

SENATE FINANCE COMMITTEE

April 14, 2014

9:10 a.m.

9:10:10 AM

CALL TO ORDER

Co-Chair Meyer called the Senate Finance Committee meeting to order at 9:10 a.m.

MEMBERS PRESENT

Senator Kevin Meyer, Co-Chair
Senator Anna Fairclough, Vice-Chair
Senator Click Bishop
Senator Mike Dunleavy
Senator Lyman Hoffman
Senator Donny Olson

MEMBERS ABSENT

Senator Pete Kelly, Co-Chair

ALSO PRESENT

Representative Lora Reinbold; Crystal Koeneman, Staff, Representative Lora Reinbold; Kris Curtis, Director, Division of Legislative Audit; Sara Chambers, Director, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community and Economic Development; Representative Mike Hawker; Representative Charisse Millet; Vasilios Gialopsos, Staff, Representative Charisse Millett; Rebecca Rooney, Staff, Representative Peggy Wilson; Amy Erickson, Director, Division of Motor Vehicles, Department of Administration.

PRESENT VIA TELECONFERENCE

Leanne Carrothers, Alaska Physical Therapy, Anchorage; T.W. Patch, Chairman, Regulatory Commission of Alaska, Nashville; Christie Reinhardt, Governor's Council On Disabilities and Special Education, Anchorage; Jeanne Gerhardt-Cyrus, Self, Kiana; Mark Regan, Director, Disability Law Center, Anchorage; Aves Thompson, Executive Director, Alaska Trucking Association, Anchorage.

SUMMARY

SB 220 PERS/TRS STATE CONTRIBUTIONS

SB 220 was SCHEDULED but not HEARD.

CSHB 75(FIN)

CONTRIBUTION FROM PFD: AUDITS; UNIVERSITY

CSHB 75(FIN) was SCHEDULED but not HEARD.

CSHB 210(FIN)am

SCHOOLS: RESTRAINT, SECLUSION, CRISIS TRG

CSHB 210(FIN)am was HEARD and HELD in committee for further consideration.

HB 234 EXTEND REGULATORY COMMISSION OF ALASKA

HB 234 was HEARD and HELD in committee for further consideration.

HB 239 EXTEND BOARD OF EXAMINERS IN OPTOMETRY

HB 239 was HEARD and HELD in committee for further consideration.

HB 240 EXTEND BOARD OF CHIROPRACTIC EXAMINERS

HB 240 was HEARD and HELD in committee for further consideration.

HB 241 EXTEND BOARD OF MARITAL & FAMILY THERAPY

HB 241 was HEARD and HELD in committee for further consideration.

HB 242 EXTEND PT & OCCUPATIONAL THERAPY BOARD

HB 242 was HEARD and HELD in committee for further consideration.

CSHB 378(TRA)

MOTOR VEHICLES: REGISTRATION, COMMERCIAL

CSHB 378(TRA) was HEARD and HELD in committee for further consideration.

#hb239

HOUSE BILL NO. 239

"An Act extending the termination date of the Board of Examiners in Optometry; and providing for an effective date."

9:11:32 AM

REPRESENTATIVE LORA REINBOLD, explained that HB 239 would extend the Board of Examiners in Optometry through June 30, 2022. The Division of Legislative audit reviewed the activities of the board and concluded that the board's termination date should be extended the full 8 years. Without the extension optometry licensing would continue under the direction of the division, rather than the board and all costs associated with licensing would continue to be incurred by the division. She explained that the board adopted regulations to carry out laws governing the practice of optometry in Alaska; making final licensing decisions and taking disciplinary action when necessary. The board consisted of 4 optometrists and 1 public member. She spoke to the fiscal note reflected that the board had a current cumulative deficit of \$44,755. Fees were raised during the last biennium and a fee analysis would be conducted in spring of 2014 in order to determine whether the fees needed adjustment. She stated that licensees would renew in December 2014 and any fee adjustments would go out for public comment in summer 2015. She noted that the board was working in the best interest of the state to promote health, welfare and safety of Alaskans.

9:13:45 AM

Co-Chair Meyer queried the deficit reflected in the fiscal note.

9:14:15 AM

Vice-Chair Fairclough announced that there was an issue of indirect costs of investigations, spread across all the professional licensing boards. She stated the division had come before Legislative Budget and Audit (LB&A) in the past requesting help with accounting issues, which resulted in LB&A infusing approximately \$1 million in an attempt to assist the various boards with large deficits. She shared

that the deficit would be seen in fiscal notes for many of the boards and that LB&A was working to understand how the department was spreading costs. She said that \$64 of indirect cost was being spread to every licensee across the state and the subcommittee of LB&A had yet to receive the necessary information to justify the spread. She noted that cost spreading among licensing boards was currently not proportionate.

