

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

March 26, 2019

3:04 p.m.

MEMBERS PRESENT

Representative Zack Fields, Co-Chair
Representative Jonathan Kreiss-Tomkins, Co-Chair
Representative Gabrielle LeDoux
Representative Andi Story
Representative Adam Wool
Representative Sarah Vance
Representative Laddie Shaw

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 96

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

- HEARD & HELD

HOUSE BILL NO. 71

"An Act relating to hiring for positions in state service based on substitution of military work experience or training for required civilian work experience or training."

- HEARD & HELD

HOUSE BILL NO. 31

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

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 96

SHORT TITLE: PIONEERS' HOME AND VETERANS' HOME RATES

SPONSOR(S): REPRESENTATIVE(S) FIELDS

03/15/19 (H) READ THE FIRST TIME - REFERRALS

03/15/19 (H) STA, HSS
03/26/19 (H) STA AT 3:00 PM GRUENBERG 120

BILL: HB 71

SHORT TITLE: STATE PERSONNEL ACT: VETERANS' EXPERIENCE
SPONSOR(s): REPRESENTATIVE(s) STORY

02/25/19 (H) READ THE FIRST TIME - REFERRALS
02/25/19 (H) MLV, STA
03/12/19 (H) MLV AT 2:00 PM GRUENBERG 120
03/12/19 (H) Heard & Held
03/12/19 (H) MINUTE(MLV)
03/14/19 (H) MLV AT 2:00 PM GRUENBERG 120
03/14/19 (H) Moved HB 71 Out of Committee
03/14/19 (H) MINUTE(MLV)
03/19/19 (H) MLV AT 2:00 PM GRUENBERG 120
03/19/19 (H) Moved HB 71 Out of Committee
03/19/19 (H) MINUTE(MLV)
03/20/19 (H) MLV RPT 4DP
03/20/19 (H) DP: TARR, JACKSON, RAUSCHER, LEDOUX
03/26/19 (H) STA AT 3:00 PM GRUENBERG 120

BILL: HB 31

SHORT TITLE: APPROP: EARNINGS RESERVE TO PERM FUND
SPONSOR(s): REPRESENTATIVE(s) KREISS-TOMKINS

02/20/19 (H) PREFILE RELEASED 1/11/19
02/20/19 (H) READ THE FIRST TIME - REFERRALS
02/20/19 (H) STA, FIN
03/26/19 (H) STA AT 3:00 PM GRUENBERG 120

WITNESS REGISTER

CLINTON LASLEY, Director
Division of Alaska Pioneer Homes (DAPH)
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 96.

GREG SMITH, Staff
Representative Andi Story
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions on behalf of Representative Story, prime sponsor of HB 71.

KEVIN MCGOWAN, Staff
Representative Jonathan Kreiss-Tomkins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Co-presented HB 31 on behalf of Representative Kreiss-Tomkins, prime sponsor, with the use of a PowerPoint presentation.

ANGELA RODELL, Chief Executive Officer
Alaska Permanent Fund Corporation (APFC)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 31.

ALEXI PAINTER, Fiscal Analyst
Legislative Finance Division
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 31.

ACTION NARRATIVE

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CO-CHAIR JONATHAN KREISS-TOMKINS called the House State Affairs Standing Committee meeting to order at 3:04 p.m. Representatives LeDoux, Story, Vance, Shaw, Fields, and Kreiss-Tomkins were present at the call to order. Representative Wool arrived as the meeting was in progress.

HB 96-PIONEERS' HOME AND VETERANS' HOME RATES

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CO-CHAIR KREISS-TOMKINS announced that the first order of business would be HOUSE BILL NO. 96, "An Act relating to Alaska Pioneers' Home and Alaska Veterans' Home rates and services."

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CO-CHAIR FIELDS, as prime sponsor of HB 96, relayed that the proposed legislation would establish predictable rate increases pegged to inflation to improve the financial stability of Alaska Pioneer Homes (APH) while providing certainty and affordability to the residents. He stated that APH are uniquely Alaskan; they've existed since 1913 when the first home opened in Sitka to serve the new incorporated territory. He said that the

newest home was built in Juneau in 1988; in 2007 the Palmer Pioneer Home became certified by the U.S. Department of Veterans Affairs (VA) to become the Alaska Veterans & Pioneers Home (AVPH). There are also Pioneer Homes in Sitka, Anchorage, Fairbanks, and Ketchikan; together, APH have always served Alaska seniors as they age in The Last Frontier. He offered that given the frontier nature of the state, APH have provided key places for seniors to age in place near their families. He continued by saying that APH create important space for family members to age in place safely, in their home communities, and close to the communities that Alaska elders helped build. The APH are statutorily established and operated through the Department of Health and Social Services (DHSS) and for generations, the legislature has provided very modest general fund (GF) support to keep them affordable for elders and to ensure that elders can age here in Alaska instead of moving to the Lower 48.

CO-CHAIR FIELDS relayed that [Governor Michael J. Dunleavy] has proposed two significant policy changes that would undo the State of Alaska's historic commitment to APH: 1) an \$18 million undesignated fund cut - a 53 percent reduction, and 2) very large rate increases for residents - up to \$15,000 per month - proposed by DHSS. Co-Chair Fields maintained that it is important to recognize that the two policy proposals exist in tandem with one another; under the governor's direction, APH have been mandated to shift in the direction of being self-supporting. Co-Chair Fields emphasized that he considers this shift to be unsustainable, and it fails to keep the faith with Alaska elders that has been supported by legislators for many generations. He relayed that these proposals have shocked and concerned many caregivers, family members, and residents of the homes. He has heard about these concerns directly from those at the Anchorage Pioneer Home.

CO-CHAIR FIELDS offered that fortunately the House Health & Social Services Finance Subcommittee has restored \$20 million in funds - half in GF and half through the ability to bill Medicaid - effectively negating the need for the massive rate increases. He stated that as DHSS has played a part in keeping APH affordable through the budget, the legislature must do its part in terms of legislation to provide sustainable and predictable price increases rather than massive price increases. He offered his concern that without HB 96, there could be a "death spiral" for APH, in which the majority of APH residents who are private payers would be incentivized to seek lower cost facilities in the Lower 48. He asserted that the socio-economic mix in APH is

an important part of the institution; it is important that a significant percentage of residents be able to pay their own way as they always have and as most of them do today.

