

**ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE**

March 14, 2002

8:09 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. 303

"An Act relating to the levy and collection of a sales tax; and providing for an effective date."

- MOVED CSHB 303(STA) OUT OF COMMITTEE

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."

- MOVED CSHB 331(STA) OUT OF COMMITTEE

HOUSE CONCURRENT RESOLUTION NO. 26

Supporting increased use of the house arrest program/electronic monitoring with sobriety monitoring as a means of preventing crime and reducing the high costs of imprisonment in Alaska.

- MOVED CSHCR 26(STA) OUT OF COMMITTEE

HOUSE BILL NO. 305

"An Act prohibiting certain state employment, a student loan, or a permanent fund dividend for a person who fails to register for the military selective service; and providing for an effective date."

- MOVED CSHB 305(STA) OUT OF COMMITTEE

HOUSE BILL NO. 480

"An Act providing that the death of a state employee killed because of their job status off the job site shall be considered an occupational death for purposes of survivor's pension benefits."

- HEARD AND HELD

HOUSE BILL NO. 380

"An Act relating to reimbursement for certain Medicare premium charges for persons receiving benefits from the teachers' retirement system, the judicial retirement system, the elected public officers retirement system, and the public employees' retirement system."

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HB 303

SHORT TITLE: STATEWIDE SALES TAX

SPONSOR(S): REPRESENTATIVE(S) WHITAKER

Jrn-Date	Jrn-Page		Action
01/14/02	1954	(H)	PREFILE RELEASED 1/4/02
01/14/02	1954	(H)	READ THE FIRST TIME - REFERRALS
01/14/02	1954	(H)	STA, FIN
01/16/02	1992	(H)	COSPONSOR(S): FATE
02/04/02	2152	(H)	COSPONSOR(S): LANCASTER
02/12/02		(H)	STA AT 8:00 AM BUTROVICH 205
02/12/02		(H)	Heard & Held -- Location Change -- MINUTE(STA)
02/26/02		(H)	STA AT 8:00 AM CAPITOL 102
02/26/02		(H)	Heard & Held MINUTE(STA)
03/07/02		(H)	STA AT 8:00 AM CAPITOL 102
03/07/02		(H)	Heard & Held MINUTE(STA)
03/14/02		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 331

SHORT TITLE: PRESENTMENT OF GOVERNOR'S APPOINTEES

SPONSOR(S) : REPRESENTATIVE(S)KOTT

Jrn-Date	Jrn-Page		Action
01/16/02	1981	(H)	READ THE FIRST TIME - REFERRALS
01/16/02	1981	(H)	STA
02/05/02		(H)	STA AT 8:00 AM CAPITOL 102
02/05/02		(H)	<Bill Postponed to 2/12/02>
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
02/19/02		(H)	Bill Postponed To 2/28/02
02/28/02		(H)	STA AT 8:00 AM CAPITOL 102
02/28/02		(H)	Heard & Held
02/28/02		(H)	MINUTE(STA)
03/14/02		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HCR 26

SHORT TITLE:HOUSE ARREST/ELECTRONIC MONITORING

SPONSOR(S) : REPRESENTATIVE(S)GREEN

Jrn-Date	Jrn-Page		Action
02/19/02	2306	(H)	READ THE FIRST TIME - REFERRALS
02/19/02	2306	(H)	STA
03/12/02		(H)	STA AT 8:00 AM CAPITOL 102
03/12/02		(H)	-- Meeting Postponed --
03/14/02		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 305

SHORT TITLE:NONCOMPLIANCE WITH SELECTIVE SERVICE

SPONSOR(S) : REPRESENTATIVE(S)MURKOWSKI, HARRIS, MULDER, JAMES,

Jrn-Date	Jrn-Page		Action
01/14/02	1954	(H)	PREFILE RELEASED 1/4/02
01/14/02	1954	(H)	READ THE FIRST TIME - REFERRALS
01/14/02	1954	(H)	MLV, STA
01/28/02	2086	(H)	COSPONSOR(S): GUESS
02/11/02	2210	(H)	COSPONSOR(S): DYSON
02/12/02		(H)	MLV AT 3:00 PM CAPITOL 124
02/12/02		(H)	Moved Out of Committee
02/12/02		(H)	MINUTE(MLV)
02/13/02	2257	(H)	COSPONSOR(S): FOSTER
02/15/02	2278	(H)	MLV RPT 4DP 1DNP
02/15/02	2278	(H)	DP: KOTT, GREEN, MURKOWSKI,

			CHENAULT;
02/15/02	2278	(H)	DNP: MASEK
02/15/02	2278	(H)	FN1: ZERO(REV)
03/12/02		(H)	STA AT 8:00 AM CAPITOL 102
03/12/02		(H)	-- Meeting Postponed --
03/14/02		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 480

SHORT TITLE: STATE EMPLOYEE DEATH/SURVIVOR BENEFITS

SPONSOR(S): REPRESENTATIVE(S) DYSON

Jrn-Date	Jrn-Page		Action
02/19/02	2317	(H)	READ THE FIRST TIME - REFERRALS
02/19/02	2317	(H)	STA
03/12/02		(H)	STA AT 8:00 AM CAPITOL 102
03/12/02		(H)	-- Meeting Postponed --
03/14/02		(H)	STA AT 8:00 AM CAPITOL 102

WITNESS REGISTER

REPRESENTATIVE JIM WHITTAKER

Alaska State Legislature
 Capitol Building, Room 411
 Juneau, Alaska 99801

POSITION STATEMENT: Testified in summary, as sponsor of HB 303.

LINDA SYLVESTER, Staff
 to Representative Pete Kott
 Alaska State Legislature
 Capitol Building, Room 204
 Juneau, Alaska 99801

POSITION STATEMENT: Testified regarding HB 331, on behalf of the sponsor.

REPRESENTATIVE JOE GREEN
 Alaska State Legislature
 Capitol Building, Room 403
 Juneau, Alaska 99801

POSITION STATEMENT: Testified regarding the history of electronic monitoring, as sponsor of HCR 26.

JESSICA MENENDEZ, Staff
 to Representative Joe Green
 Alaska State Legislature
 Capitol Building, Room 403
 Juneau, Alaska 99801

POSITION STATEMENT: Testified on behalf of the sponsor of HCR 26, describing the history and applications of the electronic monitoring program and wellness court.

RUDOLPH NEWMAN, board member
Partners for Progress
(no address provided)
Eagle River, Alaska

POSITION STATEMENT: Testified as a graduate of the wellness court, regarding HCR 26, and described how choosing [electric monitoring] changed his life.

CARMEN CLARK

[Partners] for Progress
(no address given)

POSITION STATEMENT: Testified regarding HCR 26.

JAMES WANAMAKER, Judge
3rd Judicial District Anchorage
District Court
Alaska Court System
825 West Fourth Avenue
Anchorage, Alaska 99501-2204

POSITION STATEMENT: Testified as an individual judge in support of HCR 26.

JANET McCABE

Partners for Progress
(no address given)

POSITION STATEMENT: Testified on behalf of Partners for Progress, in support of HCR 26.

PAMELA WATTS, Executive Director
Advisory Board on Alcoholism & Drug Abuse
PO Box 110608
Juneau, Alaska 99811

POSITION STATEMENT: Testified in support of [HCR 26].

CANDACE BROWER, Program Coordinator
Office of the Commissioner - Juneau
Department of Corrections
431 North Franklin, Suite 400
Juneau, Alaska 99801

POSITION STATEMENT: Testified as legislative liaison for the Department of Corrections, in support of [HCR 26].

GARY WEBSTER, Assistant Director

Central Office
Division of Institutions
Department of Corrections
4500 Diplomacy Drive, Suite 109
Anchorage, Alaska 99508-5927
POSITION STATEMENT: Testified in regard to HCR 26.

DON DAPCEVICH, Consultant
for the Department of Health and Social Services
PO Box 021571
Juneau, Alaska 99802
POSITION STATEMENT: Discussed availability of treatment in the
program, regarding HCR 26

COLLEEN SHAUB, Staff
to Representative Lisa Murkowski
Alaska State Legislature
Capitol Building, Room 408
Juneau, Alaska 99801
POSITION STATEMENT: Testified on behalf of the sponsor,
regarding HB 305.

