

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 18, 2004

3:31 p.m.

TAPE (S) 04-18 & 19

MEMBERS PRESENT

Senator Gary Stevens, Chair
Senator John Cowdery, Vice Chair
Senator Bert Stedman
Senator Gretchen Guess
Senator Lyman Hoffman

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 31

Relating to urging the United States Congress to compensate the State of Alaska for the effect of federal land ownership on the state's ability to fund public education.

MOVED CSSJR 31(STA) OUT OF COMMITTEE

SENATE BILL NO. 338

"An Act relating to actionable claims against state employees; relating to the state's defense and indemnification of its employees and former employees with respect to claims arising out of conduct that is within the scope of employment; amending the Public Employment Relations Act regarding claims against the state or state employees; and providing for an effective date."

MOVED CSSB 338(STA) OUT OF COMMITTEE

SENATE BILL NO. 292

"An Act relating to youth courts and to the recommended use of criminal fines to fund the activities of youth courts; and relating to accounting for criminal fines."

MOVED CSSB 292(STA) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 414(JUD)

"An Act relating to filling a vacancy in the office of United States senator, and to the definition of 'political party.'"

MOVED SCS CSHB 414(STA) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 91(FIN)

"An Act relating to medical benefits for retired peace officers after 20 years of credited service."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SJR 31

SHORT TITLE: FEDERAL FUNDING FOR EDUCATION

SPONSOR(s): RULES

02/16/04 (S) READ THE FIRST TIME - REFERRALS
02/16/04 (S) STA, RES
03/18/04 (S) STA AT 3:30 PM BELTZ 211

BILL: SB 338

SHORT TITLE: CLAIMS AGAINST STATE EMPLOYEES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/16/04 (S) READ THE FIRST TIME - REFERRALS
02/16/04 (S) STA, JUD
03/11/04 (S) STA AT 3:30 PM BELTZ 211
03/11/04 (S) Heard & Held
03/11/04 (S) MINUTE(STA)
03/18/04 (S) STA AT 3:30 PM BELTZ 211

BILL: SB 292

SHORT TITLE: USE CRIMINAL FINES FOR YOUTH COURTS

SPONSOR(s): SENATOR(s) STEDMAN

02/04/04 (S) READ THE FIRST TIME - REFERRALS
02/04/04 (S) STA, FIN
03/18/04 (S) STA AT 3:30 PM BELTZ 211

BILL: HB 414

SHORT TITLE: U.S.SENATE VACANCY/DEF OF POLITICAL PARTY

SPONSOR(s): JUDICIARY

01/28/04 (H) READ THE FIRST TIME - REFERRALS
01/28/04 (H) STA, JUD
02/03/04 (H) STA AT 8:00 AM CAPITOL 102
02/03/04 (H) Heard & Held
02/03/04 (H) MINUTE(STA)
02/04/04 (H) JUD AT 1:00 PM CAPITOL 120
02/04/04 (H) -- Meeting Canceled --
02/05/04 (H) STA AT 8:00 AM CAPITOL 102
02/05/04 (H) Moved CSHB 414(STA) Out of Committee

02/05/04 (H) MINUTE(STA)
 02/09/04 (H) JUD AT 1:00 PM CAPITOL 120
 02/09/04 (H) <Bill Hearing Postponed to 2/16/04>
 02/12/04 (H) STA RPT CS(STA) 3DP 1DNP 3NR
 02/12/04 (H) DP: SEATON, COGHILL, WEYHRAUCH;
 02/12/04 (H) DNP: BERKOWITZ; NR: GRUENBERG, HOLM,
 02/12/04 (H) LYNN
 02/16/04 (H) JUD AT 1:00 PM CAPITOL 120
 02/16/04 (H) Moved CSHB 414(JUD) Out of Committee
 02/16/04 (H) MINUTE(JUD)
 02/18/04 (H) JUD RPT CS(JUD) NT 5DP 2NR
 02/18/04 (H) DP: SAMUELS, ANDERSON, OGG, HOLM,
 02/18/04 (H) MCGUIRE; NR: GRUENBERG, GARA
 03/04/04 (H) TRANSMITTED TO (S)
 03/04/04 (H) VERSION: CSHB 414(JUD)
 03/05/04 (S) READ THE FIRST TIME - REFERRALS
 03/05/04 (S) STA, JUD
 03/18/04 (S) STA AT 3:30 PM BELTZ 211

BILL: HB 91

SHORT TITLE: RETIRED PEACE OFFICER'S MEDICAL BENEFITS
 SPONSOR(S): REPRESENTATIVE(S) ANDERSON

02/12/03 (H) READ THE FIRST TIME - REFERRALS
 02/12/03 (H) L&C, FIN
 02/21/03 (H) L&C AT 3:15 PM CAPITOL 17
 02/21/03 (H) Moved Out of Committee
 02/21/03 (H) MINUTE(L&C)
 02/24/03 (H) L&C RPT 4DP 1NR
 02/24/03 (H) DP: GATTO, CRAWFORD, GUTTENBERG,
 02/24/03 (H) ANDERSON; NR: ROKEBERG
 03/18/03 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 03/18/03 (H) Heard & Held
 03/18/03 (H) MINUTE(FIN)
 02/17/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 02/17/04 (H) Heard & Held
 02/17/04 (H) MINUTE(FIN)
 02/19/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 02/19/04 (H) Moved CSHB 91(FIN) Out of Committee
 02/19/04 (H) MINUTE(FIN)
 02/23/04 (H) FIN RPT CS(FIN) NT 3DP 7NR
 02/23/04 (H) DP: CROFT, FATE, WILLIAMS; NR: MEYER,
 02/23/04 (H) HAWKER, JOULE, MOSES, CHENAULT, FOSTER,
 02/23/04 (H) HARRIS
 03/04/04 (H) TRANSMITTED TO (S)
 03/04/04 (H) VERSION: CSHB 91(FIN)
 03/05/04 (S) READ THE FIRST TIME - REFERRALS

03/05/04	(S)	STA, L&C, FIN	
03/18/04	(S)	STA AT 3:30 PM BELTZ 211	
03/18/04	(S)	Heard & Held	
03/18/04	(S)	MINUTE(STA)	
04/01/04	(S)	STA AT 3:30 PM BELTZ 211	
04/01/04	(S)	Moved CSHB 91(STA) Out of Committee	
04/01/04	(S)	MINUTE(STA)	
04/02/04	(S)	STA RPT SCS 3NR	SAME TITLE
04/02/04	(S)	NR: STEVENS G, COWDERY, STEDMAN	
04/13/04	(S)	L&C AT 1:30 PM BELTZ 211	

WITNESS REGISTER

Senator Gene Therriault
 Alaska State Capitol
 Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor SJR 31

Kent Briggs
 CSG West
 Sacramento, CA

POSITION STATEMENT: Testified on SJR 31

Brian Allred
 No address provided

POSITION STATEMENT: Testified on SJR 31

Gail Voightlander
 Department of Law
 PO Box 110300
 Juneau, AK 99811-0300

POSITION STATEMENT: Commented on the amendment to SB 338

Patricia Ware
 Director, Division of Juvenile Justice
 Department of Health &
 Social Services
 PO Box 110601
 Juneau, AK 99801-0601

POSITION STATEMENT: Expressed departmental support for SB 338

Whitney Cushing Jr.
 United Youth Courts of Alaska
 Homer, AK 99603

POSITION STATEMENT: Supports SB 338

Diane Ivy-Dahlin

Wrangell Youth Center
Wrangell, AK 99929
POSITION STATEMENT: Supports SB 338

Alehandra Chavarria
Ketchikan Youth Center
Ketchikan, Alaska 99901
POSITION STATEMENT: Supports SB 338

Timothy A. Lower
Sitka Youth Center
Sitka, AK 99835
POSITION STATEMENT: Supports SB 338

