

HOUSE FINANCE COMMITTEE

April 4, 2016

1:32 p.m.

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CALL TO ORDER

Co-Chair Thompson called the House Finance Committee meeting to order at 1:32 p.m.

MEMBERS PRESENT

Representative Mark Neuman, Co-Chair
Representative Steve Thompson, Co-Chair
Representative Dan Saddler, Vice-Chair
Representative Bryce Edgmon
Representative Les Gara
Representative Lynn Gattis
Representative David Guttenberg
Representative Scott Kawasaki
Representative Cathy Munoz
Representative Lance Pruitt
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Laraine Derr, Alaska Mental Health Trust Authority; Steve Handy, Staff, Representative Louise Stutes; Fred Parady, Deputy Commissioner, Department of Commerce, Community, and Economic Development; Kris Curtis, Legislative Auditor, Alaska Division of Legislative Audit; Mark Richards, Executive Director, Resident Hunters of Alaska; Representative Wes Keller, Sponsor; Margaret MacKinnon, Director, Assessment and Accountability, Department of Education and Early Development; Betty Walters, Interim Deputy Commissioner, Department of Education and Early Development; Brodie Anderson, Staff, Representative Steve Anderson; Representative Neil Foster, Sponsor, District 39; Paul Labolle, Staff, Representative Neil Foster; Representative Lora Reinbold;

PRESENT VIA TELECONFERENCE

Sam Rohrer, President, Alaska Professional Hunters Association, Kodiak; Paul Chervenak, Self, Kodiak; Dick Rohrer, Self, Kodiak; Kelly Vrem, Chairman, Big Game Commercial Services Board, Sutton; Virgil Umphenour, Self, Fairbanks; Bill Griffith, Department of Environmental Conservation;

SUMMARY

HB 156 SCHOOL ACCOUNTABILITY MEASURES; FED. LAW

HB 156 was REPORTED out of committee with a "do pass" recommendation and with a previously published indeterminate fiscal note: FN1 (EED).

HB 209 WATER AND SEWER ADVISORY COMMITTEE

CSHB 209 was REPORTED out of committee with a "do pass" recommendation and with a previously published zero fiscal note: FN1 (CRA).

HB 254 EXTEND BIG GAME COMMERCIAL SERVICES BOARD

HB 254 was REPORTED out of committee with a "do pass" recommendation and with a new fiscal impact note by the Department of Commerce, Community and Economic Development.

CONFIRMATION HEARING: ALASKA MENTAL HEALTH TRUST AUTHORITY:
LARRINE DERR

Co-Chair Thompson reviewed the agenda for the day.

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^CONFIRMATION HEARING: ALASKA MENTAL HEALTH TRUST
AUTHORITY: LARAIN DERR

LARAIN DERR, ALASKA MENTAL HEALTH TRUST AUTHORITY, was a Juneau resident and had been on the board since 2005. She had been appointed following a term that had begun 5 months prior to her being nominated to the board. She served for just under 2 full terms. She explained that when she came up for reappointment the attorney general's office had issued a finding that she could serve for another term. By

law a person was entitled to serve 2 full terms. She was recommended for reappointment in the previous year. She had served in the capacity of the board's Finance Chair for the majority of her tenure. She advocated the importance of the Alaska Mental Health Trust to its beneficiaries. The Trust had worked cooperatively with the legislature over the years in serving the state's beneficiaries. It was a very rewarding job and sometimes very heart rending. She enjoyed her time in the position and would be honored to serve an additional term.

Ms. Derr provided further details about her background. She had served in various parts of government including working for the Department of Education and Early Development (DEED) doing a statewide school finance study. She also worked for the Juneau School District. She was the Commissioner of Revenue under Governor Hickel, then worked for the University of Alaska as the head of the School of Business and Public Management. She went from the university to the Hospital and Nursing Home Association running the Boards and Commissions Office for 7 years under Governor Murkowski. She had personal experience dealing with mental illness: she had two step sons who committed suicide. She also had a step grandson who was on medication for mental illness. She had experience in several of the different beneficiary groups that the Trust served. She made herself available for questions.

Co-Chair Thompson relayed that Representative Gattis and Representative Pruitt had joined the meeting. All members were in attendance.

Vice-Chair Saddler asked where she saw the Alaska Mental Health Trust's mission diverge from the mission of the Department of Health and Social Services or the State of Alaska.

Ms. Derr responded that one of the criticisms the Trust frequently received from the legislature was that in trying new ways of serving its beneficiaries it would turn successful programs over to the legislature for funding in the regular budget for DHSS. She thought the Trust could be more flexible and provide additional funds as new programs became available. She suggested that the trust should be more nibble and able to serve new programs.

Vice-Chair Saddler mentioned the Medicaid reform legislation, SB 74. He asked for her thoughts on where the trust would make the most contribution to the Medicaid reform process.

Ms. Derr responded that there had been a lot of discussion about the funding of the Medicaid reform bill. It was a significant amount of money. She mentioned that the Trust had reviewed budgets from previous years and directed staff to look at different possibilities. In looking at budgets going forward and looking at revenues from the Trust's land's division, the Trust concluded it could support the Medicaid reform for 3 years. Therefore, The Trust had dedicated funds for at least 3 years to assist the department.

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Vice-Chair Saddler reported having been a Deputy Commissioner for Boards and Commissions. He asked for her thoughts about serving in a board position for as long as she had. He asked if she could remain a voice with new ideas and innovative directions for the board after serving for a decade.

Ms. Derr relayed her struggle trying to make a decision, as Governor Walker had replaced her when he took office in the previous year. She was replaced with a new member. She had been involved for so long that there were different programs and policies that had been put into place she was able to observe their success. The person who had replaced her the preceding year was not confirmed by the legislature. As a result, she bounced back onto the board. She reported being really pleased to be back on the Board and was happy to be able to provide some history to new board members. She added that if she did not have many new ideas she would at least be able to see the completion of the ones that had been instituted.

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Representative Munoz thanked Ms. Derr for her service and elaborated that she had served the community of Juneau in many ways and received some of the highest recognitions that Juneau had to offer including the "Women of Distinction Award," as well as an honorary doctorate. She was pleased to support her reappointment to the board. She

asked about the land in the sub port area. She wanted an update of what the board intended to do with the property.

Ms. Derr responded that the sub port used to be across from the Prospector Hotel on the waterfront. The Trust owned the property and had had many opportunities to give it away. She relayed having to remind folks that the property was an asset and used to support the Trust's program. The property was currently on the market for purchase. The Department of Natural Resources' Lands office handled all offers.

Representative Gara thanked Ms. Derr for her important work. He believed that if she remained passionate about doing the job then he encouraged her to do so and he supported her. Ms. Derr thanked Representative Gara.

Representative Guttenberg pointed out that Boards and Commissions had forwarded her application to the Permanent Fund Board, which was currently in front of members.

Ms. Derr remarked that her application was from a while ago. She had served on the Permanent Fund Board when she was previously the commissioner of the Department of Revenue.

Co-Chair Thompson OPENED public testimony.

Co-Chair Thompson CLOSED public testimony.

Co-Chair Thompson suggested advancing Ms. Derr's name to a joint floor session for consideration. No members objected.

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AT EASE

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RECONVENED

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Co-Chair Thompson invited Representative Stutes' staff to the table.

#hb254

HOUSE BILL NO. 254

"An Act extending the termination date of the Big Game Commercial Services Board; and providing for an effective date."

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STEVE HANDY, STAFF, REPRESENTATIVE LOUISE STUTES, read from a prepared statement:

What the bill does:

- House Bill 254, An Act extending the termination date of the Big Game Commercial Services Board and providing for an effective date, extends sunset date of the Big Game Commercial Service Board's (BGCSB) three years from June 30, 2016, to June 30, 2019.

Who the BGCSB is:

- The BGCSB is staffed by the Division of Corporations, Business and Professional Licensing and consists of;
 - two licensed Registered Guide Outfitters,
 - two licensed Transporters
 - two private landholders
 - two public members
 - one member from the Board of Game.

What the BGCSB does:

- The BGCSB provides a legislative command to assist in resource conservation and consumer protection. The Board develops professional and ethical standards, administers exams, makes final licensing decisions and takes civil action against persons who violate regulations.
- Board members are appointed by the Governor and confirmed by the Legislature.

Why should the BGCSB be extended?

The Board's regulated professions include Assistant Guides, Class A Assistant Guides, Master Guide Outfitters, Registered Guide Outfitters, Retired Guide Outfitters, and Transporters.

According to the report titled "Economic Impacts of Guided Hunting in Alaska" prepared for the Alaska Professional Hunters Association by McDowell Group, a research and consulting firm;

- Guided hunting in Alaska accounted for a total of 2,210 jobs and \$35 million in total labor income in 2012, including all direct, indirect and induced impacts.
- Guided hunting generated a total of \$78 million in economic activity in Alaska in 2012.
- Guided hunters purchased nearly \$2 million in hunting license and game tags.