REPRESENTATIVE LISA MURKOWSKI
Alaska State Legislature
Capitol Building, Room 408
Juneau, Alaska 99801
POSITION STATEMENT: Testified as sponsor of HB 305.

NANCI A. JONES, Director
Permanent Fund Dividend Division
Department of Revenue
PO Box 110460
Juneau, Alaska 99811-0460
POSITION STATEMENT: Testified regarding the permanent fund
dividend and registration for selected service, as related to HB
305.

REPRESENTATIVE FRED DYSON
Alaska State Legislature
Capitol Building, Room 104
Juneau, Alaska 99801
POSITION STATEMENT: Testified as sponsor of HB 480.

GUY BELL, Director
Division of Retirement & Benefits
Department of Administration
PO Box 110203

Juneau, Alaska 99811-0203

POSITION STATEMENT: Testified to answer questions regarding HB 480.

ACTION NARRATIVE

TAPE 02-26, SIDE A
Number 0001

CHAIR JOHN COGHILL called the House State Affairs Standing Committee meeting to order at 8:09 a.m.

HB 303-STATEWIDE SALES TAX

Number 0185

CHAIR COGHILL announced that the first order of business was HOUSE BILL NO. 303, "An Act relating to the levy and collection of a sales tax; and providing for an effective date."

CHAIR COGHILL explained that there was a proposed committee substitute (CS), version 22-LS1206\P, Kurtz, 3/8/02. He noted that the major change is in Section 1, as discussed in a prior meeting and in regard to the municipalities. He said:

If they so chose to comply, then there could be a remittance to a municipality. If requested to do so, it would be what was in the last CS. But the new language would be: "the municipality's sales and use tax ordinance is consistent with AS.43.44." And they're asking ... that if there is going to be codes, that we would give them some incentive to comply.

Number 0309

CHAIR COGHILL asked if everyone remembered the previous discussion. He said that "the bill was the same," therefore, he asked if there was any objection to [adopting the proposed CS, version 22-LS1206\P, Kurtz, 3/8/02, as a work draft]. There being no objection, Version P was adopted.

Number 0332

REPRESENTATIVE STEVENS asked where the charge back to the municipality was [in the bill] for "us" collecting the sales tax for "them". He mentioned previous discussion regarding a fee, the previous testimony of Larry [Persily], and a discussion

about [the amount of] one percent. He said, "So we just want, instead of a one percent, a reasonable fee."

CHAIR COGHILL concurred with Representative Stevens.

Number 0390

REPRESENTATIVE WILSON stated that she is adamantly opposed to the sales tax. She asked for confirmation that 61 municipalities would be "affected by this."

CHAIR COGHILL confirmed it would be a total of 97.

REPRESENTATIVE WILSON said 97 municipalities around the state already have a sales tax. She expressed that she was at a loss for words, because she was so upset about this [proposed legislation]. She noted that her municipality [of Wrangell] has the highest [sales tax] in the state and said that [if this legislation were passed] it would be devastating to her area. Because of that, she said, she is opposed to the bill.

Number 0460

REPRESENTATIVE FATE stated that he is just as passionately in favor of this sales tax [as Representative Wilson is against it]. He noted that tax is discretionary income and added, "As long as we have limits placed on this tax." He stated his belief that, as long as there is a [permanent fund] dividend, and people coming to [Alaska] who are not taxed, then he thinks it "more of a fair tax than the income tax, itself." Representative Fate said he is not thinking in terms of "my" community or "their" community, but of what is needed for the entire state of Alaska. Furthermore, he said he thinks this discussion needs to take place at a higher level; "this has to be discussed in other committees and where it is headed for, rather than to close it off."

Number 0565

REPRESENTATIVE CRAWFORD said he shares the sentiments of [Representative Wilson]. He stated his belief that a sales tax is very regressive. He indicated that [a sales tax] is the purview of the communities. He said he believes that taxing the [permanent fund] dividend by 50 percent is a regressive tax, and to balance that out a more progressive tax is needed. He said he thinks the income tax is the more progressive [tax]. He noted that when the fiscal policy discussion first began, one of

the "prerequisites" was for fairness and balance. He said he does not believe that both a tax on the dividend and a sales tax is not balanced or fair; it taxes the "bottom end" more heavily. He said he would like to see the House State Affairs Standing Committee send a balanced package up to the House Finance Standing Committee.

Number 0705

REPRESENTATIVE STEVENS said he is not a great fan of sales tax either and - while he understands what Representatives [Crawford and Wilson] are saying and understands, also, that AML is taking a strong opposition to the addition of a sales tax - he said he thinks "it all has to be part of the mix." He agreed with Representative Fate, regarding getting this legislation to the House Finance Standing Committee. He added that he hopes other [tax bills] would reach that committee concurrently, so that they may all be discussed. He said it is true that many communities do rely on sales tax to run their cities, his own included.

Number 0774

REPRESENTATIVE WILSON emphasized that she thought this proposed legislation was very unfair to those 97 municipalities. She noted that the larger municipalities in the state have "a lot more money to deal with," and indicated that "there's so much more for them," because of diversification within those communities. She said that the community of [Wrangell] also has a substantial property tax, and it is carrying it's share of the burden heavily, at this time, because it does not share the advantages of large municipalities. She concluded: "This [does] nothing but allow the larger municipalities to do what they need to do, on the backs of the small municipalities, and that's not right, and it's not fair."

Number 0844

REPRESENTATIVE JAMES said, "I second that."

Number 0880

CHAIR COGHILL asked, "Is there any movement on the bill?"

Number 0890

REPRESENTATIVE FATE said, "I would move the bill."

CHAIR COGHILL asked Representative Whittaker if he would like to offer some final comments.

REPRESENTATIVE JIM WHITTAKER, Alaska State Legislature, as sponsor of HB 303, noted that a couple of years ago [the legislature] discussed having a fiscal policy that would allow the state to pay its bills. It was known that there would be difficulties and challenges for each community, [as a result of such a policy]. He indicated that the present moment was the moment for the committee to make a decision whether or not [the legislature] would have a fiscal policy.

CHAIR COGHILL reminded the committee that there was a motion on the floor to move CSHB 303, version 22-LS1206\P, Kurtz, 3/8/02, out of committee with individual recommendations and the accompanying fiscal note.

REPRESENTATIVE WILSON requested a roll call vote.

A roll call vote was taken. Representatives Crawford, Fate, Hayes, James, and Stevens voted to move CSHB 303 from committee. Representatives Wilson and Coghill voted against it. Therefore, CSHB 303(STA) was reported from the House State Affairs Standing Committee by a vote of 5-2.

HB 331-PRESENTMENT OF GOVERNOR'S APPOINTEES

Number 0990

CHAIR COGHILL announced that the next order of business was 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." [HB 331 was amended at the February 28, 2002, House State Affairs Standing Committee hearing.]

Number 1000

LINDA SYLVESTER, Staff to Representative Pete Kott, Alaska State Legislature, indicated that the discussion would center around the word "immediately". In response to a request by Chair Coghill, she pointed to page 2, line 4, of the bill. She reminded the committee that this portion of the bill addresses a situation, whereby the governor may have made an appointment early in the legislative session, but the legislature has not confirmed that appointment. In that case, she said, before the

end of the appointment [term], the governor would make another appointment.

MS. SYLVESTER said the lack of a confirmation of a board of game member last year gave rise to this proposed legislation. [At that time] it was unclear in statute whether or not the legislature was authorized by law to confirm the appointment during a special session. The proposed bill clarifies that all confirmation hearings take place during the regular session.

Number 1120

MS. SYLVESTER read the original language of the bill [page 2, lines 4-8]. She explained that the original language, [with its five-day deadline] made it possible for the presentment [for confirmation] to fall outside of the regular session. She said the mention of five calendar days was removed and indicated that the language that replaced that stipulates that the governor will "simultaneously" present an appointment to the legislature.

MS. SYLVESTER noted that, during the last House State Affairs Standing Committee meeting in which members discussed HB 331, they found the word "simultaneously" to be problematic and asked that it be replaced with the word "immediately". She reminded the committee that Chair Coghill had requested a decision by Legislative Legal Services regarding whether that change would work. Ms. Sylvester said it will work. She noted that Terri Lauterbach had found that the word "immediately" would be construed by a court to mean "within a reasonable time under the circumstance." Ms. Sylvester added that it would serve the governor and the legislature, while providing enough cushion and "wiggle room" for the "practicalities of the circumstance."

