

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

March 14, 2014

1:05 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 Paul Seaton
Representative Scott Kawasaki
Representative Geran Tarr

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 202

"An Act raising the application fee for a drawing permit for the hunting of bison to \$20; requiring the game management plan for bison in the Delta Junction Bison Range Area to include mitigation of bison damage to farm crops and farm and personal property; and authorizing the commissioner of natural resources to make grants to mitigate or prevent damage caused by bison."

- MOVED CSHB 202(RES) OUT OF COMMITTEE

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 202

SHORT TITLE: BISON DRAWING PERMIT FEES

SPONSOR(S): REPRESENTATIVE(S) FEIGE

04/10/13	(H)	READ THE FIRST TIME - REFERRALS
04/10/13	(H)	RES, FIN
02/21/14	(H)	RES AT 1:00 PM BARNES 124
02/21/14	(H)	Heard & Held
02/21/14	(H)	MINUTE(RES)
02/28/14	(H)	RES AT 1:00 PM BARNES 124
02/28/14	(H)	Heard & Held
02/28/14	(H)	MINUTE(RES)
03/12/14	(H)	RES AT 1:00 PM BARNES 124
03/12/14	(H)	-- MEETING CANCELED --
03/14/14	(H)	RES AT 1:00 PM BARNES 124

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
02/05/14	(H)	Heard & Held
02/05/14	(H)	MINUTE(RES)
02/28/14	(H)	RES AT 1:00 PM BARNES 124
02/28/14	(H)	Scheduled But Not Heard
03/14/14	(H)	RES AT 1:00 PM BARNES 124

WITNESS REGISTER

DOUG VINCENT-LANG, Director
Division of Wildlife Conservation
Alaska Department of Fish & Game (ADF&G)
Anchorage, Alaska

POSITION STATEMENT: Testified on HB 202.

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

POSITION STATEMENT: Answered questions related to HB 202 on behalf of the sponsor, Representative Feige.

MICHAEL PASCHALL, Staff
Representative Eric Feige
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Outlined the changes in HB 207, Version R, on behalf of the sponsor, Representative Feige.

FRANCI HAVEMEISTER, Director
Division of Agriculture
Department of Natural Resources (DNR)
Palmer, Alaska

POSITION STATEMENT: Answered questions regarding HB 207.

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

POSITION STATEMENT: Answered questions regarding HB 207.

TODD PETTIT, Farmer; Chair
Palmer Soil and Water Conservation District
Palmer, Alaska

POSITION STATEMENT: Testified in opposition to Version R, the proposed committee substitute to HB 207.

ARTHUR KEYES, Farmer
Palmer, Alaska

POSITION STATEMENT: Testified in opposition to HB 207.

ROBERT RIDDLE, Farmer
Fairbanks, Alaska

POSITION STATEMENT: Testified during the discussion of HB 207.

DON BERBERICH, Farmer; President
Alaska Farm Bureau
Palmer, Alaska

POSITION STATEMENT: Testified in opposition to HB 207.

JOHN SCHIRACK, Producer
Palmer, Alaska

POSITION STATEMENT: Testified in opposition to HB 207.

CAROL KENLEY, Farmer
Palmer, Alaska

POSITION STATEMENT: Testified in opposition to HB 207.

ACTION NARRATIVE

[1:05:54 PM](#)

CO-CHAIR DAN SADDLER called the House Resources Standing Committee meeting to order at 1:05 p.m. Representatives Seaton, Olson, P. Wilson, Tarr, Kawasaki, Hawker, Feige, and Saddler were present at the call to order. Representative Johnson arrived as the meeting was in progress.

HB 202-BISON DRAWING PERMIT FEES

[1:06:12 PM](#)

CO-CHAIR SADDLER announced that the first order of business would be HOUSE BILL NO. 202, "An Act raising the application fee for a drawing permit for the hunting of bison to \$20; requiring the game management plan for bison in the Delta Junction Bison Range Area to include mitigation of bison damage to farm crops and farm and personal property; and authorizing the commissioner of natural resources to make grants to mitigate or prevent damage caused by bison." [Before the committee was Version P.]

[1:06:49 PM](#)

CO-CHAIR FEIGE stated HB 202 intends to solve a problem that has existed in the Delta community since the 1950s. The bison herd was introduced in the 1920s and has grown significantly since the Delta barley project was started in the early 1980s, in part, due to Alaska Department of Fish & Game's excellent game management. He reported one unintended consequence is that bison work their way into the barley fields just prior to the crop being harvested.

CO-CHAIR FEIGE said the only economic way to prevent bison from going onto the crop fields is to construct sturdy high fences, which are expensive and costly. Hunters enjoy the benefits of hunting the bison and significant interest exists in harvesting bison in the limited permits issued each year.

CO-CHAIR FEIGE said he would like to raise revenue for the state that does not conflict with the federal funds that the state receives from for fish and game purposes. Under the bill, the additional revenue raised would allow the DNR to make grants not

exceeding the revenues from hunting fees and could augment the existing soil and water conservation district's program that has gradually been fencing off barley fields for farmers in the Delta area. He offered his belief that HB 202 represents a suitable compromise between the user groups - the [Delta Bison Working Group] and the group [hunting or viewing the bison].

[1:10:32 PM](#)

REPRESENTATIVE P. WILSON asked how often these bison stampede and whether a fence will stop a stampede.

