

HOUSE FINANCE COMMITTEE  
April 29, 2019  
1:30 p.m.

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CALL TO ORDER

Co-Chair Wilson called the House Finance Committee meeting to order at 1:30 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair  
Representative Tammie Wilson, Co-Chair  
Representative Jennifer Johnston, Vice-Chair  
Representative Dan Ortiz, Vice-Chair  
Representative Ben Carpenter  
Representative Andy Josephson  
Representative Gary Knopp  
Representative Bart LeBon  
Representative Kelly Merrick  
Representative Colleen Sullivan-Leonard  
Representative Cathy Tilton

MEMBERS ABSENT

None

ALSO PRESENT

John Skidmore, Director, Criminal Division, Department of Law; Representative Zack Fields, Bill Sponsor; Janet Henderson, Self, Juneau; Representative Johnathan Kreiss-Tompkins, Bill Sponsor; Kevin McGowan, Staff, Representative Jonathan Kreiss-Tompkins; David Teal, Director, Legislative Finance Division; Representative Laddie Shaw, Bill Sponsor; Representative Steve Thompson.

PRESENT VIA TELECONFERENCE

Margie Beedle, Self, Juneau; Brad Rider, Self, Juneau; Fred Koken, Self, Juneau; Aves Thompson, Self, Anchorage; Sharon Long, Self, Anchorage; William Harrington, Self, Anchorage; Rocky Plotnick, Self, Anchorage; George Paul, Self,

Wasilla; Angela Rodell, Executive Director, Alaska Permanent Fund Corporation.

SUMMARY

HB 20 SEXUAL ASSAULT EXAMINATION KITS

HB 20 was HEARD and HELD in committee for further consideration.

HB 31 APPROP: EARNINGS RESERVE TO PERM FUND

HB 31 was HEARD and HELD in committee for further consideration.

HB 96 PIONEERS' HOME AND VETERANS' HOME RATES

HB 96 was HEARD and HELD in committee for further consideration.

PRESENTATION: A LOOK-BACK IN CRIMINAL JUSTICE REFORM

#hb20

HOUSE BILL NO. 20

"An Act requiring law enforcement agencies to send sexual assault examination kits for testing within six months after collection; and providing for an effective date."

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Co-Chair Wilson asked if anyone had a question on the fiscal note regarding 9 new employees within the Department of Law. There were no questions from members.

^PRESENTATION: A LOOK-BACK IN CRIMINAL JUSTICE REFORM

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JOHN SKIDMORE, DIRECTOR, CRIMINAL DIVISION, DEPARTMENT OF LAW, introduced the PowerPoint presentation: "A Look-back in Criminal Justice Reform." He had been asked to provide a review of criminal justice reform. He began with slide 2: Goals of Reform." He relayed that the quote on the slide was from the Alaska Criminal Justice Committee's 2015

annual report, dated February 1, 2016. He read from the slide:

"Local legislative interest in these efforts were heightened by reports that the Alaska prison population was up 27 percent over the last decade, growing at a rate of 3 percent a year, and that recidivism remained high with nearly two out of three offenders returning to prison or jail within three years. Absent further reforms, it was projected that the number of persons incarcerated would soon exceed current hard-bed capacity."

Mr. Skidmore indicated that the two goals of reform were to reduce Alaska's prison population and recidivism. There might have been some additional goals, but he mentioned the primary goals of the Criminal Justice Committee when they began. He wanted to take a look at the state's prison population to recall what the committee was reviewing at the time.

Mr. Skidmore continued to slide 3: "Projected Prison Population." He drew attention to the lower left-hand corner which was dated 2016 and copyrighted by The Pew Charitable Trusts. It was a slide the organization put together during the time SB 91 [Legislation passed in 2016 regarding criminal law and procedure and corrections) was being debated. The slide was frequently displayed that discussed Alaska's prison populations. He noted the historical line moving from actual to projected as of July 1, 2016. The trend line continued up during the period between July 1, 2014 through July 1, 2016. He highlighted the projected area and the line [in grey] which went up absent further reform. He suggested that with reform, the dotted blue line indicating the prison population would decline dramatically over the following 2 years from July 1, 2017 [2016] through July 1, 2018. He clarified that the state had been told that absent prison reform the prison population would increase. The following slide showed the actual prison population during the same period.

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Mr. Skidmore discussed slide 4: "Actual Prison Population." The slide reflected the actual prison population in 2018. He relayed that the source of the data came from the Alaska Criminal Justice Commission's 2018 annual report. In

general, there was a rise in prison population from 2010 to 2014. He highlighted that as of 2014 up to the time of implementation of SB 91 in mid 2016 there was a downward rather than an upward trend as projected. He reminded members that the previous slide was copywritten in 2016. He did not know why there was a difference in the numbers. One of the slides was from The Pew Charitable Trusts and the other was from the Alaska Justice Commission. He was merely pointing out what each reflected. The Department of Corrections provided the information for slide 4. Supposedly, according to The Pew Charitable Trust, the Department of Corrections provided the information for slide 3 as well. He concluded that the slide dramatically showed that the prison population was going down rather than up before the state had criminal justice reform.

Mr. Skidmore drew attention to when SB 91 was implemented in the middle of 2016. He referred back to slide 3 which reflected the implementation of SB 91. He noted the drop which would take about a year to kick in. One year later, the drop that was predicted did not materialize. He indicated there was a slight decrease before the line trended up and swept back down slightly. He made a personal comment about him and his wife making lasagna together. He compared the layers of lasagna to the reform details. He would discuss what some of the reforms were that were supposed to bring the numbers down.

Mr. Skidmore continued that after SB 91 was implemented there should have been a decrease in the line for sentencing, not property and drug offenses. He reported that every sentence was reduced, aside from those related to sex offences. The state had decriminalized the crime of driving with a suspended license which equaled 17 percent of the state's misdemeanor case load and carried mandatory minimums. Previously, the state had filed about 2500 cases which dropped to less than 500 cases per year with the implementation of SB 91. The legislation stipulated that for anyone awaiting sentencing, their sentence would be reduced. Drug crimes were dramatically changed in SB 91. Possession went from a Class C felony to a Class A misdemeanor. Not only did a drug possession move to a Class A misdemeanor, the first 2 offences came with zero jail time. Felony drug prosecutions had dropped prior to and after SB 91 resulting in a drop of filed cases by over 700 per year. Misdemeanors also went down. In 2017, the reforms related to probation and parole took effect. The

legislation expanded the people that were eligible for discretionary parole. It was mandated that everyone that became eligible had a hearing. The presumptions were changed making it easier to be released on discretionary parole. In addition, a cap was placed on the type of sentences that were imposed for a violation of probation or parole. For example, a technical violation was currently capped at 3,5, or 10 days. All of the different reforms were supposed to make the prison population decrease. He indicated that slide 4 showed the actual prison population trend.

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Vice-Chair Johnston asked about the misdemeanor drop in numbers and the timeframe relating to the implementation of SB 91. Mr. Skidmore responded that SB 91 passed in July 2016. He believed an immediate effective date applied to the sentencing. He reported that the other phases of the bill (probation and parole and pretrial) applied in 2017 and 2018. The sentencing and classifications happened almost immediately after the passage of SB 91 with an effective date of July 1, 2016.

Vice-Chair Johnston noted the prison population increasing in 2013 and 2014 and decreasing slightly in 2015. She asked if it was accurate to say that the state's recession and drug crisis started in 2015. Mr. Skidmore responded that he could not speak to a recession. However, he reported that the opioid crisis started in 2014 or 2015.

Vice-Chair Johnston suggested that with the passage of SB 91, the state began treating some aspects of the opioid problem differently - the state lowered the penalties for drug possession. Mr. Skidmore responded that the sentencing was reduced and that no jail time was required for the first 2 offences. Vice-Chair Johnston was correct.

Vice-Chair Johnston wondered, taking into consideration the recession and the opioid problem, whether the prison population numbers would have looked different had SB 91 not passed. Mr. Skidmore responded that he could not speak to her scenario. He was before the committee to report what had been projected to happen and what actually happened. He only knew that prior to SB 91 the prisoner population was going down. He could not answer her question.

Representative Knopp thought it would be interesting to have a comparison graph from the Department of Public Safety (DPS) regarding arrests within the same timeframe.

Co-Chair Wilson indicated she would request the comparison from DPS. She queried whether something else was occurring, such as additional treatment availability, that would explain the downturn. She wondered if there was a way to look at the years from 2014-2016 to see if anything had changed that would account for the decrease.

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Mr. Skidmore did not have a precise answer. He told of having a number of conversations during the timeframe with the Commissioner for Department of Corrections (DOC), Ron Taylor, who was trying to implement several changes within the department at the time. However, he did not know if the changes were the cause for the drop. He offered that because of what the committee was currently looking at, it would be appropriate to look to DOC for some answers. He could not recall any other major legislation having to do with the criminal justice system from 2014 to 2016. He mentioned SB 64 [Legislation passed in 2014 Short Title: Omnibus Crime/Corrections/Recidivism] that had passed a year prior that proposed significant changes, but no significant changes were made until the implementation of SB 91.

