

HOUSE FINANCE COMMITTEE

March 13, 2017

1:49 p.m.

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CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 1:49 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Paul Seaton, Co-Chair
Representative Les Gara, Vice-Chair
Representative Jason Grenn
Representative David Guttenberg
Representative Scott Kawasaki
Representative Dan Ortiz
Representative Lance Pruitt
Representative Steve Thompson
Representative Cathy Tilton
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Jim Shine, Commercial Manager, Division of Oil and Gas, Department of Natural Resources; Doug Chapados, Chief Executive Officer and President, Petro Star; Representative Sam Kito, Sponsor; Crystal Koeneman, Staff, Representative Sam Kito; Darrell Breese, Staff, Representative George Rauscher; Representative George Rauscher, Sponsor; Representative Geran Tarr, Sponsor.

PRESENT VIA TELECONFERENCE

Susan Terwilliger, Midwives Association of Alaska, Anchorage; Brent Goodrum, Director, Division of Mining, Land and Water, Department of Natural Resources.

SUMMARY

HB 6 JONESVILLE PUBLIC USE AREA

HB 6 was HEARD and HELD in committee for further consideration.

HB 31 SEXUAL ASSAULT EXAMINATION KITS

HB 31 was HEARD and HELD in committee for further consideration.

HB 90 OCC. LICENSING FEES; INVESTIGATION COSTS

HB 90 was HEARD and HELD in committee for further consideration.

SB 30 APPROVAL: ROYALTY OIL SALE TO PETRO STAR

SB 30 was HEARD and HELD in committee for further consideration.

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Co-Chair Foster discussed the meeting agenda.

#sb30

SENATE BILL NO. 30

"An Act approving and ratifying the sale of royalty oil by the State of Alaska to Petro Star Inc.; and providing for an effective date."

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JIM SHINE, COMMERCIAL MANAGER, DIVISION OF OIL AND GAS, DEPARTMENT OF NATURAL RESOURCES, provided a PowerPoint presentation titled "Proposed Sale of the State's Royalty Oil to Petro Star: Senate Bill 30" dated March 13, 2017 (copy on file). He relayed that the proposed sale was the result of a lengthy commercial negotiation and public review process. He began on slide 2:

Royalty In-Kind Versus Royalty In-Value

The State has a choice to take its royalty in-kind (RIK) or in-value (RIV).

When the State takes its royalty as RIV, the lessees who produce the oil also market the State's share along with their own production and pay the State the value of its royalty share.

When SOA takes its royalty share as RIK, the SOA assumes ownership of the oil, and the DNR Commissioner disposes of it through the sale procedures prescribed by AS 38.05.183.

The SOA has regularly taken royalties of ANS oil as RIK (starting in 1979).

The State will receive between \$29 to \$37 million in additional revenue over what the state would receive if the contracted volumes were taken RIV.

Petro Star contract has been through public review and Royalty Board processes.

Mr. Shine related that the state was currently selling oil to Petro Star under a one-year contract, which had not required legislative approval. Contracts over one year required legislative ratification.

Mr. Shine addressed slide 3 titled "Non-Competitive RIK Sale Process":

Before taking RIK, the DNR Commissioner must find it is in the State's best interest.

DNR must decide whether to sell RIK pursuant to a competitive auction or a non-competitive, negotiated sale.

Solicitation of Interest issued January 2015 to prospective purchasers to gauge market interest.

DNR determined that there was not competition allowing for a competitive sale, and proposed to enter into two negotiated contracts with Petro Star.

The first contract, in effect for the period January - December 2017, did not need legislative approval under AS 38.06.055(a) and (b)(1), received recommendation of the Royalty Board and was entered into in August 2016.

The second contract, effective for the period January 2018 -December 2021, received the recommendation of the Royalty Board, but requires Legislative approval.

Mr. Shine detailed that the Department of Natural Resources (DNR) sent the solicitation of interest to five instate refineries: Petro Star, Tesoro, Flint Hills, BP, and ConocoPhillips. The state choose to enter into negotiated sales with Tesoro and Petro Star. In 2016, the legislature ratified a 5-year contract with Tesoro under HB 373 Approval of Sale of Royalty Oil to Tesoro [Chapter 3 SLA 16/ - 04/21/2016]. The department prepared a best interest finding and determined that the 4-year Petro Star contract was in the state's best interest. In addition, DNR issued a 30-day public comment review where no public comments had been received. Subsequently, DNR presented the contract to the Alaska Oil and Gas Royalty Development Advisory Board (Royalty Board) on August 31, 2016, which unanimously approved the contract and recommended it for legislative approval. He noted that the "Report to the Alaska Legislature" (copy on file) and the Approval Resolution [Resolution 2016-2 (copy on file)] were included in the committee member's packets.

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Co-Chair Foster noted Representative Wilson had joined the meeting.