Due to oversight by the legislature, the Board was allowed to sunset before and this caused catastrophic effects. It was the sunset that contributed the financial difficulties reflected in the Legislative Audit before you. However, in December, 2015, the board was reinstated by the legislature.

The Big Game Commercial Services Board is essential to the safety of hunters, guides and transporters coming to Alaska to harvest our natural resources and to the management of the resource itself.

Please consider and pass HB 254 to secure the BGCSB.

We have present Fred Parady, Deputy Commissioner of Department of Commerce, Community, and Economic Development and Sam Roher, president of Alaska Professional Hunter Association, and Eddie Grasser with the Alaska chapter of the Safari Club International to answer specific questions.

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Representative Wilson asked for more details about when the Board sunsetted and the potential fiscal impact. Mr. Handy deferred to Mr. Parady.

Co-Chair Thompson encouraged committee members to continue with questions and he would invite Mr. Parady to the table shortly.

Representative Kawasaki asked when it sunsetted. Mr. Handy responded that it sunsetted in 2005.

Representative Munoz remarked that there was legislation moving through the process that would increase hunting and licensing fees. She asked whether that legislation would bring in revenue sufficient to cover the deficit. If not, was the issue addressed with the bill sponsor. Mr. Handy again differed to DCCED.

Co-Chair Neuman had received comments from Resident Hunters of Alaska and other groups that opposed the extension primarily because of charging transporters costs that might have been incurred by big game commercial services. The legislation also applied to people who carried non-transporters. He read from a statement prepared by Resident Hunters of Alaska:

"...not all air carriers who transport hunters to and from the field choose to be a "transporter," in fact many of the major air-taxis who fly hunters are not "transporters" - are requesting the new fees for mandated transporter hunt activity reports..."

Co-Chair Neuman remarked that they would be charged new fees that mandated transporter hunter activity reports. He suggested that other Alaska Airlines, Frontier, and Reeves transported hunters. He wondered if they would be required to pay the fees. He asked for details regarding the discrepancies. Mr. Handy deferred to the experts at DCCED.

Co-Chair Neuman was not certain if he received the right answer. Mr. Handy conveyed that he did not have the answer and referred to the experts.

Co-Chair Neuman asked who would also be addressing the bill before the committee.

Co-Chair Thompson would bring up others in the room and online. He reviewed the list of available testifiers.

Co-Chair Neuman had just been asked by one of his constituents about the issue. He asked how many registered guides were in the State of Alaska and how many guides and transporters were members of the Alaska Professional Hunters Association. Mr. Handy thought it was over 1000. He had other individuals that could provide specific numbers.

Co-Chair Thompson invited Mr. Parady to come forward.

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FRED PARADY, DEPUTY COMMISSIONER, DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT, spoke in support of HB 254 to extend the sunset date for the BGCSB. He expressed the department's appreciation for the valuable insight provided to the department by the Legislative auditor and her staff for process improvements. In looking at the 2015 audit by the Division of Legislative Audit there were strong words of support provided to the board. Amongst the findings were that the board had provided reasonable assurances that licensees were qualified and that the board's regulation and licensing benefitted public safety and safeguarded Alaska's wildlife. In light of the deficit, the department recommended a 3-year extension to 2019. The division's audit had 4 recommendations. The first was that the department improved its public notice process. The Department of Commerce, Community and Economic Development had completed the process by rewriting its policies, improving its checklists, and shifted responsibility for notifications to one person to ensure accountability. The second recommendation concerned investigations. There were currently approximately 70 cases before the board in the context of investigations. He mentioned that Angela Birt, Section Chief, was in charge of the investigative unit for all professions had insured that the gap in inactivity in an investigation was less than 60 days. It was part of her performance evaluation for each of her investigators. The department had created a system to sustain electronic contact when guides were in the field and created standard operating procedures. The department created a tickler file to send out reminders if there was inactivity for 30 days. Often the sources of inactivity were awaiting action by some other agency so that the investigation was momentarily on hold. The department had also created a sanction matrix that guided the implementation of investigations.

Mr. Parady continued with the third recommendation by the Division of Legislative Audit which was to increase fees. The fees were increased for the 2015 2-year renewal cycle and were increased again for the 2017 cycle, part of what was drawing the question from the transporters. He was happy to report that whereas the deficit of the board was \$1.1 million on June 30, 2015, it decreased by \$896 thousand as of December 31, 2015. It was a decrease of \$225 thousand in the current licensing cycle. He anticipated

that the debt would be reduced by \$535 thousand and would be eliminated in the subsequent 2-year cycle. The board was operating in the black at present and was working towards erasing its deficit. The fourth recommendation had to do with a transportation licensing update, the work of which had been accomplished.

Mr. Parady emphasized the need for the board in order to direct the associated profession. Because of their unique insights into their activities the board provided assistance to the public, the state, the DCCED, and to the Division of Corporations, Business and Professional Licensing (DCBPL). In stepping back to the 30 thousand foot view, guides in this sort of activity as part of the tourism industry were a bright spot in the state's economy. He concluded his comments by noting that licensing would not go away even if the board did. The issues that came before the board were complex and the department appreciated the board's expertise in guiding the profession. He was ready for questions.

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Representative Wilson wanted to understand how the board sunseting caused the current deficit. Mr. Parady did not know all the details due to when he started as deputy commissioner. His general understanding was that the department did not have the board's expertise and insight guiding how to proceed with investigations in terms of knowing what was worthy of investigation and how to spend investigative resources. A second problem was noted in the audit that the deficit situation was made worse by about \$236 thousand (Page 11 of the audit report) because the indirect cost allocation methodology that was corrected following a special audit in 2011.

Representative Wilson asked for the fee increase information. Mr. Parady would provide a copy of the increases which occurred in 2015 and 2017 on a bi-annual cycle. He added that in 2017 the average increase was 31 percent. There was also a new records fee and a new transporter fee of \$50 - a fee to help draw monies associated with specific activities and to spread the load to erase the deficit.

Representative Wilson was concerned with the bill and was aware of guides that had been investigated. She was trying

to understand whether the deficit resulted from something that had happened and the indirect costs or whether the DCCED had conducted investigations that should not have occurred. She provided an example. A fellow was charged and went to court. He was found not guilty and the department paid over \$80 thousand trying to prosecute him. It was her understanding that the cost of \$80 thousand was then passed on to other guides in the form of increased fees. She thought only those found guilty should have to pay the fees. She asked whether there was a provision that protected guides that did the right thing.

Mr. Parady responded that her question was germane. It was a conflict that confronted the department in all of the DCBPL statues where the department was directed by the legislature to balance each profession within its fee structure when there was already a regulatory function in place for the general benefit of citizens of Alaska and perhaps should come from the general fund. He suggested that she would run into her questions that she had broached across any range of state activities where investigation took place. Some investigations did not result in a guilty conviction and therefore she was suggesting that they should not return to the board. However, the decision to conduct the investigation, the rules that governed the profession, and the need for the investigation rested within the profession. Unless there was a place to divert the costs they would be carried by the profession.

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Co-Chair Thompson commented that the bill was only to extend the board rather than to address fees.

Representative Wilson contended that if the department was performing undue investigations and putting the cost onto the board it was something that needed to be changed. For instance, in the audit report on Page 14, under "contractual" the state went from \$94 thousand in FY 12 to \$172 thousand, to \$188 thousand. She assumed "contractual" had to do with investigator services. She wondered if she was correct.

Co-Chair Thompson relayed that Ms. Curtis from the Division of Legislative Audit would be testifying following Mr. Parady's testimony.

Mr. Parady was unsure of the contractual line item Representative Wilson was referring to. He thought that the Department of Law's services were covered through an interagency receipt.

Representative Wilson was concerned that additional costs were being passed to guides through the board. She felt it was relevant and expressed misgivings about increasing fees such that it would discourage guides from participating in the industry.

Representative Kawasaki referred to Exhibit 2 on page 14 of the BGCSB Audit produced by the Division of Legislative Audit (copy on file). He pointed to the personal services line between \$250 thousand to \$300 thousand the past couple of years. He also pointed to Exhibit 3 on page 18 where it showed the total number of licenses issued. The exhibit showed 111 total licenses issued in FY 12, 141 in FY 13, 157 in FY 14, and 119 in the following year. He was uncertain of the costs, time, and effort to process the renewals. He mentioned talking earlier in the day about the Board of Barbers and Hairdressers reporting that 1000 manicurists needed licenses. He thought it seemed like for that board it would take a significant amount of time to process renewals. He wondered how much time it would take for BGCSB to process its renewals.

Mr. Parady responded that the activities in each of the licensee groups that were mandated in statute varied broadly. In dealing with Manicurist's licensures, for example, there were substantial health issues. He explained that for big game outfitters several times a year the department administered extensive tests for guides to be in the field. The cost of administering those tests would not necessarily exist for another profession. There were 43 professions that were licensed; 21 that had boards and 22 that did not. Licensing varied widely depending on the profession.

