

ALASKA STATE LEGISLATURE
SENATE RESOURCES COMMITTEE

April 4, 2001
3:40 p.m.

MEMBERS PRESENT

Senator John Torgerson, Chair
Senator Drue Pearce, Vice Chair
Senator Robin Taylor
Senator Kim Elton
Senator Georgianna Lincoln

MEMBERS ABSENT

Senator Rick Halford
Senator Pete Kelly

COMMITTEE CALENDAR

SENATE BILL NO. 35

"An Act relating to electronic application for and issuance of licenses, permits, and tags issued by the Department of Fish and Game; relating to violations regarding a license, permit, or tag applied for or issued electronically; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 139

"An Act relating to fees for certain uses of state water and the accounting and appropriation of those fees; relating to authorizations for the temporary use of state water; making other amendments to the Alaska Water Use Act; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 167

"An Act instructing the commissioner of natural resources to issue a patent for the remaining interest in certain state land to the owner of the agricultural rights to that land."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

SB 35 - No previous action to record.

SB 139 - No previous action to record.

SB 167 - No previous action to record.

WITNESS REGISTER

Mr. Kevin Brooks, Director
Division of Administrative Services
Department of Fish and Game
P.O Box 25526
Juneau AK 99811

POSITION STATEMENT: Supported SB 35.

Captain Howard Starbard
Division of Wildlife Protection
Department of Public Safety
453 South Valley Way
Palmer AK 99577

POSITION STATEMENT: Commented on SB 35.

Mr. Bob Loeffler, Director
Division of Mining, Land and Water
Department of Natural Resources
550 W 7th Ave., Ste 1070
Anchorage AK 99501

POSITION STATEMENT: Commented on SB 139 and SB 167.

Mr. Stan Foo
Alaska Miners Association
3301 Arctic Blvd., #202
Anchorage AK 99501

POSITION STATEMENT: Supported SB 139.

Mr. Bob Stiles, President
DRven Corporation
711 H St. #600
Anchorage AK 99501

POSITION STATEMENT: Supported SB 139.

Mr. Tadd Owens, Executive Director
Regional Development Corporation (RDC)
121 W. Fireweed #250
Anchorage AK 99504

POSITION STATEMENT: Opposed SB 139.

Ms. Pam Miller
P.O. Box 101811
Anchorage AK 99504

POSITION STATEMENT: Opposed SB 139.

Mr. Bill Ward
Ward Farms
P.O. Box 1087
Delta Junction AK 99737

POSITION STATEMENT: Opposed SB 139 and supported SB 167.

Mr. Gary Sonnichsen
P.O. Box 1506
Delta Junction AK 99737

POSITION STATEMENT: Opposed SB 139.

Mr. Bill Michel
P.O. Box 708
Delta Junction AK 99737

POSITION STATEMENT: Opposed SB 139.

Mr. Keith Warren
P.O. Box 1564
Delta Junction AK 99737

POSITION STATEMENT: Opposed SB 139.

Mr. John Wenger
HC 60 Box 280
Copper Center AK 99573

POSITION STATEMENT: Opposed SB 139.

Mr. Harvey Leonard
HC 60 Box 315
Copper Center AK 99573

POSITION STATEMENT: Opposed SB 139.

Mr. Al Roig
HC 60 Box 274
Copper Center AK 99573

POSITION STATEMENT: Opposed SB 139.

Mr. Eric Nashlund
HC 60 Box 271
Copper Center AK 99573

POSITION STATEMENT: Supported SB 139.

Mr. Sam Lightwood
HC 60 Box 229
Copper Center AK 99573

POSITION STATEMENT: Supported SB 139.

Mr. John Kunik
P.O. Box 83
Glennallen AK 99588

POSITION STATEMENT: Opposed SB 139.

Mr. Matt Krinke
P.O. Box 545
Glennallen AK 99588

POSITION STATEMENT: Opposed SB 139.

Mr. Daniel Boone
P.O. Box 53
Chitina AK 99566

POSITION STATEMENT: Opposed SB 139.

Mr. Darwin Peterson
Staff to Senator Torgerson
State Capitol Bldg.
Juneau AK 99811

POSITION STATEMENT: Commented on SB 167 for sponsor.