Vice-Chair Gara relayed that he had never had a problem with the oil royalty contracts. He spoke to RIK versus RIV and noted that the state stood to gain more taking RIK. He asked whether the RIK "net positive" accounted for the amount of oil used to pay the pipeline tariff. Mr. Shine answered that Petro Star had already received its "feed stock" from other producers. The state was maximizing the value of it royalty by selling the oil to Petro Star. He elaborated that Petro Star refined roughly 25 to 30 percent of each barrel of oil and returned the remaining percentage of the barrel back into Trans-Alaska Pipeline System (TAPS) in the comingled stream. He noted that the same volume of oil would be shipped upstream and downstream from the refinery.

Representative Guttenberg referenced the Quality Bank allowance calculation and a related court case. He asked what the state would lose in the Quality Bank allowances

versus if there was no sale. He thought that the Quality Bank cost the state and buyer money. He asked whether there was a calculation for the expense. Mr. Shine deemed that the case Representative Guttenberg referred to concerned the valuation of the residual portion of a barrel of oil and was a Quality Bank administrative mandated federal program. The value was determined by a Quality Bank administrator contracted through the TAPS owners. He delineated that the Quality Bank payment was a deduction on the netback formula, determined by the Quality Bank administrator. He noted the formula was the same if the state chose RIV. Representative Guttenberg relayed that the court determined that the state had no standing in the Quality Bank allowance situation. He was under the impression the state lost money because "the calculation was higher than it should be." He asked if the state looked at the Quality Bank costs and how it impacted the sale of oil. Mr. Shine replied in the affirmative. He reiterated that the number was the same whether the state took its royalty in-value or in-kind. He explained that the Quality Bank was an economic leveling mechanism that ensured upstream producers were in the same economic position at the Valdez main terminal based on the value of oil they contributed into the comingled stream. He agreed that larger Quality Bank payments may impact the bank's deduction that was part of the state's netback formula. He surmised that the real value to the state taking RIK was not being subject to a marine transportation deduction. Representative Guttenberg requested a letter explaining how the in-kind and in-value worked out to be the same number. Mr. Shine agreed to follow up.

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Representative Grenn referenced point number 4 on slide 4 and read:

The ability of the prospective buyer to provide refined products for distribution and sale in the state with price or supply benefits to the citizens of the state...

Representative Grenn asked whether there was a breakdown of what Petro Star would do with its refined products. Mr. Shine answered that the items were covered in the best interest finding included in the member's packets ["Final Best Interest Finding and Determination for the Sale of

Alaska North Slope Royalty Oil to Petro Star Inc." Division of Oil and Gas, Alaska Department of Natural Resources, September 15, 2016 (copy on file)].

Co-Chair Seaton spoke to refineries tax credits that were not "transparent." He asked if the department was opposed to the suggestion of adding transparency language regarding the credits to the bill. Mr. Shine did not believe the department would have a problem with increasing transparency.

Representative Wilson asked whether the bill was the appropriate vehicle to discuss the refinery tax credits. Mr. Shine replied that the contract was not subject to amendment. He believed that DNR preferred the legislature address the issue in standalone legislation.

Mr. Shine moved to slide 4 titled "Commissioner's Decision Criteria":

AS 38.05.183(e) states that the commissioner must sell the State's royalty oil to the buyer who offers "maximum benefits to the citizens of the state." In making this determination, the commissioner must consider:

1. The cash value offered;
2. The projected effects of the sale on the economy of the state;
3. The projected benefits of refining or processing the oil in state;
4. The ability of the prospective buyer to provide refined products for distribution and sale in the state with price or supply benefits to the citizens of the state; and
5. The eight criteria listed in AS 38.06.070(a), as reviewed by the Royalty Board.

In considering these criteria, the commissioner will state which criteria apply to the proposed disposition and discuss the weight given to the applicable criteria in determining the maximum benefits to the state.

Mr. Shine noted that Petro Star had two refineries: North Slope and Valdez. The refined products provided jet fuel, home heating, and ultralow sulfur diesel fuel for Alaskan's use.

Mr. Shine advanced to slide 5 titled "Approval Process for the RIK sale":

DNR must make a Best Interest Finding (BIF) in support of the sale.

Preliminary BIF issued July 2016.

Final BIF issued in September 2016.

DNR presented the proposed sale to the Royalty Board on August 31, 2016.

The Board reviewed the Preliminary BIF and the proposed contracts, and unanimously voted to recommend the Legislature approve the sale of ANS royalty oil to Petro Star.

The Board issued a Report to the Alaska Legislature and Resolution 2016-2 stating that the proposed disposition of ANS royalty oil to Petro Star meets the requirements of AS 38.06.070.

Prior to finalizing the RIK contract, the Legislature must pass a bill ratifying the contract with Petro Star (HB 70; SB 30).

Mr. Shine turned to slide 6 titled "Royalty Board's Decision Criteria":

AS 38.06.070(a) states that the Alaska Royalty Oil and Gas Development Advisory Board must consider:

1. The revenue needs and projected fiscal condition of the state;
2. The existence and extent of present and projected local and regional needs for oil and gas products;
3. The desirability of localized capital investment, increased payroll, secondary development and other possible effects of the sale;
4. The projected social impacts of the transaction;
5. The projected additional costs and responsibilities which could be imposed upon the state and affected political subdivisions by development related to the transactions;

6. The existence of specific local or regional labor or consumption markets or both which should be met by the transaction;
7. The projected positive or negative environmental effects related to the transactions; and
8. The projected effects of the proposed transaction upon existing private commercial enterprise and patterns of investment.

