

**ALASKA STATE LEGISLATURE**  
**HOUSE RESOURCES STANDING COMMITTEE**

February 25, 2004

1:07 p.m.

**MEMBERS PRESENT**

Representative Nancy Dahlstrom, Co-Chair  
Representative Beverly Masek, Co-Chair  
Representative Cheryll Heinze, Vice Chair  
Representative Carl Gatto  
Representative Bob Lynn  
Representative Nick Stepovich  
Representative Kelly Wolf  
Representative Beth Kerttula  
Representative David Guttenberg

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 188

"An Act relating to the authority of the Department of Natural Resources to issue citations for certain skiing violations; relating to establishing a bail schedule for certain skiing violations and to procedures for issuing a citation for a skiing violation."

- MOVED HB 188 OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 35

Relating to mad cow disease and country-of-origin labeling for meat products.

- MOVED CSHJR 35(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 344

"An Act relating to annual rental fees for mining claims, and providing for reduced royalties during the first three years of production."

- MOVED CSHB 344(RES) OUT OF COMMITTEE

HOUSE BILL NO. 341

"An Act relating to the dive fishery management assessment."

- MOVED HB 341 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 188

SHORT TITLE: BAIL SCHEDULE FOR SKIING VIOLATION

SPONSOR(S): REPRESENTATIVE(S) HAWKER

03/12/03 (H) READ THE FIRST TIME - REFERRALS  
03/12/03 (H) RES, STA  
02/25/04 (H) RES AT 1:00 PM CAPITOL 124

BILL: HJR 35

SHORT TITLE: MAD COW DISEASE/COUNTRY OF ORIGIN LABELS

SPONSOR(S): REPRESENTATIVE(S) KERTTULA

02/05/04 (H) READ THE FIRST TIME - REFERRALS  
02/05/04 (H) L&C, RES  
02/16/04 (H) L&C AT 3:15 PM CAPITOL 17  
02/16/04 (H) Moved CSHJR 35(L&C) Out of Committee  
02/16/04 (H) MINUTE(L&C)  
02/18/04 (H) L&C RPT CS(L&C) NT 5DP 1NR  
02/18/04 (H) DP: CRAWFORD, LYNN, GATTO, DAHLSTROM,  
02/18/04 (H) GUTTENBERG; NR: ANDERSON  
02/25/04 (H) RES AT 1:00 PM CAPITOL 124

BILL: HB 344

SHORT TITLE: MINING FEES, RENTALS, & ROYALTIES

SPONSOR(S): REPRESENTATIVE(S) FATE

01/12/04 (H) PREFILE RELEASED 1/2/04  
01/12/04 (H) READ THE FIRST TIME - REFERRALS  
01/12/04 (H) RES, FIN  
02/04/04 (H) RES AT 1:00 PM CAPITOL 124  
02/04/04 (H) Heard & Held  
02/04/04 (H) MINUTE(RES)  
02/23/04 (H) RES AT 1:00 PM CAPITOL 124  
02/23/04 (H) Heard & Held  
02/23/04 (H) MINUTE(RES)  
02/25/04 (H) RES AT 1:00 PM CAPITOL 124

BILL: HB 341

SHORT TITLE: DIVE FISHERY MANAGEMENT ASSESSMENT

SPONSOR(S): REPRESENTATIVE(S) WILLIAMS

01/12/04 (H) PREFILE RELEASED 1/2/04

01/12/04	(H)	READ THE FIRST TIME - REFERRALS
01/12/04	(H)	FSH, RES
02/04/04	(H)	FSH RPT 6DP 1NR
02/04/04	(H)	DP: GARA, OGG, HEINZE, WILSON,
02/04/04	(H)	SAMUELS, SEATON; NR: GUTTENBERG
02/04/04	(H)	FSH AT 8:30 AM CAPITOL 124
02/04/04	(H)	Moved Out of Committee
02/04/04	(H)	MINUTE(FSH)
02/16/04	(H)	RES AT 1:00 PM CAPITOL 124
02/16/04	(H)	Scheduled But Not Heard
02/25/04	(H)	RES AT 1:00 PM CAPITOL 124

**WITNESS REGISTER**

REPRESENTATIVE MIKE HAWKER

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 188 as sponsor.

PAUL SWANSON, Area Manager

Eaglecrest Ski Area

City and Borough of Juneau (CBJ)

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 188.