Mr. Frank Miller
Ninilchik AK

POSITION STATEMENT: Supported SB 167.

Mr. Chuck Graham
Hope AK

POSITION STATEMENT: Supported SB 167.

ACTION NARRATIVE

TAPE 01-27, SIDE A

Number 001
#SB35

SB 35-ELECTRONIC FISH & GAME LICENSURE

CHAIRMAN JOHN TORGERSON called the Senate Resources Committee meeting to order at 3:40 p.m. and announced SB 35 to be up for consideration.

MR. KEVIN BROOKS, Director, Division of Administrative Service, Alaska Department of Fish and Game (ADF&G), said that at the end of 1999 the department had application available on the Internet for purchase of fish and game licenses, which proved to be popular. ADF&G sold nearly 10,000 pieces of stock and generated over \$800,000 of revenue using this method. The total revenue for ADF&G for one year is about \$23 million and 700,000 - 800,000 pieces of stock. The response from the public has been very positive, but ADF&G has found that the statutes as written presume a paper process. The Internet application takes 24 - 48 hours for the department to process. It works well for non-residents because there is a lot more preplanning that goes into their trips, but

ADF&G is trying to bridge the gap for those people who would want to fish the same day. He said ADF&G does not anticipate that Internet applications will take the place of over-the-counter sales. ADF&G has over 1,500 vendors statewide that it appreciates doing business with.

SB 35 would allow ADF&G, in conjunction with the Department of Public Safety and the Fish and Wildlife Protection, to develop a paperless method of issuing licenses. Currently four other states, Idaho, Georgia, Oklahoma, and Florida, use a "smart number." The number includes digits that identify the license year and gender of the individual and possibly other information. The number would be encoded and the bill would require the individual who decides to purchase a license in this manner to agree to carry a picture I.D., which would help enforcement.

MR. BROOKS said ADF&G is trying to take three things into account in changing the licensing system: it wants to make sure it is enhancing public service; it is not doing anything to jeopardize enforcement efforts; and it is not doing anything that would negatively affect the revenue stream.

He said ADF&G has attempted to address some of the potential issues by requiring a best interest finding and getting the concurrence of the Division of Enforcement, which has expressed concerns about going paperless. Another issue of importance is finding a good way to record the harvest. The bill would give legislative approval to pursue electronic licensing.

CHAIRMAN TORGERSON said he had some of the same concerns about recording harvest.

MR. BROOKS said they have discussed whether making the licensing system easier for a person would make someone who is otherwise honest more prone to cheat on a license. He said ADF&G needs to work with the Board of Game to find an effective way to use a harvest ticket that is based on the honor system.

CHAIRMAN TORGERSON responded "It's only an honor system if you got away with it."

MR. BROOKS agreed. He said that a person is supposed to record a harvest "while the slime is still on your hands."

CHAIRMAN TORGERSON said he didn't see how a person, "could do it with a beautiful picture I.D. card that says Alaska Fish and Game on it."

MR. BROOKS responded that a separate harvest ticket would be the option.

CHAIRMAN TORGERSON replied then ADF&G has to mail it so it might as well keep the other system.

MR. BROOKS responded that he didn't view that as a reason not to try to make this a better system.

CHAIRMAN TORGERSON said he would like to see the whole system before he gives him a bill.

SENATOR ELTON said it seems that one of the check points that may get to that issue is that this will not happen unless the Division of Enforcement concurs that it works for them.

CAPTAIN HOWARD STARBARD, Division of Wildlife Protection, Department of Public Safety (DPS), said the bill as written would cause the Department of Fish and Game to get concurrence from his commissioner when the system would come up. He thought electronic licensing and recording of harvest would be hard to enforce.

CHAIRMAN TORGERSON asked if he envisioned that each officer would use some sort of mini-computer to look up an I.D. number to see if it's current.

CAPTAIN STARBARD answered affirmatively and said that they could use something like a palm pilot.

SENATOR ELTON noted the bill has a zero fiscal note, but that they would allow the vendor to assess up to \$3 more for the issuance of a permit or license electronically, but the \$3 would be retained by the vendor so it doesn't increase revenues to the department at all.