Mr. Shine notified the committee that the Royalty Board addressed the criteria in its report.

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Mr. Shine addressed slide 7 titled "Petro Star RIK Contract Terms":

Quantity

1-year contract: from 18,800 bpd to 23,500 bpd for Jan. 2017 -Dec. 2017

4-year contract: from 16,400 bpd to 20,500 bpd for Jan. 2018 -Dec. 2018

from 13,200 bpd to 16,500 bpd for Jan. 2019 -Dec. 2019

from 10,800 bpd to 13,500 bpd for Jan. 2020 -Dec. 2020

from 8,400 bpd to 10,500 bpd for Jan. 2021 -Dec. 2021

Price: the contracts use a netback formula and provides higher revenue to State compared to RIV.

Quantity flexibility

Petro Star may nominate zero barrels up to 3 consecutive months if "turnaround clause" is used, otherwise the contract terminates.

The State can cap its delivery amounts to 95% of the total ANS royalty oil if the nominations from all RIK buyers is greater than the 95% threshold.

Provided that the supply of ANS royalty oil exceeds demand from both RIK buyers, the State can sell

Additional Sale Oil as long as the total deliveries are not greater than the 95% threshold.

Security

Petro Star's guarantor (ASRC) shall provide a letter of opinion from a financial analyst or a stand-by letter of credit or surety bond equal in value to 50 days of delivery.

If guarantor's credit rating falls below investment grade level, then guarantor shall provide a stand-by letter of credit or surety bond described previously.

In-state processing: Petro Star to use "commercially reasonable efforts" to manufacture refined products in-state from the ANS royalty oil.

Employment of Alaska residents: no discrimination against AK companies and residents.

Mr. Shine reported that the decline in the nomination values was reflective of the state's anticipated royalty barrels. The numbers were based on 2015 Fall Production Forecast using only currently producing assets. He indicated that the state expected to receive 50 thousand to 55 thousand barrels of oil per day in 2017 and from 2018 through 2021 the state anticipated receiving 36 thousand to 50 thousand barrels of oil per day. The Tesoro contract (HB 373 from the previous year) was based on 20 thousand to 25 thousand barrels per day during the same time period. The total accounted for approximately 95 percent of the state's royalty oil in the next five years.

Representative Thompson referenced slide 7 and interpreted that the state could sell an increased amount of royalty oil up to the 95 percent threshold if supply was greater due to increased production. He asked whether the statement was correct. He noted that current oil production was over 550,000 barrels per day but the fall forecast predicted under 500,000/bbl. Mr. Shine replied in the affirmative. He pointed to the third bullet point on slide 7 under "Quantity Flexibility" and reported that if more royalty oil was available during the contract period the state could provide the excess barrels based on the contracts. He restated that the contract was based on 2015 currently producing assets.

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Mr. Shine spoke to the security provisions. He reported that the state negotiated a surety bond with the Arctic Slope Regional Corporation; Petro Stars parent company, for \$46 million that would ensure the state was reimbursed at the same level in case of default. He elaborated that there were two default risks: - if barrels were delivered and the company was unable to meet its obligation or a denomination risk. He explained that the state employed a nomination process to receive its royalty oil. One hundred days prior to the delivery of royalty oil, the state received the nomination volumes information from Petro Star. The state then had 10 days to notify upstream producers how many barrels it was taking in-kind. The purpose of the security provision and the bond was to ensure the state was "kept whole" if either default occurred. He indicated that Petro Star employed over 300 Alaskans.

Mr. Shine offered that the following slide contained the netback formula for the contract. He discussed slide 8 titled "RIK Contract Price:"

ANS Spot Price - \$1.95 - Tariff Allowance +/-
Quality Bank Adjustments - Line Loss

ANS Spot Price = Average US West Coast Price for
Alaska North Slope oil (reported by industry
trade publications Platts and Reuters)

\$1.95 RIK Differential

This is a deduction used to calculate the price
of ANS oil sold in Alaska.

The deduction is applied to the price of ANS oil
at its most common destination market (the U.S.
West Coast).

It resembles the deduction used in sales of ANS
oil in Alaska between North Slope producers and
between North Slope producers and in-state
refineries.

In contrast, for the ANS royalty oil that is sold
outside of Alaska and that is taken in-value,

producers use a deduction that approximates the marine transportation cost.

Since deduction that represents the marine transportation cost is generally higher than the value of the RIK differential, the State has the potential to obtain a higher price for its ANS royalty oil by taking it in-kind and selling it in Alaska.

Tariff Allowance = Tariffs for TAPS and pipelines upstream of Pump Station 1 (PS-1).

Quality Bank Adjustments = adjustments reported by TAPS Quality Bank Administrator.

Line Loss = loss or mismeasurement of volume between PS-1 and the Valdez Marine Terminal (VMT). It is calculated as 0.09% of the amount resulting from the formula above, excluding "Line Loss."