DOUG VINCENT-LANG, Director, Division of Wildlife Conservation, Alaska Department of Fish & Game (ADF&G), answered that it is probably more an exception than the norm for the bison as they tend to ramble; however, he acknowledged it does occur.

MICHAEL PASCHALL, Staff, Representative Eric Feige, Alaska State Legislature, replied that he has not heard of a significant stampede in the nine years that he has lived in Delta Junction. He explained the bison have a "laid back" demeanor so it takes a lot of effort to get them moving. He agreed that a fence would not stop stampeding bison nor would most structures. In response to a question, he anticipated that the grant program would be ongoing until the grants were no longer needed. He didn't think hunting fees will be reduced since the funds can be put to good use through the ADF&G funds and the federal match.

[1:13:59 PM](#)

REPRESENTATIVE SEATON, referring to Version P, asked whether the \$20 increase in fees is under AS 16 and goes to the fish and game fund. He noted the requirement under page 2 of Version P [in Section 3] would amend AS 38.05, which means the commissioner of DNR is not obligated to carry out these provisions unless an inter-agency transfer from ADF&G occurs.

MR. PASCHALL answered yes; but specified the fee transfer is not being required to be done through a reciprocal services agreement. He clarified that the commissioner of DNR would make the arrangement to obtain the funds through appropriation.

MR. PASCHALL clarified the [Delta Bison Working Group] process has been ongoing for several years. He pointed out that the bill represents the recommendations the working group made. These recommendations were in the management plan that recently went to the Board of Game for approval, but it does require legislative action.

[1:15:46 PM](#)

CO-CHAIR SADDLER inquired as to the [Delta Bison] working group membership.

MR. PASCHALL responded that he didn't specifically recall who the members were but most are people from the community, including representatives from agriculture, tourism, hunting, and a local business owner. He characterized the working group as a fairly-well represented group, although the farmers are also hunters so everyone had a hunting interest.

[1:16:27 PM](#)

REPRESENTATIVE KAWASAKI referred to page 1, Version P, to language deleted, "[BUT IS NOT LIMITED TO]" and asked for further clarification.

MR. PASCHALL answered that is a drafting procedure that he has observed in other bills so "must include" has been used.

REPRESENTATIVE HAWKER recalled that when the revisor's bill was previously brought before the floor that as previously described "[BUT IS NOT LIMITED TO]" had been the standard in the drafting manual.

REPRESENTATIVE KAWASAKI referred to page 2, line 4, Version P, to paragraph (4), which read, "**preventing bison damage to farm crops and farm and personal property.**" He asked for further clarification on what could be included besides fencing and if moving animals or culling animal populations would also be included.

MR. PASCHALL believed any of the aforementioned items could be included. He said the management of the bison range is limited to the bison range, which he recalled was about 40,000 acres. Although it isn't all state-owned land, the major purpose of creating the bison range was to prevent damage by holding bison south of the highway prior to the harvest season.

[1:19:02 PM](#)

REPRESENTATIVE KAWASAKI asked whether the free-ranging bison are controlled since these bison can go through fences.

MR. PASCHALL answered that the working group recommended fencing as the only option, noting that 200 animals would not be stopped by anything short of thick concrete or steel walls. The original intent was to maintain a free-ranging bison herd and the recommendation in the fish and game management plan was to fence in the farms to keep bison out. He acknowledged bison have the ability to run through fences, but he characterized it as an exception, a very rare exception.

REPRESENTATIVE KAWASAKI asked whether this management is the standard provision for animal herds outside the Delta Bison Range. Since there are lots of free-ranging animal herds in Alaska, he asked whether it is the policy to compensate other private landowners. He pointed out moose live in Creamer's Field [Migratory Waterfowl Refuge] but they sneak out and eat pumpkins from landowners. He wondered if this policy is limited to the bison herds or if it applies to other species.

MR. PASCHALL deferred to ADF&G, but said it is a policy question as to whether landowners should be compensated. He said that these bison were introduced for recreational hunting so people are receiving compensation for economic harm caused by them. He highlighted another example would be expenditures the state makes to eradicate northern pike which were been brought into Alaska, but found to harm other fish.

[1:22:20 PM](#)

CO-CHAIR FEIGE indicated the sponsor's intent is that this is a specific mitigation measure in a specific area for commercial agriculture.

[The following exchange is verbatim.]

REPRESENTATIVE TARR: One email we had received from the Salcha-Delta Soil and Water Conservation District talking about their bison fencing program and that they oppose the bill, which is kind of a surprise to me. But I'm just wondering do you see this as a compliment to what they might be doing and give it a little umph because they'll be additional dollars available.

CO-CHAIR SADDLER: Representative Tarr, could you clarify which letter that is?

REPRESENTATIVE TARR: It's the one from Donald Quarberg. ... I received it and every member of this committee is copied on this email and it just has a picture attached of their bison fencing program. But I'm not sure it made it into the packet, it is in our email. ... wanted to just have your thoughts on that; it seems like this could be a great compliment to it because there would be additional resources available, and so I was surprised by that.

MR. PASCHALL: Representative Tarr, through the chair, if I could ask one question back to clarify for the answer and that is: you're assuming that Don Quarberg represents the soil and water district?

REPRESENTATIVE TARR: Through the chair, thank you. ... I had received two emails from him. In the first email he did show some connection to that organization and maybe that was not accurate, so I would appreciate any clarification on that too.

