

SENATE FINANCE COMMITTEE
March 13, 2019
9:02 a.m.

9:02:39 AM

CALL TO ORDER

Co-Chair von Imhof called the Senate Finance Committee meeting to order at 9:02 a.m.

MEMBERS PRESENT

Senator Natasha von Imhof, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Click Bishop
Senator Peter Micciche
Senator Donny Olson
Senator Mike Shower
Senator Bill Wielechowski
Senator David Wilson

MEMBERS ABSENT

Senator Lyman Hoffman

ALSO PRESENT

Senator Cathy Giessel; Sara Chambers, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development; Senator Gary Stevens, Sponsor; Tim Lamkin, Staff, Senator Gary Stevens; Kris Curtis, Legislative Auditor, Alaska Division of Legislative Audit; Scott Ogan, former member, Big Game Commercial Services Board, Juneau.

PRESENT VIA TELECONFERENCE

Paul Layer, Vice President for Academics and Research, University of Alaska, Fairbanks; Henry Tiffany, Chairman; Big Game Commercial Services Board, Fairbanks; Jason Bunch, Member, Big Game Commercial Services Board, Kodiak; Sam Rohrer, President, Alaska Professional Hunters Association, Kodiak; Mark Richards, Executive Director, Resident Hunters of Alaska, Fairbanks.

SUMMARY

SB 36 EXTEND BOARD OF NURSING

SB 36 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1(CED).

SB 43 EXTEND BIG GAME COMMERCIAL SERVICES BOARD

SB 43 was HEARD and HELD in committee for further consideration.

SB 53 UNIVERSITY REPORTING REQUIREMENTS

SB 53 was HEARD and HELD in committee for further consideration.

Co-Chair von Imhof shared that Senator Hoffman was excused from committee.

#sb36

SENATE BILL NO. 36

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

9:03:30 AM

Co-Chair von Imhof relayed that the committee had first heard the bill on March 1, 2019; public testimony was taken during the first hearing.

9:04:10 AM

SARA CHAMBERS, DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, stated that there had been several questions from the committee pertaining to the bill, and the division had responded in writing (copy on file). She noted that the division had been working with the board to ensure that the telehealth regulations were reviewed in April 2019. The regulation should be available for public comment and then would go back to the board for discussion and adoption.

9:05:13 AM

Senator Wilson MOVED to report SB 36 out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

SB 36 was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1(CED).

#sb53

SENATE BILL NO. 53

"An Act relating to the duties of the Board of Regents of the University of Alaska."

9:05:39 AM

SENATOR GARY STEVENS, SPONSOR, thanked the committee for hearing the bill. He pondered how many college degrees had been completed by the committee members. He thought the loss of accreditation by the University of Alaska for its teaching program in Anchorage was tragic. He had been surprised that the president and Board of Regents had not known of the impending loss of accreditation. The bill would require that the legislature to twice a year investigate the accreditation of the University. He lamented that once accreditation was lost it could take up to 5 years to gain it back. He relayed that there were 65 accreditations around the University. He said that it was very important that the Board of Regents and the resident track the accreditation of the University.

9:10:07 AM

TIM LAMKIN, STAFF, SENATOR GARY STEVENS, discussed the Sectional Analysis for SB 53 (copy on file):

Co-Chair von Imhof asked how the Board of Regents could have approached Senator Stevens with the issue of accreditation.

Senator Stevens had not communicated with the Board of Regents regarding the issue. He thought that the loss of accreditation had been an error on the board's part. He discussed teacher accreditation.

9:12:08 AM

Senator Olson asked whether the University's accreditation could have been saved if legislation like SB 53 had already existed.

Senator Stevens replied in the affirmative. He noted that the bill required the Board of Regents to report to the legislature twice a year concerning accreditation.

[9:13:12 AM](#)

Mr. Lamkin reviewed the "Explanation of Changes: From Version A to Version U" (copy on file):

Section 1 & 2: Conforming Report Recipients

For consistency with other various reporting requirements of state agencies, both the existing requirement for reporting on UA teacher training, and the new UA accreditation report are required to be submitted to the Legislature (Senate Secretary / House Chief Clerk) by the 30th legislative day. The reports are subsequently to be presented in a formal hearing setting to the education committees:

- a. The teachers report remaining biennial (beginning of each new Legislature)
- b. The accreditation report being submitted semiannually, twice per year:
 - i. By the 30th legislative day (approx. Feb 15); and
 - ii. On or by July 1st

Section 2: Report Detail

Language detailing report content was amended to align with common terms used in academia as regards accreditation, and cross referenced from:

- a. a current report submitted to the Board of Regents, disaggregating report components;
- b. the fiscal note, citing existing Board of Regents policy (P10.06.010).