Jesse Kinsland
Mat-Su LIO
POSITION STATEMENT: Supports SB 338

Heath Hilyard
Aide to Representative Lesil McGuire
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Introduced CSHB 414 for Representative McGuire, sponsor

Don Roberts Jr.
Kodiak, AK 99615
POSITION STATEMENT: Testified on CSHB 414

Representative Tom Anderson
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor HB 91

Mike Fox
Public Safety Employees Association (PSEA)
Juneau, AK 99801
POSITION STATEMENT: Gave presentation relating to CSHB 91

Charlie Hanson
Lemon Creek Corrections Officer
Juneau, AK 99801
POSITION STATEMENT: Testified in support of CSHB 91

Kevin Richie
AK Municipal League
Juneau, AK 99801

POSITION STATEMENT: Opposed CSHB 91

Melanie Millhorn
Director, Division of Retirement & Benefits
Department of Administration
PO Box 110200
Juneau, AK 99811-0200

POSITION STATEMENT: Commented on the fiscal note for CSHB 91

Maurice Hughes
Trooper & PSEA member
Juneau, AK 99801

POSITION STATEMENT: Supported CSHB 91

Larry Semmens
City of Kenai
Kenai, AK 99611

POSITION STATEMENT: Spoke in opposition to CSHB 91

ACTION NARRATIVE

TAPE 04-18, SIDE A

CHAIR GARY STEVENS called the Senate State Affairs Standing Committee meeting to order at 3:31 p.m. Present were Senators Cowdery, Stedman, Guess, and Chair Gary Stevens. Senator Hoffman arrived soon thereafter.

SJR 31-FEDERAL FUNDING FOR EDUCATION

CHAIR GARY STEVENS announced SJR 31 to be up for consideration. He asked for a motion to adopt the committee substitute (CS) as the working document.

SENATOR JOHN COWDERY made a motion to adopt CSSJR 31 \Q version as the working document. There being no objection, it was so ordered.

SENATOR GENE THERRIAULT, sponsor of SJR 31, stated that he would reference a series of charts as he explained the resolution. He read the following into the record:

SJR 31 relates to urging the United States Congress to compensate the State of Alaska for the effect of federal land ownership on the state's ability to fund public education.

This legislation stems from a resolution adopted in July of 2002 by the Executive Committee of the Council of State Governments-WEST urging its membership of thirteen states to support and pass joint resolutions expressing how federal land ownership hinders western states' ability to fund education.

The CS adds a whereas paragraph to page 2, lines 27, which ties this resolution to the overall effort of CSG-WEST. Since this effort began, all 13 states have introduced similar resolutions and all but four (CA, WA, CO, AK) have passed them.

The resolution is the result of years of research and preparation by the legislators from the State of Utah and their legislative staff who have developed the statistics and dollar amounts you see in this resolution.

The Western Governors' Association has also endorsed this resolution, which is termed "APPLE" for Action Plan for Public Land and Education.

Western states as a group are falling behind in education funding when measured in growth of real per pupil expenditures during the period of 1979-1998. Eleven of the twelve states with the lowest real growth in pupil expenditures are western states. The growth rate of real per pupil expenditures in the thirteen western states is less than half (28 percent versus 57 percent) of that in the thirty-seven other states [graph 1]. On average, enrollment in western states is projected to increase dramatically while the growth rate in other states is actually projected to decrease (2002-2011 western states 7.1 percent versus 2.6 percent). If you look at graphs 2 & 3 you can see that in the eastern part of the country the actual student populations are projected to decrease while the western states are experiencing growth.

Yet, western states' state and local taxes as a percentage of income are as high or higher than other states (1998-1999 western states 11.1 percent versus 10.9 percent). You can see on handout page 4 how we compare to the other states across the nation as far as percentage of personal income that is contributed to education efforts. That's pages 4 & 5. Western

states' commitment to education as a percentage of state budget is equal to that of other states. That is spelled out in handout page 6 and page 7.

I think it's interesting to note that the State of Alaska shows 20 percent going to education and I think that's because they looked at total expenditures and of course we have inflation proofing of the permanent fund and the dividend itself. [It] all gets counted as spending so that actually suppresses our numbers slightly.

The problem lies with the federal government and the enormous amount of land it owns in western states. If an imaginary line were drawn from Montana to New Mexico, no state east of that line has more than 14 percent of its land owned by the federal government. No state west of that line has less than 27 percent of their land federally owned (with the exception of Hawaii). Four western states have more than 62 percent of their land federally owned. If you look at handout pages 8, 9, 10 & 11 it graphically shows the difference between the eastern half of the United States and the western half of the United States with regards to the percentage of land that is controlled by the federal government.

The primary way that federal land ownership impacts the funding of education in western states is through enabling acts and property taxes. Most enabling acts for western states, including Alaska, promised to give five percent of the proceeds from the sale of federal land for the benefit of public education. In 1977 the federal government abandoned its original policy to dispose of public lands depriving the states of public education funding estimated to be over \$14 billion. This resolution does not recommend that federally owned lands be sold, only that states be compensated as promised.

States are not allowed to assess property tax on federal lands, impacting western states in an amount over \$4 billion annually. The federal government does provide "payment in lieu of taxes" (PILT) since states cannot tax federal lands, but the amount of PILT payments coming to the states in 2001 was only about

four percent of the annual property tax revenue lost by western states.

This resolution proposes to: create legislative awareness, educate the public, build a western states coalition to petition Congress to compensate adequately the western states in the United States.

In summary, western states are financially harmed in a significant way by the amount of federal land ownership. The conclusion is that federal land ownership hinders western states' ability to fund public education.

CSG-WEST has formed this APPLE initiative with a steering committee, which is chaired by Speaker Martin Stevens in the Utah House of Representatives and I, as Senate President, also sit as a member of that steering committee. The steering committee will work like a strategic planning group who will press the case to Congress and the Judiciary. The first meeting of the steering committee will be in the CSG-WEST annual meeting in Anchorage on September 25th of this year.

CHAIR GARY STEVENS asked how PILT money comes into the different districts.

SENATOR THERRIAULT replied the money that is available to the state is supposed to be considered a payment in lieu of property taxes, but the actual amount that states receive is very small compared to the amount that could be assessed if the land were all privately owned.

SENATOR JOHN COWDERY asked if there is a definition of "just compensation."

SENATOR THERRIAULT said it would be optimistic to expect \$4 billion per year from the federal government, but "I guess just compensation would be as much as we could get." He established that he preferred the broad language to a specific dollar amount.

SENATOR GRETCHEN GUESS referred to page 2, line 12 and asked for clarification of the \$4 billion amount as it relates to property tax.

SENATOR THERRIAULT thought it was the estimated annual impact if property tax could be levied against federal land.

SENATOR GUESS asked if that was the federal land the state was supposed to get and didn't.

SENATOR THERRIAULT thought it was all the federal land.

SENATOR GUESS asked what would happen to impact aid if this were to happen.

SENATOR THERRIAULT said this wouldn't necessarily be a lump sum payment. The federal government would likely increase the PILT payments because you can't levy tax on federal land.

SENATOR GUESS noted that she didn't have anything in her packet explaining how impact aid is calculated and asked if that information was available.

SENATOR THERRIAULT acknowledged that information wasn't in the packets.

SENATOR GUESS asked whether there were Alaska specific numbers rather than western state numbers.

KENT BRIGGS from Sacramento interjected to say that based on computations of the Utah policy office, Alaska would receive a total of \$8 billion.

BRIAN ALLRED from Salt Lake City spoke via teleconference to clarify that they would receive one-time revenue of about \$5.6 billion or ongoing revenue of approximately \$2.25 billion. With regard to an earlier question about property taxes, he explained that the \$4 billion was computed with the following assumptions: The 4.1 percent federal land ownership is an average of the non-western states and assumes that the western states have the same percentage of federal land ownership. Then it assumes that the effective tax rate for each state is applied and the land is valued at \$525 per acre. Those were the figures used to compute the approximate \$4 billion figure on property taxes.