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REPRESENTATIVE FIELDS opined, "I think we can do better. The legislature always has done better than this. We've always supported the Pioneer Homes ..." He stressed that the proposed legislation would provide predictable, fair rate increases linked to the consumer price index (CPI). He said that there are about two dozen [Alaska] statutes that link to CPI; it is a common measure for trying to establish predictable rate increases so that the cost of a given program does not grow over time without necessary adjustments.

CO-CHAIR FIELDS related that the prices of APH have changed about four times over the past decade; the proposed legislation would increase rates at a faster pace than seen in the past decade. He said that the rate increases have been sporadic and uneven; and HB 96 would establish a more predictable process.

CO-CHAIR FIELDS concluded by recognizing the hard work and public service of APH employees. He shared that the age of APH residents has increased dramatically; the average age is currently 87; many have dementia-related disorders; therefore, the work of the employees has become more difficult in recent years. The employees do incredible work under incredibly difficult circumstances. He mentioned that the employees are very innovative; they have started a new dementia care training program for certified nursing assistants (CNAs); it is the first of its kind in the state and serves as a model for the private sector. He asked for legislative support for APH recognizing not just the contribution of the elders, but the incredible work of APH employees to honor elders.

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REPRESENTATIVE LEDOUX asked to know the portion of APH fees paid by Medicare.

REPRESENTATIVE FIELDS responded that the overall payer source breakdown for residents is as follows: 51 percent private pay; 20 percent Medicaid waiver; and 29 percent of residents have some sort of payment assistance. He relayed that another innovation by DHSS and the Division of Alaska Pioneer Homes (DAPH) in the past few years has been identifying opportunities

to have Medicaid pay a growing share of APH bills. He stated that there are different levels of care in APH: individuals for whom Medicaid pays a significant portion of the bills tend to be in the third level of care [Level III] - higher need and higher acuity care. Level I and II - lower levels of care - tend to be in the "self-pay" group.

REPRESENTATIVE LEDOUX asked whether there was any way to formulate a program so that the state is not charging the private pay residents more, but those getting Medicaid assistance, because there is a federal match.

REPRESENTATIVE FIELDS stated that a Medicaid waiver is granted for residential long-term care; it is referred to as a 1915(c) [Home- and Community-Based Services (HCBS) waiver under Section 1915 of the Social Security Act]; it pays a daily rate of \$162. He expressed his concern that the proposed rate increases [by the administration] greatly exceed what the state would receive through a Medicaid waiver. He agreed that the state should pursue rate increases that are designed to maximize federal revenue. He offered that the proposed rate increases are so steep that they do not correspond to what Medicaid can pay. Comparing the rate of \$15,000 per month with the \$162-per-day Medicaid 1915(c) waiver rate reveals a huge gap which most likely would not be paid. At that rate the life savings of most residents would be liquidated very quickly. He maintained that it is pointless to have such a high advertised rate, knowing that most people would not be able to pay it and Medicaid would not pay it. He emphasized that the state should maximize federal revenue, and the theoretical high rates are not strategically designed to maximize federal revenue. He shared that the current monthly rate for Level III is \$6,700.

REPRESENTATIVE LEDOUX asked how people pay for Providence [Health & Services Alaska] Extended Care.

REPRESENTATIVE FIELDS answered that in order to be eligible for certain Medicaid programs, one must effectively liquidate most of one's savings and place the remainder in a Miller [qualifying income] Trust. He stated that essentially one cannot have too much in assets to qualify; and there are different Medicaid rates for different types of care. He noted that a Pioneer Home is an assisted living facility, which is different from a skilled nursing facility; the two have different rates. He said that the reality is that APH provide a very high level of care among assisted living facilities - much higher than one would find in a home-based Medicaid waiver setting. For that reason,

Agnew::Beck [Consulting] has recommended that Alaska establish a new daily rate for higher acuity assisted living facilities, recognizing that facilities like APH should be able to bill at a higher rate than the average home-based Medicaid provider. He maintained that it is a logical recommendation but one that has been overlooked in the rate increase proposals.

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CO-CHAIR KREISS-TOMKINS asked for a definition of higher acuity.

REPRESENTATIVE FIELDS responded that higher acuity refers to a greater need for services. He explained that there are three levels of care: 1) The lowest level is for people who want to age in APH but live independently. They are a shrinking percentage. 2) People in Levels II and III may have dementia-related disorders or be in a wheel chair. They are a growing percentage. Higher acuity represents higher intensity care, and these residents pay higher rates under the existing payment structure.

REPRESENTATIVE LEDOUX asked for an explanation of Medicaid waiver.

REPRESENTATIVE FIELDS explained that Medicaid waiver is obtained by an individual to pay for living in a long-term care assisted living setting. He added that there are different Medicaid waivers for different services. There are Medicaid waivers for personal care services; these services are different from residential supported living, which is what APH are.

REPRESENTATIVE LEDOUX asked, "A waiver from what?"

REPRESENTATIVE FIELDS replied that it is a waiver for an individual to receive Medicaid (indisc.) to pay for long-term care.

REPRESENTATIVE SHAW asked for the percentage of APH residents who pay the full rate.

REPRESENTATIVE FIELDS responded that 51 percent are self-pay residents.

REPRESENTATIVE SHAW offered his understanding that the AVPH in Palmer is split into three [payment] sources: the VA pays a portion; the state pays a portion; and the individual pays a portion.

CO-CHAIR FIELDS concurred and added that 49 percent of residents are private pay; the other half pay through a mix of public sources, with the VA contributing the greatest share.

REPRESENTATIVE WOOL asked for confirmation that Medicare is medical insurance for those over 65 but does not pay for long-term care.

REPRESENTATIVE FIELDS expressed his understanding that Medicare pays for healthcare and does not pay for assisted living, hence, the need for a Medicaid waiver.

