

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

February 19, 2002

8:05 a.m.

MEMBERS PRESENT

Representative John Coghill, Chair
Representative Jeannette James
Representative Hugh Fate
Representative Gary Stevens
Representative Peggy Wilson
Representative Harry Crawford
Representative Joe Hayes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 413

"An Act relating to the imposition of an income tax on individuals, estates, and trusts; relating to the administration of revenue laws; relating to the Alaska Net Income Tax Act; and providing for an effective date."

- HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 31

Relating to requesting the United States Congress to propose an amendment to the Constitution of the United States that would address emergency appointments to and powers of the United States Senate.

- MOVED CSHJR 31(MLV) OUT OF COMMITTEE

HOUSE BILL NO. 248

"An Act relating to retirement contributions and benefits under the public employees' retirement system of certain juvenile detention employees and juvenile correctional institution employees."

- HEARD AND HELD

HOUSE BILL NO. 331

"An Act relating to appointment of persons to positions that require confirmation by the legislature; and providing for an effective date."

- BILL HEARING POSTPONED TO 2/28/02

PREVIOUS ACTION

BILL: HB 413

SHORT TITLE: INCOME TAX: INDIVIDUAL/TRUST/ESTATE/CORP
SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
02/13/02	2236	(H)	READ THE FIRST TIME - REFERRALS
02/13/02	2236	(H)	STA, FIN
02/13/02	2236	(H)	FN1: (REV)
02/13/02	2236	(H)	GOVERNOR'S TRANSMITTAL LETTER
02/13/02	2236	(H)	REFERRED TO STATE AFFAIRS
02/19/02		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HJR 31

SHORT TITLE: POWERS OF US SEN/EMERGENCY APPOINTMENTS
SPONSOR(S): REPRESENTATIVE(S) OGAN

Jrn-Date	Jrn-Page		Action
01/16/02	1968	(H)	READ THE FIRST TIME - REFERRALS
01/16/02	1968	(H)	MLV, STA
01/29/02		(H)	MLV AT 3:00 PM CAPITOL 124
01/29/02		(H)	Moved CSHJR 31(MLV) Out of Committee MINUTE(MLV)
02/01/02	2112	(H)	MLV RPT CS(MLV) NT 4DP 1NR 1AM
02/01/02	2113	(H)	DP: KOTT, CISSNA, MURKOWSKI, CHENAULT;
02/01/02	2113	(H)	NR: HAYES; AM: GREEN
02/01/02	2113	(H)	FN1: ZERO(H.MLV)
02/12/02		(H)	STA AT 8:00 AM BUTROVICH 205
02/12/02		(H)	<Bill Postponed to 2/19/02> - - Location Change --
02/19/02	2303	(H)	STA RPT CS(MLV) NT 6DP 1NR
02/19/02	2304	(H)	DP: WILSON, STEVENS, JAMES, FATE,
02/19/02	2304	(H)	HAYES, COGHILL; NR: CRAWFORD
02/19/02	2304	(H)	FN1: ZERO(H.MLV)

02/19/02 2304 (H) REFERRED TO RULES
02/19/02 (H) STA AT 8:00 AM CAPITOL 102

BILL: HB 248

SHORT TITLE: PERS BENEFITS FOR JUV INSTIT EMPLOYEES

SPONSOR(S): REPRESENTATIVE(S) WILLIAMS

Jrn-Date	Jrn-Page		Action
04/20/01	1096	(H)	READ THE FIRST TIME - REFERRALS
04/20/01	1096	(H)	STA, FIN
04/20/01	1096	(H)	REFERRED TO STATE AFFAIRS
02/12/02		(H)	STA AT 8:00 AM BUTROVICH 205
02/12/02		(H)	<Bill Postponed to 2/19/02> - - Location Change --
02/19/02		(H)	STA AT 8:00 AM CAPITOL 102

WITNESS REGISTER

LARRY PERSILY, Deputy Commissioner
Office of the Commissioner
Department of Revenue
PO Box 110400
Juneau, Alaska 99811-0400
POSITION STATEMENT: Presented HB 413.

CHUCK HARLAMERT, Juneau Section Chief
Tax Division
Department of Revenue
PO Box 110420
Juneau, Alaska 99811-0420
POSITION STATEMENT: Answered questions on HB 413.

SCOTT GOLDSMITH, Professor of Economics
University of Alaska Anchorage
3211 Providence Drive
Anchorage, Alaska 99508
POSITION STATEMENT: Testified on HB 413.

BOB STILES, President
DRven Corporation
711 H Street, Number 600
Anchorage, Alaska 99501
POSITION STATEMENT: Testified in favor of reenacting a personal
income tax as outlined in HB 413.

ERIC BRITTEN

Anchorage Chamber of Commerce
1717 Tidewater Road
Anchorage, Alaska 99501

POSITION STATEMENT: Testified on HB 413, noting that the Anchorage Chamber of Commerce has passed a resolution suggesting that an appropriate level of state services be established prior to instituting new revenue sources.

REPRESENTATIVE SCOTT OGAN
Alaska State Legislature
Capitol Building, Room 108
Juneau, Alaska 99801

POSITION STATEMENT: Testified as the sponsor of HJR 31.

MIKE TIBBLES, Staff
to Representative William K. "Bill" Williams
Alaska State Legislature
Capitol Building, Room 515
Juneau, Alaska 99801

POSITION STATEMENT: Presented HB 248 on behalf of the sponsor.

VALERIE MILLER, Juvenile Probation Officer
204 Mission Road, Room 118
Kodiak, Alaska 99615

POSITION STATEMENT: During her testimony in support of HB 248, compared work as a youth counselor to that of a juvenile probation officer.

ARTHUR KONEFAL, Youth Counselor
Fairbanks Youth Facility (FYF)
975 Willow Grouse Road
Fairbanks, Alaska 99712

POSITION STATEMENT: During his testimony in support of HB 248, described his experience as a youth counselor.

ANDY LEE
125 South Franklin Street
Juneau, Alaska 99801

POSITION STATEMENT: During the hearing on HB 248, discussed retention of youth counselors and answered questions.

JANET PARKER, Retirement & Benefits Manager
Division of Retirement and Benefits
Department of Administration
PO Box 110203
Juneau, Alaska 99811-0203

POSITION STATEMENT: During the hearing on HB 248, answered questions on behalf of the division.

ROBERT BUTTCANE, Administrative Juvenile Probation Officer
Division of Juvenile Justice
Department of Health & Social Services
PO Box 110635
Juneau, Alaska 99811-0635

POSITION STATEMENT: Answered questions during the hearing on HB 248.

ACTION NARRATIVE

TAPE 02-12, SIDE A
Number 0001

CHAIR JOHN COGHILL called the House State Affairs Standing Committee meeting to order at 8:05 a.m. Representatives Hayes, Crawford, Wilson, Fate, and Coghill were present at the call to order. Representatives Stevens and James arrived as the meeting was in progress.

HB 413-INCOME TAX: INDIVIDUAL/TRUST/ESTATE/CORP

[Contains discussion of SSHB 199 and HB 10]

CHAIR COGHILL announced that the first order of business would be HOUSE BILL NO. 413, "An Act relating to the imposition of an income tax on individuals, estates, and trusts; relating to the administration of revenue laws; relating to the Alaska Net Income Tax Act; and providing for an effective date."

Number 0220

LARRY PERSILY, Deputy Commissioner, Office of the Commissioner, Department of Revenue, explained that HB 413 uses as a tax base [an individual's] federal tax liability, rather than gross or taxable income. It assigns a flat tax of 20 percent. This legislation allows Alaskans to take all credits allowed under federal law - such as child care credits, business credits, and so forth - before calculating their Alaska income tax. This is a flat tax. Because it's a percentage of an individual's federal tax liability, however, "it picks up the graduated federal tax rates." The more one makes, therefore, the higher percentage that individual pays to the state.

MR. PERSILY pointed out that HB 413 has a trigger designed to prevent the [state] government from accumulating more cash than it needs in the Constitutional Budget Reserve (CBR). If there is new development in Alaska, increased tax revenues, or spending reductions, and if the CBR grows to \$2 billion, then the effective tax rate would drop from 20 percent to 10 percent for the next calendar year only. Then the CBR balance would be reviewed again. If the CBR balance reaches \$2.5 billion, the tax rate would be 5 percent for the next calendar year.

