

SENATE FINANCE COMMITTEE

April 3, 2018

9:04 a.m.

9:04:21 AM

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 9:04 a.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Anna MacKinnon, Co-Chair
Senator Click Bishop, Vice-Chair
Senator Peter Micciche
Senator Gary Stevens
Senator Natasha von Imhof

MEMBERS ABSENT

Senator Donny Olson

ALSO PRESENT

Ashley Strauch, Staff, Representative Adam Wool; Kris Curtis, Legislative Auditor, Alaska Division of Legislative Audit; Sara Chambers, Deputy Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development; Megan Holland, Staff, Representative Andy Josephson; Caitlyn Ellis, Staff, Representative Sam Kito; Megan Holland, Staff, Representative Andy Josephson; Representative Sam Kito, Sponsor; Crystal Koeneman, Staff, Representative Sam Kito; Hannah Lager, Budget Manager, Department of Commerce, Community and Economic Development; Errol Champion, Alaska Association of Realtors, Juneau.

PRESENT VIA TELECONFERENCE

Debra Hamilton, Chair, Board of Professional Counselors, Soldotna; Karen Cunningham, Board of Marital and Family Therapy, Anchorage; David Derry, Chair, Board of Certified Real Estate Appraisers, Kenai; Erika McConnell, Director, Marijuana and Alcohol Control Office, Nome; David Edwards-Smith, Chair, Board of Massage Therapists, Kenai; Volker

Hruby, American Massage Therapy Association Alaska Chapter, Anchorage; Jill Motz, Self, MatSu; Traci Barickman, Chair, Real Estate Commission, Palmer; Deborah Barollini, Self, Anchorage.

SUMMARY

HB 273 EXTEND: MARIJUANA CONTROL BOARD

HB 273 was HEARD and HELD in committee for further consideration.

HB 274 EXTEND: BD OF PSYCHOLOGISTS/PSYCH ASSOC.

HB 274 was REPORTED out of committee with a "do pass" recommendation and with one forthcoming fiscal impact note from the Department of Commerce, Community and Economic Development.

HB 275 EXTEND: BOARD OF MASSAGE THERAPISTS

HB 275 was HEARD and HELD in committee for further consideration.

HB 278 EXTEND: CERT. REAL ESTATE APPRAISERS BOARD

HB 278 was HEARD and HELD in committee for further consideration.

HB 279 EXTEND: REAL ESTATE COMMISSION

HB 279 was HEARD and HELD in committee for further consideration.

HB 280 EXTEND: BOARD OF MARITAL & FAMILY THERAPY

HB 280 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN 1(CED).

HB 302 EXTEND: BOARD OF PROFESSIONAL COUNSELORS

HB 302 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN 1(CED).

#hb302

HOUSE BILL NO. 302

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

9:05:02 AM

ASHLEY STRAUCH, STAFF, REPRESENTATIVE ADAM WOOL, discussed the sponsor statement for HB 302 (copy on file):

HB302 extends the sunset date for the Board of Professional Counselors to June 30, 2026. I encourage all the members to review the Legislative Audit summary and the full audit report. You will see that the Board has served the public's interest by effectively licensing and regulating professional counselors and certified counselor supervisors. From FY14 to FY16, the Board has had a 46% increase in new licenses, and has issued 190 new licenses and 73 supervisor certifications over that time. Additionally, the Board has worked to implement new tele-health regulations to guide the distance delivery of services for mental health occupations.

The Board of Professional Counselors serves an important role in monitoring licenses and working to ensure that only qualified individuals practice in Alaska. The continuation of this Board is important to the ongoing improvement of the professional counselor occupation.

9:06:45 AM

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, discussed the document "A Sunset Review of the Department of Commerce, Community, and Economic Development, Board of Professional Counselors (board)" (copy on file). She stated that the purpose of a sunset audit was to determine whether a board or commission was serving the public's interest, and whether it should be extended. She stated that the report conclusions began on page 3. She stated that, overall, she found that the board was serving the public's interest, by effectively licensing and regulating professional counselors and counselor supervisors. She stated that it was found that the board monitored licensees, and worked to ensure that only

qualified individuals practiced. Furthermore, it was found that the board actively developed and adopted regulations to improve the profession. She recommended the full, maximum eight-year extension. There were no recommendations as part of the audit. She remarked that there was some standard information within the report. She noted the scheduled licensing activity on page 5. She shared that, as of January 2017, there were 657 active licensees. She noted that it was a 46 percent increase, as compared to the prior 2009 sunset. She shared that page 6 showed a schedule of revenues and expenditures. The board had a surplus of \$70,000 as of March 31. She stated that the board and management planned to decrease fees in FY 18 to address the surplus. The list of fees was on page 7. She noted that response to the audit began on page 19. She announced that the Office of the Governor (GOV), the department, and the board chair agreed that the board served the public's interest and should be extended to the maximum 8 years.