Number 1280

CHAIR COGHILL offered his understanding that the committee members should have that amendment in their packets. He said that "a reasonable time, under the circumstance" fits the legislature's schedule.

MS. SYLVESTER noted that another alternative that was offered was a limitation on the governor, that he could not make an appointment or presentment, within the last 14 days of a legislature. She indicated that the problem was that the governor is authorized to make the appointment, while the legislature is only allowed to confirm. She said it did not appear likely that it would be within the boundaries of the

constitution for the legislature to place a limitation on the governor's ability to appoint.

Number 1355

REPRESENTATIVE HAYES moved to report HB 331, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 331(STA) was reported from the House State Affairs Standing Committee.

HCR 26-HOUSE ARREST/ELECTRONIC MONITORING

Number 1394

CHAIR COGHILL announced that the next order of business was HOUSE CONCURRENT RESOLUTION NO. 26, Supporting increased use of the house arrest program/electronic monitoring with sobriety monitoring as a means of preventing crime and reducing the high costs of imprisonment in Alaska.

REPRESENTATIVE JOE GREEN, Alaska State Legislature, as sponsor of HCR 26, spoke about the history of electronic monitoring. He mentioned that there previously was a bill to provide electronic monitoring of prisoners who posed no real threat and were serving time for the crimes they had committed, and he noted [an effect of that monitoring] was the reduction of crowding in prisons. He reported that, in some parts of the state, the results of this monitoring were astounding and a significant amount of money was saved by the state. More importantly, he said it has helped reintroduce those people into society who displayed deviant behavior and has allowed them to [acknowledge their wrongdoing], rather than place them with "a bunch of other hardcore people and expect them, when they're released, that they could immediately come back into the same situation they were before they were arrested."

REPRESENTATIVE GREEN indicated a "national phenomenon over the last, I would say, six to eight years, with increasing proportions, but on two regards": First, the State of Texas has the attitude that if more people are arrested, it will build bigger and better jails - a plan which the state has carried out. Second, other states, predominately in the Midwest and the Northeast, have chosen to give an early, longer parole, while allowing a gradual reintroduction into society, in several cases using electronic monitoring to maintain that those on parole are abiding by the rules of parole. He said if a parolee violates the rules, the monitoring catches that, and the parolee is then

arrested and must serve regular time. In conclusion, he said that the [monitoring program] has been successful, both in Alaska and the Lower 48.

Number 1623

JESSICA MENENDEZ, Staff to Representative Joe Green, testifying on behalf of the sponsor of HCR 26, told the committee she would provide information regarding the proposed committee substitute (CS) for the resolution.

CHAIR COGHILL clarified that the proposed CS had just been given to the committee.

Number 1644

REPRESENTATIVE WILSON moved to adopt [version 22-LS1578\C, Luckhaupt, 3/13/02]. There being no objection, Version C was before the committee.

Number 1655

MS. MENENDEZ explained that the main reason for the additions of language into [Version C] was to have the language read more consistently. On page 1, line 7 of the original resolution, the words "curing alcoholism" were used. Ms. Menendez stated that "we all know" that alcoholism and other drug addiction is treated, not cured. [Therefore, the word "curing" has been replaced by the word "treating".] Ms. Menendez noted that the other change was to use the term "24 hour" before "electronic monitoring and supervision", to clarify that electric monitoring is an around-the-clock activity.

Number 1707

MS. MENENDEZ said that electronic monitoring was viewed by some as not being punitive enough; conversely, she reiterated that a person being electronically monitored is being watched for 24 hours.

Number 1749

MS. MENENDEZ, in conclusion, told the committee that copies of the resolution are being sent to the commissioner of the Department of Administration, the commissioner of the Department of Health and Social Services, and the president of the Alaska Bar Association.

Number 1775

REPRESENTATIVE WILSON asked Ms. Menendez to address the cost and makeup of electronic monitors.

MS. MENENDEZ answered that the cost of the program is \$14 a day. She indicated that Gary Webster was on line and was able to give additional information. She specified that participants of the program pay some or all of the cost, which can be up to \$14, and the payment goes back to the Department of Corrections.

CHAIR COGHILL suggested that the committee members would have an opportunity to peruse [Version C] while listening to the several testifiers via teleconference. Furthermore, their testimony may "lift up some of the discussion."

Number 1827

REPRESENTATIVE HAYES said he did not fully understand the point of the resolution. He asked: "Why couldn't a letter from the leadership to these commissioners and the governor have accomplished this? Has that been tried?"

REPRESENTATIVE GREEN deferred the question to Ms. Menendez.

MS. MENENDEZ replied that "we" have met with the commissioner of the Department of Corrections and have received information and background regarding the success of the "house arrest program." She mentioned that Judge Wanamaker was standing by via teleconference and indicated that he would give information regarding the "wellness program."

MS. MENENDEZ said that "the program is there," but added that it could be better utilized. She said:

One of the issues that has come into being, with two of these programs being new, is that the awareness of these programs isn't completely out there. And, certainly, the parameters as to how they can work - especially with one another - hasn't been explored fully. So, the resolution is an attempt to urge all the players involved - the Department of Corrections, the Department of Law, defense attorneys, the Alaska court system, and other agencies involved - to get together and look at the benefits of these programs, and better utilize the programs, and come up with a

working plan, so that it is fully used to the capacity that it was certainly intended for.

Number 1927

REPRESENTATIVE GREEN added that when the program first started there was concern whether it would be effective; whether people would [return to] being a menace to society. He gave credit to the Department of Corrections for saying that this program was going to work for selected numbers of people - those people who must first decide that they want to be on electric monitoring and who - with the exception of indigents - would pay as much of the \$14 as they can. He noted that the Department of Corrections determined that this program would not be offered to hardened criminals, rapists, or murderers, for example. Furthermore, the majority of [those in Alaska's correctional system are not hardcore criminals]. He said he thinks that there is concern by some that the program has worked, thus far, but may fail in some ways if it were expanded, without first securing a "good, solid foundation of success."

Number 2000

REPRESENTATIVE GREEN told Representative Hayes that there will be some limit as to what degree this program will be useful. He indicated that [he and his staff] would like the legislature to encourage the Department of Corrections not to be afraid to take a risk. Notwithstanding that comment, he added that the people [who would be monitored electronically] are not a risk to safety.

Number 2030

REPRESENTATIVE HAYES said it seems that the proposed legislation has come too soon. He said he thinks a letter might be sent first, asking for cooperation. If the letter was unsuccessful, then legislation could be brought forward, he added.

CHAIR COGHILL noted that members of the various aforementioned departments, judicial representatives and legislators were all together in the room now; therefore, he suggested that the present time afforded a good opportunity to work on this resolution.

Number 2070

REPRESENTATIVE GREEN told the committee that Ms. Menendez would conclude "with that very concept; that having all these people together is probably the very best way that this will work."

Number 2088

MS. MENENDEZ directed the committee's attention to the summary page of the background information [included in the committee packet]. She paraphrased a portion of the summary, which reads as follows:

Both these programs have had a degree of success in providing for alternatives to incarceration. Continuing to expand community correction programs, alcohol and other drug treatment, and other sentencing alternatives can partially attempt to control the growth of prison expansion and incarceration and hence, the cost of corrections. More importantly, there is a growing awareness that long prison sentences are not the answer to crime in many instances.

Alaska's budget shortfalls, the need to cut state expenditures, and substantial shifts in funding for criminal justice programs force us to look for program approaches that draw on community resources and use problem-solving empirically based model programs. Associations, such as the American Correctional Association, American Probation and Parole Association, International Community Corrections Association, and the National Institute of Corrections have all supported the rapid expansion of treatment-oriented alcohol and drug courts, community policing, and restorative justice programs.

HCR 26 looks towards the joint efforts of the Alaska Court System, the Department of Law, the Public Defender Agency, the Department of Corrections, the Department of Health and Social Services, and other agencies to work together in developing a mutually agreed-upon plan that expands the use of the house arrest program/electronic monitoring and promotes and utilizes the program elements established in therapeutic courts, alcohol and other drug courts, and wellness court programs.

Number 2224

REPRESENTATIVE CRAWFORD commented that he holds out great hope for therapeutic courts, wellness courts, and the Naltrexone program now available, and he commended Representative Green for bringing forward this resolution.