SENATOR GUESS admitted to being confused about the argument for the request. She questioned whether it was the 1977 change in federal policy regarding disposal of public lands or were the PILT payments simply not keeping pace.

MR. BRIGGS replied it is both. When states entered the union, the Enabling Act promised the new states 5 percent of all lands for public education. But when the Federal Lands Policy Management Act of 1977 was passed, the Organic Act on BLM lands essentially did away with those sales. He asked Mr. Allred to verify that assessment, which he did.

He continued to say that PILT money doesn't amount to a great deal and described the payment as acknowledgement and compensation for the burden that public lands place on western states.

SENATOR GUESS noted that PILT goes to all states.

MR. BRIGGS clarified that PILT goes to all public lands states.

SENATOR GUESS asked whether PILT and impact aid were synonymous.

MR. BRIGGS told her that when PILT was adopted it was largely a western initiative then asked Mr. Allred to verify.

MR. ALLRED didn't hear the question.

SENATOR GUESS asked if PILT makes up for military bases and other non-tax land that the federal government has in all states.

MR. ALLRED explained that impact aid is compensation for military base lands, "but PILT payments apply to not just military base, but to, as Kent mentioned, payment in lieu of taxes recognizing the burden that federal land ownership places on the states in general, not just with military bases."

CHAIR GARY STEVENS asked Senator Therriault to remain in the room in case there were more questions then asked Mr. Briggs and Allred whether they had testimony to present.

MR. ALLRED replied he did not have testimony, but he was available to answer questions.

MR. BRIGGS replied the information he wanted to impart is that Alaska is critical because it is the home of Senator Ted Stevens. Senator Stevens is Chairman of Appropriations and a member of the Labor and Education Subcommittees. "If we had to pick a person in the United States Senate who is absolutely essential, it would be Senator Stevens." He expressed sincere appreciation for Senator Therriault's support.

CHAIR GARY STEVENS confirmed that Alaska is very proud of Senator Ted Stevens.

SENATOR COWDERY made a motion to move CSSJR 31(STA) from committee. There being no objection, it was so ordered.

SB 338-CLAIMS AGAINST STATE EMPLOYEES

CHAIR GARY STEVENS announced SB 338 to be up for consideration and noted that amendment 1 was passed at the last hearing and he would like a motion to adopt amendment 2.

SENATOR COWDERY made a motion to adopt amendment 2. There being no objection, it was so ordered.

23G-2
10/7/2004
(2:31 PM)

A M E N D M E N T 2

OFFERED IN THE SENATE STATE BY _____
AFFAIRS COMMITTEE

TO: Proposed CS for SB 338 (23-LS)

Add the following new subsection to proposed AS 09.50.253

(Actionable claims against state employees):

"() The provisions of this section are in addition to and do not supersede a term in a state employee collective bargaining agreement addressing legal defense and indemnity."

CHAIR GARY STEVENS asked Ms. Voitlander to explain the amendment.

GAIL VOITLANDER, Department of Law, recapped that at the previous hearing PSEA (Public Safety Employees Association) was concerned about the implications on collective bargaining related to defense and indemnity issues. Amendment 2 addresses

those concerns and makes it clear that the certification process for the attorney general to convert a claim against a state employee to a claim against the state is in addition to an employee's right to defense and indemnity that is set forth in a collective bargaining agreement. She understood that PSEA concurs with the amendment.

CHAIR GARY STEVENS asked whether anyone from PSEA was available to speak to the issue and no one spoke up.

There were no further comments or questions.

SENATOR BERT STEDMAN made a motion to move CSSB 338(STA) from committee with attached zero fiscal note. There being no objection, it was so ordered.

SB 292-USE CRIMINAL FINES FOR YOUTH COURTS

CHAIR GARY STEVENS announced SB 292 to be up for consideration.

SENATOR BERT STEDMAN, sponsor of SB 292, explained that youth courts provide a way for the state to deal with youths who are first time misdemeanants without adversely affecting their adult record and without impacting the adult judicial system. These are courts that are established and run by youths and provide a good educational tool for all participants. The recidivism rate is considerably lower than the regular court system.

Even though youth court cases cost less than district and superior court cases, stable funding threatens the future of the programs. This bill provides the much-needed financial support so that youth courts can continue to provide unique, successful and cost effective services to the state. Finally, he noted that there is considerable support for this legislation in the House for Representative Ogg's companion bill.

CHAIR GARY STEVENS asked him to speak briefly to the funding mechanism.

SENATOR STEDMAN estimated that the fiscal note is double the actual cost, which he believes to be about \$500,000. "On the House side they've added in an additional \$200,000 in the HESS budget. They've pigeonholed some money there."

SENATOR GRETCHEN GUESS said she agrees that youth courts are more efficient, but she wanted to know where the money goes now and where would funds be diverted from to go to youth courts.

SENATOR STEDMAN deferred to the division director.

SENATOR GUESS asked if there was a proposed amendment.

SENATOR STEDMAN predicted that the proposal to use 25 percent of the court-imposed fines would change and the percentage would probably go down.

PATRICIA WARE, director of the Division of Juvenile Justice within the Department of Health and Social Services (DHSS), expressed strong support for youth courts. "They are a critical component of Alaska's juvenile justice system in the state."

The amendment the division suggested for the companion House bill calls for allocating approximately 10 percent of the court-imposed fines for the program. Based on FY03 data from the court system, that would yield approximately \$430,000 per year.

She expanded on the sponsor's funding explanation saying that she understood that in the House Finance subcommittee close out a new budget component entitled "Youth Courts" is proposed in the division budget. The Division of Youth Justice would move existing general funds to pay for youth courts and an additional \$200,000 would be added. "So on the House side the current total, by the time they added in some additional federal dollars that we still have remaining, was \$508,300. That was CSHB 375(FIN)."

SENATOR HOFFMAN asked how the \$508,000 compared to last year.

MS. WARE replied they are paying \$279,500 general fund for youth courts this fiscal year and they have \$28,800 in federal money. "So this is basically an additional \$200,000 as offered by the House side."

SENATOR HOFFMAN questioned the information in his packet that stated, "an increment of \$200,000 added by Representative Hawker and the HESS subcommittee will bring the youth court back up to \$508,000."

MS. WARE noted that she didn't have the documentation he was referencing then explained that DHSS historically paid for youth courts with federal dollars, which have become scarce. Although she wasn't sure what was meant by "back up," she assured him that the division made a commitment to support youth courts and had cut other programs so that they could continue that support.

SENATOR STEDMAN stated, "that roughly adds into the top number of total funds used in 2002 so it's trying to move the funding amount back up to where youths courts were, for lack of a better word, fully funded."

SENATOR GUESS asked if there was increasing demand for youth courts.

MS. WARE assured her there is increased demand and the division has, "pretty much done what we can do with the existing funding."

SENATOR GUESS asked if there was demand for the amount specified in the fiscal note.

MS. WARE contended that amount of funding wasn't necessary because it would more than double what is currently spent on youth courts. The \$508,000 that is on the table includes an additional \$200,000, which would allow for expansion.

CHAIR GARY STEVENS judged that statement to be remarkable. He said, "I've never heard anybody before the State Affairs ask for less money. How wonderful."

SENATOR GUESS stated that she would like to know more about the areas of demand so that those areas could be targeted since the efficacy of the program is documented. She asked Ms. Ware to provide that information at some point.

She questioned where and how the court-imposed fines are currently allocated and what might and might not be funded in the future.

MS. WARE confessed that she wasn't the best person to answer that question, but she did know that the money goes into the general fund.

SENATOR GUESS remarked that in some ways the fiscal note is zero because the money is rerouted rather than new.

CHAIR GARY STEVENS understood how money in the adult system is spent, but he wasn't sure whether anyone is paid in the youth-court system.

