

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

February 19, 2018

3:30 p.m.

MEMBERS PRESENT

Senator Cathy Giessel, Chair
Senator John Coghill, Vice Chair
Senator Natasha von Imhof
Senator Bert Stedman
Senator Kevin Meyer
Senator Bill Wielechowski
Senator Click Bishop

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

State Assessment Review Board
Bradley Pickett, Mat-Su

- CONFIRMATION ADVANCED

Regulatory Commission of Alaska (RCA)
Paul Lisankie, Anchorage

- CONFIRMATION ADVANCED

SENATE BILL NO. 164

"An Act relating to the confidentiality of certain records on animals and crops; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 164

SHORT TITLE: CONFIDENTIALITY OF ANIMAL & CROP RECORDS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/26/18 (S) READ THE FIRST TIME - REFERRALS
01/26/18 (S) STA, RES
02/08/18 (S) STA AT 3:30 PM BUTROVICH 205
02/08/18 (S) Moved SB 164 Out of Committee
02/08/18 (S) MINUTE(STA)
02/09/18 (S) STA RPT 2DP 3NR
02/09/18 (S) DP: MEYER, EGAN
02/09/18 (S) NR: WILSON, GIESSEL, COGHILL
02/19/18 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

BRADLEY PICKETT

Mat-Su, Alaska

POSITION STATEMENT: Appointee to the State Assessment Review Board.

PAUL LISANKIE

Regulatory Commission of Alaska (RCA)

Anchorage, Alaska

POSITION STATEMENT: Appointee to the Regulatory Commission of Alaska (RCA).

TOM BOUTIN, member

Alaska Chapter Association of Mature American Citizens

Juneau, Alaska

POSITION STATEMENT: Urged withholding action on any appointee until the Senate District E vacancy is filling.

MIKE COONS, representing himself

President, Alaska's Chapter for Association of Mature American Citizens (AMAC)

Palmer, Alaska

POSITION STATEMENT: Urged withholding action on any appointee until the Senate District E vacancy is filled.

CHRISTINA CARPENTER, Director

Division of Environmental Health

Department of Environmental Conservation

Anchorage, Alaska

POSITION STATEMENT: Commented on SB 164.

ROBERT GERLACH, State Veterinarian

Department of Environmental Conservation (DEC)

Anchorage, Alaska

POSITION STATEMENT: Commented on SB 164.

ARTHUR KEYES, Director
Division of Agriculture
Department of Natural Resources (DNR)
Palmer, Alaska
POSITION STATEMENT: Commented on SB 164.

JENNIFER CURRIE
Alaska Department of Law
Anchorage, Alaska
POSITION STATEMENT: Commented on SB 164.

AMY SEITZ, Executive Director
Alaska Farm Bureau
Kenai, Alaska
POSITION STATEMENT: Supported SB 164.

ACTION NARRATIVE

[3:30:09 PM](#)

CHAIR CATHY GIESSEL called the Senate Resources Standing Committee meeting to order at 3:30 p.m. Present at the call to order were Senators Bishop, Stedman, Meyer, Wielechowski, Coghill, Von Imhof, and Chair Giessel.

CONFIRMATION HEARING(S) **State Assessment Review Board** **Regulatory Commission of Alaska**

[3:30:46 PM](#)

CHAIR GIESSEL announced consideration of the Governor's appointees. She said Ms. Wilson was on the agenda, but something came up and she couldn't be here. The first appointment was for the State Assessment Review Board: Bradley Pickett, from Mat-Su.

She said this is a five-member board that must be knowledgeable about the assessment procedures for pipeline transportation of gas or unrefined oil. It meets once a year for two to three days and the compensation is standard travel and per diem. She invited Mr. Pickett to the table to tell them about himself and why he is interested in serving on the State Assessment Review Board.

[3:32:43 PM](#)

BRADLEY PICKETT, appointee to the State Assessment Review Board, Mat-Su, Alaska, said he is currently the Mat-Su Borough assessor. He has been in the appraisal business for 16 years, 8 of which he served as the commercial appraiser. So, he has a

background to serve on this board and is familiar with the type of applications they will be reviewing. He is honored to be appointed to this board and he looks forward to working with its distinguished members and to gaining knowledge as he works on the board.

[3:34:05 PM](#)

SENATOR COGHILL thanked him for being willing to step up and serve and asked if he had attended any board meetings.