Co-Chair Wilson commented that she had heard many people had been arrested but charges had not been brought forward.

Representative Knopp suggested that the numbers be broken down by crime type when Co-Chair Wilson made her request to DOC. He asked Mr. Skidmore whether the changes and fixes in SB 54 and SB 55 were reflected in the chart. Mr. Skidmore replied that SB 54 was reflected on the chart in the last quarter of 2017. He recalled that SB 54 was enacted after the special session that occurred in October 2017. The count provided by the Criminal Justice Commission in the 2018 report ended about the time 2018 began.

Representative Carpenter suggested Mr. Skidmore jump forward several slides to address Representative Knopp's question. Mr. Skidmore indicated that crime rates would be addressed further later in the presentation. He wanted to

cover a couple of additional items prior to looking at crime rates.

Mr. Skidmore scrolled to slide 5: Goal: Reduce Recidivism." The second goal of the Alaska Criminal Justice Commission was to reduce the recidivism rate in Alaska. He read directly from the slide:

"The state's growing prison population and increased corrections spending, however, had not produced commensurate improvements in public safety outcomes: nearly two out of every three people released from Alaska prisons returned within three years."

Mr. Skidmore summarized that Alaska had a problem with recidivism, and it was not getting any better. During the criminal justice reform debate for SB 91 Alaska's recidivism rate was one of the worst rates in the country. It was suggested that the state could do better with criminal justice reform. The recidivism rate had gone unchanged for decades, and without enacting reforms it was thought the recidivism rate could not go down.

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Mr. Skidmore advanced to slide 6: Recidivism: National Perspective." The special report referred to on the slide came from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. He relayed that it was a special report that followed up on a look at recidivism nationwide that had been conducted for about 9 years. He indicated that 2014 was the last year in which people were tracked, but the report was not released until May 2018.

Mr. Skidmore continued to slide 7: "States included in the BJS recidivism study of prisoners released in 2005." The report looked at 30 different states in which prisoners were released in 2005 and followed for 9 years. Alaska was one of the 30 states that were followed. He wanted to draw the members attention to Alaska, Utah, Oregon, Texas, Georgia, North Carolina, and South Dakota. He highlighted these states because in looking at the Alaska Criminal Justice Commission's report (Justice Reinvestment, published in December 2015) on page 5 it indicated that there were many other states that had adopted policies to reign in the size and cost of their corrections spending

through justice reinvestment strategy. They named a number of states that Alaska should look at and model itself after including Georgia, Mississippi, North Carolina, South Dakota, Texas, and Utah. He noted that many of the states mentioned were also involved in the national recidivism study. It was a significant point which he would return to later in his presentation.

Mr. Skidmore explained slide 8: "What is Recidivism." He mentioned the importance of having a common definition of recidivism so that the same thing was being measured. He read the list:

#### Measuring recidivism

Recidivism measures require three characteristics:

- a starting event, such as a release from prison;
- a measure of failure following the starting event, such as a subsequent arrest, conviction, or return to prison;
- an observation or follow-up period that generally extends from the date of the starting event to a predefined end date (e.g., 6 months, 1 year, 3 years, 5 years, or 9 years).

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Mr. Skidmore continued to slide 9: "National Recidivism":

- The 401,288 state prisoners released in 2005 had an estimated 1,994,000 arrests during the 9-year period - an average of 5 arrests per released prisoner.
- An estimated 68% of released prisoners were arrested within 3 years, 79% within 6 years, and 83% within 9 years.
- More than three-quarters (77%) of released drug offenders were arrested for a non-drug crime within 9 years.

Mr. Skidmore concluded that recidivism was associated with certain individuals. Alaska's recidivism rate was around two-thirds which was not good but on par with the national average. He also noted that the further out in the timeline, the more people were recidivating. He also pointed out that within the study of about 400,000 people

more than three-quarters or 77 percent of released drug offenders were rearrested within a 9-year period for non-drug crimes. He believed the legislature had heard from prosecutors and law enforcement that individuals suffering from substance abuse ended up being the same people who contributed to other crimes in the state such as property crimes to support their habit.

Mr. Skidmore moved to the next portion of his presentation looking at Alaska's Recidivism and Reentry. He was presenting slides the committee had already seen from a meeting on February 5, 2019 by DOC. He took the slides directly from that presentation.

Mr. Skidmore turned to the definition of recidivism on slide 11: "Recidivism":

An offender who is re-incarcerated within three years of release as a result of:

- Parole or probation violations
- New felony crime
- New misdemeanor crime

Mr. Skidmore talked about the findings on slide 12: "Alaska Recidivism Rates." In 2011 there was a 67.47 percent recidivism rate, just under the national average of 68 percent. Alaska was told, as it engaged in criminal justice reform, that with its reform efforts it would not be able to bring down its recidivism rates. It was suggested that reform efforts were needed to bring down recidivism rates. In 2012, recidivism rates dropped slightly but crept back up in 2013. He continued that in 2014 it dropped again and in 2015 it dropped all the way down to just over 61 percent. He reminded members that SB 91 was implemented in 2016. He concluded that Alaska's recidivism rate and prison population were declining prior to SB 91.

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Mr. Skidmore detailed slide 13: "Recidivism - By Offense." He reported that within the first 6 months, offenders returned to incarceration because of probation and parole violations. He suggested focusing on the area of probation and parole violations to reduce recidivism. Offenders also committed felonies and misdemeanors within the first 6 months of release. At the 3-year mark of being released,

about 50 percent of offenders committed new crimes. Probation and Parole also played a significant role.

Mr. Skidmore scrolled to slide 14: "Recidivism - New Crimes." In 2011, the recidivism rate for new crimes was about 40 percent. By 2015, prior to the implementation of criminal justice reform, the rate had dropped to 32 percent for new crimes.

Co-Chair Wilson asked Mr. Skidmore to review a technical violation of probation and parole. Mr. Skidmore responded by giving examples of violations of probation and parole. If a person violated any of their conditions of probation or parole, other than committing another crime, it was considered a technical violation.

Vice-Chair Ortiz noted Mr. Skidmore had mentioned the 58 percent figure resulting from probation and parole violations. He asked how the state could focus on reducing probation and parole violations. Mr. Skidmore responded that if the state wanted to bring down its recidivism rate, it should focus on what happened to people when they committed probation or parole violations. He suggested looking at what other sanctions could be taken other than returning a person to prison. Perhaps certain programs or other reentry plans could be considered that might reduce the recidivism rate. He did not have a specific example.

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Mr. Skidmore explained slide 15: "Alaska's Recidivism Before SB 91." He suggested that between 2011 to 2015 Alaska's recidivism rate declined 6 percent. He believed the state could do better. Although the state had hovered around the same place for over 2 decades and had been told it could not do anything without reforms, it had managed to drop its number anyway. Alaska had also been told there were other states in the country that were doing far better. Yet, by 2015, Alaska was 7 percent below the national average of 2005 (the most recent average Mr. Skidmore had found).

Mr. Skidmore advanced to slide 16: "All Violent Crime: All Property Crime." He thought the slide would address some of Representative Knopp's question regarding crime rates. He reminded members of the states he had listed previously: Georgia, Mississippi, North Carolina, Oregon, South Dakota,

Texas, and Utah. The slide contained information taken from the FBI's uniform crime report data for various states including Alaska, Georgia, Kentucky, North Carolina, Oregon, South Dakota, Texas, and Utah. The U.S. national average was also included. Every state listed, with the exception of Kentucky, was a state that came from the FBI report of who Alaska should compare itself with. Kentucky was added because of some of Alaska's pretrial reforms. The pretrial reforms that Alaska implemented were similar to those made by Kentucky. He noted on the topic of successes that most of what he had seen the Criminal Justice Commission report about was the prison population and the recidivism rate. The commission did not talk about the crime rate. He had heard some people say that the crime rate could be driven by many things not all of which were connected to reform. He understood the argument. However, he pointed out the paragraph below the one that highlight the 5 states on page 5 of the report from December 2015. He read from the page:

"In 2011, for example, policy makers in Georgia faced a projected 8 percent increase in the prison population over the next 5 years at a cost of \$264 million. Rather than spend additional tax dollars on prisons, Georgia's leaders looked for more cost-effective solutions. The state legislature unanimously passed a set of reforms that controlled prison growth through changes to drug and property offence statutes and improved public safety by investing in drug and mental health courts and treatment. Between 2012 and 2014, the most recent year with available crime data, the state crime rate had fallen 3 percent."