LARRY DANIELS

Alyeska Ski Resort

(no address provided)

POSITION STATEMENT: Testified in support of HB 188.

RICK THOMPSON, Regional Land Manager

Southcentral Region Office

Division of Mining Land and Water

Department of Natural Resources (DNR)

Anchorage, Alaska

POSITION STATEMENT: During hearing on HB 188, answered questions.

AURORA HAUKE, Staff

to Representative Beth Kerttula

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented CSHJR 35(L&C) on behalf of Representative Kerttula, sponsor.

PHIL KASPARI, Agricultural Agent

Cooperative Extension Service (CES)

Delta Junction, Alaska

POSITION STATEMENT: During hearing on CSHJR 35(L&C), he encouraged letting sound science rule decision-making rather than politics, and urged the committee to support specific research on animals with bovine spongiform encephalopathy.

PAUL KNOPP, Dairy Producer

Delta Junction, Alaska

POSITION STATEMENT: Expressed concerns relating to CSHJR 35(L&C).

JIM POUND, Staff

to Representative Hugh Fate

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: During hearing on CSHB 344(RES), provided information and answered questions on behalf of Representative Fate, sponsor.

BOB LOEFFLER, Director

Division of Mining, Land and Water

Department of Natural Resources

Anchorage, Alaska

POSITION STATEMENT: During hearing on CSHB 344(RES), provided information and answered questions.

TIM BARRY, Staff

to Representative Bill Williams

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 341 on behalf of Representative Williams, sponsor.

JULIE DECKER, Executive Director

Southeast Alaska Regional Dive Fisheries Association (SARFSA)

Wrangell, Alaska

POSITION STATEMENT: During hearing on HB 341, provided information and answered questions.

#### **ACTION NARRATIVE**

#### **TAPE 04-8, SIDE A**

Number 0001

**CO-CHAIR NANCY DAHLSTROM** called the House Resources Standing Committee meeting to order at 1:07 p.m. Representatives Masek, Dahlstrom, Heinze, Wolf, Guttenberg, and Kerttula were present

at the call to order. Representatives Gatto, Lynn, and Stepovich arrived as the meeting was in progress.

CO-CHAIR DAHLSTROM passed the gavel over to Co-Chair Masek.

HB 188-BAIL SCHEDULE FOR SKIING VIOLATION

CO-CHAIR MASEK announced that the first order of business would be HOUSE BILL NO. 188, "An Act relating to the authority of the Department of Natural Resources to issue citations for certain skiing violations; relating to establishing a bail schedule for certain skiing violations and to procedures for issuing a citation for a skiing violation."

Number 0135

REPRESENTATIVE MIKE HAWKER, Alaska State Legislature, speaking as sponsor, explained that HB 188 was brought forth on behalf of Alaska's skiing industry. He said former Senator [Jay] Kerttula was instrumental in sponsoring and moving a bill called the [Alaska] Ski Safety Act, which defined responsibilities and guidance for the management and operation of ski areas that were developing in the state. He said that particular legislation created some obligations on the part of skiing participants to be safe and prudent, but it didn't compromise the ability to enjoy an aggressive and adventurous sport. However, he said it did provide some "does and don'ts," which are fairly consistent with some prudent practices. Representative Hawker indicated that under the Alaska Ski Safety Act, a skier involved in a collision with another skier, that results in an injury, may not leave the scene [of the accident] except to secure aid. He said it was anticipated that the Alaska Supreme Court would establish a bail schedule - a schedule of fines - for non-felony, non-misdemeanor, and "traffic-ticket type of violations."

REPRESENTATIVE HAWKER said the Alaska Supreme Court [determined] that the language wasn't clear enough and a letter in the bill packet from the National Ski Patrol offers a particularly good analysis of the Alaska Supreme Court's view and an explanation of its problem with the creation of the bail schedule. He paraphrased from the letter, which read in part [original punctuation provided]:

The Alaska Supreme Court ruled that the language in the original legislation was not specific enough to give them the authority to establish a bail schedule.

REPRESENTATIVE HAWKER continued paraphrasing from the last paragraph on page 1 of the letter, which read in part [original punctuation provided]:

Administrative Rule 43(a) states: "The Supreme Court will consider adopting a bail forfeiture schedule only when so authorized by statute ...". The Court decided the language in AS 05.45.100(h) is not an adequate authorization.

