

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

March 28, 2019

3:07 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."

- MOVED HB 71 OUT OF COMMITTEE

HOUSE BILL NO. 82

"An Act adding to the powers and duties of the State Commission for Human Rights; and relating to and prohibiting discrimination based on sexual orientation or gender identity or expression."

- 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
03/26/19 (H) Heard & Held
03/26/19 (H) MINUTE (STA)
03/28/19 (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
03/26/19 (H) Heard & Held
03/26/19 (H) MINUTE (STA)
03/28/19 (H) STA AT 3:00 PM GRUENBERG 120

BILL: HB 82

SHORT TITLE: DISCRIMINATION: GENDER ID.;SEXUAL ORIENT.
SPONSOR(S): REPRESENTATIVE(S) JOSEPHSON

03/06/19 (H) READ THE FIRST TIME - REFERRALS
03/06/19 (H) STA, JUD
03/28/19 (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, Version U.

MIKE COONS
Palmer, Alaska

POSITION STATEMENT: Testified in opposition to HB 96, Version U.

STAN PARROT
Palmer, Alaska

POSITION STATEMENT: Testified in support of HB 96, Version U; his testimony was read by Lisa Smayda.

ANNEMIEK BRUNKLAUS
Palmer, Alaska

POSITION STATEMENT: Testified in support of HB 96, Version U.

ARDIS STANLEY
Palmer, Alaska & State

POSITION STATEMENT: Testified during the hearing on HB 96, Version U.

BILL BROKAW
Palmer, Alaska

POSITION STATEMENT: Testified during the hearing on HB 96, Version U.

DAVE BROWN
Palmer, Alaska

POSITION STATEMENT: Testified in support of HB 96, Version U.

DOROTHY DITTMAN
Palmer, Alaska

POSITION STATEMENT: Testified during the hearing on HB 96, Version U.

ROCKY PLOTNICK
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 96, Version U.

KATIE BOTZ
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 96, Version U.

REPRESENTATIVE ANDY JOSEPHSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 82, as prime sponsor, with the use of a PowerPoint presentation.

ELISE SORUM-BIRK, Staff

Representative Andy Josephson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Co-presented HB 82 on behalf of Representative Josephson, prime sponsor.

ACTION NARRATIVE

[3:07:12 PM](#)

CO-CHAIR JONATHAN KREISS-TOMKINS called the House State Affairs Standing Committee meeting to order at 3:07 p.m. Representatives LeDoux, Story, Wool, Vance, Shaw, Fields, and Kreiss-Tomkins were present at the call to order.

HB 96-PIONEERS' HOME AND VETERANS' HOME RATES

[3:08:12 PM](#)

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."

[3:08:41 PM](#)

REPRESENTATIVE SHAW moved to adopt the committee substitute (CS) for HB 96, [Version 31-LS0646\U, Marx, 3/27/19], as the working document. There being no objection, Version U was before the committee.

[3:08:59 PM](#)

CO-CHAIR FIELDS, as prime sponsor of HB 96, Version U, remarked that there were a few substantive changes in Version U. He said that the cost of the Alaska Pioneer Homes (APH) failed to keep pace with inflation going back to 2004; therefore, in Version U, the rates for Levels I-III align with what 2004 rates would have been if they had kept pace with inflation. He stated that because the population of APH has changed, under Version U, the current three tiers of care would be expanded to five tiers of care. This change is consistent with the current direction of the management of APH and with the Agnew::Beck [Consulting] study ["Staffing Plan and Cost Impact Analysis for the Alaska Pioneer Homes," 11/29/18, document not provided]. He explained that having complex behavior neighborhoods within APH allows residents to be moved from Alaska Psychiatric Institute (API) to APH, thus, saving the state money. He relayed that under

Version U, the Consumer Price Index (CPI) would be replaced with the Social Security [Administration] (SSA) cost-of-living adjustment, which is preferred by the Department of Health and Social Services (DHSS).

CO-CHAIR FIELDS maintained that the proposed legislation would still provide certainty to residents that rate increases would be capped and indexed annually to inflation. He expressed his hope that under Version U, APH rates would keep pace with inflation and provide a balance between capturing a fair share of the revenue yet protecting consumers by ensuring accessibility.

CO-CHAIR FIELDS related that through research, his staff confirmed that under Version U, the state would capture the full value of long-term care insurance. He clarified that with the value of standard long-term care insurance and the average tenure of residents in APH, the rates under Version U would capture the full value - the maximum payout - of the typical long-term insurance plan, except in very unusual circumstances.

[3:12:53 PM](#)

REPRESENTATIVE STORY asked whether there was a need to raise rates to bring them up to date and whether a public comment period would be necessary if it was determined that rates needed to be higher than the SSA index.

REPRESENTATIVE FIELDS responded that under Version U, the maximum rate increases would be capped at the SSA increases. If in the future the legislature decided that more revenue was needed for Level III care and could be collected, a statutory change would be required. He maintained that this was the reason for bringing the rates up to date for inflation.

[3:14:14 PM](#)

REPRESENTATIVE VANCE cited the Agnew::Beck study and the efforts of APH to assess whether the needs of Alaskans are being met, the sustainability of its services, the intense needs of dementia patients, and the tiered levels of care. She mentioned that the study was the first of its kind to be done on APH. She asked for comment regarding the scenarios that have been recommended for implementation for best practices to utilize the beds and services to the community. She asked how Version U would help APH reach that goal.

REPRESENTATIVE FIELDS expressed his belief that the Agnew::Beck study properly recognized that APH has always had a diverse mix of residents. Some residents are quite independent and other have much more intense needs. The Agnew::Beck study supports continuing to have a diverse group of residents. He maintained that Version U is targeted toward APH continuing to be welcoming to people who live independently. It has been suggested that APH could be exclusively for people needing higher level of care and could exclude the traditional population of self-pay people who live independently in the Level I service of care. He said that the Agnew::Beck study maintains that it is valuable to have a diversity of residents in APH - in terms of social relationships and quality of life. He commended APH staff who try to accommodate residents with a wide range of needs.