MR. PICKETT answered yes, he attended two meetings last year and found them very well run and professional.

SENATOR COGHILL asked his perspective on going from the municipal level to the state level in terms of what he brings to the table and what will be new to him.

MR. PICKETT replied that he brings a strong background in commercial appraisals doing the cost approach to the table, but he needs to learn some of the oil and gas pipeline terminology.

SENATOR COGHILL asked if he had a chance to look at some of the case law that the legal experts on that board represent.

MR. PICKETT replied that they had given him information to review, and he has reviewed some the legal standings that previous cases were based on.

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CHAIR GIESSEL, finding no further questions for Mr. Pickett, invited Mr. Lisankie, who has been appointed to the Regulatory Commission of Alaska (RCA) to tell the committee about the experience that would qualify him for this position and why he is seeking it. She said this is a five-member board and requirements are: good standing with the Alaska Bar Association or a degree with a major in engineering, finance, economics, accounting, business administration, or public administration, and then actual experience for a period of five years in the practice of law or in the field of engineering, finance, economics, accounting, business administration, or public administration. The compensation is a range 27 as an exempt employee and the hearings are continuous throughout the year.

PAUL LISANKIE, appointee, Regulatory Commission of Alaska (RCA), Anchorage, Alaska, introduced himself. He thanked the committee for the opportunity to appear before them today. He also thanked Governor Walker for appointing him to complete the term of his

former colleague, Commissioner and former representative, Norman Rokeberg. This appointment is due to expire March 1, 2019.

MR. LISANKIE said he had just completed a full term, 2009-2015, on the RCA and left a substantial record concerning the regulatory matters he dealt with and the nature of his participation in them. He is a lawyer who has a degree in economics. He said those with an economics background sometimes have more exposure to numbers than some of the lawyers. In dealing with rate cases, exposure to statistics and mathematical analysis comes in handy.

3:41:00 PM

MR. LISANKIE said he is an Alaskan by choice and has lived in Anchorage since 1984. He arrived in Kodiak in 1982. Since his retirement, the longest he has been out of state is 26 days in one shot.

He said it is an honor - and a great responsibility - to serve the people of Alaska in this capacity, Mr. Lisankie said, and he attempts to be diligent in his preparations, so he can be fully prepared to responsibly consider the matters that come before the commission. He tries to treat everyone coming before them with respect, and to fairly resolve disputes to the best of his ability.

MR. LISANKIE said in the past, when the RCA resolved disputes or adopted regulations, he tries to apply basic broad guidelines, and most importantly, make sure their actions are consistent with the intent of the underlying statutory provisions. Similarly, when they are asked to make policy pronouncements, his first and last questions are whether they are operating within the parameters of the statutory provisions that they have been appointed to apply.

Lastly, he apologized if he makes extra work for the legislature, but he sometimes says if he is not convinced that what they are being asked to do falls within their statutory authority, no matter how good the idea, his recommendation is that the legislature be consulted, and the law be appropriately amended.

SENATOR VON IMHOF asked if he anticipated the RCA looking at the Chugach/ML&P purchase.

MR. LISANKIE answered yes; he expects that the RCA will be asked to examine any proposed sale of Municipal Light & Power to

Chugach Electric Association. But the process hasn't evolved yet and he hadn't done much to prepare.

3:45:19 PM

SENATOR COGHILL thanked him for stepping up and serving again. He said that Mr. Lisankie deals with several different worlds within the RCA and as a commission there has always been pressure on how to deal in depth with some of the issues that are different on hydrocarbons versus electrons and asked how he sees the legislature doing in his experience.

MR. LISANKIE said he touched the core of a lot of the primary challenges the commissioner faces on a policy basis. A lot of what the commission is asked to do is to fill in some of the particulars of broader policy guidelines. It's not easy. For every good idea, somebody thinks it's a bad idea. But they do their best to parse what works for Alaska. Alaska may not be unique in certain ways, but when it comes to energy and regulating utilities, Alaska is unique, and is referred to as an "energy archipelago," islanded by various mountain ranges, the sea, and rivers. Trying to adopt what the Lower 48 is doing doesn't always work in Alaska. All he could promise is that he would take a hard look and try to do what seems to make sense for Alaska regardless of how it plays at the annual convention.