The intent of the changes in this section is to make this new reporting requirement fairly align with what is currently reported to the Board of Regents, broadening the awareness of such reports to include the legislature.

Reporting detail calls for particular emphasis on any potential loss of accreditation in the future.

[9:15:08 AM](#)

Senator Micciche wondered why there was not a reference to meeting the requirements for the Council for Accreditation of Educator Preparation (CAEP).

Mr. Lamkin stated that the bill was an accountability measure. It was presumed that the report would necessitate more scrutiny of the process and the following of regulation.

Senator Stevens reminded the committee that there were 65 accreditation agencies, and that CAEP was only one of those agencies. He did not think it was easy for the university to keep track of all the various accreditations but that they had a responsibility to do so. He reiterated that there had been a lack of attention that resulted in the loss of accreditation.

[9:17:50 AM](#)

Senator Micciche referenced Section 1, which was specifically about teachers. He thought that the bill was important but wondered what set of standards would be used to craft the biannual report sent to the legislature.

Senator Stevens was not sure how to address Senator Micciche's question. He reiterated that the review process was complicated.

Co-Chair von Imhof thought after reading the accreditation requirements for the School of Education, there were 5 standards that had to be met in order to meet accreditation standards. She suspected that in the reporting there would be a listing of each requirement needed to maintain accreditation, along with a description of how the University was meeting those requirements.

Senator Stevens did not want to go overly into detail. He wanted the bill to result in increased attention to accreditation. He did not think that the bill needed to get into the minutia, due to the 65 different accreditation agencies.

[9:21:06 AM](#)

PAUL LAYER, VICE PRESIDENT FOR ACADEMICS AND RESEARCH, UNIVERSITY OF ALASKA, FAIRBANKS (via teleconference), testified in support of the bill. He said that the University had the ability to reply with the requests outlined in the bill. He stated that the University currently reported annually to the Board of Regents regarding accreditation. He described the loss of accreditation as an avoidable tragedy. He noted that there were problems that the University had not been unaware but that steps were being taken for quarterly reporting to the board and to the president of the University. He said that the different national organizations that did the accreditation had different requirements and methods of reporting, some were very specific, and some did not want their recommendations made public.

[9:24:00 AM](#)

Co-Chair von Imhof understood that the University was looking to get accreditation back for the School of Education at the University of Alaska Anchorage (UAA). She asked how long the process was expected to take.

Mr. Layer responded that an assessment was being done to determine whether the UAA programs should be reaccredited. He stated that the University was drafting documentation about the process and the board would be meeting in April 2019 to make a recommendation. He continued that UA was also considering whether the currently accredited programs at the University of Alaska Southeast (UAS) and University of Alaska Fairbanks (UAF) could meet the needs of students in Anchorage who were pursuing teaching accreditation. Moving forward with reaccreditation of UAA programs would take a couple of years to compile the necessary data and demonstrate proficiency. He said that the question was what to do for students in the meantime who were currently enrolled in those programs.

[9:25:36 AM](#)

Senator Shower had concerns about the loss of accreditation. He thought it was the duty of the legislature to investigate the issue. He asked whether Mr. Layer thought the loss of accreditation would lead to a more robust focus on requirements.

Mr. Layer thought the incident would lead to a more robust analysis and feedback mechanism. He lamented that information and concerns for the teaching program had not been conveyed up through the administrative structure. He thought there would be more scrutiny and increased transparency as a result of the process. He continued that the university was considering how the different programs reported to the board. He thought reporting to the legislature would help in the process.

[9:28:12 AM](#)

Senator Bishop hoped that the University would take the lessons learned from the event and move forward with a plan for it never to happen again. He discussed his experience in the oil and glass and construction business; where there would be a "stand down" process after an incident. He hoped that there would be internal controls and the addition of checks and balances. He noted that the University used general fund dollars and should be making all accreditation information public.

[9:30:05 AM](#)

Co-Chair von Imhof asked whether Mr. Layer wanted to respond to Senator Bishop's comments.

Mr. Layer thought Senator Bishop's analogy of an industrial accident was apt. He opined that there had been checks and balances in place but there had clearly been a lack of oversight. He assured that committee that steps were being taken to make sure that loss of accreditation did not happen again.

[9:31:28 AM](#)

Senator Wilson was concerned about the students who might be relocated from Anchorage. He wondered whether the University had considered transferring student to a private entity in the area.

Mr. Layer affirmed that UAA had been working with Alaska Pacific University (APU), which did not have the breadth of programs offered by UAA. He reiterated that APU had limited capacity.