Mr. Shine summarized that the main difference between the RIK and the RIV netback formula was the difference in the marine transportation deduction versus the RIK differential. He delineated that the RIK differential was \$1.95 /bbl. in both contracts and the marine transportation deduction was expected between \$3.30/bbl. and \$3.70bbl. The RIK differential represented the value of oil sold within the state. He referenced the \$29 million to \$37 million over 5 years increase in excess of a RIV contract was the delta between no marine transportation deduction and an RIK differential at approximately \$1.50bbl.

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Representative Guttenberg asked who performed the marine transportation calculation. Mr. Shine replied that the calculation on fields that were covered under RSAs (Reimbursable Service Agreements) was an average subtracted from the netback formula for the RIV.

Mr. Shine instructed that the line loss was an industry standard deduction in netback formulas for pipeline transportation that accounted for the difference in flow meters. He moved to slide 9:

CONTRACT IS IN THE STATE'S BEST INTEREST

The State will receive between \$29 to \$37 million in additional revenue over what the state would receive if the volume of ANS royalty oil the contracts is taken in-value. 1-year contract (Jan. -Dec. 2017): from \$7.6 to \$9.5 million 4-year contract (Jan. 2018 - Dec. 2021): from \$22.3 to \$27.9 million

On average, producers selling ANS royalty oil outside Alaska for the 5-year period of the proposed RIK contracts with Petro Star are expected to deduct from \$3.37 to \$3.70 per barrel as a "marine transportation cost" in arriving at the price for RIV. This is the deduction used to adjust the price of ANS oil from the U.S. West Coast to Alaska.

The proposed contracts with Petro Star will deduct only \$1.95 as a "location differential" from the west coast ANS value.

The proposed sale provides crude to Petro Star's refineries at North Pole and Valdez with the associated economic and social benefits to Alaska's economy: Petro Star employs approximately 44 people in its refining operations.

Maximum throughput capacity North Pole refinery: 22,000 barrels per day (bpd). Valdez refinery: 60,000 bpd.
Of the throughput amounts, approximately 25%-30% will be refined products.

Petro Star refineries' estimated contribution to the local economy in 2014 was \$25mm

Mr. Shine commented that the total of the two current contracts and another previously approved Tesoro contract brought the state \$75 million to \$95 million more over the next five years than available under RIV contracts.

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Mr. Shine addressed slide 10 titled "Comparison of RIK Contracts." The slide contained charts summarizing the breakdown in the difference between the volumes in the

Tesoro and Petro Star contracts. He mentioned that there was a positive fiscal note accompanying the bill reflecting the value of the four-year contract taken in RIK versus RIV.

Representative Guttenberg spoke to the tariff allowance on slide 10. He read the following from a box titled "Tariff Allowance":

...If royalty comes from fields upstream of PS No 1, then RIK contracts consider tariffs filed with FERD for shipment of royalty oil upstream of PS No 1.

Representative Guttenberg asked where the tariffs were filed and who set the rates. He asked whether the state was paying twice for shipments and if the upstream costs were regulated. Mr. Shine responded that if the state nominated royalty barrels from Prudhoe Bay the netback formula was only subject to a TAPS deduction, which represented the transportation costs from Prudhoe Bay to Valdez. However, if the state was nominating royalty barrels from other locations like Pt. Thompson, additional tariff adjustments were made for moving the oil from the point of production to the comingled stream at Pump Station number 1. He was not certain whether the costs were regulated. He would follow up.

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Representative Guttenberg was concerned that in the past some of the tariff allowances on TAPS were disputed because, in his view, owners were overcharging themselves and lowering the costs at the wellhead and getting a better deal from themselves for shipping costs. He wondered what happened upstream with TAPS owners and independent producers and asked for a follow up. Mr. Shine agreed to follow up.

Co-Chair Seaton asked whether there was any interaction with the gross value reduction (GVR) for new oil or the 10 percent GVR for those with royalty shares above 12.25 percent. Mr. Shine answered in the negative.

Representative Wilson thanked the department for negotiating the deal, which she believed was long overdue. She asked about the difference between the Tesoro contract and the Petro Star contract in how much more the state

received. Mr. Shine replied that the prior Tesoro contract was \$56 million more over 5 years and in the two current contracts between \$29 million to \$37 million more or the difference between the minimum nomination volumes versus the high-end volumes. Representative Wilson spoke to the best interest of the state. She asked if the department believed the contract was in the state's best interest. Mr. Shine replied in the affirmative.

Representative Grenn asked for clarification of the fiscal note (FN 2 (DNR)). He noted that according to the analysis on page two the proposed contract is expected to generate between \$22 million and \$27 million in revenues. He asked about the difference.

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Mr. Shine responded that SB 30 was based on a four-year contract. He cited sub-bullets on slide 9 that reported the range for a four year contract similar to the fiscal note at \$22.3 million to \$27.9 million the minimum versus the maximum nomination range.

DOUG CHAPADOS, CHIEF EXECUTIVE OFFICER AND PRESIDENT, PETRO STAR, thanked DNR for its work on the contract and felt that the contract was equitable.

Representative Thompson asked whether Mr. Chapados was in favor of the contract. Mr. Chapados replied in the affirmative. He added that crude oil for his refineries was essential to remain in business and stated that it was becoming harder to source with the decline in throughput. The royalty oil served as the basis of his supply.