Representative Guttenberg was concerned with administrative and legal costs associated with legal actions. He wondered if the department would be responsible for initiating charges if there was not a board. Mr. Parady responded in the affirmative. He supposed that costs would be borne by a particular profession if the "bad actors" in that profession were unlicensed and generated an investigation. ON a lighter note, he reported that in the two years of his

tenure he had a case where a chiropractor treated a horse. There was a question about whether it was a violation of chiropractic or veterinary practice. It turned out to be a violation of veterinary practice.

Representative Guttenberg thought Mr. Parady had answered his question about whether charges went back to the license holder, independent of whether the board existed.

Vice-Chair Saddler asked, in the years which there was a deficit in the expenses of the board for investigations, if they were made up from the general fund. If not, he asked him to identify the funding source. Mr. Parady believed it remained within the DCBPL, a receipt-supported agency. He would confirm his answer later.

Vice-Chair Saddler was unclear about Mr. Parady's answer. He suspected that investigators received payment for their services. He asked if it came out of the DCBPL's budget in which the legislature appropriated from the general fund. Mr. Parady responded that he needed to confirm his response. He explained that DCBPL operated within its budget, operating in the black. The agency was receipt-supported and did not received a general fund appropriation.

Vice-Chair Saddler asked if the deficit was a result of ongoing receipt deficits from those individuals paying fees or if it was historical deficits from the past. Mr. Parady indicated that the board was currently operating in the black. The deficit was generated from the past. He clarified that he was referring to the rolled up DCBPL, receipt-supported in aggregate.

Representative Gara mentioned that when he worked for the Office of the Attorney General there were a couple of attorneys he worked with. One of them handled criminal cases going after people that had committed game violations and one who handled civil cases going after penalties from people (some of them guides) who engaged in game violations. He asked if Mr. Parady's department received bills from the attorney general's office when it handled such cases. Mr. Parady would have to get back to Representative Gara with an answer.

Representative Gara suggested fines would be collected as well. He wondered if the fines came through Mr. Parady's

office. Mr. Parady stated that fines typically went into the general fund rather than their source. He would have to do some research and get back to Representative Gara.

Representative Munoz asked about the criteria for beginning an investigation. Mr. Parady could provide a guide handout on the investigation matrix.

Co-Chair Thompson asked that a copy be given to his staff to be dispersed.

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Co-Chair Neuman agreed that the state needed the BGCSB to oversee guides and transporters. His concerns had to do with some of the recommendations that were provided by the Division of Legislative Audit. He referred to Page 33 of the audit for the BGCSB which was the response from DCCED. He pointed to Recommendation 3 which talked about how the program had a known deficit in 2011 and after a legislative inquiry into the division's proposed necessary fee increases for the program, the decision was made not to pursue a fee increase at the time. He summarized that the board had been encouraged to increase its fees which the board had refused to do. It appeared that the board was looking at a modest increase. He asked what fees would have to be increased in order to reduce the deficit. He also wondered why the board had not taken any action at present.

Mr. Parady thought that it was a historical description of the board's unwillingness to act in 2011. The board had enacted two full rounds of fee increases in 2013 and in 2015. He had a 1-page summary which he would share with staff. The increases were typically 31 percent. Some of them were 14 percent. The board was trying to keep the costs lower on the newer members coming into the profession. The most recent round of increases was 14 to 31 percent.

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Co-Chair Neuman had no idea about what the percentage was applied to. Mr. Parady provided two examples. A new master guide license for a resident was \$650 and for a non-resident it was \$1350. After the fee increase the cost of a resident license would be \$850 and for a non-resident it was \$1700 - both numbers reflected a 31 percent increase.

Co-Chair Neuman asked if the air transport industry would be charged additional fees. Mr. Parady would provide a written answer to his question. In general, he understood the transporter fee was \$50 for transporting a big game animal. It was unclear to him as to whom might transport an animal that was not a registered transporter versus who had to be registered.

Co-Chair Thompson invited Ms. Curtis to the table.

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, relayed that there was information in the audit report that would answer many of the questions that were asked earlier. She would first address Representative Wilson's questions concerning fees. She relayed that in the appendix of the audit there was historical information by license including the proposed fee at the time of the audit in the previous summer. There was a question regarding personal services and contractual information in Exhibit 2. There was a question about what was "contractual." She confirmed that Department of Law was included. The board could also hire experts for certain cases and could be found on the contractual line and it varied by investigation. She had heard some questions about what drove the investigative costs. She responded that her audit found that there was a high case load for the particular occupation. When Legislative Audit tested the timeliness of the investigations they found 17 out of 25 cases that were reviewed had periods of inactivity ranging from 5 months to 5 years. There were several cases that were not being addressed in a timely manner. There were some changes made including adding a dedicated investor to the board to help address some of the backlog.

Ms. Curtis continued with her response. She addressed the questions about the number of licensees. Representative Kawasaki drew attention to Exhibit 3 on page 18 of the audit. She noted that in comparing the current audit to the one completed in 2011 overall there was a 13 percent decrease in the number of licenses (found in the footnote). Various types of licensees decreased to different rates and could be found in the exhibit.

Ms. Curtis next addressed the most controversial recommendation of the audit having to do with the \$1 million deficit. She had heard allegations that it was the

sunset itself that caused the deficit. She did not know where the information was coming from. It was not something the audit concluded. She explained that when the occupation sunsetted, the occupation was still regulated by the department and would still incur costs that would have become part of the new deficit at the time the board was created. When her division did the audit in 2011 it identified the deficit at that time of \$376 thousand. If the state did not reduce expenditures and increase revenues the deficit would increase. After that point the division changed its cost allocation methodology which increased the deficit by over \$200 thousand. They tried to increase fees in 2012. There was a great amount of push back from the industry. Their proposed increases were over 60 percent. The occupation objected and ultimately the fees were not increased in FY 12. There were fewer licenses bringing in revenue to share the costs. She concluded that she had just listed the major contributors. Fees were increased in FY 14 but at that point the increase in revenues were not covering the costs.

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Representative Wilson was concerned about payments being received without a board in place. Ms. Curtis responded that that the cost of investigating would be borne by the occupation regardless of whether they had a board. The process would be different, but the costs would be the same.

Representative Wilson supposed a problem was brought to the board and the board decided whether to go forward with a complaint. She wondered, without a board, if the problem would be brought to someone else in the administration who would determine whether the complaint moved forward. Ms. Curtis explained how it worked. A complaint was brought forward to be investigated. The board was not involved with the investigation at all. Members had to keep an arms-length distance to be able to eventually rule on it. The complaint would be investigated and an attempt would be made to work out a consent agreement with the claimant. If an agreement was not successful there would most likely be a review of the evidence by an assistant attorney general and a determination would be made about whether there was enough evidence. The commissioner would subsequently file a complaint with the board. They would move forward to try to

take the license away. She was uncertain whether the progress would happen without the board.

Representative Wilson asked if legislation was necessary to enforce using the fees paid to the state to help offset the state's deficit. Ms. Curtis responded that it was definitely outside of the board purview. She was uncertain about the violation of dedicated revenues.

Representative Wilson expressed her opinion that increasing the fees like the state had been would definitely have an impact. They were private business folk not making a profit and would likely stop their service. She thought it was important to know whether the problem was being made better or worse.

Co-Chair Neuman asked what caused the \$1 million deficit. Ms. Curtis responded that it was due to an untimely increasing of fees. If the fees had been increased appropriately at the first sign of a deficit, it could have been addressed more timely. In addition, the division changed its cost allocation methodology after it was found to be inappropriate in 2011. She relayed that over \$200 thousand of the deficit was because of the indirect cost allocations. Mainly, though, it was due to untimely increasing fees.

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Co-Chair Neuman thought he was hearing that \$200 thousand of the \$1 million deficit was because the department changed the fee schedule as opposed to the board self-regulating and increasing its own fees. Ms. Curtis referred to Exhibit 2 that showed that the department allocated indirect costs to boards such as electricity. There was a methodology of allocating the costs to the boards. In 2011, when Legislative Audit looked they found that it was not appropriate because certain divisions were not getting their appropriate allocation and the methodology was changed. They started allocating based on licensees by board, an equitable way of allocating it. They had to do some widespread adjustments which resulted in the BGCSB having an increase of over \$200 thousand in its deficit.

Co-Chair Neuman confirmed that it was due to changes from the department. Ms. Curtis responded affirmatively.

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Co-Chair Thompson OPENED public testimony.

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MARK RICHARDS EXECUTIVE DIRECTOR, RESIDENT HUNTERS OF ALASKA, opposed the legislation. He noted a letter previously submitted on April 1, 2016. There were several reasons the group opposed extending the BGCSB the main one being that the board had been involving itself in issues that affected resident Alaska hunters outside its purview. Speaking about financial matters associated with the board he wanted to address the board's ongoing debt and why the group did not believe the board would be able to fund itself in the black moving forward. He pointed out that whether there was a BGCSB the guide industry would continue being regulated. Guide licensing and examinations would still take place, complaints would still come in, and investigations would still occur. Not all occupational licensees had their own board but were regulated and overseen by the State of Alaska. If the board sunsetted the continual modification and changes to guide regulations would stop. The associated costs with such changes and the continual lessening of guide ethics regulations that allowed big game guides to do things like spotting animals from the air with the intention of harvesting those animals would also stop. He pointed out that the new 3000 percent increase in fees to transporters was in large part how the board intended to pay off its debt by the end of FY 17. The new fees to transporters were not enshrined permanently. In the letter by his group and another letter from Seahawk Air owner, Roland Ruoss reported that shortly the board would be voting on reducing or eliminating fees to transporters. There was also the possibility that a forthcoming legal opinion could render the entire transporter category as it related to aircraft untenable and unworkable. The board would lose the fees to aircraft transporters permanently. He felt that the board needed to fund itself from the licensees as originally supposed to oversee as the guide board and as the legislature originally intended.