SENATOR COGHILL said he knows every topic is dense and complicated and often the question of separating out some of the units like the telecoms from the electron world or the gas world filters up to the legislature. They are so vastly different, and the bodies of law seem to get bigger and bigger. He asked if the RCA staff has the expertise and the workload time to handle those complexities. Should subject experts be housed in each section?

MR. LISANKIE replied that he had been back for two weeks, he can't give him an up-to-the-minute impression. Based on his prior experience, he felt that staff was able to deal with the subject matters confronting them. However, they have fewer staff today than three years ago, and he would take a hard look and ask the chairman for his opinion.

SENATOR COGHILL said this is a public seat and asked what seat he held prior.

MR. LISANKIE replied that they are all denominated public, now. The RCA changed its laws years ago, and there's no denominated seats.

[3:50:51 PM](#)

SENATOR WIELECHOWSKI said the big issue for Southcentral has been Cook Inlet gas prices over the years and asked if he is comfortable in terms of one corporation holding a predominant amount of the gas. Does Cook Inlet have sufficient competition, so utilities can get fair gas prices?

MR. LISANKIE answered there is not a lot of leverage to drive competition in the gas market in Cook Inlet and no control over who acquires what assets. The natural gas industry was deregulated by the federal government and he wished there was more competition. He will do whatever he can in approving gas contracts that are negotiated by the various utilities to give them the flexibility to inject whatever competition they can through negotiated procurements. Not much more could be done at this point.

SENATOR BISHOP remarked that Mr. Lisankie failed at retirement twice and the state thanks him for it.

MR. LISANKIE assured him that he was coming into this one by telling everybody his intention is to serve out the short remainder of Commissioner Rokeberg's term and then ride off into the sunset.

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SENATOR BISHOP said Mr. Lisankie bailed him out at the Department of Labor and Workforce Development (DOLWD) when he stepped up to the plate then: he was going to retire a year early and it appears that everything he said about being in Alaska by choice is true.

CHAIR GIESSEL also thanked him for being willing to step in to an open seat.

CHAIR GIESSEL opened public comment on the two appointees.

[3:54:29 PM](#)

TOM BOUTIN, member, Alaska Chapter Association of Mature American Citizens, Juneau, Alaska, urged the committee to withhold action on any Walker Administration appointees until he fills the Senate District E vacancy.

MIKE COONS, representing himself, said he is president, of Alaska's Chapter for Association of Mature American Citizens (AMAC), Palmer, Alaska. He commented off topic.

CHAIR GIESSEL, finding no further comments, closed public testimony. She said in accordance with AS 39.05.080, the Resources Committee reviewed the following and recommends the appointments be forwarded to a joint session for consideration: Bradley Pickett and Paul Lisankie. This does not reflect an intent by any of the members to vote for or against the confirmation of the individuals during any further sessions.

[3:57:58 PM](#)

At ease

SB 164-CONFIDENTIALITY OF ANIMAL & CROP RECORDS

[3:59:01 PM](#)

CHAIR GIESSEL announced consideration of SB 164, sponsored by the Rules Committee at the request of the Governor. She said Alita Bus was at the table and would manipulate the slides for those speaking on line, Arthur Keys, Director, Division of Agriculture, Department of Natural Resources (DNR), Christina Carpenter, Director* Division of Public Health, Department of Environmental Conservation (DEC), and Robert Gerlach, State Veterinarian, Department of Environmental Conservation (DEC).

CHRISTINA CARPENTER, Director, Division of Environmental Health, Department of Environmental Conservation, Anchorage, Alaska, said SB 164 amends AS 03.05 to add a new section to make certain animal health and crop records held by the DEC and DNR are confidential. This has been a coordinated effort across both departments, but the request is coming from industry. Agricultural producers have contacted them repeatedly over the last 10 years or so requesting a change in statute that would provide Alaskan agricultural producers with similar confidentiality that is already afforded to many other commercial industries in Alaska. For example, the Alaska Department of Fish and Game (ADF&G) has a statute that specifically makes commercial fishing records held by them confidential. That was used as an example in working with their attorney to develop this bill.

[4:02:14 PM](#)

MS. CARPENTER said she calls this the Health Insurance Portability and Accountability Act (HIPAA) for hogs and hay. She opined that it would allow the department to engage with Alaskan producers earlier in the event of a suspected disease outbreak, morbidity, or mortality circumstance, to identify a threat early on and try to limit any sort of disease outbreak so that it

wouldn't spread to neighboring facilities or be a public health risk.

