

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

February 24, 2011

1:32 p.m.

MEMBERS PRESENT

Senator Dennis Egan, Chair
Senator Joe Paskvan, Vice Chair
Senator Linda Menard
Senator Bettye Davis
Senator Cathy Giessel

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 90

"An Act classifying and setting a monthly salary for the executive secretary of the Board of Public Accountancy."

- MOVED SB 90 OUT OF COMMITTEE

SENATE BILL NO. 92

"An Act relating to dental hygienists, dentists, dental assistants, dental hygiene, and dentistry."

- HEARD AND HELD

SENATE BILL NO. 68

"An Act relating to the examinations, board, loans, records, and lobbying contracts of the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 90

SHORT TITLE: BOARD OF PUBLIC ACCOUNTANCY SECRETARY

SPONSOR(S): LABOR & COMMERCE

02/16/11	(S)	READ THE FIRST TIME - REFERRALS
02/16/11	(S)	L&C, FIN
02/22/11	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

02/22/11 (S) Heard & Held
02/22/11 (S) MINUTE(L&C)

BILL: SB 92

SHORT TITLE: DENTISTS/DENTAL HYGIENISTS/ASSISTANTS
SPONSOR(s): EGAN

02/21/11 (S) READ THE FIRST TIME - REFERRALS
02/21/11 (S) L&C, FIN
02/24/11 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 68

SHORT TITLE: COMMERCIAL FISHING & AGRICULTURE BANK
SPONSOR(s): COGHILL

01/26/11 (S) READ THE FIRST TIME - REFERRALS
01/26/11 (S) L&C, FIN
02/24/11 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

DANA OWEN

Staff to Senator Egan and the Senate Labor and Commerce
Committee
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented the committee substitute (CS) for
SB 92.

DAVID LOGAN, Legislative Chair
Alaska Dental Society

POSITION STATEMENT: Supported SB 92.

GAIL WALDEN, member and officer
Alaska State Dental Hygienists' Association
Wasilla, AK

POSITION STATEMENT: Supported SB 92.

DAVID EICHLER, President
Alaska State Board of Dental Examiners
North Pole, AK

POSITION STATEMENT: Supported SB 92.

ALPHEUS BULLARD, Attorney
Legislative Legal Services
Legislative Affairs Agency
Alaska State Legislature

Juneau, AK

POSITION STATEMENT: Available for questions on SB 92.

DON HABEGAR, Director

Division of Corporations, Business and Professional Licensing
Department of Commerce, Community and Economic Development
(DCCED)

POSITION STATEMENT: Commented on SB 90 and SB 92.

SENATOR COGHILL

Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of SB 68.

JOSH BANKS

Intern for Senator Coghill
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented a sectional analysis of SB 68.

LEA KINGERT, President and CEO

Alaska Commercial Fishing and Agriculture Bank (CFAB)

POSITION STATEMENT: Supported SB 68.

NICKI NEAL, Director

Division Personnel and Labor Relations
Department of Administration (DOA)
Juneau, AK

POSITION STATEMENT: Commented on SB 90.

ACTION NARRATIVE

[1:32:12 PM](#)

CHAIR DENNIS EGAN called the Senate Labor and Commerce Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Giessel, Paskvan, Davis, and Chair Egan.

[1:32:46 PM](#)

SB 90-BOARD OF PUBLIC ACCOUNTANCY SECRETARY

CHAIR EGAN announced SB 90 to be up for consideration.

SENATOR GIESSEL said she didn't have her bill packet and had questions.

CHAIR EGAN delayed the hearing.

[1:34:04 PM](#)

SB 92-DENTISTS/DENTAL HYGIENISTS/ASSISTANTS

CHAIR EGAN announced SB 92 to be next up for consideration.

DANA OWEN, Staff to Senator Egan, presented the committee substitute (CS) for SB 92. He said this CS came from the Dental Board and contains highly technical issues that have accumulated over a number of years. The bill was divided into two pieces; one that extends the dental board for eight years and that had passed, and SB 92 which contains the issues left over.