MR. PERSILY pointed out that HB 413 also provides a \$25 rebate for electronic filing. He noted that there is a comparative analysis with hypothetical tax returns under each proposal.

Number 0614

REPRESENTATIVE JAMES inquired as to the total amount [the state] owes the CBR now.

MR. PERSILY answered that approximately \$4.3 billion has been borrowed from the CBR, although he noted that he may be off a hundred million dollars one way or the other. He specified that [HB 413] doesn't address that issue.

REPRESENTATIVE JAMES related her belief that either the CBR should be eliminated and a new method of saving money should be developed, or the CBR should be filled before "we stop."

CHAIR COGHILL highlighted that this is the only bill that addresses [returning money to the CBR]. Therefore, a mechanism of doing so may be worthy of consideration.

MR. PERSILY acknowledged that a trigger could be incorporated into any of the income tax bills. That way, if the state is more economically healthy, the tax rate could be lowered.

CHAIR COGHILL asked how [HB 413] taxes earned income on residents versus nonresidents. He specified that he was interested in what "part-time residents" have to [report] to the state.

Number 0827

CHUCK HARLAMERT, Juneau Section Chief, Tax Division, Department of Revenue, answered that in that regard, all three bills [HB 413, SSHB 199, and HB 10] are essentially the same. In almost every individual income tax bill he was aware of, residents of

the state are taxed on their worldwide income, which is the same as the federal tax liability. If a resident has a business operation or income from another state and the income is taxable in that state, then a credit is allowed based upon the taxes paid to the other state. That provision is found in all the [individual income tax] bills.

MR. HARLAMERT reported that nonresidents [in Alaska], by contrast, report all their worldwide income to their state of residency and claim a credit for taxes paid to Alaska. Under HB 413, a nonresident calculates his/her tax in Alaska by taking the entire taxable income and then apportioning it to Alaska based on the individual's business activity in Alaska. Basically, HB 413 takes the income on lines 7-20 of the tax return - total income - and applies the ratio of income generated in Alaska to income generated everywhere, and then multiplies it times the tax base in order to determine Alaska's tax. Essentially, a nonresident's tax would be calculated as if he/she were a resident; the person would then apply a numerator - the income earned in Alaska - over the denominator - the income earned everywhere. Thus the amount of the tax paid to Alaska is determined.

MR. HARLAMERT pointed out that HB 413 avoids including modifications from total income. Items excluded from determining that ratio are alimony, living expenses, and other nonbusiness items that don't really reflect where individuals made their money.

Number 1084

REPRESENTATIVE JAMES asked whether part-time residents' [income for tax purposes] would be based on the time spent in Alaska.

MR. HARLAMERT answered that part-time residents would be treated as nonresidents under [HB 413].

REPRESENTATIVE JAMES asked how [part-time residents] allocate their personal exemptions and/or itemized deductions if part-time residents and nonresidents are treated the same. The nonresident's [tax] is based on the amount of money earned, she said, while the part-time resident's [tax] is usually based on the amount of time in the state.

MR. HARLAMERT clarified that the difference is only in the ratio applied. He pointed out that this [discussion] is in regard to the calculation of the fraction of the taxpayer's total income

assigned to Alaska. The modifications to income and itemized deductions are all in the background. Although those are allocated, those items aren't included in the allocation formula. Therefore, whether someone pays mortgage interest in his/her former residence state or Alaska doesn't matter because it's allocated in the same way.

REPRESENTATIVE JAMES posed an example of an individual who moved to Alaska in July and established residency after working elsewhere for the first half of the year. This individual didn't work until November or December, and therefore his/her small amount of income wouldn't be representative of the time they spent in Alaska in relation to the services being received.

MR. HARLAMERT agreed, but pointed out that [HB 413] is an income tax bill. Income earned is taxed; it isn't a tax based on time spent in the state. The purpose of the formula is to determine how much of the person's income was earned in the state. Mr. Harlamert also pointed out that the factor takes into account differences in income. He cited as an example someone who moves to Alaska and receives a raise; that increase in wages would be in the numerator and denominator, and thus would increase the factor. If someone moves to Alaska and doesn't take a job immediately, however, that individual isn't earning income subject to tax, and the factor would appropriately reflect that.

CHAIR COGHILL said that is the policy call the legislature will make.

Number 1391

REPRESENTATIVE FATE inquired as to the rationale for using the computations in HB 413 versus others that are available.

MR. PERSILY explained that the process is to tax only the income earned in Alaska. Therefore, if half of an individual's income is earned in Alaska, then that individual will pay the Alaska tax on 50 percent of that individual's federal tax liability.

REPRESENTATIVE FATE related his understanding from Mr. Harlamert's testimony that [HB 413] is based upon not just what the individual is paying on the tax, but upon a ratio measuring it against the income "of the average tax in the Lower 48."

MR. PERSILY said that isn't correct.

Number 1520

MR. HARLAMERT explained that the purpose of the ratio is to determine how much of a taxpayer's total income for the year is properly taxable by the state. "We cannot tax nonresidents or part-year residents on a 100 percent of their worldwide income because they didn't earn it here," he said. "We just don't have the right to do that under the constitution." There has to be a method of attributing to Alaska the appropriate portion of whatever tax base is used. Therefore, the method used by all the proposals before the committee is to take a ratio of the income earned in Alaska over income earned everywhere. That ratio is then applied to the tax base.

CHAIR COGHILL identified the difference, saying [HB 413] utilizes a place on the federal tax form that provides for some exemptions. He related his understanding that the formula [HB 413] uses is "to give the federal tax liability the best flexibility in the state."

REPRESENTATIVE FATE asked if [the administration] believes this is a fair tax for everyone and believes this tax provides a little more favoritism to those who can't pay taxes. He again asked for the rationale.

MR. PERSILY related his understanding that Representative Fate wasn't questioning the computation of how much a nonresident pays, but rather the proposal to tax on federal tax liability, which is a graduated tax.

REPRESENTATIVE FATE restated his question, "Why this type of computation? What's the advantage of this to you? Why has the administration done this kind of computation rather than other kind of computations?"

Number 1719

MR. PERSILY related the administration's belief that the federal tax system is good in that the graduated rate of the federal tax system has been accepted by most - that is, the more income one has, the better position the individual is to pay a greater portion in taxes because, in theory, that individual can enjoy the benefits of society more and pay more than others who earn less.

MR. PERSILY recognized that an individual with a high income would view a graduated tax as unfair, but countered that in fixing the state's fiscal problems, a tax is necessary.

Furthermore, Mr. Persily said it would be safe to assume some form of permanent fund earnings would be used to help with the state's fiscal problem, which would likely result in an across-the-board reduction in dividends that some would argue is unfair to those with low income or fixed income. Therefore, two [arguments] of unfairness cancel each other.

Number 1865

REPRESENTATIVE JAMES remarked that she still wasn't clear on the intent with a resident versus a nonresident. She related her understanding of the public's general belief that those who come to Alaska to work and take their money home ought to pay something to help the state balance the budget. Representative James posed a situation in which a resident would be expected to pay tax on his/her worldwide income - or will the residents be prorated if they're making money outside the state? She recalled testimony regarding a credit for money earned in another state on which there is a tax, which she said makes sense. She related her understanding that there would only be two types of individuals: a resident and a nonresident. There would be no part-time resident.

MR. HARLAMERT replied yes.

REPRESENTATIVE JAMES expressed concern with that because of the existence of the permanent fund dividend (PFD). She asked, if someone moves to Alaska in January and files for residency, whether that individual would pay a [state income] tax just like all other residents.

MR. HARLAMERT replied yes. He specified that the income tax doesn't follow the residency definition under the PFD. One can become an Alaska resident by declaration, simply by moving here and obtaining a driver's license. In the first full year of residency, the individual will pay tax as a resident taxpayer. In the first year, the individual will pay as a part-year resident.