Mr. Richards noted that the recent fiscal note that was given to the committee only showed the cost of meetings and did not reflect the other costs associated with the board such as administrative costs associated with changes to regulations or investigatory costs; the main source of the

board's continued debt. He mentioned the McDowell report from the Alaska Professional Hunters Association that spoke to the income the guide industry generated across Alaska. He thought it was being used to bolster the need for the board to continue. He opined that the guide industry generated enough revenue that it should be able to fund its own board on the licensing fees of its licensees. He also relayed that the same report for the guide industry was also meaningless in terms of whether the guide industry needed the board to continue to function. He reiterated that the guide industry would not cease to exist if the board sunsetted. The question was whether the board could function in a manner that was beneficial to the state and the guide industry while being funded by its main licensees it oversaw. His group did not believe it could. He added that he had attended the BGCSB meetings for many years and heard guides complain about other guides abusing the system. He inquired about why the bad actors had not been dealt with. Complaints were filed with the Alaska State Troopers and with the board to no avail. He claimed that high investigatory costs were responsible for slowing down investigations and causing the board to sign consent agreements rather than bringing violators to the full brunt of the law. The consent agreements often allowed a guide to continue to operate. He surmised that the board could not function the way it was intended to function. His group would have no issue with the board if it would stay out of trying to affect resident hunters. He thanked committee members for their time.

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SAM ROHRER, PESIDENT, ALASKA PROFESSIONAL HUNTERS ASSOCIATION, KODIAK (via teleconference), spoke in support of HB 254 to extend the BGCSB. He reported that currently there were approximately 304 active contracting guides in Alaska. He relayed that of the 304 active guides approximately half of them were members of the Alaska Professional Hunters Association. He signified that the board was critical to the long-term viability of the guiding industry. The board provided the only interaction between the division and the guiding industry. He supposed that without the board the industry had no meaningful input on the development of regulations that directly impacted the guiding industry. There were two specific issues he wanted to address. The first was the board's debt. He explained that it was important to note that some of the

debt began to accumulate during the period of time when the board previously sunsetted. The current board inherited the debt which continued to increase due to investigations that the board had little or no input in. The situation had changed and the debt was well on its way to being retired. However, the debt would not go away even if the board disbanded. He claimed that without the board's oversight the debt would continue to grow and would continue to get charged back to the guide industry in the form of increased licensing fees.

Mr. Rohrer continued by addressing a second issue. He pointed out that it was in the public's interest to have a well-regulated guide industry. An important aspect was the licensing of new registered guides. Under the current board, prospective guides went through rigorous testing including a written test and multiple oral tests taken in front of proctors made up of board members and currently licensed guides. During the period the board was sunsetted the registered guide test consisted of a multiple choice test and eventually with the test the answers became available online for a fee. He reiterated that without a board he did not believe it was possible to maintain the same level of testing and assumed the testing would return to the multiple choice test. He urged members to support HB 254.

[2:35:56 PM](#)

PAUL CHERVENAK, SELF, KODIAK (via teleconference), spoke in favor of HB 254. He relayed that he was a 36 year resident and hunter of Alaska and was a licensed master guide and marine transporter. He believed in helping to develop standards and manage the industry to make it one of the safest and most professional there was. He opined that the BGCSB enabled it to happen. He also believed that hunters and commercial operators should help to pay for the industry they used. He supported the recent increase in license and reporting fees and urged members to support and move HB 254 out of committee.

[2:37:01 PM](#)

DICK ROHRER, SELF, KODIAK (via teleconference), was introduced to the guide business in 1965 when he came to Alaska. He had been licensed as a guide since 1971. He was a master guide and served 2 terms on the BGCSB beginning in

2005 when the board was reinstated. He spoke of being a financial officer to the board. He was disappointed when he found out through accounting methods that \$236 thousand of revenue disappeared in 2011. In the same year he had heard the deficit at the time was \$376 thousand. Taking both figures into consideration if the revenue had been maintained there would not have been a concern with revenue or expenses. Another thing that happened when the board was reinstated was that the board encouraged the Department of Commerce, Community and Economic Development to implement a computer system to keep hunting records in order to have information readily available for the various agencies. During the time it was being put together the board thought it had commitments from federal agencies to provide \$30 thousand to \$40 thousand in revenue to go towards the project that would have generated substantially more revenue. The board was unable to figure out a way to transfer the money directly to the board. He responded to a question asked by Representative Kawasaki relaying that there were only 112 under the board. He thought the number reflected only the number of master guide outfitters. He anticipated approximately 500 additional registered guide outfitters and approximately 700 to 1000 more class "A" assistant guides. He did not know the number of transporters. He pointed out that it was not the board that set the fees but rather the DCCED. He commented that it was the legislature through the BGCSB statutes that established the transporter license, rather than the board. He also noted that, under the statutory definitions, air taxi operators who flew from point-to-point were exempt from the transporter licensing requirement. It was only those air transporters that advertised big game hunting services and charged a different fee for hunts were required to have a transporter license. Any other air taxi operator was exempt from the licensing requiring and exempt from the \$50 that he was claiming.

KELLY VREM, CHAIRMAN, BIG GAME COMMERCIAL SERVICES BOARD, SUTTON (via teleconference), testified in support of the bill. He relayed that the board was operating in the black. The legal costs that caused the debt were out of the board's control as Ms. Curtis had pointed out. The board could only react to the charges levied against guides or transports after they were made. The board decided the appropriate level of punishment but did not get to decide who to pursue in a violation. There were multiple ways to incur a violation. It could be completely inadvertent. Some

examples included failing to file a form, failing to get official permission from a land manager, or overtly meaning to subvert the law. He relayed that the board currently treated people with the same hammer. He felt a more nuanced approach was needed and could only be attained after reaching a consent agreement or obtaining a conviction. He relayed additional challenges having to do with the division raising the fees. Although he favored raising them he claimed there had not been adequate public input prior to the department deciding to do so. He believed it was the only board that used volunteer proctors.

[2:45:14 PM](#)

VIRGIL UMPHENOUR, SELF, FAIRBANKS (via teleconference), was in support of the board. He shared that the guiding industry was unlike any other in the state: it was the most regulated and had the highest standards. The board was needed to decide whether investigations went forward. He was very aggravated to see the DCCED violate Alaskans' constitutional rights. He also mentioned that investigators typically launched large investigations. He provided an occurrence in which a young guide turned himself in and was fined. He thought the board was needed to set standards and to eliminate bureaucratic bullying. He thought the transporters had been getting a free ride for too long. He thanked the committee.

Co-Chair Thompson CLOSED public testimony.

[2:49:29 PM](#)

Representative Wilson asked about setting the fees. She wondered if DCCED had not set the fees correctly. Mr. Parady responded that the calculation of fees across the department had confounded the DCCED for the past decade. They had been the subject of a legislative audit twice. Although the fee calculations were founded in mathematics as the auditor described, the original push to increase the fees was resisted by the board. The fee increase was generated by the regulation rule making authority of the DCCED, but it was done with the advice and recommendation of the board. The delay lead to the worsening of the problem. Currently, the board and the department had initiated two rounds of fee increases, the board was operating in the black, and the deficit would be erased.

Representative Wilson interjected that a larger picture was at hand. She suggested that boards were mandated to cover their costs with no costs to the state. She thought the question the legislature should be addressing was whether the state should allow boards to continue if they were not self-sufficient. Boards having the ability to reject fee increases was an issue unto itself. Mr. Parady agreed that it was in statute that the fee balance in each profession had to be self-supporting. The art of the mathematical calculation was in the allocation of costs: the compilation of all of the detail. It was currently changing with the state's new accounting system and the department would be adapting further.

Representative Wilson was not interested in moving the bill forward because of her concerns with the legislature breaking its own statute. She believed that because the board had a deficit it was not in compliance with the law. Mr. Parady offered that it was not the only board or profession in the same circumstance. He conveyed that in the audit report a revenue cycle was a 2-year period. For example, in the first year the revenue might be \$350 thousand or \$400 thousand. In the second year it might be \$150 thousand. The department was trying not to send shock waves into the system in terms of correcting the deficit. The department was mindful of the statute and the statutory requirements.