[1:36:31 PM](#)

SENATOR MENARD joined the committee.

SENATOR DAVIS moved to adopt CSSB 92(L&C), labeled 27-LS0403\I, Bullard, as the working draft.

SENATOR MENARD objected for discussion purposes.

SENATOR DAVIS asked for a walk-through and then a sectional analysis.

[1:38:24 PM](#)

DAVID LOGAN, Legislative Chair, Alaska Dental Society, said SB 92 had input from all major stakeholders (the Hygienist Association, the Dental Association, and both a dentist and a hygiene member from their boards). The overarching legislation is what controls the day-to-day activities, the limits and licensure of the dentists and dental hygienists in Alaska; it also provides the basis for how the Board of Dentistry conducts its business. It has been about 20 years since any substantial review of dental statutes has taken place. The language in those 20 years has become antiquated and the materials, methods, and terminology have changed - as one would expect in a vibrant profession. The changes aren't substantial, mostly language updates. New features are:

- Moved from having a part-time to a full-time investigator.
- Inserted clarifying language so that students undergoing training in Alaska can do so legally.
- Redefined what ownership of a dental practice means and who can own one. They hadn't had a mechanism over the years for a surviving spouse to actually own a dental practice during a transitional period and now they have one.

SENATOR GIESSEL said she was curious about section 22, which states the department shall employ a person as an investigator.

She thought it was a responsibility of the division to assign investigators.

MR. LOGAN responded that they really want to have a full time investigator for the board. The reason is because cases are starting to back up, and he thought several other boards would be making the same request. Somebody has to do the triage when you have a limited number of investigators and in this case the board is self funded through licensing fees and is more than happy to make those payments. What they are not happy about is the length of time it takes to bring a case to conclusion.

SENATOR MENARD asked if the board would have to raise their dues to cover a full-time investigator.

MR. LOGAN answered yes.

SENATOR MENARD said she also appreciated giving the spouse 24 months to get a licensed dentist should there be a death. This was a considerable problem in her area when there was a terrible plane accident. The dentist left, then the spouse came in and she did not live in Alaska. It took many years to resolve. She asked him if board members were okay with a non-dentist being president.

MR. LOGAN answered under current statute anyone on the board can serve as president: a dentist, a hygienist or a public member.

SENATOR MENARD asked if other states do it differently.

MR. LOGAN answered that most states have an open quorum; anyone who serves on the board can serve as an officer there. Two states restrict serving as president to dentists.

SENATOR GIESSEL asked if requiring the president to be a licensed dentist or hygienist is what language in section 20 on page 10 means.

SENATOR MENARD stated that got changed.

MR. LOGAN said he strongly supported that language.

[1:49:09 PM](#)

GAIL WALDEN, member and officer, Alaska State Dental Hygienists' Association, Wasilla, supported SB 92. Several statutes are inaccurate and don't represent existing practice or terminology.

Ultimately one of their goals is to maintain the highest standards for excellent care to Alaskans.

[1:52:03 PM](#)

DAVID EICHLER, President, Alaska State Board of Dental Examiners, North Pole, explained that the Dental Practice Act was in great need of reform and SB 92 is the collaborative product before them today. He said their investigations take way too long, but hopefully the new director will get that cleaned up with the tools provided in this statute. Currently he has cases as much as seven years old that have not had an accusation filed yet, and letting a case get that stale has the potential of allowing someone to practice who shouldn't.

[1:54:12 PM](#)

ALPHEUS BULLARD, Legislative Legal Services, Legislative Affairs Agency, Alaska State Legislature, said he was available for questions.

MR. OWEN moved on to the sectional analysis.

Section 1: removes a requirement that a person practicing dental hygiene or who is offering to practice dental hygiene must have a current certificate of registration.

Section 2: establishes the qualifications necessary for licensure as a dental hygienist.

Section 3: amends the qualifications necessary for a dental hygienist to be licensed by credentials.

Section 4: edits the dental hygiene licensing provisions to provide that successful applicants for licensure will no longer be registered by the Board of Dental Examiners.