MR. PERSILY posed an example in which someone lives out of state, works in Alaska's oil fields as a nonresident, and earns no income in the other state. Such individuals would pay income tax on 100 percent of their earnings because 100 percent of their earnings were taken in Alaska. However, an individual who fished in Alaska and earned \$50,000 [in the summertime], and who worked in Oregon in the off-season and earned \$25,000, would pay

tax on half, because of the proportion [of wages earned in Alaska].

Number 2139

REPRESENTATIVE WILSON asked on which line of the [IRS] Form 1040 this would begin.

MR. HARLAMERT answered that with HB 413, it starts with line 52. If the taxpayer qualifies, federal credits would be deducted as shown on lines 61A and 63 [of Form 1040].

REPRESENTATIVE HAYES asked whether the administration has reviewed an education credit for areas that pay property taxes for K-12 [education]. If not, Representative Hayes asked why that wasn't reviewed as a state credit. He indicated he was referring to something similar to HB 10.

MR. PERSILY responded, "I guess we looked at it and felt that as a policy call, it would be better not to give a property tax credit." He said one could argue that such a credit discriminates against those who don't own a home because they will end up paying the bulk of the taxes. Mr. Persily pointed out that property taxes are deductible on the federal tax return; thus a portion would be returned through a lower state tax return, as opposed to a direct credit.

REPRESENTATIVE HAYES restated that he was curious whether any consideration has been given to an education credit for those who pay into the community for K-12 education. He acknowledged that it is mostly property tax.

CHAIR COGHILL remarked that perhaps there should be an education tax first, for which there is credit on the [state] income tax.

REPRESENTATIVE WILSON noted that in some municipalities, renters pay a sales tax on what is paid in rent. She related her understanding that such a provision wouldn't fit under HB 413 because it doesn't have anything to do with the individual's earnings.

Number 2379

SCOTT GOLDSMITH, Professor of Economics, University of Alaska Anchorage, testified via teleconference. Mr. Goldsmith began by stating that if [the legislature] doesn't do something this legislative session to deal with the fiscal gap, in all

likelihood the economy will fall into a recession. A \$1-billion bite out of an economy Alaska's size is too large to digest in one year. Furthermore, the size of the fiscal gap is large enough that a combination of tools will be required to address it, including some sort of income tax, a broad-based sales tax, and a reduction in the PFD. Consequently, the question becomes when the [state] income tax would be instituted and what it would look like. In comparing an income tax with a sales tax and a dividend, there is much interest in the split between the proportions that residents and nonresidents pay. In terms of that criteria, an income tax looks more attractive than the other two options.

MR. GOLDSMITH said based on some basic calculations, he'd calculated that for every \$1 collected from an income tax, Alaska residents would pay about \$.75 and someone else, a nonresident or the federal government, would pay about \$.25. However, a reduction in the size of the PFD would result in Alaskans' [paying] about \$.84 per \$1; the remainder would be shifted to the federal government and nonresidents. With a broad-based sales tax, about \$.93 per \$1 would be paid by Alaskan residents, with the remainder paid by nonresidents. Therefore, an income tax seems to be most attractive on those grounds. Although an income tax would create disincentives just as any tax would, he argued that those disincentives would be relatively modest. Under HB 413, the 20 percent on top of an individual's federal rate sounds horrendous. However, it only amounts to approximately a 3 percent increase in tax liability for an individual paying 15 percent in federal taxes.

MR. GOLDSMITH remarked that an income tax is a progressive tax, which means that people with higher incomes pay a larger percent of their income in taxes than those with lower incomes. The decision regarding how progressive to make the tax system is a philosophical decision for which an economist can't provide an answer. However, Mr. Goldsmith pointed out that Alaska, with the PFD, has the most progressive tax structure in the nation.

MR. GOLDSMITH reported that in regard to overall state and local taxes, low-income Alaskans receive money from the government, in net terms, while high-income Alaskans pay primarily via property taxes. Imposing an income tax such as proposed in HB 413 would add some progressiveness to the system because it would impact higher-income Alaskans more than it would lower-income Alaskans.

MR. GOLDSMITH echoed Mr. Persily's earlier testimony that in the long run it's likely the PFD would be reduced, which would have

the opposite effect. Therefore, considering the overall tax structure of the state in terms of a progressive income tax, with a reduction in the PFD, could result in the same relative position in terms of the current progressiveness.

Number 2666

MR. GOLDSMITH pointed out that when thinking of the tax structure, one has to be careful about comparing Alaskans across all strategies - that is, in regard to the full-time versus part-time resident, the rich versus the poor, the urban versus rural individual, and the young versus the old individual.

MR. GOLDSMITH identified one attractive feature of a personal income tax: it solves the problem of the "Alaska disconnect." He explained that the "Alaska disconnect" is the problem that economic growth and development - which would help solve any financial problems in most states - doesn't work in Alaska because Alaska doesn't have a broad-based tax to capture some of the profits generated by new economic activity in order to pay for the public costs that arise. Therefore, a personal income tax would be a method by which to capture some of those profits, which would be positive both fiscally for the state [government] and for Alaska economically.

Number 2746

REPRESENTATIVE FATE recalled Mr. Goldsmith's mention of the 15 percent average of federal tax in the state.

MR. GOLDSMITH clarified that an individual's lower tax rate on the federal income is 15 percent, the rate at which he believes the majority of Alaskan households pay. However, that isn't the average for all Alaskans because a significant portion of Alaskans pay at a higher rate, 28-30 percent on their "marginal income."

REPRESENTATIVE FATE inquired as to the average in the state.

MR. GOLDSMITH estimated that the average federal tax on an individual's taxable income is about 20 percent.

CHAIR COGHILL mentioned that one of the points of discussion is regarding whether to use the adjusted gross income or the federal tax liability. He requested that Mr. Goldsmith provide his opinion of those options.

MR. GOLDSMITH opined that starting with the adjusted gross income provides a bit more flexibility in regard to [allowing] credits or exemptions. On the other hand, by making Alaska's tax a percentage of the federal tax, [the state] is beholden to the federal tax law. However, [tying to the federal tax liability] is a bit more progressive due to the netted-out exemptions, which tend to favor those at the lower end of the income distribution.

Number 2857

REPRESENTATIVE JAMES related her conclusion that a three-way fix, including some earnings from the permanent fund, a sales tax, and a moderate income tax, is necessary. However, the dilemma is that an income tax has about double the impact of a [sales] tax, while use of the permanent fund earnings has no cost at all. Therefore, Representative James expressed concern as to the components. She asked Mr. Goldsmith to speak to what he saw as the best advantage.

MR. GOLDSMITH responded that the [state] has about three years to phase in a set of policies to address the fiscal gap. Each year there should be about a \$350-million bite, the first of which should be through the income tax. Although it will have a negative impact on the economy, it won't be as great as from a sales tax generating the same amount of money because the federal government would "pick up part of the tab."

TAPE 02-12, SIDE B
Number 2987

MR. GOLDSMITH related his belief that the economy could absorb [the negative impact created by an income tax] without crashing. For the next year, Mr. Goldsmith suggested that perhaps the earnings over and above the PFD and inflation-proofing of the permanent fund should be used. If necessary, Mr. Goldsmith suggested that the third year would look at a sales tax. He reiterated the need to take a phased-in approach in order to avoid hitting the economy all at once.

Number 2909

REPRESENTATIVE JAMES agreed with a phased-in approach. However, if \$350 million were taken from the earnings reserve of the permanent fund, it wouldn't impact the economy at all because that is excess. She suggested that the income tax would follow. She noted that the effective date [of the implementation of the

income tax] could be extended in order to provide more time to prepare. She agreed with looking at a sales tax last. She inquired as to why such a scenario would be wrong.

MR. GOLDSMITH answered that largely it's a political choice. If the excess earnings of the permanent fund are used first, the annual amount that could be drawn in subsequent years is [decreased]. "Because we know the economy is going to be doing okay this year, we can afford to take a little bit of a hit," he pointed out. "The future is uncertain." He explained that if the economy softens, the [state] wouldn't want to be forced to impose an income tax on an economy that's already in a weakened condition.