CHAIR COGHILL said he believed that, in general, the committee shared [Representative Crawford's sentiments]. He stated his intent was to hold a thorough discussion on the record. He asked Judge Wanamaker if he could wait a little longer with his testimony.

Number 2320

RUDOLPH NEWMAN, board member, Partners for Progress, testifying via teleconference, told the committee that he was born in Holy Cross, Alaska, is presently a resident of Eagle River, and was a graduate of the wellness court, December 19, 2000. He said he has been sober "so far, that long." Mr. Newman stated that the wellness court gave him a choice between an 18-month jail-term, or "be a third party; you know, it's just like being my third party - I have to be with her 24 hours a day." He told the committee that that choice changed his life, because he had been "locked up" 46 times. Furthermore, he used to have the attitude that jail was a place in which he could relax, eat, sleep, and watch cable television, he said. He described himself during that time as a "very angry person." He indicated that the court system had a different opinion of him than he did and he "eased-up," "got soft," and decided to change, which is when his life turned around.

MR. NEWMAN said he thinks electronic monitoring is a wonderful tool. Notwithstanding that, he added that he did not think it would [work] for everybody. He said "it's just people, you know." He said that saving money is a much-discussed topic and this [program] is a good way to do that.

MR. NEWMAN said he supports "what's happening." He said, "If you're responsible for your own actions, I think you have to pay for you're crime." He said that choosing [the electric monitoring] changed his life; it made him responsible for his actions, for himself, for his family, and for his community.

CHAIR COGHILL thanked Mr. Newman for his testimony.

REPRESENTATIVE JAMES also thanked Mr. Newman, and she noted that she had a long acquaintance with him.

Number 2466

CARMEN CLARK, [Partners] for Progress, testifying via teleconference, told the committee that her background was as a former chief municipal prosecutor who had assisted in the development of the wellness court, with Judge Wanamaker. She added that she is the only person she knows who has served as both prosecutor and civil defense attorney in the program. Ms. Clark said the program has been effective in several ways, not only for people like Mr. Newman, but also in forcing the court system to take notice of how it does things in general and to find areas in need of improvement. She said she thinks there has been a "ripple effect" that has "given all of us a better sense of justice." She specified that everyone present was already aware that the program is a good one; the decision that needs to be made now is what step to take next.

MS. CLARK said she would like to address some questions previously heard in testimony - the first one relating to cost. She noted that there is a cost of up to \$14 a day; however, that cost is - in addition to the statutory cost of imprisonments - automatically ordered. For example, a misdemeanor DWI (driving while intoxicated) offender who goes through therapeutic court will be ordered to pay a \$270 cost of imprisonment, in addition to the cost of electronic monitoring, she said. Furthermore, that also pertains to second and subsequent offenders whose statutory cost of imprisonment is \$1,000. Ms. Clark opined that the Department of Corrections should probably not "be in a position where it's not cost-effective to utilize this program."

MS. CLARK referred to another aforementioned question, regarding how far this program is being utilized. She stated her understanding that a person would not qualify for the electronic monitoring program for the following reasons: having a conviction for domestic violence; having convictions for sex-related offenses, which is more broadly defined than simply "rape" and "assault"; having instances of "conviction, or charges, with regard to assault on police officers, resisting arrest, escape, or eluding." She said these guidelines are in effect in an attempt to use this program for individuals whose criminal history shows that their likelihood of re-offense is linked to substance abuse. Additionally, the type of offenses committed by those individuals are those that can, essentially, be eliminated by the 24-hour supervision provided by electronic monitoring.

MS. CLARK addressed a third question, previously mentioned [by Representative Hayes] which asked why a letter could not effectively accomplish the intent of the resolution. She said the reason legislation is needed is linked to the history of the program's development. She noted that the legislature passed statutory language in the recent past, which indicated that DWI offenders should serve time in places with appropriate supervision, such as halfway houses. She highlighted that the language in that statute states that a "place of appropriate supervision" includes treatment centers, for example, that maintain a "24-hour onsite supervision" - language that caused "specific problems in front of Judge Wanamaker in wellness court."

MS. CLARK explained that there were offenders who were well-employed, had significant alcohol problems, but were without any other "contacts with the law." They were the type of people who could, normally, post money to get out of jail, she added. She said that she thought most people "on the bench" and in society would agree that it is one issue to have money on the outcome of a horserace; one roots harder for that horse. However, she specified, the money does not prevent a person from "doing anything." Ms. Clark noted that alcoholics are famous for loosening up just as they get their drinking under control. She indicated [there are] people who are released on bail, who have money, but have no one watching out for them on a daily basis.

Number 2724

MS. CLARK noted that she was referring to two individuals who were both single; they had no wife, husband, mom, or dad with whom they lived, who could pose as their third-party custodian and watch them 24 hours a day. She mentioned that, even if they had, they could probably have lost their employment, which may have made their situation worse. Ms. Clark told the committee that Judge Wanamaker attempted to utilize the Department of Correction's electronic monitoring system as a condition of bail, "and the State of Alaska opposed, very vigorously, for a number of reasons."

MS. CLARK explained that, although this legislative body had indicated that it thought the [electronic monitoring] program was a good idea, by the time "these people were released from bail," not only did the state object to their having been released, but they also objected to them getting jail credit against that sentence, "even though if they had done the program after they were sentenced, it would have qualified."

Number 2795

MS. CLARK reiterated [Representative Hayes's] question and answered it with a "no." She explained that "a letter would probably be insufficient to adequately address and clarify what the legislative intent for 24-hour, onsite supervision means." She said, in regard to these particular cases, the Department of Corrections had interpreted the 24-hour onsite to include the electronic monitoring sensor device. Expensive litigation ensued in regard to that, she added. To avoid a repetition of that type of litigation, [HCR 26] was drafted to clarify legislative intent, to such a degree that there would be no question that the legislature saw electronic monitoring as a useful device.

MS. CLARK said that then the issue would be to ask "why should we be extending it from a place where people serve their sentence in incarceration, to something that they utilize as bail?" In response to a request from Chair Coghill to finish the testimony, Ms. Clark concluded, as follows:

It's similar to what we do with all the (indisc.) corrections: we start off very strictly, and then we slowly release those factors to see if people can make it. And that's what electronic monitoring allows people to do - as a condition of bail.

Number 2874

JAMES WANAMAKER, Judge, 3rd Judicial District Anchorage, District Court, Alaska Court System, testifying via teleconference, clarified that he was testifying as an individual judge in support of HCR 26, not as a representative of the entire Alaska Court System.

JUDGE WANAMAKER read from [Version C, page 2, lines 26-28] which read as follows:

(1) expand the use of the house arrest program/electronic monitoring (HAP/EM) as a condition of bail, in the manner pioneered by the Department of Corrections and the Anchorage district court wellness court program;

JUDGE WANAMAKER said that the Department of Corrections cooperated in [formulating this program], which he stated is a

wonderful tool. He spoke hypothetically of a defendant on a second felony, DWI, who has hit another vehicle. In this instance, Judge Wanamaker told the committee, he might tell the defendant: "Sir, I don't feel safe having you out on bail, unless you're in [an] intense treatment program." He outlined the structure of the wellness court treatment program [used in Anchorage, Alaska] as follows: [the use of the anti-craving medication] Naltrexone; alcohol treatment; and in-treatment with a state-approved treatment provider. He mentioned the house arrest program: electronic monitoring with "the sobriator," which [is used] three- to five-times a day over the telephone to test for consumption of alcohol. He stated that he feels very confident that [the person enrolled in the above-mentioned programs] will not harm the public and will be getting "cured from alcohol." Judge Wanamaker said that [the court] demands absolute abstinence.

TAPE 02-26, SIDE B
Number 2999

JUDGE WANAMAKER told the committee about a new [program] called, "wellness jail," which he described as a "win-win," because, not only are the participants serving their jail time at no cost to the public, but also they are paying for their own electronic monitoring and cost of treatment. Judge Wanamaker said, "You're saving the cost of a hard-bed jail, but you're also curing this person of alcohol."