Mr. Skidmore commented that when he looked at crime rates, he did not look at them simply because he thought it was the right thing to do. He thought crime rates reflected what was going on in the state. He highlighted that when the Alaska Criminal Justice Commission members considered enacting the reforms, they took into account crime rates declining in other states that had enacted criminal justice reform. It was the measure that other states had chosen to use. He noted that there was a different color line for each state with an index at the bottom of the slide. He mentioned that there was a star on each line. Each star denoted when a particular state began participating in criminal justice reform. Violent crime rates were on the top of the page and property crime rates were on the bottom

of the page. In looking at the violent crime rates, they seemed to go down with a couple of exceptions. South Dakota [represented in brown] went up following its criminal justice reform in 2013. It was true that there were many factors that influenced crime rates. In South Dakota there was a significant population increase at the time which partially explained the increase. Oregon held steady. Every other state appeared to be going down except for Alaska shown in red.

Mr. Skidmore drew attention to the property crime chart. He highlighted that property crimes went down with the exception of Alaska. He highlighted Georgia. He reemphasized that in both charts Alaska's crime rate went up.

Mr. Skidmore commented that there were several things Alaska had done well over the previous 20 to 30 years; the crime rates had gone down. The Alaska Criminal Justice Commission stated in its 2018 report on page 40:

"Research into the nationwide decline in crime rates over the last 30 years shows that between 10 percent and 25 percent of the decline in crime was attributable to the effect of increased incarceration rates."

Mr. Skidmore restated that the Alaska Criminal Justice Commission reported that the nationwide data and study indicated that crime went down over the 30-year period because of getting-tough-on-crime policies. The report went on to say that the policies had diminishing returns. In other words, doubling down by increasing sentences further would not work. However, throwing out what had been done for the previous 30 years was not the right approach either.

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Representative Carpenter asked what might explain an increase in violent crimes and property crimes at the same time the state was seeing a decline in prison population. Mr. Skidmore indicated he would be able to answer the representative's question in one of the following slides.

Mr. Skidmore reviewed slide 17: "Comparison of PEW Reform States." The Pew Charitable Trusts' chart reflected all of

the states they had worked with. He pointed out that the top of the chart showed the years in which the states participated in criminal justice reform. On the far left the reforms were broken down into several different categories. The checkmarks showed which reforms the various states engaged in. He opined that the chart was a helpful tool to compare the different reforms the state participated in. He added the colors to the chart to mirror the colors in the crime rate charts. He reviewed the different colors and the corresponding states. Alaska was represented in red.

Co-Chair Wilson asked about the timeframe for each checkmark. She wondered if the Pew Charitable Trusts had further detail. Mr. Skidmore did not know how the reforms were implemented in other states.

Co-Chair Wilson commented that SB 91 was implemented in phases and did not think it was phased in properly. She thought treatment had been slated further into the future than anticipated. She asked Mr. Skidmore his opinion about the way SB 91 was phased in.

Mr. Skidmore clarified that he had not in any way stated that SB 91 had caused the state's problems. In his presentation, he had highlighted the goals of reform and reported that they were already being achieved before the implementation of SB 91. It was too early to report on recidivism, as no statistics were available yet. He did not have information regarding prison population but thought it could be provided by DOC. His main point was that the goals that were highlighted were being achieved prior to the implementation of SB 91. He added that after reform was implemented, Alaska's crime rates continued to climb. The reforms were intended to be implemented without having a negative impact on Alaska's crime rates. He indicated that crime rates were starting to go up prior to reform. He would discuss the reason for the upward trend shortly. The reforms did not result in crime rates leveling out or declining which was what was promised through the reform process.

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Vice-Chair Ortiz returned to the two goals brought up at the beginning of the presentation. He queried if Mr. Skidmore had done any analysis to explain the state's

progress prior to SB 91. He thought the stats had not been available when SB 91 was under consideration by the legislature. He asked if he was correct.

Mr. Skidmore agreed that the information necessary to understand how recidivism worked at the time was incomplete. Some information was available for 2011 and 2012. However, the third year was not available but necessary for a proper analysis. He believed that if the representative were to ask DOC about the prison population presently, the department could provide the information. He was uncertain why the legislature was told that the prison population was continuing to increase through 2015 and 2016. He did not know why The Pew Charitable Trusts' slide showed the prison population going up despite the fact that it was going down.

Vice-Chair Ortiz asked about the gains made in recidivism prior to SB 91. He queried if it was true that the state was putting more resources into funding for substance abuse treatment in certain years. He asked if it was the reason for the state's gains in recidivism. Mr. Skidmore did not have an answer. He thought it would be significant for any policy maker to know what was going on at the time that allowed the state to make changes. He encouraged the legislature to reach out to DOC to talk about what was going on at the time.

Co-Chair Wilson reported that she was reaching out to some of the state's past commissioners. She hoped the committee would get to talk to them the following day.

Representative Josephson asked about slides 6 and 7. He had been told the 2015 cohort would reflect later years - years closer to the present. He suggested that if it was true, he thought SB 91 could be a part of the reason for the decline.

Mr. Skidmore responded that Representative Josephson was partially correct. He reiterated that in a previous slide it showed people reoffending, typically for probation and parole violations, within the first 6 months of release. It seemed to be supported, as SB 91 was not in effect the first 6 months of 2015. He was speaking of the calendar year for 2015. Senate Bill 91 was not implemented until about a year following the period. There were 2 years that were impacted by SB 91. However, the recidivism rate was

dropping previously to that time. His point was that the state was bringing down recidivism prior to SB 91. Although the legislation might have had an influence, it was unclear how much influence it had.

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Representative Josephson asked if it would have made a difference if the stakeholders supporting SB 91 had received the money they were anticipating for reentry, reform, and rehabilitation. He wondered if they had received the money. He was trying to figure out whether there was a worthy argument.

Mr. Skidmore was not sure about money disbursement. He was aware that money was disbursed through SB 91 and other budget measures. He did not have any details. He reminded everyone that SB 91 was phased in beginning in 2016 with Phase 1. Phase 2 began in 2017, and Phase 3 began in 2018. He advised members to keep the phasing in mind when looking at the impacts on recidivism.

Representative Josephson was trying to figure out why Alaskans had a red line so remarkably different than other states. He wondered what was going on. He thought Mr. Skidmore was saying there was anecdotal evidence that people knew they could get off. He was trying to get Mr. Skidmore's thesis as to why the red lines were different.

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Mr. Skidmore commented that the differences on the slide comparing state reforms, helped to understand. He was trying to focus his presentation on HB 20 relating to drug crimes. He used food as a metaphor for Criminal Justice Reform. One of the goals of reforms was for the state to reduce the period of time people were on probation. There were a few options. First, the maximum period of probation could be reduced. Second, earned compliance credits could be implemented, allowing for a reduction in a person's probation period based on good behavior. Third, early termination of probation and parole could be recommended. He compared the state's reform system to ordering everything off the menu giving the state indigestion. Although there were sound concepts throughout SB 91, implementing them all was like ordering everything off a

menu. He drew members' attention back to the provisions of HB 20.

Co-Chair Wilson explained that Mr. Skidmore was likely hearing the frustration of members. While legislators wanted to ensure punishment at the proper level, they were unsure of the correct levels. She wondered how to write treatment programs into statute for those people who truly want to change their lives. She was looking for a balance. She did not think anyone should be surprised that a person getting out of prison without any reform was likely to reoffend.

Mr. Skidmore replied that Co-Chair Wilson's question was the right question to ask. He would answer her question as he continued the presentation.

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Mr. Skidmore returned to his presentation on slide 18: "Violent v. Non-violent Offenses." He wanted to make the distinction between a violent crime and a property crime. Currently in Alaska, violent crimes were generally considered something under Alaska Statute 11.41. The crimes included homicide, assault, stalking, kidnapping, human trafficking, sexual assault, and sexual abuse of a minor. The list was not complete but provided a sense of what was a violent crime. He continued that non-violent crimes were considered all other crimes for the purpose of crime statistics. He read the list of non-violent crimes including theft, criminal mischief (property damage), forgery, bribery, gambling, hindering prosecution, and impersonating a public servant.

Mr. Skidmore turned to slide 19 and clarified that when talking about crime statistics and referring to non-violent crimes, there were other crimes listed. He read the list which included misconduct involving weapons, drug trafficking, arson, burglary, promoting contraband, rioting, sending an explicit image of a minor, misconduct involving a corpse, cruelty to animals, and sex trafficking. He noted that misconduct involving weapons and drug trafficking were substantially related to violent crimes. He encouraged the legislature to ask the appropriate questions so that members knew what people were referring to when they mentioned non-violent crimes.

Mr. Skidmore returned to the violent crimes and property crimes slide [Note: reinserted as slide 20]. He asserted that it was not possible to claim that the reform caused the increase in crime. However, when the state adjusted its criminal justice system with SB 91, it significantly impacted law enforcement and the prosecution's ability to respond to increases in crime.