[9:16:02 AM](#)

Representative Reinbold noted that a report from the Legislative Budget and Audit Committee (LB&A) (copy on file) that outlined the specifics could be found in member packets.

[9:16:36 AM](#)

Senator Olson queried why the investigation driven increase in licensing fees should be extended out 8 years, rather than a shorter amount that would reign in the expenditures more quickly.

Representative Reinbold deferred the question to the Division of Legislative Audit.

Senator Olson asked how many optometrists were licensed in the state, and of those how many had been investigated under licensing action.

[9:17:38 AM](#)

CRYSTAL KOENEMAN, STAFF, REPRESENTATIVE LORA REINBOLD, deferred to Department of Commerce, Community and Economic Development.

[9:17:58 AM](#)

Senator Olson asked whether other healthcare providers were governed by the optometrist board.

Representative Reinbold replied that the board was limited to the scope of optometry.

[9:18:55 AM](#)

KRIS CURTIS, DIRECTOR, DIVISION OF LEGISLATIVE AUDIT, explained that the division had conducted a review of the Board of Examiners in Optometry to determine whether the public interest was being served and whether the board should be extended. The division concluded that the board was serving the public interest by effectively licensing and regulating optometrists and recommended that the board's termination date be extended the maximum 8 years, June 30, 2022. The division made one recommendation to the Director of the Division of Corporations, Business and Professional Licensing to continue efforts to improve their case management system integrity and confidentiality. She furthered that in past years detailed information about investigations had been included in audits, but that the practice had been disregarded because the case management system was not reliable. The division had been unable to pull summary investigative information because certain information in the system was unreliable. She noted that Page 12 of the audit provided information on board expenditures and revenues. The licensing fees had been reduced from \$420 to \$200 in FY07. That decrease had effectively reduced any available surplus at that time. Licensing fees had not been adjusted for the FY11 renewal period which had contributed to a continuing deficit. She stated that she could not speak to the reason why the fees had not been increased.

[9:21:06 AM](#)

Senator Olson wondered whether the licensing fee had been a factor in whether the number of optometrists in the state was increasing or decreasing.

Ms. Curtis directed committee attention to page 14, which listed the information on the licensees. From FY06 through FY12 the board had issued new licenses to 85 applicants.

[9:21:37 AM](#)

Senator Olson asked how many licenses were withdrawn or not renewed.

Ms. Curtis replied that the information was not presented in the report. She said that as of February 28, 2013 there were 174 licensed optometrists in Alaska. She noted the chart in the report that allocated the new

licenses by fiscal year. She said that the impact of the setting of fees on the surplus and deficit was examined every time the division performed a sunset audit. The division did not issue a recommendation to adjust fees due to the fact that they had been adjusted for the FY13 cycle and that that period was not over; therefore, the division could not gauge how effective the increase in fees was to address the deficit.

[9:22:36 AM](#)

Senator Olson noted that there were only 174 licensees that were regulated by the board and pointed out that other boards in the state dealt with several thousand licensees. He wondered whether the optometrist board could be absorbed by one of the larger boards.

Ms. Curtis replied that the decision would be a policy call that would not be made by the division.

[9:23:21 AM](#)

Vice-Chair Fairclough stated that the issue of cost being spread over a small group of people would arise during all of the licensing hearings. She said that the policy discussion at LB&A concerned what should be done with investigations and the cost distribution.

Ms. Curtis added that in 1992 the governor had a task force to examine boards and commissions, and out of that task force the structure of allocating investigative costs to the board came about. She felt that after 20 years structure should be revisited.

[9:25:29 AM](#)

Co-Chair Meyer asked how much the fees for the board were.

SARA CHAMBERS, DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS, AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, responded that the fees were raised in 2013 to \$400.

[9:25:48 AM](#)

Co-Chair Meyer asked if the amount was adequate to cover costs going into the future.

Ms. Chambers responded that the department analyzed fees according to statutory requirements and with the partnership of the board with the goal of balancing approximate expenditures and revenues. She believed that \$400 was a reasonable amount to anticipate covering future deficit.

[9:27:01 AM](#)

Co-Chair Meyer OPENED public testimony.

Co-Chair Meyer CLOSED public testimony.

HB 239 was HEARD and HELD in committee for further consideration.

#hb240

HOUSE BILL NO. 240

"An Act extending the termination date of the Board of Chiropractic Examiners; and providing for an effective date."