JUDGE WANAMAKER said a survey of 26 people in the wellness court was conducted between 2001 and 2002. The results showed that, in those people's lifetimes, they had spent "\$2 million-worth of jail." He added that they had not spent "any" since then. The saving in jail time alone is enormous, he emphasized. Judge Wanamaker noted that a study had been done in Portland of a program in which "the drug court model" was applied to cure people of drugs. They found that the cost savings to the public were ten dollars saved for every one dollar spent on the program.

JUDGE WANAMAKER expressed that that is what he sees as the reason to act now on this legislation; there is a great tool that is available and it's a "win-win" situation. He said, "You can get people - that are willing to address their alcohol addiction - cured of alcoholism." He acknowledged that [the sponsor] had refrained from using the word "cure," but said he viewed it as when people reach the stage when they don't drink anymore; hence, both society and the defendant win.

Number 2893

JUDGE WANAMAKER pointed out that it is a much better system than the old one, in which people in jail lose their jobs, their connections, their ability to cope with life, and they are living with "bad apples" and come out "dry drunks, ... with their minds in a worse place than when they went in." He concluded by saying that it is a real opportunity to use this new technology [of electronic monitoring] and new kind of thinking to run a therapeutic kind of jail.

Number 2862

CHAIR COGHILL expressed his appreciation for the pioneering work done by Judge Wanamaker and for his "stepping out in Anchorage." He asked Judge Wanamaker if it were the case that some effort was being made to improve tension which may exist between the court system and the jail system, or if this [legislation] was just an attempt to improve a system that is moving slowly.

Number 2844

JUDGE WANAMAKER replied that the Department of Corrections has been very cooperative, whereas the "district attorney's office is slow to come to the table on therapeutic things." He noted that he has been a prosecutor, a district attorney "of this district," and a judge. The real power, he said, is in the prosecutor's office; if their attention is gained, then this "model" can move forward more expediently.

Number 2818

JANET McCABE, testifying on behalf of Partners for Progress, via teleconference, told the committee that that organization provides the community-based support for the Anchorage wellness court. She stated that Partners for Progress has worked closely with offenders on the program, as well as with the staff, including the Department of Corrections, which, she said, runs [the program]. Furthermore, Partners for Progress strongly supports [HCR 26], as a way to more fully utilize an existing program and tool for protecting the public, for helping alcoholics to change their life pattern, and as a substantial cost-savings measure, through the use of house arrests.

MS. McCABE brought attention to several key points: First, it is well-established that [the electronic monitoring program]

provides excellent security - far better than by putting people solely on bail; therefore it should be used more extensively to protect the public against alcoholics who drink and drive. Second, the public benefits through the cost savings. Jail costs \$144 a day, she said, whereas this program can, for most people, cost nothing and is a good alternative for many who are in jail because of behavior influenced by alcohol use. Third, it requires people to be productive and commit to supporting themselves and their families. Fourth, Ms. McCabe mentioned the difficulty of transitioning out of jail. She said it is well-known that 75 percent of the repeat DWI offenders who get out of jail re-offend, and the use of this program can help people turn their lives around and "get out of that terrible statistic."

MS. McCABE urged the House State Affairs Standing Committee to pass [HCR 26] and let those who want to make this program work, do so.

CHAIR COGHILL asked Ms. McCabe how she would envision the involvement of Partners for Progress in, perhaps, giving a seminar, or being involved in some type of educational outreach.

MS. McCABE answered that the organization would like to do that, beginning with the house arrest program, [for example].

CHAIR COGHILL clarified that his question was in regard to whether she envisioned the organization requesting access to halfway houses. He asked how she viewed the educational process. In response to a request for further clarification, Chair Coghill asked specifically about the monitoring program. He asked: "Would you see it with you, maybe, interfacing with the Department of Corrections, would you see trying to get judges together; how would you see that? I'm trying to look at it from your eyes."

MS. McCABE responded that the resolution is the best step; if the fact that the legislature is supporting the program is highlighted, then the Partners for Progress will back the legislature up with publicity and a workshop, if applicable. She noted that the commissioner of corrections is willing to work towards implementing "this concept."

CHAIR COGHILL stated that he was looking for the legislature, the Department of Corrections, and the judicial system to be initiators in this process.

Number 2533

PAMELA WATTS, Executive Director, Advisory Board on Alcoholism & Drug Abuse, came before the committee and acknowledged that the prior speakers had addressed the critical elements of the resolution. She stated her belief that this legislature has rightfully stressed the accountability and productivity obligations of Alaskans to their state and their communities. She referred to the aforementioned statistic regarding 26 people spending \$2 million in jail time, and she said that that comes as no surprise to her at all; the cost of incarceration is significant. This program not only "frees up" needed prison beds, she noted, but it allows offenders to function productively and address their work, and education, and family obligations. She said, "I think it's an example of how people can be held accountable for breaking the law, be responsible for their obligations as citizens, and receive the needed structure of sobriety monitoring, in conjunction, possibly, with medication that reduces the craving for alcohol, or other drugs."

Number 2470

MS. WATTS recalled that Judge Wanamaker had referred to the use of a "sobriotor" [in the program]. She said she had been impressed last year when she discovered how that device functions. For the benefit of those present who might not be aware of its use, she explained that someone can call the person who has the sobriotor and determine whether or not that person has been drinking alcohol.

Number 2429

REPRESENTATIVE WILSON asked how the caller could determine that the person breathing into the phone equipped with the sobriotor is actually [the person on the program].

JUDGE WANAMAKER answered that the machine is equipped with a "wish recognition chip," which is programmed with certain words spoken into it by the defendant; therefore, the computer recognizes if it is the defendant speaking. He said the device must be held at the defendant's mouth, whereby they speak, are verified, then blow into the device, and get verified. If the device is transferred [to someone else] "the alarms go off."

CHAIR COGHILL agreed [with an unidentified speaker] that this is "tight monitoring," and he said, "That's one of the reasons that

many of us are concerned that it's not misused, but that it's properly used."

Number 2390

MS. WATTS stated her belief that this program offers opportunities for treatment, previously mentioned by Judge Wanamaker, and opportunities for lasting change in behaviors, which the public demands. She said she is confident that the screening process adequately selects people who have the greatest "opportunity" to achieve positive outcome. She told the House State Affairs Standing Committee that the Advisory Board on Alcoholism & Drug Abuse supports [HCR 26] and encourages the committee to [pass it].

CHAIR COGHILL clarified that what was already being asked for was the continuation of alcohol monitoring programs, many of which are already "in force." He asked Ms. Watts if her concern was in regard to "a matter of alignment": was she [concerned with] trying to make the system work better?

MS. WATTS answered yes. She said she did not have extensive knowledge of the difficulties between, perhaps, the Department of Corrections and the district attorneys in coming to some meeting of the minds regarding how this program would best work; however, she stated her confidence in the research, which indicates that this is a positive way to go to address the problem. She noted that it isn't an "easy way out." She referred to [Mr. Newman's] previous testimony indicating that this [program] requires effort, and she stated her belief that it holds people more accountable, results in better outcomes, and is more cost-effective.

CHAIR COGHILL asked Ms. Watts, as an advisory board member, if she could see herself involved in, perhaps, putting on a seminar, or in educational outreach.

MS. WATTS responded that she would be happy to do that.

Number 2235

CANDACE BROWER, Program Coordinator, Office of the Commissioner - Juneau, Department of Corrections, came before the committee members and told them that she serves as the legislative liaison for the Department of Corrections. She officially stated that [the department] supports [HCR 26] and appreciates the efforts of Representative Green to assist the department and the

offenders in rehabilitation. She stated her belief that [the department] has worked diligently in the past several years to find alternatives to incarceration for offenders who are lower risk. She said, "Obviously, it's expensive for people to be in our prisons, but beyond that, there's a rehabilitative factor that we can't ignore."

Number 2207

MS. BROWER said that [the department] continues to work hard to ensure the electronic monitoring program continues to be successful. Part of that process is a balance between the primary concern of public safety and rehabilitation. She said she thinks that expanding the program will require some risk, because "we'll have to consider, perhaps, people that have not been eligible in the past, and that's always a possibility." She stated her belief that it is important to understand that electronic monitoring is a tool, a piece of the program. Enough treatment must be made available in the communities, she added, "to provide that other piece of support." Ms. Brower said she has some concerns about that, because of budget cuts, for example. Furthermore she said she wants to be certain that [the department] has the elements available to support [those in the program] who are making important progress.