[3:16:55 PM](#)

REPRESENTATIVE VANCE cited page 7 of the study under the section entitled "Cost Impact Key Findings," which read in part as follows:

- Scenario 1: Operational status quo.
- Scenario 2: Balance the social and medical services of assisted living and operate at full capacity.
- Scenario 3: In addition to the assumptions in Scenario 2, increase number of higher acuity residents served to maximize community benefit.

REPRESENTATIVE VANCE directed attention to the cost analysis in the study demonstrating the financial impact of moving from Scenario 1 to Scenario 2 and 3. She expressed that she does not understand how Version U of HB 96 would help reach the goal of generating the revenue and meeting the needs of the residents.

REPRESENTATIVE FIELDS answered that a key change under Version U is the expansion to five tiers of care. He cited page 8 of the study, which read:

However, the rate structure of the Pioneer Homes does not currently reflect the actual cost of this higher level of care, so the increased revenue does not cover the increased costs. This is most pronounced when staffing up for a complex behavior neighborhood at a higher staffing intensity of one direct care aide (such as a CNA) for every three residents, 24 hours per day, seven days per week. Under the current rate

structure, these residents would be charged for level 3 services.

CO-CHAIR FIELDS said that under Version U and in APH's internal planning, APH would have five levels of care; the fifth level of care would have higher reimbursement rates because the care is higher intensity. He added that even if the state did not capture higher reimbursement rates, it could still save money through a fifth tier of care - a complex behavior neighborhood - in a separate area in the APH building. People with complex behavior health needs could be relocated from API, which would bring in over \$500,000 per year. He maintained that the major change in the proposed legislation - allowing for the fifth tier of care - supports the cost-saving measure, the quality of life measure, and the safety measure. He added that under Version U, the fifth tier allows for prices to match the cost of care - recognizing that there could be higher reimbursement rates for tier-five care. He pointed out that for the existing tiers, APH would provide a degree of protection for residents who expected affordable rates.

[3:21:22 PM](#)

REPRESENTATIVE VANCE asked whether APH could implement the five tiers of care if mandated under Version U. She also asked whether APH could implement Scenario 2, as outlined in the study.

[3:22:25 PM](#)

CLINTON LASLEY, Director, Division of Alaska Pioneer Homes (DAPH), Department of Health and Social Services (DHSS), responded that under Version U, which caps rates not meeting current costs to provide services, and the state budget that has been passed by the House Finance Committee, there would not be the funding. The way the budget has been proposed, APH would charge the full rate of providing services, and there would be no general fund (GF) money within the APH component of the budget. The only GF money would be in the payment assistance component of the budget, which would be a separate component. Individuals who are "private pay," although still being subsidized by the state, would be paying the full rate requested by APH and would not qualify for payment assistance; therefore, APH would not be able to use the payment assistance component funds for them. Under payment assistance there is an income requirement, and if a person's resources are above the level set, he/she would not qualify for payment assistance and APH

would not be able to use the payment assistance funds. He concluded that APH could not continue to operate as it is currently, if the rates are capped as outlined under Version U.

REPRESENTATIVE VANCE asked how APH would provide for current residents.

MR. LASLEY reiterated that the current version of the budget does not fund individuals not on a payment assistance program. The budget was designed with the intent that APH would charge residents what it truly costs to provide services. Under Version U, Level IV would be capped with a \$10,000 maximum rate; it currently costs \$13,333 to provide that service, which leaves a \$3,333 gap. If an individual can pay the \$10,000, then the state would subsidize the \$3,333. In that case, the individual would not qualify for payment assistance because he/she would be paying the full rate, and APH would not be able to use the funds in the payment assistance component. It is designed to be used only for those individuals who qualify for payment assistance. He concluded by saying, "That's where the challenge is with not charging the full rates as they cost to provide service."

[3:25:52 PM](#)

REPRESENTATIVE LEDOUX asked what assets one can have and still qualify for the payment assistance program.

MR. LASLEY replied that statute lists the resources and assets a person may retain and still be on the payment assistance program. He said that primarily the person must be in a position in which he/she truly needs assistance; resources must have been liquidated; however, there are items that the person is allowed. He stated that there is a payment assistance application; total income and resources are considered to determine whether the person meets the income level requirement. Examples of items allowed include \$2,000 in assets, a burial account, resources to pay insurance premiums and federal taxes, and one's spouse may retain the home.

REPRESENTATIVE LEDOUX asked why a person with only \$2,000 would be paying federal taxes.

MR. LASLEY explained that individuals on payment assistance might be receiving resources monthly; they pay what they can pay out of resources. He gave an example: Someone receiving Level II services under a rate of \$4,600 per month receives \$2,000 per month in SSA income. The state reduces its subsidy by the

amount the person can pay; the person keeps \$200 per month for personal needs; the remaining amount is subsidized by the state. He confirmed for Representative LeDoux that a person can keep \$200, not \$2,000 per month.

REPRESENTATIVE LEDOUX asked for confirmation that his example represents how the program works currently.

MR. LASLEY agreed that what he described was how the program works today, and it is in statute.

[3:29:22 PM](#)

REPRESENTATIVE LEDOUX asked whether under the proposed budget of the governor [Governor Michael J. Dunleavy], there is no money for APH in GF.

MR. LASLEY answered that the funds sourced from GF have now been put into a need-based system, which is a separate component, and everyone who needs assistance would apply for payment assistance. Whatever an individual cannot pay would be taken from the payment assistance component.