[9:28:08 AM](#)

Representative Reinbold explained that HB 240 would extend the termination date of the Board of Chiropractic Examiners to June 30, 2022. The Division of Legislative Audit reviewed the activities of the board and concluded that the board's termination date should be extended the full 8 years. Without the extension the chiropractic license would continue under the direction of the division, rather than the board. The board made final licensing decision and took disciplinary actions with person who violated licensing laws. The board consisted of 4 licensed chiropractic physicians and 1 public member. In FY13 there were 514 licensees. She pointed out to the committee that the fiscal notes reflected that in FY13 the revenue of the board was \$179,215, expenditures were \$168,800. The board had a current cumulative surplus of \$80,344. Licensing fees for the board had been set consistent with statute and the board was operating with the best interest of the public to protect and promote the public health, welfare and safety of Alaskans.

[9:30:10 AM](#)

KRIS CURTIS, DIRECTOR, DIVISION OF LEGISLATIVE AUDIT, testified that the division conducted an audit of the board to determine whether the public's interest was being served and whether the sunset should be extended. The audit concluded that the board was serving the public's interest by effectively licensing and regulating chiropractors. She stated that the division recommended the full 8 year extension. The division had 2 audit recommendations for improving board operations; first, to the Office of the Governor, to ensure the statutory requirements for board members were met before appointment. It had been found that the current public member was a licensed pharmacist, yet statute prohibits the public member from having a direct financial interest in the healthcare industry. The second recommendation was to the Director of the Division of Corporations, Business and Professional Licensing to improve the case management systems integrity and confidentiality.

[9:31:40 AM](#)

Co-Chair Meyer noted that the board maintained a surplus and that the fees had gone down since FY07. He wondered if the fee would lessen in the future.

SARA CHAMBERS, DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS, AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, responded that if the board maintained a surplus position the department would attempt to lower the fees.

Co-Chair Meyer OPENED public testimony.

Co-Chair Meyer CLOSED public testimony.

[9:34:03 AM](#)

Co-Chair Meyer spoke to the fiscal note.

HB 240 was HEARD and HELD in committee for further consideration.

#hb241

HOUSE BILL NO. 241

"An Act extending the termination date of the Board of Marital and Family Therapy; and providing for an effective date."

[9:34:57 AM](#)

Ms. Reinbold stated that HB 241 would extend the termination date of the board of Marital and Family Therapy to June 30, 2018. She stated that the Division of Legislative Audit reviewed the activities of the board and concluded that the board's termination date should be extended 4 years. If the board was not extended marital and family therapy licensing would continue under the direction of the division, rather than the board. The board consisted of 3 marital and family therapists and 2 public members. In FY13 there were 111 licensees. She noted the biennial data for FY13 reflected in the fiscal note showed expenditures of \$85,187 and revenues of \$63,165. The board had a current ending surplus of \$112,195. She stated that fees had been lowered during the last biennium and a fee analysis would be conducted in spring of 2014 to determine whether fees needed to be adjusted. Licensees would renew in December 2014, and any fee adjustments would go out for public comment.

[9:36:34 AM](#)

Co-Chair Meyer asked how long the board had existed.

Representative Reinbold deferred the question to Department of Commerce, Community and Economic Development.

[9:37:12 AM](#)

KRIS CURTIS, DIRECTOR, DIVISION OF LEGISLATIVE AUDIT, stated that LB&A did a sunset review audit of the board. The audit concluded that the board was serving the public interest by effectively licensing and regulating marital and family therapists. The audit recommended that the board's termination date be extended 4 years; half of the statutory maximum. The reduced extension recommendation was mainly due to the board not fully addressing the prior sunset audit recommendation to pursue regulation changes that are necessary to protect the public interest. Although the board had initiated one regulatory change, it had not addressed the need for distance therapy or distance supervision. The audit recommended that the board develop a

strategy to address the need for distance supervision. The audit included 2 additional recommendations; to the Office of the Governor and the board to work together to fill vacant board seats in a timely manner and to the Division of Corporations, Business and Professional Licensing to continue efforts to improve case management systems integrity and confidentiality.

[9:38:33 AM](#)

Co-Chair Meyer noted the consistent theme in the audits of the recommendation of case management system integrity and confidentiality.

Ms. Curtis responded that the recommendation had been showing up in sunset audits for the past two years because the system had been replaced in 2010 and had not gone well. Conversion, reporting and case efficiency problems had all been discovered.

[9:39:06 AM](#)

SARA CHAMBERS, DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS, AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, spoke to the e issue. She stated that the division had been working diligently to be responsive to the audit concerns and the belief was that a stable point with the current contractor had been reached. She stressed that continuing strategies would be examined into the future and that the issue should not be an audit concern in 2015.

Co-Chair Meyer OPENED public testimony.

Co-Chair Meyer CLOSED public testimony.