Representative Pruitt conveyed that the Division of Corporations, Business and Professional Licensing had been a giant mess for a while. It was not just the BGCSB. However, the BGCSB was the most expensive board due to investigations. As a result, it had the largest deficit. He reminded members that the legislature placed intent language in the bill directing the division to ensure that the state covered its costs. He recalled the Board of Real Estate raising its fees to cover costs and people were outraged. Subsequently, the costs were dropped down substantially. The legislation gave boards the ability to ensure their costs were covered relieving the department from having to do so. He thought boards would be in a better position going forward. Lastly, there was one board not covered by the statute being discussed: the Marijuana Board. He thought it would be a problem in the future.

Co-Chair Thompson thought a future bill might be in order.

2:55:12 PM

Representative Gattis noted that part of the problem for the BGCSB was that the fee structure was not increased when it should have been. She thought there also needed to be a change regarding investigations. She referred to a previous testimony in the meeting and offered that she might initiate a bill for consideration in the future.

Vice-Chair Saddler reviewed one fiscal impact note from the Department of Commerce, Community and Economic Development. The appropriation was from the Division of Corporations, Business, and Professional Licensing. The Office of Management and Budget Component number was 2360, dated March 24, 2016 in the amount of \$22.3 thousand for FY 17.

Co-Chair Thompson relayed that the fiscal note he had was dated, April 1, 2016.

Vice-Chair Saddler stood corrected.

Representative Wilson asked why the deficits for the board were not reflected in a fiscal note.

Co-Chair Thompson explained that the fiscal note reflected the amount of revenue that would be brought in, and the source from which it was being paid. It did not have deficits listed. However, there were reports from the DCCED that showed all of the boards and their deficits and overages. He would provide the information from the DCCED.

Representative Wilson thought there should be a fiscal note that included an explanation of what the members had heard in the meeting. She thought it should reflect the fiscal impact.

Representative Pruitt commented that the issue should be reflect on paper and was an accounting situation. He furthered that boards had borrowed from other boards to be able to pay the deficits previously. That was the reason the division was not in a deficit. He mentioned the Board of Nurses that brought in a substantial surplus. The surplus had been borrowed to pay for some of the deficit costs. He did not believe including it in a fiscal note was the proper way to address the issue. He asserted that it was a clustered problem triggering two audits. Many legislators had expressed frustration.

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Representative Wilson thought there should still be a fiscal note from the Boards and Commissions that reflected the accounting of each board. The fiscal note was not reflective of the bill.

Co-Chair Thompson mentioned that Mr. Parady and Ms. Curtis had reported the deficit of the board and explained that the amount of fees resulting from licensure would catch them up by FY 17 bringing the board into the black.

Representative Pruitt indicated there was a difference between a board and the programs. All the bill was doing was extending the board. He asserted that the board had a \$22.3 thousand cost. He suggested separating the two.

Vice-Chair Saddler suggested that when the House Finance Committee was considering a board extension it should request that a statement of the balance of the deficit or credit for their investigations be included in the information packets for members. He referred to a comment Mr. Richards had made a comment about a pending legal decision regarding transporters. He wanted to know more about it.

Co-Chair Thompson wondered if it was something that could be discussed because it was currently a pending court case.

Vice-Chair Saddler was unsure.

Co-Chair Thompson did not want to bring the issue up again but suggested addressing it on the House Floor.

Vice-Chair Saddler withdrew his question.

Co-Chair Neuman MOVED to REPORT HB 254 out of committee with individual recommendations and the accompanying fiscal impact note. There being NO OBJECTION, it was so ordered.

HB 254 was REPORTED out of committee with a "do pass" recommendation and with a new fiscal impact note by the Department of Commerce, Community and Economic Development.

3:03:50 PM

AT EASE

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RECONVENED

#hb156

HOUSE BILL NO. 156

"An Act relating to compliance with federal education laws; relating to public school accountability; and providing for an effective date."

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REPRESENTATIVE WES KELLER, SPONSOR, explained that he would be happy to provide a general overview of the bill and answer any questions members might have. However, he wanted to first address the issue of the bill's fiscal note.

Representative Keller began by asking for serious consideration of and action on the bill. The bill addressed three sections of law. The first had to do with the reporting requirements for school districts. The second was the accountability section which laid out the assessments and different issues related to the No Child Left Behind (NCLB) Act, the Every Student Succeeds Act (ESSA), and the duties of the commissioner. He explained that much of the bill addressed housekeeping issues. For example, with the ESSA there was a new emphasis on local control and local input. He referred to Section 6, page 3, line 26 where it talked about the assessment process. It required the local input of the local school district and the teachers. The most colorful part of the bill was in the last section where it pushed the pause button on standards based assessments until the Department of Education and Early Development and the school board could come back with a report on the totality of the state's section of law, Title 14, as it related to accountability and assessments and with recommendations for any changes. Most importantly the group would come back with an assessment plan that could be implemented. He pointed to page 6 of the bill.

Representative Keller next wanted to address the question as to whether the bill would cost the state money. He contended that it would not. However, he was not confident enough in bringing a zero fiscal note from the DEED. He had supporting opinions from various entities. He had a memo from the U.S. Department of Education that he would be passing out to members (Copy on file). He relayed that he and Senator Dunleavy had met telephonically with Adam Honeysett

[Managing Director of state and local outreach for the U.S. Department of Education] and Ann Whalen [Senior Advisor to the Secretary of Elementary and Secondary Education of the U.S. Department of Education]. They subsequently sent a memo that was forwarded to the State of Utah. He wondered what would happen if the state did not fulfill the requirements laid out in NCLB and ESSA. He mentioned a handout that members had in their packets (Letter dated February 3, 2016 from Assistant Secretary Deborah Delisle to Commissioner Mike Hanley: copy on file). He pointed to number 3 on page 3. He read the question about the consequences of a state or district that failed to adhere to the federal assessment requirements.

Representative Keller explained that in order to have a fiscal note, there had to be a decision somewhere that the state failed to comply. He contended that it would be a difficult step for the U.S. Department of Education to get over because the intent of the bill was to take a break and do a better job of complying in terms of accountability and assessment issues. In other words, if there was a failure to comply enforcement actions could be taken. There were 7 things that could be done if the state refused to comply with the requirements. He argued again that it was not the case.

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Representative Guttenberg asked Representative Keller to identify the full document. Representative Keller responded that the full document was a memo from Deborah Delisle, Assistant Secretary of the U.S. Department of Education. The memo was addressed to Commissioner Mike Hanley. He thought it was the best response to the question about what happened to states that did not comply. He was happy to supply the letter to the committee.

Co-Chair Thompson relayed that he would have the letter dispersed.

Representative Keller continued to explain that taking a break would not be a new precedence. The State of California took a 3-year break to review its laws and was receiving reports. The difference for California was that it negotiated the process as it went along. The State of Alaska was in a situation where there were failed tests and angry parents. He relayed that the ESSA would go into

effect in August 2016. He referred back to the U.S. Department's letter indicating that it was early in the process of implementing the ESSA and many decisions had not been made yet. He thought that it was logical for the State of Alaska to take a break to develop an assessment plan and to conduct a review of the state's laws and regulations having to do with ESSA. He reported that ESSA afforded more local control.

Representative Keller next referred to page 4 of Ms. Delisle's letter that addressed the specific enforcement actions. He read directly from the letter:

"The specific enforcement action (s) the Department of Education would take depends on the severity of non-compliance."

Representative Keller surmised that Alaska would unlikely experience severe enforcement actions based on the intention of taking a break to get things accurate. He noted that the state would not be refusing to do anything. Rather, the state was taking a break. He also informed the committee that the money was Title "A" money: federal money designated to be dispersed to states with the attempt to make things equitable for disadvantaged students. In the act of applying for Title A money the state promised that it would follow all of the rules. One of the rules was that Alaska had to test grades 3 to 8 and a grade in high school. He thought Alaska was in an uncomfortable position because The Alaska Measures of Progress (AMP) failed. He noted that in the previous week in Education Weekly there was a report on different states and it discussed state school boards across the nation feeling the urgency to flex muscle. He claimed that what Alaska was trying to do was to reinsert itself back into the education policy business. He continued that the money had gone directly into the department and, in turn, the department had given it to the districts. He believed that having input in the education process was critical.

[3:18:42 PM](#)

Representative Keller continued to discuss the issue of the assessment. He talked about dealing with the parents of students. He thought it was a mistake to choose the wrong people to handle the subject. He believed people working for the state wanted a good assessment plan. He had also

had the opportunity to get to know some of the new members of the State Board of Education and was impressed. He urged the committee to proceed with the legislation. He had no problem with the indeterminate fiscal note.

Representative Gattis thanked Representative Keller for bringing the legislation forward. She thought it was an ideal time to be looking at the state's assessment. She thought it was a good idea to think about pushing the pause or reset button and mentioned the state might be eligible for a waiver. She liked the option of applying hind sight. Other states had been able to do so. She thought the timing was perfect.

Representative Keller responded that the worst case would be that the legislature would pass the law and the U.S. Department of Education would not approve of it. It would take some time before the state received any notice of disapproval. He supposed that by such time the state would be able to complete its own assessment.