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REPRESENTATIVE STORY expressed that the rate increases proposed - 138 percent - is extreme and poses challenges for seniors and their families to plan; however, the rates have been low and the cost of care needs adjustment. She asked whether the rates should be adjusted before being subjected to the CPI formula.

REPRESENTATIVE FIELDS replied that he would welcome an amendment to address that issue. He suggested applying inflation rates or CPI healthcare inflation rates to the [APH] cost of care from a decade ago and using that as a starting point. He said that he also would be open to more levels of care; there is research that supports doing so. He said that he agrees that rates should be predictable and transparent, and APH should be competitive and affordable for Alaska elders.

CO-CHAIR KREISS-TOMKINS noted that Section 5 of HB 96 [page 3, starting on line 19] codifies the three levels of care in statute. He asked whether the three levels of care are currently in statute or exist in regulation only.

CO-CHAIR FIELDS answered that the three levels are currently in regulation. He reiterated that he is open to discussion and amendments.

REPRESENTATIVE VANCE asked what the actual costs of care are for the three levels - the costs incurred by the homes.

REPRESENTATIVE FIELDS responded that the cost of care for Level I services is \$3,623 and the monthly rate is \$2,588; for Level II, the cost of care ranges from \$6,569 to \$11,185; for Level III, the cost of care ranges from 11,185 to \$13,333. He stated that DHSS has proposed added a new level - Level V - with a

proposed rate of \$15,000. He referred to Representative LeDoux's question regarding maximizing federal revenue and stated that the residential supported living [Medicaid] waiver rate is \$162 per day or about \$4,881 per month. He added that currently many individuals at the higher levels of care are in the Medicaid waiver population.

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REPRESENTATIVE VANCE asked what the costs would be when based upon the proposed daily rates under HB 96.

REPRESENTATIVE FIELDS responded that the rates for APH residents would correspond to what DHSS believes to be the cost. He added that the governor has made a policy decision that APH should follow a self-sustaining model.

REPRESENTATIVE VANCE asked how HB 96 would change that outcome.

REPRESENTATIVE FIELDS replied that the proposed legislation would set rate increases to correspond to inflation, thereby limiting them. Under HB 96, residents would pay more than currently but significantly less than under the governor's proposal.

REPRESENTATIVE VANCE asked for confirmation that residents would pay less than the actual cost.

CO-CHAIR FIELDS answered, yes.

REPRESENTATIVE VANCE referred to the fiscal note (FN) [Identifier: HB096-DHSS-PH-3-22-2019, OMB Component Number: 2671] analysis [page 2] which read:

Under this legislation, the State will continue to subsidize the cost of services to all residents, including those with private pay ability.

REPRESENTATIVE VANCE asked how it would be determined who is in greatest need for access to APH.

REPRESENTATIVE FIELDS explained that statute states that APH rates need not reflect the cost of care; this is due to the longstanding legislative decision to keep APH affordable. Statute also states that residents will not be evicted for inability to pay. The APH accept residents based on a transparent and fair waitlist process and admit residents

regardless of ability to pay. When wait-listed residents are accepted, they have a limited length of time to accept the offer, move into the home, and work with staff on a payment plan. Payment may be through self-pay or payment assistance.

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REPRESENTATIVE LEDOUX asked whether there are facilities outside of APH that have long-term care. She mentioned the Providence Extended Care facility near Boniface Parkway. She asked to know the rates for that facility.

REPRESENTATIVE FIELDS referred to a recent presentation by DHSS providing cost comparisons to the House Health & Social Services [Finance Subcommittee]. He stated that costs at a private care facility vary significantly depending on whether the facility is assisted living or skilled nursing. He said that DHSS relayed that in Seattle, the average cost at an assisted living facility is \$5,720 per month; the average cost at a skilled nursing facility is more than twice that amount. In Portland, the average cost at an assisted living facility is just under \$5,000 per month; the average cost at a skilled nursing facility is nearly twice that amount. In Anchorage, the average cost at an assisted living facility is about \$6,000 per month; the average cost at a skilled nursing facility is in excess of \$20,000.

CO-CHAIR FIELDS continued by posing the question: If people were not in APH, would they be in an assisted living facility or in a skilled nursing facility? He expressed his concern that Alaska would have prices for APH that were so high that self-paying assisted living residents would have no choice but to go to private assisted living facilities and those facilities would most likely be in the Lower 48 because of the limited private sector options in Alaska. He acknowledged that Anchorage has ample in-home care, but not facilities providing care comparable to APH.

REPRESENTATIVE LEDOUX asked whether Marlow Manor [an assisted living facility in Anchorage] and Providence [Health & Services Alaska] accept residents under the Medicaid rates.

REPRESENTATIVE FIELDS replied that he does not know the payer mix at Marlow Manor or Prestige Care [and Rehabilitation Center of Anchorage].

REPRESENTATIVE LEDOUX suggested that virtually no one would have the ability to pay \$20,000 per month and speculated that they would be under Medicaid rates.

REPRESENTATIVE FIELDS concurred that almost no one could pay \$15,000 per month, and Medicaid is a standard payer for long-term care. He reiterated that he does not know the rates of the private facilities mentioned.

REPRESENTATIVE LEDOUX offered that the disadvantage of Medicaid is the necessity to liquidate one's assets. She suggested that liquidating assets by being in long-term care affects the heirs more than the residents.

CO-CHAIR FIELDS stated that he doesn't have a concern with an Alaskan using his/her entire savings to provide for his/her long-term care in APH. His concern is the massive "sticker shock" - \$15,000 per month - and the uncertainty of a rate structure that is fundamentally unpayable; the only safeguard against eviction is the statute, which could be revoked by the legislature at any time; and the rate is three times the Medicaid waiver rate.

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REPRESENTATIVE WOOL asked whether the governor's budget is the impetus for introducing HB 96 or the need to implement consistent and regular rate increases for APH. He mentioned the rates increases - 8.5 percent in 2016 and 5 percent in 2009. He asked to know what was wrong with the current system [of rate increases], regardless of the governor's budget proposal.