[9:40:26 AM](#)

Vice-Chair Fairclough remarked that LB&A would work with the division in order to examine surpluses and deficits pertaining to licensing boards. She said that the department was acting within legislative parameters to apply the licensing fees. She noted that investigations seemed to be triggering some of the shortfalls.

HB 241 was HEARD and HELD in committee for further consideration.

#hb242

HOUSE BILL NO. 242

"An Act extending the termination date of the State Physical Therapy and Occupational Therapy Board; and providing for an effective date."

9:41:46 AM

Representative Reinbold explained that HB 242 would extend the termination date of the Physical Therapy and Occupational Therapy Board to June 30, 2022. She stated that the Division of Legislative Audit reviewed the activities of the board and found that it should be extended for the full 8 years. She said that if the board was not extended the licensing would continue under the direction of the division, rather than the board. The board consisted of 1 physician, 3 physical therapists or physical therapy assistants, 2 occupational therapists or occupational therapy assistants and 1 public member. The work of the board was to adopt regulations and carry out laws governing physical and occupational therapy in Alaska. The board made final licensing decisions and took disciplinary action against people who violated licensing laws. In FY13 there were 913 licensees. In FY13 the biennium data showed that the board's revenues were \$250,000; the board's expenditures were \$325,365. The board had a cumulative deficit of \$55,238. The proposed fee adjustment in regulations that were publicly noticed March 17, 2014 would raise the licensing fees from \$180 to \$240, which would address the deficit. She testified that the board was operating in the best interest of the public to protect and promote the public health, welfare and safety of Alaskans.

9:44:19 AM

Kris Curtis, Legislative Auditor, Alaska Division of Legislative Audit testified that the division had conducted an audit of the board to determine whether it was serving the public interest and whether it should be extended. The audit concluded that the board was serving the public interest by effectively licensing and regulating physical therapists, physical therapy assistants, occupational therapists and occupational therapy assistants. The division recommended the maximum 8 year extension. She stated that the audit was fairly clean with only one

recommendation addressing the case management systems and confidentiality.

[9:45:39 AM](#)

Co-Chair Meyer OPENED public testimony.

LEANNE CARROTHERS, ALASKA PHYSICAL THERAPY, ANCHORAGE (via teleconference), stated that she was available for questions.

Co-Chair Meyer CLOSED public testimony.

HB 242 was HEARD and HELD in committee for further consideration.

[9:46:07 AM](#)

AT EASE

[9:49:57 AM](#)

RECONVENED

#hb234

HOUSE BILL NO. 234

"An Act extending the termination date of the Regulatory Commission of Alaska; and providing for an effective date."

[9:50:39 AM](#)

REPRESENTATIVE MIKE HAWKER, explained that the legislation would extend the termination date of the Regulatory Commission of Alaska (RCA) to June 30, 2022. He noted that the commission differed from other professional licensing boards; the commission was one of the state's few independent, quasi-judicial regulatory commissions. He stated that the RCA was responsible for ensuring the safe, adequate and fair public utility and pipeline services across the state. He explained that the audit objectives in evaluating the reauthorization of the Regulatory Commission of Alaska were no different than other boards and commissions; it must demonstrate a continued need for its continued existence and show that it has been operating in an effective and efficient manner. The bill recommended an 8 year extension and was consistent with the recommendation of the Division of Legislative Audit. He offered a brief

history of the commission. He asserted that the commission was currently functioning well in discharging its assigned responsibilities. He shared that legislative auditors had included an appendix on Pages 23 through 30, which included information gathered by the auditors from people who had had dockets dealt with by the RCA. The users of the RCA proved to be very satisfied with the work performed by the commission. He pointed out to the committee Page 18 of the audit, which included a summary pie chart that detailed in aggregate how the users viewed the RCA's function; 70 percent felt that the commission was operating in a very good/good rating, with only 8 percent giving a poor rating. He continued to Page 31 of the audit which showed that the regulatory cost charge base was sufficient for the commission to operate. The RCA had maintained an adequate, but not excessive reserve for operations. He thought that the commission needed the full year reauthorization period.

[9:56:22 AM](#)

Co-Chair Meyer requested further clarification of the second recommendation in the recent audit.

Representative Hawker deferred to the Division of Legislative Audit and the RCA chairman.

[9:57:10 AM](#)

Senator Hoffman noted page 31, and wondered if there would be an addition of personal and contract services and what the cost would be over the next 8 years.

Representative Hawker remarked that the primary fund source for the RCA was approximately \$9 million in RCA receipts. He said that beyond the recognition that the commission was a receipt authority, he deferred the question to the RCA

[9:59:01 AM](#)

Co-Chair Meyer remarked that the Regulatory Commission of Alaska chairman.

