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Testimony of

Melanie I. Kolek

Connecticut Education Association

Before the

Judiciary Committee

Re:

HB 5267 An Act Concerning Eligibility for Incapacity Benefits Under the Workers' Compensation Act

Senator Winfield, Representative Stafstrom, Senator Kissel, Representative Fishbein and members of this esteemed committee, my name is Melanie I. Kolek. I am legal counsel for the Connecticut Education Association, proudly representing public school teachers across our state. A majority of my practice is before the Workers' Compensation Commission.

I am testifying in opposition to Raised Bill 5267, An Act Concerning Eligibility for Incapacity Benefits Under the Workers' Compensation Act. Since 1913, no workers' compensation commissioner, administrative law judge, Superior Court judge, or appellate court has ever barred a retired employee from receiving total disability benefits when their compensable injury results in the claimant's total disability to perform gainful employment, regardless of their retirement status. Notably, this situation arises frequently, where an injured worker's condition worsens after retirement and/or the worker requires additional surgery.

Proponents of changing this purported "unfair" statute argue that "a person who elects to retire and has not worked since retirement has suffered no loss of earnings and therefore should not be entitled to disability benefits under the workers' compensation system, even if they are to become disabled after retirement." This simply is not the case, because it wrongly assumes that once retired, individuals never work again. The blanket change also blatantly targets senior citizens in our state, and specifically disregards how much they have to offer society even after retirement in their chosen profession.

Moreover, this change assumes that an injured worker "voluntarily" removes themselves from the workforce by electing to retire and that they have chosen to replace their wages with some other form of income. That is not the case in most situations with the teachers I represent, and

my concern remains regarding how it will then be determined how one “elects” to be retired. Specifically, pursuant to Connecticut General Statutes Section 10-151, teachers can be terminated for not being able to perform the essential functions of their jobs, including limitations due to their accepted workers’ compensation matters. In so many instances, I have teachers who are forced to retire in lieu of termination, who wanted to continue to teach but for the disabling workers’ compensation injury. This change would mean that once they are forced out of a profession they love through no fault of their own, they cannot collect workers’ compensation wages either. Additionally, being forced out of the teaching profession sooner than expected means less money contributed into their pension, meaning less money to be expected in retirement, thus actually promoting the need to work after retirement. And finally, our Workers’ Compensation Commission judges decide cases daily to determine whether an injured worker should be afforded wages in consideration of their present condition. Without incident, our judges have been weighing this type of evidence successfully for over a century and should continue to be given that task as our best decision makers.

As we discussed last year when this same change was proposed, this change attempts to fix something within our laws that simply is not broken. I urge you to reject the change requested to the statute for the foregoing reasons.