Senator Micciche stated that he had heard the audit findings in another committee. He remarked that within the discussion, it was learned that the cost and time for the audit was not covered by the board. He felt that maybe the legislature should consider that the board cover the cost of the audit.

Senator von Imhof referenced page 6 of the audit, in which there was a deficit in FY 13, FY 14, and FY 15. A fee structure change then occurred, so there was a surplus in FY 16 and FY 17. She noted that the fees would be decreased. She wondered whether there was a certain allowable surplus percentage, so there could possibly be a cushion to be absorbed over time.

Ms. Curtis replied that statutes did not provide for that. She shared that the statutes outlined that license fees should cover the cost of regulation. She stated that there was a problem over the years of the allocation of indirect costs, but was corrected recently. She stressed that the statute did not provide flexibility or a cushion, but rather stated that fees should be set to cover the cost of regulation.

[9:11:18 AM](#)

Co-Chair MacKinnon wondered whether the department had language suggestions to address the peaks and valleys in

the boards to make it more sustainable to those who were paying fees to the state.

SARA CHAMBERS, DEPUTY DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, addressed Senator von Imhof's question. She stated that the department had worked to examine how statute could be altered to provide more effective tools. She shared that there were struggles within the existing authority, but those had been corrected. She remarked that because the statute required the revenues to approximately equal the expenditures for the programs that had some expenditures that were impossible to anticipate. She shared that licensing fees paid for administrative costs, and also paid for all investigations and legal costs. She stressed that the licensee paid for those expenditures.

Senator von Imhof announced that she would have a conversation about the issue at a later date.

[9:16:55 AM](#)

Senator Micciche was concerned that boards and commissions did not become profit centers. He thought the matter was worthy of discussion.

Senator Stevens asked if Ms. Chambers was hearing from licensees regarding the unfairness of fees going towards the activities of un

Ms. Chambers answered in the affirmative.

Co-Chair MacKinnon OPENED public testimony.

DEBRA HAMILTON, CHAIR, BOARD OF PROFESSIONAL COUNSELORS, SOLDOTNA (via teleconference), stated that she was available for questions.

Senator Micciche wondered whether the balance was fair in the licensing fees for her board.

Ms. Hamilton replied that she was currently looking at that issue. She remarked that she joined the board at a time of deficit, had worked to reverse that deficit, and was currently in a surplus. She shared that there was some feedback regarding the licensure fee increases.

Co-Chair MacKinnon CLOSED public testimony.

[9:20:20 AM](#)

Vice-Chair Bishop commented that continued conversation would be worthy to address the concern over peaks and valleys. He remarked that it would be nice to find a solution.

Senator Micciche thought people did not understand that boards and commissions were self-funded and self-regulated and did not use state funds.

Co-Chair MacKinnon noted that there had been a fiscal not review with the Legislative Finance Division. She put on the record that the \$21,100 was the cost of the board itself.

Vice-Chair Bishop MOVED to report HB 302 out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HB 302 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN 1(CED).

[9:24:31 AM](#)

AT EASE

[9:26:00 AM](#)

RECONVENED

#hb280

HOUSE BILL NO. 280

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

[9:26:00 AM](#)

MEGAN HOLLAND, STAFF, REPRESENTATIVE ANDY JOSEPHSON, discussed the bill. She stated that the bill extended the Board of Marital and Family Therapy. She stated that the Board of Marital and Family Therapy regulated and licensed therapists and approved supervisors. The board also

established and enforced training, education, and continuing education requirements of its licensees. The board currently oversaw 85 licensees in Alaska. The board received a full eight-year extension from Legislative Audit. She announced that there was no opposition received for extension of the board.

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, directed attention to document "A Sunset Review of the Department of Commerce, Community, and Economic Development, Board of Marital and Family Therapy (board)," (copy on file). She stated that it was found that, overall, the board was serving the public's interest by effectively licensing and regulating marital and family therapists; and marital and family therapist supervisors. The board monitored licensees and worked to ensure that only qualified individuals' practices. It was also found that the board actively developed and adopted regulations to improve the industry. She recommended an eight-year extension. There were no recommendations made in the audit. She noted the standard information within the report. She noted that on page 6, there were the scheduled licensing activities. She stated that, as of January 2017, there were 85 active licensees, which was a 7 percent decrease when compared to the 2013 prior sunset audit. She noted the schedule of revenues and expenditures on page 8. He stated that the board had a surplus of approximately 68,000 as of March 31, 2017. She remarked that the board had operated with a surplus over the past several years. She shared that license fees were listed on page 7. She stated that all participating entities agreed that there should be an extension of the board.