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Mr. Skidmore concluded his presentation with slide 21: "Why did Crime Rise Before SB 91?" He explained there were many factors that influenced Alaska's crime rates. However, the opioid crisis was one of the largest influences. He reported that overdose deaths from opioids had dramatically increased from 2013 to 2017. The chart on the right of the slide showed hospital care associated with opioids. He highlighted that inpatient treatment between 2016 and 2017 decreased. The number of people receiving in-patient treatment for substance abuse, specifically, opioids, went down. He spoke to Representative Josephson's comment, money was spent for additional treatment. As a prosecutor, he did not want to put someone with a drug addiction in jail. He would rather see them get into treatment. He agreed that treatment was the proper place for someone with an addiction, but treatment numbers declined. Conversely, emergency care skyrocketed. House Bill 20 returned drug provisions to where they were prior to SB 91. He elaborated that possession of a controlled substance went from a misdemeanor with no jail time for the first 2 offences to a felony crime.

Mr. Skidmore conveyed that there were many good aspects of SB 91 including a Suspended Entry of Judgment (SEJ). The Suspended Entry of Judgment was a new tool. There had been something on the state's books called a Suspended Imposition of Sentence (SIS) that was supposed to allow prosecutors to address those first-time offenders or individuals that they did not think needed to end up with a conviction on their record. It suspended the imposition of sentence, but it still left the person saddled with a felony conviction. There were collateral consequences to a felony conviction. The state needed to find a way to avoid the felony conviction, which the SEJ does. He explained that when someone was charged with a crime, such as a possessory drug crime, and the prosecution believed treatment was a better option than jail, the person would

be advised to plead guilty to the crime but would not be found guilty. The judgement would not be entered. The person would be placed under conditions including going to treatment. If a person met the conditions by going to treatment, their case would be dismissed. The conviction would not be entered, and the person would not experience the collateral consequences associated with a conviction. The Suspended Entry of Judgement was a new and positive tool. It could be very helpful for people. He commented that there had to be an incentive to get people to attend residential treatment from 30 to 180 days. He suggested that without an appropriate incentive, treatment was not an attractive option. House Bill 20 incentivized in-patient treatment. It would allow the criminal justice system to play a role in helping combat the drug crisis. The bill would also return the ability to aggressively go after individuals dealing poison to Alaska's citizens. Under current law, the Class A felony for drug trafficking was eliminated and the penalties for drug trafficking were reduced from A to B and B to C. House Bill 20 had provisions that changed the drug laws. He implored the legislature to return tools to attorneys and law enforcement.

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Vice-Chair Johnston asked about the final slide. She asked if the emergency numbers applied to the total population of the state. Mr. Skidmore responded that figure 36 came from the Department of Health and Social Services, Division of Public Health. Epidemiology indicated that the slide reflected the rate of hospital care, specifically in-patient treatment, associated with opioids.

Vice-Chair Johnston wanted to find out what was considered in-patient treatment. It would be interesting to know the wait time statistics in getting into treatment and the number of positions available in the state for treatment. She was not referring to a 3-day in-patient treatment. Co-Chair Wilson thought she had requested the information from DOC. She would get back to the committee.

Representative Josephson relayed that an SEJ had to be agreed to by all parties. He wondered how all parties could be assured that prosecutors would follow through with an SEJ agreement. He queried whether additional language was needed regarding treatment if a person was charged with

misconduct involving a controlled substance in the fourth degree. Mr. Skidmore thought Representative Josephson was asking what sort of guarantees were available that prosecutors would want to use an SEJ. Representative Josephson responded, "Yes."

Mr. Skidmore responded that the prosecutors that worked in Alaska wanted to see the state improve. Folks that worked for him across the state did it because they wanted to make Alaska a better place - they did not get paid proportionate to their efforts. Prosecutors understood the need for treatment in order to properly address the opioid crisis and drug abuse. He relayed he would aggressively use the SEJ for drug possession if it was returned to a Class C felony. He wanted to see people in treatment. He had the ability to direct the people working for him that SEJs would be used. The tool would be applied to a significant portion of related cases.

[2:43:26 PM](#)

Vice-Chair Ortiz referred to slide 16. He wondered if the comparable states were also involved with criminal justice reform. He thought the difference was the level of reform, which he suspected was less than the reform in Alaska through SB 91.

Mr. Skidmore replied that the states were chosen because they were specifically called out by the Alaska Criminal Justice Commission's report, Justice Reinvestment, in December 2015. Every state, with the exception of Kentucky, was listed on page 5 of the report and were states Alaska could look to for comparison. Alaska's pre-trial reforms were modeled after Kentucky, which was the reason for its inclusion. The included states were chosen because they had engaged in reforms that Alaska was considering. He included the chart from Pew because the reform categories and the states that had engaged in reform were listed. He could not provide specifics but would be undertaking an intensive research project at a later time.

Vice-Chair Ortiz asked if it was safe to say that the reforms made in the states Alaska was comparing itself to were less broad-based. He suggested Alaska ordered everything off the menu unlike the other states. Mr. Skidmore responded, "That's correct." He elaborated that a person from Texas that told him Alaska should be putting

people in jail that it was afraid of rather than mad at. He drew attention to the blue box on slide 16.

2:45:44 PM

Vice-Chair Ortiz queried whether Mr. Skidmore had studied economics. He suggested that a certain result would happen to the demand when the price increased for a certain item. However, he suggested many things changed in the marketplace. He wondered if Mr. Skidmore experienced frustration with determining what direction the state should take when looking at available data in the area of criminal reform.

Mr. Skidmore had not studied economics but was familiar with the principle Representative Ortiz described. He agreed with the representative 100 percent. He reported that it was very difficult, when conducting a study or experiment, to hold everything equal other than what was being studied. In other words, it was very difficult to isolate one change. He agreed that it played havoc with the state's ability to understand what has happened in the state's criminal justice system. However, simultaneously, science was not his forte'. He indicated that SB 91 made 96 changes that went into effect simultaneously. It made it difficult to discuss the impacts of any one of those changes.

Representative Carpenter recalled that there was a national discussion about the opioid crisis beginning in 2013 or 2014. He suggested it was not just Alaska that was affected. Mr. Skidmore replied, "That's correct."

Representative Carpenter returned to the crime rate slide. He pointed out that from 2013 to 2017 there was an opioid epidemic not just in Alaska but in the nation. However, Alaska was the only state that had an anomaly in the trend of the crime rate. He asked if other states were dealing with the epidemic in a different way or whether there was another factor that had not been discussed. He asked Mr. Skidmore to comment.

Mr. Skidmore did not have an answer to Representative Carpenter's question. He offered that there was a problem with the opioid epidemic which had a dramatic impact on Alaska. He could not confirm whether the opioid crisis was the only thing that affected Alaska's crime rates. There

were clearly other factors that had an impact. He focused on drugs because they were the focus of HB 20. At the time, when Alaska was experiencing an increase in its crime rate, the state chose to engage in criminal justice reform dramatically shifting how Alaska addressed opioids. He did not believe the shift turned out in the state's favor. He was laying out the case for the state to go back to certain drug laws with some changes. The state needed some of its previous tools back.

Representative Josephson believed Mr. Skidmore when he stated the SEJ would be used liberally. He wanted to see where the SEJ would be paid for in the fiscal notes.

[2:52:12 PM](#)

Co-Chair Wilson responded that the request would be added.

Representative Knopp understood numbers as opposed to percentages, and he did not like surveys with "per capita" because of Alaska's location. He asked how to take a state like Alaska with its small population and compare it to other states. He suggested using real numbers for comparison. He did not believe the comparison was accurate. He asked Mr. Skidmore to comment. He provided an example. He was unclear as to the basis of the studies.

Mr. Skidmore agreed about the importance of understanding all of the ingredients in the charts. He thought Representative Knopp could have access to the underlying numbers. He suggested that when it came to comparing Alaska to other states such as Texas, Oregon, or Utah, statisticians used 100,000. The raw numbers could be provided. The slide containing the crime rates contained actual numbers. The recidivism numbers could be obtained through DOC.

Co-Chair Wilson thanked Mr. Skidmore for his presentation and indicated the committee would transition to the next bill, HB 96.

[2:55:39 PM](#)

At EASE

[2:57:23 PM](#)

RECONVENED

#hb96

HOUSE BILL NO. 96

"An Act relating to Alaska Pioneers' Home and Alaska Veterans' Home rates and services."

[2:57:32 PM](#)

REPRESENTATIVE ZACK FIELDS, BILL SPONSOR, introduced himself.

REPRESENTATIVE LADDIE SHAW, BILL SPONSOR, introduced himself.

Representative Fields thanked the committee for allowing him to present HB 96. He turned to slide 2: "Goal of House Bill 96" to explain the goals of the legislation. He offered that the bill had a couple of simple goals. The first goal was to maintain the Pioneer Homes' commitment for Alaska elders. The following day marked the 106th anniversary of the Pioneer Homes system. The second goal was to grow revenues and improve the financial stability of the Pioneers Home. He thanked Representative Shaw, Representative Ortiz, and Representative Josephson for being the original cosponsors of the bill. He also thanked Representative Johnston for co-chairing the Health and Social Services Committee and making sure there was adequate funding for the Pioneer Homes. The bill was a two-part effort of making sure there was adequate funding while at the same time addressing the statutes. He turned the presentation over to Representative Shaw to talk about his involvement with the bill and some of the reasons he was working to protect the Pioneer Homes.