REPRESENTATIVE HAWKER indicated that the intention of the bill is to further fix a piece of excellent legislation and make it work as it was originally intended to. He said part of the original concern was that the authority to have bail schedules only applied to ski operations on land that the state had jurisdiction. He said it wasn't clear that this was to apply to both privately operated facilities and those operated by the state, which Section 1(h) addresses.

Number 0710

REPRESENTATIVE HAWKER noted that Section 2 was added to [order the Alaska Supreme Court] to establish a bail schedule, and he explained that the language is consistent with existing statute in which similar bail schedules are authorized in the state for boating violations, fish and game fines, and motor vehicles fines and schedules.

REPRESENTATIVE HAWKER noted that it doesn't make a lot of sense in reading the bill, and he remarked, "You've got to go in the context of the law in which it was intended to operate." He concluded that the bill authorizes the Alaska Supreme Court to set up a bail schedule, a schedule of fines for violations of specific provisions of the Alaska Ski Safety Act, and clarifies that the Alaska Ski Safety Act was intended to apply to ski resorts operating on private land throughout the state as well as land owned by the state.

Number 0858

REPRESENTATIVE HEINZE asked about money collected from fines.

REPRESENTATIVE HAWKER explained that the Alaska Ski Safety Act does not establish a specific fund to get around the dedication prohibitions, so it ultimately becomes "general fund appropriateable money."

Number 0914

REPRESENTATIVE WOLF asked if all ski resorts in Alaska have liquor licenses.

REPRESENTATIVE HAWKER deferred the question to ski industry members.

REPRESENTATIVE WOLF asked about the fiscal note in relation to a peace officer issuing citations.

REPRESENTATIVE HAWKER asked which provision involving a peace officer is of concern.

REPRESENTATIVE WOLF asked if it would be an expense to the state for peace officers to issue citations.

REPRESENTATIVE HAWKER said he thought Representative Wolf was referring to AS 41.21.960.

CO-CHAIR DAHLSTROM clarified that the statute in question is listed on page 1, line 10 of the bill.

REPRESENTATIVE WOLF said the statute is also listed on page 2, [line 13].

Number 1010

REPRESENTATIVE HAWKER said it is contextual and that a reference to peace officers is not involved in this citation. He said that section is intended strictly to authorize a bail schedule. He explained that the issue would be regarding whether it is applicable under the existing Alaska Ski Safety Act if a DNR employee or an Alaska State Trooper is enforcing violations on state lands. Representative Hawker said in that case, DNR is authorized to empower people who meet its qualifications to issue citations on nonpublic lands. He explained that the violations are not authorized to involve attorneys or additional court time, which is why there is a bail schedule, because [these types of cases] get dispensed very rapidly without the need for legal costs to the state.

CO-CHAIR DAHLSTROM said she also had some of these same questions and believes the next committee of referral, the House State Affairs Standing Committee, is the appropriate place for that discussion to take place.

Number 1129

REPRESENTATIVE GATTO pointed out that the packet contains three or four pages that deal with AS 05.45.100, "Duties and responsibilities of skiers." He asked a question relating to subsection (c), paragraph (2), regarding the requirement for the ski to be "equipped with a strap or other device capable of stopping the ski should the ski become unattached from the skier".

CO-CHAIR DAHLSTROM said she thought it was a valid issue, but it should be addressed in House State Affairs Standing Committee rather than in the House Resources Standing Committee.

Number 1242

REPRESENTATIVE STEPOVICH asked if the liabilities already take into consideration what Representative Hawker is trying to [address with this bill].

REPRESENTATIVE HAWKER explained that this bill does not attempt to rewrite or reconsider the statutory authority that was created in the Alaska Ski Safety Act itself; instead this bill was drafted to deal with a specific problem with implementing the Alaska Ski Safety Act.

REPRESENTATIVE STEPOVICH said he is under the impression that [ski areas are already enforcing the issues being addressed] with this bill. He asked if the ski patrol could issue [citations under the authority of DNR].

REPRESENTATIVE HAWKER remarked:

That would be a decision ... made by the commissioner of natural resources [DNR] who ... in self is constrained by the regulations ... that would need to be promulgated to quantify - ... essentially, ... investing that authority within the commissioner ... either to comply with existing regulation or to develop the regulation necessary to (indisc.) ... authorize persons to provide for citations.