[9:59:53 AM](#)

T.W. PATCH, CHAIRMAN, REGULATORY COMMISSION OF ALASKA, NASHVILLE (via teleconference), explained that the concerns regarding the performance of the RCA had been raised by the

committee in 2011. At that time, the committee offered the commission guidance and set a termination date of June 30, 2014. He said that the RCA, under the guidance of the committee, provided to the legislature a report on January 16, 2012. The report laid out a program to address utility company concerns and legislative concerns regarding discovery regulations, and set out a program to consider and adopt best practices whereby sooner decisions could be made in those proceeding wherein a utility proposed a new revenue requirement or where a utility proposed to adopt a new rate design. Subsequent to the report the RCA began to consider several regulation changes; it sought public comment and implemented new and aggressive internal protocols to assist rate payers and utility constituencies. He asserted that the changes were resulting in decisions in those types of complex cases in just over 300 days, which was a reduction from the statutory time allowed of 450 days. He said that in reducing the time in which a final decision in a rate case was derived at, the RCA achieved the result without enhancement in funding, additional staffing, new enabling legislation, reported adverse impact on the utility industry or protestation by rate payers. He testified that the progress resulted in better credit ratings for utilities across the state, which resulted in lower capital costs and lower customer rates. He stressed that there was a strong relationship between agency managers and industry. He felt it was important to recognize that the commission had assisted the legislature and many other state agencies.

[10:04:00 AM](#)

Mr. Patch noted that the commission had worked with the legislature and the governor on the interior energy project and the stand along gas pipeline legislation. The commission was currently assisting Alaska Gasline Development Corporation on tariff and open season issues as well as working with the Alaska Energy Authority and the Alaska Industrial Development and Export Authority on important planning and development issues. He urged the committee to approve the extension of the sunset date.

[10:05:39 AM](#)

Co-Chair Meyer remarked that the commission was successful.

[10:05:53 AM](#)

Senator Hoffman reiterated his previous question.

Mr. Patch responded that there was an authorization for the collection of approximately \$9 million.

Senator Hoffman said that in the budget and reflected in the fiscal note there was a 20 percent increase in salaries, he wondered if it reflected an increase for salaries for management positions. He noted the increase in contracting services and highlighted that the numbers on Page 31 of the audit differed from those in the fiscal note. He understood that there were no general funds involved but requested justification for the fiscal note and what the process the board went through when approving a budget.

Mr. Patch replied that the legislature set an authorized entitlement to collect and from that entitlement the commission collected the regulatory cost charges and an amount of money that was made available to the Regulatory Affairs and Public Advocacy Section that was generally the consumer advocate representing rate payers. He added that when funds were not expended the monies were returned to rate payers as a credit against the next year's cycle of calculated regulatory cost charges.

[10:08:20 AM](#)

Senator Hoffman queried whether there would be an increase in salaries that would total over \$1 million in the proposed personal services. Mr. Patch replied that there was not an authorization to increase salaries; rather, there was approval for additional staff.

[10:09:23 AM](#)

Co-Chair Meyer remarked that the fiscal note did not reflect an increase in staff numbers.

Representative Hawker interjected that it was important to notice that the governor's request was for FY15, the most recent numbers in the unaudited schedule of revenues and expenditures was for FY12, and was 3 years out-of-date. He noted that the commissioner's salaries were established in statute and could not be increased without a statutory change. He highlighted that the fiscal note included a \$1.3 million Department of Law Regulatory Affairs and Public

Advocacy transfer, which would need to be included in additional expenditures and was, undoubtedly, the largest share of the reconciling item.

[10:11:15 AM](#)

AT EASE

[10:11:45 AM](#)

RECONVENED

[10:11:48 AM](#)

Representative Hawker spoke to the difference between the numbers on Page 31 of the audit and the fiscal note. He stated that the transfer to the Department of Law Regulatory Affairs and Public Advocacy was noted on the bottom Page 31 of the audit. The transfer was included in the fiscal note and made up a significant amount of the contract services differential.

Co-Chair Meyer CLOSED public testimony.

[10:13:21 AM](#)

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, stated that the audit of the commission had found that the RCA was working in the public interest and reiterated the recommendation for the 8 year extension. She highlighted two audit recommendations; first, it was recommended that the RCA continue to improve its case management data, as the division had encountered high error rates when running tests in 2013. Secondly, the division recommended that the legislature consider clarifying statutory timelines for rule making, or "regulatory," proceedings. She stated that statutes required RCA to issue a final order in a rule making docket no later than 730 days after complete petition for a change was filed, or after the commission initiated proceedings. There was a provision for one 90 day extension for good cause; statutes prohibited RCA from terminating a proceeding in a docket, and then opening a proceeding in another docket on substantially the same matter. The audit had found that on occasion the RCA had split rule making proceedings into two dockets, the first to consider whether there was a need for regulations in an area of concern or interest. Once public testimony and comments were obtained regarding the potential regulations, the docket was closed. If the record