Representative Shaw explained that when he was working for the administration in 1999, he was looking at the potential for a Veteran's home in Alaska, as it did not have one at the time. The cost of building a Veteran's home would be cost prohibitive. Instead, he approached the Pioneer Homes to discuss the possibility of tying in with the Pioneer Homes system. He had hoped to bring about a Veteran's home in the state regardless of its size. The Pioneer Homes were onboard with the idea. The process was initiated in 2001 and designated the Pioneer Home in Palmer as the Pioneer and Veteran's Home for Alaska. He was about to establish a Veteran's home commitment. Alaska ended up being the last of the 50 states to have its own Veteran's home. The

process took place and was initiated after he had left the administration in 2003. It was put into place in 2007. Currently, the State of Alaska had a representation of a Veteran's home. He was pleased to be an initial part of the process.

Representative Fields turned to slide 3: "Pioneer Homes: Background." He thought Representative Shaw helped frame the backdrop which was that Alaska had an amazing system built over the previous 100 years in Sitka, Fairbanks, Palmer, Anchorage, Ketchikan, and Juneau. However, currently the Pioneer Homes faced some challenges which he asserted were two-fold. Currently, Pioneer Home rates were adjusted by regulation. It was a time-consuming contentious process. He surmised that because the regulation process was time-consuming and contentious, the real value of rates had actually fallen by about 15 percent. In other words, the real value of rates had fallen as the division had adjusted rates periodically but not enough to keep pace with real value. At the same time, the state had an aging population with a rising rate of dementia. He reported that about half of residents had dementia. The state also had budgetary challenges. The goal of the bill was to protect the incredible system that so many Alaskans, including Representatives Shaw, helped build.

[3:01:06 PM](#)

Representative Fields moved to slide 4: "Resident Population." He highlight an important point with respect to the financial sustainability of the Pioneer Homes: Presently 51 percent of residents were self-pay. In other words, they paid the advertised rates in the respective Pioneer Homes and contributed about \$17 million annually to the system. It was very significant in terms of the system being self-supporting. One of the reasons he introduced the bill and one of his concerns was inadvertently pushing out self-pay people. The departments were not allowed to advertise the rates, which were very high. He wanted to avoid having an adverse selection process, where self-pay people leave and go to private care, while those who would take their places would be more subsidized by the state. He suggested that if that were to happen the state would find itself with more obligations as the number of self-pay residents declined. He did not have a problem with having a larger population of poor seniors supported by the state. However, looking at the long-time mission of the Pioneer

Homes, the diversity of their population was integral to their mission. He thought the housing should continue to be affordable even for those families that could pay their own way.

Representative Fields reviewed the changes to the committee substitute on slide 5: "Committee Substitute for House Bill 96." The rates were adjusted to reflect real cost increases since 2004. Levels 4 and 5 were added to allow for more complex care, so the bill would have 5 levels of care consistent with the direction of the department. It was consistent with the Agnew Beck Report which was issued following SB 74 [Legislation passed in 2016: Short Title: Medicaid Reform; Telemedicine; Drug Database] in broader Medicaid reforms.

Representative Sullivan-Leonard had heard that for some residents, because of a change in their health like Dementia or Alzheimer's, they were being transferred from the Pioneer Homes to Alaska Psychiatric Institute (API) for care or housing. If the information was correct, she asked that Representative Fields provide an explanation. She wondered if the added levels of care took the circumstance into account.

Representative Fields had not heard about residents being transferred from Pioneer Homes to API. However, he was aware of seniors with complex behavior health issues including severe dementia who were housed at API for a cost of more than a half million dollars per year per person. He reported that Agnew Beck and DHSS wanted to have behavioral health neighborhoods in some of the Pioneer Homes where people with severe dementia would be physically separated to be safe - a care level of 5. He noted that the cost of level 5 care was about \$15,000 per month, which was expensive but much less than \$500,000 per year, per person. He thought, when looking at the broader system of how to save money in healthcare and long-term care, the Pioneer Homes were an important part. Some of the most expensive-to-care-for seniors could be taken out of API and placed into the Pioneer Homes system in a safe environment while saving hundreds of dollars. It would be part of a broader evolution where there was an increasingly elderly population at the Pioneer Homes with a rising rate of residents with dementia.

Co-Chair Wilson asked Representative Fields to explain the difference between assisted living and a nursing home, since the Pioneer Homes were no longer nursing homes.

Representative Fields responded that assisted living generally had a lower acuity or intensity of care compared to a nursing home. There were different reimbursement rates for federal healthcare programs. He understood that Medicaid-eligible residents in the Pioneer Homes were under the Residential Supported Living (RSL) Medicaid Program which billed at a daily rate of approximately \$160 per day resulting in a cost of \$4880 per month. The monthly amount was not sufficient to cover the cost for the higher level of care. Aside from level 5, the Pioneer Homes system was assisted living, just higher on the acuity scale. The Pioneer Homes system served an important need. He elaborated that in some cases in the private market, a person would have a difficult time finding assisted living homes at a higher level of care for people with dementia. He concluded that the Pioneer Homes offered a higher acuity of care without reaching the level of care at a nursing home.

Co-Chair Wilson asked what the rate would be if the Pioneer Homes were nursing homes. Representative Fields did not know the rates in terms of the federal programs. In a subsequent slide he would discuss the significant cost differences.

[3:06:07 PM](#)

Vice-Chair Johnston thought there might be a great output of capital costs for the Pioneer Homes system to meet the requirements of a nursing home.

Co-Chair Wilson was concerned with trying to provide a certain level of care without being certified to provide that level of care.

Vice-Chair Johnston clarified that the Pioneer Home in Anchorage had a separate wing for patients with dementia.

Representative Fields added that there was a wide range of category for assisted living. The Pioneer Homes system fell within the assisted living category. It was not at the nursing home rate. Many of the Pioneer Home residents were at the upper end of the spectrum for assisted living care.

Co-Chair Wilson agreed that many of the homes fell under the assisted living category. She was concerned that the Pioneer Homes were starting to behave like nursing homes where the level of care was much different. She was trying to better understand the line of distinction between assisted living and nursing home care. She thought the committee could get her queries answered at a later time.

Representative Fields turned to slide 6: "CSHB 96: Proposed Levels of Care." He reported that under the committee substitute there was a wide range of rates. The goal was to be competitive and to keep self-pay people in the system with relatively affordable rates of care for level 1 and 2. Under the committee substitute (CS) the rate increases could be annual and could be as high as the Social Security rate of inflation - a more efficient process that could keep pace with the cost of care, rather than having to go through the more arduous public comment process. The concept would ideally keep the state from falling back into a hole like it had over the previous 15 years.

Representative Tilton asked about the Social Security rate of inflation compared to a health care inflation rate she had heard of that was higher. Representative Fields responded that he was aware of the health care rate of inflation which had generally been higher. Most of the Pioneer Homes' costs related to personnel were higher. He mentioned that the sum had been discussed in the Health and Social Services Committee. He suggested that, in reality, the Pioneer Homes' costs would not perfectly reflect either the health care costs or the CPI [Consumer Price Index]. He thought it would be somewhere in the middle.

Representative Fields explained slide 7: "Complexity of Care." The slide reflected the changes from 3 levels of care to 5 levels of care. He reiterated the levels of care were consistent with where the department was going and consistent with Agnew Beck and the broader changes made to the state's health care system in SB 74.

[3:09:44 PM](#)

Representative Fields reviewed slide 8: "Would you buy a \$37 hamburger?" He stated that Pioneer Homes were assisted living homes which existed in a competitive marketplace. He reemphasized the importance of retaining the self-paying

residents. He commended the Pioneer Homes' staff and Department of Health and Social Services (DHSS) leadership at the division director level about adapting to changing in very challenging circumstances. His concern with the department's proposed rate increases was that it was assuming inelastic demand - if a certain price was charged, fees would be collected from a significant number of people. He had heard from people in his district and people who had left the Pioneer Homes system based on the threat of price increases. They were self-pay residents. He did not want to see the state go into an adverse selection process where more and more residents were fully subsidized by the state. He believed it was in the interest as a state to have a financially viable system with a health mix of self-pay individuals.

Representative Fields continued that under the CS, the prices for levels 1 and 2 of care would continue to be competitive in Alaska's region and to make sure to retain the self-paying individuals that contributed \$17 million annually to the system. The bill did not put a cap on the rates for level 5 because it was a different set of reimbursement that was separate from Residential Support Living (RSL). The state could set a high price at level 5 and continue to save money as a state by shifting people out of API and other environments that were less appropriate.