Co-Chair MacKinnon OPENED public testimony.

9:29:29 AM

KAREN CUNNINGHAM, BOARD OF MARITAL AND FAMILY THERAPY, ANCHORAGE (via teleconference), testified in support of the bill.

Co-Chair MacKinnon asked if Ms. Cunningham could speak to the decrease in licensees since the previous sunset audit.

Ms. Cunningham explained that there was no graduate program in the state for marriage and family therapy, so it was required to obtain graduate education outside the state.

She continued that the state had somewhat rigorous licensing requirements, as well as a lack of supervisors in the state.

Co-Chair MacKinnon CLOSED public testimony.

[9:32:12 AM](#)

Vice-Chair Bishop addressed that fiscal note.

Co-Chair MacKinnon stated that the board cost more than the \$21,400. She stated that the proposed board budget was approximately \$93,000, but it was the portion directly related to the board. She stated that it was covered by receipt services from the licensees.

Vice-Chair Bishop MOVED to report HB 280 out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HB 280 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN 1(CED).

[9:33:57 AM](#)

AT EASE

[9:35:47 AM](#)

RECONVENED

#hb274

HOUSE BILL NO. 274

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

[9:35:47 AM](#)

CAITLYN ELLIS, STAFF, REPRESENTATIVE SAM KITO, stated that the bill extended the Board of Psychologists and Psychological Associate Examiners. She stated that the board had a full eight-year extension recommended by Legislative Audit. She stated that the board regulated 285 licensees. The board was scheduled to sunset in June 2018. The audit had two recommendations. One was about fees, because there was a miscalculation. The board agreed, and

reduced fees. She stated that the other recommendation was about complying with record keeping. The board and department agreed, and had taken steps to address the recommendations.

Senator von Imhof looked at page 10 of the audit, which recommended that the department director in consultation with the board to reduce fees. She wondered whether there was a new fee schedule. She stated that on page 6, the FY 17 fees were high. She queried the fees for FY 18.

SARA CHAMBERS, DEPUTY DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, detailed that the fees had been analyzed to make a change but was waiting on board regulation (unrelated fees) so that changes could be made in one package.

Co-Chair MacKinnon asked if there was an anticipated time-frame for completion of the changes.

Ms. Chambers replied that she would provide that information at a later date.

Vice-Chair Bishop wondered whether the courtesy licensing was in compliance.

Ms. Chambers replied that there were already procedures to ensure that it was corrected in the future, and there were currently no courtesy licensees.

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, discussed the document "A Sunset Review of the Department of Commerce, Community, and Economic Development, Board of Psychologist and Psychological Associate Examiners (board)," (copy on file). She stated that it was found that the board was serving the public's interest by effectively licensing psychologists and psychological associates. There was a recommendation of an eight-year extension. She noted the standard information. The scheduled licensing activity was on page 5. She shared that as of March 2017, there were 285 active licensees. She remarked that there was a 174 percent increase from the prior 2009 sunset audit.

Co-Chair MacKinnon OPENED public testimony.

Co-Chair MacKinnon CLOSED public testimony.

[9:41:25 AM](#)

AT EASE

[9:43:44 AM](#)

RECONVENED

Co-Chair MacKinnon noted that the committee had a brief conversation concerning the difference in the words, "psychologist" and "psychiatrist."

Vice-Chair Bishop discussed the fiscal note.

Co-Chair MacKinnon stated that there would be a forthcoming fiscal note.

Vice-Chair Bishop MOVED to report HB 274 out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

HB 274 was REPORTED out of committee with a "do pass" recommendation and with one forthcoming fiscal impact note from the Department of Commerce, Community and Economic Development.

[9:46:01 AM](#)

AT EASE

[9:47:38 AM](#)

RECONVENED

#hb278

HOUSE BILL NO. 278

"An Act extending the termination date of the Board of Certified Real Estate Appraisers; and providing for an effective date."

