

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

February 7, 2006

3:34 p.m.

MEMBERS PRESENT

Senator Gene Therriault, Chair
Senator Thomas Wagoner, Vice Chair
Senator Charlie Huggins
Senator Bettye Davis
Senator Kim Elton

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 189

"An Act relating to issuance of identification cards and to issuance of driver's licenses."

MOVED CSSB 189(STA) OUT OF COMMITTEE

Confirmation: Scott Nordstrand - Department of Administration
Commissioner Designee - Rescheduled from 2/02/06

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 189

SHORT TITLE: REQUIREMENTS FOR DRIVER'S LICENSE/I.D.

SPONSOR(S): SENATOR(S) HUGGINS

04/27/05	(S)	READ THE FIRST TIME - REFERRALS
04/27/05	(S)	STA, JUD
05/03/05	(S)	STA AT 3:30 PM BELTZ 211
05/03/05	(S)	<Above Bill Hearing Canceled>
02/02/06	(S)	STA AT 3:30 PM BELTZ 211
02/02/06	(S)	Heard & Held
02/02/06	(S)	MINUTE(STA)
02/07/06	(S)	STA AT 3:30 PM BELTZ 211

WITNESS REGISTER

Scott Nordstrand, Acting Commissioner
Department of Administration

PO Box 110200
Juneau, AK 99811-0200

POSITION STATEMENT: Commissioner Designee, Department of Administration

ACTION NARRATIVE

CHAIR GENE THERRIAULT called the Senate State Affairs Standing Committee meeting to order at [3:34:31 PM](#). Present were Senators Kim Elton, Thomas Wagoner, Charlie Huggins, Bettye Davis, and Chair Gene Therriault.

SB 189-REQUIREMENTS FOR DRIVER'S LICENSE/I.D.

[3:34:40 PM](#)

CHAIR GENE THERRIAULT announced SB 189 to be up for consideration. He reminded members that the \L version was before the committee and said if members had no concerns he'd like to take final action that day. He noted the fiscal note.

Finding no questions, he asked for the will of the committee.

SENATOR THOMAS WAGONER motioned to report CSSB 189(STA) and attached fiscal note(s) from committee with individual recommendations.

SENATOR KIM ELTON objected for the purpose of making a comment. He stated that he takes philosophical issue with the umbrella policy in the federal Real ID Act because it's unclear what the state's responsibility might be as it accedes to the federal government. He encouraged the sponsors and someone from the Division of Motor Vehicles to contact him to assuage his concerns.

SENATOR ELTON withdrew his objection.

CHAIR THERRIAULT announced CSSB 189(STA) moved from committee.

Confirmation - Scott Nordstrand, Commissioner, Department of Administration

[3:37:25 PM](#)

CHAIR THERRIAULT announced the next order of business to be the confirmation hearing for Scott Nordstrand as Commissioner of the Department of Administration. He asked Mr. Nordstrand to outline his interest in the position as well as his qualifications.

SCOTT NORDSTRAND, Acting Commissioner, Department of Administration, introduced himself and briefly reviewed his qualifications stating that his attorney background offers special perspective and help to the many attorneys in the department. (Background and resume material may be found in the confirmation file.)

He declared that his time as deputy attorney general for the State of Alaska prepared him for this position. In that capacity he learned about state budgeting, the state process, and how to manage people.

[3:45:22 PM](#)

Referencing a December 2005 meeting with division directors he outlined the department "to do" list of items outside the norm of typical operation. He included:

Invest in technology

- It's time for the state to go forward with voice over Internet protocol (VOIP) phones.
- For an annual fee there will be current Microsoft software from the network operating system out to all desktops in the Executive Branch.
- Alaska land mobile radio system is in use and it's time for DOA to begin billing for its use.
- The Alaska Public Office Commission (APOC) computer system needs stabilizing.

Supporting state employees

- There will be a new contract for a third party administrator for the health care plan.
- Efforts are being made to procure a record keeper, educator and financial advisor to help people understand the new TIER IV retirement plan.
- The state travel office negotiated with Alaska Airlines for cheaper airfare on Y class seats, which comprise 44 percent of the Executive Branch airfare purchases. In the first year Medicaid saved \$766,000 in airfare with Alaska Airlines. Negotiations are underway for cheaper hotel and car rentals as well.
- For each state office building a punch list exists outlining what's wrong and when it will be fixed.

SENATOR CHARLIE HUGGINS complemented his enthusiasm.

[3:58:26 PM](#)

SENATOR THOMAS WAGONER commented on the airfare savings.

ACTING COMMISSIONER NORDSTRAND advised that Medicaid travel amounts to \$25 million and an additional \$25 million is spent each year on Executive Branch travel.

