

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

February 5, 2014

1:19 p.m.

MEMBERS PRESENT

Representative Eric Feige, Co-Chair
Representative Dan Saddler, Co-Chair
Representative Peggy Wilson, Vice Chair
Representative Mike Hawker
Representative Craig Johnson
Representative Kurt Olson
Representative Scott Kawasaki
Representative Geran Tarr

MEMBERS ABSENT

Representative Paul Seaton

COMMITTEE CALENDAR

HOUSE BILL NO. 207

"An Act establishing the Board of Agriculture, Conservation, and Development; transferring the powers and duties of the Natural Resource Conservation and Development Board to the Board of Agriculture, Conservation, and Development; transferring to the Department of Commerce, Community, and Economic Development the authority to approve loans from the agricultural revolving loan fund; terminating the Natural Resource Conservation and Development Board; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 207

SHORT TITLE: AGRICULTURE; AGRICULTURAL LOANS

SPONSOR(s): REPRESENTATIVE(s) FEIGE

04/12/13	(H)	READ THE FIRST TIME - REFERRALS
04/12/13	(H)	RES, FIN
02/05/14	(H)	RES AT 1:00 PM BARNES 124

WITNESS REGISTER

MICHAEL PASCHALL, Staff
Representative Eric Feige
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 207 on behalf of the sponsor,
Representative Feige.

EDMUND FOGELS, Deputy Commissioner
Office of the Commissioner
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding HB 207.

KRISTIN CURTIS
Legislative Auditor
Division of Legislative Audit
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information on the audit of the
Agricultural Revolving Loan Fund.

ACTION NARRATIVE

[1:19:39 PM](#)

CO-CHAIR DAN SADDLER called the House Resources Standing Committee meeting to order at 1:19 p.m. Representatives Saddler, Johnson, Hawker, Olson, Feige, Kawasaki, and P. Wilson were present at the call to order. Representative Tarr arrived as the meeting was in progress.

HB 207-AGRICULTURE; AGRICULTURAL LOANS

[1:20:02 PM](#)

CO-CHAIR SADDLER announced that the only order of business is HOUSE BILL NO. 207, "An Act establishing the Board of Agriculture, Conservation, and Development; transferring the powers and duties of the Natural Resource Conservation and Development Board to the Board of Agriculture, Conservation, and Development; transferring to the Department of Commerce, Community, and Economic Development the authority to approve loans from the agricultural revolving loan fund; terminating the Natural Resource Conservation and Development Board; and providing for an effective date."

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CO-CHAIR FEIGE, sponsor of the bill, explained that the bill was intended to help the commercial agriculture industry and the state government be more effective and more in-line with each other. He said that the current Board of Agriculture and Conservation had been set up under statute as a loan approval board for the Agricultural Revolving Loan Fund, but as it did not have an advisory or regulatory role, it was therefore not constituted as an official channel of communication between the industry and the state government. He reported that the board provided advice, but did not have any statutory power.

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CO-CHAIR FEIGE noted that, as there had been a number of concerns raised about this bill previous to this hearing, a committee substitute (CS) had been prepared after discussions with the Board of Agriculture and Conservation, the Natural Resources Conservation Development Board, the Alaska Association of Conservation Districts, and the State Farm Bureau. He reported that many of these suggestions were used in the proposed bill and that there were several proposed amendments that should also be considered.

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REPRESENTATIVE P. WILSON moved to adopt proposed committee substitute (CS) for HB 207, labeled 28-LS0675\C, Martin, 1/22/14, as the working document. There being no objection, it was so ordered.

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MICHAEL PASCHALL, Staff, Representative Eric Feige, Alaska State Legislature, began his PowerPoint presentation titled "HB 207." He acknowledged that there was still more work and discussion on the proposed CS. He pointed to slide 2, "Why HB 207?" and relayed that there had been concerns with a lack of formal communication for the policies of agriculture in Alaska between the agriculture industry and the state government. He stated that the Board of Agriculture and Conservation was limited in its membership, as any loan applicants were not eligible for the board, although loan holders were eligible. He reported that potential loan applicants did not want to share personal and business financial information with friends or business competitors who may serve on the board, as the board reviewed

these loan applications. He suggested that there was too much autonomy and not enough oversight for the soil and water conservation districts, as there were not any regulations written pertaining to the districts. He noted that the recent audit by the Legislative Audit Division had expressed concern for the management by the Board of Agriculture and Conservation of the Agriculture Revolving Loan Fund (ARLF), and that some of these concerns were now addressed in the proposed bill. He mentioned the depletion of the principal in the Agriculture Revolving Loan Fund as also being a point of concern.