REPRESENTATIVE STEPOVICH asked if [the bill would allow citations] to be written on the ski hill for certain violations.

REPRESENTATIVE HAWKER replied no. He explained that this bill specifically authorizes the Alaska Supreme Court to create a bail schedule for citations that would be issued under the authority that was provided in the original Alaska Ski Safety Act.

REPRESENTATIVE STEPOVICH said it seems like the [Alaska Ski Safety Act] addressed these [issues].

REPRESENTATIVE HAWKER offered to provide Representative Stepovich with a letter from the Alaska Supreme Court. He said the Alaska Supreme Court has asked [the legislature] to grant it specific authority and it would develop the bail schedule, which was contemplated in the original Act.

CO-CHAIR DAHLSTROM asked Representative Hawker to provide the committee with a copy of the letter and to include it in the House State Affairs Standing Committee's bill packets. She said she was positive these concerns will and do need to be addressed.

CO-CHAIR MASEK explained that the purpose of the bill is to address technical issues that were not addressed in the [Alaska Ski Safety Act]. She said she thought the intent of the bill is to clarify the statutes in order for the [Alaska Ski Safety Act] to work. She said the courts can't really implement the [Alaska Ski Safety Act] or enforce it unless it is authorized in statute, because the Alaska Supreme Court has determined that there is no clear authorization in statute for such a schedule. Co-Chair Masek called the bill "clean cut," and she said DNR had worked on implementing a bail schedule, which is included in the bill packet.

Number 1571

REPRESENTATIVE STEPOVICH remarked:

In respect to people that bring bills before this committee; they want them all to go through. ... I don't know where to address this. ... I am on the resource committee; I'm not on state affairs. ... I just have trouble with the qualifications of those who are going to be able to get these out. I just want it stated for the record. Qualifications for those who are going to give these tickets out on the ski hill and their abilities to assess the skills of the skiers that they're going to give the tickets to.

Number 1619

PAUL SWANSON, Area Manager, Eaglecrest Ski Area, City and Borough of Juneau testified. Mr. Swanson paraphrased from the following written testimony, which read [original punctuation provided]:

Thank you Madame Chair and Members of the Committee for the opportunity to testify this afternoon in support of HB 188.

For the record, my name is Paul Swanson. I am Area Manager of Eaglecrest Ski Area which is owned and operated by the City and Borough of Juneau.

When the Alaska Ski Safety Act was enacted in 1994 it clearly identified duties and responsibilities of both the ski area and the skier.

However, currently we are unable to fully enforce all provisions due to the fact that the bail schedule as called for in the Act has not been established by the courts.

I feel that passage of this bill is needed to support the intent of the Ski Safety Act and reinforce current area operations and safety policies as approved by the Department of Natural Resources.

The establishment of the bail schedule will allow us to deal more effectively with violators, such as skiers who enter a closed area and those under the influence of alcohol and controlled substances.

It is important to note that the Act does not prohibit skiers from going out of the ski area boundaries - at their own risk.

I appreciate your support and am willing to answer any questions you might have.

REPRESENTATIVE STEPOVICH inquired about the number of violations that have occurred at Eaglecrest Ski Area.

MR. SWANSON said there were less than 10 instances of people going into closed areas this year.

REPRESENTATIVE STEPOVICH asked if the Eaglecrest Ski Area deals with violations itself.

MR. SWANSON said it does at the present time. He explained that the ski area deals with it by revoking skiing privileges or taking the skier's pass for 30 days, which might occur at the end of the day. However, he said there is really no way to keep that person away for 30 days.

REPRESENTATIVE STEPOVICH noted that he would rather pay the fine than have his privileges revoked. He asked if there are a lot of collisions or civil suits against [Eaglecrest Ski Area].

MR. SWANSON remarked, "Not in our case." He said many people would not want to pay the fine, and he felt the [bill] is a better avenue for [the ski industry] to take. Mr. Swanson said he doesn't consider there to be a lot of offenders, but if [violators] had to pay for his or her mistakes, he thought it would be looked at better than the way it is currently being dealt with.

REPRESENTATIVE STEPOVICH said some might argue that it is very expensive to go skiing, but he knows Eaglecrest Ski Area has good prices.

MR. SWANSON replied, "We're not making any money."