CHAIR THERRIault questioned whether legislators could avail themselves of the negotiated ticket price.

ACTING COMMISSIONER NORDSTRAND replied any element of state government is eligible as long as it's state business. He added he would welcome the addition because transaction fees go down when the number of participants increases.

4:03:10 PM

SENATOR KIM ELTON thanked the commissioner for the attention he has given the Public Defenders Agency, the Office of Public Advocacy and the Alaska Public Offices Commission.

He then referenced recent news articles related to allegations that certain data was erased from DNR computers and that personnel who left the agency had done something that was potentially illegal. He noted that a 2/7/06 letter from the DNR commissioner states that the agency "has no complete backup of the information that may have been stored on either of the state laptop computers."

SENATOR ELTON said he's bothered that the state employee has been publicly characterized as having done something illegal. Acting Director of Oil & Gas Van Dyke was asked about the issue and his comments are diametrically opposed. His contention is that all emails were preserved and all electronic gas line documents were written to disc. Mr. Meyers preserved all paper copies of gas line and other director related documents for the division.

Mr. Van Dyke further stated that, "It would be inappropriate to assign Director Meyer's computers to other staff members with the above mentioned data and information still on them. That is our plan for the computers when we get the computers back from DOA."

He asked Acting Commissioner Nordstrand to comment on the fact that the statement that the appropriate information was preserved is in stark contrast to assertions you and Commissioner Menge made.

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ACTING COMMISSIONER NORDSTRAND denied knowledge of having alleged that something illegal happened. He remembered speaking about the obligation that state employees have regarding maintaining public records and he talked about the circumstance of learning that public records were potentially destroyed. In reality, he said, proving that records were destroyed isn't really possible. He further said:

In the newspaper a couple of days ago it says that the fellow at DNR said he told Meyers that it was department policy not to erase the hard drives. But if all the information on the computers had been copied it would be all right to go ahead. I guess that's the premise upon which that story was based and now we know, and in fact I knew because we checked in December, that there were no backups for those laptops. So if that's the case then what we also know is whatever was on those computers has been lost. Now, how you prove what was on those computers - I don't know how you do that. All we know for sure is that some select documents were copied, provided to the Division of Oil & Gas folks and then the computers were erased. But that's not their normal policy and certainly if, in fact, backup had been made so that we could be certain that important documents were not lost - think about what we're talking about. We're not talking about just ordinary state public records of some bureaucrat writing to another. We're talking about documents concerning potentially the most important transaction in Alaska's history. We're also talking about a circumstance where the Department of Law was essentially on the hunt to find the documents necessary to create the administrative record for the gas line contract and to respond to court authority Public Records Act requests.

That being said, we took it very seriously that there were allegations that these documents were lost. We still take it seriously. I wish those computers were available to be restored. I wish the data had been backed up. That's the best of all possible worlds, but we learned some time ago, in my case, that that's not the case. And those are the facts.

SENATOR ELTON referenced the news article and read, "Acting Commissioner of Administration Scott Nordstrand on January 30 accused Meyers of ordering the erasing of data on two laptop

computers issued to him by the division, possibly wiping out public records in the process." That statement contrasts starkly with the statement from the person in charge of preserving the data, he said. Mr. Van Dyke said all emails were preserved on the server. All electronic gas line documents were written to disc and the Division of Oil & Gas has a copy of the disc.

SENATOR ELTON added that Mr. Meyers had also expressed surprise at the characterization.

ACTING COMMISSIONER NORDSTRAND responded Mr. Meyers' comments to DOA focused on a CD ROM he prepared, but not to a tape backup, which provides a means for restoring data to a computer when information has been lost. Tape backups were made weekly on computers that were turned on and connected to the network. "The problem is that Director Meyer's computers were seldom connected to the network and on at the time that the back ups were happening and so no back up happened," he said. The problem with tape backups is that the data is overwritten every two months so the data would be gone in any event. He emphasized that a tape back up isn't a reasonable means to preserve extraordinarily important public records.

[4:14:44 PM](#)

CHAIR THERRIAULT interjected the tape backup was augmented by the CD that he provided.

SENATOR ELTON asked Acting Commissioner Nordstrand to focus on Mr. Van Dyke's statement that nothing was lost and that the data had been preserved.

ACTING COMMISSIONER NORDSTRAND responded he doesn't know how Mr. Van Dyke would know whether or not Mr. Meyers deleted any of his email. But, he said, as a result of the DOA investigation he was able to "verify that two laptop computers were erased multiple times with a specialized software designed to prevent data from being recovered." He reiterated that only Mr. Meyers could know what he did.