MS. WARE stated that youth courts are a great bang for the buck because students and attorneys donate their time. Sometimes they

have to pay rent and some of the larger youth courts pay for a portion of the salary for an executive director or program coordinator, but volunteers do most of the work.

Juveniles are referred to youth court from the Division of Juvenile Justice where the initial screening and intake is done. Whenever appropriate the cases are referred to the non-profit agency that runs the youth court. She referred to a data sheet and stated that, "The amount of match for what they actually get in grants is striking. In FY04 youth courts across the state received \$270,000 with community panels and youth court matching funds of \$490,000 in cash, \$370,000 in in-kind services for a total of \$1.13 million." In addition to that, youth courts also provide many community work-service hours and restitution.

To document that the Division of Juvenile Justice relies heavily on youth courts she pointed out that in the last fiscal year they handled 14 percent of the referrals made to the division.

SENATOR HOFFMAN asked if she had a list of where the youth courts are located.

MS. WARE named: Anchorage, Mat-Su, Delta Junction, Juneau, Kenai/Homer, Kodiak, Nome, Fairbanks, Ketchikan, Valdez, Wrangell, and Kake.

SENATOR HOFFMAN noted there is no youth court in Bethel.

MS. WARE told him the division awarded a grant for a youth court in Bethel, but the non-profit provider that accepted the grant didn't get the program started. This grant cycle they have been working with the Yukon Kuskokwim Health Corporation to refinance children's services to qualify for 100 percent federal Medicaid so the division won't be working with Bethel this fiscal year, but they hope to do so in the future.

SENATOR STEDMAN made a motion to amend as follows: Page 1, line 9 insert, "up to" before "25 percent".

There was no objection and the amendment was adopted.

CHAIR GARY STEVENS opened public testimony.

WHITNEY CUSHING JR. testified via teleconference from Homer in support of SB 292. As the President of the United Youth Courts of Alaska he asserted that, other than the Alaska Legislature, no group has "a greater commitment to community and value of

service." They provide a valuable service across the state, are very cost effective, and have remarkably reduced the recidivism rate.

TAPE 04-18, SIDE B

3:20 pm

DIANE IVY-DAHLIN testified via teleconference from Wrangell. She is the youth court coordinator in the community and requested funding support for statewide youth court programs. "The Wrangell Youth Court Program has become one of our communities fastest growing youth led diversionary programs." In the last three years, first-time-offender juvenile crime rates have decreased by more than 30 percent and youth membership has more than quadrupled. These programs have proven to be a success in Alaska and nationwide. She encouraged members to ensure that there is a youth court program in each of their communities and "to listen to what these future leaders have to offer."

SENATOR STEDMAN thanked Ms. Ivy-Dahlin for her work and suggested that Senator Hoffman was probably listening carefully to the successful report from Wrangell.

ALEHANDRA CHAVARRIA testified via teleconference from Ketchikan to say that he has been involved in the local youth court for the last three years. He reported that the Ketchikan Youth Court has very effectively provided restorative justice sentencing to more than 100 youths in the community. They have provided over 8,000 hours of service to various organizations in the community.

SENATOR STEDMAN thanked the young citizens from Ketchikan who took time to testify.

TIMOTHY A. LOWER testified via teleconference as the interim director of the Sitka Youth Court, a volunteer position that he is proud to hold. He reported that, "both the victims and the offenders who have participated in the restorative justice activities have consistently expressed satisfaction with the outcomes of their cases." When the program was active between November 1999 and March 2003, no one that completed the Sitka program re-offended. They estimate that recidivism is now up to about 3 percent, but that is still remarkably low. Because of a lack of stable long-term funding, the program was moved among a variety of non-profits and is now inactive.

"SB 292 presents a hope for a different future for Alaskan youth courts. It offers an opportunity for volunteers and staff members of these other courts in our state to continue to pursue community healing." He urged members to support the bill.

SENATOR STEDMAN asked how many active volunteers participated in the Sitka Youth Court.

MR. LOWER thought they had about 12 active members at any given time. Now they have two youths who are involved to the extent possible since the court is inactive.

JESSE KINSLAND testified via teleconference from Mat-Su. He stated that he has been with the program for three years and has benefited personally. Currently he is the ethics secretary and one of his jobs is to review defendant's surveys. He has found that defendants are generally appreciative of the program and of particular benefit is the fact that after successfully completing the program the defendant has no criminal record.

There was no further public testimony.

CHAIR GARY STEVENS noted that the amended bill was before the committee. There were no further questions or comments and he asked for a motion.

SENATOR GUESS made a motion to move CSSB 292(STA) with attached fiscal note. There being no objection, it was so ordered.

CSHB 414(JUD)-U.S.SENATE VACANCY/DEF OF POLITICAL PARTY

CHAIR GARY STEVENS announced CSHB 414(JUD) to be up for consideration and asked Representative McGuire's aide to identify himself.

HEATH HILYARD, staff to Representative Lesil McGuire, sponsor, advised that the bill does two things. First, it addresses the process for filling U.S. Senate vacancies in Alaska statute. The 22nd Legislature changed the policy to allow the governor to make an appointment to fill a vacancy instead of holding a special election, as was previously the case. HB 414 makes the policy change again to redress the issues that were brought up including the concern about legislative intent regarding circumventing the initiative process. The sponsor, on behalf of the House Judiciary Committee, wants to go on record to refute the allegation. HB 414 ensures that the people have the ability to fill these vacancies through a special election.

Second, the bill addresses the definition of political parties. Currently political parties are recognized after receiving three percent of the total vote in a gubernatorial election. The version of the bill under consideration changes that to include congressional elections as well.

He further explained that sections 6 through 8 are housekeeping sections with regard to inserting "United States senator" in the language and enumerating the process by which special elections are conducted.

CHAIR GARY STEVENS asked for verification that there is already a process for filling a vacancy for a U.S. representative and this addresses U.S. senate vacancies in the same manner

MR. HILYARD agreed.

SENATOR JOHN COWDERY thought he heard that the governor would still have the authority to temporarily appoint a replacement.

MR. HILYARD pointed to section 3, AS 15.40.145, which specifically states that, "the governor may, at least five days after the date of the vacancy but within 30 days after the date of the vacancy," make a temporary appointment.

SENATOR COWDERY asked, "What's the limit on the days left to require an election?"

MR. HILYARD read section 2 of the bill and interpreted it to mean that there would be no more than a 90-day gap.

SENATOR HOFFMAN asked what happens if the people like the current system and they want the governor to make the decision because it's more cost effective and quicker. He opined that this legislation circumvents the people that like the system.

MR. HILYARD replied this is in response to the Trust the People Initiative and would change the system back to what it was. If Alaskan voters agree with the current system, they can vote no on the ballot initiative.

SENATOR HOFFMAN said his point is that if this passes there won't be a ballot.

MR. HILYARD said this legislation was introduced in response to voters that signed a ballot initiative. Although he understood

the point, he said they haven't received much public response in support of the current system.

SENATOR HOFFMAN insisted that the people should be able to decide whether they like the current system in which the governor makes the appointment versus spending time and money on a special election. "If we proceed with this bill we'll never find out."

SENATOR GRETCHEN GUESS agreed with Senator Hoffman's point that the bill is circumventing the public. She argued that everyone that signed the petition didn't do so because they want a change. Some people in her district want to vote to keep the process the same.

With regard to Senator Cowdery's question, she said that she read the statute and she understands that if a vacancy happens on May 1 there would be a special election, a primary election, and a general election. "If it's 90 days within the primary, it's the primary. If it's 90 days within the general, it's the general." She asked for verification that if vacancies occur in the late fall then there would be three elections. "As you know, it's hard enough to get people to the primary let alone the general." She asked if they've discussed that at all.

MR. HILYARD said he didn't have a copy of the existing statute with him, but he didn't think they'd addressed that particular point. He understood that section 2, which revises AS 12.40.140, would potentially address that point.