REPRESENTATIVE STEPOVICH related his belief that \$50 is the most someone in Alaska would pay to go skiing, which is a lot for one day. He offered his belief that \$50 citations can still be issued under current statute, and said he would like to see [how many citations have been issued thus far].

CO-CHAIR DAHLSTROM asked Representative Hawker to provide the committee with that information.

REPRESENTATIVE HAWKER said existing circumstance allows an operator to issue a \$50 maximum fine. He said the bill packet contains an additional letter offered by the Eaglecrest Ski Area that identified the original DNR proposed bail schedule, which identified the priorities where DNR wishes to increment the individual fines beyond the \$50 maximum. He explained that the Alaska Supreme Court was asked to authorize a bail schedule to put \$150 for skiing on a closed slope or trail, \$100 for riding lifts or skiing under the influence of alcohol or drugs, and \$150 for a skier having a hit and run accident. Representative

Hawker said the point of the bail schedule is to increase a few of these violation charges.

Number 2047

LARRY DANIELS, Alyeska Ski Resort, testified. Mr. Daniels stated his support for HB 188 as proposed. He explained that he was involved in the original legislation and in promoting it through the legislature. Mr. Daniels said this bill just perfects the original Alaska Ski Safety Act of 1994, and to finish the intent of the original legislation, which did not provide that specific authorization to the Alaska Supreme Court to establish a bail schedule. He explained that on occasion there are problems with skiers colliding with each other and in some cases it can result in a fairly serious injury. Currently, he said there is no deterrent from that person running away from the accident. He said even if that person is identified and caught, the process that would have to be gone through to involve the Alaska State Troopers and using assault-type processes have, to this point in time, been essentially non-effective because it takes so much investigative time and a large degree of effort on behalf of the district attorney to process. He said Alyeska Ski Resort has only had one situation like that, but currently there is no deterrent.

MR. DANIELS said another example is of people skiing in an area that is exposed to avalanche conditions, and not only do those people expose themselves to danger but they potentially expose other skiers and the ski patrol, if a rescue is needed. He compared it to having speed limits on a highway and not having the ability to issue citations for driving violations. He said he didn't think that enacting HB 188 would increase the number of tickets being written. He remarked, "Once the deterrent is there, and a few were written - in only the most egregious of cases - then I think that we could expect to see some significant reduction in those kinds of issues."

Number 2231

REPRESENTATIVE GUTTENBERG turned attention to page 1, line 11, and he asked about the jurisdictional change and the larger affect of the change.

Number 2293

RICK THOMPSON, Regional Land Manager, Southcentral Region Office, Division of Mining, Land and Water, Department of

Natural Resources, testified. Mr. Thompson said his belief is [the bill] changes the jurisdiction from ski areas on state owned land to any ski area operator in the state.

REPRESENTATIVE HAWKER noted that the bill packet contains a letter from the commissioner of DNR. He explained that the first paragraph of the letter does address that the purpose of this is to provide "the authority to establish bail schedules for ski safety act violations and that all ski areas - those on state land and those on other lands - be treated equally in regards to enforcement of these violations." He said it is a clarifying point.

REPRESENTATIVE STEPOVICH asked [Mr. Thompson] how he envisioned this bill working and who would be [issuing the citations].

MR. THOMPSON said DNR is looking forward to the passage of this bill. He explained that the ski patrol would investigate the incident, write a report, and pass on the report to DNR. He said DNR employees appointed to work on that project would be issuing any [citations]. He said typically, DNR may only be issuing about three [citations] per year. Mr. Thompson noted that there was a high of nine [citations] issued one year, but there are zero [citations] issued many years. He said the violations are typically pretty serious when they do occur.

Number 2433

REPRESENTATIVE GATTO thanked Mr. Swanson for accommodating his 13 year-old son last year during a one-day visit snowboarding at Eaglecrest Ski Area.

Number 2455

REPRESENTATIVE HEINZE moved to report HB 188 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 188 was reported from the House Resources Standing Committee.

#### HJR 35-MAD COW DISEASE/COUNTRY OF ORIGIN LABELS

CO-CHAIR MASEK announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 35, Relating to mad cow disease and country-of-origin labeling for meat products.

CO-CHAIR MASEK noted that CSHJR 35(L&C) was before the committee.

REPRESENTATIVE KERTTULA, speaking as sponsor, noted that her staff would be presenting the resolution, and she remarked, "The ex-director of agriculture, who was also the ex-Senator we just heard about, was evidently a better farmer than he was lawyer, so I can tell you that he's worked very hard on this particular piece of legislation, and it's basically a labeling piece of legislation ... supporting that."