[9:32:57 AM](#)

Senator Micciche wondered how the report proposed by the bill was different than the status quo, if there were not guidance documents that relayed standards. He referenced his background in engineering. He thought most often there were multiple layers of failure at work that resulted in the loss of accreditation. If the University provided a report to the legislature, he wondered how the body would have any reference to act as a check against what the University provided.

Mr. Layer stated that he was not an expert in teacher accreditation, and had difficulty assessing what an accreditor might recommend. He thought it was a challenge to assess a comment from an accreditor. He recalled a report with concerns, but it was unclear whether those concerns were of the caliber that would result in a loss of accreditation. Most accreditation reviews had comments, but he found it difficult to assess the severity. He was not sure how the legislature would assess the report proposed in the bill. He relayed that all the University could do was provide the reports from accrediting agencies, when possible, of quality concerns.

[9:36:17 AM](#)

Senator Bishop commented that UAS and UAF had not experienced problems with accreditation.

[9:36:42 AM](#)

Senator Shower asserted that accountability was important. He asked whether anyone had been held accountable for the loss of accreditation at UAA.

Mr. Layer wanted to clarify that UAF underwent a successful review in the previous year, and UAS was currently undergoing an accreditation review process and self-study.

Mr. Layer thought accountability was a big issue and reminded that there was new leadership at UAA and in the School of Education. New reporting would identify a person as a responsible party for an accreditation review. The new reporting would require that a person be identified as the lead for the accreditation review, those names would be associated with each of the accreditation reviews and responsible parties would be identified.

[9:39:57 AM](#)

Co-Chair von Imhof OPENED public testimony.

[9:40:10 AM](#)

Co-Chair von Imhof CLOSED public testimony.

Senator Bishop reviewed FN 1 from University of Alaska, OMB component 1296. He read from the analysis on page 2 of the fiscal note:

The University of Alaska estimates that this legislation would have no fiscal impact on current operations.

Under current law, AS 14.40.190, the Board of Regents of the University of Alaska must prepare a report that provides:

- a) the condition of university property; receipts and expenditures; administration and disposition of appropriated and restricted funds, including the unexpended balance of university receipts; and on the educational and other work performed by the university during the preceding year. This report is due annually at the beginning of each regular legislative session.
- b) information on teacher preparation, retention and recruitment programs and initiatives at the University of Alaska. This report is to be entitled "Alaska's University for Alaska's Schools" and is due no later than the 30th day of the first regular legislative session. It is sometimes referred to as the SB 241 Report, after the 2008 bill establishing the requirement [Chapter 71, SLA 2008].

This legislation would add a third reporting requirement by adding a new subsection (c) to AS 14.40.190. The board would be required to prepare a biennial report on the status of national, regional, and programmatic accreditations at the University of Alaska, and describing the efforts being made to maintain or achieve those accreditations. The report would be presented to the House and Senate Education Committees no later than the 30th day of the first regular legislative session.

[9:41:34 AM](#)

SB 53 was HEARD and HELD in committee for further consideration.

#sb43

SENATE BILL NO. 43

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

[9:41:53 AM](#)

Co-Chair von Imhof relayed that previous discussions on the bill had concerned guides keeping their licenses while under investigation. She reminded the committee that the division staff, board members, and legislators, could not comment on any specific details on any issues currently being investigated, or in an administrative process, including appeals.

[9:42:56 AM](#)

Senator David Wilson, Sponsor, spoke to SB 43. He stated that the bill was originally thought to be simple, but many issues had arisen. He reminded that the bill only concerned a board extension.

Senator Wilson read from the sponsor statement (copy on file):

Senate Bill 43 extends the termination date for the Big Game Commercial Services Board until June 30th, 2025. The board consists of two licensed Registered Guide-Outfitters, two licensed Transporters, two private landholders, two public members, and one member from the Board of Game.

Legislative Audit conducted their review of this board and determined that "The audit concluded that the board served the public's interest by conducting meetings in accordance with applicable laws, amending regulations to improve occupations under the board's purview, and supporting changes by the Department of Law to improve the timeliness of the disciplinary process. In accordance with AS 08.03.010(c)(9), the

board is scheduled to terminate on June 30, 2019. We recommend that the legislature extend the board's termination to June 30, 2025, which is two years less than the eight-year maximum allowed for in statute."

The Big Game Commercial Services Board plays an important role in managing the activities of commercial game hunters in the interest of the State's wildlife resources.

Thank you for your consideration of this legislation.