SENATOR GUESS said it addresses it if the vacancy occurs within 90 days and the statute addresses it if it's within 90 days of a primary. "But if you're outside of that at all you're going to have ... three elections backed up in a year."

SENATOR COWDERY chimed in to say you're not elected in a primary you're just a candidate.

SENATOR GUESS replied, "Under the current statute if the vacancy occurs within 90 days of the primary, then the primary would be the special election."

SENATOR COWDERY was still unclear.

MR. HILYARD admitted he hadn't reviewed the provision closely enough to be able to answer definitively.

CHAIR GARY STEVENS was comfortable with Senator Guess's interpretation. "It's pretty clear that there would be multiple elections."

SENATOR GUESS asked if the person that's appointed could run for the office in the special election.

MR. HILYARD asked Senator Guess to bear with him a moment.

CHAIR GARY STEVENS commented that he saw nothing that would preclude...

MR. HILYARD interrupted to say, "I was going to come to the same conclusion. I don't see anything that specifically precludes that."

SENATOR GUESS asked if House Judiciary made that conscious decision because it's an interesting catch-22. The appointed individual could then run as an incumbent after as few as 60 days in office.

MR. HILYARD said he didn't remember that specific issue being a topic of discussion at that particular hearing. He couldn't say whether it was discussed at any other time. "So I would say, my guess would be, no it was not a conscious decision to exclude that or to exclude that language that you're discussing."

SENATOR GUESS said she would appreciate a response on that point from the sponsor and the committee. "It can definitely be used to gain the system in a way that I don't think the public necessarily wants."

MR. HILYARD agreed to look back at the committee record to try to determine whether or not that point was addressed or any concern expressed.

SENATOR GUESS noted that the statute still uses mail, delivery or telegram as the options for nominating and communicating. In fact, "At this point, no one could put themselves into this race by fax. That's the point that I'm making." Since some of the sections were housekeeping measures, she suggested it might be appropriate to clean up that sort of language.

MR. HILYARD felt confident that that might have been an oversight on the part of House State Affairs and House Judiciary Committees.

SENATOR GUESS referred to page 2, line 7 and asked whether the term qualified goes back to constitutionally qualified because she saw nothing in statute on qualifications.

MR. HILYARD was fairly certain that refers to age and residency requirements.

SENATOR GUESS suggested making that clarification.

MR. HILYARD remarked that inserting "constitutionally" before "qualified" might work.

SENATOR GUESS wondered why AS 15.40.075 was being repealed because the rest of the sections made sense. She acknowledged that she was the only member with the statute book and explained that the section refers to, "how someone declares in a prevailing time and some of the specifics that are going on." She asked Mr. Hilyard to get back to her on that point.

MR. HILYARD conceded he didn't know why that was included, but he thought it was from the drafters.

SENATOR GUESS said she knew the answer to the following but, "Although I see the legislative intent, I want to get it on the record that if this bill passes, and [indisc.] it's substantially similar so the initiative is pulled off the ballot, there is nothing that is stopping the legislative body from passing this next November. It just takes three days to pass a bill if people wanted to do that. And if the initiative goes through it would be two years before a statute change. Am I correct?"

MR. HILYARD said that is correct. One Legislature can't bind another so even though that's in the intent language they can't provide for that statutorily.

SENATOR GUESS stated for the record that her biggest concern is that this might develop the same way the initiative to increase and inflation proof the minimum wage did. The Legislature passed a bill similar to the initiative and then removed the inflation proofing the following session. "I think it's that type of gerrymandering, and I use that in the broad sense, that really gets the public not trusting us as legislators."

CHAIR GARY STEVENS noted that he was aware that the newspapers wrote about the Legislature repealing the inflation proofing the

next year. He asked Mr. Hilyard to verify that the sponsors of HB 414 said that that was not their intention.

MR. HILYARD replied that is correct. That isn't the intent and Representative McGuire has made it clear that any effort to make that change would be, "over her dead body."

SENATOR GUESS said thanks for the clarification and she trusts Representative McGuire at her word, but she heard the same argument from the sponsors on the minimum wage bill and it happened anyway. "And there wasn't a vote to try to leverage that support or even find out where people were with inflation-proofing and now it's gone."

DON ROBERTS JR. testified via teleconference from Kodiak to say that he took issue with the definition of political party saying, "I don't think a vote for a particular candidate should be deemed support for a particular party. And I don't think a person should be put in a dilemma of voting for a particular candidate by supporting their party. I think it stifles political discourse and it results in a mindless 'vote for me' approach to campaigning that the people have to suffer through each election cycle."

MR. HILYARD pointed out that page 4, lines 11-13 is part of the definition of "political party" and removing it would be "a substantial change in policy and one that was not necessarily our intent to completely eliminate."

SENATOR GUESS said Mr. Roberts made a good point. She understood why the definition is being expanded, but she joined him in asking why have [the definition] at all.

MR. HILYARD explained that recognizing a particular party by tying the votes an individual candidate receives has a long-standing policy. He wasn't sure why that definition was used, but "this expands it to give parties more opportunity to be recognized, thus a greater opportunity to participate in the political process."

SENATOR GUESS asked if he knew the gubernatorial election in which this began.

MR. HILYARD said he didn't have that information.

There was no further public testimony.

CHAIR GARY STEVENS thanked Mr. Roberts for bringing the issue to light then asked if there were further comments or questions.

SENATOR GUESS made a motion to adopt a state affairs indeterminate fiscal note. "I think we've talked about the multiple elections you could have in a year. I'm not sure why this bill has a zero fiscal note on it; it's really indeterminate. We don't know the cost to the state of this bill. We keep having multiple fiscal notes that say zero and it really isn't there, it's indeterminate. So I will move that at this time."

CHAIR GARY STEVENS asked her to restate her motion.

SENATOR GUESS said she was moving a state affairs indeterminate fiscal note on to HB 414.

CHAIR GARY STEVENS asked if there was any discussion and there was none.

SENATOR HOFFMAN noted the bill says it has no fiscal impact on the Division of Elections, but he assured members that a special election would cost money and the department should know what the cost would be. "At least, at a minimum, we have to have an indeterminate fiscal note."

SENATOR COWDERY said, "That's assuming there is an election..." but there's no assurance there would be an election.

CHAIR GARY STEVENS made the point that if the election were to take place at the same time as a primary or general election, then it would be difficult to separate the individual costs.

SENATOR COWDERY added, "I don't even know how you come up with the fact that you're even going to have an election."

SENATOR GUESS remarked that the previous discussion substantiates why the fiscal note should be indeterminate. "You don't know one way or another ... and that's an okay thing, but I think it needs to be reflected in this bill."

CHAIR GARY STEVENS restated the motion and called for a roll call vote.

The motion to adopt the indeterminate fiscal note failed 2 to 3 with Senators Hoffman and Guess voting yea and Senators Cowdery, Stedman and Chair Gary Stevens voting nay.

CHAIR GARY STEVENS asked if there was further discussion.

SENATOR GUESS asked if the committee was going to clean up the bill.

CHAIR GARY STEVENS announced that he would prefer that the bill move on to the Judiciary Committee with the issues that were brought up. He asked for a motion.

SENATOR COWDERY motioned to move CSHB 414(JUD) to the next committee of referral with individual recommendations and accompanying zero fiscal note.

SENATOR GUESS objected and said she would speak to her objection.

It's a slight disappointment in this committee as the issues that I brought up are all state affairs issues; they're not judicial issues except for maybe the qualified voter, which is a judicial issue. This body should be doing its work and not passing a bill to judiciary, per our Senate President, when there's issues about the appointment and whether or not someone who's appointed can run and some of these other cleanup matters and the fact that some of the statutes might be wrong. So, it's a slow process - besides the fact that it circumvents the public.

SENATOR COWDERY said the sponsor's representative is aware of the questions that were raised and he would provide the answers to the next committee.