MR. BROOKS responded that is correct and explained that currently a vendor gets 5 percent of the gross sale, plus \$1 per item. The commission for a fishing license and a king salmon stamp is about \$3 for a resident. A non-resident sale is substantially higher. He pointed out that section really only applies if the department contracts with someone to do it for them. Currently, the Internet sales are made by the state so no vendor commission is paid. All of the money goes into the ADF&G fund.

SENATOR ELTON asked if this could show a positive fiscal impact because the more licenses the department sells electronically, the less discount it will be giving to vendors.

MR. BROOKS replied that is correct. He added that the database often has a 90 - 100 day lag to data capture using a vendor who reports monthly. With Internet sales, there's instant update of the database and the department doesn't have to hire someone to capture the data.

CHAIRMAN TORGERSON said they could use a driver's license so they aren't giving everyone new numbers.

MR. BROOKS said they discussed drivers' licenses, but not every one carries a license either.

CHAIRMAN TORGERSON said the committee would set this aside until Mr. Brooks came back with a master plan.

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#SB139

SB 139-STATE WATER USE

CHAIRMAN TORGERSON announced SB 139 to be up for consideration.

MR. BOB LOEFFLER, Director, Division of Mining, Land and Water, Department of Natural Resources (DNR), said he wanted to first describe the problem this bill solves and then go through what the bill does and explain how it's one part of the solution. He told members:

In order to withdraw a significant amount of water from the state, you need a water right if it's a permanent withdrawal and a temporary water use authorization if it's temporary for five years.

The basic problem we have is right now the system is broken. We cannot issue the water rights that people request. We don't provide the services that Alaskans need. At the peak, this program had \$1.6 million in the program and 39 full-time people. Two years ago it was down to \$325,000 and four people and quite frankly that's not enough to run the program that we have now - a program that maintains 21,000 water rights files, receives 250 applications for water rights and 150 applications for temporary water use permits.

The consequences of those four people not being able to run the system is a backlog. We now have a backlog of 600 - 700 water right applications and a total of 3,000 actions - transfer, extensions and things like that. The consequences of that backlog are threefold: people call

me up and say, 'When am I going to get my water right?' and I have to say, 'Well, given our back log, it's going to be two to three years.' And then they say, 'I can't do my development for two to three years? If I withdraw water, I'm going to break the law for two to three years?'

That's not the way government should be run and that's not a service that I'm proud to provide.

The second consequence is because of a staff that's trying to do things with shortcuts, we're targeted for litigation and we almost lost a year of exploration at NorthStar.

The third consequence, of course, is that people go ahead and withdraw water without a permit. Often, that probably does very little harm to the resource. Occasionally, it does risk a resource. That's the problem we need to solve. It's a problem of a group that cannot run the program that we have today. It's not a problem created by a particular legislature or administration. We have had declining budgets for 20 years. This bill is one part of a three-part solution. I would like to describe again those three parts so you can see how the bill fits in and then I would like to go to what the bill does.

The three parts of the solution we envision are first, we cannot continue to administer a program designed in the early 80s with budgets for this millennium. So we need to find a way to do more with less and perhaps to provide less service for less money, which will run the program on a smaller budget. To that end we're proposing regulations in the next two to three weeks that should significantly streamline the program and allow those water withdrawals that are least likely to affect the environment or other users go much quicker. We think 65 percent of our caseload will fall into that category.

The second is even a streamlined program needs more than four people to run it. So to that end there is an increment in this year's budget for an additional \$300,000 to both run the program and in four or five years rid us of the backlog. The performance measures I put down for that increment was that we would do a typical water right within 60 days and a typical temporary water use permit within about 15 days.

The third part - streamline program - more money, is this bill does two things. The first thing it does is try to provide a long term income source to fund the program. I'm easy. Any way we get the money, we'll take it to run the program to provide the services that I think Alaskans need. But this bill tries to provide a long-term income source to do that and it does that through recommending water use fees. When you get a water right, it's a right forever. You never need to touch it again. This scale would assess a sliding scale water use fee. I've been shopping that around and I'd like to tell you the reactions I get from people about that. But first let me tell you what the second part of the bill does. Our temporary water use program, which we use for temporary water uses, has been the subject of a significant amount of litigation on the North Slope. It is a program that was implied by statute, but created in regulations. This bill would, in fact, provide explicit legislative authority for how the program has been working for 20 years. Some validated permits have been called into question by some of the North Slope rulings. So that's what the bill does. It does two things, a long-term income source for the program and explicit legislative authorization for a temporary water use fee program. It does not change how we run the water use program.