REPRESENTATIVE FIELDS maintained that it would be advantageous under any circumstance to have a predictable and sustainable path for rate increases; however, with the budget proposal paired with a regulatory proposal there is more urgency. He offered that even if the legislature rejected the governor's budget proposal, it would be within the regulatory power of DHSS to raise rates dramatically. He offered his concern regarding "driving out" the private payers, who have been an important population in APH.

REPRESENTATIVE WOOL asked if the private pay rate is artificially high to compensate for the lower Medicaid reimbursement rate. He gave as an example: the true cost of care is \$10,000 per month and Medicaid reimbursement is \$5,000. He asked if state subsidies provide the balance.

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CLINTON LASLEY, Director, Division of Alaska Pioneer Homes (DAPH), stated that APH rates have been set by regulation for many years. He relayed that over a 15-year period there have been four rate increases totaling 15 percent; during that same time inflation was 35 percent. He stated that he put forward a proposal in the governor's budget for a rate increase to be reflective of the true cost to DAPH to provide services, understanding statute clearly defines that a resident cannot be evicted due to inability to pay and the payment assistance program is in place to protect those who can't pay. Under the current system, Alaska is subsidizing every individual who is in APH regardless of need. He said that his proposal is to establish a true need-based system so that individuals who need assistance would receive it and individuals who can pay more would pay what they can. In response to Representative Vance, who asked the true cost of providing these services, he referred to slide 14 of the PowerPoint presentation from the Office of Management & Budget (OMB), included in the committee packet, which states that the cost of Level I services is \$3,623; the cost of Level III services is \$13,333.

MR. LASLEY offered that the \$15,000 rate is for a subsection of the population for whom the state is currently not providing services. He referred to an Agnew::Beck study funded by the Alaska Mental Health Trust Authority (AMHTA) [Staffing Plan and Cost Impact Analysis for the Alaska Pioneer Homes, 11/29/18] that explores the best way to serve community needs and the level of care needs in the community and determines the staffing structure. The study determined that there is a subsection of the population - those with dementia and complex behaviors - who are currently not being served in assisted living or many nursing home settings and who inappropriately are being placed in emergency departments or the Alaska Psychiatric Institute (API). He relayed that DAPH is currently building a complex behavior neighborhood in the Anchorage Pioneer Home with capital budget funding received in 2018. He maintained that the \$15,000 per month represents the rate for this subsection of the population needing the highest level of care.

MR. LASLEY stated that DHSS put forward a regulatory package - currently being reviewed by the Department of Law (DOL) - that would establish rates reflecting the true cost of services. Within the package is a proposal to tie future rate increases to Social Security Administration (SSA) rate increases, which is

currently being used for individuals receiving payment assistance. He summarized by saying that currently everyone in APH is being subsidized by the state - regardless of payer source - because of the artificially low rates.

REPRESENTATIVE WOOL asked for confirmation that everyone in APH receiving Level I services is paying less than the actual cost of \$3,623 regardless of ability to pay.

MR. LASLEY responded, "You're correct." He added that for an individual in APH who is receiving Level I services, it costs the state \$3,623 to provide those services, but the individual only pays \$2,588 - the advertised rate.

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REPRESENTATIVE WOOL referred to Mr. Lasley's statement that DAPH would not evict a resident who was unable to pay the actual cost of \$13,333. He asked about an applicant who doesn't have the ability to pay the \$13,333; the state wouldn't subsidize the care of that individual; and SSA, Medicaid, and Medicare doesn't cover the cost. He asked, "Are those people just left out?"

MR. LASLEY replied that statute is clear that someone living in the state who is 65 years of age or older can move into APH if he/she is a resident of the state for at least one year and has a medical need to be in APH. The DAPH does not ask about one's ability to pay when put on the waitlist initially. When individuals become ready to move into APH, they put themselves on the activate waitlist; the state does not ask them about their ability to pay. As rooms become available, DAPH contacts individuals on the waitlist, asks them to move into a home, but does not ask about ability to pay. It is only after an individual accepts a room at APH that DAPH discusses the person's finances, what he/she can pay, need for state assistance, and qualification for Medicaid waiver. He maintained that DAPH's challenge is that rates have not been reflective of the true cost of care: therefore, DHSS has proposed to show in regulation the true cost of providing services - knowing that the payment assistance program exists. Additional funds were added to the payment assistance program budget to ensure that every individual who wanted or needed to live at APH and could not pay for the services would be subsidized by the state.

REPRESENTATIVE WOOL offered his understanding that currently people are accepted into APH regardless of the ability to pay;

DHSS proposes charging the true rate; the change under HB 96 is that someone who has the ability to pay through depleting his/her assets will pay the full rate until they are out of money, at which time they would be eligible for state subsidies. He maintained that under the proposed legislation, the state would get the full rate for a longer period than currently.

MR. LASLEY responded, "This is correct." He explained that currently every resident is being subsidized regardless of need. Under the DHSS proposed plan, by regulation, rates would be raised, and the resident would use his/her resources to pay whatever he/she could, based on the payment assistance program. He gave an example: A resident moves into the home and can pay the \$13,333 rate for six months. Once he/she needs state payment assistance, DHSS would process the individual through the payment assistance program. The rules are set in statute defining an individual's income, limited allowable resources, and allowable deductions such as for taxes and insurance premiums. The remainder is subsidized by the state. He acknowledged that Representative Wool's analysis was correct: a resident would pay what he/she can of the true cost of providing services; at the time he/she needs assistance, he/she would be qualified for the program. In this way [the payment assistance program] truly would be a need-based system.

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CO-CHAIR KREISS-TOMKINS referred to the waitlist and activation on the waitlist and asked, "How many people are presently on that waitlist, and of all the people presently on the waitlist, how many of them have activated themselves saying, 'I want a room as soon as it becomes available.'?"

MR. LASLEY replied that there are about 5,500 people currently on the inactive waitlist. These are people who have put themselves on the list to move into a home at a future date. Just over 200 individuals are ready to move into a home within 30 days, therefore, have activated themselves.

REPRESENTATIVE SHAW asked how the rate increases would affect long-term care insurance.