MR. HILYARD confirmed that he would do so adding that he would be happy to personally brief Senator Guess.

SENATOR GUESS thanked Mr. Hilyard.

SENATOR HOFFMAN suggested that there wasn't a time crunch and he could see no reason not to hold the bill and work on it. "I didn't understand that we were going to be moving this today," he said.

CHAIR GARY STEVENS stated that he would like to move the bill that day and unless he heard otherwise that's what would happen.

SENATOR HOFFMAN asked if the committee could take a few minutes to amend the bill.

CHAIR GARY STEVENS called an at-ease for a few minutes to discuss amendments.

TAPE 04-19, SIDE A

5:00 pm

CSHB 91(FIN)-RETIRED PEACE OFFICER'S MEDICAL BENEFITS

CHAIR GARY STEVENS reconvened the meeting and announced CSHB 91(FIN) to be up for consideration and recognized Representative Anderson.

REPRESENTATIVE TOM ANDERSON, sponsor of HB 91, reported that HB 91 had undergone a lot of deserved scrutiny in the House Finance Committee

HB 91 is about recruiting and retaining state troopers, firefighters, and correctional officers by providing them with medical coverage at their retirement of 20 years. "No one would disagree that these men and women are risking their lives and their health. ... I think it's really important to differentiate a peace officer versus another occupation because of that health and safety risk."

The bill removes the additional five year requirement for peace officers to receive medical benefits and reestablished parity by allowing the full medical benefit in a normal retirement. He noted that the administration has been working on "a realistic and workable" fiscal note and they are beginning to see the potential in cost savings. Peace officers pay a higher PERS contribution to compensate for their fewer years of required service before normal retirement, he said and that fact should be taken into consideration.

He asked members to note the letters of support and pointed out that Representative Hawker asked for and received written assurance from the Municipality of Anchorage stating that this wouldn't adversely affect their budget. It is relevant, he said, that the bill came out of the House with so many cosponsors.

He observed that Kevin Richie of the Alaska Municipal League was in the audience and would undoubtedly speak against the bill, but to refute his testimony he said, "this is a balance. We're losing men and women to borough, federal, [and] out-of-state jobs. Recruiting is tougher and tougher and this is an incentive

for them. They've certainly put in their time. No one will deny that." He asked the committee to address any state affairs issues and pass the bill on to the Finance Committee where fiscal concerns could be addressed.

SENATOR BERT STEDMAN said he could appreciate the request to pass fiscal concerns along to the Finance Committee and he could understand why there is a lot of interest in the proposed changes. "I think most folks, given the options, would work less and retire with more benefits." This increases cost to the communities in a financially challenging time. He questioned why the bill was coming forward now instead of later when the committee could respond to the funding issue under the PERS system.

REPRESENTATIVE ANDERSON replied the ever-present question is why bring forward a bill that may cause added burden. The answer is because there is a balance here. "It comes down to where we have critical mass and problem and where we don't." The reason he sponsored the bill is because of the difficulty associated with recruitment and retention. Giving this benefit isn't as much about whether these people are deserving; it's more about the necessity of keeping these people applying for and working in these jobs. "We felt it was becoming a detriment not to have better retirement. We wanted to correct back to what the retirement used to be." This is a change that is necessary he insisted.

SENATOR STEDMAN remarked that all the current PERS issues aren't related to rising healthcare costs, but those costs are substantial and this bill would increase the weighting. The inability to accurately predict increasing medical costs is of great concern.

Referring to a letter from the City of Fairbanks, he noted that they oppose this bill because of the increased funding requirement that they are already facing for their retirement package. This is a contractual obligation and therefore is not open for renegotiation. "There is a five percent cap increase on their contributions every year. They were up against the cap last year and are up against the cap this year and will probably be up against the cap again the following year." It's creating a substantial impact on the municipalities' general funds and cutting services is about their only option. Because some would look at this as an unfunded mandate, he asked what suggestions he might have for municipalities.

REPRESENTATIVE ANDERSON replied that is a good question, but the mayor of the largest city in the state is on record saying that they would find ways to comply. He said he would hope that other communities would do the same. The funding debate could go on forever and everyone could pass the buck, but with a partnership it can be done. He wasn't sure what prompted Fairbanks to send the letter as recently as today when the bill has been around for more than a year. The Fairbanks police certainly approve of the bill. He said.

SENATOR COWDERY said he has been involved with police and fire for a long time and he found that dispatchers experience a lot of burnout and he wasn't sure whether they have early retirement now or not.

REPRESENTATIVE ANDERSON thought that Representative Hawker had a bill addressing that issue.

SENATOR COWDERY commented that he thinks they deserve consideration as much as anyone else.

REPRESENTATIVE ANDERSON pointed out that Mike Fox would say that this bill isn't costing any money in the end because the state loses when well-trained officers leave early. If a captain retires after 20 years service and a sergeant comes in as the replacement, there is a pay differential. "It's our belief that it's not as expensive as submitted." He deferred to Mr. Fox to respond to Senator Cowdery's comment.

CHAIR GARY STEVENS opened public testimony and asked Mr. Fox to begin.

MIKE FOX, Public Safety Employees Association employee, gave a 7-minute power point presentation on HB 91.

Analysis: This bill provides medical benefits for peace officers at normal retirement instead of working 5 years beyond normal retirement.

It removes the disincentives for peace officers to take normal retirement and reestablishes parity with all the PERS members.

The Public Employees Retirement System Mission: On January 1, 1961, the Alaska Legislature established the Public Employee Retirement System to attract and

retain qualified people in the public service employment.

Who is, by statute, affected by this bill: Peace officers, firefighters, chiefs of police, regional public safety officers, correctional officers, correctional superintendents, probation officers, fire chiefs.

The 2003 validation report for PERS lists 2,893 active occupation [indisc.] members, but this bill would affect only Tier II and III members.

History of the law:

Tier I: Major medical is provided to all benefit recipients.

Tier II: - In 1986 HB 252 by Representatives Duncan and Miller created Tier II. Major medical is provided at age 60.

Tier III - Created in 2001. Major medical is provided after a 10-year vesting period at age 60 or at normal retirement. Except peace officers must work 5 extra years.

HB 91 deletes the five extra years for peace officers.

The justification for change includes:

- The current law withholds benefits from peace officer members of PERS unless an extra 5 years is worked.
- It undermines the intent of peace officers' own retirement.
- It inhibits recruitment and retention.
- It causes inequality among PERS members.

Fiscal Note 2: Approximately \$.85 million - half from general fund money. Employer contribution change across the board is + .12% or .97% if applied to just police/fire payroll. For a person earning \$50,000 per year, the increase in employer contribution would be \$60 per year. \$30 a year would be from the general fund.

The fiscal note did not consider any savings HB 91 would generate in operational costs. It's just one side of the coin.

[Mr. Fox showed a graph showing employer contribution as a percent of salary.] Everyone talks about PERS indebtedness in PERS and this graph shows that in FY90 the contribution was about 12 percent. In FY 94 it was about 17 percent. This year it's at 13.42 percent. This fiscal note would raise this by .12 of 1 percent. So the 13.42 percent would go up to 13.54 percent.

The employee contribution is steady. All other PERS members contribute 6.75 percent while peace officer PERS members contribute 7.5 percent. They pay that extra to compensate for their shorter period of service required for normal retirement - to maintain equality in PERS.

The next graph helps illustrate turnover in corrections and you can see the decline between 0 and 20. Almost 10 percent of the officers have left in one year on the job; another 10 percent have left in two years on the job. There is significant room for improvement in retention of corrections officers.

The next graph shows by year class, the percentage of troopers still working compared to those who have left. You can see a steady decline from year 1 troopers to year 20 troopers. The blank year classes are years where no one was hired.

Improved retention equals savings. Savings in recruiting and training are enjoyed by reducing turnover. Recruiting and trainings costs equal approximately \$104,871 per trooper. Public Safety provided that number.