MS. BROWER said that, with the budget cuts received, one of the impacts that [the department] is expecting is that it may be placing more people on electronic monitoring, in place of community residential center beds, [for the purpose of] cost reduction. She added, "So, our hand will definitely be moving in that direction."

CHAIR COGHILL asked Ms. Brower what can be done, immediately, in regard to monitoring. He referred to Ms. Bower's comment regarding expanding electronic monitoring and asked what the capacity was presently.

MS. BOWER reported the following:

We have 70 slots in Anchorage-Matsu. We have 15 slots in Fairbanks, 20 in Juneau, and 10 in Ketchikan. Currently, they're not all fully utilized.

MS. BOWER said that there sometimes is resistance to this new program, because people consider it somewhat risky. There is an effort being made to bring people along, she said, that takes longer with some than with others. She told the committee, "We

have a total of 105 slots right now, statewide." She said that she doesn't know "where we would be thinking of expanding," but that it's a process that the commissioner has made a commitment to address with the other parties.

CHAIR COGHILL asked: "Is ... part of the issue those who would volunteer for it, or is it a reluctance, like you say, in the risk factor for a particular jail?"

MS. BROWER answered that it is a combination of things. She noted that people are resistant to change, and [the department] has taken it slowly to ensure the success [of the program]. She stated that, obviously, one bad case could jeopardize the program.

CHAIR COGHILL asked if there had been any significant failures to this program.

MS. BROWER deferred the question to Gary Webster.

Number 2049

GARY WEBSTER, Assistant Director, Central Office, Division of Institutions, Department of Corrections, testifying via teleconference, asked for clarification of the question.

CHAIR COGHILL reiterated the question.

MR. WEBSTER said it has been a successful program; one of the better things [the department] has been able to do.

CHAIR COGHILL asked, out of 105 slots, how many are filled.

Number 1987

MS. BROWER said she thought the following statistics, which she had just received that morning, were probably accurate: There are 70 slots in Anchorage, but 77 on monitoring, which effects the count in other areas. There are 8 in Fairbanks, none in Ketchikan, and none in Juneau, currently. She said the sum is 85 out of the 105.

CHAIR COGHILL asked if the highly technical telephone monitoring, of which Judge Wanamaker previously spoke, limited the availability of the monitoring system.

MS. BROWER deferred again to Mr. Webster.

CHAIR COGHILL, in response to a request for clarification, asked Mr. Webster if the technology of using the phone [device previously referred to by Judge Wanamaker as "the sobrietor"] limits the availability of this type of monitoring.

MR. WEBSTER indicated he was not sure what limits [Chair Coghill referred to]. He said the number of people [the department] can put on [the program] is "virtually unlimited." There is a certain number of units that [the department] designated as available to itself; however, he explained that is just an operational number. He noted that [the department] would not have to change any contracts, or make any revisions to add [to] the numbers.

CHAIR COGHILL clarified that he wanted to know if there were any technological limitations to using the monitoring system.

MR. WEBSTER said [the department] is actually "looking at increasing that a little bit." It is considering a voice-recognition system offered by the vendor, which is based on a slightly different program where [the department] would program in the machine where an individual is 24 hours a day and the machine would call that person to see that they are actually where they are supposed to be.

MS. BROWER added a clarification that there are certain requirements necessary before a person can qualify for electronic monitoring - the basic one being that they own a telephone. Beyond that, she said, that person cannot have call waiting, or any other feature that would divert the system. Those requirements are checked at the start and periodically.

CHAIR COGHILL expressed his appreciation of the cooperation that has existed between [the Department of Corrections] and the judicial system. He said, "What I'm trying to get straight in my mind, as we go down through this resolution is what we have in place, and what the capacity is, [and] if we're not up to the capacity, why."

MS. BROWER said she is not certain why [the program is not up to capacity]. Furthermore, she said she thinks it is one of the jobs of [the department] to figure that out and try to intervene in any roadblocks.

CHAIR COGHILL recognized that this was a work in progress. He said he thinks that what is being asked for is a "little more horsepower" into [the program].

Number 1750

JUDGE WANAMAKER mentioned that there are two continuing legal education programs in Anchorage to make people aware of the house arrest program, with the next meeting scheduled to take place on April 1. He said he thinks that may be part of the reason that [the program] is overused in Anchorage, with 77 slots used out of 70 allotted.

CHAIR COGHILL said he thinks that just shows the interest of the community.

Number 1715

MS. MENENDEZ referred to the question previously posed to Ms. McCabe, asking about an outreach or education seminar. She said that efforts in Juneau have been underway with district court Judge Peter Froehlich to compile a workgroup and noted there has been success in engaging some of the agencies necessary to "put something together." She said that Judge Froehlich is working diligently to "get all players to the table," so that the slots in Juneau are utilized.

CHAIR COGHILL commented that it appeared that commitments were being made to continue the discussion.

DON DAPCEVICH, Consultant for the Department of Health and Social Services, told the committee that one of the dependent issues in making this program fully operational is whether there is adequate treatment in the community. He continued, as follows:

And right now, as you all know, there are waiting lists in most of our communities for treatment availability. With the current budget that's proposed, there's going to be a longer waiting list, and that will limit availability of treatment, which in turn will limit the number of people that can partake of this program, which we fully support.

Number 1597

CHAIR COGHILL expressed that the difficulty was in how to continually provide for the growing need, under declining revenues. He said, "Certainly, our intentions could be very clear, but our ability and our intent may not be entirely aligned." He reiterated his concern regarding capacity. He noted that discussing the resolution brings [the various groups] to the table. Chair Coghill said, "To go ahead and develop anything new, or to bring new seminars out, we might be fooling ourselves just a little bit, at this point in history." He added that it was his view to recognize that "the early intervention brings us the greater benefit." He mentioned Judge Wanamaker's work with Naltrexone, explaining that the drug is useful in freeing people from alcohol addiction.

Number 1499

REPRESENTATIVE JAMES moved to report CSHCR 26, version 22-LS1578\C, Luckhaupt, 3/13/02, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHCR 26(STA) was reported from the House State Affairs Standing Committee.

HB 305-NONCOMPLIANCE WITH SELECTIVE SERVICE

Number 1458

CHAIR COGHILL announced that the next order of business was HOUSE BILL NO. 305, "An Act prohibiting certain state employment, a student loan, or a permanent fund dividend for a person who fails to register for the military selective service; and providing for an effective date."

Number 1440

COLLEEN SHAUB, Staff to Representative Lisa Murkowski, Alaska State Legislature, noted that a proposed committee substitute (CS) - Version F - was included in the committee packet.

CHAIR COGHILL asked if there was any objection to adopting the proposed CS, version 22-LS1209\F, Ford, 2/20/02, as a work draft. There being no objection, Version F was adopted.

[Representative Murkowski arrived at the witness table and was greeted by Chair Coghill.]

MS. SHAUB read her testimony, as follows:

House Bill 305 was introduced to encourage military selective service registration, for all eligible persons. This act requires any United States male citizen, who is between the ages of 18 and 26, to comply with the federal selective service registration requirements, if applicable, when applying to receive certain state employments, and Alaska student loan, and a permanent fund dividend.

There are at least 28 other states that have implemented or [are] considering legislation which attaches conditions of services for eligibility for [several] programs and state benefits.

With this legislation, Alaska will join those other states in ensuring compliance with the federal registration requirements.

In your bill packets, you will find several letters of support and informational testimony. Within the informational testimony, there are three pages of statistical information, showing how much our state would lose in federal dollars for those who do not comply with selective service, how we compare with registration to other states, and which cities have the highest and lowest compliance rates in our state.

The last pages of informational testimony [explain] what the selective service system provides for our country. If you have any questions concerning this bill, I will do my best to answer them for you.

CHAIR COGHILL interjected a message to those waiting to testify on HB 480, to continue waiting. He thanked the sponsor and her staff for bringing forward the bill and asked the committee if there were any questions.

Number 1215

REPRESENTATIVE LISA MURKOWSKI, Alaska State Legislature, asked the committee to notice the short title of the bill [page 1, lines 7-8], which read as follows:

SHORT TITLE. This Act may be known as the Selective Service Registration Awareness and Compliance Act.

REPRESENTATIVE MURKOWSKI noted that this is an obligation to comply with the federal Act. She said this is asked of males [between the ages of 18 and 26] in a day and age when not much is asked of Americans. [The intent of the bill] is to make certain that [the public] is acutely aware of this Act and this requirement.