Number 2802

REPRESENTATIVE FATE asked Mr. Goldsmith why he felt that a sales tax would have more of a negative effect on the state than would an income tax.

MR. GOLDSMITH clarified that he was primarily referring to the proportion of each tax that would be paid by nonresidents. The larger the share being paid by nonresidents, the less negative the impact on Alaska's economy because purchasing power would be drawn out of the Alaskan economy [otherwise]. Mr. Goldsmith informed the committee that about 7 percent of sales in Alaska are made to nonresidents, and therefore 93 percent of sales would fall on the shoulders of Alaskan residents if the sales tax were used. With an income tax, however, the tax would be shared by nonresident workers and the income they generate, approximately 10 percent of total wages paid in the state, as well as the federal government, because for many Alaskans the state income taxes would be deductible from their federal income tax. Therefore, the federal liability for some Alaskans would decrease. In that sense, an income tax would have a less detrimental effect on the overall economy.

REPRESENTATIVE FATE noted his intention to pursue this further.

Number 2670

BOB STILES, President, DRven Corporation, testified via teleconference in favor of reenacting a personal income tax as outlined in HB 413. He emphasized that he is in favor of doing it now. Mr. Stiles remarked that there is a "counter-incentive" to job creation in the state. If jobs are created that result in people moving into the state, the burden on the state has

been increased and everyone's prorated share of the PFD has been decreased. The imposition of a personal income tax has the possibility to enhance the development of job creation.

MR. STILES related his [support] of tying it to the federal tax because that is the simplest and easiest way to do so. Tailoring a tax to an adjusted gross income versus the federal tax liability creates additional bureaucracy and laws, all requiring additional [employees]. In the end, less overall income from the tax is seen than may have otherwise occurred with a simple [strategy]. Furthermore, the income tax should be done first because it has the longest lead time in regard to the state's seeing any revenues from the tax. For instance, if a tax were instituted during this session, the future liability wouldn't begin to accrue until 2003 and the state wouldn't see any income until 2004. The other mechanisms, a sales tax or use of the permanent fund earnings reserve, can be implemented and produce revenue more quickly than the income tax. Therefore, Mr. Goldsmith said he believes that the approach in HB 413 is preferable.

Number 2501

ERIC BRITTEN, Anchorage Chamber of Commerce, testified via teleconference. Mr. Britten informed the committee that the Anchorage Chamber of Commerce has passed a resolution suggesting that an appropriate level of state services be established prior to the institution of any new revenue sources. Additionally, the chamber hasn't supported any spending caps. Once the appropriate level of state services has been established, the first recommendation is to use a portion of the current permanent fund earnings. The next step would be to maintain an appropriate balance in the CBR, using it as a shock absorber against oil-price fluctuations. The third step would be to use debt, as appropriate, to finance the state's infrastructure needs on a long-term, systematic basis.

MR. BRITTEN pointed out that the Anchorage Chamber of Commerce has passed resolutions in support of general obligation (GO) and GARVEE [Grant Anticipation Revenue Vehicles] bonding. The final step would be the implementation of broad-based taxes and/or an increase of consumption taxes that are fair and equitable and encourage economic development.

MR. BRITTEN remarked that any type of tax discourages economic development to some extent. Obviously, a gross receipts tax is more discouraging to economic development than any of the taxes

being discussed now. Targeted business taxes and corporate taxes also discourage economic development. In supporting broad-based taxes, he said, the chamber agrees that [HB 413] or the income tax proposition, as well as a sales tax, fit within that purview.

MR. BITTEN noted his personal observation, from discussions with those in the Anchorage Chamber of Commerce, that there does appear to be more support for an income tax than a sales tax. The reasons for that support relate to the ability for [a state income tax] to be deducted from the federal income tax. Furthermore, [a state income tax] fits within a "broad-based" classification. Moreover, there is sort of a property tax deduction in that [HB 413 is linked to] the adjusted gross income on the federal income tax, which allows the property tax to be deducted on the federal income tax. Mr. Bitten highlighted the support and passion for the development of a complete plan. He mentioned that a phased-in approach does make sense, as does having triggers.

Number 2266

CHAIR COGHILL asked if a sales tax would be deductible on Schedule A [of the federal tax forms].

MR. PERSILY specified that a sales tax is not deductible on federal income tax returns.

CHAIR COGHILL announced that this discussion would continue on Saturday. He also announced that all three of the proposals will be before the committee. Chair Coghill announced that the hearing on HB 413 would be suspended.

The committee took a brief at-ease from 9:09 a.m. to 9:10 a.m.

HJR 31-POWERS OF US SEN/EMERGENCY APPOINTMENTS

Number 2152

CHAIR COGHILL announced the next order of business, HOUSE JOINT RESOLUTION NO. 31, Relating to requesting the United States Congress to propose an amendment to the Constitution of the United States that would address emergency appointments to and powers of the United States Senate. [Before the committee was CSHJR 31(MLV).]

Number 2137

REPRESENTATIVE SCOTT OGAN, Alaska State Legislature, as sponsor of HJR 31, referred to terrorist attacks of September 11, 2001, and [the sending of anthrax through the mails by unspecified terrorists]; the latter could have killed a majority of U.S. congressional members. He said those events raised his level of concern regarding the issue. Representative Ogan said, essentially, if the nation were to lose a majority of the House or the Senate, it would be left with martial law and the power held be the executive [branch], until another Congress could be elected.

REPRESENTATIVE OGAN noted that the Seventeenth Amendment of the U.S. Constitution "provides a modality for making appointments to the Senate," but sets no limit of time. That amendment gives some latitude to the governors and laws of individual states regarding how [those Senators] are appointed, but is silent regarding [how the House would be reappointed]. He explained that the Seventeenth Amendment was envisioned to prepare for events such as the assassination or death of a Senator, not to prepare for "the unthinkable."

REPRESENTATIVE OGAN surmised that most of those in the committee room grew up during the Cold War and the Cuban Missile Crisis, when the general philosophy was that there would be nothing left to govern after a nuclear war; therefore, the issue had not been addressed in the [U.S.] Constitution. He stated that he believes now that terrorists have access to "weapons of mass destruction." It is imperative that [the nation] makes certain that all three branches of its government continue to function and sends a message to terrorists that what they do to the nation will not bring the Republic down.

Number 1959

REPRESENTATIVE OGAN referred to an earlier version [of the resolution] in which the [U.S.] Senate would temporarily assume the power of a unicameral body until a House could be elected. He explained that the House Special Committee on Military and Veterans' Affairs had deleted that language after lengthy debate. Representative Ogan told the committee that there is a bill in the U.S. House that says if two-thirds of the House members are incapacitated, the states would be allowed to appoint House members; he said that is a large number to appoint and suggested it would be better to allow the [U.S.] Senate to become a temporary unicameral body until a special election could be held.

REPRESENTATIVE OGAN [suggested he was amenable to changes in the language of his resolution]; his main concern was to see that the issue was brought before Congress.

Number 1839

CHAIR COGHILL referred to [page one of a December 25, 2001 article in The New York Times, provided by Representative Ogan and included in the committee packet], which says President Bush signed executive orders to establish a line of succession. He asked if that was parallel to Representative Ogan's thinking or conformed to the bill before Congress.

REPRESENTATIVE OGAN said he believed President Bush recognized the threat to the nation; Vice President Cheney is only now coming out from a sequestered state. Representative Ogan clarified that [HJR 31] deals with the legislative branch, rather than the executive branch.

CHAIR COGHILL asked Representative Ogan why he'd singled out Congress, when there are three branches of government. He indicated Congress would [be the one with the power to] declare war. He added that there are "several major heads" that could be in the executive branch.

REPRESENTATIVE OGAN responded that even though he is comfortable with the motives of [President Bush], "power corrupts and absolute power corrupts absolutely." He said he would like to see a plan in place so that the legislative branch would be reappointed quickly. The power to declare war is with the Senate. If [the nation loses a majority of its Senate members], he said, the country would be run by martial law at that point.

REPRESENTATIVE OGAN posited that the President has the best interests of the country in mind, but said he would prefer to make certain that the third branch of government would be around to appropriate the money to do whatever is necessary to defend the country and to provide the checks and balances provided for in the [U.S.] Constitution - having the power come from the people.