CHAIR GIESSEL asked her to justify why having these records confidential protects the public, because that is the role of these kinds of animal and crop testing procedures.

[4:04:04 PM](#)

MS. CARPENTER replied in the event there was a suspected zoonotic disease outbreak on a farm, but it wasn't a reportable disease, the department would hope that producers and their private veterinarians would engage with them very early before the outbreak grew and got off premise and maybe started impacting some of their neighbors or members of the public.

The department believes that engaging with farmers early would encourage better animal and public health, because they would no longer be reluctant to submit their animals or crops to voluntary testing, and the department could respond faster in the event of a disease outbreak.

[4:05:32 PM](#)

ROBERT GERLACH, State Veterinarian, Department of Environmental Conservation (DEC), Anchorage, Alaska, said his office is responsible for the prevention, control, and eradication of animal diseases for livestock and pets, as well as diseases livestock and pets may carry that may be transmitted to people, as well as food safety. To do these jobs they need to collect quite a bit of data and information from animal owners - where they obtained their animals, where the animals are located, what disease test records they may have, and what animals are being processed to other farms or locations, so if there is an outbreak, they would have access to that information to do their job.

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Every year they are collecting more and more data from people, because of animal disease certification programs and other marketing programs that require this data collection which includes import data on permits and health records of animals coming into the state and disease surveillance records that are kept to ensure that state and international partners that the state is free of diseases (such as TB or rabies).

MR. GERLACH explained that a lot of these programs are required for access to certain markets; some are required for importation of animals to the state and some are just for proof of animal

health. Others are validation programs that are used for farmers to gain access to markets and to be able to promote and declare the quality of their product as a marketing tool. As the department collects this data, they would like to be able share it with their partners who would be involved with mitigating or controlling the spread of disease and keeping animals healthy and food safe, and not necessarily releasing confidential business data, proprietary, or personal data that may leave the producer vulnerable. It would allow the department to collect more data and have more people participate in these programs while protecting the proprietary information from the participants.

4:09:04 PM

CHAIR GIESSEL remarked that the header on slide 4 says "Office of the State Veterinarian" but he is not the only veterinarian in state government.

MR. GERLACH said that is true; several veterinarians work for the state, but he is the only veterinarian in statute classified as the State Veterinarian with the authority for regulating animal health, collecting this data, and being responsible for the control and mitigation to prevent the spread of diseases.

CHAIR GIESSEL asked him to clarify that the Department of Health and Social Services (DHSS) has at least one veterinarian and the Department of Natural Resources (DNR) has a wildlife veterinarian and to describe his interaction with the other state veterinarians.

MR. GERLACH replied that his interaction with those other veterinarians is on a continual basis regarding disease issues that would be important to their particular function. Dr. Louisa Castrodale in the Division of Public Health in the Department of Health and Social Services (DHSS) is involved with food safety and zoonotic disease issues as well as the epidemiology of other human diseases when it comes down to identifying or determining an outbreak or a contaminated product. His responsibility is limited to control of the animals and Dr. Castrodale would work with public health officials to control and prevent further spread in the case of a zoonotic disease among human beings.

In regard to the functions of Dr. Kimberly Beckman, ADF&G is looking at hiring a second veterinarian and the same type of cooperation would be used to control a disease outbreak in domestic animals from spreading to wildlife resources. It applies to a disease that could impact the food safety of the

meat or animals that are harvested for subsistence, recreational, or commercial use.

4:12:33 PM

CHAIR GIESSEL asked how many staff are in the dairy program (slide 5) and how many dairy farms are in Alaska.

MR. GERLACH replied that there is one dairy farm in production of Grade A milk and a second is gearing up for production. A third dairy is considering participating in grade A milk production of pasteurized milk for commercial sale. The department is working with those two dairies to get them up to speed to meet the facility requirements for the care and feeding of animals, sanitation and disinfection, transport, and processing at a pasteurization plant to make sure that the end product meets the state requirements for Grade A milk.

4:13:55 PM

CHAIR GIESSEL asked how many people are in the dairy section.

MR. GERLACH replied that two other people work in the dairy program: Dr. Sarah Coburn, Assistant State Veterinarian, and a dairy sanitarian who does the farm inspections and tests equipment. Dr. Coburn does many of the inspections and certification inspections and acts as the communicator with the FDA to assure that the state program is meeting the federal requirements for production of Grade A milk.