MR. PASCHALL: Representative Tarr, through the chair. Don Quarberg used to be the extension agent and used to be the soil conservation agent for the [U.S. Department of Agriculture] USDA and left those positions numerous years ago. And since that time has been a very vocal opponent to agriculture in the area and he's also a very ... active hunter and chairs the ... local

Fish & Game advisory committee. And he has been very vocal in his opposition to any assistance to the farmers in any way, under any circumstances, including objecting during discussions about the USDA Farm bill and the programs that are available for agriculture nationally. And the conservation and reserve program, which interestingly promotes wildlife habitat, but he refers to it as a handout to farmers, and goes on and on.

REPRESENTATIVE TARR: Thank you.

[1:25:17 PM](#)

REPRESENTATIVE HAWKER commented that he personally does not see a compelling reason for this legislation. He doesn't oppose moving HB 202 out of committee, but he does so with reservation.

REPRESENTATIVE JOHNSON remarked that the bison were introduced in 1928 but the farms were established in 1978. He inquired whether this issue is similar to someone buying a home next to the airport and then complaining about the noise.

CO-CHAIR FEIGE responded the farmers had to sign documents that they would not hold the government responsible for the bison at that time the Delta barley projects were started in the late 1970s. However, the size of the herd has nearly doubled. In 1978, the herd consisted of 250 animals and today it is 450 animals, in part, due to state management for maximum sustainable yield. He acknowledged that the farmers do not have direct recourse to the state, but it is also a matter of fairness. There are two competing user groups consisting of farmers trying to make a living and hunters enjoying the sport and subsistence aspect of hunting. He offered his belief that this bill seems like a fair compromise to address an ongoing problem. He pointed out that the ADF&G study group recommended this remedy to resolve the problem.

REPRESENTATIVE KAWASAKI was unsure that this is the state's responsibility. He pointed out he does not get money from the state when moose eat his pumpkins from his garden. He was unsure that it was the hunter's responsibility, yet this bill would double the permit fees although he noted these fees are

modest. He maintained he was not convinced this bill is necessary.

REPRESENTATIVE P. WILSON remarked that the current \$10 fee is very small so an increase to \$20 would constitute a very small increase to provide assistance to the farmers.

REPRESENTATIVE SEATON remarked that the fee increase is necessary and since it provides matching funds he favors the fee increases. He did not think DNR would have superfluous amounts of money for grants, plus he thought the applicability of the other sections will not come to fruition. Thus, he supports moving the bill for that reason.

[1:31:57 PM](#)

CO-CHAIR FEIGE moved to report the proposed committee substitute (CS) for HB 202, Version P, labeled 28-LS0412/P, Bullard, 2/24/14, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, the CSHB 202(RES) was reported from the House Resources Standing Committee.

The committee took an at-ease from 1:32 p.m. to 1:36 p.m.

HB 207-AGRICULTURE; AGRICULTURAL LOANS

[1:36:21 PM](#)

CO-CHAIR SADDLER announced that the next order of business would be 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." [Before the committee was Version C].

[1:36:30 PM](#)

CO-CHAIR FEIGE moved to adopt the proposed committee substitute (CS) for HB 207, Version R, labeled 28-LS0675\R, Martin, 3/7/14, as the working document. There being no objection, Version R was before the committee.

[1:36:58 PM](#)

MICHAEL PASCHALL, Staff, Representative Eric Feige, Alaska State Legislature, outlined the provisions of Version R. He said that Version R removes the provisions that pertain to the Natural Resources Conservation and Development Board (NRCDB) from the bill. He referred to the sectional analysis provided by [Hilary Martin, Legislative Counsel, Division of Legal and Research Services, Legislative Affairs Agency, dated March 13, 2014] and stated that paragraph two summarizes this change. He explained that Version R represents a rewrite of HB 207. He offered to review the bill by section. He said that Section 1 repeals and reenacts AS 03.09.010 (a), which would establish the Board of Agriculture and Conservation (BAC) in the DNR. This section also specifies the membership of the board which consists of 10 members, including three ex officio nonvoting members. Four voting members must be engaged in commercial agriculture and at least one member is from each of the four judicial districts.

[1:39:28 PM](#)

MR. PASCHALL stated that Section 1 identifies one member must be a land user in the soil and water district. One member must have a business and financial interest, but that person cannot be engaged in commercial production agriculture. He highlighted that these positions are current positions on the board. This section also would add a new board member, who must have experience in the preparation, storage, processing, handling, sale, or marketing of food products in a wholesale or retail environment, but cannot be engaged in commercial production agriculture. He characterized this position as being the one that represents the downstream process of farming. Additionally, three ex officio members were added, including the commissioner of DNR, the commissioner of Department of

Environmental Conservation (DEC), and the chancellor of the University of Alaska Fairbanks or the chancellor's designee from the Cooperatives Extension Service or the School of Natural Resources and Extension. Section 2 would repeal and reenact AS 13.09.010 (d). This provision would prohibit an individual from serving on the board if he/she had applied for or restructured a loan application. He reminded members one purpose is to move approval to the Department of Commerce, Community & Economic Development (DCCED) and this provision limits people who wish to obtain a loan from serving on the board. This would allow a person with a lease, permit, installment contract, or loan under AS 03.10 or AS 38.05 to be appointed to the board, but the person may not take any official action that would affect their own lease, permit, installment contract, or loan.