Senator Wilson noted that Legislative Audit had made three recommendations for improvement to the board. He noted that the recommendations were not only the purview of the board, but of the Division of Corporations, Business and Professional Licensing. He read the recommendations on page 1 of the document "A Sunset Review of the Department of Commerce, Community, and Economic Development, Big Game Commercial Services Board (board)," (copy on file):

1. The Division of Corporations, Business, and Professional Licensing's (DCBPL) director should improve management oversight procedures to ensure required documentation is obtained, reviewed, and retained to support licensure.
2. DCBPL's chief investigator should increase oversight to improve the timeliness of investigations.
3. The Office of the Governor, Boards and Commissions director should work with the board to identify potential applicants in a timely manner.

Senator Wilson continued that DCBPL had recognized the need for additional supervisory support to provide quality control. Also, DCBPL had added supervisors - an addition to examiner's work in improving training and procedures. In addition, there was a new chief investigator, and two senior investigators to provide more quality assurance. He asserted that the division had heard the message from Legislative Audit and was working to hold investigators accountable for paperwork.

[9:45:32 AM](#)

Senator Wilson directed attention to a letter from Jason Bunch, a member of the Big Game Commercial Services Board, (copy on file) that addressed open cases. He relayed that in FY 2015, the board carried a deficit of approximately \$1 million, but would end FY 2018 with a positive balance of approximately \$100,000. He said that the board had 56 current open cases, 19 of which were prepared for review by the board in April 2019. He said that 13 cases were currently active with Alaska Wildlife Troopers, 10 cases were at some level of litigation, 2 cases were complete and awaiting action, 12 cases were ongoing. He said that investigations could be lengthy and consisted of many levels of scrutiny. He said that once DPS closed a case they would contact the division with direction for guides. He noted that the duties of the board were outlined in AS 08.54.60. He mentioned that the main issue stemmed from imposing disciplinary sanctions upon licensees. He thought that perhaps the issue could be addressed in a different bill and was not addressed in SB 43.

[9:50:12 AM](#)

Senator Wilson reviewed the did a brief sectional analysis of the bill. He said that Section 1 would extend the sunset date to June 30, 2025, and Section 2 provided for an immediate effective date.

[9:50:30 AM](#)

Senator Olson noted that the board extension was proposed for six years. He wondered about the length of the extension and asked whether the proposed extension had come from the auditor's report.

Senator Wilson had relied upon expertise of the Division of Legislative Audit and had considered their recommendation when crafting the bill.

[9:51:52 AM](#)

Co-Chair von Imhof reminded that there would be public testimony. She relayed the list of invited testifiers.

[9:52:40 AM](#)

KRIS CURTIS, LEGISLATIVE AUDITOR, ALASKA DIVISION OF LEGISLATIVE AUDIT, addressed the document "A Sunset Review

of the Department of Commerce, Community, and Economic Development, Big Game Commercial Services Board (board)," (copy on file). She stated that the audit concluded that the board served the public's interest by conducting meetings in accordance with applicable laws, amending regulations to improve occupations under the board's purview, and supporting changes by the Department of Law to improve the timeliness of the disciplinary process. Additionally, the board worked to eliminate the over \$1 million deficit reported in the prior 2015 sunset audit.

Ms. Curtis furthered that the audit also concluded that board licenses were not consistently supported by adequate documentation, a high number of investigations had unjustified periods of inactivity, and three board positions were vacant for an extended period. She relayed that the division recommended a 6-year extension for the board.

Ms. Curtis referenced Page 8 of the audit:

As of May 31, 2018, there was a total of 1,219 active licensees, representing a 20 percent decrease from the 1,532 reported in the 2015 sunset audit.⁵ According to the board chair, the decrease is due, in part, to guides retiring and a reduced interest in the profession. Additionally, the chair reported there were less transporters because many changed to operating as air taxis to avoid the licensed transporter reporting requirements and fees.

As of April 2015, there were 151 licensed transporters compared to 90 as of May 2018, representing a 40 percent reduction in the number of transporters. Auditors also noted a large drop in assistant guides and registered guide-outfitters. The prior audit reported 742 and 399 licensees respectively as of April 2015. The numbers dropped to 583 and 322 as of May 2018.

Ms. Curtis noted the schedule of revenues and expenditures on Page 10. She relayed that the board had a surplus of just over \$132,000 at the end of FY 2018, which was significant because the board had been able to eliminate and over \$1 million deficit.

Ms. Curtis read the recommendations for improvements found on Page 14:

Recommendation No. 1:

DCBPL's director should improve management oversight procedures to ensure required documentation is obtained, reviewed, and retained to support licensure.