REPRESENTATIVE LEDOUX posed a hypothetical situation: The budget sent to the governor is somewhat different than the governor's proposed budget. There is [APH] money in a GF component of the budget, but not much was in the new payment assistance component. The proposed legislation passed, but the governor vetoed the GF component portion. She asked what would happen to APH under the scenario she described.

MR. LASLEY responded that he cannot speak to hypotheticals. He said that if [APH] funds sourced from GF were put back into the budget by an entity other than the governor, and the funds were vetoed, then there would be no funds to operate APH as it currently exists. He explained that the governor made a commitment to APH that there would be funds available for individuals who can't pay; GF for that purpose is still in the budget but in a separate component, which is a need-based component. If GF funds in the main budget were cut, but money was still in the payment assistance component, money would be available for those who truly need the services.

CO-CHAIR KREISS-TOMKINS explained that GF refers to cash in the state's treasury.

[3:33:08 PM](#)

REPRESENTATIVE FIELDS commented that his office has been coordinating with Representative Spohnholz, co-chair of the House Health and Social Services Standing Committee, and Representative Johnston, a member of the House Finance Committee, to ensure that there is adequate GF for APH to be sustainable. He stated that there are two moving pieces - the budget and the proposed legislation; he intends to continue coordinating with the House Finance Committee to avoid the budget being inconsistent with legislation and to allow the director of APH maximum flexibility.

CO-CHAIR KREISS-TOMKINS mentioned that the final decisions on both the budget and the proposed legislation - absent line-item vetoes - rests with the legislature; therefore, it behooves the legislature to coordinate with itself to ensure that HB 96, Version U, is in comportment with the operating budget. If the governor wants to line-item veto the funding, he can answer to the seniors in APH.

REPRESENTATIVE WOOL asked if billing at APH is like hospital billing, in which costs are inflated to pay for those who can't pay and because insurance companies typically underpay. He asked, "When you say your true cost is \$13,000 ... is that truly your cost?"

MR. LASLEY responded, "That is our true cost." He explained that APH charges what it costs to provide services.

REPRESENTATIVE WOOL asked for confirmation that if a certain level of care costs \$13,000 and the maximum charged by APH is from \$6,000-\$10,000, even if someone pays the full rate, APH loses money on every single person staying at an APH facility.

MR. LASLEY answered, "That is correct."

REPRESENTATIVE WOOL expressed his understanding that the intent of the proposed rate increase is to fully recover the true cost for those who can pay.

MR. LASLEY relayed that the payment assistance program has been in statute for a long time; therefore, there is a program in place that identifies those individuals who do not have the ability to pay, and the state will subsidize the difference between the resources of an individual and the amount charged. He said that currently, APH is not charging the true cost of providing the service; therefore, it is subsidizing individuals

who can pay. He said that the proposed system, with the new payment assistance component, was designed to subsidize only those who truly need assistance and not every resident of APH.

[3:39:01 PM](#)

REPRESENTATIVE WOOL asked how the payment assistance has been funded.

MR. LASLEY said that currently there is about \$33 million of GF in the APH component of the budget. The proposed budget would move that GF to a separate component that would be used only for those individuals needing assistance; APH rates would be increased to be reflective of what it costs to provide services, therefore, capturing from those who can pay the true cost. For those who need assistance, APH would pay from the payment assistance component the true amount that is needed.

REPRESENTATIVE WOOL suggested that raising rates would put more individuals into the category of needing assistance and the state cannot predict the effect of that.

MR. LASLEY answered that Representative Wool was correct. He said that several years ago DAPH started asking residents for information on their resources to predict the future need for assistance or eligibility for federal programs. He agreed that it is somewhat unknown, and for individuals who are living in APH currently, paying the new rate will cause them to deplete their resources quicker. He said that one of the challenges of APH is not knowing the resources of the individuals in APH or those that will be moving into APH in the future. The system is designed to serve all Alaskans regardless of ability to pay; the proposal under the governor's budget is that those who can pay will pay and the remaining amount will be subsidized.

REPRESENTATIVE WOOL pointed out that the question is whether the state wants to subsidize the cost of care for every resident of APH or only for those in need. He acknowledged that such a rate increase would stress a person's finances.

MR. LASLEY agreed that it is a philosophical question for which the state must decide.

[3:44:26 PM](#)

REPRESENTATIVE STORY maintained that under the DHSS proposal the long-term policy of the state to provide seniors assistance for

care would shift to one in which the expectation is for seniors to be self-sufficient.

MR. LASLEY asserted that under the regulations proposed, there would be no change in the way APH operates. The proposal does not require individuals be self-sufficient; the rates would reflect the cost to provide care; if individuals can pay, the states asks for them to pay; if they can't pay, the protection of the payment assistant program is available. He emphasized that it would not be a shift in policy but establishing rates that are reflective of what it truly costs APH to provide services.

[3:46:13 PM](#)

REPRESENTATIVE LEDOUX relayed that APH is most likely the last home for a resident. She suggested that the committee or the legislature must decide whether the state wants its seniors to be able to will their assets to their heirs or pay what they can to the State of Alaska for the services. She maintained that assets of \$500,000 or \$1 million would disappear quickly at \$15,000 per month. She added that seniors could continue living in APH, but when they die, there would be no assets for their heirs.

REPRESENTATIVE FIELDS offered that the actual question is, What is the correct rate structure so that APH remains attractive to a diverse population - a healthy mix of socioeconomics. He maintained that if the rates are too high, the state is inadvertently telling people to go to the Lower 48 for assisted living care. According to the Office of Management & Budget (OMB) presentation to the House Health and Social Services Standing Committee Finance Subcommittee on 3/5/19, [included in the committee packet], other regions have comparable rates for assisted living; it is about \$5,000 per month in the Pacific Northwest. He asserted that the state is trying to strike a balance between APH being financially sustainable yet continuing to attract people, which requires that APH continue to attract middle class and affluent people. Under any model, senior care is expensive, and people will deplete much of their savings. He said that rates too high would discourage affluent people from moving into APH, which raises a concern for the long-term political and financial viability of APH. He emphasized that APH are incredibly valuable, an important resource for the state, and part of the state's commitment to Alaska seniors; therefore, they must be financially viable into the long-term.