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Representative Kawasaki referred to the letter that was handed out during the meeting. The letter indicated that the U.S. Department of Education could withhold a portion of the state's Title 1 Part A administrative funds and programmatic funds. He wondered what the value equated to.

Representative Keller suggested Representative Kawasaki direct his question to the DEED. He pointed out that the letter specifically stated "administrative funds" would be at risk. He relayed that administrative funds would be withheld before program funding was revoked. He had been told by the Department of Education that 70 percent of the revenue for the department was federal money. He did not know what portion was Title 1A.

Representative Gara asked about the implementation of the ESSA adopted in the prior year. He wondered if the bill reestablished the designation of schools. Representative Keller responded that the legislation did not change the state's law regarding the designation process. One of the requirements was for the school system to give a grade to schools and to assign a designation and a grade to the state education system. However, the state had never set any guidelines for grading. There was one slight change in

the bill that required the DEED to assign a designation for the state public school system based on the proficiency of students compared to other states.

Representative Gara wondered if the designations under state law were adopted because of the passage of the NCLB Act. Representative Keller responded in the affirmative and added there was not a lack of interest in knowing how the state's school system was performing.

[3:26:51 PM](#)

Representative Gara remembered one of the largest flaws of the federal designation system was that although teachers and a school's administration were doing a good job and students were making improvements, given where the students were starting or their home life, some of them were still failing. The designation was influenced. He wondered if the state still maintained the same grading system. Representative Keller admitted that in some ways the bill kicked the can down the road. However, it called for a review process.

Representative Gara asked if it was more feasible to come up with a better school ranking system rather than the one from the NCLB Act. Representative Keller indicated that it would be a monumental task. The bill was an attempt to look at things more closely and get further input from local school districts, parents, and students. There were many people in the state that had a lot invested in the current system. He suggested that the bill provided a step forward to get collaborative input on how to proceed, but it would not fix all of the problems.

Representative Wilson relayed the state did not currently use the same system to grade the state's schools as was used when the NCLB Act was in place. She reported that the state changed it with a waiver, imposed more teacher accountability, and switched to a star rating system for school performance. She had just read an article that stated that the new testing that was most recently imposed was a failure because of technical and computer issues. She wanted Representative Keller's take on classroom time and teaching versus continuing tests.

Representative Keller restated that it was a time of crisis with several loose ends needing resolution. He believed

testing was critical and important in education in order to better understand the educational needs of each student. From a teacher's perspective student learning was extremely important, and from the state's perspective in spending money, accountability was very important. He felt that the legislation provided an opportunity to come together.

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Representative Gattis responded to Representative Gara's comment. She asserted that there were several things the state placed into statute that dealt with the NCLB Act. She thought the state would definitely have to conduct another review. She added that with the signing of the ESSA in December 2015 states were still trying to figure out their options and what was allowed. She believed there were several things at play and that the state should not get ahead of itself. She thought the bill helped press the pause button and to come together. There would be huge changes in reporting, the statute, how the state graded its schools, and how it held its teachers and students accountable. She agreed with Representative Gara that there was a flaw in the system. There were folks that were not graded on their progress. Teachers that could help to advance a student from a second grade proficiency to a third or fourth grade proficiency were not given due credit because of the student not being proficient in an expected grade. There were huge challenges for the state. She thought in going through the process and slowing down, the state would have an advantage.

Vice-Chair Saddler referred to Section 2, page 2, lines 9-10 of the bill. It described that the department would inform the governing body of the designations assigned to the district and to the state public school system. He wondered who applied the designation to the state public school system. Representative Keller clarified that there was a section of the law that drove the designation that was not in the legislation. He referred to AS 14.03.123a.

Vice-Chair Saddler read from statute AS 14.03.123a:

(a) By September 1 of each year, the department shall assign a performance designation to each public school and school district and to the state public school system in accordance with (f) of this section.

Vice-Chair Saddler relayed that later on in (g) it defined "state public school system." He asked for the representative to provide a couple examples of the elements of a public school system by which Alaska's system could be compared to those of other states.

Representative Keller responded that in drafting the legislation he did not want to get specific about what would be used. It stated that the state board would make the regulations for the determination. He relayed that the only tool that did a proficiency comparison was National Assessment of Educational Progress (NAEP). The bill did not designate what was to be used other than it had to be based on proficiency. There were tests that were comparable that the board could look at using. He left the language broad on purpose.

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Vice-Chair Saddler referred to the indeterminate fiscal note. He highlighted a couple of places in the analysis section of the fiscal note that stated that the fiscal impact could not be determined because of a lack of measures necessary to estimate costs. He expressed his concerns about going ahead with an assessment without knowing the designations or measures or the price of the assessment.

Representative Keller highlighted that the bill placed a tool in the tool box for the commissioner and the state board in interpreting and figuring out how the state would respond to forthcoming regulations. It was not that the state would be incurring a cost by some federal enforcement act that worried him. It was more that the state would be at the table with the federal government trying to figure out what was going on.

Vice-Chair Saddler did not want to lose the \$200 million of federal money in impact aid. Representative Keller responded that it happened one year at a time. If there was a threat of losing millions of dollars of federal money legislation would be before the committee again. He was not particularly worried about the federal money but he wanted it to show up on the fiscal note as indeterminate rather than zero. However, at present he would be comfortable with a zero fiscal note.

Representative Guttenberg referred to Section 8, page 6, on line 16. He wondered if the bill placed the standards - based assessment on hold between July 1, 2016 and July 1, 2018. The bill would not allow the first administration of whatever plan that was developed until the school year of 2020. There was always a contradiction between having assessments and not having assessments and standards when speaking with teachers. He wondered if students fall between the seams by not having something when they were applying for college. He was concerned that colleges would reject Alaskan students because they did not have testing or grades to compare with those of students from other states. He thought the change being proposed in the legislation was significant. He asked if Alaska's students would fall through the cracks. Representative Keller responded that members of the committee understood the dynamics of what happened in the districts better than he did. He mentioned the most recent education chairman and deferred to a district expert.

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Representative Munoz asked if school districts were supportive of the bill. Representative Keller stated that districts were concerned with anything that might threaten federal money. However, he received positive responses from many districts about a possible change. He thought that districts' fears were over-rated.

Representative Munoz asked if there was enough flexibility for states to figure things out by 2020 with the new ESSA law.

Representative Keller responded that in his opinion he thought yes. He added that the state did not know what the response of the federal government would be. The state was not simply refusing to comply. Rather, the state was wanting to do it correctly with some time to do so.

Representative Munoz clarified that all testing would be discontinued from third grade when testing began. Representative Keller responded that she was incorrect. The department would not be able to require assessment-based testing. He elaborated that when a school took Title 1 monies it was a promise to conduct testing. The requirement did not go away. The state was halting the state department

from using the sanction on the mandate on local districts to administer the assessment-based test.

Representative Munoz asked whether the district would continue with the testing if it received federal funding. She wondered if the state department could not require the testing. Representative Keller responded affirmatively. He indicated that the Department of Education and Early Development agreed to require the testing. The federal government required the state to offer the test to everyone. It required districts to administer the tests. It did not require parents to take the test. The requirement stated that the test had to be administered to everyone fairly. No group of people could not be excluded. It was part of the NCLB Act which was in effect until August 2016.

[3:45:11 PM](#)

Representative Gattis wondered if she had heard Representative Keller correctly that the schools would be able to continue their testing. She recognized that other states had applied for waivers or the opportunity to slow the process down to get things right. She wanted to confirm that Alaska would not be jumping "out of the box" in comparison to other states. She thought the Title 1 dollars were a huge concern. She asked if it was his intent to decline the federal dollars or to just slow the process down to get things correct using the federal dollars while going through the process. She opined that the new ESSA was a moving target that needed to be better understood in terms of what it allowed.

Representative Keller responded that by taking federal dollars the state was obligated to operate as it was currently operating - basically operating as an outpost for policy from the U.S. Department of Education. The legislation would allow the commissioner to have another tool in the toolbox to negotiate.

Co-Chair Thompson indicated that the meeting would be recessed for 10 minutes. Upon reconvening representatives from the DEED would be testifying on HB 156.

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AT EASE

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RECONVENED

Co-Chair Thompson relayed that Ms. MacKinnon and Deputy Commissioner Walter available from the DEED.

BETTY WALTERS, INTERIM DEPUTY COMMISSIONER, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, introduced herself.

MARGARET MACKINNON, DIRECTOR, ASSESSMENT AND ACCOUNTABILITY, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, introduced herself.

Representative Kawasaki referred to the question he had asked the sponsor of the bill dealing with funding. In the memo members received written to Commissioner Hanley stated that failure to comply with the assessment requirements could place Title 1, Part A funds in jeopardy. He wondered how much funding could be at risk. Ms. MacKinnon replied that Title 1a funding was approximately \$40 million which included money that went out to each of the districts in the state.