CHAIR GIESSEL said she assumed that the dairies must pay fees that cover this program.

MR. GERLACH replied there is a permit fee to initially become a part of the program, but the equipment test, sanitation, and farm inspection do not have a charge, neither does the testing of raw milk as well as the processed products that is done at the Environmental Health Laboratory in Anchorage

4:15:39 PM

MR. GERLACH said slide 6 showed the increased number of imported animals in the last four fiscal years which resulted in an increase in import permits, demonstrating the growing amount of information being collected from a larger number of people throughout the state. Keeping that information confidential, it protects or business data. Because of taking primacy of the Produce Food Safety Program under the Federal Drug Administration's (FDA) Food Safety Modernization Act, the state is also collecting data from an increased number of agricultural

farms. It requires farms to disclose financial information as well as product and inspection information on their farms, which is the business and proprietary data that he wants to protect.

[4:17:11 PM](#)

He said slide 7 lists some of the disease outbreaks in Alaska. The point is to show that they collect a lot of surveillance data to maintain a large list of reportable diseases that producers and veterinarians are required to report to them. This data is used to investigate morbidity and mortality events in both wild and domestic animals across the state to get an idea of disease issues and try to maintain animal health and prevent spread of these diseases. The number of reports they get each year for this type of disease outbreak is increasing, as well.

MR. GERLACH said they want people to feel comfortable in sharing their data with the department. With this bill they want to collect and maintain data while protecting business and proprietary data that can often be misused or put that producer in a vulnerable state.

[4:19:25 PM](#)

CHAIR GIESSEL asked if the information gets disclosed if there is an outbreak.

MR. GERLACH answered yes, it would be shared with their partners. Zoonotic or food borne disease information would be shared with the Department of Health and Social Services (DHSS), the Food Safety Sanitation Division in DEC, the Centers for Disease Control (CDC) and the FDA. Data from an outbreak associated with a disease that might impact the health of livestock or domestic pets, as well as wildlife, would be shared with the DNR, the Alaska Department of Fish and Game (ADF&G), and with the U.S. Department of Agriculture (USDA) so their resources could be used to help his division do a better job in containing the disease and preventing the spread.

[4:20:42 PM](#)

SENATOR MEYER asked what prevents people from importing animals and then selling them as Alaska-grown.

MR. GERLACH replied as long as animal meet both federal and state requirements for importation into the state, they can be used by the importer for whatever purpose they intend them for. If it's for commercial sale, the labelling and marketing are regulated by other entities. If the owner is going to make a claim that it meets the standards for Alaska-grown products, the

Division of Agriculture is responsible for validation of that program and would approach that producer to get information that would assure that the product they are selling does meet the Alaska-grown program requirements.

CHAIR GIESSEL said, so you must regulate animals as they are imported and asked if he would share that information with the Division of Agriculture.

MR. GERLACH replied not necessarily. The import information is maintained to keep track of animals that come into the state to make sure they are not threatening the health of other animals whether domestic or wild. That data is not shared with other entities. As slide 6 indicates they give reports to the Farm Bureau and producers as well as the Alaska Veterinary Medical Association and the USDA to inform them of the animals that are being imported and the work the department is doing.

[4:23:26 PM](#)

SENATOR BISHOP asked if most of the imports come via truck through Canada and what the impound timeline is.

MR. GERLACH answered in the past, most animals came up through the land port at the Alaska-Canada Highway or down into Haines. Recently that changed with the animal transport restrictions in Canada for sheep and goats. Now many of the sheep and goat producers are shipping animals up by airline. He said they have been working with the Canadians and the USDA to resolve those issues to provide better service for the producers who want to bring up new animals for increasing the efficiency of their production and broadening genetic stock. Probably a minority of animals are moved up through the ferry system.

SENATOR BISHOP asked if the animals are impounded when they get here.

MR. GERLACH replied no. The ports don't have a person that would have the authority to do that. State import regulations are set so that people are assured animals are healthy and safe when they come through the border and to the final destination. One of the reasons they want to provide this confidentiality to the producers is if the animals do have a problem, they will do a follow-up report to his office. Some animals imported from Canada directly are impounded at the destination until the USDA veterinarian can inspect them. Often his office sends a representative with him.