Problems associated with peace officers working past normal retirement include: Increased health problems, increased risk of injury, higher compensation, lower morale from burnout.

This graph shows that there is very limited opportunity for peace officers to move into administrative positions. The top bar shows corrections officers and you can see there are

over 700 working on the floor of the prisons and there are about 30 administrative officers in the prisons. There's not much room for correction officers to move off the floors of prisons.

In the State Troopers, there are about 330 people that are working as sergeants and troopers, which are patrol or investigative positions. There are about 33 in the administrative positions. Once again you can see that it's very likely for a person to work their entire career either on the floor of the prison or on patrol.

The normal retirement equals savings. Eliminating the current disincentive to take normal retirement will reduce the number of high-cost 20-year officers.

Direct savings: Replacing a 20 year trooper with a 1 year trooper will save approximately \$26,644 per year in base pay and leave. That's the difference between a 1-year guy and a 20-year guy. That is based solely on base pay and leave with no shift differential, no overtime, no geographic differential, and no other consideration - all of which would make that higher.

Replacing a 20-year CO2 with a 1-year CO2 would save approximately \$18,252 per year under the same conditions.

This is in the first year. If they defer retirement for five years, as is the current policy, you just multiply that times five and see if you'll save any money when guys leave at 20 for the 20 and out.

The cost versus savings balance for this bill: If 20 years are not completed there's no benefit change and there's no cost. The bottom line - if a person doesn't work 20 years this bill doesn't affect them. There is no cost. If an officer retires at 20 years instead of deferring the associated savings help balance the cost.

It becomes a policy decision. What do you want to do? Do you want guys to leave at 20 or do you want to keep them after 20? If they leave before 20, there is no cost to you. If your policy is to keep them beyond 20, there is a cost but there is also a savings. It's a policy choice.

In conclusion: Current law undermines the intent of normal retirement of peace officers and it inhibits PERS mission to recruit and retain in public service. HB 91 removes the disincentive for peace officers to take normal retirement and reestablishes parity among all PERS members. It's good for peace officers and it's good policy.

CHAIR GARY STEVENS thanked Mr. Fox and noted there were no questions.

CHARLIE HANSON, Lemon Creek corrections officer, testified in support of HB 91. He has an undergraduate degree in human development and a masters degree in human services, is a Tier I employee and has more than 19 years service.

He recounted the difficulty, danger and stress associated with being a corrections officer. Because inmates are often involved in high-risk behavior, the instances of HIV, and hepatitis A, B, and C are higher than the public population. This puts corrections officers at higher risk and increases the potential need for long-term health care benefits.

He said he was bringing a message sent from the hearts of correctional officers throughout the system. Corrections officers seldom make their 20-year retirement goal. "I've watched over 250 floor staff come and go without reaching that magic time of service within the Lemon Creek Correctional Center alone."

Recently he asked his superintendent to look back over his 27-year career and tell him how many corrections officers he knew of that were able to reach the 20-year mark. "The figure he came up with was four." That has since been increased by one. "The likelihood that a corrections officer will reach the 20-year mark for full retirement is bad enough. Pushing the mark to 25-years for full medical benefits is next to impossible and demeaning to us when we are at risk of serious long-term illness because of our jobs."

"HB 91 will ensure an appropriate retirement package for those of us who make it that far. It isn't cost effective to continually pay to train new people in order to replace those who see that the 25-year goal is unobtainable."

KEVIN RICHIE, Alaska Municipal League, apologized for entering the process so recently and advised that a number of municipalities recently joined to form a PERS committee because of the impact PERS is having. Currently the issue is the five percent increase in salary cost for the retirement program. This is a huge issue for municipalities because in addition to the increased 5 percent to the retirement program, they are losing revenue sharing and have to take on more responsibility such as DOT match.

Prior to this year the average PERS employer contribution was 6.77 percent of salary. The new actuary says that percentage must be increased to about 25 percent of salary for each of the next 20 years for the PERS system to achieve about 90 percent funding. This year it's a \$19-\$20 million cost that municipalities must absorb. Those that have a cap have no other option than to cut services.

Certainly municipalities are very concerned about any increased PERS obligation and would like the opportunity to address the structure of the process. Currently municipalities, school districts, and the University of Alaska fund two-thirds of the PERS/TRS system. Finding a way to increase municipality involvement in the analysis process of cost increases and in the management of the program would be desirable.

According to the fiscal note, this bill would amount to a .97 percent annual cost increase in police salaries. The PERS/TRS Board is currently considering a radical overhaul of the entire system so "looking at the long-term, it's important to put this change in the context of the system could be radically different in a few years for everybody new entering the system."

CHAIR GARY STEVENS summarized that the primary testimony spoke of the impact the bill would have on state troopers, but the last testimony related to city police. He questioned how to put a dollar figure on that and asked Mr. Richie whether he had a fiscal note for local communities.

MR. RICHIE explained that the annual fiscal impact would amount to the total police salaries multiplied times .97 percent.

SENATOR STEDMAN referred to draft fiscal note number 4 and noted that, "using the current Valuation Assumptions, this legislation will increase the PERS accrued liability by \$8 million."

SENATOR COWDERY asked how many police in Anchorage are Tier I employees.

MR. RICHIE said he didn't have that information.

SENATOR COWDERY said, "We all agree they're not all in PERS, right?"

MR. RICHIE was unable to provide an answer.

SENATOR COWDERY said, "I believe some are in PERS - some of the later hires, but the early hires I don't believe are. I think they have their own."

There were no further questions or comments for Mr. Richie.

MELANIE MILLHORN, director of the Division of Retirement & Benefits, said she would address her comments to draft fiscal note number 4. She agreed with Representative Anderson that the division has met with PSEA and that they are looking at the suggested savings, but at present they are unable to quantify the savings. Therefore fiscal note number 4 is the one that Mercer Human Resources Consulting (Mercer) worked on and those are the calculations she would address.

With regard to the concern about turnover rate, she said they are comfortable with the information Mercer provided from a 1997 through 1999 report showing a 3 percent turnover rate. "So we don't have anything we can use to look at a higher turnover rate. So the amount that would cost is correct according to Senator Stedman. That is an \$8 million and it would be 197 percent for police and firefighter payroll for the next 25 years." That is calculated by looking at the population that would be impacted and according to the evaluation report of June 30, 2002 there are 2,695 police and firefighter classifications for PERS. For that same evaluation period, the number of Tier II and Tier III members was 1,961. "Those are the members who would derive benefit from this piece of legislation."

When Mercer looks at retirement rates and applies actuarial assumptions, they project that of the 1,961 potential beneficiaries there would be 411 that would anti-select. "Anti-

select is an insurance term meaning that those parties who derive benefit would make that selection."

CHAIR GARY STEVENS apologized for interrupting, but he wanted to know if the data included municipal employees.

MS. MILLHORN replied all PERS employees were included.

SENATOR COWDERY chimed in to ask if he was correct that not all police and fire are in PERS.

MS. MILLHORN said it is her understanding that there is a different municipal retirement program for some employees.

Continuing her testimony, she repeated that Mercer calculated that 411 employees would benefit from this legislation, which represents about 25 percent of the 1,961 who would be eligible. "For the State of Alaska, the amount we would pay for this legislation would be \$856,000 annually." The evaluation report of June 30, 2002 shows that PERS is at a 75 percent funding ratio. This means that if all the assets and liabilities were calculated and everything that was due on that date was in fact paid, there would be a 25 percent shortfall.

PERS hasn't been in this funding circumstance for about 20 years she warned. There are two primary drivers that account for this situation. First, healthcare costs represent about 30 percent of the total PERS costs, which is significant. The second driver is the investment earnings.

CHAIR GARY STEVENS asked whether the annual \$856,000 cost included municipal costs.

MS. MILLHORN replied municipal costs are separate. So the annual cost to the Municipality of Anchorage would be \$246,000, she said.