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MR. PASCHALL moved on to slide 3, "What HB 207 Will Do." He suggested that the Board of Agriculture and Conservation and the Natural Resources Conservation Development Board be combined into a single board that would be named the Board of Agricultural, Conservation, and Development (BACD), which would provide input to state agencies on agriculture, conservation, food production, and land use, and would oversee the soil and water conservation districts. It would also serve as the managing group for the Alaska District, which represented the unorganized soil and water areas. The proposed bill would move the loan approvals by the ARLF to the Department of Commerce, Community & Economic Development, with an appeal process back to the board and the commissioner of Department of Natural Resources. He pointed out that the intention of the proposed bill had always been for only the loan approval process to be moved, not the management of the fund. He stated that the proposed bill would also authorize this new board to oversee the soil and water districts.

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REPRESENTATIVE P. WILSON asked why the bill proposed to only move the loan approval process to the Department of Commerce, Community & Economic Development.

MR. PASCHALL explained that the issue for an individual not wanting to share financial information when submitting an application for a loan, as well as the applicant for a loan not being eligible for membership on the board, had necessitated the move of the loan approval process to avoid any conflicts. He directed attention to the audit report, which recommended relocation of the entire fund. He offered his belief that this was not in the best interest for agriculture as the policies of the loan fund should be set by those in the agricultural

industry. This proposal now allowed oversight from another agency.

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CO-CHAIR FEIGE added that the intention of the proposed bill was to improve the "communication path" and get the best advice for state government available from the experts, as leaving the loan approval process with the board would exclude advice from these others. This would also allow membership on the board to be opened up as wide as possible to attract a wider spectrum of talent.

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REPRESENTATIVE KAWASAKI asked about the genesis of the Board of Agriculture and Conservation and the Natural Resources Conservation Development Board.

MR. PASCHALL explained that the Board of Agriculture and Conservation was essentially a renaming and restructuring of the Agriculture Revolving Loan Fund board about 15-20 years previously. He was unsure for the creation of the Natural Resources Conservation Development Board.

CO-CHAIR SADDLER reported that there were about 120 state boards.

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MR. PASCHALL moved on to slide 4, "Current Board Composition," and explained that the composition of the Board of Agriculture and Conservation included four members from commercial agriculture production, one member from a soil and water conservation district, one member from a statewide agricultural promotional organization, and one member with general business or financial experience. The Natural Resources Conservation Development Board included five resident bona fide land users from the five major land areas of the state, and the Commissioner of Department of Natural Resources or a designee, the Director of Agriculture, which was a non-voting position. These board memberships were combined into a new board with 12 voting members, slide 5, "New Board Composition." These members included five members engaged in commercial production agriculture, five land users from the soil and water conservation district, one member with general business or financial experience not involved in commercial production

agriculture, and one member with experience in preparation, storage, processing, marketing or other items of food products, and not involved in commercial production agriculture. He pointed out that the three non-voting members would be the commissioners of DNR and DEC, as well as the Chancellor of University of Alaska Fairbanks, or a designee from the Cooperative Extension Service or the School of Natural Resources and Agricultural Sciences.

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MR. PASCHALL directed attention to slide 6, "Current BAC Duties," and stated that the current duties were to administer and make loans from the ARLF, adopt regulations to carry out the board's function to manage the ARLF, enter into agreements to carry out the duties of the board, and recommend land to be classified as agricultural through the land bank. He declared that the essential purpose of the current Board of Agriculture and Conservation was for loan approval.

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MR. PASCHALL addressed slide 7, "Current NRCDB Duties," and stated that these duties included advice to the Commissioner of DNR for the exercise of powers, duties, and functions of the commissioner. The duties also included reviewing reports concerning the use of soil resources, conducting public hearings and meetings to determine whether land was being used in a manner consistent with sound soil and water conservation practices, and reviewing conservation plans for the sale of agricultural land. He stated that the board recommended action to provide for the effective and orderly development of agricultural, forest, and grazing land, and reviewed appeals regarding the sale or lease of agricultural or grazing land, as well as advised the soil and water conservation districts in the state. He mentioned that the board also served as the Board of Supervisors for the Alaska District.

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CO-CHAIR SADDLER asked if any of the duties of the NRCDB were federally mandated.

MR. PASCHALL responded that he would have to review the federal statutes; however, the concept of the soil and water districts was required by the US Department of Agriculture (USDA) for the use of federal funds for agriculture within the areas of the

districts. He explained that the producers in those districts were eligible for USDA funds.

CO-CHAIR SADDLER shared that it was necessary to ensure that the proposed board did not abrogate any responsibility to the federal departments.

MR. PASCHALL acknowledged that the duties of the proposed board now included two new duties, slide 8 and slide 9, "BACD Duties." In addition to advising DNR, it would also advise the Departments of Environmental Conservation and Fish & Game pertaining to land use and function of traditional soil and water district responsibilities. He pointed out that the proposed board would also supervise the soil and water districts in the state. He reported that this new board would also review ARLF loan denial appeals and write guidelines for loan approvals from the ARLF. He said it would make recommendations to the University of Alaska Cooperative Extension Service and the School of Natural Resources and Agricultural Sciences for programs and activities that would further the promotion, regulation, and protection of the agricultural and food industry and broaden the economic basis of the state. He added that it was necessary to have a board to make formal recommendations to the agencies and state government that worked with agriculture and food production.