Co-Chair Seaton agreed the contract was in the state's best interest. He asked if the company had any opposition to transparency regarding refinery credits. Mr. Chapados answered that Petro Star was happy to provide a level of transparency, but he believed it was more appropriate to have the issue attached to a tax bill. Co-Chair Seaton replied that he was not planning to add any language to the current bill.

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Representative Wilson thanked Mr. Chapados for taking up the "gap" that had been left in Fairbanks by Flint Hills.

Mr. Chapados answered that Petro Star was happy to still be in business and was happy to fill the gap left by the closure of Flint Hills. The company utilized the refinery credits that enabled Petro Star to fill the void. He reported that the company invested in an asphalt project and produced a low-cost fuel for use by Golden Valley Electric Association due to the credits.

Representative Thompson stated that the company was currently holding about \$15 million in tax credits. He asked if the company had been paid anything. Mr. Chapados replied that Petro Star submitted \$5 million in tax credits generated in 2015 and would apply for \$10 million in tax credits generated in 2016.

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Co-Chair Foster OPENED and CLOSED public testimony. He relayed that the bill would be heard on Friday.

SB 30 was HEARD and HELD in committee for further consideration.

#hb90

HOUSE BILL NO. 90

"An Act relating to occupational licensing fees; relating to an occupational investigation surcharge; and providing for an effective date."

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REPRESENTATIVE SAM KITO, SPONSOR, introduced himself and the bill.

CRYSTAL KOENEMAN, STAFF, REPRESENTATIVE SAM KITO, explained that HB 90 eased the burden of regulatory costs for licensees governed under Title 8 regarding corporations, business and professional licensing. The legislation would remove investigative fees out of regulatory costs paid by each licensee and spread the total cost of investigation charges across all licensees regardless of profession. The investigative surcharge was in lieu of the current amount that licensees paid in their overall license fee. The licensee would pay a licensing and administrative fee and in addition, pay a separate investigative surcharge. The Department of Commerce, Community and

Economic Development (DCCED) estimated the separate surcharge at \$55 for all licensees every two years. Some boards would benefit greatly and conversely, others might experience a slight increase. She knew that the licensing issues pertained to working people that had an interest in avoiding large fee increases and a level playing field without barriers to entering a profession. She felt that licensees wanted assurances from DCCED that it would stabilize licensing fees. She elaborated that one of the reasons for large fee spikes was due to investigative costs, which were difficult to contain. If a professional licensing program received a complaint leading to a complex investigation, an enforcement action could exceed \$100,000. The scenario would cause devastating fee increases in licensing programs with fewer licensees. She summarized that the bill would spread investigative expenditures across all 74,000 licensees.

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Representative Wilson appreciated the effort to resolve the issue, but she wondered if the bill solved the issue related to investigations. She wondered what really drove the high cost of investigations Representative Kito identified that the yearly total investigative costs were relatively consistent at roughly \$4 million. He recapped that for smaller boards an investigation can significantly increase their fees. Some boards were large and investigative fees were spread out across members. He commented that some boards with fewer members that developed a large debt were at risk of losing their ability to perform statutory board functions; one board did temporarily shut down. Some of the boards with higher costs caused fee increases to the point of being a barrier to entry into the professions. He surmised that since investigative costs were fairly consistent and the state had a large number of licensees, spreading the costs out was a small burden to the larger boards and eased the burden on smaller boards. He reported that one challenge that remained was how to ensure the state was maintaining efficient use of the fee revenue while still carrying out effective investigations. The issue was not addressed in the bill. Currently, individual boards identified which cases to consider and certain board members decided whether to pursue further action. Subsequently, the investigative result was communicated to the boards. He noted that the solution in the bill was similar to an insurance model. The

goal was to protect public safety and have reasonable fees. He learned that some of the large boards ran a surplus in anticipation of an investigation, so the fees would remain consistent. However, if the investigation costs were spread out over all boards, the larger boards' fees may also decrease. The larger pool for investigative costs created fee stability that averaged out over years and prevented large fee spikes. He felt that the larger boards could eliminate their practice of maintaining a surplus.

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Representative Wilson questioned whether each board should be responsible for its own costs and felt the issue was the larger policy call. She wondered whether another issue was whether the state decided to pursue investigations instead of the board. She mentioned hearing from the Board of Nursing, relaying that the board worked hard to keep its costs down. Representative Kito responded that the investigative process would not change. He offered that an investigation was initiated by the public or through a board member complaint. The exact same processes would be used to implement investigations. The provision was related to how costs were attributed to boards. He used the Board of Midwifery as an example. A single investigation caused fees to possibly skyrocket to \$4.8 thousand biennially, which was identified as a barrier to entry by the Legislative Audit agency. An audit recommendation was to merge the midwifery board with a larger board. However, merging boards created members that lacked expertise in the other profession and engaged members in professional issues and functions they were not familiar with and possibly involved them in the decision on whether an investigation was warranted for a profession they did not belong to. How professions were licensed was a big question, but he wanted to ensure the professions were protecting public safety. Representative Wilson agreed the issue had existed for many years and appreciated the sponsor's effort. She was trying to determine if the proposed bill was the solution. She asked whether the boards were notified of the legislation and how the provisions would impact each board. Representative Kito responded that his office had been communicating with some of the boards. Some were supportive, and others had expressed concern about increasing fees. He noted that information was included in the member's bill packets regarding the new fee schedule ["Division of Corporations, Business and Professional

Licensing Professional Licensing Fee Changes and Program Investigation Costs Comparisons" (as of January 1, 2017) (copy on file).]