indicated a need for regulations, RCA opened a second docket to consider adopting the regulations. The division found that the process allowed the RCA to take up to 4.5 years to complete proceedings. She said that RCA management believed that including clear intent language in the dockets initiating order made the process transparent and complied with statute. The division had found that RCA was including clear intent language in the dockets and in that regard the process was transparent. The division wanted to raise the issue for legislative consideration because the process appeared to evade statutory timelines and did not appear to serve the regulated community or the public interest. The recommendation was for the legislature to consider clarifying statutes to ensure RCA complied with legislative intent when processing regulatory dockets.

[10:16:00 AM](#)

Co-Chair Meyer believed that the recommendation would have to be implemented through a new and separate piece of legislation.

Representative Hawker said that the legislature could do anything it chose; however, there had been a long history of keeping reauthorization bills "clean".

[10:16:37 AM](#)

Mr. Patch disagreed with the audit recommendation. He stated that the orders of the commission, as regulatory proceedings were opened and closed, contained very clear and explicit statements of the RCA's intention as it engaged in the process. He noted that one of the matters before the committee in past RCA sunset extension hearings was the matter of discovery; should the RCA have an articulated discovery concern, after consideration the consensus had been that the commission should adopt a discovery regulation. He stressed that decided whether the commission should adopt discovery regulations was different that deciding what the language of the regulations would contain and how it would allow parties to discover information. He did not believe that it was necessary to change the law for two reasons: first, the current statutory prohibition states that the commission would not seek to evade the legislature's intent; secondarily, subsequent to the last reauthorization the commission had adopted a procedure that allowed the commission to consider

and obtain matters of public opinion in an informational docket which had no timeline.

[10:20:36 AM](#)

Senator Hoffman looked at the fiscal note and Appendix C of the audit, and remarked that in FY11 there was approximately \$62,000 of revenue that came from the Power Cost Equalization Program (PCE) that had jumped up to \$93,000 FY12. He requested clarification as to the breakdown of the revenue.

Mr. Patch replied that Alaska Energy Authority (AEA) had provided yearly grants of \$140,000. The commission had certain responsibilities under the PCE program and billed against the grant for quantification, analysis and community assistance in obtaining the benefits of the program. He stated that the numbers cited in the fiscal note was the funds that the commission had expended in past years against the grant.

[10:22:16 AM](#)

Senator Hoffman wondered if Ms. Curtis could respond to the \$30,000 increase from FY11 to FY12.

Ms. Curtis replied that she could not. She pointed out that the numbers listed in Appendix C had been unaudited and that the figures had been provided by the commission for inclusion into the report for informational purposes.

[10:23:00 AM](#)

Senator Hoffman requested that the auditor or the chairman of the commission provide a copy of the grant to the committee.

[10:23:24 AM](#)

Representative Hawker announced that the line item was an on-demand type of spending activity; the commission had not spent the entire \$140,000 in each year and in the 9 months of FY13, the expenditure had been only \$55,000.

[10:24:19 AM](#)

Co-Chair Meyer remarked that the fiscal note was substantial, but it had been adequately justified.

10:24:39 AM

HB 234 was HEARD and HELD in committee for further consideration.

#hb210

CS FOR HOUSE BILL NO. 210(FIN) am

"An Act relating to crisis intervention training for school personnel; and relating to restraint and seclusion of students in public schools."

10:25:24 AM

REPRESENTATIVE CHARISSE MILLET, read from the sponsor statement:

Alaska is currently one of the less than 15 states that have no statewide policy regarding how children can either be physically restrained or secluded in schools. Placing students in positions where they are immobilized or put into a room by themselves are emotionally charged subjects that require our attention. The conditions under which these actions are allowed are vague and require clarification. The three areas that require clarification include: what constitutes physical restraint and seclusion; under what conditions physical restraint and seclusion can be exercised; what actions are required of school personnel.

Students need to attend a school that is safe. Parent need to know if their child was involved in an incident of restrain or seclusion and the reasons for these actions need to be clearly defined. School personnel and administrators need to know that the actions they take to protect the safety of their students were justified and that they will not be held liable for carrying out their duties correctly.

House Bill 210 is a balanced approach to ensure school safety. It requires that a school district's safety plan be made available to parents, legal guardians, students and the public. If an incident of restraint or seclusion occurs, the student's parents or legal guardians need to be informed the same day as the incident. With the exception of emergency situations,

only those who have undergone training approved by the Department of Education and Early Development can engage in physical restraint or seclusion. Each school district needs to report all instances of restraint and seclusion on an annual basis to the Department of Education and Early Development.