Number 1120

REPRESENTATIVE STEVENS asked if there is any federal requirement for females to register and, if not, why not.

REPRESENTATIVE MURKOWSKI answered that, currently, there is not a requirement for women to register, although the issue has been discussed. Furthermore, if she had the ability to change that, she would.

MS. SHAUB proffered that the [U.S.] Supreme Court took up the issue and voted that it was unconstitutional for women to register for the selective service.

Number 1035

REPRESENTATIVE JAMES said, "I support that."

Number 1018

REPRESENTATIVE FATE mentioned attaining the age of 18 and asked if that was a federal code.

AN UNIDENTIFIED SPEAKER said, "yeah."

REPRESENTATIVE FATE said, "The thirty-day part is a federal code."

Number 0988

REPRESENTATIVE HAYES said he signed up for the military and remembers what was done on the federal level [regarding making the public aware of the requirement]. He asked what would be done on the state level.

REPRESENTATIVE MURKOWSKI replied that, currently, individuals in the state are responsible for getting the information to those soon to be 18 years old. She said it is her understanding that one of those individuals is in Sitka, and the other is in Juneau. She noted that Representative Foster used to be a

selective service registrar. The National Guard assists with this effort, she said. She indicated that there are other volunteer efforts to raise the awareness level.

Number 0868

REPRESENTATIVE MURKOWSKI said that, should this legislation pass, there would be a statement in the permanent fund dividend (PFD) application. She stated, "I think it would be the intent to make sure that it is more publicly broadcast."

Number 0828

REPRESENTATIVE MURKOWSKI indicated a facsimile sheet included in the committee packet [with the heading, "zip code distribution summary report"], which lists the compliance rates of various communities. She pointed to the "non-registration rate" and said that some areas were at 100 percent compliance, while others - including Anchorage - were "not doing very well." She referred to previous testimony heard in the House Special Committee on Military and Veterans' Affairs, where it was noted that registrars are not always invited in to speak at schools. She said that it is harder to speak at a larger school such as those in Anchorage, than in a school in a smaller community where everyone knows everyone else.

Number 0696

REPRESENTATIVE JAMES said her recollection was that it was simpler back during World War II, when [young men] would sign up at the post office. She said she wondered why the federal government did not choose to have that availability now and advertise it with a sign on the wall.

Number 0668

REPRESENTATIVE MURKOWSKI responded that a person can still register with selected service at a post office, or any federal building; however, the problem is not where you can sign up, but providing the awareness [that it is required]. She said there is no draft now and many growing up now do not have anyone in their family who have ever been in a war and do not realize that [registering with the selective service] is a federal requirement.

Number 0610

REPRESENTATIVE JAMES said she is disappointed to hear this. She stated her belief that the schools and anyone responsible for "young people growing up should have responsibility." She mentioned inexpensive posters that could be used.

REPRESENTATIVE MURKOWSKI mentioned that Charlie Smith (ph) might be online to testify.

[CHAIR COGHILL called on Mr. Smith (ph), but there was no reply.]

Number 0537

REPRESENTATIVE STEVENS commented that it's an easy thing to do at the post office or on the Internet. He then turned to the denial of the PFD, and asked if a person would be denied for the particular year that they [failed to apply] or would the person not be able to apply for the PFD thereafter. He also requested clarification of the student loan ramifications.

REPRESENTATIVE MURKOWSKI clarified that the intent of the legislation is that if one fails to register at the time the PFD application is being completed, then the PFD would be denied or withheld for that year. This is not retroactive in regard to the PFD or the student loan. Qualification for receipt of the PFD in regard to registration for selective service would be determined each year the application is made.

REPRESENTATIVE STEVENS related his understanding then that if a person hasn't registered when that person turns 18 years of age, that person wouldn't receive the PFD that year, even if the person registers later.

REPRESENTATIVE MURKOWSKI explained: "At the time that you file for your application, if you have not complied with the registration requirement and it was applicable to you, you would be denied." She deferred to Ms. Jones, Permanent Fund Division.

REPRESENTATIVE STEVENS remarked that this penalty would be quite an impetus for people to register.

CHAIR COGHILL pointed out, "If you look at the effective date of this, we're going to give a year to make notice of that. So, it would be on the application, as I understand it."

REPRESENTATIVE MURKOWSKI agreed.

REPRESENTATIVE WILSON remarked that she didn't realize Representative Murkowski was working on this issue. She noted that she too had received a request to submit a bill on this issue. She informed the committee that many states do what is being proposed here, but it's attached to the driver's license. However, Alaska's Division of Motor Vehicles didn't want to be involved in this. She expressed her belief that it's important that people register for selective service.

Number 0148

NANCI A. JONES, Director, Permanent Fund Dividend Division, Department of Revenue, explained that this would work on a strict compliance order. The division will receive a tape from Selective Service that would be matched with persons between the age of 18 and 26 in order to determine if they were on the tape for the qualifying year. She clarified that would be for the year that has passed, the year for which the PFD is being applied. Once an individual isn't on the tape, that individual wouldn't receive that [year's] dividend. When the individual registered and Selected Services listed the individual on the tape as being in compliance, the individual would receive a PFD. For example: "If ... March 31st when we run a tape when a person would apply, if they weren't on the tape, they would not be eligible for a dividend. If on April 15th they went and applied, then they would [be] eligible the next rotation, which would be the next year - the next time that we would actually read the tape."

REPRESENTATIVE STEVENS inquired as to other reasons people don't receive a PFD.

MS. JONES specified other reasons that people don't receive the PFD as follows: the individual isn't an Alaska resident, the individual left the state for more than 180 days on an absence not specified in statute, or the individual broke residency by voting [in another state].

TAPE 02-27, SIDE A

REPRESENTATIVE STEVENS inquired as to whether an individual could be a felon and incarcerated [and still receive] a PFD.

MS. JONES replied that no, a felon is not eligible to receive a PFD in the year of incarceration. She noted that there is a statute that addresses individuals that are incarcerated.

Number 0088

REPRESENTATIVE HAYES inquired as to how the book will specify that a person who doesn't register for selected services won't receive their PFD.

MS. JONES answered that this would be highlighted as a new item in the household booklet. Furthermore, the division is going to try to place an alert on the face of the application as well.

Number 0220

REPRESENTATIVE FATE moved to report HB 305, as amended, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 305(STA) was reported from the House State Affairs Standing Committee.

HB 480-STATE EMPLOYEE DEATH/SURVIVOR BENEFITS

Number 0352

CHAIR COGHILL announced that the next order of business was HOUSE BILL NO. 480, "An Act providing that the death of a state employee killed because of their job status off the job site shall be considered an occupational death for purposes of survivor's pension benefits."

Number 0373

REPRESENTATIVE FRED DYSON, Alaska State Legislature, as sponsor of HB 480, told the committee that it had come to his attention that benefits are not the same for a person who is hurt or killed on a job-related incident away from the job site versus on the job site. HB 480 would correct that, he said. He pointed out that many employees whose jobs put them at risk for assault are working jobs that require them to be out of their office. He cited investigative work as an example, saying that many of [those workers] engender the wrath of a percentage of the population. Passing HB 480 into law would create a better group of benefits for the survivors, he said. He mentioned that he hoped Guy Bell would explain the difference in those benefits.

Number 0515

CHAIR COGHILL asked if there was any objection to adopting the proposed CS, version 22-LS1547\C, Craver, 3/5/02, as a work

draft. There being no objection, Version C was adopted. He asked Representative Dyson to explain the difference between the "A Version" [original proposed bill] and Version C.

Number 0529

REPRESENTATIVE DYSON said the following was a "suggestion of administration": the word "state" was removed from the title to make the bill more applicative to a wider group of people.

Number 0625

CHAIR COGHILL asked Mr. Bell if a bona fide legal action was needed "before this can kick in." As an example, he mentioned signing a "positive death" and asked what legal instrument would be used, or if this would just be an insurance evaluation.