MR. LASLEY responded that currently there are a group of individuals with long-term care insurance that pays to APH. The department has discovered that because it is not charging the full amount for care, insurance is not paying the most it can

pay under the plan. He stated that a rate increase would not affect the long-term care insurance.

REPRESENTATIVE SHAW asked whether long-term care insurance has a limit.

MR. LASLEY answered that each insurance program has a limit as far as maximum payout.

REPRESENTATIVE LEDOUX asked whether there must be a medical need [for acceptance into APH] beside an age requirement. She suggested that a surviving spouse might not feel comfortable living on her own and asked whether that would constitute a medical need.

MR. LASLEY relayed that under statute an individual must be [at least] 65 years of age. The APH looks for individuals who are not safe living at home or who cannot take care of themselves on their own. He suggested that a person who forgets to turn off the stove could fall into that category.

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REPRESENTATIVE WOOL asked how the state subsidy is allocated and the mechanism for funding the state subsidy. He asked whether that fund was secure.

MR. LASLEY answered that historically the payment assistance program has been funded through GF and GF / Mental Health. He added that the statute that states that APH neither accepts individuals based on their ability to pay nor evicts individuals due to their inability to pay is what secures the payment assistance program.

REPRESENTATIVE WOOL asked whether the funding is separate from the funding for APH itself. He asked about the fund's availability to continue to pay the costs of care and make up the difference between what Medicaid pays and the costs. He mentioned that HB 96 was introduced due to a concern that rates are exceeding people's ability to pay.

MR. LASLEY responded that the current payment assistance has been paid out of the APH component of GF. He stated that under the governor's proposal, there would be a separate unique component developed - the payment assistance component. He maintained that the purpose of developing this component is to truly identify the amount that needs to be subsidized by the

state. Initially when the \$15 million was put into the fund, OMB and DHSS did not know what would be needed for state subsidy because it was paid from GF. Individuals have never been asked about their ability to pay. Under the proposed DHSS regulations, DHSS would identify exactly what the needs of individuals are for state subsidy and draw down that state subsidy component by the amount needed. He gave an example: If someone could pay \$10,000 and needed \$3,333 in subsidy, DHSS would draw that amount down from the [payment assistance] component and truly be able to identify what individuals need for subsidy and not subsidize individuals merely because the rates are low.

REPRESENTATIVE WOOL expressed his understanding that currently every resident is subsidized because APH is not charging the actual rate; under the proposal, the true rate would be charged, and if a person cannot pay, it would be subsidized through the new subsidy program. He asked whether there was ever more of a residency requirement [for APH] beyond the current requirement of one year.

MR. LASLEY answered that there was a requirement for longer residency, but he does not know when it was changed to one year. He clarified that under the proposal, the payment assistance program would be intact as previously, and the difference would be that DHSS would account for it in a separate component. He stated that it is not a new program; the governor's proposal is for the rates to reflect what it truly costs to provide services, and to truly account for it.

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REPRESENTATIVE VANCE expressed her understanding as follows: If the state raises the rates to reflect actual costs, it could maximize its draw from insurance and federal funds, account for the amount truly needed in the state budget and help the people who truly need [the care]. She added that there is a clear increase in the aging population in Alaska, and Alaska needs many more private care facilities for seniors; however, with APH subsidizing senior care, there is little incentive for people to move into private facilities. She maintained that if the costs of each were competitive and both were able to draw on the insurance and federal funds, then APH truly could be need-based - for people who cannot pay. She asked for confirmation that she has accurately stated the motivation behind the governor's proposal.

MR. LASLEY responded that when he introduced the proposal to raise rates to reflect the cost of providing services, it was not an easy decision - knowing that it would cause angst among people living in the homes or planning to live in the homes. He stated that the payment assistance program provides security. He said that the APH system was developed to be a true need-based system and serve individuals who need assistance and do not have the ability to pay for care in the private sector. He voiced that currently DAPH, by keeping its rates artificially low, is competing with the private sector, and state government should never compete with the private sector. He considered how to raise rates - incrementally or one time. He mentioned that the 8.5 percent rate increase in 2016 caused many issues for residents. He said that his proposal was to raise rates to what it costs to provide services rather than raise them multiple times and to avoid competing with the private sector.

REPRESENTATIVE VANCE asked whether under the governor's proposal, the rates for residents currently in the homes would be "grandfathered" in and new residents would be subject to the new rates.

MR. LASLEY answered, no. The current proposal is to increase rates for every individual; he is unsure if DAPH could charge varying rates for the same service. He reiterated that the rate increase was for every individual; however, if assistance is needed, the payment assistance component could be used or an individual needing the highest level of care could draw down his/her assets and qualify for a Medicaid waiver. He maintained that the proposal represents a multitiered approach: higher APH rates, Medicaid waiver reimbursement rates, and accounting for individuals who need assistance.

[4:00:28 PM](#)

REPRESENTATIVE STORY related that the intent of APH was for Alaska to take care of its seniors at the point they need the care, and the state would help provide that care. She maintained this has been the state's policy for a long time; the governor's proposal represents a major shift in policy; the change is a drastic and sudden change; and seniors and their families have planned with the current rates in mind. She relayed the percent increases listed in the table on slide 14, entitled "Current vs. Proposed Monthly Rates," for the various level of care categories: 40 percent, 40 percent, 138 percent, 65 percent, and 96 percent. She opined that the increases are large. She expressed her desire to see more gradual increases

to allow people to plan and anticipate the costs. She understands DAPH's viewpoint; however, it is a difficult situation. Alaska does not have many places for seniors. It would be unfortunate if they had to leave and not be by their families. She asked whether DAPH has considered proposing a more moderate increase.

MR. LASLEY answered yes, and that DAPH looked at multiple different approaches. The beauty of the regulatory process is that it is posted for 60 days for public comment and the rate would be determined by the DHSS. He acknowledged that the true cost of providing services does present "sticker shock"; there is not easy way to rightsize DAPH. He mentioned that increasing rates over a three-year period would require a regulation change every year, public testimony every year, and a decision made every year. He stated that DHSS advanced the proposal to have a one-time rate increase, rightsize DAPH, and put a methodology in place to propose future rate increases based on SSA benefits, thereby avoiding multiple hard conversations but knowing that the payment assistance program exists to protect all Alaskans 65 and older. He said that the governor and the administration is committed to following the statute prohibiting any resident from being evicted and ensuring that funds would be available.