CO-CHAIR MASEK inquired about the changes made in the committee substitute (CS) and asked that Representative Kerttula's staff speak to those changes.

Number 2553

AURORA HAUKE, Staff to Representative Beth Kerttula, presented CSHJR 35(L&C) on behalf of Representative Kerttula, sponsor. Ms. Hauke explained that bovine spongiform encephalopathy (BSE), "mad cow disease," and the disease humans can get from it, the Creutzfeldt-Jakob disease (CJD), are very scary. The diseases are invariably fatal and there is no cure, but they can be prevented, she said. This resolution supports efforts of the USDA [United States Department of Agriculture] to prevent the disease and also encourages earlier implementation of country-of-origin labeling (COOL) for beef, she said. Turning attention changes made in the CS, she directed attention to page 2, lines 1-2, and she said the language in the [original resolution was changed to reflect the actions of the USDA]. Language found on page 1, line 16, through page 2, lines 1 and 2, of the original resolution read:

WHEREAS the United States Department of Agriculture has taken steps to identify and destroy cattle that are from the same herd as the infected cow and other animals that may have been exposed to that cow; and

MS. HAUKE explained that the USDA stopped searching for more cows from that herd, so the language was changed to read:

WHEREAS the United States Department of Agriculture has taken steps to control bovine spongiform encephalopathy; and

MS. HAUKE said another change made to the CS was the addition of "bovine spongiform encephalopathy" into the title.

Number 2628

CO-CHAIR DAHLSTROM, noting that she appreciated the changes, asked what other states are doing to implement regulations or anything pertaining to the same subject.

MS. HAUKE explained that eight other states have legislation pending. One state has passed a resolution encouraging the opening of international beef markets. Four states already require the labeling of imported beef. The other eight states have various legislation that mostly have to do with tracking and identification, and there are a couple of bills that deal with meat processing and rendering regulations, she explained. There is a bill that would make it a crime not to test animal feed or not to ensure animal feed is safe, and there is an appropriation for an identification system. She said Iowa has a resolution to support the implementation of [COOL] labeling by 2004, and last year, it had a resolution to support postponing that, but after the discovery of the "mad cow" [in the state of Washington] "they changed their minds, I guess." Ms. Hauke remarked, "New York has had legislation since 2002, so that's not new."

Number 2710

CO-CHAIR MASEK asked what Congress is doing with regard to this issue. She turned attention to page 2, lines 17-19, which read:

FURTHER RESOLVED that the Alaska State Legislature supports any efforts by the Alaska congressional delegation to implement country-of-origin labeling for meat products sooner than the current implementation date.

MS. HAUKE said in the omnibus appropriations bill, the country of origin labeling, which was supposed to take effect in September 2004, was pushed back to September 2006. She said there were several reasons for that and there was also a lot of opposition. She said there has been talk about moving the implementation date back up. Ms. Hauke said a member of United States Senator Ted Stevens' staff said Senator Stevens was involved in discussions.

Number 2764

REPRESENTATIVE HEINZE asked Ms. Hauke if the Canadian government is cooperating with the United States and to what extent.

MS. HAUKE said the [the Canadian government] implemented the feed ban at the same time as the United States. She stated her belief that the [Canadian government] is being very cooperative with the United States, and said it had shut down some borders from [allowing in] beef shipments from the United States, even those going through.

REPRESENTATIVE HEINZE pointed out that last spring, [Canadian customs] were stopping [vehicles] at the border for having items such as beef broth. She asked if [the resolution] will affect this in any way.

REPRESENTATIVE KERTTULA said she had heard that [Canadian customs] had even taken dog food. She said she didn't know the current situation at the border, but this [resolution] doesn't impact that except in terms of recognizing that issue. She said this [resolution] is "going more toward" the labeling of the animal product. Representative Kerttula, noting it is a good question, offered to check to see [what products are being stopped at the Canadian border].

Number 2764

REPRESENTATIVE GATTO, directing attention to page 2, lines 11 and 13, noted previous discussion in the [House Labor and Commerce Standing Committee] about the language "deserve", and he said he didn't remember [what outcome of that discussion].

