"

REPRESENTATIVE JOSEPHSON explained Amendment 1. He said there was testimony from rehabilitation specialists saying the increase in the amount to \$19,300 was still too low. He remarked that tuition has outpaced the rate of inflation. He said it does not account for tools and equipment, tuition, or transportation.

[4:36:50 PM](#)

REPRESENTATIVE WOOL asked if the benefit is for tuition and training or for equipment.

MS. MARX shared her understanding that the amount is for the cost of the plan.

[4:38:50 PM](#)

BETH TUSTEN, Reemployment Benefits Manager, Workers Compensation Division, Department of Labor & Workforce Development (DLWD), answered questions in the hearing on HB 303. She answered that the amount is for costs incurred as a result of participating in the plan and could be for such things as transportation costs, books and supplies, or tuition for a two-week certification course.

[4:39:58 PM](#)

CHAIR KITO asked whether the amount in the proposed bill is a lower limit or a maximum amount.

MS. TUSTEN said the amount in the bill is the maximum amount for a plan submitted for plan review.

[4:40:30 PM](#)

REPRESENTATIVE WOOL asked whether someone might select a costlier program if the limit is higher.

MS. MARX answered in the affirmative. She added the amount of \$19,300 would generally cover the cost of an associate degree.

REPRESENTATIVE WOOL asked about the 50 percent increase in the amount of the benefit.

MS. MARX answered that there is a balance between benefits to injured workers and the cost to the system. She added it is too speculative to say how many would take advantage of system.

REPRESENTATIVE WOOL asked whether employee [expenses] often went to the maximum at \$13,300.

MS. MARX said she didn't have the data before her, but the amount was not effective at \$13,300. She surmised most people will probably opt for the higher amount, raising the system costs.

[4:44:24 PM](#)

REPRESENTATIVE KNOPP asked if there was data of how many of the 1,200 cases had reached an agreement to pay out more than the maximum.

MS. MARX clarified there were 20,000 reports of injuries and of those, 1,200 a year were those cases with a dispute. She suggested the question was how many injured workers settled for reemployment benefits. She answered in FY 17, 148 workers were found eligible for reemployment benefits. In the same fiscal year, 164 received settlement funds. She explained that 44 were never referred for an evaluation but settled reemployment benefits; 4 settled reemployment benefits before an evaluation was completed; 36 were found not eligible but still settled for reemployment benefits; 23 were found eligible and settled before developing a plan; 43 agreed to a plan and then settled before the plan was approved; and 14 had a plan approved and settled and exited the system. She added the division had no control over settlements.

REPRESENTATIVE KNOPP said it sounds like most people were settling for a cash settlement. He suggested the number offered in the amendment would inspire more to settle reemployment benefits.

MS. MARX said no, because under HB 303 injured workers can no longer settle for a lump sum. She added the amount was not intended to cover more than retraining costs.

[4:49:06 PM](#)

REPRESENTATIVE STUTES said she was hearing there would be no more permanent partial disability benefits.

MS. MARX clarified the proposed bill was not intended to affect an injured workers' ability to settle non-reemployment benefits.

REPRESENTATIVE WOOL asked whether the money received would only be used for retraining purposes and how the money would be disbursed to the individual.

[4:50:51 PM](#)

MS. MARX said that when the money is paid through a plan there is accountability. She specified that with a settlement, the department is no longer involved.

REPRESENTATIVE WOOL asked about the cash settlement for training and whether that could be taken and not applied to training.

MS. MARX said that currently that was not an option.

[4:52:29 PM](#)

MS. TUSTEN added that plan expenses are paid as incurred through reimbursement and are not simply handed over to the injured worker.

[4:53:03 PM](#)

CHAIR KITO asked for a roll call vote on Amendment 1

A roll call vote was taken. Representative Josephson voted in favor of Amendment 1. Representatives Sullivan-Leonard, Wool, Stutes, Birch, Knopp, Stutes, and Kito voted against it. Therefore, Amendment 1 failed by a vote of 6-1.