Number 1500

MR. LOEFFLER said he produced a proposed amendment as the result of the reactions he received after showing this around in the mining community, the agriculture community, the Alaska Water Resources Association, the Resource Development Council and environmental groups. The groups came to the consensus that this is a problem. The state is not providing services that people demand and the problem needs to be fixed. He said:

With respect to charging it through temporary water use fees, although there was some agreement, that is, an annual fee on your property right, the reaction ranged from reluctant approval to disgust to outright hostility. In a sense, people were saying, 'You have a problem, but this is a silly way to fix it.'

What they were suggesting was a number of things: one, that an annual fee on a property that you own was inappropriate and no other state works that way and second, they were concerned, quite frankly, that there were no bounds to how much I could charge in the bill nor did existing permittees want to fund the 20-year backlog.

So what was suggested instead is that they said you should charge people for the services you provide. You should charge people the reasonable direct cost of the permit application and that suggestion was pioneered by the legislature in HB 361 last year, commonly called the DEC fees bill.

MR. LOEFFLER said the proposed amendment is the DEC fees bill. It puts into statute a framework that directs DNR to charge the reasonable direct costs of processing those applications and that's the long-term income source.

MR. STAN FOO, Alaska Miners Association (AMA), stated support for SB 139. He said the AMA appreciates the department's efforts to address this issue that involves all water users. The AMA also supports the technical amendments and is encouraged by the effort to use the DEC fees bill in the framework for this effort. However, he expressed concern that water fees should not be necessary for uses such as suction dredges or water that's collected and released back into a stream.

MR. BOB STILES, President, Drven Corporation, said he was testifying on behalf of the Drven Corporation. Drven supports the technical amendments to this bill and recognizes the problems that DNR faces. DNR is charged with managing a resource that often has no constituency. One of the main reasons he is present today is to illustrate that water rights, while they are not flashy, do have a constituency.

MR. TADD OWENS, Executive Director, Resource Development Council (RDC), said the RDC worked for about 2 1/2 years with a diverse group of industry representatives, the legislature and DEC to pass HB 361 and they support the department's recommendation that this program be added into that structure for fees. It distributes the burden of the program's costs fairly between the private sector, in terms of industry applying for these permits, and the public at large. He stated, "Another critical issue this bill solves is DNR's backlog. There are a lot of folks out there who are operating essentially without their authorization and we do support DNR's request for funding to take care of that backlog."

MS. PAM MILLER, an Anchorage resident, said she is concerned about SB 139 as Alaska has the best water statutes in the nation that were set up to protect Alaska's clean water, fish and wildlife.

MR. BILL WARD, Ward Farms, opposed SB 139, and said he came from states where water was a very valuable commodity and water rights were sought after. They were handled with very little bureaucracy and overhead. He said the bureaucracy in Alaska is quite large; to get water rights he had to go through ADF&G, the Department of Environmental Conservation and Coastal Zone Management. He is

concerned that "reasonable fees" is more for government than it would be for the private sector. He said he uses half the amount of water exempted from a residential household, or about 800 gallons. He is stuck between the big commercial rigs and the residential users. He warned, "If you want to make money for the general fund, that's okay, but please don't set up a level of bureaucracy over nothing more than people to shuffle papers."

MR. GARY SONNICHSEN, a Big Delta resident, supported Mr. Ward's testimony and opposed SB 139. He said the department's plan is to charge more fees to add a lot more government and a lot more paperwork, which will create more problems.

MR. BILL MICHEL, a Delta Junction resident, said he didn't think the state had any surface or subsurface rights to the water. Therefore, they have no business to tax it.

MR. KEITH WARREN, a Delta Junction resident, said in the private sector, if you can't make your budgets for whatever reason, you've got to dole it out. He thought the government should take this lesson from the private sector. He opposed SB 139.