The audit found that DCBPL staff did not consistently license individuals according to statutes and regulations. Fourteen of 25 new licenses (56 percent) tested as part of the audit did not have sufficient documentation to support licensure and four applicants had more than one deficiency identified. Deficient documentation included:

- seven license files were missing or had outdated background checks required by law (public safety or wildlife enforcement);
- two lacked adequate investigatory or supervisory review and one lacked additional board approval of applicants potentially not meeting professional fitness requirements required by AS 08.01.075(c) and DCBPL policy;
- one license lacked a board majority vote to support licensure when an investigation of a professional fitness question was completed. Per DCBPL policy, the application should have been approved by the board;
- one lacked a valid first aid certification required by 12 AAC 75.130(a)(3); and,
- one lacked verification of an out-of-state license in good standing required by 12 AAC 75.130(a)(8).

In 2005 the board delegated to DCBPL the authority to review applications and issue licenses. Per AS 08.01.050(a)(3), (9), and (14), DCBPL is responsible for overseeing the licensing activity for the board. The deficiencies were caused, in part, by DCBPL management's lack of adequate oversight procedures to ensure all board required documentation was obtained, reviewed, and retained to support licensure. Additionally, seven of the 25 new licensing files lacked complete application checklists. Application checklists are DCBPL's internal control to ensure files are complete and that all requirements are met prior to licensure. According to DCBPL management,

there was turnover in the staff position providing support for this board that contributed to the deficiencies. Not licensing in accordance with laws increases the risk to public safety and the State's wildlife resources.

We recommend DCBPL's director improve management oversight procedures to ensure required documentation is obtained, reviewed, and retained to support licensure.

[9:56:24 AM](#)

Ms. Curtis continued to discuss the division's recommendations:

Recommendation No. 2:
DCBPL's chief investigator should increase oversight to improve the timeliness of investigations.

The audit reviewed 22 of 145 cases open for over 180 days between July 2015 and May 2018. Twenty of the 22 cases were found to have unjustified periods of inactivity ranging from two months to 18 months. According to the chief investigator, periods of inactivity were due, in part, to a lack of adequate resources to investigate the large case load and supervisors not adequately monitoring cases.

Per AS 08.01.050(a)(19), DCBPL is responsible for investigating and monitoring occupational licensing activity. Investigations and complaints that sit idle for extended periods increase the risk to public safety and the State's wildlife resources.

We recommend DCBPL's chief investigator increase oversight to improve the timeliness of investigations.

Recommendation No. 3:
The Office of the Governor, Boards and Commissions director should work with the board to identify potential applicants in a timely manner.

From July 2015 through May 2018, a licensed transporter board position and a private landholder board position were vacant for six months due to an inability to identify interested applicants.

Furthermore, one board position occupied by a member of the Board of Game was vacant for eight months because Office of the Governor, Boards and Commissions staff were not notified of the vacancy. As of September 2018, all board positions were filled except one landholder position.

Per AS 08.54.591, the board is statutorily required to consist of nine members covering specific areas of expertise and experience including two licensed transporters and two members who represent private landholders affected by guided hunting activities or transportation services. The private landholder positions must not hold a guide or transporter license. According to the Boards and Commissions staff, the two licensed transporters and two private landholder positions have been difficult to fill due to a limited pool of qualified candidates. Private land affected by guided hunting or transportation activities is often owned by large private landholders which limits the pool of potential applicants. Additionally, the number of licensed transporters decreased 40 percent from FY 15 to FY 18 further limiting the pool of potential applicants.

Board vacancies reduce input from the specific groups represented by the vacant positions. Vacancies may also result in a lack of quorum and an inability to efficiently conduct board business.

We recommend the Boards and Commissions director work with the board to identify potential applicants in a timely manner.

Ms. Curtis stated that response to the audit began on Page 23. She relayed that the commissioner of DCCED agreed with recommendations 1 and 2 and had taken steps to resolve both recommendations. The Office of the Governor' response could be found on Page 27; they agreed to work to fill vacancies in a timely manner. She concluded that the chair of the board's response was on Page 29. The chair agreed to work with the governor's office to fill vacancies and assured the division that at the time of the response, all board seats were filled.

[9:57:39 AM](#)

Co-Chair von Imhof solicited questions from the committee.

[9:57:51 AM](#)

Senator Olson asked why the 6-year extension was chosen over a shorter sunset timeframe.

Ms. Curtis stated that the most recent sunset audit had been three years previously, which was a short extension. She stated that due to the deficit the recommendation had been for the shorter extension of 3 years. She related that the board was serving the public interest but did typically have issues with investigations. She noted that the licensing issues were new. She said that rather than recommending the maximum extension of 8 years, 6 years had been determined in recognition of the two lingering issues.