[3:50:28 PM](#)

CO-CHAIR KREISS-TOMKINS opened public testimony on HB 96, Version U.

[3:50:54 PM](#)

MIKE COONS stated that he opposed HB 96 and supports the model in the governor's budget presented by Mr. Lasley.

[3:52:57 PM](#)

STAN PARROT, as a resident of the Veterans & Pioneer Home, had his testimony read by Lisa Smayda as follows [original punctuation provided]:

I, Stan Parrott, am concerned that the governor is considering cutting funding for the Pioneer Homes. These facilities are necessary for our state's Senior Residents because most of them are unable to live on their own and many of their families are unable or not in Alaska to care for them. These seniors who have given so much to society now need society's help.

If funding is cut, then many of the Pioneer Homes would not be able to remain open. If they closed their doors where would the residents go? There are few private facilities in the state and none that offer the care and respect for which the Pioneer Homes are noted.

Living should be more than existing, and the Pioneer Homes offer activities that enrich the lives of the people who live here. Speaking specifically of the Pioneer Home in Palmer I want to make sure you are aware of the care the staff – and volunteers – take with each resident. They do their best to ensure all needs (physical/ mental/ emotional) are met.

[3:55:46 PM](#)

ANNEMIEK BRUNKLAUS, as a resident of the Veterans & Pioneer Home, testified that she supports HB 96. She stated that she is 88 years old, has lived in Alaska since 1960, has no family in Alaska, and cannot afford to live anywhere else.

[3:57:09 PM](#)

ARDIS STANLEY, as a resident of the Veterans & Pioneer Home Veterans & Pioneer Home, testified that she has found the care at the Pioneer Home exceptional. She has been at three other locations in Alaska near Palmer and Anchorage. Her family is close by to visit. She asked for information on the proposals that would be understandable to residents.

[4:00:24 PM](#)

BILL BROKAW testified that he has been a resident of the Veterans & Pioneer Home for nine months; he moved in because of his wife's Alzheimer's disease. He stated that he would not be able to afford the increased rate. He offered that he is not yet familiar with what HB 96 proposes; however, if it proposes a cost-of-living increase, then he believes he would be able to afford that level of increase.

REPRESENTATIVE LEDOUX asked Mr. Brokaw whether the following scenario would cause him concern: the governor's proposal was adopted; the charge went up to \$15,000; however, the state provided payment assistance funds to pay for the charge.

MR. BROKAW replied that he has been told that the rate could increase, and because the state would loan him money to pay the charge, he would be able to afford it. He expressed his understanding that it would be a loan; it would need to be repaid; and the state, instead of his children, would receive his assets.

[4:04:39 PM](#)

DAVE BROWN, as a resident of the Veterans & Pioneer Home, testified that he gets excellent care at the home; he has suffered several traumas in the last couple years; and he has very little family. If the governor's proposed budget is adopted, Mr. Brown does not know if he could afford the increased rate. He offered his support for HB 96, because he could afford a cost-of-living rate increase.

[4:05:54 PM](#)

DOROTHY DITTMAN, as a resident of the Veterans & Pioneer Home, testified that her understanding is that the rate for the home will more than double in 2019. She asked, "What is the outlook for the Pioneer Homes, particularly the Veterans & Pioneer Home?" She offered that privatizing the Pioneer Homes would

result in either collusion or competition with the private sector nursing homes.

[4:08:34 PM](#)

ROCKY PLOTNICK stated that she supports HB 96 in order to maintain reasonable prices for residents of APH. She stated that her husband has Parkinson's disease and is a resident of the Anchorage Pioneer Home. She maintained that the home provides a wonderful, vibrant, and diverse community. She relayed that the original intent of APH was to allow Alaskans to live out their final years with respect and dignity. She reminded the committee that APH was established long before Alaska was enriched with oil money or permanent fund dividend (PFD) payments were made. She offered that continuing to fund APH is a bipartisan Alaska issue; and it is the right thing to do to have compassion and take care of Alaska's seniors.

[4:11:24 PM](#)

KATIE BOTZ testified that elders have helped Alaska in so many ways. She maintained that it is only right that the state repays them by taking care of them.

CO-CHAIR KREISS-TOMKINS closed public testimony on HB 96, Version U.

[4:15:20 PM](#)

MR. LASLEY, in response to the question posed by Ms. Dittman, said that the governor's budget does not propose privatizing APH or having APH compete with the private sector. He relayed that the governor has made a commitment to every senior in Alaska that APH will be fully funded; the current budget proposal fully funds them but under a different funding mechanism; the funding in the fiscal year 2020 (FY 20) budget is the same as in the FY 19 budget. He maintained that there has been no discussion on privatization of APH; the administration guarantees that every APH resident has a home and community in which to celebrate life until his/her final breath. He gave his assurance that the state is not changing how APH operates; everyone in APH is protected; it is in statute. He maintained that for individuals in APH who are currently on payment assistance, nothing would change under the rate increase proposal. For those on Medicaid waivers, their resources have already been submitted and a determination made of their qualification for Medicaid waiver benefits; nothing more would be asked of them. He asserted that

for those on the payment assistance program, nothing more would be asked of them, because it has already been determined that they do not have the resources to pay the full rates. The state is subsidizing these residents. He maintained that the only change is for individuals who are in a home or moving into a home in the future and have resources above what is currently being charged. These people would be asked to pay the difference between what is currently being charged and the true cost of providing services. If they cannot pay that difference, then the payment assistance program would be utilized.