[1:40:15 PM](#)

MR. PASCHALL said Section 3 requires the board to meet at least four times a year and defines "commercial production agriculture" as someone engaged with the intent to sell agriculture products greater than a value of \$5,000.

MR. PASCHALL related that Section 4 addresses the powers of the board, including advising the commissioner of ADF&G and DEC on issues, permitting, regulations, and the protection of agriculture and food industry to broaden the economic base of the state and to protect consumers.

CO-CHAIR FEIGE emphasized that the current statutory authority for the board would limit the board to approving ARFL loans. This bill would request that the BAC have a much greater say on agricultural policy for the state. He clarified that the board does not currently have this statutory authority.

[1:41:36 PM](#)

MR. PASCHALL explained that the policies are listed in this section. Since the loan approval functions are transferred to the DCCED under the bill, it was important to retain the board's ability and expertise to review any loans that were denied or

appealed since extenuating circumstances might exist unique to agriculture.

MR. PASCHALL referred to page 4, line 7-20, which is existing language with the exception of line 14, paragraph (4), which read, "ensure the wise use of the state's natural resources through conservation of its soil and water;". This language came from the soil and water districts in the state and was added since part of agriculture and farming consists of conserving resources.

[1:42:53 PM](#)

MR. PASCHALL referred to page 4, lines 21-24, which adds new language in paragraph (7), which read, "recommend to the University of Alaska Cooperative Extension Service or School of Natural Resources and Extension programs and activities that will further the promotion, regulation, and protection of the agriculture and food industry, broaden the economic base of the state, and protect consumers; and." He indicated the goal is to make this a policy board to make recommendations to the agencies involved in farming.

MR. PASCHALL referred to page 4, line 25 to paragraph (8), "adopt regulations." He pointed out that line 28 establishes guidelines for approval of emergency loans since the board currently approves the loans and will need to write the guidelines.

MR. PASCHALL stated that Section 5 is existing language, making conforming clarifications.

MR. PASCHALL related that Section 6 specifies five voting members of the board are necessary for a quorum and voting purposes to ensure statewide input on agricultural policy decisions.

[1:44:23 PM](#)

MR. PASCHALL said Section 7 would allow the board to adopt regulations to carry out its duties, including establishing fees for services provided.

MR. PASCHALL stated that Section 8 is existing language and makes conforming language and Section 9 is existing language that defines "agriculture" and "board."

MR. PASCHALL related that Section 10 would add a new section regarding loans from the agriculture revolving loan fund. It would require the DCCED to approve loans from the fund and sets out the types of loans that may be approved.

[1:45:10 PM](#)

MR. PASCHALL highlighted that paragraphs 1-8 are an existing loan activities of the board. He indicated that paragraph (9) was added relating to commercial production or processing of lime products limiting extraction to at least 50 percent for agricultural purposes.

MR. PASCHALL pointed out paragraph (10) would allow a shop with 50 percent of its activities related to agriculture to be eligible for a loan. For example, one mechanic in Delta Junction performs nearly all his work on agricultural equipment and would be eligible for a loan under the new program.

MR. PASCHALL stated that Section 11 provides conforming language but does not change the terms of the process. He related that Section 12 is existing language, but provides the minimum rate for a loan may not be less than three percent. He stated that Section 13 is also existing language and specifies that the DNR receives the payments on behalf of the state.

MR. PASCHALL noted Section 14 is existing language but would remove a reference to a fixed rate of interest for farm processing loans, which is located in other portions of the bill. He said Sections 15 is existing language but is conforming language. Section 16 would limit the interest rate to not less than three percent.

[1:47:53 PM](#)

MR. PASCHALL stated that Section 17 would require funds from assignments of proceeds under this section to be deposited in the agricultural revolving loan fund. He said Section 18 is existing language, requiring excess proceeds collection from an assignment to be refunded to the applicant.

MR. PASCHALL stated that Section 19 is conforming language that would change a reference from the board to the DCCED and Section 20 provides a clarification and would amend the definition of "nonfarm use." Section 21 would allow the legislature to appropriate money from the fund for the costs of administering the loan program under AS 03.10.

MR. PASCHALL said that Section 22 maintains that the board is responsible for administering the agricultural revolving loan fund. Some confusion has occurred in that some think the loan fund has been moved to the DCCED; however, the loan fund remains with the Board of Agriculture and Conservation.

CO-CHAIR FEIGE added that Legislative Budget and Audit (LB&A) recommended moving the Agriculture Revolving Loan Fund (ARLF) to DCCED. He offered his belief that a significant benefit can occur by retaining the current structure but allowing the fund to be administered by the board and operated under the Division of Agriculture. The loan approval authority would be moved to remove the conflict away from the board and expand the pool of those who can serve on the board. This would allow the board to be a greater vehicle for policy advice to the state.

[1:51:26 PM](#)

MR. PASCHALL explained that Section 23 reinserts language to allow interest rates to be fixed to encourage agricultural development but not subsidize non-viable agricultural enterprises. The rates cannot discriminate against viable existing agricultural enterprises but are comparable to rates charged by other agricultural lending institutions. One provision would allow the board to set the interest rate lower than a comparable rate if the existing loan or application has

been denied by other lenders, falls within a particular geographical area, or a particular activity that the board considers to be a priority in the development of the agricultural industry.