[9:59:12 AM](#)

Senator Wielechowski thought that there had been continuing problems with the board. In 2011, the board had only been extended for 4 years, and for 3 in 2015. He thought the issues had been substantial. He asked about the recommendation for the 6-year extension and wondered whether there this was because of improvements in board practices.

Ms. Curtis responded that the board had addressed the matter of hunt records, which were now used by municipalities in the assessment of taxes. She noted the board had addressed the deficit and stated that, in general, the board had improved.

[10:00:47 AM](#)

Senator Wielechowski asked whether the board had placed the responsibility of its issues on the DCBPL.

Ms. Curtis thought it was a fair assessment with recommendations 1 and 2. She said that the board had delegated the responsibility for issuing licenses to DCBPL, but the board was still accountable for issues and were required to provide oversight.

[10:01:50 AM](#)

Senator Wielechowski asked how to fix the problems of deficiencies at DCBPL.

Ms. Curtis stated that the Division of Legislative Audit would not be looking at DCBPL for another 6 years, regarding this board. She stressed that DCBPL was investigated every year for sunset audits for various other boards.

[10:02:36 AM](#)

Senator Shower was concerned about the continuing issues with the board. He wondered whether the extension should be shorter than 6 years. He asked what mechanism was available to consider the issues after the passage of a 6-year extension.

Ms. Curtis stated that consideration through the sunset audit process would not be available for six years after the passage of the bill, however, a special audit could be done. The legislature could always go directly to the department for updated information.

Senator Shower wondered whether special audits took additional time and money.

Ms. Curtis stated that the performance audit would not increase the budget of the division.

Co-Chair von Imhof noted that Ms. Curtis had several audits to balance and was only one layer in evaluating various boards.

[10:05:24 AM](#)

SARA CHAMBERS, DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, stated that she had been asked to provide a response from the administration and focus on some concerns that had been raised, particularly regarding investigations. She stated that DCBPL oversaw 21 licensing boards, and 22 additional professions that were managed without a board, within the division. She stated that the division always appreciated the audit process and agreed with the audit findings. There had been significant turnover in the single licensing position for the program, as well as the supervisor that

oversaw the program. she relayed that the audit, as well as other audits of other boards, had shared similar concerns; it was a matter of balancing keeping government lean, while being able to do mandated work. Since she was appointed as director, she felt accountable for her staff responding to audit concerns.

Ms. Chambers thought Senator Wilson had provided a great overview of some of the concerns about investigations and the governor had recently authorized Administrative Order 306, which provides for the consolidation of investigative activities and personnel in the Department of Law during FY 2020. She shared that the division would be partnering with other agencies during the transition to assure that everyone understood the expectations of investigative responsibilities.

[10:08:42 AM](#)

Ms. Chambers addressed the subject of investigations and noted that concerns raised in the audit pertained to documentation. There could be long delays in investigations, but if the matters were well-monitored, the delays could be substantiated and justified. Since the closure of the May 2018 audit period, standard operating procedures required mandatory documentation of each case must be completed every 30 to 45 days; meaning that there would be no case, in any of the 43 professions, that would go longer than 45 days without written justification. She said that a supervisory review was mandated for every 90 days, at which time every supervisor would sit down with an investigator to assess the cases in each profession. She believed that maintaining management accountability would alleviate the issue.

[10:10:44 AM](#)

Ms. Chambers asserted that there could be many reasons for delays in investigations. She thought there had been public concern over the length of delays. She thought due process could delay the process. She said that Alaska Wildlife Troopers were often pursuing criminal indictments that would ten result in a licensing finding. Because the division was not trained to be criminal investigators, it partnered with the Department of Public Safety (DPS) and put cases in a "monitor status" in case management software, updating them every 30 to 45 days.

[10:12:10 AM](#)

Ms. Chambers continued to say that the criminal process could take up to two years but stressed that the division recognized the responsibility to review the cases regularly.

[10:12:25 AM](#)

Ms. Chambers relayed that any board was able to issue a summary suspension if it were found that there was immediate danger, or risk of danger, to the public. Examples of a summary suspensions included a healthcare provider accused of sexual assault of a patient. She used the example of a real case that included the discovery of child pornography on a physician's computer. She said that in such cases summary suspensions were swift. She did not often find that wildlife violations posed the same risk. She explained that if a licensee wounded a fellow guide, or brandished a weapon, that would be strictly scrutinized by the board. She added that wonton waste of game was a serious concern in the state and was an example of something that happened that was not of immediate risk to the public.