MR. LASLEY, in response to Mr. Brokaw, whose wife is in APH and receiving Level III services, explained that if she is on a Medicaid waiver, there is no indebtedness to the state; therefore, Mr. Brokaw would not need to expend his resources above what he is already expending. He continued by saying that for someone on payment assistance who has a spouse in the community, the state would only consider the resources of the individual in the home and file a claim against that individual's estate - not against the individual's spouse living in the community. He clarified that [payment assistance] is not a loan to the spouse living in the community; it is an indebtedness to the state for the individual in the home only.

[4:19:54 PM](#)

REPRESENTATIVE WOOL asked if a dependent of a resident of APH - a spouse or offspring - would be asked to pay APH charges, or only the resident.

MR. LASLEY responded that under the payment assistance program, a dependent's resources would not be considered, but a spouse's resources would be considered. If the spouse is living in the community, there are provisions in the payment assistance program to allow the spouse to keep resources necessary to provide quality of life and keep the home. The resources of any other person who is paying for the care of the individual in the home are not considered. If the rates increase, a son or daughter can choose to pay a portion; however, their resources are not considered to be resources of the elder living in the home.

REPRESENTATIVE WOOL mentioned that the sponsor of the proposed legislation discussed the concept of striking the right rate balance. If it is too high, people will not choose to live in APH, and the only residents living there will be the ones who

are subsidized. If it is too low, it would be because the state is providing everyone subsidy. He mentioned that residential care may be lower in another state; however, if the resident runs out of money, most likely that other state would not subsidize payment. He said that Mr. Lasley has assured the committee that in Alaska, the state will cover the charges. He suggested that Alaskans are understandably anxious about the policy changing in the future.

MR. LASLEY reaffirmed that under the state's long-term model, residents who use up their resources and don't have the ability to pay would not be evicted; it is clear in statute and will not change. He mentioned Co-Chair Fields's reference to the socio-economic mix of APH and said that APH has never considered the socio-economic status of an individual when he/she is moving into a home. He said that APH is for everyone 65 and older who has the need to move into a Pioneer Home, regardless of his/her resources. He mentioned that it is nice to have a socio-economic and ethnic mix of people from all backgrounds; however, APH does not accept individuals based on their resources; it wants to serve individuals that choose and need to live in APH.

[4:25:08 PM](#)

REPRESENTATIVE LEDOUX said that even if the spouse [of an APH resident] had possession of the home, a \$15,000 monthly payment to APH would indubitably have a large impact on the spouse's life. She offered that in many marriages, the assets are totally joint; and if they are not joint and are totally in the possession of the person in APH, the spouse could be left in a bad way. She asked for a clarification of treatment of assets in these situations.

MR. LASLEY replied that by statute and regulation, the spouse is allowed the primary residence, \$2,000 for one's personal needs, and some other assets. The DHSS has requested a regulation change to change the amount allowed for personal needs to reflect the standard used under the Medicaid waiver, which is \$3,100. He stated that he would provide more information.

REPRESENTATIVE LEDOUX stated that mortgage payments of \$1,500 - \$2,000 per month would leave the spouse very little money even if the amount allowed is increased to \$3,100.

MR. LASLEY replied that neither HB 96, Version U, nor the current statute would change that policy. He offered that any federal or state assistance program has resource limits and

resource requirements. He reiterated that the allowance has been \$2,000 for many years; DHSS is requesting the amount be tied to Medicaid at \$3,100 per month.

REPRESENTATIVE LEDOUX relayed that the difference [under the governor's budget] is that the maximum rate is now \$15,000, which would quickly deplete the estate and leave the spouse in a difficult predicament. She maintained that she is sympathetic to the concept of raising the rates when she views it in the context of the assets going to the entity that is providing care versus the heirs. She emphasized that concern for the spouse presents a much different view.

MR. LASLEY relayed that if there is a mortgage on the spouse's primary residence, it is a deduction that can be taken through the assistance program. By statute, the payment assistance program protects the spouse living in the community; the proposed \$3,100 would be for the spouse's personal needs; and deductions may be taken for taxes, insurance premiums, medications, the cost of maintaining the home, and similar items.

CO-CHAIR KREISS-TOMKINS stated that HB 96, Version U, would be held over.

HB 71-STATE PERSONNEL ACT: VETERANS' EXPERIENCE

[4:31:22 PM](#)

CO-CHAIR KREISS-TOMKINS 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."

[4:31:50 PM](#)

REPRESENTATIVE STORY, as prime sponsor of HB 71, stated that her hope is that the proposed legislation would be helpful to veterans to ensure that their military experience counts for work experience with the State of Alaska. She asserted that one of the most difficult transitions that veterans make is finding employment.

[4:32:33 PM](#)

CO-CHAIR KREISS-TOMKINS opened public testimony on HB 71. After ascertaining that no one wished to testify, he closed public testimony on HB 71.

[4:33:12 PM](#)

The committee took a brief at-ease from at 4:33 p.m.

[4:33:44 PM](#)

REPRESENTATIVE SHAW moved to report HB 71 out of committee with individual recommendations and the attached zero fiscal note. There being no objection, HB 71 was reported from the House State Affairs Standing Committee.

HB 82-DISCRIMINATION: GENDER ID.;SEXUAL ORIENT.

[4:34:18 PM](#)

CO-CHAIR KREISS-TOMKINS announced that the final order of business would be HOUSE BILL NO. 82, "An Act adding to the powers and duties of the State Commission for Human Rights; and relating to and prohibiting discrimination based on sexual orientation or gender identity or expression."

[4:35:01 PM](#)

The committee took a brief at-ease at 4:35 p.m.