REPRESENTATIVE WOOL mentioned the sticker shock, resident expectations, and the possibility of a person needing to liquidate all his/her assets. He referred to the possibility of different rates for new residents versus someone grandfathered in. He acknowledged that even though no one will be evicted, the proposal causes residents stress.

MR. LASLEY agreed that it is a tough conversation to have. He stated that for individuals moving into APH, it is their last home, and they have been moving in at higher ages. He mentioned that some come in at the lowest level of care and within a month they have advanced to the higher level of care costing \$6,700. He said that it is a hard transition as individuals age in place; the average age in the home is 87; over 50 percent are at the highest level of care; most individuals expend their resources at a rapid rate. If individuals at the higher level of care meet resource and medical need requirements, they would qualify for the Medicaid waiver. He mentioned the Miller Trust, a qualifying income trust, into which an individual can put resources, and those funds would pay the state what it had subsidized through the Medicaid Waiver program.

CO-CHAIR KREISS-TOMKINS stated HB 96 would be held over.

[4:08:52 PM](#)

The committee took an at-ease from 4:09 p.m. to 4:14 p.m.

[During the at-ease, Co-Chair Kreiss-Tomkins passed the gavel to Co-Chair Fields.]

HB 71-STATE PERSONNEL ACT: VETERANS' EXPERIENCE

[4:14:20 PM](#)

CO-CHAIR FIELDS announced that the next order of business would be HOUSE BILL NO. 71, "An Act relating to hiring for positions in state service based on substitution of military work experience or training for required civilian work experience or training."

[4:14:43 PM](#)

REPRESENTATIVE STORY, prime sponsor of HB 71, relayed that the proposed legislation would allow work experience gained in the military to be used when applying for jobs with the State of Alaska. She paraphrased from the sponsor statement, included in the committee packet, which read:

Members of the military bravely serve our nation and protect our nation's values around the world. The rigors of the battlefield can be immense, yet the transition back to civilian life often proves to be another battle. In a 2012 survey, two-thirds of veterans named finding a job as the greatest challenge in transition from military to civilian life.

House Bill 71 attempts to ease this transition by allowing veterans, former prisoners of war or members of the national guard to substitute documented military experience for published minimum qualifications for state classified positions. Numerous states, including Alaska, provide veterans hiring benefits and employment preferences; House Bill 71 would provide additional support to our veterans by allowing their previous military work experience to carry over into the civilian world.

Allowing the use of military experience for state job qualifications is currently allowed in Alaska's

personnel policy. House Bill 71 would enshrine this current practice into law, ensuring those who have sacrificed for our nation will have better access to employment irrespective of changes in administrations.

REPRESENTATIVE STORY added that in the 15 years that she served on the [Juneau] School District Board of Education, there were five leadership changes. Even though the board had policies and practices, leadership changes often disrupted following them; the proposed legislation would put the practices into statute. She continued by saying that an additional benefit would be raising awareness among veterans that their military experience can be used when applying for state jobs. State hiring personnel would know to count military work experience when evaluating veterans and other members of the military for state positions.

REPRESENTATIVE STORY mentioned that the proposed legislation was introduced during the Thirtieth Alaska State Legislature, 2017-2018, by former Representative Justin Parish and passed the House unanimously. She expressed her belief that HB 71 is worthwhile legislation, has value, and should be enacted into law.

[4:17:51 PM](#)

REPRESENTATIVE VANCE asked for an example of how HB 71 would benefit the workforce beyond the practices currently in place.

[4:18:10 PM](#)

GREG SMITH, Staff, Representative Andi Story, Alaska State Legislature, on behalf of Representative Story, prime sponsor of HB 71, stated that the first step for applicants for state employment is demonstrating that they meet minimum qualifications, such as holding a [General Education Development (GED) - High School Equivalency Certificate], a college diploma, a commercial driver's license (CDL), or a nursing degree. The proposed legislation would allow experience gained in the military to be used to meet those minimum qualifications. He gave an example: for a procurement specialist the minimum qualifications include a year of procurement experience, writing or approving solicitations, explaining contracting requirements, and developing or proving product specifications. He reiterated that the proposed legislation would enshrine in statute that such experience in the military would count toward the minimum qualifications for a state position.

REPRESENTATIVE VANCE asked for the reason the practice needs to be enshrined in statute when it is in the standard operating procedure (SOP).

MR. SMITH stated that statute is more fixed than policy; changes in administration cause policies to change. He reiterated that there is an awareness component; veterans and those involved in the hiring process would know for certain that the military experience counts when applying for state positions.

REPRESENTATIVE SHAW gave examples in which veterans could use their work experience to transition into a position: "Troops to Teachers" is a program allowing an individual with 20 years of military service, who is at the conclusion of a degree program, to enter a classroom, initiate student teaching, finish his/her degree, and become a teacher. In the military there are individuals in the Supply Corps or under the Judge Advocate program who are lawyers or legal assistants. He maintained that there are many positions in the military with vast amounts of experience that could transition easily into a state position. He asserted that the value that veterans bring to the state workforce is huge; this practice being enshrined in statute rather than policy, would make a difference and would allow it to exist in perpetuity.

REPRESENTATIVE FIELDS offered that as a practical reality, the Department of Defense (DoD) has substantially invested in personnel to assist with transitioning military service members; with the practice put into statute, DoD staff who work with those finishing their service in Alaska would be able to reference statute as a clear indicator of the great opportunity to enter state service. He stated that there are also private sector transition programs; some unions promote the Helmet to Hardhats program. He said that the advantage of the statutory language under the proposed legislation is that it would make it easier for the state to benefit from a veteran's service and previous experience by welcoming him/her to its workforce.

[4:23:08 PM](#)

REPRESENTATIVE WOOL mentioned that regulations are enshrined and followed; they are not tenuous.