[9:47:38 AM](#)

MEGAN HOLLAND, STAFF, REPRESENTATIVE ANDY JOSEPHSON, discussed HB 278. She stated that the bill extended the termination date of the Board of Certified Real Estate Appraisers. She shared that the Board of Certified Real Estate Appraisers came to be after the housing market crash in the early 2000s. There was a federal mandate requiring

states to regulate real estate appraisers, so the state board served to fulfill the federal requirement. The board was responsible for licensing, training, regulating, and license enforcement of real estate appraisers in the state. She stated that the board currently managed 261 licensees. The board received a full eight-year recommendation from Legislative Audit. Additionally, there were additional audits from the federal audits in 2005 and 2007. She stated that she had received no opposition to the board extension.

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, addressed the document "A Sunset Review of the Department of Commerce, Community, and Economic Development, Board of Certified Real Estate Appraisers (board)," (copy on file). She stated that the audit included a background information section beginning on page 3, which explained the regulatory oversight structure for the appraisal industry established by the federal government. The framework involved private entities that set appraisal standards and qualification criteria for licensing. It included state boards that certified and licensed real estate appraisers, and it included federal entities that regulated the industry. She stated that the Federal Appraisal Subcommittee was responsible for monitoring state licensing boards and enforcing standards. She explained that the information was included in the background section of the audit, because it was important to highlight that the board was subject to external oversight outside of the sunset process. The external oversight included onsite compliance reviews of the board. She stated that the additional oversight factored into the recommended term of extension. She noted that page 7 held the report conclusions. She stated that it was found that the board was serving the public's interest by monitoring certificate holders and licensees; and working to ensure that only qualified individuals were practicing. She stated that it was also found that the board developed and adopted regulations to comply with federal requirements to improve the real estate appraisal industry and better protect the public. She stated that there were two recommendations beginning page 16. The first recommendation was that that the director continue to improve administrative support to the board. She shared that through the testing, some challenges were found to administrative support. She explained that there was an examination of the entry of the certificate holders into the national registry, which was a federal requirement. The audit found that three certificate

holders were entered into the registry incorrectly. Those entries were correctly, when the division was notified. She stated that there were five investigative cases tested, and three of the five had extended unjustified periods of inactivity. She stated that the periods ranged from 130 to 203 days, so there were some improvements needed in the timeliness of the investigative process. She remarked that there was not proof of whether three of the eleven board meetings held during the audit period were public noticed. She felt that those findings were not individually significant, but when considered together it indicated a need for improved administrative support to the board.

[9:52:07 AM](#)

Ms. Curtis looked at page 17, which was the second recommendation. It was recommended that the division director, in consultation with the board, reduce fees to address the surplus. She shared that as of March 2017, the surplus was \$165,000, however it was expected that the surplus be significantly higher as the renewal period was June 2017. She remarked that by the end of FY 17 there was an expected significant surplus. She noted that the board had asked for a fee analysis from the division management, but due to competing priorities there was no fee analysis. As a result, licensees paid a higher than justified fee. She looked at page 11, which was the standard schedule of licensing activity. She noted that there were 261 licensees as of March 2017. The schedule of revenues and expenditures was on page 12, and the schedule of licensing fees on page 13. She remarked that on page 14, it was discussed that the board planned to move forward with regulating appraisal management companies. It would significantly expand the boards duties in the future. She noted that, despite the change of duties, she recommended the maximum eight-year extension, which was in recognition of the additional federal oversight. The Federal Oversight Committee performed onsite reviews every two years. The department's response to the audit was on page 27, which was a concurrence of the findings and recommendations. The board's response was on page 29, and they also were in concurrence. She announced that on the bottom page 31, the board stated that they had received an attorney general opinion that concluded in order to move forward with regulating appraisal management companies, a statutory change was required. She stated that Legislative Audit did not agree with that conclusion. She noted additional

auditor comments beginning on page 33, which described the review of the federal code and state statutes. She remarked that she did not believe that it was essential to change statutes, but felt that "it certainly would not hurt to clarify them."

Co-Chair MacKinnon noted that page 11 gave the up or down percentages on all the other boards. She wondered whether the 261 licenses up or down compared to the last auditing period.

Ms. Curtis replied that the prior sunset audit identified 266 licenses as of March 2013, so that was a slight increase.

Co-Chair MacKinnon asked if new appraisers were coming online successfully, or if there were challenges.

Ms. Curtis replied that there was no found challenge in recruiting and retaining appraisers.

Co-Chair MacKinnon noted that they were held constant from the previous audit.

Ms. Curtis replied that there were 266 as of March 2013, which was relatively stable.