[4:35:50 PM](#)

REPRESENTATIVE ANDY JOSEPHSON, Alaska State Legislature, relayed that HB 82 would add to Title 18 that it is the policy of the State of Alaska not to discriminate based on sexual orientation, gender identity, or expression; in the event someone does, he/she can be brought before the Alaska State Commission for Human Rights (ASCHR); and failing conciliation, he/she can be sued for various remedies. Several states have similar laws in place as does the City and Borough of Juneau and the Municipality of Anchorage. Recently the Fairbanks City Council passed a similar ordinance by a vote of 4-2; it was vetoed by the mayor, who asked that the question be placed on a ballot. Representative Josephson added that the issue of anti-discrimination addressed under HB 82 is the "last frontier" of the civil rights movement. He maintained that since Alaska is The Last Frontier it is appropriate that it add this protection

for the tens of thousands of people in Alaska who regard themselves as within this population.

REPRESENTATIVE JOSEPHSON referred to slide 1 of the PowerPoint presentation to review the goals of the proposed legislation, which read as follows:

- To add "sexual orientation" and "gender identity or expression" to the list of classes protected under Alaska law
- To ensure that all Alaskans enjoy the right to participate in commerce and active lives in our communities
- To strengthen Alaska's civil rights statutes
- To shape Alaska into a shining model for protection of human rights
- To protect one of the fastest growing communities of individuals in Alaska from discrimination and afford them the same protection as all other Alaskans

REPRESENTATIVE JOSEPHSON added that the protections would relate to housing, lending, employment, and the like. He stated that after the U.S. Civil Rights Act [of 1964] became law, the U.S. Supreme Court in Heart of Atlanta Motel, Inc. v. United States wrote that non-discrimination represents good commerce.

REPRESENTATIVE JOSEPHSON turned to the timeline on slide 2, entitled "Alaska's Civil Rights History in Brief," and noted that during the Thirtieth Alaska State Legislature, 2017-2018, the House State Affairs Standing Committee advanced a similar bill, [House Bill 184], by a bipartisan vote. He pointed out that the Alaska Equal Rights Act of 1945, championed by Elizabeth Peratrovich, predates the U.S. Civil Rights Act; he maintained that HB 82 would be an extension of that effort.

[4:42:09 PM](#)

REPRESENTATIVE JOSEPHSON moved on to slide 3, entitled "Policy Overview: Local Trends," and noted the three large communities of Alaska recognizing protections of lesbian, gay, bisexual, transgender, transsexual, queer/questioning (LGBTQ) citizens and the efforts of non-governmental organizations (NGOs) listed on the slide, which read as follows:

Alaska Communities that protect LGBTQ citizens:

- Anti-discrimination ordinances are in place in 3 Alaska communities:
 - Juneau (Adopted August 2016)
 - Anchorage (Adopted September 2015 and upheld by Anchorage voters April 2018)
 - Sitka (Adopted December 2017)
- Anti-discrimination ordinance passed but vetoed by mayor:
 - Fairbanks
- NGOs and community organization working to end discrimination in Alaska include:
 - Fair Anchorage Campaign by the ACLU Alaska
 - Human Rights Campaign Alaska
 - Identity Alaska
 - Alaskans Together for Equality
 - Pride Foundation

REPRESENTATIVE JOSEPHSON mentioned that the City of Bethel has an ordinance prohibiting discrimination for employment based on sexual orientation.

REPRESENTATIVE JOSEPHSON referred to slide 4, entitled "Policy Overview: Other States with Similar Laws," and pointed out Alaska's sister states who have followed the proposed policy: California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, Washington, Washington, DC, and Wisconsin.

REPRESENTATIVE JOSEPHSON provided a sectional analysis of HB 82 by reviewing slides 5-12 shown below, [original punctuation provided]. He discussed Section 1 on Slide 5, which read as follows:

SECTION 1:
 ADDS 'SEXUAL ORIENTATION' AND 'GENDER IDENTITY OR EXPRESSION' TO THE LIST OF CATEGORIES PROTECTED BY THE HUMAN RIGHTS COMMISSION

THE ALASKA STATE COMMISSION ON HUMAN RIGHTS PASSED A RESOLUTION IN 2016 REQUESTING THIS CHANGE BUT LACK AUTHORITY TO IMPLEMENT IT ON THEIR OWN

REPRESENTATIVE JOSEPHSON relayed that there are two areas of law that one would see such codification: Title 6 of the Alaska

Administrative Code (AAC), relating to how cases are brought before ASCHR; and Title 18 in Alaska Statutes, which is the substance of existing state law naming discriminatory practice violations. He relayed that Title 18 also lists the remedies, such as restraining orders and backpay.

REPRESENTATIVE JOSEPHSON continued with slides 6, 7, and 8 to describe Sections 2, 3, 4, and 5 of the proposed legislation, which read as follows:

SECTION 2:

ADD CATEGORIES OF 'SEXUAL ORIENTATION' AND 'GENDER IDENTITY OR EXPRESSION' TO THE LIST OF PROTECTED CLASSES WHICH THE LEGISLATURE FINDS TO BE A CAUSE FOR PUBLIC CONCERN

SECTION 3:

ADDS 'SEXUAL ORIENTATION' AND 'GENDER IDENTITY OR EXPRESSION' TO THE LIST OF CATEGORIES THAT THE STATE PROTECTS AGAINST DISCRIMINATION IN EMPLOYMENT, CREDIT AND FINANCING, PLACES OF PUBLIC ACCOMMODATION AND MATTERS RELATED TO PROPERTY SALE, LEASE AND RENTAL

IN CURRENT ALASKA STATUTE OTHER PROTECTED CLASSES ARE HIELDED FROM DISCRIMINATION BASED ON RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE, SEX, PHYSICAL OR MENTAL DISABILITY, MARITAL STATUTES, CHANGES IN MARITAL STATUS, PREGNANCY, OR PARENTHOOD

SECTION 4:

ADDS 'SEXUAL ORIENTATION' AND 'GENDER IDENTITY OR EXPRESSION' TO THE CATEGORIES OF PROTECTED CIVIL RIGHTS

'CIVIL RIGHT IS AN ENFORCEABLE RIGHT OR PRIVILEGE, WHICH IF INTERFERED WITH BY ANOTHER GIVES RISE TO AN ACTION FOR INJURY. DISCRIMINATION OCCURS WHEN THE CIVIL RIGHTS OF AN INDIVIDUAL ARE DENIED OR INTERFERED WITH BECAUSE OF THE INDIVIDUAL'S MEMBERSHIP IN A PARTICULAR GROUP OR CLASS... CIVIL RIGHTS REFER TO LEGAL PROVISIONS THAT STEM FROM NOTIONS OF EQUALITY.'*

*[HTTPS://WWW.LAW.CORNELL.EDU/WEX/CIVIL_RIGHTS](https://www.law.cornell.edu/wex/civil_rights)

SECTION 5:

PROHIBITS UNLAWFUL EMPLOYMENT PRACTICE BASED ON
'SEXUAL ORIENTATION' AND 'GENDER IDENTITY OR
EXPRESSION'

A 2011 SURVEY OF LGBTQ INDIVIDUALS IN ANCHORAGE FOUND
THAT 62% OF RESPONDENTS HAD HIDDEN THEIR SEXUAL
ORIENTATION, GENDER IDENTITY OR GENDER TRANSITION AT
WORK

REPRESENTATIVE JOSEPHSON relayed that Section 6 addresses
religious exemption; in the area of religious organizations and
ministerial jobs, the proposed bill would have no application.
Section 6 is described on slide 9, which read as follows:

SECTION 6:
PROVIDES A RELIGIOUS EXEMPTION FOR EMPLOYMENT
RELATIONSHIP BETWEEN A RELIGIOUS ORGANIZATION AND A
MINISTER EMPLOYED BY THE RELIGIOUS ORGANIZATION

REPRESENTATIVE JOSEPHSON referred to Section 7 on slide 10,
which read as follows [original punctuation provided]:

SECTION 7:
PROHIBITS UNLAWFUL PRACTICES IN PUBLIC ACCOMMODATIONS
BASED ON 'SEXUAL ORIENTATION' OR 'GENDER IDENTITY OR
EXPRESSION'

LGBTQ INDIVIDUALS IN A 2011 ANCHORAGE SURVEY WHO WERE
DENIED ACCOMMODATIONS:

- 13.1% DENIED SERVICE IN A RESTAURANT
- 6% DENIED USE OF PUBLIC RESTROOM
- 3.4% DENIED ROOM IN HOTEL
- 8.2% DENIED MEMBERSHIP TO GYM OR FITNESS CLUB

REPRESENTATIVE JOSEPHSON reminded the committee of the history
of certain people in Southeast Alaska being denied
accommodations due to the color of their skin.

REPRESENTATIVE JOSEPHSON moved on to slide 11 to describe
Section 8, which read as follows:

SECTION 8:

PROHIBITS UNLAWFUL PRACTICES IN THE SALE OR RENTAL OF REAL PROPERTY BASED ON 'SEXUAL ORIENTATION' OR 'GENDER IDENTITY OR EXPRESSION'

- A 2015 SURVEY OF TRANSGENDER INDIVIDUALS IN ALASKA REPORTED THAT 32% OF RESPONDENTS EXPERIENCED SOME FORM OF HOUSING DISCRIMINATION IN THE PAST YEAR AND 43% HAVE EXPERIENCED HOMELESSNESS AT SOME POINT IN THEIR LIVES

- A 2011 SURVEY OF LGBTQ INDIVIDUALS IN ANCHORAGE FOUND THAT 18.7% OF RESPONDENTS HAD BEEN HARASSED BY A LANDLORD OR OTHER TENANT BECAUSE OF THEIR SEXUAL ORIENTATION OR GENDER IDENTITY/EXPRESSION

REPRESENTATIVE JOSEPHSON reviewed Section 9 on slide 12, which read as follows:

SECTION 9:
PROHIBITS UNLAWFUL PRACTICES IN FINANCING AND EXTENDING CREDIT BASED ON 'SEXUAL ORIENTATION' OR 'GENDER IDENTITY OR EXPRESSION'

A 2011 SURVEY OF LGBTQ INDIVIDUALS IN ANCHORAGE FOUND THAT 3.7% OF RESPONDENTS WERE DENIED A LOAN OR LINE OF CREDIT WHEN OTHERWISE QUALIFIED

REPRESENTATIVE JOSEPHSON briefly described Section 10 on slide 13, which read as follows:

SECTION 10:
PROHIBITS UNLAWFUL PRACTICES BY THE STATE OR ITS POLITICAL SUBDIVISIONS BASED ON 'SEXUAL ORIENTATION' OR 'GENDER IDENTITY OR EXPRESSION'

INCLUDES ALL STATE AND LOCAL GOVERNMENT AGENCIES AND WILL END DISCRIMINATION IN SCHOOLS, IN COURTS, BY POLICE AND PUBLIC SAFETY OFFICIALS AND BY GOVERNMENT SERVICES AND AGENCIES

[4:48:29 PM](#)

ELISE SORUM-BIRK, Staff, Representative Andy Josephson, Alaska State Legislature, referred to slide 14 to describe Section 11 and to explain the concept of "blockbusting." The slide read as follows:

SECTION 11:

PROHIBITS UNLAWFUL PRACTICES IN BLOCKBUSTING, OR PRACTICE BY A REAL ESTATE AGENT TO CLOSE A TRANSACTION BASED ON 'SEXUAL ORIENTATION' OR 'GENDER IDENTITY OR EXPRESSION'