REPRESENTATIVE STORY responded that there have been reported incidences in which policy was not followed and using military experience for employment became difficult. She offered that

the bill was introduced to put the practice into statute to ensure the policy would be followed.

CO-CHAIR FIELDS stated that HB 71 would be held over.

[4:24:40 PM](#)

The committee took an at-ease from 4:25 p.m. to 4:26 p.m.

HB 31-APPROP: EARNINGS RESERVE TO PERM FUND

[4:26:06 PM](#)

CO-CHAIR FIELDS announced that the final order of business would be HOUSE BILL NO. 31, "An Act making a special appropriation to the Alaska permanent fund; and providing for an effective date."

[4:26:08 PM](#)

CO-CHAIR KREISS-TOMKINS, as prime sponsor, relayed that HB 31 is identical to an amendment to the operating budget [introduced during the Thirtieth Alaska State Legislature, 2017-2018] with ten co-sponsors from both caucuses and both political parties; however, it was never put to a vote on the House floor. He maintained that the impetus for the amendment is greater currently than last year.

CO-CHAIR KREISS-TOMKINS relayed that he joined the Alaska State Legislature in 2013; that year was the first in some time that Alaska had a budget deficit. In the ensuing years, the state had a multibillion-dollar deficit, cut spending slightly, did not raise revenues, and spent down \$14 billion in savings. He referred to a PowerPoint presentation on HB 31, slide 1, entitled "If the deficits continue, the CBR is most likely gone." The chart on the slide demonstrates by bar graph the decline in the funds over the years, 2014-2019. He expressed that these actions have been immensely frustrating to him, especially considering the earning potential of the \$14 billion. He maintained that regardless of one's views on permanent fund dividends (PFD) payments and level of state services, Alaska would be in a better position if it had invested that amount.

CO-CHAIR KREISS-TOMKINS stated that there is still a budget deficit. There are many competing visions for Alaska regarding PFD payments and public services. The impetus of HB 31 is to ensure that Alaska's intergenerational financial assets and the permanent fund itself are protected from the "tugging and

pulling" of the political priorities for spending. He expressed his grave concern that the legislature, which has spent \$14 billion in the past 4-5 years, is equally capable of spending down some fraction of the \$17 billion in the Earnings Reserve Account (ERA) over the coming years, if the political climate was conducive to doing so. He maintained that he is cautiously optimistic that this would not happen during the current legislative session; however, he is concerned about it happening in future years. He offered that spending the account down in an unsustainable manner, that is, spending faster than the permanent fund is generating earnings, is the most perilous and concerning outcome as far as bankrupting the future of the state.

[4:30:53 PM](#)

KEVIN MCGOWAN, Staff, Representative Jonathan Kreiss-Tomkins, Alaska State Legislature, on behalf of Representative Kreiss-Tomkins, prime sponsor of HB 31, referred to slide 2 of the PowerPoint presentation, entitled "Permanent Fund Account Structure," which illustrates the two accounts of the permanent fund - the Principal and the ERA. The Principal is a constitutionally established and permanently protected savings account that can never be spent. The ERA is available for appropriation by a simple majority of the legislature.

MR. MCGOWAN moved on to slide 3, to discuss the calculation used last year [2018] in determining the amount needed in the ERA to maintain the percent of market value (POMV) annual draws. He said that under Senate Bill 26 [passed during the Thirtieth Alaska State Legislature, 2017-2018] the formula used required the ERA to be four times the POMV draw to maintain the ERA. A POMV draw of \$2.5 billion would require an ERA of \$10 billion. This amount would need to remain in the account in order to make PFD payments or state service appropriations.

REPRESENTATIVE KREISS-TOMKINS explained that when the operating budget was discussed in 2018, the minimum sufficient balance of the ERA was viewed as a "shock absorber," because the ERA is the account from which all PFD payments are made and - with the passage of Senate Bill 26 - from which payments for some state services are made. The ERA is where market risk is consolidated, and unrealized earnings are represented. If there is a severe market downturn or a [calamitous] geopolitical event, the ERA could contract rapidly. Even though \$2.5 billion may be all that is needed annually, having four times more provides the buffer to absorb financial shocks.

REPRESENTATIVE LEDOUX asked what the benefit of HB 31 would be as opposed to the constitutional amendment that has been proposed creating a spending cap.

REPRESENTATIVE KREISS-TOMKINS replied that although the two are interrelated, the proposal under HB 31 - moving funds from the ERA into the Principal - does not mention how much or how little spending is appropriate.

REPRESENTATIVE LEDOUX maintained that, in effect, it does limit the amount which can be expended.

REPRESENTATIVE KREISS-TOMKINS agreed. He said that if there was a constitutional spending cap in place - like what [Governor Michael J. Dunleavy] has proposed or the Senate of the Thirtieth Alaska State Legislature proposed, there would be certain enhanced levels created for the permanent fund. He said that if the spending cap were in excess of state revenues, "it would help but it wouldn't entirely solve it depending on what the spending cap ultimately was." He added that there is another political consideration: the spending cap may not pass in the legislature; passing a spending cap constitutional amendment requires a high threshold - two-thirds of each body. He believes that there are more permanent fixes for protecting the state's assets, but currently, there is a great deal of money in the ERA that could be liquidated [by the legislature]. The proposed legislation offers a short-term ability to put some money into savings.

[4:36:47 PM](#)

REPRESENTATIVE STORY opined that HB 31 appears to provide inflation proofing. She asked what the state is currently doing to inflation proof the fund and what the state's history is on inflation proofing.

REPRESENTATIVE KREISS-TOMKINS said that currently inflation proofing under the statutory formula is about \$1 billion. He stated that the amount of money that HB 31 would transfer - \$5.5 billion - is like an inflation proofing amount. He mentioned that under present market conditions, the transfer could be as large as \$7 billion; the ERA amount this year is larger than last year when a transfer was considered under the operating budget. He maintained that the amount that would be transferred under HB 31 is very similar in principle to inflation proofing; however, because the legislature has failed to inflation proof

in a couple previous years, because there is a bull market, and because the ERA has rapidly grown, even inflation proofing like has been done in the past would not move the excess money from the ERA.