Co-Chair MacKinnon asked if Ms. Chambers could speak to consistent numbers for the board, as there had been a suggestion that the board made it difficult to process new appraisers. She wondered about what challenges were present.

SARA CHAMBERS, DEPUTY DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, relayed that appraisals were a fairly stable industry, and she had not heard of any inherent challenges to getting licensed.

Co-Chair MacKinnon asked why the fees were not considered sooner.

Ms. Chambers informed that the fees fell at a time when the department was juggling multiple priorities, and there had been a lack of resources. She offered to provide an update.

[9:58:27 AM](#)

Co-Chair MacKinnon OPENED public testimony.

DAVID DERRY, CHAIR, BOARD OF CERTIFIED REAL ESTATE APPRAISERS, KENAI (via teleconference), testified in support of the bill. He commented that the department had given support that had allowed for the board. He discussed the board being subject to annual audits.

Mr. Derry addressed Co-Chair MacKinnon's question about the challenges to becoming certified. He discussed federal requirements. The new regulations would be effective May 2018.

Co-Chair MacKinnon CLOSED public testimony.

Vice-Chair Bishop discussed the fiscal note.

Co-Chair MacKinnon queried the board's proposed fee schedule that what was proposed from the department. She noted that the board proposed \$179,923, and the division proposed \$264,823. She wondered why there was a difference in proposals.

Ms. Chambers wondered whether that query was held in the audit.

[10:04:53 AM](#)

AT EASE

[10:05:46 AM](#)

RECONVENED

Co-Chair MacKinnon remarked that Ms. Chambers needed time to research the difference.

HB 278 was HEARD and HELD in committee for further consideration.

#hb273

HOUSE BILL NO. 273

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

[10:06:42 AM](#)

REPRESENTATIVE SAM KITO, SPONSOR, discussed the bill. He stated that the bill was a basic extension of the Marijuana Control Board. He remarked that there was not even a full year of revenue collection for the new board, but there was a sunset in order to have a review to determine whether it was operating in the state's interest. He shared that it was found that the board was operating in the state's interest. He noted the difference between the board and the other professional boards in that if the sunset did not occur, there was no "wind down" period. Therefore, it was stop functioning, if there was no sunset extension.

CRYSTAL KOENEMAN, STAFF, REPRESENTATIVE SAM KITO, discussed the bill. She stated that the bill was a six-year board extension. He shared that there were four audit recommendations. The board was created in 2015, and had met over 24 times since July 2015 to establish the new industry. She remarked that the board was created to control the cultivation, manufacture, and sale of marijuana in the state. She stated that since June 2016 the board approved 278 license applications, denied 8 applications, and revoked 2 licenses. She stated that Mx. McConnell could detail the operations of the board.

[10:09:48 AM](#)

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, discussed the document "A Sunset Review of the Department of Commerce, Community, and Economic Development, Marijuana Control Board (board)," (copy on file). She stated that it was the board's first sunset review. Report conclusions began on page 5, and overall the audit found that the board was serving the public's interest by effectively licensing marijuana establishments by establishing regulations that allowed for the cultivation, manufacture, and sale of marijuana in Alaska. The audit recommended a six-year extension. She explained that in order to help assess the effectiveness of the new board, there was a survey sent to licensees, and a separate survey to local governments. The survey was sent to 101 licensees, and there was a 70 percent response rate. Another survey was sent to 16 local government, and there was an 88 percent response rate. The survey instruments and the responses were summarized in Appendices B and C of the audit. She stated that, overall, the responses were fairly positive. She announced that 100 percent of local

government survey respondents, and 75 percent of licensee survey respondents rated the board's overall effectiveness at serving the public's interest as effective or very effective. Additionally, over 93 percent of local government survey respondents rated the board's effectiveness at enforcing marijuana laws in their area as good or excellent. She pointed to exhibit 2 on page 8, which showed that the board issued 122 new licenses from July 2016 through April 2017. She stated that 80 percent of licensee survey respondents rated their overall license experience as good or excellent. She noted that on page 8 it was outlined that the FY 17 operating budget included intent language that stated that the application and licensing fees should cover the cost of regulation and recover the unrestricted general fund appropriations made during the establishment of the program.

[10:15:14 AM](#)

Co-Chair MacKinnon OPENED public testimony.

ERIKA MCCONNELL, DIRECTOR, MARIJUANA AND ALCOHOL CONTROL OFFICE, NOME (via teleconference), asserted that there were enforcement priorities related to health and safety issues.

Co-Chair MacKinnon asked if Ms. McConnell was going to comply with the audit's request.