Sections 5-6: conform the "renewal of license" and "lapse and reinstatement of license" provisions to the bill's removal of the registration requirement for dental hygienists.

Section 7: allows a dental hygienist who has completed a course offered by or under the auspices of a program accredited by the Commission on Dental Accreditation of the American Dental Association or other equivalent

course or program to receive a restorative function endorsement from the board.

Section 8: changes the levels of supervision required for a dental hygiene student performing dental hygiene procedures. Makes the section applicable to all students enrolled in dental hygiene programs.

Sections 9-11: changes the permitted scope of practice for a dental hygienist and clarifies what practices and procedures may not be delegated to a dental hygienist by a dentist.

Section 12: clarifies what practices and procedures a dental hygienist who has entered into a collaborative agreement with a dentist may be authorized by the dentist to perform.

Section 13: makes stylistic changes.

Section 14: permits the board to sanction a dental hygienist who used or knowingly cooperated in deceit, fraud, or intentional misrepresentation to obtain a certificate of endorsement and amends the other grounds for discipline, suspension, or revocation of a dental hygienist's license.

Section 15: gives the board the authority to impose a civil fine of up to \$25,000 for a violation of AS 08.32 or a regulation adopted under the chapter.

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Section 16: amends the list of dental hygienists to whom the provisions of AS 08.32 do not apply.

Section 17: provides new definitions applicable to AS 08.32 for "licensed dental hygienist" and licensed dentist."

Section 18: adds a qualification for the public member of the board.

Section 21: amends the powers of the board.

Section 22: requires the Department of Commerce, Community and Economic Development to employ an investigator for the board.

Section 23: requires the board to establish standards for dental radiological equipment that comply with applicable federal law. Permits the board to charge a fee for equipment registered under the section. Removes a requirement that inspections of radiologic equipment be performed by a person with certain qualifications.

Section 24: requires the board to maintain a registry of persons licensed as dentists or dental hygienists and persons certified as dental assistants, and a registry of licenses, certificates, and endorsements revoked by the board.

Section 25: edits the dentist licensing provision to provide that successful applicants for a license will no longer be registered by the board (see sec. 4 for a parallel provision applicable to dental hygienists).

Section 26: amends the qualifications for a license to practice dentistry in the state.

Section 27: requires that an applicant for licensure as a dentist must be interviewed in person by the board.

Sections 28-29: amends what is necessary for a dental hygienist to be licensed by credentials.

Section 30: permits all persons enrolled as students in an accredited school of dentistry to perform dental procedures without a license if certain conditions are met.

Section 31: conforms the "renewal of registration" provisions to the bill's removal of the registration requirements for dentists.

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Section 32: provides that a dentist who does not pay the license renewal fee forfeits the dentist's license. Permits the board to reinstate a license upon certain conditions.

Section 33: amends the grounds for discipline, suspension, or revocation of a license to practice dentistry.

Section 34: permits a dental assistant who has completed a course offered by or under the auspices of a program accredited by the Commission on Dental Accreditation of the American Dental Association or other equivalent course or program to receive a restorative function endorsement from the board.

Section 35: adds a new provision allowing persons enrolled in a program or course of study to perform dental assisting procedures as part of that course of study or program without a certificate if certain conditions are met.

Section 36: adds a new section that provides who may own, operate, or maintain a dental practice, office, or clinic.

Section 37: provides new definitions applicable to AS 08.36 for "certified dental assistant," "licensed dental hygienist," and "licensed dentist."

Section 38: repealers AS 08.32.020, 08.32.035, 08.32.040, 08.32.060, 08.32.097, 08.32.100, 08.32.120, 08.32.130, 08.32.190(2); AS 08.36.075(b), 08.36.075(c), 08.36.075(d), 08.36.075(e), 08.36.114, 08.36.230, 08.36.244, 08.36.246, 08.36.247, 08.36.248, 08.36.260, 08.36.271, 08.36.290, 08.36.350(a)(3), and 08.36.350(a)(4).