MR. PASCHALL stated that Section 24 is existing language with the except for the definition of "department" as being the DCCED instead of DNR. Section 25 would repeal statutes not needed. Section 26 would provide transition language to dissolve the existing board and reappoint a new board with staggered terms.

[1:53:17 PM](#)

REPRESENTATIVE HAWKER, referred to AS 03.10.025 in Section 10 of the bill, which provides the department with the authority to make the loans. He related his understanding that subsection (b) would provide the constraints. He asked whether this would essentially leave the "fox in charge of the hen house."

MR. PASCHALL answered that the goal was to continue oversight of the program by allowing those most familiar with agriculture to set policies while still ensuring that the loans meet the criteria under the DCCED's review.

[1:54:59 PM](#)

REPRESENTATIVE HAWKER maintained his concern that the policy making authority remains under the board. Although he understood the intent, he suggested that the regulated are making the regulations. He characterized the prior operation as being incredibly "self-serving."

REPRESENTATIVE SEATON referred to page 6, line 7, which would give the department the ability to approve loans limited to individuals or corporations, but leaves out cooperatives. He asked the sponsor whether language could be added to add cooperatives, on page 6, line 7, after partnership.

MR. PASCHALL said there would be no objection. He suggested that normally the cooperative would be a corporation, but he offered to check into it.

[1:57:57 PM](#)

REPRESENTATIVE JOHNSON inquired whether there is a definition of "teleconference." For example, and whether that would include Skype or video-conferences.

CO-CHAIR FEIGE related his understanding that in addition to telephone it would allow video-conferences or Skype.

REPRESENTATIVE JOHNSON suggested that video-teleconference similar to the legislative conferencing.

CO-CHAIR FEIGE answered it would be some type of real-time teleconference method.

REPRESENTATIVE JOHNSON agreed; but cautioned against allowing texting or e-mail as a means to participate.

CO-CHAIR SADDLER suggested that the sponsor could find out if a general definition exists.

REPRESENTATIVE JOHNSON suggested it may be in statute.

[2:00:04 PM](#)

REPRESENTATIVE P. WILSON asked whether DNR will add extra staff to process the additional loan applications. In response to a question for clarification, she asked whether DNR would be involved with regulations adopted by the board.

CO-CHAIR FEIGE related his understanding that this would essentially give the board statutory authority to adopt regulations that govern the Agricultural Revolving Loan Fund (ARLF); however, the actual approval authority for the loans rests with board. The application would be reviewed by DCCED for approval, and if an applicant appealed the decision, it would come before the board to obtain a recommendation for the commissioner of DNR as to whether the loan should be approved.

[2:02:47 PM](#)

REPRESENTATIVE TARR recalled some opposition to taking away the authority for loan approval. She said one of the recommendations for this stemmed from the recent audit. She understood the audit was to review the past five years but it actually went back to the inception of the fund. Thus, some of the information didn't clearly reflect that significant changes had been made in the management to ensure success. Additionally, some of the loss was due to some funds being swept to pay for the Division of Agriculture's operating expenses but weren't related to failed agricultural projects. She requested further clarification.

FRANCI HAVEMEISTER, Director, Directors Office, Division of Agriculture, Department of Natural Resources (DNR), responded that is correct. The audit called for a review of the past five years dating back to 2009. She related her understanding that of the 66 percent loss of funds reported in the audit, \$41 million was moved out of the Division of Agriculture, some of which was appropriated to operate the division, with a portion returned to the general fund for forest fire activities in the Division of Forestry.

KRISTIN CURTIS, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature, explained a section of the audit describes the historical perspective of the fund from its inception. This provides some understanding on the balance of the fund and how the equity has declined. The recommendations in the audit are based on auditor's reviews of loans from the past five years. She characterized these as being current audit recommendations.

[2:06:07 PM](#)

REPRESENTATIVE JOHNSON shared Representative Hawker's concern about the "fox guarding the hen house." He inquired whether a separate approval process could be developed for regulations.

CO-CHAIR FEIGE asked for further clarification on whether he was referring to regulations adopted by the board, such that the

regulations would be approved by the commissioner of DNR rather than the board.

REPRESENTATIVE JOHNSON wondered if someone else could do it.

CO-CHAIR FEIGE agreed they could.

REPRESENTATIVE HAWKER said this is exactly what he wanted to put on the table as a means to seek common ground solutions. He suggested that the department do the administrative work by approving the loan, but based on having the regulations proposed by the board be subject to approval by the DCCED's commissioner prior to adoption. He suggested that this would provide dual control over the administrative process.

MS. CURTIS replied that her division takes no position. However, she noted that the audit makes a recommendation about improving regulations to whomever administers the fund. The Board of Agriculture and Conservation (BAC) board could implement the recommendations in terms of improving the regulations. The DCCED's commissioner could approve the regulations. The auditors believe improvements need to be made but leaves it up to policymakers to decide who best serves that role.

CO-CHAIR SADDLER indicated the process could be revised that would result in improved regulations.

MR. PASCHALL, addressing the previous question, agreed this is something that could be reviewed. He pointed out that the legislature has a review committee for regulations which could serve that purpose in the final process.

[2:10:50 PM](#)

REPRESENTATIVE HAWKER said that two members of that review committee serve on this committee. He pointed out that this function is not a role of the Administration Regulation Review Committee since it has a broad oversight role but does not have a policy-making role. In this instance, the legislature wants

to make sure that the control is established at a policy-making level.