Representative Fields turned to slide 9: "Cost of Long-Term Care in Pacific Northwest" which was an illustration of regional costs. He pointed out that in the Pacific Northwest and in Anchorage assisted living care rates were in the range of \$5000 to \$6000 which was competitive with the bill he had laid out.

Representative Fields moved to slide 10: "Social Security Cost of Living Adjustment." He explained that the slide was an illustration of the Cost of Living Adjustment (COLA). He indicated that if the state had been adjusting rates every year, it would not have fallen into a hole like the state had over the previous 15 years. He thanked the committee for hearing his presentation and made himself available for questions.

Representative Josephson asked how the cost increases proposed in the bill compared to the administration's regulatory increase. Representative Fields replied that

they were substantially less. He returned to slide 8. He pointed out that the blue bars represented the current monthly rate; the orange bars reflected the department's proposal; and the green bar indicated rates advertised under the bill.

Representative Josephson asked what the administration was going to do with the extra dollars. Representative Fields responded that the administration's proposal regarding advertised rates corresponded to a change in the way they put forward a budget. The department still requested a significant amount of general funds but changed it to a needs-based payment assistance program. The reality was that either under the administration's plan or the bill, the state would continue to invest a significant amount of money into the Pioneer Homes. The question remained about what the advertised rates would be. He deferred to the division for additional details.

Representative Josephson referred to the topic of state assistance. He wondered about the difference between the general fund subsidy and state assistance. Representative Fields responded that the orange bars equated to what the division said was the true cost of providing care. In looking at the difference between the green bar and the orange bar for level 1, there would be a small differential between what people paid and the actual cost to provide care, if HB 96 passed as written. The traditional general fund allocation would fill the very small gap. Under the administration's bill, if people were able to pay the rates, there would be no gaps and no state subsidy needed.

Representative Carpenter asked if there was an inverse relationship with demand. He wondered if there was more demand at level 1 than level 5 and across the spectrum. Representative Fields replied that he thought people recognized the Pioneer Homes provided quality care and many people got on the waitlist before they were at level 4. He reemphasized the importance of having competitive pricing at levels 1 and 2 because, regardless of when people actually enter the Pioneer Homes, many of them get on the list before being at level 1. Once people enter the Pioneer Homes it was not unusual for people to move up the tiers. They might end up paying at levels 1, 2 and 3.

[3:15:30 PM](#)

Co-Chair Wilson OPENED Public Testimony

[3:15:48 PM](#)

MARGIE BEEDLE, SELF, JUNEAU (via teleconference), reported being in support of HB 96. She represented 119 people that had signed a letter in support of the bill. Her mother was a self-pay resident of the Pioneer Home in Juneau. The governor's budget proposed increases up to 140 percent for some residents to mitigate the state's cost to run the Pioneer Homes. The governor's proposal illuminated how much the state had subsidized the Pioneer Homes previously. She informed the committee that many of the residents of the Pioneer Home came to Juneau before statehood. They helped develop and defend the state. She mentioned that they paid a state income tax for most of the years they had worked including during the time of inception of the Pioneer Homes. She thought the people in the Pioneer Homes had contributed greatly to the state and deserved proper care. She relayed a number of contributions made by the elderly in the community. Her mother worked until she was 87 years old. She had been good and generous to the community. She thought the state should meet her half way at supporting her care. House Bill 96 was a compromise. She urged support for the bill. She submitted a letter signed by 120 people.

[3:19:31 PM](#)

BRAD RIDER, SELF, JUNEAU (via teleconference), favored HB 96 and supported Alaska's elders. He thought they had been kicked around with all of the suggested pieces of legislation. He opined that from the beginning of time people have taken care of their elders and thought the state should continue to do so. He reiterated his support of the bill.

[3:21:11 PM](#)

FRED KOKEN, SELF, JUNEAU (via teleconference), appreciated the committee's time. He had been a resident of Alaska for about 50 years. His wife was a resident of the Pioneer Home in Juneau. He had worked in the state for 30 years as a financial consultant. He relayed that when he received the information regarding the administration's proposed rate increase, it was like a punch in the gut. He suggested that the current residents within the Pioneer Homes should be grandfathered with the prices they currently paid and had

budgeted for. He implored members to support HB 96 and urged them not to balance the budget on the backs of the elderly.

[3:23:25 PM](#)

JANET HENDERSON, SELF, JUNEAU, reported that her mother was currently in the Pioneer Home. Her mother had worked in the school district and her father had worked as a contractor and an employee of the state. Both parents had paid into the system and planned to enter into the Pioneer Home. Her mother was scared about the future and finances. She supported the bill. She did not think it was fair to raise the elders' rent by 140 percent.

[3:25:07 PM](#)

AVES THOMPSON, SELF, ANCHORAGE (via teleconference), thought HB 96 was a step in the right direction. His wife was currently in the Anchorage Pioneer Home. He paid over \$6,795 per month for his wife to be there. The annual cost was over \$81,540 per year. The governor's proposed change would increase the rate to \$13,333 per month or \$159,996 per year. The annual increase would equate to \$78,456. He thought the increase was driven by the fact that the governor's amended budget proposal zeroed out about \$34 million in undesignated general funds shifting the entire fund source to user fees. He continued that the Alaska House of Representatives just passed a budget that included the fund shift. However, it was not a budget reduction, it was a change in the fund source shifting all of the burden to the user.

Mr. Thompson continued that his wife was a self-paying resident of the Pioneer Home and received no monetary subsidies from the state or federal governments. He had a small amount of long-term care insurance that would last about 12 to 13 months. The rest of the cost was paid for by their retirement income and personal savings. The proposed cost increase would displace his wife out of the Pioneer Home. In the long run, many of the residents would be subsidized by public dollars. The proposed 30 percent increase remained excessive in his mind. He quoted Representative Foster from an article in the Anchorage Daily News. He urged members to carefully consider the impact of an increase and to support HB 96.

[3:29:17 PM](#)

SHARON LONG, SELF, ANCHORAGE (via teleconference), was the wife of a 2-year resident of the Pioneer Home and a friend of a 92-year-old resident, Mrs. Lucy Gross. Lucy could not sit back and watch Alaska's pioneers and veterans get bludgeoned with exploited rates. She created a petition that members should have that gave families a voice. She urged members to read the letter signed by over 1120 people petitioning a change in the proposed increase in rates. She was speaking on behalf of the petitioners who were scared and bewildered by how the state they helped build was threatening their financial bearings and peace of mind. She thanked the committee for attempting to find a legislative solution to repeal the regulatory authority under which the administration was making unprecedented and draconian changes to the mission and operation of the Pioneer Homes and for confirming existing rates as drafted in the original version of HB 96. She thought the Social Security COLA was a rational and incremental approach to increases and something people could plan for. She encouraged the committee to do the right thing for the elders of the state.

[3:32:10 PM](#)

WILLIAM HARRINGTON, SELF, ANCHORAGE (via teleconference), was a 70-year-old resident and believed an elder subsidy should be equal for all residents. He proposed several amendments to the bill. He thought a business should be run by a business or should be out of business. He suggested the golden years would be tough everywhere. He hoped the legislature could come up with some solutions.

[3:33:26 PM](#)

ROCKY PLOTNICK, SELF, ANCHORAGE (via teleconference), thanked members for hearing her testimony. She was currently looking for assisted living in Seattle for her 92-year-old mother. She was testifying in favor of HB 96. Her husband was in his 70s and lived in the Anchorage Pioneer Home with Parkinson's disease. He had spent most of his years as a physician working throughout Alaska. He was a level 2 self-pay resident. Currently, they paid \$56,304 per month. If HB 96 were to pass, their costs at the Pioneer Home would increase to \$75,600 per month. She hoped the rate would not increase any more than what was proposed

in HB 96. She was grateful to know that her husband was safe at the Pioneer Home.

[3:36:22 PM](#)

GEORGE PAUL, SELF, WASILLA (via teleconference), supported the concept of HB 96. He had been in the nursing field since 1999. He supported the governor's proposed amendment. He had worked at two different Pioneer Homes and currently worked at a private assisted living facility. He spoke of the different services provided at the Pioneer Homes that were not provided at private sector facilities. He provided some examples. He argued that services such as physical therapy that had to be sought independently of a private facility should be subsidized to make things equitable.

[3:40:09 PM](#)

Co-Chair Wilson CLOSED Public Testimony.

Co-Chair Wilson indicated amendments were due Thursday, May 2, 2019 by 5:00 P.M. The committee would review amendments and the fiscal notes at another hearing.

HB 96 was HEARD and HELD in committee for further consideration.

#hb31

HOUSE BILL NO. 31

"An Act making a special appropriation to the Alaska permanent fund; and providing for an effective date."