Section 39: instructs the revisor of statutes to change the catch line of AS 08.36.250.

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SENATOR MENARD said in the past a dental hygienist could work in the building without the dentist actually being present after consulting with him first. Does that still exist?

MR. LOGAN replied yes; the levels of supervision are relatively unchanged. As long as the dentist provided the original diagnosis the hygienist would be able to work.

SENATOR MENARD asked if the Dental Board had any concern about a procedure turning out bad while a dentist was not in the office

and it becomes an insurance risk management issue. Some periodontal work can cause heart attacks.

MR. LOGAN answered he couldn't speak for the current board, but in general thought has been given to that and it was felt that the overall ability to provide additional services to the public outweighed what they considered a relatively minor risk.

SENATOR MENARD said that the Palmer Dental Center and one other office chose to have the dentist, because often it is a heart attack issue. She thought that should be looked at sometime down the road.

[2:05:23 PM](#)

DON HABEGAR, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), went to section 3 on page 4 (SB 92 version M). He said the concept saying, "Pays the fees established by the board under AS 08.01. 065" actually gives the department authority to set the fees. So this is somewhat of a divergent track to what is normally established in most other boards. The reason he thought the department sets the fees is that it keeps track of the costs and tries to then set fees based on an annual analysis (according to statute). Then they ask the professions to reimburse the department for their costs.

He said he had a brief conversation with Dr. Logan about this issue prior to the committee meeting, and he didn't seem to indicate that was a huge issue for them either.

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The other mostly informational piece in section 5 is about the renewal of licenses. As written, it indicates the department will send out a form and the applicant will fill it out and return it with a fee. This is what has been done traditionally, but as the division moves into the "modern age" they are trying to get to where a person can fill out their forms on an interactive website. And for renewal of business licenses they are trying to send out a postcard reminding people to go to their website. It's cheaper and the savings are passed on to the clientele.

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MR. HABEGAR said section 21 in version M (section 23 in version I) has to do with investigations. Currently the profession has an investigator that shares his responsibilities with other practices. He said the fiscal note was zero, but that is because

he didn't understand that the position is entirely brand new as well as full-time. So, there will be a new fiscal note.

[2:10:19 PM](#)

SENATOR GIESSEL asked Dr. Logan his thoughts on the fees established by the board in section 3 on page 4.

MR. LOGAN replied that he is a little sketchy on the fees, but the overall intent was to conform to existing statute. They have no interest in trying to micro-manage the fees.

SENATOR GIESSEL said the license renewal notification on a postcard in section 5 was crafted by the Board of Nursing several years ago and it has worked really well. Is the board okay with that?

MR. LOGAN said he couldn't speak for the Dental Board because he was no longer a member, but for the Dental Society, yes; they are perfectly fine with the idea of a postcard reminder to go to the website.

Finding no further questions, Chair Egan said he would hold SB 92.

[2:13:12 PM](#)

SB 68-COMMERCIAL FISHING & AGRICULTURE BANK

CHAIR EGAN announced SB 68 to be up for consideration.

[2:13:16 PM](#)

SENATOR COGHILL, sponsor of SB 68, said his history with the Commercial Fishing and Agriculture Bank (CFAB) goes back a few years in that he has been impressed by the record they have of a private industry approach on a statutorily driven problem. The problem has been how to take care of some of the agriculture issues and how to do some capitalization for the fishing industry. Only a couple of places in Alaska can lend based on a fishing permit and one of them is this bank. The other is the Division of Investments, a state run organization. He prefers the private model, which has done well.

He said CFAB is a creature of statutes put together and funded by the legislature with the idea of increasing loan capacity and encouraging fishing and agriculture in Alaska. This bank is co-op style and has paid the state back its original funding. This bill now seeks to expand CFAB's authority by giving them the freedom to work as a prudent investor and lender.

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JOSH BANKS, intern for Senator Coghill, presented a sectional analysis of SB 68 as follows:

Section 1: removes the requirement that one member of the CFAB board of directors be a resident farmer. This does not restrict the governor from appointing a farmer for one of the positions or a farmer from seeking an appointment on the board.