4:26:38 PM

MS. CARPENTER said slide 8 was a brief sectional analysis as follows:

Section 1: Makes certain animal and crop records maintained by the Departments of Environmental Conservation and Natural Resources exempt from the Alaska Public Records Act if they

- 1) are importation records that identify a particular animal, crop, business, or individual;
- 2) contain animal or crop test results if certain conditions are met; or
- 3) are trade secrets or proprietary business or financial information.

Allows the Departments to disclose the above described records in the case that the Departments determine that there is a threat to the health or safety of an animal, crop, or the public.

Provides the definition of "varietal".

Section 2: Allows the Departments of Environmental Conservation and Natural Resources to adopt regulations to implement the Act. She said at this time, DEC does not see a need to adopt any regulations.

Section 3: Provides for an immediate effective date for Section 2.

Slide 9 recapped the benefits captured with passage of SB 164:

Routine surveillance testing may encourage better animal husbandry and crop management, resulting in a higher quality product for sale and increased production efficiency.

Early identification and testing of sick or dead animals and crops decreases the potential for more serious outbreaks and spread of disease to other farms, plants or wildlife.

[Confidentiality of proprietary data prevents unfair advantage to a competitor regarding product development, marketing strategy, and source of animal inventory.]

SENATOR COGHILL asked what has to be done immediately, because the confidentiality issue could impact business practices. Is it a welcome relief or a yank in the system?

MR. GERLACH replied that it is a welcome relief for producers knowing that the personal and business data from the animal owners and the agricultural farms that are participating in the Produce Food Safety Program will be kept confidential.

[4:30:03 PM](#)

SENATOR COGHILL said once that happens, he would need some kind of alert that is not in place now and asked what practice he would have to institute.

MR. GERLACH replied that they already have a communication plan for response to disease outbreaks as part of an emergency response plan. It is very important for just the daily function of doing their job.

[4:31:10 PM](#)

SENATOR COGHILL said he anticipated usage would go up and would that involve a fiscal note.

MR. GERLACH replied there wouldn't be any increase in the number of reports as just part of the department's normal functions; there would be no fiscal note. For a disease outbreak they would normally release only the appropriate data pertinent to the threat at hand. A good example may be a disease outbreak of Tuberculosis on a farm. They would contact their other animal health participants about it and the DHSS because Tuberculosis from animals can be transmitted to people. Then they would contact the farms adjacent to the outbreak farm to see if any of their animals had been exposed. Then they would go back and determine from the animal records where those animals originated to determine where the disease may have been introduced, whether from a new import of animals or the possibility that a worker came to the farm who actually had tuberculosis and infected the animals (which has happened in other states). Then they would look at the animal movement records to see if any animals were moved from that farm to another farm, and then contact those individuals, test and do surveillance on their farms to see if the disease may have spread.

[4:33:20 PM](#)

SENATOR WIELECHOWSKI said he was trying to determine the meaning of "varietal" on page 1. The definition on the next page says it

means "characteristic of or forming a distinct variety of organism," which seemed odd.

MS. CARPENTER said she would defer that question to the DNR, because that definition was added at their request.

ARTHUR KEYES, Director, Division of Agriculture, Department of Natural Resources (DNR), Palmer, Alaska, explained that the Plant Material Center has over 230 varieties of potatoes. So, variety is broad definition of different varieties of crops.

CHAIR GIESSEL summarized that Mr. Keyes was saying "varietal" is a term of art for various varieties of particular vegetables or other plants.

MR. KEYES said that was a good way to put it. For instance, everyone knows what a red delicious apple is, but there are over 50 different varieties of red delicious apple. That holds true for a lot of crops.

[4:36:34 PM](#)

SENATOR WIELECHOWSKI said he just wanted to bring it to their attention and if everyone is fine with it, he is, too. He had another question on page 2, lines 7-11, where it says:

(b) Notwithstanding (a) of this section, DEC and DNR may disclose any records that are subject to this section if they find there is a threat to health or safety of an animal, crop, or the public.

He asked how that works in reality, because this is a Freedom of Information Act provision. Is there a right of appeal? He noted that language says "may" not "shall" disclose....