[3:40:32 PM](#)

REPRESENTATIVE JOHNATHAN KREISS-TOMPKINS, BILL SPONSOR, indicated that HB 31 was a simple bill that transferred \$5.5 billion from the Earnings Reserve Account (ERA) to the corpus of the Alaska Permanent Fund (PF). He introduced the PowerPoint presentation: "HB 31: \$5.5 billion transfer from the ERA to the Corpus." The presentation had a number of slides that would contextualize the impacts of the legislation or such a transfer especially given actions taken in the other body on the previous Friday. He would discuss the impacts of different sizes of transfers. He noted that the House was interested in the concept before the Senate.

Representative Kreiss-Tompkins turned to slide 2: "If the deficits continue, the CBR is most likely gone." He reported that since he became a legislator in 2013, he had seen the legislature collectively spend down all the state's savings. He found it discouraging and thought it was a collective action problem. The genesis of the ERA to principal transfer reflected his grave fear and concern that the legislature might soon regard the ERA as just another savings account that was available to spend down as opposed to an intergenerational asset for the benefit of future generations of Alaskans.

Representative Kreiss-Tompkins spoke to slide 3: "Other ERA-to-principal transfer proposals." He reported that in the previous year in the operating budget, Amendment 58 was considered but not voted on. The amendment reflected a \$5.5 billion transfer from the ERA to the principal of the Alaska PF. On the previous Friday, the Senate Finance Committee dropped a bomb shell by amending the budget to reflect a \$12 billion transfer from the ERA to the principal. The amendment was passed without objection from the minority Democrats to the Mat-Su Republicans to the co-chair. He thought the action taken by the Senate Finance Committee made his bill containing a \$5.5 billion transfer look like minor league baseball in comparison.

[3:44:35 PM](#)

Representative Kreiss-Tompkins discussed slide 4: "History of Legislative Appropriations to the Principal." He relayed that it was not out of the ordinary for the legislature to have transferred funds from the ERA to the principal of the PF. The legislature had an inflation-proofing transfer most years. There were a couple of missed years in recent history. Most years the legislature abided by the operating budget. The current year included the inflation transfer. The slide showed an inventory or summary of all the other ERA-to-Principal transfers above and beyond inflation proofing. The high-water mark was \$1.3 billion even if the figure was inflation adjusted. The numbers that had been proposed, \$5.5 billion or \$12 billion, were well in excess of the highest recorded number. He noted that the balance of the ERA was at an all-time historic high.

Representative Kreiss-Tompkins moved to slide 5: "Permanent Fund Account Structure." He reported that the slide

reflected the year-end projections of the account balances for the PF. He noted that there were large amounts in both the principal and the ERA.

Representative Kreiss-Tompkins turned to slide 6: "Earnings Reserve Account: \$18.9 billion balance." He reported that HB 31 called for a \$5.5 billion transfer. The number was a carryover from the operating budget in the previous year. The number in the previous year was not random. It was based on an analysis of prudence and conservatism. Under SB 26 [Legislation passed in 2018: Short Title: Appropriations Limit and Permanent Fund Dividend and Earnings], there was a structure and framework to sustain and properly manage the PF and manage it for future generations. He indicated that the legislature would not want to take more than 5 percent of market value in any 1 year after the first 3 years. He continued that the \$5.5 billion figure, as proposed in the operating budget in the previous year, would have drawn down all of the money in the ERA until an amount equal to 4 times the 5 percent draw was left in the account. If the math was calculated with the numbers in the PF in the prior year, the pink number on the slide would have been \$5.5 billion. Moving forward a year, the ERA accumulated more earnings. Applying the same analysis would lead to about an \$8 billion transfer presently. He indicated that the \$8 billion was a number that should be considered by the committee. He suggested that transferring \$8 billion for the ERA to the principle would still leave 4 times the 5 percent POMV [Percent of Market Value] draw amount in the ERA while protecting a huge amount of money permanently and for the benefit of future generations.

[3:48:05 PM](#)

Representative Kreiss-Tompkins turned to slide 7: "Scenario: Moderate bear market from FY 21- FY 23." He suggested that when the legislature considered the amount of money to transfer from the ERA to the principal, it was a balance and a legitimate conversation that needed to happen. The transfer amount needed to be balanced against the function of the ERA - the only pot of cash the legislature had to pay for dividends and state services. He added that the ERA could fluctuate depending on market conditions. If the state had poor returns, the ERA would get smaller which could happen quickly. He indicated that the scenario on the slide, as worked out by the Legislative

Finance Division, projected 3 consecutive years of 3 percent returns. He noted it would not be that bearish of a market.

Representative Kreiss-Tompkins mentioned the recession in 2008 and 2009 the state had -17.9 percent return and the year preceding there was a -3.6 return. He admitted it was a severe recession, but it helped to provide context. If the stock market was not doing well, the legislature would be starting to play with fire the more money it transferred. Some liquidity needed to be maintained in the account - a shock absorber for bad market years. He pointed out that the 3 graphs demonstrated how the ERA would perform in a moderate bear market. He noted that with a transfer of \$5.5 billion there would be a significant amount of shock absorption left in the ERA after 3 consecutive bear market years. A transfer of \$8 billion would leave slightly less of a cushion. A transfer of \$12 billion would leave just enough in the account but would be riskier. He noted that a \$13 billion transfer when the bear market was slightly worse would leave the balance at zero. There would be no money to pay for dividends or public services. At such a point, the legislature would be up against a hard wall.

Representative Merrick asked where the other body got the \$12 billion and \$14 billion figures. Representative Kreiss-Tompkins did not know.

Co-Chair Wilson thought it was not appropriate to comment on the reasoning of the other body.

Representative Kreiss-Tompkins commented that a person could consider the ERA in isolation and what amount might make sense to transfer to the principal. There were constitutional amendments moving through the legislature currently. He was a sponsor of a constitutional amendment that would create a constitutional POMV and combine the earnings reserves and the principal. If and when the combination were to happen, it would eliminate the problem of the ERA hitting zero because of a simpler classic endowment model. There could be some merit in moving a large amount of cash to the principal if it was done in tandem with restructuring the PF to have a constitutional cap and combine the ERA and the principal.

Representative Sullivan-Leonard asked if the Director of the Alaska Permanent Fund Corporation offered an opinion on the transfer of \$12 billion versus \$5.5 billion. Representative Kreiss-Tompkins responded that he had not spoken directly with her, though, he thought she was online.

[3:52:40 PM](#)

ANGELA RODELL, EXECUTIVE DIRECTOR, ALASKA PERMANENT FUND CORPORATION (via teleconference), responded that the Alaska Permanent Fund Corporation (APFC) did not take a position on the amount.

Vice-Chair Ortiz indicated that the slide showed what might happen if a bear market were to start in FY 21. He asked if Representative Kreiss-Tompkins agreed that if a bear market were to begin in FY 20, the model would potentially look significantly worse. Representative Kreiss-Tompkins responded in the positive. He suggested that if the bear market were 4 years instead of 3 years or 1 percent instead of 3 percent, all of the charts would look worse. He eluded to his previous reference of playing with fire.

Vice-Chair Johnston understood why 2.72 percent was used in the prior year. She asked if the draw should have been 2.9 percent in the current year.

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KEVIN MCGOWAN, STAFF, REPRESENTATIVE JONATHAN KREISS-TOMPKINS, responded that the percentage was used because of the effective date was immediate. If the bill were to pass in the current year, it would be effective immediately. If it did not pass until the following year, it would make sense to adjust it.

Vice-Chair Johnston referred to the charts on slide 7. She had been reminded that in 2008, when the ERA went under, it was the first time the legislature looked at paying the dividend with general fund dollars. She was a firm believer in putting funds into the corpus but wanted to bring up the issue.

Representative Josephson asked if the other proposal, where all funds would be placed in the corpus, would be workable because it would have to be accompanied by the allowance

for the legislature to use the corpus in a sustained way. Representative Kreiss-Tompkins did not want to respond to what the other body might be thinking. He thought it made sense if the legislature moved all or almost all of the funds (about \$14 billion) into the corpus in tandem with restructuring the fund to be all constitutionally protected and combining the ERA with the principal. His suggested scenario would eliminate risk of a bad market year and not having enough money to pay for dividends or public services.

Representative Josephson had some concerns relative to the 2007-2009 period. He asked if Representative Kreiss-Tompkins used 3 percent in a bear market in his hypothetical scenario. He noted it was not a bad experience, not like presently. He thought Representative Kreiss-Tompkins had mentioned -17 percent in a calendar year. He asked if he had heard the representative correctly.

Representative Kreiss-Tompkins replied that he was accurate. He emphasized that it was a moderate bear market rather than a severe market. In 2008 and 2009 the market returns were -18 percent and -3.5 percent. In 2001 and 2002 immediately following September 11th, the market turndown was -3.25 percent and -2.25 percent respectively for 2 consecutive years. All of the graphs would look substantially worse if they were modeled over those scenarios which had happened before and would certainly happen again.