Number 1674

CHAIR COGHILL said Representative Ogan's last remark brought the discussion closer to a point he was attempting to make: This [system of appointment] would perhaps be the most representative

of the people; furthermore, the executive branch could become very powerful, with police powers, and would need the check.

Number 1654

REPRESENTATIVE STEVENS said he appreciated the chance to think about how the succession works in government. He said he believes the succession of the presidency was as follows: First the Vice President, followed by the Speaker of the House, then the cabinet members in the order they were appointed, but not including all cabinet members. He added that the benefit is knowing in advance what the succession would be. He asked Representative Ogan if it is possible to know in advance the succession [of Congress]. He noted that [the process of reappointment] would be lengthy.

Number 1602

REPRESENTATIVE OGAN replied that he had attempted to address that in an earlier version of the [resolution]; he mentioned a rhetorical debate [in the House Special Committee on Military and Veterans' Affairs]. He said the Seventeenth Amendment is silent in regard to the House of Representatives. He surmised that it had been assumed in the past that someone might get sick, die of natural causes, or be assassinated, but since there were over 400 members, the risk of losing more than 200 - thereby losing the quorum - by those means was minimal.

REPRESENTATIVE OGAN, regarding the 100 [U.S.] Senate members, told the committee he'd suggested in an earlier version of the [resolution] that within ten days, new Senators would be appointed by the [state] legislatures. He noted that prior to the Seventeenth Amendment, the legislatures appointed the [U.S.] Senators; therefore, he surmised, the Senators were perhaps more accountable to the legislatures than they are now.

REPRESENTATIVE OGAN expressed his belief that it is more efficient to give temporary unicameral power to the [U.S.] Senate to declare war, to appropriate money, and to look over the executive branch during a national emergency, than to hold an election, or try to appoint an entire [U.S.] House of Representatives. He reiterated that a bill in Congress would allow the states to appoint "representative members." He said the House Special Committee on Military and Veterans' Affairs had debated the issue and, in its wisdom, decided it was best to raise the issue before Congress and let Congress decide the best course of action.

Number 1453

REPRESENTATIVE WILSON said September 11, 2001, made the country aware that "something like this" could happen. She offered her belief that this issue needs to be brought to the forefront and that a plan needs to be made; consequently, it is wise to urge Congress to make decisions regarding the issue.

Number 1399

REPRESENTATIVE HAYES moved to report CSHJR 31(MLV) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 31(MLV) was moved out of the House State Affairs Standing Committee.

HB 248-PERS BENEFITS FOR JUV INSTIT EMPLOYEES

Number 1365

CHAIR COGHILL announced the next order of business, HOUSE BILL NO. 248, "An Act relating to retirement contributions and benefits under the public employees' retirement system of certain juvenile detention employees and juvenile correctional institution employees."

Number 1331

MIKE TIBBLES, Staff to Representative William K "Bill" Williams, Alaska State Legislature, presented HB 248 on behalf of Representative Williams, sponsor. He explained that HB 248 would give juvenile officers the same 20-year retirement system currently enjoyed by peace officers and firefighters. Under current law, peace officers include correction and probation officers who are trained to deal with dangerous individuals and who have powers of restraint and arrest.

MR. TIBBLES said juvenile officers have the same or very similar training and, like correctional officers, are asked to place themselves in a dangerous work environment. He asked the committee to keep in mind that juvenile officers are asked to deal with what the court believes are individuals who pose such a threat to society that they need to be placed in an institutional setting; furthermore, they are charged with the difficult task of trying to rehabilitate those individuals.

MR. TIBBLES concluded by saying the sponsor believes this legislation takes an important step to correct an inequity in the law and "will go a long way to help the State of Alaska retain its quality employees and attract new employees in the juvenile officer field."

Number 1180

CHAIR COGHILL noted that [HB 248] is "standing in line" with other bills regarding the 20-year retirement - many have compelling cases as well. He explained that he'd agreed to hear this bill because equity [has been an issue].

VALERIE MILLER, Juvenile Probation Officer, Kodiak, Alaska, testifying via teleconference, told the committee she began working for the state in 1978 as a youth counselor at McLaughlin Youth Center. She worked in detention and on both boys' and girls' treatment units, until leaving there in 1988. She noted that she'd worked as Youth Counselor I, II, and III, "through to unit leader." During that time, she was assaulted physically, including being spit upon and often verbally assaulted.

MS. MILLER said safety for the youth, staff, and public was of utmost importance and was a constant consideration. The level of stress increased with the level of supervisory responsibilities, and the "alertness to duty was intense, making this work exhausting." She noted that the incarcerated youths felt they had nothing to lose and were often impulsive, unpredictable, disturbed, angry, and dangerous.

MS. MILLER stated that unlike in the adult system, there are no armored or electronic barriers for protection. She said she knew, as a youth counselor, that she was a "frontline worker between the youth and the public." She added, "It was a skillful, interpersonal balance to win the trust, respect, and cooperation of these youths, which comes with experience, maturity, and inner confidence."

Number 0898

MS. MILLER continued as follows:

At the time I transferred to the probation officer [job class] series in 1988, I remember feeling a sense of relief at the difference I perceived in the level of anxiety I experienced with respect to the duties and responsibilities when I became a probation

officer, as compared to a youth counselor in the institution.

[As a youth counselor] I had no break, and I ate institutional food with the youth. I worked with the most severe clients ... with the highest risk factor - who were either a danger to themselves or others, and could not be placed in a lesser restrictive placement.

As a juvenile probation officer, I have variety and flexibility in my job. As a youth counselor, I worked within the same walls day after day, with little opportunity to leave. As a juvenile probation officer, I can call for backup from law enforcement for any occasion. As a youth counselor, I needed to remain calm and work through the situation, no matter how hostile [or] out of control the youth were.

As a juvenile probation officer, in most emergency instances, I am concerned for my safety [and the safety of] possibly one or two youths and those immediately around me in the community. As a youth counselor, I was concerned for the safety of up to 20 (indisc.), the staff, and the community. As a juvenile probation officer, I can hire a guard to sit with and transport or escort youth. As a youth counselor, I was the guard and escort and often had to sit with youth for long periods of time, until the youth would gain control.

There is, indeed, a disparity within the juvenile justice job classes, and youth counselors have earned more recognition. Youth counselors should have an equitable incentive to remain at their posts in the institutions and not be attracted to better benefits offered in the probation officer series, thus promoting and ensuring the quality of workers that are needed in this field of work. This inequity needs to be rectified.

MS. MILLER concluded by asking the committee to support HB 248.

Number 0739

ARTHUR KONEFAL, Youth Counselor, Fairbanks Youth Facility (FYF), testifying via teleconference, told the committee that he has

worked at FYF for 21 years and was speaking on behalf of youth counselors across [Alaska].

MR. KONEFAL described the environment in which a youth counselor works as "a watched dormitory, [with] anywhere from 15 to 60 kids on one single unit." He said youth counselors work face-to-face with residents for eight hours a day, without 15-minute breaks, and they eat their lunch with the residents, needing to be always on the alert." He said those committee members who have had the benefit of visiting their district's facility would know the environment he'd described.

MR. KONEFAL noted that the residents with whom the youth counselors work are primarily 16- to 19-year-old males; these aren't little boys, but often are 175- to 250-pound, six-foot-tall men. Developmentally, however, they are immature and exhibit the same impulsive and reckless behavior of young boys, and "here is where they become dangerous."

MR. KONEFAL said there are stories from each youth facility. He recalled being attacked during an AWOL [absent without leave] attempt, choked from behind to the point of blacking out, and being "the bearer of two black eyes to take back home and show my own children." He said, "The visceral, verbal assault expressed at me and my family are regular, and so accepted, that when I file charges with the troopers I am told it is just a part of my job. And in fact, it is."