Representative Wilson hoped to hear feedback from the boards. She observed that the bill was a big policy shift that affected the boards. Ms. Koeneman relayed that DCCED was engaged in discussions with the boards regarding HB 90 and boards were meeting and proposing action.

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Co-Chair Foster suggested Representative Wilson work with Representative Kito's office on the issue.

Co-Chair Seaton was concerned about investigations related to non-licensed individuals, which resulted in a cost to law abiding licensed individuals. He asked how the issue was handled within the system. Representative Kito answered that the question pertained to unlicensed practice and whether the board should have to pay for the investigations. He elaborated that if the state made unlicensed practice a crime, the Department of Law would investigate, but it was likely the DCCED investigators would still be drawn in because of their expertise. He had not collected information identifying how many of the complaints were a result of unlicensed practice or other activities related to a licensed practice. He hoped to pursue unlicensed practice as a separate issue next year. Co-Chair Seaton voiced that one board the committee had heard from had high fees due to investigations related to unlicensed individuals. He suggested that the legislature consider a remedy that included cost recovery from the unlicensed individuals. He thought the scenario could lower licensing fees. Representative Kito answered he would keep the issue at the forefront of their work.

Vice-Chair Gara asked whether the cost impact of the one fee proposal on all the boards was assessed by the department. Representative Kito answered that the information was included in members' packets. [Document cited earlier.]

Ms. Koeneman added that DCCED performed the analysis and the fee was \$55 every two years. Vice-Chair Gara asked for the number of boards. Ms. Koeneman replied there were 43 boards. Vice-Chair Gara did not believe that the sponsor

should perform an analysis on every board. Ms. Koeneman answered that if board action was required to proceed, a board meeting was necessary, which could add additional costs for the boards. Vice-Chair Gara spoke to a recent committee hearing on a midwifery bill. He referred to a conversation regarding penalties for violations. He asked whether there was a uniform penalty structure for boards. Ms. Koeneman replied that AS 08.01.075 outlined the disciplinary powers of a board and subsection 8 specified that the fine not exceed \$5,000. In addition, AS 08.01.102 authorized that DCCED could issue a citation for unlicensed practice or activity but did not specify a dollar amount. Vice-Chair Gara asked whether the penalty structure also included cost recovery for the state. Ms. Koeneman replied in the negative.

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Representative Kito interjected that one issue involving cost recovery for investigations was that penalty proceeds were deposited into the general fund (GF), which he preferred. He worried that collecting penalties to support the licensing program opened the possibility that investigations could be used to fund the licensing program. He favored using the licensing fees to fund the programs. Vice-Chair Gara clarified that he had only inquired whether the costs were recovered in general. Representative Kito replied that he would examine the issue over the interim.

Ms. Koeneman added that DOL raised concerns with the issue of raising penalties to cover the full investigative costs. Representative Guttenberg spoke to investigations of people practicing without a license and how it impacted the cost to a specific board. He suggested parity for a board when the investigative cost were recovered and deposited into GF. He asked whether the sponsor considered some type of cost recovery allocation from GF to a board. He stated that the system was broken and believed the bill contained a decent solution.

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Ms. Koeneman replied that if there was a mechanism in place for the fines to reimburse the board, more than likely it would come through the operating budget process and the legislature could possibly allocate some funds back to the boards.

Representative Thompson relayed hearing about incompetence by state board investigators that resulted in longer than necessary investigations which added costs onto the profession. He favored a cost recovery process for the boards. He believed HB 90 was a good solution. He worried about boards currently with large defaults that increased its fees. He asked whether the one fee system would be charged in concert with fees related to a large deficit. Ms. Koeneman answered in the affirmative and added that the boards with deficits were required to pay their deficits before participating in the bill. She agreed it would hurt to pay off the deficits, but it would be in the best interest in the long-term. She reported that the Medical Board accrued investigative costs of \$632 thousand over the biennium. The Nursing Board had \$909 thousand in investigative costs for FY 14 and FY 15. The Big Game Commercial Service Board accrued investigative costs of \$559 thousand. She surmised that in the long run the costs would level off and create a more predictable cost structure for all boards.