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CO-CHAIR FEIGE commented that inclusion of the University of Alaska Cooperative Extension Service in the proposed bill improved the communication and information flow to the farmers and the industry.

MR. PASCHALL pointed out that the proposed board would advise the Commissioners of DNR, DEC, and ADF&G on the promotion, regulation, and protection of the agricultural and food industry to broaden the economic base of the state and to protect the consumers, slide 10, "BACD Duties." He directed attention to the list of policy items, which included agriculture, land use, resource conservation, food safety and security, pesticides and herbicides, and noxious and invasive plants.

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MR. PASCHALL examined slide 11, "Fiscal Notes," which reflected that the fiscal note was included in multiple funding sources. He directed attention to the fiscal notes from DEC, Department

of Commerce, Community & Economic Development (DCCED), and DNR and summarized the net effect of all of these fiscal notes for FY 2016. He shared that DEC and DCCED stated that there would not be any net cost from the proposed board. He explained that the current board had an allocation from the general fund of \$116,500 through DNR, and that the estimate of cost would be \$173,800 in FY 16. Of this cost difference, \$57,300, \$17,300 was the estimate for writing new regulations and the remaining \$40,000 would be for loan approval and services provided. He offered his belief that this cost would be lowered in the proposed CS, Version C.

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MR. PASCHALL summarized slide 12, "Advantages," and said that the changes for the new Board of Agriculture, Conservation, and Development would provide an efficient and formal avenue for communication between farmers, land users, and the administration. It would allow the farmers and land users more input into administration policy, and would allow loan approvals from the ARLF to be handled faster and more efficiently. There would be fewer meetings to allow improved efficiency within the administration and this would realize a modest cost savings. He noted that fewer funds would be removed from the ARLF for administrative purposes, thereby retaining more of the ARLF's capital.

CO-CHAIR FEIGE pointed out that HB 207 would also improve customer service and decrease the delays for the handling of the loans.

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CO-CHAIR SADDLER, addressing the proposed duties of the combined board, asked if there were any limitations to what the board could advise.

MR. PASCHALL expressed his belief that the limitations fell into the existing definitions in statute, except in the cases where new definitions had been written. He noted that this was an advisory role, so these were suggestions for what benefited the agricultural and food industry, and its promotion, regulation, and protection. Anything beyond this scope would be beyond the purpose of the board.

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REPRESENTATIVE JOHNSON asked if a sectional analysis of the proposed bill would be presented.

MR. PASCHALL, in response, paraphrased from the sectional analysis which had been prepared by the Division of Legal and Research Services, dated January 27, 2014. [Included in members' packets]. He stated that Section 1 essentially established the new board, eliminated the existing board, and defined the board membership. He relayed that Section 2 dealt with a specific limitation in statute, which stated that members of the board could not obtain loans, and this had been changed to specifically allow them to process and obtain loans. He said that Section 3 required that the board meet four times annually, with one meeting at the capital while the other three meetings were not to be held in the same location. He pointed out that Section 4 was a new section which addressed the powers and the duties of the board, and he offered his belief that he had already presented these details. He relayed that this included new powers as well as the existing powers of the combined boards. Moving on to Section 5, he reported that the Director of the Division of Agriculture would now be responsible for the overall management and policy of the Agricultural Revolving Loan Fund (ARLF). He said that Section 6 now required five voting members of the board to constitute a quorum, while Section 7 allowed the board to adopt regulations to carry out its duties, including the establishment of fees. Section 8 made a conforming amendment for a reference to the new board. Section 9 defined "agriculture" for purposes of this chapter, and determined that the use of "board" in this new chapter referenced the new board. He explained that Section 10 added a new section pertaining to loans from the ARLF, requiring the Department of Commerce, Community & Economic Development to approve loans from the fund. As it also spelled out the existing types of loans, he clarified that most of this language for the types of loans was already in existing statute.

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REPRESENTATIVE KAWASAKI directed attention to Section 7 and what was envisioned for the system of fees.

MR. PASCHALL, in response, said that ARLF required an application fee to apply for a loan, as did most of the state loan programs managed by DCCED. He said that the language was part of the existing statute, although it had been moved to a different portion of the statute.

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REPRESENTATIVE P. WILSON directed attention to page 5, line 9, of the proposed CS, and asked if this had been included in the earlier version.

MR. PASCHALL said that the language was already in statute, and it allowed the board to enter into contracts to carry out its purpose. He gave an example for the buying or selling of loans in the fund.

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MR. PASCHALL continued with Section 10, explaining that this section set out the types of loans for approval. He described that Section 11 removed the reference to the fixed rate of interest on a farm development, chattel, or irrigation loan. Section 12 changed the reference from the board to the Department of Commerce, Community & Economic Development, and Section 13 changed the reference from the board to the Department of Natural Resources. Section 14 removed the reference to fixed rate interest on the farm processing loans, and Section 15 deleted language pertaining to the parameters of interest rates on loans.