MR. KONEFAL reported that some coworkers haven't been as lucky in this career. He told the committee of a friend who was lured into a room and beaten so severely that he missed two weeks of work; when he returned, he was too traumatized to continue working, knowing such an incident could happen again. He continued:

With drug and alcohol abuse being such a pandemic issue, every facility is taking in kids who go through the pain and unpredictable behavior of withdrawal. If [you] then combine these problems with our increasing population of mental health issues, it gives you some insight to the multifaceted problems that youth counselors face each and every day.

As for residents with mental health issues, in Fairbanks alone we've had a number of residents so removed from their faculties of reasoning that they would repeatedly bash their heads against cement walls

or floors, if upset. What did we do? Staff sat there with this unfortunate kid's head in their hand, cradling it for hours, until this chaotic episode subsided. The resident turns out well under such care, but the staff are left emotionally and physically drained.

On a lighter side, youth counselors do routine escorts to offsite locations such as the courts and medical facilities and, when necessary, [fly with] the residents throughout Alaska to the Lower 48. We do this all without the benefit of uniform or sidearm, as a judicial services officer would have.

If [a resident is at] court and does not like the decision of the court, we must [act when he tries to flee] or [lash out at someone]. Youth counselors are the protective shield between the juvenile and the public safety.

These situations can be harrowing. Physical confrontations are the worst and were easier to handle when I was 28 and just starting out as a youth counselor. I'll be 50 next year, and I believe that most of us know how that age stacks up [against the brash], no-limits [assertiveness] of youth.

Luckily, I have picked up some other skills along the way. I now have the insight to quell argument and quash some violent behaviors, but this has come over a period of 21 years. Most staff, by far, do not stick around and develop this wisdom, nor are there staff there to pass on these insights and set the example for new staff. As a result, we get the new teaching the new.

It is my belief that if we can recruit and, more importantly, retain the best and brightest available, we'll be more effective in preventing future societal damage and save significant resources. One of the ways to do this is through 20-year retirement. We are shouldering similar responsibilities of other peace officers in the 20-year retirement program, and I'm here to ask your support to bring the youth counselor series under the same retirement program.

MR. KONEFAL thanked members for their attention to this issue and asked that they pass [HB 248].

Number 0342

ANDY LEE came before the committee to testify that he had spent ten years, from 1991-2001, as a youth counselor at the Johnson Youth Center [in Juneau]. During that time, he noted, he was spat upon, urinated upon, and cried upon; however, he said, because he held what he considered to be "the best job in state service," he also considered that to be a part of the job.

MR. LEE noted that over that ten-year period, people in only 3 of the 32 positions have stayed ten years. It is not often that people stay in the youth counselor service for 20 years, he said, because of the risk, "the daily exposure to violent, unpredictable, ever-growing numbers of young people who the courts and the community have said, 'These people are in your charge.'" For that reason, [youth counselors] approach their jobs with great vigilance. He said some of the best individuals in the community are attracted to this position, but "we're unable to keep them" because there are other, equally attractive jobs that have 20-year retirement.

MR. LEE told the committee about several people whom he had supervised who became juvenile probation officers or "went to corrections." He related a story of having recruited one individual who had worked at the Lemon Creek adult facility for ten years and returned after only one year, because he was 47; he could retire as a correctional officer (CO) at 57, whereas he would have had to work until age 67 at the youth center.

MR. LEE noted that over the years [the legislature] has "seen fit to improve the youth facilities [and] build facilities, in response to the growing needs of the juvenile community." He offered his belief that the "missing link" is in addressing the needs of the people who work in those facilities. He indicated support for restorative justice as a model for treatment and support for DJJ [Division of Juvenile Justice, Department of Health and Social Services] in terms of the way it delivers service. This [bill] is an opportunity to support the people who work in those facilities, he said.

MR. LEE brought up one of the arguments against 20-year retirement in areas such as the university and the state troopers: "There's a brain drain." He countered that it doesn't happen, however, because the brightest people are

recruited as youth counselors but aren't retained long enough to become the best; they become the best as JPOs [juvenile parole officers], as adult POs [parole officers], and as COs.

MR. LEE stated his belief that [HB 248] would close "that loop in services." He said, "As we've met the needs from a facility, we've met the needs from a restorative justice - choosing that as our model for treatment - and I think the last piece in that puzzle would be 20-year retirement."

Number 0005

REPRESENTATIVE JAMES said she appreciated [Mr. Lee's] testimony and that it wasn't a job she could do. She indicated her first reaction was to figure [out how to make job less difficult]. [The last portion wasn't on the tape, but was recorded in the committee secretary's log notes.]

TAPE 02-13, SIDE A

Number 0001

REPRESENTATIVE JAMES asked, "When people move from this job to one of the other jobs, do they also get more money, or is the money the same?"

MR. LEE answered that the money is not the same. Youth counselors are recruited at a range-11 salary, "YC1" [Youth Counselor I] in the job series, and stay in that class until promoted to a "YC2" [Youth Counselor II], a range 13, which pays, to his belief, approximately \$14 per hour. Correctional officers [in adult facilities] work "26-50 a year" and receive 20-year retirement in addition to a higher range of pay; he mentioned "their ability during those other 26 weeks to also go into overtime and other benefits." He also offered his belief that JPO pay is range 15-19, whereas youth counselor pay is [range] 11-15.

REPRESENTATIVE JAMES indicated that was only part of the solution. She asked how long a person would have to be "one of these counselors" before being able to move to higher levels.

MR. LEE replied that it is expected that youth counselors will move from a YC-1 to a YC-2 within 12 to 18 months; then they move up the stepladder from a range 13A, on an annual basis, similar to other state employees. In the ten years Mr. Lee has worked in the field, he said, he has seldom heard the argument,

"We don't get paid enough." Rather, often the argument is, "There are other jobs that are more attractive."

MR. LEE cited the following: JPOs work an eight-to-five [shift], whereas [youth counselors] work three shifts. Correctional officers work 26 weeks a year, whereas [youth counselors] work overtime, work 52 weeks a year, and are in Class I [a strike class that precludes striking]. Mr. Lee relayed that one of his most difficult jobs as a supervisor was attempting to figure out which employee had not worked the last five Christmases. He remarked, "While it is a part of the problem, I think what you find is a very sincere class of individuals, who come into this with service in mind ... and youth as a priority." He continued:

While I think there is pay inequity, while I think there are some other inequities in terms of work schedule and ability to transfer, I think this is the critical one, because it has come up the most often. And when youth counselors reach that three- to five-year mark, it's when the debate comes: "Where am I going to be ten years from now; where am I going to be 15 years from now." And if you're a youth counselor, its "where am I going to be 20 years from now, 25 years from now."

MR. LEE mentioned [the decision of whether to] stay in that Youth Counselor class. He indicated some coworkers sitting behind him, noting that some were in their mid-40s. He noted that he and Kate Sullivan, who was present in the room, had been doing restraints for ten years, spending as many as four hours at a time lying on top of an out-of-control individual - because plastic cuffs and their bodies are all they can use, rather than mechanical restraints, lethal weapons, or chemicals. He explained, "If someone's out of control, all we have is the ability to rotate bodies onto that individual until they regain control of themselves." Mr. Lee said that could happen in a cafeteria, gymnasium, courtroom, or community, for example.

Number 0435

REPRESENTATIVE JAMES asked Mr. Lee what the educational requirement is to [start at the entry level] as a youth counselor.

MR. LEE responded that the requirement is a high school degree and one year of experience in a related field, ranging in

diversity from childcare to law enforcement. He pointed out that the entry pay of a Range 11 is usually reserved for administrative clerks and is an entry-level range with low requirements. He added:

I agree that there should be an entry-level range, because we do get, you know, very good people. And it's been very tough to recruit over the past ten years, because ... we have not kept up with the private sector [pay], we have not kept up with adult corrections, so I think it's very difficult to recruit at the entry level. And also, when we do get someone who has a degree, we also must recruit them at a range 11 or range 13.

Number 0514

REPRESENTATIVE JAMES mentioned "these other steps up" and a higher-paid job. She asked if there were more educational requirements in that regard.

MR. LEE answered that the job specifications read, "Education, or experience." Youth counselors garner experience on the job and may combine that with an [associate] degree, he suggested, or [on-the-job] training, which would qualify them for the entry level as a JPO, Adult PO, and Correctional Officer I.