REPRESENTATIVE KERTTULA clarified that there had been discussion in the previous committee about whether the word "deserve" should stay in the legislation. She said she didn't have any particular belief on it, but the previous committee really felt that it was something that Americans did deserve to know and it wanted to keep the stronger language in the resolution.

REPRESENTATIVE GATTO noted that he was uneasy with the word, and said he didn't think it properly described what "we were after." He suggested [it read] "Americans have the right to know" or "Americans should be advised" because he said the word "deserve" is so compelling and so focused that "there isn't any way out of it." He remarked, "Everybody deserves to know, and I thought, I know that's not going to change the effect of the bill." He said he still likes the alternative terminology because he didn't think "deserve" was the right word. Representative Gatto said he felt he had to bring that up, and he was not going to object to it.

Number 2933

REPRESENTATIVE GUTTENBERG said he thought what happened in the House Labor and Commerce Standing Committee is it couldn't find something that better fit what was felt or a substitute that actually met that. Addressing a previous question from Representative Heinze, he said he had dog food confiscated at the border and he knew of a staff member that had also had dog food confiscated at the border but the manufacturer compensated her for that.

Number 2961

REPRESENTATIVE STEPOVICH noted that he liked the word "need."

**TAPE 04-8, SIDE B**

Number 2978

PHIL KASPARI, Agricultural Agent, Cooperative Extension Service (CES), testified. He said in general he agreed with the resolution but he was concerned by one item in particular. Mr. Kaspari directed attention to page 2, [line 4], the language "nonambulatory disabled cattle", and he said the USDA has a made the decision to ban those animals from slaughter. He said he was not an expert but he felt like that was a reactionary maneuver on the part of the USDA to calm the public's concerns regarding the safety of the meat being purchased. Mr. Kaspari suggested that the [USDA] was not necessarily using sound science. He said there are so many questions regarding BSE that scientists and researches have not yet been able to answer that he felt like things might have to be slowed down just a little bit to let sound science rule the decision making rather than politics.

MR. KASPARI said the number of "downer animals" that do come into a slaughter generally have very obvious problems such as a broken leg or what is referred to as "hip lock," which occurs when the animal experiences problems during the calving process. Generally, he said producers look upon downer animals in an ethical manner, rather than wasting that commodity, producers would just as soon use it in an ethical manner and have the animal utilized. He said if the use of downer animals is banned, then a couple of things happen. For example, he said there is a certain amount of economic hardship imposed upon producers, and it also [causes] a certain amount of paranoia in producers. He said he knows that this whole issue is being

discussed on a national basis and is evolving, and he thought user groups are talking to USDA representatives.

MR. KASPARI said he hoped the committee would add a line that would mention supporting specific research on BSE animals, because scientists are currently allowed to research chronic wasting disease (CWD), which is basically the same disease that occurs in the deer family such as Elk. He mentioned [CWD occurrences in] white tailed deer in Michigan, Wisconsin, and parts of Minnesota, and he said wild herds are suffering with this disease.

Number 2774

PAUL KNOPP, Dairy producer, began by saying he has some real concerns with this resolution. He said he wonders where these statements come from because they haven't all necessarily been proven by science. Mr. Knopp asked if the state veterinarian has been contacted about this statement. He said he really thought this should be taken further, which he thought is why the USDA has initiated a two-year moratorium, to look at it and get some scientific evidence "of where they're trying to go."

REPRESENTATIVE KERTTULA thanked both Mr. Kaspari and Mr. Knopp for testifying and she told them she was really open to talking more with them about their concerns after the meeting. She said the Department of Environmental Conservation (DEC) was contacted, and that she had thought about introducing legislation to "require inspection" coming into Alaska but she felt satisfied after speaking to DEC that it wasn't really necessary, and she decided instead to go with the "resolution route." She said a lot of the information in the resolution is taken directly from the Federal Register, the USDA, and also from information and research that was put out at the time that BSE was found in the cow in [Washington], and in articles from The New York Times. She said Mr. Kaspari made a good point about a cow that breaks its leg, but the idea is when there is a nonambulatory disabled cow, which is defined in the Federal Register as dead, dying, disabled, and diseased. Representative Kerttula said Mr. Kaspari is talking about a cow that she didn't think any farmer "in their right mind" is going to put into a food strain. She said maybe that language could be a little more specific but generally she thought that was the idea.