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MR. PASCHALL explained that Section 16 allowed the Department of Commerce, Community & Economic Development to restructure certain loans under the guidelines approved by the board, opining that only one outstanding loan still qualified, and that Section 17 required that funds from assignments of proceeds that were overpayments of loans were to be deposited into the ARLF.

CO-CHAIR SADDLER asked if those proceeds were interest.

MR. PASCHALL explained that the existing language said that a loan payment, both principal and interest, would be deposited into the ARLF. He noted that federal payments needed to be assigned to the loan fund, and paid into the ARLF, instead of into the general fund.

CO-CHAIR SADDLER asked if payments of principal and interest currently went to the general fund or the ARLF.

MR. PASCHALL replied that they were currently deposited into the Agricultural Revolving Loan Fund (ARLF), and that there were not any structural changes proposed.

CO-CHAIR SADDLER asked for a reason to this section.

MR. PASCHALL explained that most of the language was existing statute amended to refer to DNR instead of the Board of Agriculture to clarify that there were not any future questions for interpretation.

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REPRESENTATIVE P. WILSON asked if there was anything in the proposed bill that directed funding away from the general fund.

MR. PASCHALL offered his belief that there was not any intention to change funding, other than to realize that the primary function of the Board was to administer the ARLF. He noted that, as the proposed board was no longer reviewing loans, that funding was not necessary. He pointed out that fees to administer the loans, as well as service fees, were all deposited into the fund.

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MR. PASCHALL directed attention to Section 18, noting that this section had been moved from its original location, which required that excess proceeds collected would be refunded to the loan holder. He explained that Section 19 was a reference from the board to DCCED, and that Section 20 amended the definition of "nonfarm use." Section 21 allowed the legislature to appropriate money from the fund for the cost of administering the fund, which was the current language, and Section 22 required the board to administer the ARLF, which was also existing language, only slightly adjusted to expedite emergency loans through DCCED.

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CO-CHAIR SADDLER asked if this emergency authority existed in the current structure.

MR. PASCHALL explained that, under the current process, the application paperwork must be submitted 30 days prior to the board meeting, although there was a provision to allow three

members of the board to review the application if it was necessary more quickly.

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MR. PASCHALL directed attention to Section 23, noting that it added a new sub-section which pertained to the interest rates of the loan, allowing the board to set the rate lower under certain predefined policy circumstances. He said that Section 24 spelled out the definitions of "agricultural," "board," and "department" in this section. He pointed out that Sections 25 - 34 had conforming language dealing with movement of the functions of the current board to the proposed board.

MR. PASCHALL explained that Section 35 would change the definition of "board" to the Board of Agriculture, Conservation, and Development, Section 36 repealed statutes, and Section 37 provided a transition from the two existing boards to the proposed board.

MR. PASCHALL stated that Section 38 allowed the agency to adopt regulations prior to the change in boards actually going into effect, while Section 39 set out the effective dates for Sections 37 and 38. Section 40 provided an effective date, January 31, 2015, for the proposed bill.

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REPRESENTATIVE JOHNSON expressed his concern that, as a quorum of only five was necessary, a small segment of the board could gather and make all the decisions.

MR. PASCHALL shared that there had been discussions for the composition, numbers, and quorum of the proposed board, and he offered his belief that this problem could be addressed.

REPRESENTATIVE JOHNSON suggested that a possible solution would be to allow telephonic attendance.

MR. PASCHALL declared that this had been included in one of the amendments currently being drafted.

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REPRESENTATIVE JOHNSON asked how the interest rate was established.

MR. PASCHALL explained that it was based upon a rate similar to that charged by private institutions providing agricultural loans in Alaska, although he admitted there were not many private institutions providing these loans. He noted that the rate was usually slightly lower than the rate offered by the Alaska Rural Rehabilitation Corporation and the Farm Services Agency. He directed attention to the audit, which listed these loan rates.

REPRESENTATIVE JOHNSON reflected on similar legislation which had established guidelines.

CO-CHAIR FEIGE noted that this issue had been raised by another committee member, and that an amendment was prepared to provide a minimum interest rate to cover the administrative costs.

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REPRESENTATIVE JOHNSON mused that it was important for boards to have the proper makeup in order to prevent one segment from controlling the board. He declared his dislike and concern for an even number of board members and asked it to be addressed.

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REPRESENTATIVE P. WILSON inquired why one of the four required meetings each year must be in Juneau, as most farming takes place in the Railbelt.

MR. PASCHALL explained that it was an important consideration for the board to be representative across the state so that statewide agriculture and conservation expertise could be provided, and that this was an existing requirement for the Natural Resource Conservation and Development Board. He opined that it was common for boards to have at least one annual meeting in the state capital, as the Legislature and loan administrators were located there. He said that different venues better allowed individuals the opportunity to meet with the board face to face.