MR. JOHN WENGER, a Copper Center resident, supported Mr. Ward's testimony 100 percent and said what really concerns him is that the next largest user group is the public water supply. If Copper Center's water supply falls under the department's over 15,000 gallon a day category and the people have to start paying fees, it would put a lot of people back financially.

MR. HARVEY LEONARD, a Copper Center resident, opposed SB 139. He thought it was another attempt by bureaucracy to make them pay for something they don't have the money to pay for.

MR. AL ROIG, a Copper Center resident, opposed SB 139. He thought the bill was poorly written and would do nothing but create a larger bureaucracy.

MR. ERIC NASHLUND, a Copper Center resident, said that SB 139 is just a revenue-generating source.

TAPE 01-27, SIDE B

MR. SAM LIGHTWOOD, a Copper Center resident, said the legislature is requiring fees and other small amounts for services that the state normally provides for its citizens. Mr. Ward said he had to apply for four different water rights permits. That is duplicative and makes the process so complicated. He noted, "It was much better when we had a little more adequate funding from the legislature directing to provide these services to people. The answer to that, of course, is the legislature needs to find better sources of their funding. They are nickel and diming everyone to death and the

overall plan has to be worked out."

He thought the legislature should reinstate the income tax and said, "I hope I get out of here alive."

MR. JOHN KUNIK, a Glennallen resident, said the bill would require water meters, meter readers, installation crews, law enforcement, etc. He asked what would happen to individuals who live on federal lands who use water and how all the water would be metered.

MR. MATT KRINKE, a Glennallen resident, opposed SB 139. He said [he] can't afford the money to pay for the bureaucracy.

CHAIRMAN TORGERSON asked if the bill will affect water rights on federal land.

MR. LOEFFLER answered that all water is reserved by the state. There is an implied federal water right that the feds have a right to for certain federal lands, but it is determined through a joint process that is very complicated or typically they just come to the state for a water right.

CHAIRMAN TORGERSON asked if the state could bill them more than it does Alaskans or whether they are billed at all.

MR. LOEFFLER replied that they are billed an application fee like everyone else.

MR. DANIEL BOONE, a Chitina resident, said, "I don't think this is a good bill. One of the main reasons is that a few years ago the State of Alaska left us millions of dollars in hydro projects for small communities around the state, like Bradley Lake. By charging a fee to the electric companies and the small private utilities to generate cheaper electricity, the rates will immediately increase probably twofold." He said the other reason he is against the bill is that too many places in Alaska have "public wells" and this bill would increase the fees on them.

SENATOR ELTON referenced the language on page 5, line 24, and asked if AS 46.15.080 applies to the issuance or extension under this section of an authorization for temporary use of water. He said "Temporary" is defined as five years and possibly 10 years under the extension according to a conversation he had with Mr. Loeffler. He did not understand why Mr. Loeffler didn't want the provisions of that to apply when the provisions say that the commissioner has to consider the effect on fish and game resources, public health and economic activity resulting from the activity.

MR. LOEFFLER responded that they consider the effect on fish resources and public health before they prioritize water users, "but a temporary water use does not convey a property right. OAO

gives us a best interest criterion before we convey a property right. This is part of making clear that a temporary water use authorization is, in fact, a revocable authorization - does not convey a property right or anything like a property right. But certainly we work very closely with Fish and Game to take into account any affect on fish resources, wildlife, or, for that matter, prior water right holders."

SENATOR ELTON said, "I understand that you want to make a distinction between a permit and a temporary water authorization."

He asked where in statute it compels Mr. Loeffler to consider the effect on fish and game resources or public health or other economic activities for a temporary authorization if he is exempting himself from those provisions.

MR. LOEFFLER answered that he is required to consult with ADF&G. Under subsection (f), he is expected to put limitations on protecting the rights of other people and the public interest. The methods and regulations he has been dealing with for 20 years also require him to do that and that's been the department's mode of operation. He said he would have to get back to him with a complete answer.