Representative Kawasaki continued to reference portions of the memo to Commissioner Hanley that went on to say that the state could find itself out of compliance with a wide range of other programs that required the state assessment results. One of them was school improvement grants, ESSA Title III, Part B, which dealt with the Individuals with Disabilities Act. Another was programs for rural schools under ESSA Title IV. Additionally it could affect migrant education under ESSA Title 1, Part C. He wondered if she had a value for each listed. Ms. MacKinnon responded in the affirmative. She stated that based on the information in the letter, the total amount of funds that were represented would be over \$99 million for FY 2017.

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Representative Wilson asked if it was an opportunity to be able to reevaluate what kind of testing the state wanted to conduct. She wondered if it would provide more opportunity and flexibility to utilize the testing that school districts were already doing such as the Measures of Academic Progress (MAP) testing. She suggested that it was a reset of sorts. She believed the bill's intent was to utilize the opportunity to do what was best for Alaskans. The most recent testing was not very successful.

Ms. MacKinnon reported that she had had a recent conversation with Anne Whalen, the assistant secretary at the U.S. Department of Education to clarify some of the requirements under the ESSA. She had provided Dr. McCauley, the department's interim commissioner, a letter. She continued that the passage of the ESSA did provide the state more flexibility in certain areas. Those areas primarily related to the design of the school accountability system that had some required indicators, including achievement on the state assessments, and also a measure of growth. In other words, not everything would be based only on the assessment. There was some flexibility in the assessment and a couple of new options. However, the state was still required to give the same statewide assessment to measure the state's standards to all students in grades 3 through 8 annually and at least once in school. There was an option allowing a state to approve districts to request a local choice of a nationally recognized high school assessment comparable to and reported similarly to the results on the state's assessment. The option only applies to high school and not to grades 3 through 8.

Representative Wilson asked if other states had obtained waivers. She supposed other states were taking a slower approach to making the necessary changes and doing it correctly. Ms. MacKinnon reported having talked with people who had worked with the state department in California and also asked Anne Whalen at the U.S. Department of Education. The situation in California was that they were in the process of implementing the smarter balanced assessment. In the year in which the assessments were field tested, California used those assessments in a field test mode then transitioned into the regular assessment in the following year. Some of the transition might have had to do with when the assessments were used or growth from the assessments in California's accountability system. She thought having the assessment was different. Assistant Secretary Whalen had indicated that no state had been able to receive a waiver of the assessment requirements.

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Representative Wilson noted that she had requested previously that the state would not make up its own test or cut scores. She did not believe it was fair to Alaska's children. The State had not been successful again. She

hoped that the state had learned that there were great assessments available. She contended that it was time to stop trying to reinvent the wheel and to start looking at assessments that were already available for less money and allowed for comparison of Alaska's kids to kids in other states.

Representative Guttenberg asked about the department's evaluation of the bill. He also asked how difficult it would be to align assessment tests if they were different from school district to school district. Ms. MacKinnon responded that the state would have a high school assessment. The state could opt to allow individual districts to choose a nationally recognized high school assessment such as the ACT (American College Testing) or the SAT (Scholastic Aptitude Test). The U.S. Department of Education was clear that the ACT and the SAT were not the only examples and that it would be up to the states to determine whether to allow a district to choose to give an alternate assessment. The test would have to be administered to all students in a district and would have to measure and be able to be reported comparably to the state's assessment (designed to measure the state's standards). It was a process of determining other assessments that could also be shown to measure the state's standards.

Representative Guttenberg assumed that it was feasible and not as difficult as it could be. He asked about the department's consideration of the bill in terms of what it did, its implementation, and the risk of losing federal funding if it passed. Ms. MacKinnon responded that the way in which the bill was written would prohibit the department from requiring districts to take a test within the following 2 school years. She thought that it potentially put the state at risk for losing Title 1 federal funds. She reported receiving a letter that indicated the state would be out of compliance. She was working with district superintendents and stake holders to look at what kind of assessment the state would want to implement over the following 2 years. Alaska had choices and did not have to have a custom assessment, only one that measured the state's standards. She suggested that the state might end up with a system of assessments. There was some flexibility. She reiterated that the state would be out of compliance if it did not administer an assessment.

Representative Guttenberg thought it would be a considerable risk. He wanted to weigh and measure the state's ability to do its own assessment and the risk of lost funding which would affect Alaska immediately.

[4:08:34 PM](#)

Co-Chair Thompson OPENED HB 156 to public testimony.

Co-Chair Thompson CLOSED public testimony.

[4:09:24 PM](#)

Vice-Chair Saddler reviewed the indeterminate fiscal note from DEED. The appropriation was Teaching and Learning Support and the allocation was Student and School Achievement. The Office of Budget and Management component number was 2796. The amount was zero for FY 17 and in the future it was indeterminate.

Vice-Chair Saddler MOVED to REPORT CHHB 156 (EDC) out of committee with individual recommendations and the accompanying fiscal note.

Representative Kawasaki OBJECTED for discussion.

Representative Kawasaki relayed having a discussion about the previous bill dealing with the BGCSB with a fiscal note indicating a cost of about \$20 thousand for travel. He thought that there was a larger picture to look at. Although the fiscal note detailed potential loses of federal education funds and impact aide that could equate to \$200.2 million. He had not seen an updated letter other than the one dated February 3, 2014 to Commissioner Hanley. It seemed like there might be more information from the department that they had received a subsequent letter stating that if, in fact, the state did not have a standardized test in 2017 and 2018 it could cost Alaska a large amount of money. He did not feel comfortable letting the bill out of committee without fully understanding its impact. He thought it was bad business to push legislation forward without knowing the consequences to the state.

Representative Kawasaki WITHDREW his OBJECTION.

Representative Guttenberg OBJECTED for discussion.

Representative Wilson thought the state had a unique opportunity. She thought that the letter to Commissioner Hanley from the U.S. Department of Education conveyed that each school district could design a test to be used for the purpose of assessing state standards. She favored moving the bill forward.

Representative Guttenberg spoke to his objection. He indicated that without having a better understanding of the true risk or implications of losing about \$90 million per year in federal funding, he could not support the legislation. The bill sponsor had mentioned coming back in the following year to fix any issues. However, he mentioned that even a brief simple bill took months to travel through the legislature. He did not want to risk losing federal funding.

Representative Gattis believed the state was in a "Catch 22" position and thought moving forward would be the right thing to do currently. She would be supporting the bill.

[4:14:53 PM](#)

AT EASE

[4:21:34 PM](#)

RECONVENED

Representative Kawasaki discussed the letter from the United States Department of Education dated, April 1, 2016 (copy on file). He believed the letter conveyed that federal funds and impact aid could potentially be jeopardized and opposed the legislation.

[4:22:24 PM](#)

Representative Gattis remarked that although she understood Representative Kawasaki's point of view, she hoped that prior to the bill getting to the floor there would be more of an opportunity to take a harder look at the legislation and some of the options other states had executed. She would be a "yes" vote.

Representative Guttenberg MAINTAINED his OBJECTION.

A roll call vote was taken on the motion.

IN FAVOR: Gattis, Munoz, Pruitt, Saddler, Wilson, Edgmon,
Thompson
OPPOSED: Guttenberg, Kawasaki,

Representative Neuman and Representative Gara were absent
from the vote.

The MOTION PASSED (7/2).

CSHB 156 (EDC) was REPORTED out of committee with a "do
pass" recommendation and with a previously publish
indeterminate fiscal note: FN1 (EED).

[4:23:42 PM](#)
AT EASE

[4:25:11 PM](#)
RECONVENED

[4:25:24 PM](#)

Co-Chair Thompson called the meeting back to order and
indicated that there was a committee substitute.

#hb209
HOUSE BILL NO. 209

"An Act relating to an Alaska Water and Sewer Advisory
Committee; and providing for an effective date."

Vice-Chair Saddler MOVED to ADOPT the proposed committee
substitute for HB 209 (FIN), Work Draft (29-LS0306\P).
There being NO OBJECTION, it was so ordered.

BRODIE ANDERSON, STAFF, REPRESENTATIVE STEVE THOMPSON,
spoke to two changes in the bill. The first change was in
Section 2, page 2, line 3. It deleted the number 9 and
replaced it with 10. The second change was in Section 2,
page 2, line 16. It added the following:

"A senior employee with expertise in environmental
health and engineering from a large nonprofit tribal
health organization operating in the stat appointed by
the members of the bush caucus; and"

Mr. Anderson relayed that Representative Edgmon was
available to speak about the impacts of the changes.

Representative Edgmon explained that the change would bring the Alaska Native Tribal Health Consortium into the advisory committee. He thought it was a change that rounded out the make-up of the advisory committee and it was a worth-while addition to the bill.

Vice-Chair Saddler had no objection to the addition but wanted to see a definition of the bush caucus and a membership list before he could support the committee substitute.

Mr. Anderson believed the sponsor might be able to better address the full definition. He pointed to the bill in Section 2, page 4, line 2-7, provided the definition of "bush caucus."

Vice-Chair Saddler still wanted to see a list of current members. He supposed in reading the language of the committee substitute in Section 2, page 4 it would mean whomever happened to be representing the communities into the future. He wanted to see a list of current members before the bill went to the floor.

Co-Chair Thompson would have the list produced.