HB 210 will protect students from trauma, keep parents informed of what happens to their child, and support teachers and school personnel tasked with incredibly difficult decisions. By ensuring a statewide, consistent set of rules, we make our schools safer for everyone. I would respectfully request your support.

Representative Millet added that seclusion or restraint was a position of last resort and that the focus should be to de-escalate a bad situation. She highlighted that the training portion was the most important part of the legislation to ensure the protection of students and of the state.

[10:28:35 AM](#)

Co-Chair Meyer understood that school districts lacked a current policy.

Representative Millet replied that most school districts had a policy in place; however, smaller districts did not of a plan, nor had they been training staff with de-escalation, seclusion and restraining tactics.

[10:29:08 AM](#)

Senator Hoffman queried whether the mandate would be funded.

Representative Millet noted that there was a \$14,000 fiscal note that would cover administration costs and that the Mental Health Trust Authority would put a program called "Train the Trainer" into place. This program would have a nominal cost of \$200, which the sponsor hoped could be covers by the authority or another type of grant process, and would bring administrators from other communities in to train their peers in de-escalation and restraint tactics.

[10:30:33 AM](#)

CHRISTIE REINHARDT, GOVERNOR'S COUNCIL ON DISABILITIES N SPECIAL EDUCATION, ANCHORAGE (via teleconference), testified in support of the legislation. She shared the story of her high-functioning, autistic son and his struggles in the public school system. She shared that some of the staff in his school had been trained in de-escalation techniques and positive behavior intervention support. She furthered that behavioral plans and functional behavioral assessments had been made available to her son. She believed that having the policies and procedures in place had protected her son and his peers. She felt that the legislation had been crafted to be the most useable and effective seclusion and restraint legislation.

[10:33:47 AM](#)

JEANNE GERHARDT-CYRUS, SELF, KIANA (via teleconference), spoke in support of the legislation. She testified that her daughter had been diagnosed with Fetal Alcohol Syndrome Disorder (FASD) and had a hard time function in a traditional school setting. She lamented that the staff in her school had not been trained to handle students with behavioral disorders which would end up with the situation escalating negatively. She believed that the cost of the program was minimal when compared to the cost for school districts for mediation with parents. She shared that her daughter suffered Post Traumatic Stress Disorder due to her encounters in her early educational career.

Co-Chair Meyer handed the gavel to Vice-Chair Fairclough.

[10:37:40 AM](#)

Ms. Gerhardt-Cyrus shared her daughter's testimony:

I strongly support this bill. When I was in school everyone thought that I was psychotic and that is why I have no friends. This year with the right services and no restraint or seclusion I am doing better and have been on the honor roll since the beginning of the year due to the fact that I can walk out and sign out when I need to go for a walk and clear my head.

[10:38:35 AM](#)

MARK REGAN, DIRECTOR, DISABILITY LAW CENTER, ANCHORAGE (via teleconference), testified in support of the legislation.

He stated that the use of restraint and seclusion in schools had been a major issue for approximately the past 10 years. He shared that on the national level there had been injuries and even deaths associated with the problem of proper restraint and seclusion for students. He offered that one of the drivers of the legislation was the notice provisions for parents. He discussed studies that indicated the misuse of restraint and seclusion in schools and that congress, as well as several other states, had entertained discussions of similar legislation. He thought that shifting over to an approved training models and support from the Department of Education and Early Development could make it easier for small schools districts in rural areas to properly care for students.

Vice-Chair Fairclough CLOSED public testimony.

[10:42:21 AM](#)

Senator Olson wondered if the sponsor had solicited the perspective of the medical community or healthcare providers.

[10:42:39 AM](#)

VASILIOS GIALOPSOS, STAFF, REPRESENTATIVE CHARISSE MILLETT, stated that the sponsor had interacted with the Alaska Nurse's Association and other medical bodies, discussing particularly the provisions surrounding student safety. It was the understanding of the sponsor that the medical bodies that were involved in discussion of the bill in previous committees were satisfied with the legislation before the committee.

[10:43:17 AM](#)

Senator Olson asked if the discussions had included providers that could prescribe medications for chemical restraint.

Mr. Gialopsos replied that the definition of chemical restraint in the bill was the product of the Board of Nursing and associated nursing groups; it had been understood that any chemical that would be used for disciplinary purposes would be disallowed for use by school personnel, but would need to be handled by a medical professional, in a separate setting.

CSHB 210(FIN)am was HEARD and HELD in committee for further consideration.

#hb378

CS FOR HOUSE BILL NO. 378(TRA)

"An Act relating to motor vehicle registration; relating to drivers' licenses; relating to instruction permits; relating to commercial motor vehicles and commercial motor carriers; and providing for an effective date."