SENATOR ELTON asked, "I took a look at the public notice section that is repealed under this bill and it seems to me that I know that public notice can be onerous, but the public notice provisions here provide that within 15 days of publication of notice, an interested person may file an objection and that the commissioner has to consider that objection within 30 days, can extend that to 180 days, if the commissioner thinks there's enough there to have a hearing - AS 46.15.133, the section that they are exempting themselves from." He said if NorthStar is exluded, he wondered why giving notice with 15 days to file an objection and giving the commissioner 30 days to make a determination has been onerous in the past.

MR. LOEFFLER answered:

Most of the temporary water use permits are for things like construction camps and when the agencies determine there is no environmental harm, a 15 to 40 day wait to halt construction in mid-summer is a problem. In areas where we think there is likely to be harm, we can public notice it and we are not prohibited from doing it. The practice for the last 20 years has been not to [indisc.] things and everyone imagines a 5-year or 10-year facility, but often we used them for DOT, which is one of our major consumers. In the middle of summer

construction, yes Senator and Mr. Chairman, a 15 - 30 day delay is a problem.

When we are giving a state resource away forever, which is a water right, we're constitutionally required to do public notice. But for something that we believe that we, the agencies, determine won't harm the environment or other water users and is temporary and is revocable if there is a problem that delay often will cause a problem.

SENATOR ELTON responded:

When you get to be my age, 10 years can seem like forever and the second comment would be that I understand that you may have a problem with DOT or someone wanting water rights for two days to make concrete or cement, but that's already covered in AS 46.15.133, because it says, the Commissioner may designate types of water appropriations that are exempt from this section. So, the commissioner isn't precluded from making a quick decision, because there is a provision that allows him to do that.

Number 1900

SENATOR LINCOLN asked Mr. Loeffler to expand on the fact that DNR expects to discount fees for non-consumptive use. She also asked what the impact of these fees would be on the previous speaker who was a farmer and, therefore, had the 800-gallon exemption per acre for 6,000 acres.

MR. LOEFFLER said:

Let me answer the second one first - what are the impacts of the fees. Under the bill as written, the fees would range from \$50 to \$500 for a water right. So if you had a water right, if you had a number of water rights, you could have multiples of \$500 each year. Although, typically we try to consolidate them for that reason. I will say that under the amendments that I suggested that you would pay the reasonable cost of adjudicating the water right and then there would be no more fees. So, for the person in Delta who has a farm, the bill as written would provide an annual fee that is a sliding scale based on the amount of water right. For the amendment, we suggested a one-time application fee that would be related to the cost of adjudicating. In an area where there's not a lot of people and not much problem with

adjudication, you would expect to have a reasonably small fee.

SENATOR LINCOLN asked if that would be less than \$1,000.

MR. LOEFFLER said he didn't know, but he thought most small water right holders would be less than \$1,000. He said he would get an estimate.

CHAIRMAN TORGERSON said they had heard the fear out there that people just don't trust government to do a reasonable fee, "and I sort of agree with that...I'd like to see what your intent is."

SENATOR LINCOLN asked him to get back to them on fees for a miner replenishing the water source that goes right back into the stream.

CHAIRMAN TORGERSON said he thought that was a suggested amendment instead of just being mentioned in a fiscal note.

SENATOR TAYLOR said: "If we're going to set any fees at all, I have voted for my last fee bill in this legislature after the blood, sweat and tears that you, Mr. Chairman, and I have put into DEC just trying to get a handle on how they were going to charge every hotdog cart out there to go inspect them and never did get a straight answer in two years. I'm not about to start increasing fees so as to support your agency."

CHAIRMAN TORGERSON noted that they had exempted the hotdog carts. He said he intended to work more on the bill starting with the North Slope.

SENATOR ELTON said he thought part of the problem was that there aren't as many people doing permits now as there used to be. One of the sad things about the testimony is that people have said they are willing to pay just to speed the process up, because waiting for two years or longer is a significant economic drain. He stated, "This is one approach. Another would be to restore funding closer to a level we had 15 or 16 years ago."

CHAIRMAN TORGERSON added, "Or exempt the users and widen the brackets a little bit more instead of worrying about the guy that carries the canteen from Anchorage to Mat-Su."

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#SB167

SB 167-AGRICULTURAL LAND

CHAIRMAN TORGERSON announced SB 167 to be up for consideration.