Ms. McConnell. answered in the affirmative.

Senator von Imhof asked if the board had begun any action to address the complaints.

Ms. McConnell replied that the recommendation was already resolved. The board was able to add a criminal justice technician to the staff, who was an administrative assistant to the enforcement unit. That staff member entered every complaint received into the Alaska Records Management System, and documenting any resolution of that complaint.

Co-Chair MacKinnon CLOSED public testimony.

Vice-Chair Bishop discussed the fiscal note.

Senator Micciche asked about the transition.

HANNAH LAGER, BUDGET MANAGER, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, explained that, in the FY 19, there were general fund receipts supporting the marijuana program, but there was an expectation to eventually be fully funded by program receipts starting in FY 20.

Senator Micciche wondered how the transition would occur, and asked why unrestricted general funds would still be used for the program.

Ms. Lager responded that there was carry-forward authorization in the current year.

Co-Chair MacKinnon asked if Ms. Lager stated that the department was forward-funding for an anticipated loss.

[10:21:46 AM](#)

AT EASE

[10:23:34 AM](#)

RECONVENED

Co-Chair MacKinnon informed that there would be an examination of the general fund spend on the fiscal note.

HB 273 was HEARD and HELD in committee for further consideration.

#hb275

CS FOR HOUSE BILL NO. 275(FIN)

"An Act extending the termination date of the Board of Massage Therapists; relating to license renewal and criminal history record checks for massage therapists; and providing for an effective date."

[10:24:11 AM](#)

REPRESENTATIVE SAM KITO, SPONSOR, discussed CSSB 275(FIN). He stated that the bill would extend the Board of Massage Therapists. He shared that the bill was only recently established. Some of the audit recommendations were being addressed in another piece of legislation. He remarked that there was some overlap between an amendment in the bill, and HB 110, which may need to be resolved. He stated that

the bill included a reduction in the frequency of background checks. He remarked that the initial legislation required the background check at every renewal cycle. The current version changed the background check to occur every third renewal cycle to decrease the administrative burden and cost.

CRYSTAL KOENEMAN, STAFF, REPRESENTATIVE SAM KITO, noted that Legislative Audit recommended a four-extension to 2022. The other body recommended a six-year extension based on potential savings to Legislative Audit, and steps that the board was taking to address the audit recommendations. The board was created in 2015, and the licensing fees were based on an estimate of 600 massage therapists. She announced that the number had grown significantly. She shared that there were 1186 new licenses at the time of the audit. She remarked that there were over 1400 active licenses in the last licensing cycle. She stated that the division had taken steps to adjust the licensing fees accordingly. She announced that there were three audit recommendations. She reiterated that there was another piece of legislation, because some of those recommendations were better addressed through statutory changes.

[10:27:18 AM](#)

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, discussed the document "A Sunset Review of the Department of Commerce, Community, and Economic Development, Board of Massage Therapists (board)," (copy on file). She remarked that it was a new board, and this was its first sunset review. The audit found that the board was serving the public's interest in all areas except licensing. She stated that the audit found that applicants were not consistently issued licenses in according with statutes, regulations, or their procedures. Additionally, there was an FBI audit that found improvements were needed to comply with federal standards over criminal history record information obtained as part of the licensing process. The audit recommended that the legislature extend the board for only four years. She highlighted the features of the audit.

[10:33:13 AM](#)

Senator von Imhof asked about the significance of the phrase, "additional supervisory resources are needed."

Ms. Curtis surmised that the department's comments may mean that they need additional financial resources. She deferred to Ms. Chambers.

SARA CHAMBERS, DEPUTY DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, stated that the program was anticipated to have 600 licensees, while here was currently 1,400. She remarked that some of the unusual requirements caused some stress. She remarked that additional staff was needed for the board.

Senator von Imhof wondered whether there should be an administrative fee taken from some of the board surpluses to help with some of the supervisory positions.

Ms. Chambers stated that the department had found the procedural errors that the additional oversight (to make sure procedures were followed) was necessary and extended to board training.

[10:38:07 AM](#)

Senator Micciche wanted to learn what management of boards and commissions cost comprehensively. He believed there were many costs that were unaccounted for. He acknowledged that some boards were much more labor intensive than others.

Ms. Chambers was happy to share the information with the committee. She stated that the department had documentation of indirect expenses.

Ms. Curtis stated that page 14 standard.

Co-Chair MacKinnon OPENED public testimony.

DAVID EDWARDS-SMITH, CHAIR, BOARD OF MASSAGE THERAPISTS, KENAI (via teleconference), spoke in support of the bill.