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REPRESENTATIVE HAWKER offered to simplify a complicated concern for the macro view of the proposed bill. He noted that there were "a number of pieces at play here," which included the ARLF, the Natural Resource Conservation and Development Board, and the Board of Agriculture and Conservation. He stated that the

duties under the former soil and water conservation board were now proposed to be included in the proposed Board of Agriculture and Conservation. He offered his belief that the Board of Soil and Water Conservation was established in 1949.

CO-CHAIR FEIGE confirmed that it had been established in 1949, in conjunction with the soil and water conservation districts, as a result of the Dust Bowl.

CO-CHAIR SADDLER asked for clarification that the reference was for the Alaska Soil and Water Conservation District.

REPRESENTATIVE HAWKER replied that he was referencing Title 41, Chapter 10, regarding soil and water conservation.

CO-CHAIR SADDLER replied that Representative Hawker had referred to the Board of Soil and Water Conservation.

REPRESENTATIVE HAWKER explained that this board was established under AS 41.10.

CO-CHAIR SADDLER asked for clarification to the proper name of the board.

REPRESENTATIVE HAWKER replied that the board which had been established was the Natural Resource Conservation and Development Board (NRCDB), and that it was this board which would be eliminated under the proposed bill. He noted that the duties of the board were very broad, and were directed at the management and conservation of state soil and water resources. He pointed out that this board, with its broad responsibilities for public resources, was being eliminated and merged into the Board of Agriculture and Conservation, a more narrowly focused board. He pointed out that the current Board of Agriculture existed in Title 3, under agriculture, animals, and food. He stated that the duties of this broadly managed, statewide, soil and water conservation board were being merged into a board specifically titled under agriculture, animals, and food. He pointed out that the Agricultural Revolving Loan Fund, also under Title 3, was established in 1953 as the core for the benefit and development of agriculture, animals, and food in the state. He stated that this narrow focus did not include the broader focus for management of soil and water resources.

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REPRESENTATIVE HAWKER reported that, subsequent to all of this, with the ARLF and the soil and water conservation board both functioning, the Board of Agriculture had been created in 2000, with only one real function as listed in Title 3, the management and daily operations of the ARLF. He suggested that there was a long history of concern for the effective management by the Board of Agriculture, referencing a "scathing audit about mismanagement within the ARLF, the Board of Agriculture" and he questioned whether this performance had improved. He acknowledged the current audit which had indicated existing serious concerns.

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REPRESENTATIVE HAWKER questioned why all of the statewide responsibilities for soil and water conservation were being moved into a more recently created, "arguably dysfunctional board" titled under "agriculture, animals, and food" which he characterized as having a very narrow focus for one industrial segment, promoting agriculture, within the state. He offered his belief "that we're doin' somethin' wrong here." He declared that the board proposed for elimination had a much broader charge for responsibility of statewide water and soil conservation issues under Title 41. He stressed that this regulatory board responsible for protecting water and soil conservation was being moved into an advocacy board responsible for economic development in a small sector of the state economy. He questioned whether proposed HB 207 "gets us to where we want to be." He asked for clarification whether his interpretation was correct.

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MR. PASCHALL expressed his agreement with most of what had been stated, although he opined that the NRCDB was only advisory, and not regulatory. He pointed out that the repeal, revision, and addition of statute were all contained in AS 03, AS 38, AS 39, and AS 41. He deferred to Legislative Legal Services for the reason to placement of the proposed board in AS 03.

CO-CHAIR SADDLER suggested the need for an explanation to the NRCDB and its composition, activities, issues, and authorities.

[2:20:34 PM](#)

EDMUND FOGELS, Deputy Commissioner, Office of the Commissioner, Department of Natural Resources (DNR), explained that one of his

duties was to oversee the Executive Director for the Natural Resource Conservation and Development Board (NRCDB) and interact with the board. He noted that the board offered advice to the commissioner and that it met four times annually. He stated that its advice was "tremendously valuable" to both DNR and the soil and water conservation districts. He described the board as the link between management of the districts, and that DNR was pursuing ways to make the board even more effective.

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MR. FOGELS, in response to Co-Chair Saddler, explained that the work of the board covered a broad spectrum which included resource conversation and agriculture. He said that he had become a huge fan of the soil and water conservation districts, describing them as a quasi-governmental agency that had a wide variety of support means.

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REPRESENTATIVE HAWKER declared that the soil and water conservation districts were also created in 1949 under AS 41.10.130, and that the duties of the board were enumerated under AS 41.10.100 to support those districts as they were far beyond agricultural responsibilities.

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CO-CHAIR SADDLER asked Mr. Fogels if there would be a diminution of the combined boards' ability to fulfill the functions of the soil and water conservation districts.

MR. FOGELS offered that the DNR interpretation of the proposed bill was that all the necessary duties would remain in order to do the jobs. He stated that effectiveness would be determined by work load. He stated that, based on his attendance at the meetings, "this was one of the hardest working boards that we have in the state, and my hat's off to those board members." He noted that the duties of the board would change with the proposed bill, as it would also be offering advice to DNR on agricultural issues, which was a current duty of the NRCDB.