10:44:51 AM

REBECCA ROONEY, STAFF, REPRESENTATIVE PEGGY WILSON, noted that the bill had been crafted at the request of the Department of Motor Vehicles. She provided a sponsor statement:

HB 378 changes Alaska statutes to align them with the updated Federal Motor Carriers Administration (FMCSA) regulations. It will make the roads a safer place for all Alaskans by allowing the Division of Motor Vehicles (DMV) to refuse to register or to revoke a registration for a motor carrier or commercial vehicle that does not meet these federal safety standards.

If HB 378 is not passed this session Alaska will be out of compliance with federal regulations. Non-compliance could result in the federal government decertifying Alaska's CDL program. The decertification would jeopardize Alaska's federal highway funding. DOT reports that based on 2014 apportionments, this could mean a loss of up to \$34M in federal dollars. In addition to the loss of federal funds the DMV will not be able to issue, renew or upgrade any CDL or permits.

HB 378 adds additional safety-related improvements to the commercial permitting requirements to comply with federal mandates, which include raising the age to obtain an instruction permit for a commercial driver from 17 to 18 years of age, and limiting the period of validity to 180 days with the ability to renew the commercial permit for a period of 180 days instead of two years. A five year timeframe is added that will allow a person to apply for an instructional permit

after they have been issued a certain class of license.

A Commercial Driver License (CDL) permit will be disqualified in the same manner as a commercial license if the driver is operating out of service or is convicted for crimes that include driving under the influence, refusal to submit to a chemical test, manslaughter, or negligent homicide resulting from driving a motor vehicle or for the commission of a felony using a motor vehicle. Texting while driving will also be made a serious traffic violation by which CDL operators could lose their license or permit for a period of time.

Additionally, HB 378 contains clarifying language for registration fees charged for vehicles over 10,000 pounds used for personal use and in an individual's name. This clarification makes it clear that vehicles with an empty weight over 10,000 pounds (except motor homes used for personal use) will be charged the same as commercial vehicles of the same weight.

[10:47:38 AM](#)

AMY ERICKSON, DIRECTOR, DIVISION OF MOTOR VEHICLES, DEPARTMENT OF ADMINISTRATION, stated that the legislation would allow DMV to refuse to register vehicles that had been placed out-of-service by the Federal Motor Carrier Safety Association (FMCSA). Reasons for denial included:

- Unsatisfactory safety rating from the FMCSA
- Failure to pay levied FMCSA fees
- Motor carrier determined to be an imminent hazard
- Failure for a new entrant to obtain or schedule and audit within 18 months

Ms. Erickson spoke to Section 8 of the bill, which allowed a person to acquire an instruction permit for license in a previously held class.

[10:49:45 AM](#)

AVES THOMPSON, EXECUTIVE DIRECTOR, ALASKA TRUCKING ASSOCIATION, ANCHORAGE (via teleconference), spoke in support of the legislation. He stated that the association was a statewide association representing the interests of

nearly 200 companies in Alaska. The bill made technical corrections to the CDL program required by the FMCSA on certain commercial driver violations and the consequences of those violations. These technical corrections bring the Alaska DMV into compliance with federal regulations and compliance is required to allow the CDL program to work. He spoke to the subject of compliance with the feds on the CDL program. Although the sanctions have never been applied by FMCSA, there is always a first time. The consequences of decertification of the CDL program are very severe. Issuance of new CDL's would stop immediately and all CDL's would be invalid upon their expiration date. This means that a commercial vehicle driver could not drive commercially in Alaska or any other state without getting a CDL from another state. The federal highway dollars are important but DMV must be able to issue valid CDL's.

Vice-Chair Fairclough CLOSED public testimony.

[10:52:11 AM](#)

AT EASE

[10:53:07 AM](#)

RECONVENED

CSHB 378(TRA) was HEARD and HELD in committee for further consideration.

#hb75

CS FOR HOUSE BILL NO. 75(FIN)

"An Act amending certain audit requirements for entities receiving contributions from permanent fund dividends; requiring the three main campuses of the University of Alaska to apply to be included on the contribution list for contributions from permanent fund dividends; and requiring the university to pay an application fee for each campus separately listed on the contribution list for contributions from permanent fund dividends."

CSHB 75(FIN) was SCHEDULED but not HEARD.

#sb220

SENATE BILL NO. 220

"An Act relating to additional state contributions to the teachers' defined benefit retirement plan and the public employees' defined benefit retirement plan; and providing for an effective date."

SB 220 was SCHEDULED but not HEARD.

Vice-Chair Fairclough stated that the committee would hear HB 75 and HB 278 later that day.

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ADJOURNMENT

10:53:53 AM

The meeting was adjourned at 10:53 a.m.