MR. GERLACH replied information that would be released would be at the discretion of the Office of State Veterinarian in consultation with the director and commissioner. Not all information would be released. For instance, for an outbreak of a disease at a farm, only the information that was pertinent to the threat either to other animals or the public, or an issue of food safety would be released. They would not necessarily release the total number of animals that are on the farm or the fact that the farmer owned chickens (if it was a disease outbreak in cattle) unless that disease would affect those other animals and raise concern about those other species being a source of spreading it.

SENATOR WIELECHOWSKI pointed out they are making DEC and DNR complete gatekeepers of these records, and that is a lot of power. It's a policy call that makes him a bit uncomfortable.

MR. GERLACH said they are bound by professional and interaction requirements of the USDA and other public health officials to disclose that information. So, if there is a threat, it must be disclosed.

SENATOR WIELECHOWSKI asked for a copy of any statutes, regulations, or ethical requirements that would bind somebody in DNR and DEC to disclose that information.

CHAIR GIESSEL asked the Department of Law if any other information might be helpful.

[4:40:56 PM](#)

JENNIFER CURRIE, Alaska Department of Law, Anchorage, Alaska, said that Dr. Gerlach had addressed when he would be required to disclose information and she imagined circumstances might require some of this information remain undisclosed, but she wasn't 100 percent sure.

CHAIR GIESSEL asked if she heard the concern about the term "may disclose" and wondered if this particular section was patterned after other confidential information and disclosure language. Why does it say "may?"

MS. CURRIE answered that she didn't draft this language based on any other disclosure statutes, adding that she would review them.

CHAIR GIESSEL said that would be helpful. She opened public testimony.

[4:42:51 PM](#)

AMY SEITZ, Executive Director, Alaska Farm Bureau, Kenai, Alaska, supported SB 164. Allowing confidentiality of certain personal and business records for farmers will afford them some security in their business and keeping animals healthy, she said:

In order to comply with state and federal laws, farmers have to provide certain information to DEC or DNR. There are also situations where a farmer may be required to submit test results or want to participate in voluntary disease testing. Records that DEC and DNR

maintain can be very specific to particular animals or crops, information on our farmers' businesses and results from testing, and under current law these records are not protected.

We want our farmers to feel comfortable working with state agencies in maintaining the health of our animals and crops, and also the public health. Knowing that someone could access specifics on these test results - who tested, where they are located, and what the test results were - does not afford farmers the security necessary for them to participate in these testing for diseases. Having more farmers participating in testing could help us produce higher quality products and increase efficiencies in production. It could also help as an early detection of a possible outbreak of diseases, and our state agencies having this information could help them be ready in the event of a health concern.

Our farmers should also have the security of knowing that certain import and business records are confidential. These records that identify a particular animal, crop, business, or individual shouldn't be public information, especially when we are looking at new rules like the Federal Produce Safety Rule coming on line. If our farmers are going to be required to submit financial records to state agencies, they should be afforded the protections that those records are going to be confidential. Other commercial industries are already afforded those securities.

For recent examples: right now, some of our farmers are dealing with the sheep and goat issue where *Mycoplasma ovipneumoniae* is of concern and they opened up a voluntary testing program to find out what the prevalence is here in the state. Once the producers learned that there was not confidentiality within the Office of the State Veterinarian, there was a lot of concern to participate. We did work around it, but it made a little more of a hassle not being able to have it go through one office.

Also, we have discussed the option of a Disease-free Certification Program for people who want to do goat packing, but again, once producers learned there was not confidentiality of these records within the Office

of the State Veterinarian, there was a lot of reluctance to participate in something like that.

SB 164 would add a lot protection for our farmers' businesses, but it would still allow, if there was a health or safety threat, that information could be released so the appropriate agencies could protect the public.

CHAIR GIESSEL asked her if she could better explain the term "varietal."

MS. SEITZ answered that Mr. Keyes did a good job of talking about what it means. Even within one crop there are a lot of different sub-varieties.

CHAIR GIESSEL asked why that would have to be kept confidential.

MS. SEITZ replied that a lot of decisions about what to grow are business decisions. For instance, one farmer may discover they are really good at growing a specific variety of potato and they may not want to share where they get the seed start for it. An animal farmer could find out where a particular breed is purchased and beat out the original farmer.

[4:50:07 PM](#)

CHAIR GIESSEL said she would leave public testimony open and hold SB 164 in committee awaiting further information.

[4:50:41 PM](#)

CHAIR GIESSEL, finding no further business, adjourned the Senate Resources Standing Committee meeting at 4:50 p.m.