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REPRESENTATIVE P. WILSON referred to the letter from the Fairbanks Soil & Water Conservation District, dated January 31, 2014 [Included in members' packets], which declared that it did

not support proposed HB 207 and expressed concern that this "would dilute the desires of those we serve and radically change the mission and the operation of soil and water districts across the state." She asked whether there had been any discussion with this group.

CO-CHAIR FEIGE replied that he had talked with people on the NRCDB, and the Alaska Association of Conservation Districts, which he described as the umbrella organization for the soil and water conservation districts. He declared that there was not intent to diminish the information and advice currently provided by the NRCDB to the state, hence the retention for the proposed board of all the current responsibilities. He said that some of the language in the proposed bill was designed specifically to give more power to the board, including the writing of regulations or supervising the districts. He reported that the intent was for the board members to be the "resident experts, to know far more and have a more diverse opinion about the soil and water conservation issues or the agricultural issues across the state." He declared his intent to place as much influence and authority as possible with the board as it would give the industries a much greater say in governmental policies. He expressed his agreement that, although this was a change from the current board, it did not diminish the influence of the existing board structures, but instead offered a much greater voice for input by the industry. He pointed out that the agricultural industry in Alaska was in a gradual, steady decline, and that a greater voice may be able to change that and boost local economies.

REPRESENTATIVE P. WILSON asked whether there would be elections for the board membership, and whether there had been personality problems among the board members.

CO-CHAIR FEIGE replied that the new board appointments would be up to the governor, and he expressed his desire that the current board members continue their service. He declared that the current BAC had done a lot of good work, and had done a lot to improve the management of the ARLF, as well as the requirements for loans. He opined that it was still necessary for the board to have more regulatory authority, with a more formal voice for advice to DNR, DEC, and ADF&G.

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REPRESENTATIVE KAWASAKI asked about the history of the NRCDB, and he shared his concern with those concerns stated by Representative Hawker.

MR. FOGELS, in response to Representative Kawasaki, related the history of the board, as told to him by the executive director of NRCDB. He said that soil and water conservation districts had been created during the Dust Bowl to "get their hands dirty and fix the resources in the soil." He offered his understanding that the territorial legislature in Alaska created the Alaska Conservation Board in 1947, which later morphed into the NRCDB. He allowed that the conservation districts were also created during that period to respond to local natural resource issues.

REPRESENTATIVE KAWASAKI asked if, as a purpose of the conservation district was to be agile, the proposed bill make this more difficult.

MR. FOGELS offered his belief that he could make it work as long as he had the proper resources and a good board. He did not expect there to be much change. He stated that the issues with the soil and water conservation districts were not with management, but with a lack of available resources. He shared that each district was only as good as the energy of the people within that district.

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CO-CHAIR FEIGE directed attention to Version C, page 5, line 4, and noted that "to advise and regulate" had generated a lot of interest. He clarified that the inclusion of "regulate" within the powers of the board ensured that the people in the industry had a say for the actions in the soil and water conservation districts, as opposed to leaving it unclear and open to interpretation. He declared that it was not his intention to "upset the applecart in the way soil and water conservation districts work." He allowed that "regulate" offered a wide range of response, but it placed the destiny of those districts "in the hands of people from the industry and from the districts across the state, not in some current or future state agencies."

[2:37:09 PM](#)

REPRESENTATIVE TARR expressed similar concerns for the board functions, and she related her recent experience with a soil and water conservation district. She asked about the current

primary function for the approval of loans by the BAC, and for its proposed advisory role. She asked if there would be any conflicts between the proposed board and DNR.

MR. FOGELS replied that DNR craved more input on agricultural policy and issues from the current board, noting that currently there were a lot of big agriculture issues in the state. He offered examples for the issues of agricultural land disposal, and the difficulty for obtaining a loan to build a dwelling on agricultural land.

REPRESENTATIVE TARR asked if the language in this proposed bill would accomplish that, or would it be more appropriate to simply make changes to the current BAC, and increase its ability to bring input to DNR.

MR. FOGELS replied that the proposed bill offered the opportunity for input on agricultural policy.

[2:40:43 PM](#)

KRISTIN CURTIS, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature, reported that the division had completed an audit on the Agricultural Revolving Loan Fund (ARLF), dated June 24, 2013. She recounted that the purpose of the audit was to examine the performance and administration of the fund, and to compare its administration to that of other loan programs and industry best practices. She stated that the goal of the evaluation was to identify ways to improve the fund's performance and efficiencies, with an emphasis for whether the fund should be administered through a different state agency. She pointed out that a copy of the audit was included in the members' packets. She declared that the audit noted many instances of administrative deficiencies with many opportunities for increased efficiency. Based on these findings, the division concluded that moving the administration and loan decisions of ARLF to the DCCED, Division of Economic Development, may improve the efficiency and effectiveness of the loan program and help ensure the future solvency of the fund. She pointed to the detailed conclusions of the audit, page 13, which stated that the fiscal condition of ARLF was a result of the agricultural policy decisions made over the past 30 years by the executive and legislative branches of the Alaska state government.