Co-Chair MacKinnon asked how the board was complying with the federal findings.

Mr. Edwards-Smith asked if Co-Chair MacKinnon was referring to the findings pertaining to fingerprint chain of custody.

Co-Chair MacKinnon agreed.

Mr. Edwards-Smith affirmed that the application had been changed to inform applicants of the use of fingerprints.

[10:43:26 AM](#)

Co-Chair MacKinnon asked if Mr. Edwards-Smith had adopted a policy to motivate the department to adopt a policy.

Mr. Edwards-Smith stated that the board considered the subject to be a division issue.

Co-Chair MacKinnon wondered whether the department had addressed the FBI audit findings for the particular licensure.

Ms. Chambers stated that there were 3 areas that the FBI identified. She announced that there were channels of communication which allowed for hacking into the system to get access to certain documentation. She shared that there was a new secure piece of technology that met the FBI requirements. She stated that the application concern was corrected prior to the conclusion of the audit. The inadequate chain of custody was currently being addressed by working with other agencies and departments to see if there were opportunities to share resources to secure a fingerprint card to meet the federal recommendations. She remarked that there was no statutory provision to maintain chain of custody. She remarked that a statute change may be needed to alter the mandate to process fingerprint cards.

[10:46:48 AM](#)

Co-Chair MacKinnon felt that it was unacceptable. She remarked that the department had been given a year to address the concerns. She felt that it was the administration's responsibility to comply with existing law. She wanted to meet with Ms. Chambers at a later time.

Ms. Chambers was happy to meet with Co-Chair MacKinnon and other parties to address the concerns.

Co-Chair MacKinnon wondered if there was further information about why the administration did not comply with the chain of custody issue, other than the assertion of a change in statute.

Ms. Chambers replied that the data was secure. She stressed that the question was about whether the fingerprints were actually the applicant.

Vice-Chair Bishop asserted that there were a myriad of fingerprinting protocols in different state agencies.

[10:50:04 AM](#)

VOLKER HRUBY, AMERICAN MASSAGE THERAPY ASSOCIATION ALASKA CHAPTER, ANCHORAGE (via teleconference), testified in support of the bill. He noted that a recent audit had identified suggestions. The reasons for establishing the board were the same reasons he believed the board should be extended. He thought while the division did a good job providing support for the board, it was not qualified to perform the functions of the board. He referenced comments by Ms. Chambers.

Mr. Hruby continued his testimony, and considered that the board had done a good job implementing statute. He urged committee members to move the bill from committee.

JILL MOTZ, SELF, MATSU (via teleconference), testified in support of the bill. She understood that the fingerprint issue was an issue. The board had gathered from the FBI report that it was necessary to gather more information.

Co-Chair MacKinnon reminded that the committee's responsibility to ensure that there was compliance with state statutes and federal requirements. She did not consider the bill to be stalled in committee.

Vice-Chair Bishop thought that the committee was attempting to protect the integrity of the therapists with their fingerprints.

Co-Chair MacKinnon CLOSED public testimony.

[10:55:41 AM](#)

Vice-Chair Bishop addressed the fiscal note.

Co-Chair MacKinnon pointed out that the board cost more than what was reflected on the fiscal note

Co-Chair MacKinnon announced the due date for the amendments.

Co-Chair MacKinnon announced visitors to the committee in the audience.

HB 275 was HEARD and HELD in committee for further consideration.

#hb279

HOUSE BILL NO. 279

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

[10:57:44 AM](#)

MEGAN HOLLAND, STAFF, REPRESENTATIVE ANDY JOSEPHSON, discussed HB 279. She stated that the bill would extend the termination date of the Real Estate Commission. She stated that the commission oversaw brokers, associate brokers, and sales licensees. They were responsible for the regulation of supervisors and licensees, and enforcing their requirements. The commission currently oversaw approximately 2500 licensees, and received a full recommended eight-year extension from Legislative Audit.

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, addressed the document "A Sunset Review of the Department of Commerce, Community, and Economic Development, Real Estate Commission" (copy on file). She stated that report conclusions began on page 7. The audit concluded that the commission was serving the public's interest by effectively licensing and regulating real estate licensees and real estate offices. The commission monitored licensees and worked to ensure that only qualified individuals practiced. Furthermore, the commission developed and adopted regulations to improve the real estate industry and protect the public. The audit recommended an eight-year extension. She noted that the audit period was fairly short, at less than two years, because the prior sunset audit was dated July 2015. The prior sunset audit identified that the board was not serving the public's interest, because it had failed to adopt a Master Errors and Emissions Insurance Policy. The commission was required by a 2008 law to obtain a master

policy, and make it available to licensees. The statutes also stated that licensees could obtain an insurance policy independently through a private firm or through the master policy provided to them.