Representative Guttenberg referred to Page 4, line 2. He hoped that it included legislators that represented any of the communities rather than all of the communities. The communities listed represent villages that did not have sewer and water at present. He asked if he was correct.

[4:30:17 PM](#)

REPRESENTATIVE NEIL FOSTER, SPONSOR, DISTRICT 39, introduced himself. The villages listed in the bill were communities currently unserved. Bush Caucus members currently included were Representatives Foster, Nageak, Edgmon, Talerico, and Herron and Senators Olson, Hoffmann, and Bishop.

PAUL LABOLLE, STAFF, REPRESENTATIVE NEIL FOSTER, stated that the list of villages in question was the list provided by Village Safe Water.

Representative Foster emphasized that the bill had a zero fiscal note.

Mr. Labolle stated that the bill essentially established an advisory committee to look at the gap between the established need for water and sewer infrastructure and available funding. He thought everyone was in agreement that it was unlikely to see any increase in funding in the near future. The main focus of the committee would be how to do the job better, faster, and cheaper. Members would be asked to work telephonically, as there would be no travel budget, and there would be no compensation for members. It required that the committee issue a report on December 1, 2017 due to the legislature. He was happy to review committee appointment and members or be available for questions.

Co-Chair Thompson encouraged Mr. Labolle to continue.

Mr. Labolle referred to Section 2, page 2, line 4. A member of the senate would be appointed by members of the bush caucus. He reported working with the staff of the Senate Community and Regional Affairs Committee to derive a good definition for bush caucus.

Representative Gattis asked if there were any communities that were served by another legislator outside of the bush caucus that was not included. Mr. Labolle responded in the negative. He indicated that the comprehensive list was reflective in the bill. Additional people were desired. However, in trying to develop a good definition for statute, the list was as it stood.

Representative Gattis specified that her question had been answered.

Representative Guttenberg pointed out that he had no sewer and water systems in villages within his district.

[4:35:08 PM](#)

Representative Kawasaki asked about the selected communities and whether they were unserved. Mr. Labolle responded affirmatively. He clarified that there were three types of services that Village Safe Water worked under including unserved communities, underserved communities, and communities with upgrades that did not have a substantial threat.

Representative Kawasaki was not concerned about the way the bill was constructed. He commented that there were underserved rural communities. He wondered why they would not be included and, thus, a larger list of bush caucus members. Mr. Labolle relayed that it had been discussed with staff in Community and Regional Affairs. The reason was to save paper because according to Legislative Legal every community had to be cited by name, rather than referencing a list. The bill would have been physically much larger.

Representative Wilson asked about what distinguished qualifying communities from other communities. Mr. Labolle deferred to Mr. Griffith from Alaska Native Health Consortium [Department of Environmental Conservation].

Representative Wilson explained that her question was posed in order to better understand the difference between communities that did and did not have septic systems. Individual septic systems were prominent in the Fairbanks North Star Borough. She wondered if the designation for the qualifying communities was based on the Clean Water Act.

BILL GRIFFITH, DEPARTMENT OF ENVIRONMENTAL CONSERVATION (via teleconference), answered that the list included communities in which there was no community or individual water and sewer services to individual homes. It meant that the community did not have a pipe system, or wells and septic systems that could be installed. There also was no community haul system. The homes were without service in the communities on the list.

[4:38:47 PM](#)

Representative Wilson asked if they were unable to have a system installed. She wanted to make a distinction. Mr. Griffith responded in the affirmative. The department had been providing water and sewer services to rural Alaska villages. Generally, the villages that remained were the ones where the easier options were not available. The preferred option was to install wells and septic systems anywhere possible. In these particular communities either there was no ground water for wells or there was no way to put individual septic systems in because of permafrost or ground water.

[4:39:49 PM](#)

Representative Edgmon asked Mr. Griffith to list the myriad of state and federal funding sources that generally went into funding water and sewer projects. He also asked him to describe the larger picture of water and sewer systems in rural Alaska. Some communities, although had systems in place, were old and aging and would be in need of maintenance at some point soon. He opined that down the road without proper maintenance and upkeep of the systems their efficacy would be in question.

Mr. Griffith reported that the Department of Environmental Conservation (DEC) received about \$60 million in federal funds to make improvements in rural water and sewer systems. He explained that the federal funding came to Alaska from 3 different federal agencies. The first was Indian Health Service (IHS) which did not require any state match. The second was the U.S. Environmental Protection Agency (EPA) which provided a grant award through the State of Alaska that required some state match. The third agency was the U.S. Department of Agriculture through the rural development program which required some state match. The largest single funder was the EPA. There were a couple of different ways that the funding was allocated. The funding that came through the State of Alaska and required a state match was allocated by the Village Safe Water Program and the DEC. The Indian Health Service funding was allocated by a national Indian health service prioritization system called the Sanitation Deficiency System. Both pots of money used the same data base of project needs. The data base of water and sewer project needs was updated yearly. There were three types of projects listed in the database. The first type was the first-time service project, a project that provided water and sewer to homes for the first time. He furthered that the total project need associated with these types of projects was slightly over \$521 million.

Mr. Griffith continued with the second category of project need, upgrades to address substantial health threats. The upgrades were significant improvements needed to keep existing systems operational to provide adequate water or to meet current regulations. The funding needed for upgrades was about \$300 million.

Mr. Griffith discussed the third category of need, upgrades to benefit system operation and address minor health threats. The amount was about \$400 million. The state did

not match these funds. The total funding need for the types of projects DEC provided funding for was just over \$800 million. He reported that typically every year the state received about \$60 million to address the state's needs. There was a significant gap between the amount of state project need and the amount of funding it received each year.

[4:44:49 PM](#)

Representative Edgmon asked if an advisory group would be useful. He was thinking about the focus on the Arctic and the U.S. having the chairmanship of the Arctic Council for a couple more years. Many of the underserved communities were in the Arctic. He thought it could not hurt the cause to get additional federal funding at a time when state funding had plateaued.

Mr. Griffith thought the advisory committee could be useful in raising awareness and understanding about some of these challenges in Alaska and nationally. The Department of Environmental Conservation had several things going on in relation to the Arctic Council. There was an international conference planned for September 2016 to be held in Anchorage at which DEC would be focusing on some of the challenges at the conference. An advisory committee could be tied in with the conference and other things going on.

Mr. Griffith informed members that a lot of the things called for in the bill were already going on. However, there were other things on the list of deliverables that might benefit from having an advisory committee to work with. The committee would be able to keep the legislature more informed about things happening and some of the challenges that were being faced. He thought it could help the overall effort.

Vice-Chair Saddler referred to Section 1, page 1, line 12. He asked about the word "sewer" system and what it encompassed. Mr. Griffith stated that it applied to whatever means an individual community had for collecting sewage from individual homes and other buildings - the collection system overall and the treatment and disposal system the community used. In some cases it could be pipes and a community lagoon and in other cases it could be referring to individual septic systems.

Co-Chair Thompson thanked Mr. Griffith for his testimony.

[4:48:47 PM](#)

Vice-Chair Saddler referred to the same line that stated it was the legislature's responsibility to ensure safe and sustainable water and sewer systems to all communities of the state. He thought it was a fairly broad, encompassing, and generous statement. He wondered if he meant all communities. He asked about the standards. Mr. Labolle explained that the same issue came up in the previous committee in House Community and Regional Affairs. As a result, the change was made from "individuals" in the state to "communities" in the state. The state would not have to provide for a single person at a mining camp, for example.

Vice-Chair Saddler asked about a standard or a definition of what the threshold was for communities. Mr. Labolle stated that the intent of the bill was to address communities on the Village Safe Water list.

Representative Guttenberg commented that in Section 2, page 3, line 19, he felt that his issue was addressed. Many of the villages he represented had water or sewer. However the only thing worse than having a sewer was having one that could not be maintained and remained broken. He appreciated hearing about maintaining the state's investments. He believed that building modern systems that were low in cost and sustainable was very important to discuss. Mr. Labolle stated that one of the main focuses was to address the fact that previous systems had been built to a standard that was not really maintainable. The state was trying to get away from systems that could not be maintained.

Representative Edgmon made a humorous remark.

[4:51:28 PM](#)

Co-Chair Thompson OPENED public testimony.

Co-Chair Thompson CLOSED public testimony.

[4:51:56 PM](#)

Vice-Chair Saddler reviewed the zero fiscal note from the Alaska Legislature. The appropriation was the Legislative

council and the allocation was Council and Subcommittees. The component number from the Office of Management and Budget was 783, and the fiscal note was dated March 25, 2016.

Vice-Chair Saddler MOVED to report CSHB 209 (FIN) out of Committee with individual recommendations and the accompanying fiscal note(s). There being NO OBJECTION, it was so ordered.

CSHB 209 was REPORTED out of committee with a "do pass" recommendation and with a previously published zero fiscal note: FN1 (CRA).

Co-Chair Thompson reviewed the agenda for the following day.

ADJOURNMENT

[4:53:03 PM](#)

The meeting was adjourned at 4:53 p.m.