CHAIR COGHILL clarified that juvenile justice is under the Department of Health and Social Services, while the adult corrections is under the Department of Corrections.

Number 0630

REPRESENTATIVE WILSON noted that she had read that youth counselors are required to complete a minimum of 160 hours of training in their first year of employment. She opined that that is a considerable amount.

MR. LEE concurred. He explained that that training ranges from first aid and cardiopulmonary resuscitation (CPR) to garnering basic counseling skills. He said, "The one area that I think that we're very strong in - or have been very strong in recently, since the move to Division of Juvenile Justice - is training." He continued:

When you consider that there's 160 hours of training, you're working shifts, you're caught in a shift bid

where maybe your schedule is determined by your seniority, so you have to work 26 weeks of graveyard, yet you're still required to meet [the] training requirement.

MR. LEE noted that some training requirements are through a national affiliation for correctional officers and are done by correspondence. He said people see youth counselor [positions] as a good jumping-off point, not necessarily as a place to stay for ten or fifteen years. He told the committee that he himself left after ten years, and asks himself whether he'd have stayed if the 20-year retirement were in place. He said it would have been a tremendous for him to stay, and that he believes he would still be there.

Number 0770

CHAIR COGHILL asked if there was any typical scenario Mr. Lee could draw for the committee [regarding other dimensions of the youth counselor's job].

MR. LEE cited the following primary areas of work for a youth counselor: prevention, detention, adjudication, treatment, and aftercare. It is the only job class within the Department of Health and Social Services that has direct contact with the juvenile in every phase through his/her journey through the system. In comparison, he noted, a juvenile probation officer only interacts through adjudication and placement, or perhaps during the detention phase. He depicted the following scenario:

As a youth counselor, if you report to work at eight o'clock in the morning, you're waking up 25 individuals who might not want to be awakened. You're then charged with having ... their first meal of the day, seeing that their beds are made, inspecting their rooms. ... We're making sure that there are no "shanks," that ... there's no paraphernalia, or a list of communications, [and] that there's no attempts at self-harm.

There are ... typically 2 or 3 youth counselors and 20-25 youth. They have to be transported from one part of the building to the other, in direct contact with the youth counselor. They may not like each other. They may be from different gangs. They may be [of] different ethnic backgrounds. They may simply be [affected by] fetal alcohol [syndrome] and a sex

offender who can't understand basic directions. Yet you're charged with meeting the needs of each of those 25 individuals.

You're charged with case management. Correctional officers don't have case management. So we have the duty of vigilance, we have the duty of security, we have the duty of case management, [and] aftercare - determining when this young person goes back to the community. Youth counselors, during a typical day, will meet with parents, will meet with juvenile probation officer[s], will meet with officers of the court to determine the progress of the youth through the system, what phase of treatment [they are] in, [and whether they are] ready to be reintegrated into the community.

Those decisions, by and large, are made by youth counselors - those decisions as to whether a sex offender or a burglar returns to the community. When that happens, that recommendation is typically made with the information garnered by a youth counselor, given to a probation officer, and ... then provided to the court system. But the person that guides that person through that journey, from prevention to adjudication to release back into the community - and then through the aftercare phase, while they're in the community - is done, in most cases, by a youth counselor.

MR. LEE said during a typical day, a youth counselor may eat breakfast with a young person in the morning, restrain that person in the afternoon, and administer [medications] to 25 people. He said he is certain [the youth counselor class] is one of the few in the state to administer medication. He explained:

Just that one task alone is very daunting: to make sure that someone gets their meds. Yet, while you're giving someone their meds and making sure their not "cheeking" them or passing them to someone else, you're also in charge of [the] person in cell B who's banging his head against the wall. You're in charge of the conversation that's going on across the room about who we may assault, or should we steal cookies. And you still have a caseload to manage.

MR. LEE concluded that a typical day for a youth counselor involves multitasking "to the nth degree." He told the committee that [for a youth counselor] there is no such thing as an eight-hour day. He stated that Youth Counselor III unit leaders - the mid-management position in the series - are on call for as many as 25 weeks a year and respond to requests for backup immediately and without question. Mr. Lee recalled that after he'd been doing that ten years, his wife told him what she missed the least about his job was his leaving in the middle of the night, not knowing what he would face, and [her finding out], when he returned home, that he had been spat or vomited upon [that day at work]. He described work conditions:

A graveyard shift, many times, is one person per unit, with the entire unit locked, and you can only call for backup. If the person in the cell is getting ready to hang themselves, or screaming and yelling or challenging the person in the next cell, there's one youth counselor on duty until backup arrives.

Number 1175

CHAIR COGHILL said one reason he'd agreed to hear this bill was because he thinks [the realm of the youth counselor] is "a whole different world." He said [Mr. Lee's testimony] was compelling. He mentioned the lockdown and control system of the corrections officers and "doctors doing [medications]." He indicated he believed the equity issue to be significant. However, he noted that [HB 248] presents a problem. He mentioned retroactivity, 240 employees, and a \$7-million change in "the way we're doing business here." He said he was willing to move the bill out of committee and allow [the House Finance Standing Committee to debate] "the \$7-million question."

Number 1249

REPRESENTATIVE WILSON paraphrased a portion of the fiscal note analysis, which read as follows:

Our actuarial consultant has estimated the total cost (the net present value of fully projected benefits) of this legislation to be \$7.2 million, producing an increase in the state's contribution rate of 0.14 percent and an annual cost to the State of \$896,000.

REPRESENTATIVE COGHILL said he didn't think it was intended to be. He added, "They just axed it."

Number 1364

JANET PARKER, Retirement & Benefits Manager, Division of Retirement and Benefits, Department of Administration, told the committee that she had just recently viewed the bill for the first time and had not participated in the development of the fiscal note. She said, however, that [the division] does take every retirement bill "put into the legislature," sends it to its actuaries - currently Mercer - and asks for a projection of what the cost will be at the time.

MS. PARKER pointed out that the fiscal note in question shows asterisks, which means there will be a cost; however, the true cost is not currently apparent and won't be known until "everyone files." Depending upon whether the bill is retroactive, she added, there may be people with prior service that [the division] was not told about. She said [the division] was given a list of current employees in the department [and used that list] to project the potential cost.

MS. PARKER said the actuary believes eventually this will produce an increase of .14 percent of payroll. Although there will be a cost to the system, it won't show up today. Instead, it will probably show up in the year 2004, "and it may actually be a little bit more or a little bit less." She noted that actuarial science is not exact.

REPRESENTATIVE WILSON asked if the estimated \$896,000 was a total, rather than per year.

MS. PARKER answered that it is per year. She explained that [the division] is saying it will increase the state's contribution rate by .14 percent. The \$896,000 is against the current state salaries, she added.

Number 1500

REPRESENTATIVE CRAWFORD noted that he was in complete agreement with [the proposed legislation]. He said he had spoken with youth counselors over the years. He stated his belief that it is a job that needs to be done, and said, "I think this is a way to keep people in that employment for 20 years." He said he would like to see [the bill] moved out.

Number 1533

REPRESENTATIVE JAMES mentioned her concern about the actuarial and said, "I assume that that is presuming that everything else is the same." She asked if there weren't some investments of retirement money that "can kind of change that over a period of time." She indicated the state is making a lot of money in the retirement system.

MR. PARKER indicated an affirmative response. She added, "And for the last 18 months, we're in a deficit position." She said this is a long-range term, and [the division] assumes there will be earnings over a 20-year period.

CHAIR COGHILL commented that this would create a significant draw, as well.

MS. PARKER concurred. She suggested that people like Mr. Miller who have moved from one job to another will try to "gap those ten years of service." She said she didn't think that was considered when "they produced this," but that consideration was given to what happens if this group is allowed to retire at 20 years - ten years earlier than they could today, potentially. She added that [the division] would pay benefits and health insurance for those ten years, which is why it carries a cost. Ms. Parker noted that the actuary comes in every year, looks at his prior guess, and attempts to "match it up and see how it's tracking."