MR. DARWIN PETERSON, staff to Senator Torgerson, said:

This legislation is intended to resolve a problem that dates back to the 1964 earthquake. In 1943, the Ross Miller family homesteaded 27 acres of land in Hope. In the early 1950s, the Millers leased 15 acres of adjoining land from the Forest Service, which they used for pasture. During the '64 earthquake, the Millers lost 18 of their 27-acre homestead. The Earthquake Exchange Program compensated the Millers for their loss by giving them only one acre of land. Subsequently, the state determined that the Millers had been treated unfairly and were entitled to the 15 acres of leased Forest Service land as relief. In 1978, agricultural rights to this land were conveyed as provided by former state law AS 38.05.321.

For many reasons, fee simple title should have been granted at this time. Recently, DNR has declared that the state has no compelling interest in retaining the remaining interest in this property and, therefore, supports conveying full land rights. Unfortunately, there are no existing statutes that would authorize DNR to remove the agricultural restrictions on this land.

SB 167 would make a minor statutory change to correct his situation. Anyone who received agricultural rights to land under section 6(a) of the Alaska Statehood Act would be eligible for fee simple title if the owner pays the fair market value for the state's remaining interest. This would only apply to tracts that are 15 acres or less.

SENATOR TAYLOR asked if there were others in this class.

CHAIRMAN TORGERSON said he didn't think there was.

MR. LOEFFLER stated support for SB 167.

MR. BILL WARD, a Delta Junction resident, said he thought this was a reasonable circumstance to do a transfer from agricultural to fee simple and supported SB 167. He cautioned them not to use the legislative process to change the status of other agricultural lands around the state because speculators would take advantage of it.

CHAIRMAN TORGERSON said he shared his concerns and that this bill only applies to one person at 15 acres.

MR. FRANK MILLER, a Ninilchik resident, said he appreciates the work the committee has done on this bill. His one concern is

subsection (3) that says the owner of the rights for agricultural purposes pays the state the fair market value of the remaining interest in the land estate, as determined by an appraisal paid for by the owner. He said that's like buying their own land back at this point and he thought the price should go back to when the land should have been conveyed.

MR. CHUCK GRAHAM, a Hope resident, said he concurred with Mr. Miller's comments on subsection (3). The Millers have valid preference rights and should have received fee simple title some years ago. He actually thought the price should be based on the appraised value in 1967.

CHAIRMAN TORGERSON asked Mr. Loeffler how he was going to handle computing the fair market value of the Miller's property.

MR. LOEFFLER explained that they compute the market value by doing an appraisal today and subtracting the appraised value of the agricultural rights that they own. The Millers would pay the difference under this bill.

CHAIRMAN TORGERSON asked about the assertion that they are owed something because of the Earthquake Relief Act.

MR. LOEFFLER replied that he had no knowledge of that Act. He added, "All I know is that in the 60's there was a preference right they were given that allowed them to have land with an agricultural covenant. He didn't know anything about the earthquake."

SENATOR TAYLOR said that agricultural rights are basically a restriction on the land and he thought this removes the agricultural restrictions.

MR. LOEFFLER responded that they own certain rights to the land and he would give them the appraised value of the land minus the rights of the land today.

SENATOR TAYLOR asked if those rights have a value they can ascertain.

MR. LOEFFLER answered yes.

SENATOR TAYLOR said he empathized with the people, but he didn't know if you could legally sell land at some previously appraised price.

MR. LOEFFLER said he thought it would go against the grain of the way they have done business in the state. He said they currently own land subject to agricultural rights. He noted, "It's the same way people at Pt. MacKenzie own the land with an agricultural covenant on it. They own the agricultural rights so to speak. In

that, they have been living on it, their father and grandfather. I concur with Darwin's assessment that there is no state interest in keeping the land agricultural at this point. The world is not a better place if we do that. I would support their urge to get the land, but Senator, I don't know a way to do it for the 1967 price."

CHAIRMAN TORGERSON said he didn't either and that he would hold the bill until he talked to the Millers about it.

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CHAIRMAN TORGERSON adjourned the meeting at 5:00 p.m.