[10:14:40 AM](#)

Ms. Chambers said that often the process could be slowed with the wait of a response from a defendant. She stated that defendants sometimes did not want to respond or were waiting on an attorney. She relayed that a reviewing board member would meet with investigators and then provide a professional review. She said that without the board, the division would have to hire out for that expertise, which would increase cost to the state and licensees.

[10:15:52 AM](#)

Ms. Chambers continued, citing a delay in board action regarding the appeal process. She reminded the committee that the license was a property right and could not be easily curtailed or taken away. She noted that the board took disciplinary action on a license when one was warranted by the state's administrative process.

[10:17:20 AM](#)

Co-Chair von Imhof thanked Ms. Chambers for the thorough report. She pointed out the two layers to investigations: criminal and civil. She thought it was important to discuss the differences between criminal and civil investigations; and acknowledge that there should be more frequent updated to pending files.

Co-Chair von Imhof continued her remarks. She related that wildlife violations were not seen as risky as medical license violations. She wondered whether the grounds for revocation of wildlife licenses could be found in regulation or statute. She felt that hunters recreating outside of season, or outside designated areas, could put the public in harms way.

[10:19:45 AM](#)

Senator Wielechowski referenced the audit:

The audit reviewed 22 of 145 cases open for over 180 days between July 2015 and May 2018. Twenty of the 22 cases were found to have unjustified periods of inactivity ranging from two months to 18 months. According to the chief investigator, periods of inactivity were due, in part, to a lack of adequate resources to investigate the large case load and supervisors not adequately monitoring cases.

Senator Wielechowski stated that there had been no mention of waiting for criminal investigation or the appeals process. He asked whether Ms. Chambers disagreed with the findings and whether the division had adequate resources to monitor cases.

Ms. Chambers thought the findings were reflective of her testimony. She had checked with the senior investigator to ask whether there were enough investigative resources and that they did not believe that there was a current need for additional investigators for the program. She assured that committee that cross training work was being done.

[10:21:48 AM](#)

Senator Micciche referenced a case where wildlife troopers had incurred significant cost investigating a case of wonton waste and falsification of hunt records. He noted that the defendants license was currently valid. He

wondered whether the defendants license should have been revoked while under investigation.

[10:22:58 AM](#)

AT EASE

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RECONVENED

Co-Chair von Imhof requested the current status of the case referenced by Senator Micciche.

Ms. Chambers stated that the case was in process and currently with the Office of Administrative Hearings as part of the civil process. She could not specifically address the case. In general, there was an ability for the board to act and any licensee to have that action reviewed by an administrative law judge.

[10:25:11 AM](#)

Senator Micciche asked if hypothetically, in a similar case, the department would make a recommendation to revoke or suspend the license.

Ms. Chambers stated that once a criminal process was concluded, and the licenses was found guilty of a criminal violation, the board would review the information and documentation and make a recommendation for discipline up to revocation if necessary. She thought the board had shown great leadership in setting forth a disciplinary matrix and would take appropriate action. The licensee could appeal any decision.

[10:27:44 AM](#)

Co-Chair von Imhof hoped Henry Tiffany could clarify the disciplinary matrix written in statute.

Senator Bishop asked if Ms. Chambers had seen the letter from BGCSB board member Jason Bunch (copy on file). He quoted the letter:

As a member of the Big Game Commercial Services Board (BGCSB), I am amazed at the amount of mis- information that is placed on public record during committee

hearings. I would like to respond to one statement that has been made repeatedly during public testimony.

"The BGCS Board has an extensive case backlog with a resounding 200 plus investigations open".

Currently, the Investigative Division of the Division of Commerce who provides services for licenses which are under the purview of the BGCSB has approximately 56 open cases. It is important to realize case logs are ongoing, some will close soon while others will surface. The number of open cases is constantly changing due to the consistent and extremely efficient work completed daily by investigations.

The following is an account of the current 56 open cases.

19 Cases prepared for board review and ruling during the next annual meeting April 2-4, 2019

13 Cases currently active with the Alaska Wildlife Troopers. (Investigations is monitoring awaiting AWT action)

10 Cases are at some level of litigation through the Office of Administration Hearings.

2 Cases are complete and in the hands of the respondents to accept or reject the proposed actions in

accordance with the administrative process.

12 Cases are ongoing; 7 are Breach of Contract Complaint issues, 4 are license application problems.

As you can see by this factual information provided by the Division of Commerce Investigations division, much information is being provided that is blatantly false. I send you this letter because I truly believe it is our responsibility to identify fact from unsubstantiated claims when making decisions that will effect the people of Alaska and its natural resources.

Ms. Chambers felt that sometimes information was presented to legislators by people who were not fully informed. She agreed with Mr. Bunch's documentation of numbers of active cases.