Number 1661

REPRESENTATIVE STEVENS commented, "It's very confusing, once you get into actuarial or consultants." He noted that current employees could take the opportunity to retire after 20 years or could stay for 30 years, which he said he believed would result in "more in terms of retirement." Representative Stevens said he did not understand why the state would have to pay more if these people were to retire at 20 years, because the employee continues to put in the same amount. He asked Ms. Parker if she was saying the state would then have to put in an additional amount.

Number 1700

MS. PARKER explained with the following example:

If I'm allowed to retire after 20 years, ... under the peace officers system, it is a 50-percent benefit, of my high three average years. However, instead of

waiting until I'm 55 or 60 to get that benefit, I'm now going to be able to get it anywhere between [the age of] 40 and 50. And I wasn't eligible to retire for that time, so I'm going to get benefits for at least for ten years more than I would have received, even though ... if I sit and wait 30 years, I'm going to get a higher benefit under the "all-other" system. It would be about two-thirds of your salary at 30 years. But I have to wait 30. ...

I'm saying ... that if you let me go at 20, that sounds pretty nice. ... We draw retirement for ten extra years. And it's that amount money that needs to be paid: ten years of health insurance and ten years of retirement benefits that the system hasn't been thinking about in the past. And that's why this costs money.

CHAIR COGHILL indicated his [former] reluctance in hearing [HB 248] was because of the "retroactive part" and "the prospective part." He surmised that it could be "a significant hit in a year when we really can't take a significant hit." He reiterated that this is a compelling issue, but noted that "if one [bill] goes out, you have to give reasons why you're not going to allow the other four or five [bills] to go out in that same thing."

CHAIR COGHILL referred to previous testimony regarding retention, and noted that recruitment is a real issue. [The youth counselor field] isn't the only career field where this issue exists, he remarked. Regarding the fiscal note, he said, "We could stumble over it, or we could let it go."

Number 1847

REPRESENTATIVE HAYES asked what the average time is that juvenile officers are staying in their jobs.

[MR. LEE shook his head.]

REPRESENTATIVE HAYES asked if there wouldn't be a cost-savings from hiring a new employee at a lower [rate of pay], while letting the higher-paid employee retire after 20 years.

MS. PARKER answered that it is a cost savings to the department, but not to the retirement system, because as soon as that person

comes to the door, "we're starting to collect contributions to pay for their retirement, whenever that may be."

REPRESENTATIVE HAYES commented that it "could be a wash for state dollars in general." He clarified, "You might pay \$896,000, but then on this other hand, the department might be paying, or having less ... going out."

MS. PARKER responded that she didn't think it worked that way. What is being looked at is total, overall salaries; furthermore, some people at a lower range will not make much difference, because there is always turnover within the state, and the salaries remain approximately the same on a larger basis. She added that what she looks at is the large basis, for retirement purposes.

CHAIR COGHILL stated that "we're going to be paying out ten years earlier for 'x' amount of people." That money will just be going out of the retirement system. He suggested there would still [within the system] be the same number of employees "paying in," so the payout would be greater than the income.

Number 1992

REPRESENTATIVE JAMES commented that it has always been her belief that people who have been on the job longer and are getting paid more are a benefit to the job because of their experience and knowledge; therefore, she has never considered that getting people with no experience at all at a lesser pay is a better deal. When just measuring dollars, that may be the case, but not when considering effectiveness on the job, she added.

Number 2030

REPRESENTATIVE FATE asked how effectiveness is measured in terms of youths that are released.

Number 2073

ROBERT BUTTCANE, Administrative Juvenile Probation Officer, Division of Juvenile Justice, Department of Health & Social Services, told the committee that "effectiveness is measured, really, through mandates from the legislature in our missions and measures." He listed the following three [missions and measures]: reoffense rates, restitution payments, and community-work-service hours completed. Subjectively, he said,

success is measured in reunification of families and reengagement in school - completion of high school and entry into college, for example.

REPRESENTATIVE FATE asked Mr. Buttane if there was a method by which to measure success regarding the longevity and stability of personnel.

MR. BUTTANE replied that although it may be possible to do so, that correlation has not been made in the existing comparisons.

CHAIR COGHILL referred to Mr. Lee's previous testimony regarding the number of [youth counselors] who don't stay that long anyway. He asked, "If you don't have those people that have been there for more than 20 years, how are you going to measure their effectiveness after 20 years?" That, he said, is the problem as he understands it.

Number 2137

REPRESENTATIVE FATE indicated that the question was as Representative James had pointed out, that an individual becomes more valuable the longer he/she has worked. He clarified that he had been attempting to draw a correlation between the parameters of success in the youth and the longevity of [youth counselors] - "the experience ratio between that success."

MR. BUTTANE responded that subjectively he would say that was "quite on point": the more experienced and educated a juvenile justice professional is in working with youths and their families, he noted, the better the results. He added that he could not document that statistically, but thinks there is a correlation.

MR. BUTTANE noted that there comes a point of diminishing returns if, for example, a 57-year-old [youth counselor] were to attempt to wrestle with a "15-year-old, hormone raging, out-of-control, six-foot-ten, 280-pound sophomore." He said [HB 248] would address some of the inequities "in dealing with some of things that we're faced with in our youth counselor series." He noted that [HB 248] is the fifth bill that has come before the legislature in the last ten years in an attempt to correct that inequity.

CHAIR COGHILL asked Mr. Buttane to explain the 20-year and 30-year difference in the percent paid by both the employee and the state.

MR. BUTTCANE answered as follows:

The bill does speak to that and does lay out a formula where both the employee, as well as the state, would pay a higher percentage contribution into PERS [public employees' retirement], in order to make the 20-year retirement.

MR. BUTTCANE indicated page 1 [Section 1] of [HB 248] and paraphrased [lines 8-12, which read]:

Beginning January 1, 2002, each juvenile officer shall contribute to the system an amount equal to seven and one-half percent of the juvenile officer's compensation. Except as provided in (d) of this section, beginning January 1, 1987, each other employee shall contribute to the system an amount equal to six and three-quarters percent of the employee's compensation.

MR. BUTTCANE added that he believed it was the same for the state; however, he deferred to the Division of Retirement and Benefits for further comment.

CHAIR COGHILL announced his intention to hold the bill over, saying there were significant issues for the committee to consider. He reiterated that this issue is compelling. Chair Coghill indicated the "look-back" provision is a big policy decision; he said he wanted to stand before the House Finance Standing Committee and be able to say, "This is why I did that, guys." He encouraged testifiers to also speak at the House Finance Standing Committee hearings. He added that he wanted to spend more time on some of the issues "of the technical side of the bill."

Number 2361

REPRESENTATIVE STEVENS said he would like to hear more from "the retirement people." He said it seems the system is a healthy one - many people retire at 20 years. [The employees] as well as the state pay into [retirement]. He said, "It seems to me in this analysis, they're mixing up apples and oranges, saying that, 'If we go to a 20-year system for these people, they will have to pay back what they would have paid if they'd been in a 20-year system.'"

REPRESENTATIVE STEVENS mentioned the actuarial consultant information that, in fact, "raises it higher." He said it didn't make sense: if the system is a healthy one for people "at 20 years" - giving the contributions that they have always made - then why isn't it a healthy system for those who are "at 30 years" but are putting in the money that they would have paid if they had been "at 20 years."

CHAIR COGHILL said that was an excellent question and suggested that both Ms. Parker and Guy [Bell, Director, Health Benefits Section, Division of Retirement of Benefits, Department of Administration] could perhaps [return for the next hearing regarding HB 248] to answer that question.

Number 2414

REPRESENTATIVE JAMES responded that if [an employee] contributes an amount during 20 years [of employment] that would allow that employee to retire in 20 years, but if "the period has gone by and the state hasn't matched it," then that would change the actuarial amounts "down the line," and the state would have to "catch up on that." She clarified that "the match" is what [the employee] pays and the state matches. She added, "That's the issue, and it's not involved in that."

CHAIR COGHILL thanked all the members of the juvenile justice system for their work and their patience. Although there were several who may have wanted to speak before the committee, he said those who did had done a good job of representing the case. He noted that he would not yet close public testimony. [HB 248 was held over.]

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 10:23 a.m.