REPRESENTATIVE JOHNSON noted the distinction between approval and review. In this instance he thought the committee is interested in approval.

MR. PASCHALL pointed out that putting in some type of approval process would be seen as a positive move.

CO-CHAIR SADDLER related the bill will be before the committee again.

[2:11:46 PM](#)

REPRESENTATIVE KAWASAKI asked how the administration of other revolving loan funds works and whether this proposal is similar to those, such as for the Commercial Fishing Revolving Loan Fund (CFRLF).

MS. CURTIS explained that the CFRLF's approval process is done by a committee of loan officers. She noted the audit report compares the administration of the loan fund to various comparable loan funds and highlights the differences. The audit concludes it is unusual to have a board such as the BAC board involved in approving the loans. However, the department does make the point that it is there for a unique reason. She reiterated that they are very different funds, but the audit highlights differences between comparable funds in the report.

[2:13:03 PM](#)

REPRESENTATIVE TARR agreed with Representative Hawker and Representative Johnson that a great solution might be for the DCCED's commissioner to approve new regulations but to currently keep the responsibility under the BAC. The legislature could help ensure that the fund stays solvent and that funds are available for agricultural development. She noted many legislators are committed to this goal.

CO-CHAIR FEIGE asked for further clarification on why approval for regulations would be up to the DCCED's commissioner and not DNR's commissioner.

[2:14:06 PM](#)

REPRESENTATIVE TARR answered that the DCCED oversees other loan funds, the audit makes recommendations, and from discussions with the auditors, it seems as though the DCCED would be more familiar with the financial management the DNR. She acknowledged she has thin knowledge in this regard, but people were not comfortable with fully removing the responsibility from the BAC.

REPRESENTATIVE HAWKER maintained it is a policy call. He agreed with Representative Tarr. From a regulatory-making perspective, it makes sense that the DCCED's regulations are the ones being implemented since DCCED approves the loans. However, it crosses the line by giving an entity within DNR the potential authority to propose the regulations, but the DCCED would approve them. He questioned asking DCCED to enforce something completely and totally structured in DNR. He said if the matter dealt with resource management, forestry, or land issues, the DNR commissioner would be the proper place to vest the authority; however, in this case an economic activity, the loan fund, is clearly within the bailiwick of commerce.

[2:17:08 PM](#)

CO-CHAIR SADDLER opened public testimony on HB 207.

[2:17:24 PM](#)

TODD PETTIT, Farmer and Chair of the Palmer Soil and Water Conservation District, thanked Representative Feige for pulling the Natural Resource Conservation and Development Board merger out of the bill. He testified in opposition to HB 207. First, the changes to the BAC and ARLF statutes would be bad for the agricultural producers in the state since the bill does not streamline government nor does it support the intent of the ARLF loan program. He read the policy of the ARLF, as follows, "It

is the policy of this chapter to promote the more rapid development of agriculture as an industry throughout the state by means of long-term low-interest loans." Allowing the program to be placed into DCCED would negate this policy by layering it with unneeded government bureaucracy. One of the many benefits of the BAC, after loan approval, has been its expediency in processing loans and issuing funds to farmers. Further, he emphasized the importance a clear and transparent board, which BAC has achieved by following the guidelines of who may serve on the board. Version R would eliminate this transparency by allowing a producer with a current ARLF loan to sit on the board or to apply for a loan, which creates huge conflict of interest and completely removes the original intent of this bill and the specific policy.

MR. PETTIT testified that the majority of producers and farmers are also against this bill and it is simply bad for agriculture in the state. He observed that the industry is growing by leaps and bounds, that it is an exciting time to be involved in agriculture in Alaska, and he cautioned against adding encumbering bureaucracy to an expanding and developing resource in Alaska.

[2:20:35 PM](#)

CO-CHAIR SADDLER asked for further clarification on the comment that a majority of farmers are opposed to this. He asked whether he was speaking as the director of the Palmer District.

MR. PETTIT reported that the Palmer District board, the Matsu Valley Farm Bureau, and the other conservation districts within the state are all opposed to the bill. He acknowledged he is speaking today as a producer, but he has been involved in the hearings and proceedings on this bill and reported his sense of widespread opposition to the bill.

[2:21:59 PM](#)

ARTHUR KEYES, Farmer, expressed his opposition to HB 207. He said he finds the statement of "the fox guarding the hen house" to be offensive and unfair to the current BAC board whose

members have invested their time in agriculture and care about the farming industry. He agreed with Mr. Pettit and noted he has also spoken to many producers and the majority of farmers oppose the bill. He surmised that anyone supporting this is in the minority so he encouraged the committee to kill this bill. Further, if committee members are concerned about food security in Alaska, this bill should be killed. He has shown visitors the unlimited innovation and opportunities on his farm; however, legislative support will go a long way in assisting innovation to survive and thrive, to preserve food security, and to strengthen and "grow" it.

[2:24:37 PM](#)

REPRESENTATIVE TARR clarified that the comment "the fox guarding the hen house" referred to changes made in Version R that will allow someone currently serving on the BAC to also apply for a loan, which current statute prohibits. She asked Mr. Keyes' to weigh in on the BAC retaining authority for loan approval, allowing the BAC to draft regulations, but DCCED having final approval on new regulations.