'BLOCKBUSTING' MEANS AN UNLAWFUL DISCRIMINATORY PRACTICE BY A REAL ESTATE BROKER, REAL ESTATE SALESPERSON, OR EMPLOYEE OR AGENT OF A BROKER OR ANOTHER INDIVIDUAL, CORPORATION, PARTNERSHIP, OR ORGANIZATION FOR THE PURPOSE OF INDUCING A REAL ESTATE TRANSACTION FROM WHICH ANY SUCH PERSON OR ITS STOCKHOLDERS OR MEMBERS MAY BENEFIT FINANCIALLY, TO REPRESENT DIRECTLY OR INDIRECTLY THAT A CHANGE HAS OCCURRED OR WILL OR MAY OCCUR FROM A COMPOSITION WITH RESPECT TO RACE, RELIGION, COLOR, OR NATIONAL ORIGIN OF THE OWNERS OR OCCUPANTS OF THE BLOCK, NEIGHBORHOOD, OR AREA IN WHICH THE REAL PROPERTY IS LOCATED, AND TO REPRESENT DIRECTLY OR INDIRECTLY THAT THIS CHANGE MAY OR WILL RESULT IN UNDESIRABLE CONSEQUENCES IN THE BLOCK, NEIGHBORHOOD, OR AREA IN WHICH THE REAL PROPERTY IS LOCATED, INCLUDING THE LOWERING OF PROPERTY VALUES, AN INCREASE IN CRIMINAL OR ANTISOCIAL BEHAVIOR, OR DECLINE IN THE QUALITY OF THE SCHOOLS OR OTHER FACILITIES

(AS 18.80.30 (1))

MS. SORUM-BIRK relayed that blockbusting is the practice of persuading owners to sell property cheaply due to the fear of people of another race or class moving into the neighborhood, thereby, creating a margin of profit based on reselling at a higher price. This was seen historically in certain neighborhoods in which a real estate agent would attempt to convince a resident to sell his/her house at less than the assessed value due to an African American moving into the neighborhood. The real estate agent could, thereby, turn a profit.

REPRESENTATIVE JOSEPHSON added that ASCHR has stated that although there may be remedies [for discrimination based on gender identity or expression], such as through the U.S. Equal Employment Opportunity Commission (EEOC), the proposed legislation is the remedy that ASCHR must have to protect the civil rights of these individuals.

REPRESENTATIVE LEDOUX asked how HB 82 would affect women's shelters that did not want to accept people who identify as women but are not biologically women. She asked additionally how HB 82 would affect sports teams; for example, a man who identifies as a woman and wants to compete in women's sports.

REPRESENTATIVE JOSEPHSON expressed his belief that the proposed legislation would not address domestic violence shelters but would research this issue. He said that a sporting event is not the subject of the proposed legislation; nothing in HB 82 would affect eligibility for a sporting event.

[4:52:39 PM](#)

REPRESENTATIVE WOOL asked whether there has been a documented case of blockbusting regarding the LGTBQ community.

REPRESENTATIVE JOSEPHSON referred to the November 2011 Anchorage survey, entitled "Anchorage LGBT Discrimination Survey: Preliminary Report," included in the committee packet, and cited the following statistics: 10.1 percent of the LGBT community was denied a lease when otherwise qualified; 20.9 percent were turned down for a job when otherwise qualified; and 73.1 percent reported having to hide their sexual orientation, gender identity, or gender transition to avoid employment discrimination. He mentioned that he does not have any specific information on Representative Wool's question.

MS. SORUM-BIRK relayed that she is not aware of cases [of blockbusting] in Alaska; however, there have been cases nationally.

REPRESENTATIVE SHAW offered his understanding that the intent of HB 82 is to prohibiting discrimination "across the board" and not just for housing.

REPRESENTATIVE JOSEPHSON replied that under HB 82, the broad civil rights intent described in the preamble language would be advanced through the protection of LGBTQ against discrimination in housing, employment, lending, and public accommodation.

[4:56:05 PM](#)

REPRESENTATIVE SHAW stated that his comment concerns the title of HB 82, which read:

FOR AN ACT ENTITLED

'An Act adding to the powers and duties of the State Commission for Human Rights; and relating to and prohibiting discrimination based on sexual orientation or gender identity or expression.'

REPRESENTATIVE SHAW maintained that the title of HB 82 is very broad and the stated goals of the legislation, on slide 1, do not mention housing. He asked whether HB 82 would cover broad community issues.

REPRESENTATIVE JOSEPHSON answered that like the U.S. Civil Rights Act, the proposed legislation would require that in employment or business, the merchant must subscribe to the greater tenant of the Act; however, every action of an individual would not be monitored for politically correct (PC) compliance with some greater civil rights tenant. He stated that HB 82 would add "sexual orientation" and "gender identity or expression" repeatedly to existing law; it would add this class to the many classes already protected - physical and mental disability, marital status, race, religion, color, national origin. Beyond that there would be no expansion of the civil rights [U.S.] Code [Title 42, Chapter 21].

REPRESENTATIVE LEDOUX asked for a legal opinion on women's shelters and sports teams in respect to the proposed legislation. She expressed her understanding that it is not illegal to discriminate against a person if there is a rational basis for doing so unless the person is in a protected class; race, religion, and national origin have always been those protected classes; and to discriminate against someone in a protected class requires a compelling state interest. She said that her concern is that adding "sexual orientation" and "gender identity or expression" puts these categories into the protected class, which would require a compelling state interest and everything else that follows.

REPRESENTATIVE JOSEPHSON responded that in the case of gender, it is not a compelling interest but an important interest - or a middle tier test; therefore, women are not as protected as a racial minority. He agreed that "compelling interest" is the test; under HB 82, the classifications [of sexual orientation and gender identity or expression] would be added to the protected class in the ASCHR code; the Alaska State Supreme Court would recognize that when applying a tough test. He acknowledged that the test could be overcome.

[HB 82 was held over.]

5:00:30 PM

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 5:00 p.m.