Section 2: subsection 4 amends the powers of the bank in two ways. It removes the dollar limitations for loans being used for tourism in the state. This will allow CFAB to stay competitive with other lending organizations. In addition to this, subsections 8, 15, and 16 will allow CFAB to give loans to those that do not meet the resident or resident ownership requirements providing that their operating facility is located in the state of Alaska and that a majority of the interest of that organization is owned by United States residents. Subsections 10, 12 and 13 are also amended to expand the current powers of CFAB to include the provisions provided in subsections 15 and 16.

Section 3: adds an audit by the DCCED to be an exception to the records confidentiality provisions in the CFAB statutes.

Section 4: amends records confidentiality in that it will allow the bank to release a list of candidates running for director to the voting members of the bank.

Section 5: allows an examination of CFAB to be conducted by the DCCED. This revision is to increase the credibility of CFAB. This examination was originally put in the statutes, but has recently been removed due to the misconception that the state pays the full fees for the examination. Initially the state does pay the fees, but CFAB reimburses the state for them.

Section 6: repeals two parts of Alaska statute. The first part repeals the definition of "resident farmer" because a resident farmer is not required on the

board. Second, since CFAB is a fully private lending organization, the prohibition of its having a lobbyist is repealed.

Section 7: limits the DCCED from conducting an examination within the first year after the effective date.

Section 8: provides an immediate effective date.

SENATOR COGHILL added that in order for the bank examination provisions to properly take effect he wanted the rest of the law to go into effect first and not force a bank examination right away, but rather have it fall into the established cycle.

SENATOR DAVIS asked if the language would allow that to happen.

SENATOR COGHILL said language asks to have it take effect after one year, so a bank could go through an examination cycle which would give them a chance to do an annual report.

SENATOR DAVIS asked if it reverts back to the original language.

SENATOR COGHILL responded if the effective date is immediately, then within one year the bank examination could happen. That would allow one year's lapse so it would fall into a cycle.

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LEA KINGERT, President and CEO, Alaska Commercial Fishing and Agriculture Bank (CFAB), said this bill does many things with CFAB. The first item is the statutory requirement for a farmer's seat, but currently there are only two people who would be eligible to fill that seat. It's not that they don't want to do agriculture loans, but they haven't been approached to grant many of them. The agriculture industry has other options for getting loans that they prefer to use.

Second, she said SB 68 also provides for a periodic examination of CFAB by the state's bank examiners with the resulting report being provided to the legislative auditor. Ms. Klingert explained that from 1989-2003 CFAB used to do audits, but in 2003 for reasons she doesn't really understand the administration persuaded the legislature to eliminate the requirement. But this kind of independent and professional examination greatly enhances CFAB's credibility with its lender and affects the borrowing terms offered by that lender, which in turn affects what they can offer to their membership.

Other potential benefits to CFAB include a reliable means of monitoring and evaluating the quality and effectiveness of their lending practices. Even though management and staff take pride in their professional competence they welcome the opportunity to have a qualified second set of eyes evaluating the overall results of their judgments. Experience has taught them that distance and impartiality bolstered by insight into other financial institutions' practices and experience can provide valuable guidance.

MS. KLINGERT said that SB 68 also seeks to remove the dollar limitations that were placed on loans for tourism and other resource-based activities when CFAB acquired the authority to make such loans in 2000. CFAB has not made a great deal of tourism and other resource-based loans, but they remain convinced that even the existing modest level of diversification has added to CFAB's overall effectiveness, to its creditworthiness and to the ability to serve its basic markets.

She said that CFAB doesn't currently have any pending applications that exceed the current limits, but they are aware of a few past potential opportunities that were not encouraged because of these limitations. They simply believe that inflationary effects over time and the tendency toward mergers, acquisitions and consolidations among subject operators will sooner or later cause the existing limitation to become problematic.