CHAIR GARY STEVENS noted that there would be a number of other municipalities that would be added to the list if there were a thorough analysis.

MS. MILLHORN said yes and there are a total of 161 PERS employers.

There were no further questions for Ms. Millhorn.

MAURICE HUGHES testified via teleconference from Kodiak to say that he has been an Alaska State Trooper for 14 years and he was speaking for the 330 state troopers and the other police officers that are in PERS. The message he wanted to impart was that, "The policy intending to influence police officers to work beyond their normal retirement by withholding a retirement is wrong." Burnout is a serious issue in this field and young officers find it demoralizing to have to work the five extra years.

TAPE 04-19, SIDE B

5:45 pm

LARRY SEMMENS testified via teleconference as finance director for the City of Kenai in opposition to HB 91. He advised that he faxed opposing resolution 2003-04 from the Alaska Government Finance Offices Association. The resolution was dated April 18, 2003, "so although some people were not aware of this, the finance officers were and we registered our opposition at that time."

MR. SEMMENS reported that he also sent his written testimony to the committee and he wanted to read it into the record as well. [A full copy may be found in the bill file.] The primary reason for his opposition is because the PERS system is already in trouble and this legislation would cost money. "For Kenai, the unfunded actuarial accrued liability is \$7.4 million - almost a whole year's general fund budget." He noted that employers have alternatives to increasing retirement benefits if they are having difficulty attracting and retaining qualified applicants. Raising wages is one such option and individual municipalities could even choose to pay health benefits after 20-years of service. That makes it a local control issue and not an unfunded mandate.

CHAIR GARY STEVENS told Mr. Semmens that he received the resolution and letter some time ago.

He noted that it was after 6:00 pm and he would hold the bill for future consideration and the committee would return to HB 414.

SENATOR GUESS stated that the bill was straightforward and you should know where you stand on the issue so she could see no reason why the committee shouldn't move the bill. She was ready to make a motion.

CHAIR GARY STEVENS said he would accept the motion if she wanted to move HB 91.

SENATOR HOFFMAN commented that the Senate President spoke of working cooperatively, but he had seen no cooperation that day.

CHAIR GARY STEVENS said, "Well I'm certainly going to accept that motion if you want to make it Senator Guess." After a pause he asked, "Senator Guess, if you'll make a motion fine, if not well go..."

SENATOR GUESS replied, "Oh I'm sorry I didn't - I'm a little confused at where you're running your meeting. I was trying to find my notes on the amendment of the earlier stuff."

CHAIR GARY STEVENS said, "I'm ready to move on to the other bill, but if you'd want to make a motion on HB 91 we would accept it."

SENATOR GUESS replied, "You're doing a very good job of putting me between failing this bill so it stops and putting you guys on record against police officers. So with that, we'll go to 414. If the sponsor left, I will confer with him."

CHAIR GARY STEVENS announced he would hold HB 91 for further study.

HB 414-U.S.SENATE VACANCY/DEF OF POLITICAL PARTY

CHAIR GARY STEVENS announced that the committee would return to HB 414.

SENATOR GUESS stated that, "In a futile attempt to actually make a good bill - even though it seems that all you guys want to do is take this off the ballot - I move to delete page 3, line 31 to page 4, line 10.

CHAIR GARY STEVENS asked her to repeat.

SENATOR GUESS restated her amendment.

CHAIR GARY STEVENS stated that the motion was before the committee and he would like Mr. Hilyard to respond.

HEATH HILYARD reintroduced himself and said that the sponsor would not object to that amendment. He noted that SB 356, a

comprehensive election reform bill, had similar language, but for HB 414 they had no objection to the removal.

CHAIR GARY STEVENS asked him to tell the committee exactly...

SENATOR COWDERY interrupted to say that he didn't write down the lines.

SENATOR GUESS asked if he wanted her to say what the amendment would do.

SENATOR COWDERY said no, just repeat so he could read it.

SENATOR GUESS repeated, "page 3, line 31 to page 4, line 10."

CHAIR GARY STEVENS asked her to explain the amendment.

SENATOR GUESS explained that it takes away the 3 percent requirement for a political party to be recognized. "As you know, in Alaska 65 percent are registered non-party. People vote for the person not the party."

CHAIR GARY STEVENS stated that he was speaking for the amendment and he believes it's a good idea.

CHAIR GARY STEVENS called for a roll call vote. The amendment passed 4 to 0 with Senators Guess, Stedman, Cowdery and Chair Gary Stevens voting yea.

CHAIR GARY STEVENS asked if there were further amendments.

SENATOR GUESS remarked that in the short amount of time she had to make the amendment she would trust the sponsor to work on clean-up language. Because she thought it was an appropriate state affairs issue, she would make a conceptual amendment.

She made a motion to adopt conceptual amendment 1, "which is that the temporary appointment may not run for the vacancy."

SENATOR STEDMAN asked for her reasoning.

SENATOR GUESS noted that she was pleased that the sponsor was present because there was similar discussion in the House. She explained that she is worried that the temporary appointee has an incumbency advantage. She thought that was at odds with the intent, which is to make a clean process that is separate from an appointment.

SENATOR COWDERY commented that all sitting legislators are incumbents and two of the committee members were appointees. He simply didn't like the amendment.

CHAIR GARY STEVENS recognized the sponsor.

REPRESENTATIVE McGUIRE told Senator Guess that she understood her reasoning, but it wasn't her intent that the process would be manipulated to that extent. She said she was uncomfortable placing that restriction and if the appointee is the person the people want to elect in the special election, then she wants the people's will to be exacted. She opposed the conceptual amendment.

CHAIR GARY STEVENS asked Senator Guess if she had any comments.

SENATOR GUESS said it was a philosophical difference and there are good arguments on both sides. Her view is that the appointee would know from the beginning that they were filling a temporary roll.

SENATOR COWDERY said his view is that would be taking away a citizen's right if that stipulation were made for appointments.

CHAIR GARY STEVENS recapped that the amendment before the committee says that a temporary appointee could not run for that office in the special election. He asked for a roll call vote.

The amendment failed 1 to 3 with Senator Guess voting yea and Senators Cowdery, Stedman and Chair Gary Stevens voting nay.

CHAIR GARY STEVENS asked Senator Guess if there were other issues she wanted to address.

SENATOR GUESS replied there were, but she would work with the sponsor on some clean up.

SENATOR STEDMAN asked Senator Guess to get back to the members regarding any clean up language they might agree to.

SENATOR GUESS said she would do so and asked if she could use the services of the Senate State Affairs Committee to order a CS that would reflect the clean up language.

CHAIR GARY STEVENS said, "Okay and before us then a motion on the CS for HB 414(JUD) as amended."

SENATOR COWDERY asked for verification that there was one amendment.

SENATOR GUESS said that was correct.

SENATOR COWDERY said I move...

SENATOR GUESS called a point of order stating, "I think you need to remove your last motion because we made amendments and we had a motion on the table. So then Senator Cowdery can make the new motion. You have a motion on the table to move, correct?"

CHAIR GARY STEVENS questioned, "Do we have a motion on the table to move it?"

SENATOR COWDERY told Senator Guess he missed her point.

SENATOR GUESS said, "I think you just need to remove your previous amendment to move and re..."

CHAIR GARY STEVENS said, "Because if we remove the previous motion then now we're going to deal with the motion as amended. Okay if you would do that Senator."

SENATOR COWDERY said, "I'll remove my object."

CHAIR GARY STEVENS said he was ready for a motion.

SENATOR COWDERY made a motion to move CSHB 414(JUD) as amended forward with individual recommendations and the accompanying fiscal note.

SENATOR GUESS objected.

CHAIR GARY STEVENS called for a roll call vote. The motion passed 3 to 1 with Senators Cowdery, Stedman and Chair Gary Stevens voting yea and Senator Guess voting nay.

SCS CSHB 414(STA) moved from committee and the meeting was adjourned at 6:15 pm.