MS. CURTIS said that many of the lending and management decisions were made in support of the agricultural industry,

rather than for maintenance of the fiscal health of the fund. Since inception, the equity of the fund had declined by 69 percent. She pointed to a positive note, as the audit concluded that the default rates were reasonable at the program level, between 1 and 5 percent over the past five years, as listed on page 27 of the report. She reported that the audit identified numerous administrative deficiencies, which, if not corrected, could possibly contribute to future loan losses, and were listed at the bottom of page 14. She offered some examples of the deficiencies, which included ineffective and inefficient processes for loan evaluation and approval, property management, and loan management. She listed some troublesome deficiencies which included additional loans given to borrowers who had experienced substantial financial losses and had difficulty meeting prior loan obligations, as well as new loans to borrowers without prudent considerations of prior defaults. She shared that the audit had also found that its regulations did not promote consistent fiscally responsible decisions, and these regulations would be improved by incorporating industry best practices.

MS. CURTIS shared that ARLF was compared to other loan programs, and that other boards similar to the Board of Agriculture and Conservation were not commonly used for lending decisions. She stated that it was more common for lending decisions to be made by professional lending staff or by committees with lending expertise. She noted that there were inefficiencies in the ARLF administration, which were discussed on page 17. She said that ARLF administrators did not use an automated loan system for loan processing, reporting, or monitoring, and had not obtained USDA farm service agency loan guarantees for ARLF loans to mitigate any potential loan losses, even though the program was eligible.

[2:44:35 PM](#)

MS. CURTIS directed attention to page 23, which detailed a recommendation to move the Agricultural Revolving Loan Fund to the DCCED's Division of Economic Development, as this division currently administered 13 state run loan programs. She offered her belief that the ARLF would benefit from this economy of scale, and the automated loan system. She opined that the program would benefit from loan expertise and standardization. She offered two recommendations to the ARLF administrators. Referring to page 24 of the audit, she recommended that ARLF administrators amend the regulations to promote industry best practices, as the current regulations did not include criteria

for approving loans and did not provide sufficient guidelines for the evaluation of collateral. She also recommended that ARLF administrators pursue disposal of business properties and revise the property leasing rates to provide a return on ARLF assets. She reported that ARLF currently owned two active business properties, a slaughtering facility and the Alaska Farm Co-operative. She pointed out that the operation of businesses was not within the statutory authority granted to ARLF, as its statutory objective was to promote the more rapid development of agriculture as an industry by means of long term, low interest loans. She reported that Alaska statute stated that property acquired by ARLF through foreclosure, default, or other means should be disposed of to maximize the state's return. Instead of pursuing disposal of the aforementioned slaughtering facility and co-operative, policy decisions continue to be made to operate these businesses. She said that the slaughtering facility continued to incur annual losses and that the co-operative did not offer any financial return, with a cumulative effect for a reduction to the ARLF assets. She re-stated the recommendation for disposal of both these business properties, with a revision of leasing rates, to provide an adequate return on these ARLF assets.

[2:46:47 PM](#)

REPRESENTATIVE KAWASAKI reflected on the aforementioned recommendations and opined that the proposed policy decision to combine the two boards was separate from a decision regarding the administration of the ARLF. He asked whether a move of the ARLF administration to DCCED as well as implementation of the suggested recommendations for regulation amendments and disposal of the business properties would suffice for a cleaner audit of ARLF in the future.

MS. CURTIS, in response, asked to clarify the administration of the ARLF fund.

REPRESENTATIVE KAWASAKI explained that the ARLF fund administration would be through DCCED.

MS. CURTIS reported the audit had concluded that, although the BAC board worked hard, it operated under competing priorities for supporting the agricultural industry and maintaining the health of the Agricultural Revolving Loan Fund, a tension that had existed for many, many years. She noted that prior audits had also been critical of administration to the fund. She pointed out that, as there had also been a recommendation for

improvement of the regulations, more guidance for regulation to the approval process and industry best practice would address these criticisms. She stated that disposal of the business properties would address this practice, as it was not authorized in statute.

[2:49:50 PM](#)

REPRESENTATIVE P. WILSON asked if any attempt had been made to sell the aforementioned slaughter company.

MS. CURTIS offered her understanding that there had been attempts to dispose of the property, the last time in 2006, although this had included a requirement for a buyer to continue operation and accept all animals. She relayed that there had not been any responsive bidders at that time.

[2:50:28 PM](#)

MS. CURTIS, in response to Representative Olson, reported that the earliest audit for ARLF was from 1984, and that these audits over the past 30 years had continued to reveal many of the same findings. She referenced footnote 20 on the first recommendation, which identified some of the old findings that had been reiterated.

[2:51:08 PM](#)

REPRESENTATIVE OLSON asked if five years would be an adequate amount of time to "clean this up under the proposed combination of responsibilities."