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Representative Josephson shared the concern of the history of postponement of fiscal planning and that the legislature might draw down all of its earnings. He wondered about undermining the use of a POMV or devastating the dividend. Representative Kreiss-Tompkins asked Representative Josephson to repeat his question.

Representative Josephson suggested that even with the 2 deterrents from an overdraw and reckless spending - the lack of a dividend and the lack of sustainability of a POMV - the legislature might still abuse the ERA.

Representative Kreiss-Tompkins replied, "Yes, that's my concern." He had only been around the legislature for 7

years but had heard a marked shift in public dialog about the inviolateness of the PF. He wanted to severe the conversation from how large the dividend should be. However, he thought all of the legislators could or should agree on not spending down the PF. It would be easy to do for a year or two, even if it put the state in a tough position a generation from present day. Based on recent discussions, he thought it was very possible to spend down the fund. He explained when the legislature struggled to balance the budget or reach a fiscal plan, it kicked the can down the road. His goal was to have enough money protected permanently in the PF that the legislature could continue to have the argument about how to spend the money. However, if the legislature spent that money down currently, the state would not have money in 20 years to argue about how it should be spent or how large the dividend should be.

Co-Chair Wilson clarified that the committee was currently talking about the PF Earnings Reserve. The Permanent Fund Corpus could not be touched by anyone without a vote of the people.

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Representative Carpenter thought it was disconcerting that legislators were having conversations about what to do with the money when there were laws in place dictating where it should be spent. Lawmakers had subsequently disregarded the laws. The money in reference was supposed to go out to the people over the previously several years in the form of dividend checks that instead, stayed in the ERA. There were individuals that were rightly upset about it. Presently, the committee was having a conversation about taking the money and not paying it to them as requested. Instead, what was being suggested was to lock it away forever, a portion of which would come back in the form of future PF dividends.

Co-Chair Wilson corrected Representative Carpenter about what was being discussed. The bill did not take all of the money in the ERA. Currently, the bill was in committee and reflected \$5.5 billion. It did not reflect the back pay or the dividend. Both could still be paid even with the transfer. She did not want the wrong message sent to Alaskans.

Representative Carpenter explained that the question he was getting to was about the requirement to back the Constitutional Budget Reserve (CBR). The state had a very small balance in the CBR and an unfunded liability of sorts to fund it. He asked why it would be more appropriate, considering it was important for the legislature to follow the law, to put it into the PF corpus rather than the CBR to meet its obligation.

Representative Kreiss-Tompkins responded that the representative first talked about money that was not distributed as dividends but stayed in the ERA. He thought the instance referred to the time Governor Walker vetoed part of the dividend. The money was retained in the ERA. Speaking to that scenario, it was a small fraction of the total amount of cash in the ERA presently. He elaborated that the vast majority, \$16 billion or \$17 billion of the \$18.9 billion in the ERA, was from market returns independent of the point Representative Carpenter was making. The reason there was so much money in the ERA was mostly independent of the decisions made by past governors regarding dividends.

Representative Kreiss-Tompkins addressed Representative Carpenter's question about the CBR account replenishment. The Constitutional Budget Reserve Account was designed to be spent down when the legislature deemed the need sufficient. The goal was to protect the PF monies forever for the benefit of future generations. There were different purposes for the CBR and the ERA. Taking money from the PF and putting it into the CBR was effectively equivalent to spending down the PF. There would be a time delay, but it would be tantamount to spending the PF.

Co-Chair Wilson added, for the purpose of accuracy, that Governor Walker vetoed the dividend 1 year and the legislature in the following 2 years chose an amount out of the sky versus following the prescribed formula.

Representative Carpenter did not understand the equation between spending down the PF when the corpus was not getting spent, while spending down the CBR, the account in which the legislature was required to pull from in lean times.

Co-Chair Wilson explained that the POMV draw came from the PF ERA. The difference between putting \$5.5 billion into

the corpus versus the CBR was to protect the savings from being used except with a vote of the people. She emphasized that once money was placed into the corpus, it could not be accessed without a vote of the people. If the money was placed into the CBR, it could be used to fulfill the budget as had been done in the past. If the legislature wanted to protect the ERA, which only required a vote of 21/11, the money could be placed into the corpus of the PF or into the CBR. The money in the CBR could be spent by the legislature. If the legislature truly wanted to protect the earnings, it would be best to transfer the money into the corpus because it required a vote of the people to spend. The question came down to how much the legislature wanted to protect the PF.

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Representative Carpenter understood the reasons. He pointed to the requirement for the legislature to pay back the CBR. He thought they were effectively ignoring the requirement to repay the CBR if the money went towards the PF corpus.

Co-Chair Wilson asked the sponsor to follow up with a reference to the statutory requirement for the money to go to the CBR first. She appreciate Representative Carpenter bringing up the point.

Representative Kreiss-Tompkins would look up the statutory requirement. He noted that the state had other obligations such as paying down the oil tax credits, the unfunded liability of the state pension, and the replenishment of the CBR. All of the obligations exist, but there was sort of a Chinese wall with the PF. The money in the ERA was not available for government spending whether it was replenishing the CBR or paying down the pension obligation. Everything under the 5 percent draw was fair game, but everything above that amount should be off limits. The legislature had set rules around the 5 percent mark in order to guarantee a sustainable PF. He did not want to take more than 5 percent from the PF in any given year.

Representative LeBon recalled that funding for the CBR began about 15 years previously. High oil prices and a significant throughput allowed for a build up in the CBR over a 5 or 6 year period. He asked if his recollection was accurate. Representative Kreiss-Tompkins deferred to the Legislative Finance Division.

Representative LeBon iterated his point of the ramp up of the CBR due to a higher price for oil and revenue rather than from earnings from the PF or the ERA. If he was correct, the legislature enacted a decision to spend down the money. If the money were to be replaced, he wondered if it should be from business and oil revenues at a future date versus earnings of the PF.

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Co-Chair Wilson addressed the constitutional mandate to repay the CBR. She was unclear about where the money could come from to repay the CBR.

DAVID TEAL, DIRECTOR, LEGISLATIVE FINANCE DIVISION, addressed the question about which money went to the CBR and indicated that the requirement was defined in the Alaska Constitution rather than in statute. He explained that at the end of each year general fund balances were swept into the CBR as long as there was a liability to the CBR. The legislature has typically reversed the sweep each year so that the state was not repaying unless there was a surplus. The state would not be repaying unless it truly had a surplus as the state did when oil prices increased as they did a few years prior. At the time, the state repaid all of its liability to the CBR. He suggested that the legislature could appropriate earnings reserve balances. They would not normally be swept into the CBR, but they could be appropriated there if the legislature chose to do so.

Representative LeBon asked if repaying the CBR from normal revenue sources would be predicated on the price and production of oil.

Mr. Teal answered it was the way foreseen by the constitution. The surplus revenue was automatically swept into the CBR without an appropriation. The legislature also appropriated general funds to the CBR in addition to the constitutional requirement. The logic behind that action was that if the money was swept constitutionally, the legislature received no credit for repaying the CBR. In times of a large surplus there was an effort to appropriate money to the CBR as well.

Representative Carpenter asked about earnings. He asked if the legislature was trading the PF earnings as revenue. He suggested that it all spent the same by the government.

Mr. Teal answered they did not consider the ERA as revenue. If it was considered revenue, the state would currently have a general fund surplus of \$ 18 billion. He indicated that the ERA was not shown as a general fund balance, it was a balance in the PF. In the PF section of the constitution stated that earnings of the PF went into the general fund unless otherwise specified by law. There was a statute that stated that the earnings reserves are part of the PF. If the legislature wanted to it could require the entire ERA appear as general fund revenue; however, LFD looked at revenue as a cashflow issue. Therefore, the PF balance should not be counted as general fund revenue. The only portion of the earnings reserve that was counted as revenue was the 5 percent or 5.25 percent POMV payout. The state counted approximately \$3 billion from the ERA as general fund revenue.

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Representative Josephson wanted to confirm that the CBR language in Section 17 of Article 9 referred to repayment but did not designate a timeline. He was struck that given the state's other obligations and because there was no interest requirement, he suggested the legislature did not receive credit for repayment.

Mr. Teal responded that there was no timeline on repayment. He relayed that the timing envisioned by the constitution was that if there was a surplus, the state would make repayment. If there was not a surplus, the state might have additional draws from the CBR if needed. However, the constitution did not envision a repayment schedule, nor was interest assessed.

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Co-Chair Wilson OPENED Public Testimony.

[4:17:16 PM](#)

Co-Chair Wilson CLOSED Public Testimony.

Co-Chair Wilson indicated the bill would be set aside. Amendments for HB 31 were due in her office by Thursday, May 2, 2019 at 5:00 p.m. The meeting scheduled at 5:00 pm in the current day was canceled.

HB 31 was HEARD and HELD in committee for further consideration.

#

ADJOURNMENT

4:18:02 PM

The meeting was adjourned at 4:18 p.m.