MR. KEYES agreed the proposed committee substitute [Version R] might create that aforementioned situation; however, adding more safeguards would also create more bureaucracy that isn't necessary since existing law contains appropriate safeguards. He questioned allowing someone to serve on the board and obtain a loan, which he viewed as a conflict of interest.

[2:27:29 PM](#)

CO-CHAIR FEIGE queried how Mr. Keyes believes the bill would create more bureaucracy since it doesn't add additional people.

MR. KEYES suggested that it would increase the size of the board, would add ex officio members, and a financial person would review the application, who would subsequently submit it to the DCED for loan officer approval. He questioned how it wouldn't create more bureaucracy.

[2:28:56 PM](#)

CO-CHAIR FEIGE, regarding the conflict of interest issue, said the main point of HB 207 is to provide more statutory policy advice to the Division of Agriculture and the department. The existing conflict of interest - the approval authority resting with the board - would be removed by having a separate entity, DCCED, approve loans. He disagreed that HB 207 creates a conflict since the approval authority would not reside with BAC.

MR. KEYES acknowledged he might be misunderstanding the bill, but he understood that Version R would allow someone with a loan to serve on the BAC, which seemed like a conflict of interest.

[2:30:35 PM](#)

CO-CHAIR FEIGE related his understanding that the current conflict of interest is that sitting board members will be approving loans. Removing the loan approval authority would eliminate the conflict of interest offered his belief that this bill would increase the pool of applicants that could serve on this board.

MR. KEYES responded that the current system, regardless of the audit, has proven to be an effective one. He lauded the BAC as one of the best boards, as did Mr. Fogels. He said this bill attempts to fix something that is already exceptional and he encouraged members to kill the bill.

[2:31:56 PM](#)

REPRESENTATIVE P. WILSON asked what Mr. Keyes thinks he will lose if this bill is passed.

MR. KEYES answered that agriculture is a unique industry. He related a scenario in which that illustrates decisions farmers must make. For example, the risks hay farmers take risks might include spreading \$50,000 in fertilizer on their fields in hopes of obtaining sufficient crop to repay their loans only to have it blow off during a dry spell, represents risk that doesn't fit the typical loan parameters. He questioned the ability of bankers to make decisions appropriate to farmers' needs since

they haven't experienced the heartbreak of losing a crop or been involved in the aforementioned fertilizer fiasco. He emphasized this could adversely affect farmers from securing loans when the loan program was designed to help farmers and to create an expedient program. Further, with respect to language in the bill, a disparity in authority exists, such that the frequency in which the new board "may" give advice is peppered throughout the bill but any reference to the DCCED indicates "shall."

[2:36:06 PM](#)

REPRESENTATIVE HAWKER disagreed, noting at least two members on this committee hail from farm communities in Iowa and even though he is a CPA and has been a banker, he has a farming perspective, too. He appreciated the testimony, but respectfully cautioned that the goal is to create an efficient method to help farmers secure loans with the appropriate financial and managerial control while vesting farm policy within this board.

[2:37:46 PM](#)

ROBERT RIDDLE, Farmer, asked for clarification on the definition of a farmer. He referred to one provision that identified a farmer as someone who earns \$5,000 or more per year. He questioned what happens to farmers who lose their crops. He suggested it be more like miners who have an assessment, and if farmers met the assessment by improving the ground it could be a consideration.

[2:39:09 PM](#)

CO-CHAIR FEIGE referred to page 3, line 11, Version R, subsection (g), which read:

"commercial production agriculture" means agriculture engaged in with the intent to sell agricultural products with a value of \$5,000 or greater a year.

CO-CHAIR FEIGE asked if the crop fails the farmer still had the intent to sell the product whether the farmer would qualify under this provision.

MR. RIDDLE asked for clarification on who would define intent.

CO-CHAIR SADDLER answered that a person who has entered the business of farming would express the intent to farm.

[2:40:35 PM](#)

DON BERBERICH, Farmer and President of the Alaska Farm Bureau, stated he also serves as the treasurer for the Palmer Soil and Water Conservation District and has a small farm. He has also worked as an agriculture teacher and FAA advisor at Palmer High School for the past 24 years. He highlighted two complaints he has with HB 207. First, at the annual state Farm Bureau meeting the membership intended to vote for "no support" for HB 207. He described the process the membership used and asked to clarify the Alaska Farm Bureau voted not to support HB 207.

CO-CHAIR SADDLER asked what version of the bill was before the bureau, noting the committee currently has Version R before it.

MR. BERBERICH stated that the Alaska Farm Bureau considered Version U [the original version of the bill]. He offered his belief that the current BAC board has been one of the best. He suggested limiting the changes to address the concern that a person with an ARLF loan can serve as a board member without making sweeping changes to a system that works. He lamented that he should be tackling his numerous farm chores instead of testifying today and attending meetings next week to develop a list of farming priorities in Alaska. He also doubted that HB 207 will be on the list of farming priorities.

MR. BERBERICH maintained that the audit findings misunderstood the role of Mt. McKinley Meat and Sausage (MMM&S) [Alaska DNR, Division of Agriculture] since "propping up" the MMM&S supports a much bigger section of agriculture. He offered his belief that killing the slaughterhouse could kill the meat industry, which in turn will harm the animal feed industry, the hay

producers, the grain producers, those storing feed, and more. He offered his belief that to develop lime production could also wipe out the ARLF. The focus should be on important issues such as developing the food security in Alaska so Alaskans can survive for a month without relying on food from the Lower 48.