SENATOR ELTON reiterated it's important to realize that there are stark contrasts between the two interpretations. Mr. Van Dyke is the acting director of the division and he said the emails were preserved. I'll assume that that is correct, he said. When the individual most at risk was told and believed that proper procedure was followed it's unfortunate for others to assert that something illegal may have happened. The true

course of events may never be known, but the way it's been discussed is unfortunate.

4:18:47 PM

CHAIR THERRIAULT questioned whether any assumptions could be made with regard to who was available for comment and who was not.

ACTING COMMISSIONER NORDSTRAND replied he couldn't make any assumption.

CHAIR THERRIAULT admitted he ground his teeth a bit when he read an allegation that a Legislative Budget and Audit consultant was providing potentially confidential information to executive level employees. He said he really didn't understand the basis for the statement that would suggest that confidential information was given to anyone outside the circle of confidentiality.

ACTING COMMISSIONER NORDSTRAND explained that when he said "confidential" he was referring to confidential attorney client privilege where legal advice is procured. Certainly everyone who has signed the confidentiality agreement has the right to exchange information related to negotiations, he said. He apologized for being unclear.

CHAIR THERRIAULT stated appreciation for the clarification because he interpreted his statement to mean that LB&A or its consultants had been the source of information that was leaked.

Referencing the news article from the previous day that alleged a 40-minute interview with Mr. Meyers, he asked if it actually took place, who participated, and whether it could be characterized as a normal departure interview.

ACTING COMMISSIONER NORDSTRAND explained that as a result of the allegations that documents were erased, the Division of Personnel began an investigation and Mr. Meyers was interviewed as a part of that process. It was not an exit interview because the investigation began well after Mr. Meyers separated.

CHAIR THERRIAULT asked if Mr. Meyers discussed his decision-making process regarding what he decided to copy to disc.

ACTING COMMISSIONER NORDSTRAND said he didn't know, but he believes that Mr. Meyers' intent was to put relevant gas line documents on a disc to hand on to his successors.

4:24:16 PM

CHAIR THERRIAULT asked if just one person conducted the investigation.

ACTING COMMISSIONER NORDSTRAND clarified that one person from the Division of Personnel spoke with employees and the state security officer from Enterprise Technology Services handled the computer portion of the investigation.

He explained that the following process led to DOA's involvement. DOL hired a law firm that is capable of doing electronic discovery of email and documents that relate to stranded gas or that contain the names of particular people. The software evaluates, assembles and separately lists information related to the Stranded Gas Act for purposes of the administrative record and for Public Records Act requests. That, he said, was the process that led to DOA's involvement.

SENATOR ELTON questioned why DOA is the lead investigatory agency.

ACTING COMMISSIONER NORDSTRAND responded DOA investigates employee misconduct through the Division of Personnel.

SENATOR ELTON asked if there is a process that prompts such a review or if allegations and or rumor could jump-start the review.

ACTING COMMISSIONER NORDSTRAND replied there are formal complaint forms, but the prompt could also be as simple as a supervisor hearing about inappropriate activity. That supervisor would report the activity up the chain and the department would ask the Division of Personnel for advice. He asserted that divisions and departments are responsible for remaining vigilant to concerns that may not rise to a formal level.

SENATOR ELTON summarized that a formal complaint isn't necessary. An investigation could be prompted by something as informal as a suspicion or a rumor, which could lead to a circumstance that's similar to the one previously discussed.

ACTING COMMISSIONER NORDSTRAND responded he would prefer to say the individual is on inquiry notice. He further explained that DOA has the responsibility of conducting an investigation to a level that is commensurate to the alleged infraction. There

isn't a one size fits all solution for personnel management matters, he said.

[4:31:47 PM](#)

SENATOR WAGONER asked what capability DOA has to review emails written by legislators and legislative staff in the capitol building.

ACTING COMMISSIONER NORDSTRAND replied his understanding is that DOA has no such authority, but that legislative traffic ultimately travels across the state network.

CHAIR THERRIAULT suggested that the committee could have someone from the legislative data processing office address the same question.

He related an alleged issue from the previous year and stated that there is some ability to see what's occurring on the other side of the firewall, but he wasn't sure that the capability extended to reviewing individual documents. However, if it's possible to send out electronic bugs to review electronic file cabinets, legislators would certainly want to know if their files could be accessed.

CHAIR THERRIAULT remarked that although the latest issue has been somewhat troubling, it shouldn't overshadow the work the commissioner has done to energize people in the department to do a good job on behalf of the state. He then asked for additional information on the interview that was mentioned to help clarify whether assurances were given on the types of documents that were saved.

Noting that there were no further questions at that time, Chair Therriault closed the hearing and adjourned the meeting at [4:35:31 PM](#).