Senator Bishop had heard the bill previously in the Senate Resources Committee. He found it troubling that guides might not be held to the highest ethical standards. He asked whether the caseload was out of the norm or was on par with other boards.

Ms. Chambers offered to follow up with Senator Bishop later to review investigative statistics and a caseload comparison. She stated that each profession had wildly differing number of licensees. She thought that a comparison from profession to profession regarding the investigative caseload could be helpful to the committee. She wondered whether a review of the statutory thresholds for guiding could be in order in the future.

[10:32:14 AM](#)

HENRY TIFFANY, CHAIRMAN; BIG GAME COMMERCIAL SERVICES BOARD, FAIRBANKS (via teleconference), testified in support of the bill.

Co-Chair von Imhof asked Mr. Tiffany to comment on the board's statutory disciplinary matrix and whether it was enough to address the wide variety of violation seen in current cases.

Mr. Tiffany stated that the matrix was now referred to Disciplinary Guidelines and Precedence. He asserted that the board and members were very concerned with individual licensee's due process. He relayed that it was not allowable for the board to seek action on a license unless the issue was brought before the board through an investigative arm or a complaint made directly to an investigator. He shared that there was a simple form to fill out to alert investigators to issues and the form was an accountability measure. He said that he might hear about a possible violation but until the complain went through proper due process no board action could be taken.

[10:36:14 AM](#)

Mr. Tiffany continued to discuss violations and the disciplinary matrix. He said that the matrix had been developed to be fair and unbiased in the doling out of appropriate sanctions. He thought the matrix worked well. He said that if an individual felt they were treated unfairly the matrix could be referenced for clarity.

Co-Chair von Imhof noted that there were 4 people signed up for public testimony. She asked whether Mr. Tiffany could stand by for questions.

Mr. Tiffany replied in the affirmative.

[10:38:54 AM](#)

Co-Chair von Imhof OPENED public testimony.

JASON BUNCH, MEMBER, BIG GAME COMMERCIAL SERVICES BOARD, KODIAK (via teleconference), testified in support of the bill. He opined that the sunset process was time consuming for board volunteers. He said that the time spent on the sunset process could be better used by board members. He shared that he had put in many hours on the sunset issue. He asserted that licensees under the board were good businessmen. He noted that the 139 open cases did not necessarily represent 139 different individuals.

[10:42:05 AM](#)

SAM ROHRER, PRESIDENT, ALASKA PROFESSIONAL HUNTERS ASSOCIATION, KODIAK (via teleconference), spoke in strong support of the bill. He felt that the board was critical to the health the guiding industry in Alaska. He reiterated the board's work in getting out of significant debt. He spoke to the beneficial work done by the board. He feared that if the board were not renewed, licensing standards would suffer. He added that the board provided the only interface between the Division of Licensing and the guiding industry. Without the board the public would have little opportunity to influence the regulations that control the guiding industry.

[10:44:39 AM](#)

MARK RICHARDS, EXECUTIVE DIRECTOR, RESIDENT HUNTERS OF ALASKA, FAIRBANKS (via teleconference), spoke to the investigative issues raised by the audit. He spoke to his letter (copy on file). He expressed concern with the current matrix used in the disciplinary process. He believed that there were serious issues within the Title 8 statutes that should be seriously looked at by the legislature. He supported only a two-year extension for the board.

[10:48:02 AM](#)

SCOTT OGAN, FORMER MEMBER, BIG GAME COMMERCIAL SERVICES BOARD, JUNEAU, testified in support of the bill. He offered some history of his relationship with the board. He feared that eliminating the board would embolden unethical guides.

[10:50:10 AM](#)

Co-Chair von Imhof CLOSED public testimony.

[10:50:23 AM](#)

Mr. Tiffany fully supported the six-year extension as proposed in the bill. He thought the board provided an asset in the public's best interest. He thought the board had a clear record of transparency. He referenced a letter from Mr. Robert Cassell (copy on file). He considered that the issue raised in the letter was out-of-date. He said that he had investigated Mr. Cassell's case and investigators revealed that his 3 licenses had been revoked. He said that Mr. Cassell had not been in compliance with the requirements laid out by the Department of Fish and Game and would not be able to practice until her did so. He stressed that the issue would not be brought before the board until due process had been concluded. He clarified that the board could not address issues that had not been formally brought before them. He reiterated that the backlog of 200 cases was not factual information.

[10:54:21 AM](#)

Co-Chair von Imhof summarized the committee discussion for SB 43.

SB 43 was HEARD and HELD in committee for further consideration.

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ADJOURNMENT

[10:55:52 AM](#)

The meeting was adjourned at 10:55 a.m.