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Representative Pruitt spoke to a handout ["Division of Corporations, Business and Professional Licensing, Professional Licensing Fee Changes and Program Investigation Costs Comparisons as of January 1, 2017" (copy on file)]. He remarked on the large income disparity among the different professions. He identified the Board of Barbers and Hairdressers and cited the professions as examples of lower income occupations. He asked how to justify increasing fees for some boards and penalizing them for mistakes and incompetence by the state when managing boards' fees. He agreed that a solution was needed but disagreed with the provisions in HB 90. Representative Kito answered that at first glance the solution seemed unfair due to the income inequities. However, he likened the solution to an insurance policy and pointed to how automobile insurance works as an example of the benefits of HB 90. He offered that the Board of Barbers and Hairdressers may not receive a benefit in the current year, but perhaps there would be an investigation in the future that would have significantly increased their fees. He communicated that rather than every board paying for 30 percent to over 50 percent of their investigations, everyone paid a smaller percentage and all boards had access to the investigative services.

Ms. Koeneman added that in FY 12 and FY 13 the Board of Barbers and Hairdressers had only paid \$59 thousand for investigations but the amount rose to \$131 thousand in FY 14 and FY 15. The board's surplus was diminishing; one more large investigation would likely increase their fees. She expected that the bill would level off fees.

Representative Pruitt countered that if the provision was likened to insurance, a person paid less if they were accident free. He surmised that there should be different levels of payment versus one fee, for boards with lower costs; lower cost boards should pay less. He stated that currently there was pressure on the legislature and DCCED for prudent use of investigations to contain costs. He opined that the pressure was necessary to keep the investigatory process in check. He wondered how the bill ensured the efficient use of investigations.

[3:06:01 PM](#)

Ms. Koeneman answered that there would be 74,000 licensed individuals to collectively weigh in on the department's regulatory process and the amount of the surcharge, which would maintain pressure on the department.

Representative Kito interjected that one of his concerns was a board that made decisions regarding whether to proceed with an investigation based on fees increasing. He believed the scenario was an example of inappropriate pressure; if the state did not investigate a person practicing inappropriately the state was failing its mission. He related that investigators were overworked and responded to public or licensee complaints. He had not heard of investigators "trying to drum up work for investigations." He reiterated that the investigatory process would remain the same. He did not believe that currently boards made investigatory decisions based on possible fee increases.

Co-Chair Seaton OPENED public testimony.

SUSAN TERWILLIGER, PRESIDENT, MIDWIVES ASSOCIATION OF ALASKA, ANCHORAGE (via teleconference), spoke in strong support of the legislation. She voiced that the bill was beneficial for the consumers of midwifery care. She shared that midwives attended the births of people in all different occupations. She hoped the bill would pass.

Co-Chair Seaton CLOSED public testimony.

HB 90 was HEARD and HELD in committee for further consideration.

#hb6

HOUSE BILL NO. 6

"An Act establishing the Jonesville Public Use Area."

3:10:36 PM

DARRELL BREESE, STAFF, REPRESENTATIVE GEORGE RAUSCHER, explained the legislation. He reported that the area was north of Sutton and was historically a coal mining area from 1919 to 1977. The bill would establish the 11 thousand-acre Jonesville Public Use Area and maintain its popular recreational opportunities for Alaskans. The bill would protect, maintain, enhance, and perpetuate the present use of the area for year-round public recreation, migratory waterfowl nesting areas and habitats for fish and wildlife, and other uses. He noted that along with the popular uses negative activities were happening in the unmanaged area. Burning cars, illegal activity, and gunfire causing stray bullets were reoccurring events. He shared that a death had taken place in the area in the prior year. The people of the Sutton Community Council coined the phrase "Mad Max Theater" to describe the activities in the area. The Sutton Community Council and the Chickaloon Tribe had worked to remove thousands of pounds of garbage and abandoned vehicles from the area. The groups had worked to develop a compromise for the land use by creating the Public Use Area (PUA). The area would allow for all the proper uses of the area that included hiking, biking, camping, ATV use, etc. He noted that a petition was included in the committee member's packets ["A Petition Regarding Jonesville\Slipper Lake Area" (copy on file)]. The goal was to move forward to create a safe recreation area.

Representative Wilson wondered why an agreement could not be made between the Department of Natural Resources (DNR) and Mat-Su. Mr. Breese deferred the question to the department.

3:15:06 PM

BRENT GOODRUM, DIRECTOR, DIVISION OF MINING, LAND AND WATER, DEPARTMENT OF NATURAL RESOURCES (via teleconference), replied that by establishing an area merely through an agreement the department would not be able to adopt regulations for enforcement. The legislation authorized DNR to adopt and enforce restrictions that curtailed undesirable activities.

Representative Wilson referred to the DNR fiscal note, FN 4 (DNR). She read from the analysis:

The department would need to develop the management plan with existing staff resources.

Representative Wilson noted that the analysis further stated that was unlikely to happen due to costs. She understood that the Matanuska-Susitna (Mat-Su) Borough would undertake the obligation. The fiscal notes were zero, consequently, DNR lacked funding for writing the management plan and regulations, enforcement, or policing. She wondered what the current benefits of the bill was without funding attached. She surmised that the Borough could write the management plan. Mr. Goodrum answered the department would work closely with other local partners to enlist help. He indicated that DNR had the ability to develop plans, but the current workload and queue of projects ahead of Jonesville PUA was long.