[4:54:07 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 2, labeled 30-GH2709\A.2, Wallace, 2/21/18, which read as follows:

Page 12, lines 21 - 26:

Delete all material and insert:

\* **Sec. 15.** AS 23.30.041(q) is amended to read:

"(q) Notwithstanding AS 23.30.012, after medical stability has been determined and a physician has predicted that the employee may have a permanent

impairment that may cause the employee to have permanent physical capacities that are less than the physical demands of the employee's job at the time of injury, and, upon approval of the board and the assigned rehabilitation specialist, an employee may waive any benefits or rights under this section, including an eligibility evaluation and benefits related to a reemployment plan. To waive any benefits or rights under this section, an employee must file a statement under oath with the division to notify the parties of the waiver and to specify the scope of benefits or rights that the employee seeks to waive. The statement must be on a form prescribed or approved by the director. The division shall serve the notice of waiver on all parties to the claim within 10 days after filing. The waiver is effective upon approval of the board and the assigned rehabilitation specialist [SERVICE TO THE PARTY]. A waiver effective under this subsection discharges the liability of the employer for the benefits or rights contained in this section. The waiver may not be modified under AS 23.30.130."

Page 16, lines 3 - 4:

Delete "repealed and reenacted"

Insert "amended"

REPRESENTATIVE JOSEPHSON explained that Amendment 2 would allow for settlement of all benefits and would require the board to find settlement is in the worker's best interest in all circumstances. He underlined that in current law there is a presumption that settling is not in the worker's best interest. He said that some injured workers use the lump sum to start a new business or pay medical bills. He said he was concerned the proposed bill would leave the worker less well off.

CHAIR KITO maintained his objection.

A roll call vote was taken. Representative Josephson voted in favor of Amendment 2. Representatives Wool, Stutes, Birch, Knopp, Sullivan-Leonard, and Kito voted against it. Therefore, Amendment 2 failed by a vote of 6-1.

[4:58:51 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 3, labeled 30-GH2709\A.3, Wallace, 2/20/18, which read as follows:

Page 12, following line 31:

Insert a new bill section to read:

"\* **Sec. 17.** AS 23.30.041(r)(7) is amended to read:

(7) "remunerative employability" means having the skills that allow a worker to be compensated with wages or other earnings equivalent to at least 75 [60] percent of the worker's gross hourly wages at the time of injury; if the employment is outside the state, the stated 75 [60] percent shall be adjusted to account for the difference between the applicable state average weekly wage and the Alaska average weekly wage."

Renumber the following bill sections accordingly.

Page 16, line 4:

Delete "sec. 17"

Insert "sec. 18"

Page 16, line 5:

Delete "sec. 19"

Insert "sec. 20"

Page 16, line 6:

Delete "17, and 19"

Insert "18, and 20"

Page 16, line 12:

Delete "sec. 17"

Insert "sec. 18"

Delete "sec. 18"

Insert "sec. 19"

Page 16, line 14:

Delete "17, and 18"

Insert "18, and 19"

Page 16, line 23:

Delete "sec. 17"

Insert "sec. 18"

Delete "sec. 18"

Insert "sec. 19"

Page 16, line 24:

Delete "17, and 18"

Insert "18, and 19"

Page 16, line 26:  
Delete "sec. 17"  
Insert "sec. 18"

Page 16, line 27:  
Delete "sec. 17"  
Insert "sec. 18"

CHAIR KITO objected for the purpose of discussion.

[4:58:54 PM](#)

REPRESENTATIVE JOSEPHSON explained Amendment 3. He stated the proposed bill would determine a benefit of 60 percent of the injured employee's wage. He said the goal for remunerative employment would be 75 percent in Amendment 3.

REPRESENTATIVE KNOPP said he would support Amendment 3 but for the fact that the employee might be comfortable with the job type. He said he was not sure how the amendment would work if the employee sought to be trained in a different job.

REPRESENTATIVE JOSEPHSON responded he feels the targets should be more ambitious than 60 percent of the prevailing wage.

REPRESENTATIVE WOOL asked if Amendment 3 would create a target for when the individual returns to work.

[5:03:31 PM](#)

MS. MARX said that 60 percent is the target for a plan. She gave the example of someone working on the North Slope earning \$68 per hour. She remarked finding an entry level job at \$68 per hour is difficult to accomplish. She underlined that due to the problem, workers are allowed to enter plans that are lower than 60 percent. She added that changing the target 75 percent would mean fewer plans would be approved.

REPRESENTATIVE WOOL asked whether there is a preponderance of North Slope employees in the program.

MS. MARX said that heavy jobs such as North Slope work or nursing do build up a lot of overtime and the amounts to be considered can be quite high.

[5:06:39 PM](#)

MS. TUSTEN reiterated that 75 percent would put retraining for other jobs out of reach for most workers.

CHAIR KITO asked how the 60 percent amount was arrived at initially.

MS. MARX deferred to Ms. Tusten.

MS. TUSTEN stated she did not know.