Number 0641

GUY BELL, Director, Division of Retirement & Benefits, Department of Administration, told Chair Coghill that he was not an expert in this area, but stated that he assumed a death report, from a medical examiner or the local police, would be used. He indicated [the use of] some type of certification from a legally authorized party stating that the person's death was connected with his/her employment status. Mr. Bell said he polled his staff and found no known occurrence of this issue, to date; however, he admitted that it could be a loophole, but is one that [the proposed bill] would fill. He explained that in order to administer this [the division] would "come up with some sort of procedure and work through it."

Number 0727

REPRESENTATIVE WILSON noted that "terrorism" was included in the language of the bill [page 1, line 7, Version C]. She asked, if a person was on a lunch break and was killed by a bombing aimed at a wide variety of people, if that person's death would be considered occupational.

MR. BELL answered that if the terrorism act was against public employees and, for instance, it was a public employees' luncheon, then it would be covered. Conversely, if a person is on vacation when a terrorist act occurs, resulting in that person's death, then "that may not apply, I would guess."

REPRESENTATIVE DYSON concurred. He reiterated that the proposed legislation was written in order to cover those on the job, but away from their [job's base location].

REPRESENTATIVE DYSON, in response to a question from Representative Wilson, offered the following example: If [an employee of] the Child Support Enforcement Division (CSED) has just served an "action" on someone and is downtown eating lunch, and that someone is "ticked" about [that action] and hits [the employee] over the head with a pot of chili, then it probably is [job-related].

Number 0880

REPRESENTATIVE STEVENS pointed out that the fiscal note for HB 480 still [referred to the original bill title, using the word "state" to describe "employee"]. He asked if [the proposed legislation] would include a borough assessor, a university administrator, and a city councilman, for example, because they are not directly state employees.

Number 0907

MR. BELL answered that the proposed CS would cover employees of political subdivisions and university and state. He mentioned the suggestion for removal of the reference to the state.

REPRESENTATIVE STEVENS interjected clarification that any person working for the city council, borough assembly, or university [would be included].

Number 0934

REPRESENTATIVE JAMES asked if legislators and their staff would be considered state employees.

MR. BELL answered, "From our perspective, yes. From the perspective of the retirement system, legislators are state employees, as long as they don't opt out of PERS [public employees' retirement system] membership, which legislators are allowed to do."

Number 0983

CHAIR COGHILL added that that was covered under Title 39.

Number 0988

REPRESENTATIVE JAMES asked for clarification that it would have to be a violent act against the person because they were a state employee, "no other kinds of forms of death would be included in this."

MR. BELL said that's correct. He noted that there is an occupational death category outside of these categories for occupational death benefits. One example, he said, would be a person driving from one work site to another, who was fatally hit by a drunk driver, and would be covered. He added that that [example] was not related to the aforementioned situations.

REPRESENTATIVE JAMES reiterated, "This was just a violent action against them that causes their death and because they are a state employee."

REPRESENTATIVE DYSON clarified that it would be because they are a government employee, and he reiterated that "it's related to their work."

Number 1085

REPRESENTATIVE WILSON surmised that the key to this [proposed legislation], as it is worded, is that it would cover anybody who is in the PERS.

REPRESENTATIVE STEVENS mentioned [PERS].

AN UNIDENTIFIED SPEAKER said, "Twenty-four hours a day."

REPRESENTATIVE STEVENS said, "Or TRS [teachers' retirement system]."

THE SAME UNIDENTIFIED SPEAKER said, "Seven days a week."

MR. BELL said, "Not TRS."

REPRESENTATIVE STEVENS echoed, "Not TRS."

MR. BELL reiterated that this does not apply to TRS. He noted that Title 39 is the public employees' retirement system statute and [Title] 14.25 is the teachers' retirement system statute. He said, "So this only refers to the public employees retirement system."

REPRESENTATIVE STEVENS asked why.

Number 1444

REPRESENTATIVE DYSON responded that it was not a conscious [decision], but, with all due respect, he guessed that the amount of anger and reprisals brought about by giving bad grades probably does not compare to what happens to [those employed by] DFYS (Division of Family and Youth Services), CSED, and the [Alaska] State Troopers, for example.

Number 1420

REPRESENTATIVE JAMES retorted, "Well, we did have some teachers get it. And, that wouldn't have given them anything? Is that what you're saying? Or was it because they were in the classroom that they were to get it, that [if] they were out in the yard they wouldn't have?" She said she was thinking of a particular shooting that occurred.

REPRESENTATIVE STEVENS offered that it had occurred in Bethel, [Alaska].

REPRESENTATIVE JAMES concurred.

MR. BELL clarified that that particular occurrence took place at the school.

REPRESENTATIVE JAMES asked, "But what if it had been out on the street?"

MR. BELL said he was not sure.

Number 1215

JANET PARKER, Retirement & Benefits Manager, Division of Retirement and Benefits, Department of Administration, clarified that the aforementioned teacher had been on duty. She said that she thinks the teachers [at that school] work an eight-hour day and work before and after school doing paperwork. She continued, as follows:

If someone were to come in during those times, definitely. There would potentially be an issue if it was the weekend and a student - I guess it would be a student, or maybe a parent of a student, giving them bad grades - would shoot them on the weekend. But, an

investigation would be done, and it would be hard to tell exactly what would happen in that situation.

CHAIR COGHILL said he supposed motive, then, would become part of the issue.

MS. PARKER concurred. She said:

And then that's what we are looking at here: what is the motive? If the motive is I'm being murdered on a weekend, not a workday, because if someone sees me, or it's planned, or has stalked me, or whatever, [and I'm] not at work, then this would cover me ... you know, absolutely, positively. But, there would still be an investigation to find out who did it.

CHAIR COGHILL said, "Under PERS, but not under the TRS. And that was kind of the question that we were trying to get to."

Number 1290

REPRESENTATIVE JAMES said that, on that point, she thinks [the legislature] should be all-inclusive if it was going to pass [this proposed legislation]. She said some people may be angrier with CSED and DFYS, for example, but the situation for teachers is "turning pretty nasty." She indicated that people are presently covered on the job site and the resolution would allow for coverage while they are away, but still on the job.

Number 1336

MS. PARKER responded, as follows:

The hardest thing here is that we haven't seen all the cases. And we have had cases where people have traveled and, in that travel, they have had too much to drink and had a car accident, and that was covered as an occupational death, because they were on state business.

MR. BELL suggested that [the division] could look at the language of the proposed CS regarding [the inclusion of] TRS.

CHAIR COGHILL told Representative Dyson that he thinks that is something that should be looked at. Furthermore, he expressed interest in examining the legislation in regard to the criminal

code, for example; "how we might have to install this in regulation." He stated that the subject being discussed is about perpetrators, intent, and motives, and he said he is uncomfortable addressing that in the House State Affairs Standing Committee, at this point. He concluded, "But before we ... even get to that discussion, I want to talk about the TRS issue."

Number 1421

REPRESENTATIVE WILSON mentioned schools closing down in the past two weeks and teachers forced to leave town, because they fear for their lives. In lieu of that, she stated that she believes it's crucial that the legislature include TRS in a bill, such as [HB 480]. She noted that the climate is changing and reiterated that she thinks it would be very important to include [TRS].

REPRESENTATIVE DYSON asked Mr. Bell if he thought it was possible to have something drafted by the following Tuesday.

MR. BELL said yes.

REPRESENTATIVE DYSON said if Chair Coghill would allow [HB 480] to be on the agenda the following Tuesday, he would commit to "getting something ready."

CHAIR COGHILL said, "We'll do it."

REPRESENTATIVE DYSON suggested that the action being discussed before the committee is "utterly different, or separate from" the criminal issues that may be before the committee; this [proposed legislation] is only addressing who will be eligible for an enhanced group of benefits. He indicated that, therefore, he respectfully does not think that the [discussion should focus on the aforementioned criminal aspect].

Number 1502

CHAIR COGHILL clarified that he is not interested in making another committee referral, but is interested in answering the question: "How can this be challenged?" He said, "Under the insurance rule, you know, challenges are abounding."

Number 1515

REPRESENTATIVE DYSON said he suspected that there would be discussion regarding that. He mentioned "people cutting the

corners, both ways." He reiterate his focal point: "We're interested in making sure that this suite of benefits is available to people who are assaulted or harmed, as a result of their work, but not on the work site."

CHAIR COGHILL announced that [HB 480] would be on the committee agenda Tuesday, [March 19, 2002]. [HB 480 was heard and held.]

ADJOURNMENT

Number 1555

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 10:04 a.m.