[11:02:22 AM](#)

Senator von Imhof referenced the surplus on page 12. She wondered whether the provision of the recovery balance related to the surplus.

Ms. Curtis wondered whether Senator von Imhof was referencing exhibit 4.

Senator von Imhof replied in the affirmative.

Ms. Curtis stated that page 15, exhibit 6 showed the recovery fund balance.

Senator von Imhof asked if exhibit 4 and exhibit 6 were two separate financial transactions. She wondered how the fees were collected for exhibit 6.

Ms. Curtis replied that they were part of the charged fee to the applicant. There was a separate fee established on exhibit 5.

Co-Chair MacKinnon wanted page numbers.

Ms. Curtis replied that the fee was collected as part of the licensing process.

Senator Stevens looked at page 17, and queried the acceptable period of inactivity.

Ms. Curtis believed there was a six-month goal.

Co-Chair MacKinnon asked about how the division measured the length of extension.

Ms. Curtis stated that there were few courtesy licensees. She remarked that it was not a material recommendation.

[11:06:54 AM](#)

AT EASE

[11:07:27 AM](#)

RECONVENED

Co-Chair MacKinnon OPENED public testimony.

TRACI BARICKMAN, CHAIR, REAL ESTATE COMMISSION, PALMER (via teleconference), testified in support of the bill. She stated that the commission operated well.

[11:08:46 AM](#)

DEBORAH BAROLLINI, SELF, ANCHORAGE (via teleconference), spoke in opposition to the bill. She asserted that the commission did not offer the transparency that the public deserved. She stated that she had a complaint, which was ignored by the commission.

Co-Chair MacKinnon relayed that the committee was in receipt of Ms. Barollini's email pertaining to the difficulties that she had experienced in working with the commission.

[11:13:28 AM](#)

Senator Micciche asked Ms. Barickman about a complaint that was submitted, asked why the complaint was rejected.

Ms. Barickman stated that the complaint process first went through the division, where it must be determined that the REC had jurisdiction. She understood that Ms. Barollini's complaint was not within the jurisdiction of the commission, and it had not been received by the commission.

Senator Micciche asked what it would take for a complaint against a licensee to be within the jurisdiction of a licensee.

Ms. Barickman stated that in the case of a complaint that was deemed to be within the jurisdiction of the commission, the division would open a case. Typically there was a consent agreement, and the respondent would be notified.

Co-Chair MacKinnon //

Senator Micciche asked Ms. Barickman if there had been discipline on any realtor. He wondered if the process worked if there had been issues within the jurisdiction of the committee.

Mr. Barickman answered in the affirmative. She added that the commission's quarterly meetings were public, but were not the appropriate forum for hearing complaints.

11:19:18 AM

Senator Micciche asked Ms. Chambers why Ms. Barollini's complaint had not reached the commission's jurisdiction.

SARA CHAMBERS, DEPUTY DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, affirmed she had reviewed the investigative file containing Ms. Barollini's complaint. The concerns were found not to be within the jurisdiction of the commission, but rather under the purview of the Department of Law and the Landlord Tenant Act. Ms. Barollini was provided with the information.

Senator Micciche asked if the Landlord Tenant Act covered a home in a condominium association.

Ms. Chambers deferred to the Department of Law. She also agreed to provide further information.

Senator Micciche thought it sounded as though the commission was not allowed the opportunity to act on the matter. He wanted to reconcile the complaint.

Ms. Chambers was happy to work with the chief investigator to ensure a thorough review of the case.

Co-Chair MacKinnon believed that Ms. Barollini was suggesting that if a person was not competent to act in the other role as a licensure, the board should make an examination.

11:24:08 AM

ERROL CHAMPION, ALASKA ASSOCIATION OF REALTORS, JUNEAU, spoke in support of the bill. He appreciated the efforts.

Senator Micciche discussed the fiscal note.

Co-Chair MacKinnon CLOSED public testimony.

HB 279 was HEARD and HELD in committee for further consideration.

[11:27:15 AM](#)
AT EASE

[11:27:47 AM](#)
RECONVENED

Co-Chair MacKinnon discussed committee business.

ADJOURNMENT
[11:28:59 AM](#)

The meeting was adjourned at 11:28 a.m.