MS. CURTIS replied that five years would be more than sufficient to address all three recommendations and to see an improvement.

[2:51:41 PM](#)

REPRESENTATIVE OLSON suggested that a reasonable sunset clause be added to the proposed bill.

MS. CURTIS acknowledged that there had not been a lack of audits over the years, though it was debatable whether there had been any improvements as a result of those audits. She expressed agreement that five years would be sufficient, if the improvements were actually implemented.

[2:52:13 PM](#)

CO-CHAIR SADDLER asked if Representative Olson recommended a five year sunset clause on the combined board.

REPRESENTATIVE OLSON expressed his agreement, although he was not offering a sunset clause at this time.

[2:52:33 PM](#)

CO-CHAIR FEIGE, reflecting that the capital in the ARLF had been steadily depleting since its inception, asked whether the problems were a result of legislative or executive branch action, or mismanagement by the Board of Agricultural Conservation.

MS. CURTIS directed attention to page 13 of the audit report, which outlined exactly how the money had been depleted. She referenced the \$29 million in defaulted loans, and she offered her belief that this result was a combination of the loan approval system, the administration, and the economy. She pointed to the \$13 million for funding operations in the Division of Agriculture, and remarked that this was a policy decision for use of the funds which was not reflective of the administration. She reported that \$10 million was appropriated back to the general fund, and that \$3.5 million had been used to purchase and run the aforementioned slaughtering facility.

[2:53:49 PM](#)

REPRESENTATIVE JOHNSON asked for clarification whether the slaughter facility had been repossessed or purchased.

MS. CURTIS explained that the facility was built in the mid-1980s with a general fund loan of \$2 million, which was subsequently absorbed by the ARLF as a second trust deed. When the facility "quickly went under," the ARLF bought the property and paid off the first creditor. She stated that the property had not been received by a loan default.

[2:54:31 PM](#)

REPRESENTATIVE KAWASAKI reflected on the discussion for the combination of the two boards and the transfer for the administration of the ARLF and asked if it was conceivable that the proposed board would also introduce "similarly poor regulations dealing with the ARLF, or similarly bad disposal of business property regulations."

MS. CURTIS replied that she had no comment for what could happen as auditors reviewed history and made recommendations for approval.

REPRESENTATIVE KAWASAKI asked if this recommendation would include a merger of the two boards for future administrative decisions.

MS. CURTIS replied that her division had not considered the merger of the two boards and did not have an opinion for this decision. She acknowledged the difficulty for the audit report, as there were many possible answers for fixing the problems. She reported that these deficiencies had resulted in a conclusion to move the fund administration, although other options had been fiercely debated.

[2:56:28 PM](#)

REPRESENTATIVE JOHNSON asked for clarification that, although the two boards were being merged, the lending and the financial aspects of the ARLF were being moved to Department of Commerce, Community & Economic Development.

CO-CHAIR FEIGE explained that the fund would continue to operate essentially as it did currently. The applications would be prepared and processed through the Division of Agriculture, and would be directed to an individual at DCCED for final approval. The proposed new board would set the guidelines for qualifications for this individual as well as any requirements to be placed on the application process, but the final approval would be made outside the board. He noted that an appeal would be returned to the board for a decision.

REPRESENTATIVE JOHNSON offered his belief that the proposed changes included "having the same people do the same work that have had a dismal report and the check written by a different person." He suggested that there were not any changes, other than who would write the check, although there had been bad reports for the preceding 30 years.

CO-CHAIR FEIGE offered his belief that this policy call had been made in the best interest for agriculture.

[2:58:34 PM](#)

REPRESENTATIVE TARR offered her understanding that the initial approval was with [DCCED] and that any appeal would be addressed by the proposed board. She asked if, during the audit of other funds, there was an acceptable standard default rate to indicate sound management.

MS. CURTIS replied that her division did not review default rates unless it was part of a special audit. In this case, ARLF had been compared to similar loan programs for a basis of what was reasonable. She noted that, as the economy had been volatile over the past five years, other comparable programs had similar default rates.

[2:59:48 PM](#)

REPRESENTATIVE OLSON asked if any of the current board members had loans in default or had "any loans written off."

MS. CURTIS replied that she did not know as the default review was in summary form and not in detail. She expressed reluctance for further research as this information would not be included in the report to Legislative Budget and Audit Committee.

REPRESENTATIVE OLSON relayed that he was not concerned with specific names, only for whether there were any board members, and for the amounts in default.

MS. CURTIS agreed to research this, and then add it in memo form to the Legislative Budget and Audit Committee report.

[3:00:42 PM](#)

MR. FOGELS said DNR had about 40 percent of one position currently funded in the NRCDB budget. The total budget for NRCDB was now being transferred to the Division of Agriculture and although, in response to Co-Chair Saddler, there was not a guarantee for any specific individual, it was hoped that the current person, who was highly regarded, would remain.

CO-CHAIR SADDLER held over HB 207.

[3:01:51 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:02 p.m.