MS. KLINGERT said SB 68 also seeks to permit CFAB to make the same kind of loans for non-resident owners if the operation has a bricks and mortar presence in Alaska. CFAB already has authority to make such loans to a seafood processor, a timber processor, an agricultural processor or a harvester. Their reasoning is the realization that even though a lodge in Western Alaska, for example, may be owned by an outside corporation it is an enhancement to the local economy and will provide some level of opportunities to Alaskan employees, suppliers, and ancillary operations. It is another element of potential diversification that will strengthen CFAB's overall effectiveness.

[2:30:52 PM](#)

CHAIR EGAN thanked her for her testimony and finding no questions, said he would bring SB 68 back before the committee at the next meeting.

[2:31:42 PM](#)

SB 90-BOARD OF PUBLIC ACCOUNTANCY SECRETARY

CHAIR EGAN brought SB 90 up again.

SENATOR GIESSEL said she supports the intent of SB 90, but it is still not clear to her why the personnel department lowered the secretary position to a range 19 instead of a range 23. The reason seems to be that it's not clear that the intent was that the person filling this role is actually a certified public accountant (CPA), a pretty high bar. Also, the board's regulations don't have clear criteria that makes this is a professional position with a management role that does supervisor and policy level work. That's how it got scaled back to a range 19. It looks like the person is just someone with accounting experience.

She also thought that other accounting folks might want to be raised to a range 23, an unintended consequence. So, she suggested that the board make it really clear in their regulations that they intended a CPA who would be managing, supervising and making policy-level type decisions. Then there wouldn't be any question about the range level.

[2:33:59 PM](#)

NICKI NEAL, Director, Division of Personnel and Labor Relations, Department of Administration (DOA), said it was not her understanding that the board's intent is to require a CPA. She didn't know if even then the position would get to a range 23, because statutes require like pay for like work for partially exempt positions, and the Personnel Board put this position in that category just last week.

SENATOR PASKVAN asked if she had a position on SB 90.

MS. NEAL replied that the division was neutral.

SENATOR PASKVAN said it was his belief that the position would be there for purposes of making determinations on the conduct of the members; it's not just an accountant-type position.

MS. NEAL responded that she had the specifications, but she thought the director would be more familiar with the responsibilities.

[2:36:31 PM](#)

DON HABEGAR, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), said he has had numerous conversations with the CPA Board on this issue. The original intent was to require a CPA and provide a range 23 rate. However, it was brought up that a talent pool might be out there at the university level or someone else might be waiting in the wing. The board felt that at a range 19 they wouldn't be successful in having enough interest in the position. They also said a lot of folks from outside Alaska are interested in this type of licensure and that having someone who is knowledgeable about a wide variety of practices in other jurisdictions was important to them. So in the end language was broadened in HB 315 to include a CPA requirement and accounting skills.

MR. HABEGAR said the board wants to be part of the hiring process. The Department of Law said if a public board member is voluntary but a part of their system, they can be considered an employee of the state for this regard. So, they could be part of the interview process. He added that speaking on behalf of the board, they would still like to see this bill go through.

CHAIR EGAN said they passed this legislation unanimously last year, and a mistake was made saying the new hire couldn't be over a range 19. So, one of the things this legislation does is correct that mistake allowing the board to hire a range 23.

SENATOR PASKVAN also clarified that the legislature intended this position to be a range 23 a year ago when it was classified as a range 19. He thought it was misclassified. Language in SB 90 dispenses with any question about it not being anything other than a range 23.

SENATOR GIESSEL asked if the broader definition of the requirements of this job will require internal alignment with other folks who have accounting experience.

MS. NEAL answered that some individuals might think a higher pay range for them is warranted because of this, but it would be her position that it's not because they are subject to the pay plan.

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SENATOR PASKVAN moved to report SB 90 from committee with individual recommendations and attached zero fiscal note. There were no objections and it was so ordered.

[2:42:57 PM](#)

At ease from 2:42 to 2:44.

2:44:13 PM

CHAIR EGAN called the meeting back to order and adjourned at 2:44 p.m.