[2:46:13 PM](#)

CO-CHAIR FEIGE, in regard to Mr. Berberich's comment that people would be "thrown off" the board because of the bill, wondered who would not qualify to serve under the bill as stated.

MR. BERBERICH clarified that this bill isn't a good way to thank a board that has been doing a good job.

CO-CHAIR FEIGE remarked that he admires the BAC's work and he is in no way criticizing the board's actions. Under the bill, most of the current board members could continue to serve since the bill only changes the structure and places an emphasis on commercial agriculture. He characterized the bill as intending to provide a policy conduit for information to and from the industry to the state.

[2:47:46 PM](#)

JOHN SCHIRACK, Producer, stated that he serves on the BAC as well as serving as Chair of the Soil and Water District in Wasilla. He reiterated Mr. Pettit's comments in thanking the sponsor for removing the Soil and Water District from the bill. He questioned who supports this bill since the aforementioned Matsu Farm Bureau and the Farmers Union, the "main players," voted to oppose the bill. He commended the Chair of the BAC for his work on the board. He related that an accountant and a financial person serve as board members. In addition, the current BAC has representation from Kodiak, Kenai, Mat-Su Valley, and the Soil District, but the Delta Junction member is currently vacant.

MR. SCHIRACK agreed with the conflict of interest sections of the bill. He acknowledged that a board member would need to be recused from any actions the board would take the member's loan.

He acknowledged he does not know the whole regulation process, but he does not believe the BAC can propose a regulation and adopt it. In closing, he asked members not to support HB 207.

[2:52:58 PM](#)

CAROL KENLEY, Farmer, spoke in opposition to HB 207, stating that she serves as the secretary of the Matsu Farm Bureau. She understood the changes in Version R would move the loan approval from the BAC to DCCED, would allow current board members to have current ARLF loans or apply for AFLF loans, and would allow the board to advise and consult. First, she opposed moving the loan approval to DCCED. Currently, farmers, who have real interest in ensuring a viable ARLF are the ones "guarding the hen house" and they have an interest in ensuring that the ARLF remains viable. Second, she questioned whether conflicts could arise if DCCED approve loans. She offered her belief the board already advises and consults with DNR. She offered her belief this bill is trying to "fix something that isn't broken." Finally, the Matsu Farmers Bureau is united in opposing the original version of HB 207 and she surmised they would also be opposed to Version R. She asked members to postpone action on HB 207 until the committee has allowed the Matsu Farm Bureau an opportunity to weigh in on Version R.

[2:56:02 PM](#)

CO-CHAIR SADDLER closed public testimony on HB 207.

CO-CHAIR FEIGE directed attention to a letter from Mr. Nate Burris in the committee packet dated February 2, 2014.

The committee took an at-ease from 2:57 p.m. to 2:59 p.m.

[2:59:14 PM](#)

CO-CHAIR FEIGE again directed attention to letters from Mr. Nate Burris and Mr. Jim Clark, noting both had been involved in the meat processing industry and have raised some concerns about MMM&S. The ARLF audit highlighted several assets, including MMM&S, which was acquired when the owner of the facility

defaulted and the fund took back the property. It provides a significant function for the agriculture industry in Southcentral Alaska, including offering a "kill floor," refrigeration for initial meat aging, and the authority to stamp USDA on carcasses to allow for public sales. The facility also processes meat for the prison system, using prison labor for processing and meat cutting. However, MMM&S has been losing over \$100,000 per year, which comes out of the agriculture revolving loan fund.

[3:01:25 PM](#)

CO-CHAIR FEIGE pointed out a number of actions taken by the BAC board, including that the BAC has tried to divest itself of the MMM&S's plant. To date, due to a variety of reasons that closure has not been accomplished, he said.

CO-CHAIR FEIGE remarked that he did not intend to formerly offer two proposed amendments, one related to legislative intent and the other to specifically remove the authority for the facility meat processing. The MMM&S facility can process meat at such low costs since it uses prison labor, which prevents other businesses from competing in the industry. In fact, meat processing is not a function of state government and should be operated by the private sector. He cautioned against however, immediately eliminating the "kill floor" asset and recommended a suitable transition should be developed to either close MMM&S or allow the private sector to take it over.

[3:04:01 PM](#)

CO-CHAIR FEIGE, in his research with the USDA, found it will take somewhere between 60 to 90 days to obtain a USDA stamp. This is not within the realm of possibilities. He explained two proposed amendments, not yet offered. He related that Amendment 1, [28-LS0675\R.1, Martin, 3/13/14] proposes to close McKinley Meat and Sausage (MMM&S) by 2015. Secondly, Amendment 2, [28-LS0675\R.2, Martin, 3/14/14], would restrict MMM&S processing meat. He asked members to consider these proposed amendments for discussion at a later date.

[3:04:58 PM](#)

REPRESENTATIVE HAWKER remarked that the legislature had a large debate a number of years ago on the prison industries and its competition with the private sector. He said the state should not be using convict labor to compete with the private sector.

CO-CHAIR SADDLER reported that members of the committee have been provided letters of February 27, 2014 from Nate Burris and Jim Clark. Additionally, members have been provided copies of amendments.

REPRESENTATIVE SEATON asked that Version R and the proposed amendments [not yet before the committee] be posted on-line.

[3:06:22 PM](#)

[HB 207 was held over.]

[3:06:45 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:07 p.m.