Representative Wilson requested more information regarding the Knik River Public Use Area. She cited the fiscal note analysis stating that enforcement regulation would be similar to the Knik River PUA. She believed that the Mat-Su did not want a lot of government regulation. Mr. Breese answered that the Knik River PUA was in the Mat-Su Borough and the regulations would be similar. He related that the community would be accepting of similar regulations. He reiterated that it was necessary to establish the PUA to begin work on the management plan.

Co-Chair Seaton pointed to a document [unknown] in the bill packet that referred to the ability of the Commissioner of DNR to appoint one of the department's employees or other individual as a Peace Officer for the PUA. He asked what was envisioned as the work of the Peace Officer. Mr. Goodrum answered that DNR had a rigorous training program for its employees that resulted in a Peace Officer certification. Many Peace Officers were operating in the

Knik River PUA. In addition, state troopers had the authority to enforce DNR regulations. Co-Chair Seaton remarked that currently the Department of Revenue (DOR) and Department of Public Safety (DPS) entered into a joint agreement and transferred authority to 8 DOR enforcement officers to carry firearms. He asked whether DNR program was similar. Mr. Goodrum replied that the department had certain park rangers who were able to carry weapons. He was not aware of public use area peace officers carrying weapons. He reported that the peace officers were trained to interact with and educate the public regarding the regulations. Co-Chair Seaton requested a memo from the department about its intentions related to firearms and peace officers for the PUA.

[3:23:20 PM](#)

Representative Kawasaki referred to the first paragraph of DNR's fiscal note analysis that mentioned the long queue of other projects ahead of the Jonesville PUA. He asked for clarification. He wanted the legislation to accomplish something. Mr. Goodrum answered that the challenge was the amount of work and the number of current staff. He explained that the reason the fiscal note was zero was that the project was far off in the queue. He reiterated that DNR was looking for other local partners to help with development with the plan.

Co-Chair Seaton asked whether nothing will happen until 2023. Mr. Goodrum replied in the affirmative.

Representative Kawasaki looked at the fiscal notes from the establishment of the Knik River PUA in 2006. He noted the initial cost of roughly \$400 thousand. He believed that costs would be associated with the development of Jonesville PUA. He wondered about the cost of enforcement related to Knik River Public Use Area and observed that the fiscal note cited a Reimbursable Services Agreement (RSA) for enforcement. Mr. Goodrum answered that in the FY 17 budget, \$125,000 had been allocated to the troopers for enforcement.

Representative Guttenberg asked about the difference between a PUA and multi-use recreational area. Mr. Goodrum replied that a PUA allowed DNR to establish enforcement for the area. A multi-use area was general state land.

Co-Chair Seaton noted that Representatives George Rauscher and Geran Tarr had joined the audience.

Representative Guttenberg asked whether a trooper or law enforcement officer was required and who paid for it. Mr. Goodrum replied that due to enforcement regulations and associated bail fees for PUA areas, and resources available to compensate state troopers, the troopers enforced PUAs. He added that on general state land it was less likely to obtain trooper support due to the size of the state.

[3:29:48 PM](#)

Representative Guttenberg stated that for years he had tried to establish a recreational area. He reported that he was unable to dissuade the State Parks to back off on providing an armed officer, even though the public did not want one.

Representative Wilson inquired whether the Mat-Su and DNR could enter into an agreement granting Mat-Su the responsibility for developing the management plan to eliminate DNR's funding needs.

REPRESENTATIVE GEORGE RAUSCHER, SPONSOR, answered that the Mat-Su Borough strongly supported the bill. He referred to a letter from the Mat-Su Borough planning department (copy on file) that strongly supported development of the PUA. He related that the bill development lasted for over one year and involved the borough, public, and all user groups. The borough was thoroughly committed to the project through its completion. He reiterated that the process required that a PUA was established to develop the plan, however DNR did not have to write the plan; only approve it.

Co-Chair Seaton noted that public testimony would remain open.

HB 6 was HEARD and HELD in committee for further consideration.

#hb31

HOUSE BILL NO. 31

"An Act requiring the Department of Public Safety to develop a tracking system and collection and processing protocol for sexual assault examination

kits; requiring law enforcement agencies to send sexual assault examination kits for testing within 18 months after collection; requiring an inventory and reports on untested sexual assault examination kits; and providing for an effective date."

3:33:09 PM

Representative Wilson MOVED to ADOPT the proposed committee substitute for HB 31, Work Draft 30-LS0271\J (Martin, 2/28/17). There being NO OBJECTION, it was so ordered.

REPRESENTATIVE GERAN TARR, SPONSOR, introduced the bill. She identified that a problem related to addressing sexual assault in the state was the untested sexual assault examination kits. She explained that the kits were typically associated with the individual crime at the time of collection. However, perpetrators can be serial assaulters and can be involved in multiple cases. The issue had prompted multiple jurisdictions across the country to test untested kits and assess the serial assault problem. She related the story of a rapist in 2014 and reported that if the DNA was tested at the time against other kits, the assailant would have been discovered as a serial rapist. She felt that the legislation would further safeguard the public's safety.

HB 31 was HEARD and HELD in committee for further consideration.

Co-Chair Seaton addressed the meeting for the following day.

ADJOURNMENT

3:37:05 PM

The meeting was adjourned at 3:37 p.m.