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REPRESENTATIVE VANCE relayed that Representative Kreiss-Tomkins's presentation sounds like he supports protecting the states funds from excessive spending by balancing the budget. She mentioned that the legislature has rapidly spent \$14 billion; however, there continues to be spending, and one way to avoid that is to reduce spending. She expressed her concern that the intent of HB 31 - moving funds from the ERA - is to remove it from the conversation regarding restoring the PFD payments of the past few years. She maintained that the 2018 elections demonstrate that Alaskans want to be part of that conversation. She stated that her constituents support having a conversation about restoring the PFD payments that were not fully paid, and not moving the excess ERA money into the [Principal]. She maintained that her constituents have not had the opportunity to have this conversation.

REPRESENTATIVE KREISS-TOMKINS responded that he has a deep cynicism about legislature's ability to restrain its spending. He suggested that he and Representative Vance have different perspectives about the solution. He mentioned that his first two years in office were under a Republican administration and Republican majorities in both chambers of the legislature, and the savings were liquidated. He stated that his solution would have been to cut spending a little and raise revenues; there was a small cut in spending and no new revenues. He continued by saying that in subsequent years there was mixed political control. He opined that to some extent political control does not matter; the state has not been able to sustainably balance its budget. He maintained that the state is closer to balancing its budget than ever before; however, until the state can balance its budget, there is a lot of risk with large amounts of money available for appropriation, especially when only a simple majority vote of 21-11 is required.

CO-CHAIR KREISS-TOMKINS offered that regarding the backpay of PFDs, it never occurred to him before Representative Vance asked the question that HB 31 would be considered a way to preempt the ability to do that. He maintained that the proposal [under HB 31] was first introduced last year before there was public dialogue on backpay of the PFDs. He added that there were

concerns voiced during the previous administration that the funds would be spent down to pay for the natural gas pipeline; another time it could be another project that people supported. He said that such proposals are concerning; for example, building a giant bridge from Baranof Island to Admiralty Island would be a multi-billion-dollar project and a tremendous waste of state money. He asserted that Alaska should spend within its means and have a balanced budget; having a great deal of available funds presents risks.

[4:43:19 PM](#)

REPRESENTATIVE WOOL relayed that the argument last year is different from the argument this year. In past years the state drafted a budget, didn't have the revenue to pay for the budget, and took the money out of the Constitutional Budget Reserve Fund (CBRF). The CBRF represented a liquid savings account that was easy to access. He said that currently the state has a structured draw out of the entirety of the permanent fund; therefore, the revenue - from the draw and the other revenues, such as oil taxes - could pay for the budget. He suggested that the intent of HB 31 is to protect against the draw on the ERA outside of the structure.

REPRESENTATIVE KREISS-TOMKINS answered, "Effectively, yes." He said that if the legislature had forever abided by the framework of Senate Bill 26 and never drew from the Permanent Fund greater than 5 percent of the permanent fund's market value, there would effectively be no risk of unsustainably spending down the real fund of the Permanent Fund. It is possible that should political or economic conditions shift, there may be a situation in which the legislature would want to draw greater than a sustainable amount from the Permanent Fund as set forth in Senate Bill 26, regardless of how the money is spent. He maintained that HB 31 would control for that risk.

REPRESENTATIVE LEDOUX asked if HB 31 would have the effect of avoiding a three-quarter vote [of the legislature] to draw money from the CBR. She suggested that if the ERA were below a certain amount, a three-quarter vote would not be needed to draw from the CBR.

[4:47:21 PM](#)

ANGELA RODELL, Chief Executive Officer, Alaska Permanent Fund Corporation (APFC), answered that traditionally there has been language associated with the CBR that if the level of total

savings of the state reaches a certain threshold then the need to repay the CBR is negated. She added that she did not know what the threshold was but currently there is a repayment obligation for the CBR for the current balance.

REPRESENTATIVE LEDOUX stated that her concern was not with the necessity of repaying the CBR; her recollection is that if the amount of money in ERA is less than a certain amount, than the requirement for a three-quarter vote to take money out of the CBR would be negated.

[4:49:14 PM](#)

ALEXI PAINTER, Fiscal Analyst, Legislative Finance Division, stated that under the constitution, the CBR can be accessed by a simple majority vote, if the amount available for appropriation is less than the previous year's budget. He said that the courts have interpreted that to include the ERA as the amount available for appropriation; it also includes that current year's revenue. For fiscal year 2020 (FY 20), the current year's revenue is about \$2.5 billion in traditional revenue and \$2.7 billion from the permanent fund. In order to access the CBR with a simple majority vote, the balance in the ERA would have to be under \$1 billion, requiring a \$17.5 billion transfer; currently the amount is far too small for that to occur.

MS. RODELL, in answer to Representative Story, said that the original legislation 40 years ago included inflation proofing as a second draw after the draw for PFD payments. The [inflation proofing] calculation is based on consumer price index (CPI). Each year there has been an appropriation for inflation proofing up until 2010; that year the appropriation was zero because inflation was zero. The calculation is based on the most recent calendar year's CPI and is calculated off the balance in the Principal of the [permanent fund] account only; therefore, it is not calculated on the total of the Principal plus the ERA. She said that in FY 16, FY 17, and FY 18, the decision was made to not appropriate for inflation in any of those three years; that amount would have totaled \$1.4 billion had those appropriations occurred. An appropriation was included in the FY 19 budget; that money will be moved at the conclusion of the fiscal year once Alaska has received all the royalties into the Principal and APFC is able to do the calculation. She added that this usually occurs in July of every year; the amount is estimated to be about \$942 million. She continued by saying that in the FY 20 budget proposal, there is an estimated inflation proofing calculation of about \$982 million.

CO-CHAIR FIELDS asked for the amount each \$1 billion earns Alaska on average per year; that is, what earning opportunity is lost for each \$1 billion that Alaska spends down.

MS. RODELL replied that since inception 40 years ago, the earning rate has been 8.9 percent; rounded up to 9 percent, the amount lost would be about \$90 million.

CO-CHAIR FIELDS stated that HB 31 would be held over.

[4:53:43 PM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 4:55 p.m.