[5:08:07 PM](#)

A roll call vote was taken. Representative Josephson voted in favor of Amendment 3. Representatives Stutes, Knopp, Birch, Sullivan-Leonard, Wool, and Kito voted against it. Therefore, Amendment 3 failed a vote of 6-1.

[5:08:56 PM](#)

REPRESENTATIVE JOSEPHSON advised that Amendment 4 would not be offered.

[5:09:08 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 5, labeled 30-GH2709\A.4, Wallace, 2/21/18, which read as follows:

Page 9, line 28, following "subsection.":

Insert "However, if the board determines that benefits under this section should not have been denied, the board may award the stipend compensation that would have been paid but for the employer's controversion and the award may include more than one year of stipend compensation for the period before the date of plan approval."

REPRESENTATIVE JOSEPHSON spoke to appeals of workers' compensation claims. He gave the example of the case of Branchflower v. Anchorage School District and said the decision had been that the employee had been wrongfully denied a claim and had remained without benefits due to the erroneous decision made by an insurance company. He explained that Amendment 5 would prevent such a circumstance.

[5:11:33 PM](#)

MS. MARX said she had just received Amendment 5 and so was neither for nor against it.

REPRESENTATIVE JOSEPHSON asked whether the scenario he had described is possible.

MS. MARX said that if an injured worker is found not eligible and successfully appeals, they would not have been paid benefits in the interim period as they were not approved. She said HB 303 limits benefits before a plan is approved to one year. She specified HB 303 would not provide for a retroactive lump sum. She added current law provides for two years of biweekly wage benefits. She added that the benefits would continue until the issue is resolved. She said the injured worker could get benefits retroactively. She suggested providing a lump sum was a policy call. She reiterated that the department had not had time to examine the impacts of the amendment.

[5:14:37 PM](#)

REPRESENTATIVE KNOPP asked whether the employee can appeal the board and beyond that to the insurance company and on to the superior court.

MS. MARX answered that every decision can be appealed to the [Alaska Workers' Compensation] Appeals Commission and beyond that to the Alaska Supreme Court.

REPRESENTATIVE KNOPP asked whether, if it were determined the board had erred in its decision, the court could award the compensation amount in Amendment 5.

MS. MARX answered that the division had not had time to examine the impacts of Amendment 5.

[5:16:41 PM](#)

REPRESENTATIVE WOOL asked whether the injured worker who is denied and then awarded compensation would get less than the amount that the Amendment would compensate.

MS. MARX said the intent of Amendment 5 appeared to be a retroactive lump sum for the time without benefits. She pointed out "the clock is not ticking yet" during an appeals process.

REPRESENTATIVE WOOL asked what the benefit would be during the appeals process.

MS. MARX answered there is no benefit unless an appeal is successful.

REPRESENTATIVE WOOL asked whether an injured worker who is denied benefits would get nothing unless the appeal is successful.

[5:19:27 PM](#)

MS. MARX said that under the current law a worker who is denied benefits does not receive compensation. She added the issue is what happens in the time of the appeal. She said there is a one-year limit before a plan is approved, and a two-year limit from when the plan is approved.

[5:21:13 PM](#)

REPRESENTATIVE STUTES asked what would happen if the appeal takes three years. She surmised she would receive nothing for the three years.

MS. MARX said the time limit is always two years for a plan.

REPRESENTATIVE STUTES suggested an appeal takes three years to determine, and the limit is two years.

REPRESENTATIVE KITO said that it seems this is an issue that was not addressed when the House Rules Committee brought the proposed bill forward.

REPRESENTATIVE KITO maintained his objection.

[5:23:45 PM](#)

A roll call vote was taken. Representatives Josephson and Stutes voted in favor of Amendment 5. Representatives Knopp, Sullivan-Leonard, Wool, and Kito voted against it. Therefore, Amendment 5 failed by a vote of 4-2.

[5:24:25 PM](#)

REPRESENTATIVE JOSEPHSON stated his concerns with the bill. He gave examples of workers who were not awarded reemployment benefits. He said he did not think the proposed bill was ungenerous but could be a better bill.

5:28:34 PM

REPRESENTATIVE SULLIVAN-LEONARD commented she felt the bill was good and would help the workers' compensation process.

5:29:44 PM

REPRESENTATIVE WOOL moved to report HB 303 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, it was so ordered.

CHAIR KITO added, "We will make sure that we authorize Legislative Legal [and Research] Services to make any technical and conforming changes as necessary to comply with the legislative drafting manual."

5:30:44 PM

**ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:30 p.m.