REPRESENTATIVE KERTTULA said she didn't disagree that care should be taken with regard to factual information, but all of the things in the resolution have been researched back to fact,

which is the reason for the nonambulatory disease cattle phrase that was taken directly from the Federal Register. She said this is not [intended] to do something radical or that may hurt the industry and is really much more about protecting the industry and ensuring "we know what we're getting."

Number 2585

CO-CHAIR DAHLSTROM moved to report CSHJR 35(L&C) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 35(L&C) was reported out of the House Resources Standing Committee.

CO-CHAIR MASEK passed the gavel back to Co-Chair Dahlstrom.

HB 344-MINING FEES, RENTALS, & ROYALTIES

CHAIR DAHLSTROM announced that the next order of business would be HOUSE BILL NO. 344, "An Act relating to annual rental fees for mining claims, and providing for reduced royalties during the first three years of production."

CO-CHAIR MASEK clarified that [Version I] was before the committee.

Number 2517

JIM POUND, Staff to Representative Hugh Fate, Alaska State Legislature, came forward to explain CSHB 344(RES) on behalf of Representative Fate, sponsor. Mr. Fate said the language in the CS more so meets the requirements of what the intent of the original bill was, which was to help the small miner "get back out in the field and stay back out in the field" in order to bring [the small mining] economy back to Alaska. He said the CS allows that if the small miner is late on filing the required paperwork, that person is not automatically deemed to have abandoned the site, and it gives [the small miner] a "cure" in order to prevent that from happening, although the cure doesn't come without penalty. If the paperwork is filed even one day late, the small miner will ultimately have to pay one year's rent on his or her claims. He said the sponsor worked with the Department of Natural Resources (DNR) and the Alaska Miner's Association very closely and it was mutually agreed that this is the direction that will have the most positive impact on the mining industry.

Number 2449

REPRESENTATIVE GATTO asked how much money this bill will save the average placer miner.

MR. POUND said it is not so much a case of saving money. He said currently, if a miner files his or her paperwork one day late, the state deems that mine as abandoned, and that person will ultimately lose his or her claims. He said the amount of money a particular miner might lose is dependant on how much that person has in his or her claims.

Number 2414

REPRESENTATIVE GUTTENBERG asked about extensions for filing late paperwork. He asked how much time a small miner would have under the bill before the mine is considered abandoned.

BOB LOEFFLER, Director, Division of Mining, Land and Water, Department of Natural Resources, replied that the way the system has worked since the 1872 mining law, is that the mining year ends on September 30, and the miner has until November 30 to either pay or record his or her annual labor and pay rent [on the mining claim]. If for some reason the miner is late, he said those claims are abandoned by operation of law and there is nothing he can do about it. Mr. Loeffler said it is the miner's responsibility and has been since 1872 to ensure that he or she files the [required paperwork] on time. Every year, he said there are about a dozen people that don't have a good excuse and some of those people come in begging [him] to do [something for them], although there is nothing he can do under the current law. He said this bill would give a miner who pays late the opportunity to cure. Under current law, the mines are abandoned and may not be staked for a year. During that year period someone else may stake that claim and it would become that person's claim. He said the [late paying] miner can cure by paying a penalty. Mr. Loeffler said it's typically the small miners - through error, incompetence, or old age - that "blow it" occasionally, and it averages about a dozen or two dozen a year. He said this [bill] gives those miners an opportunity to keep working.

REPRESENTATIVE GUTTENBERG asked what the remedy would be with the passage of this bill.

MR. LOEFFLER said it would allow the miner to pay a penalty and the abandonment is cured.

REPRESENTATIVE GUTTENBERG asked what the penalty is.

MR. LOEFFLER said the miner would have to pay for what is already owed and an additional penalty equal to the annual rent for that mining claim.

CO-CHAIR DAHLSTOM offered her understanding that the year's annual rent will be a different number for each individual claim.

MR. LOEFFLER said the annual rent depends on how long the claim has been in existence, so there could be a couple of different numbers.

Number 2163

REPRESENTATIVE STEPOVICH asked what the time limit is on the penalty.

MR. LOEFFLER said there is no time limit, but there would be no real reason to do it after a year because that miner could just re-stake his or her claim.

REPRESENTATIVE STEPOVICH asked if anyone could stake the claim.

MR. LOEFFLER said the law is really consistent with history and tradition since 1872, and the it works if someone else hasn't asserted contrary rights. If someone else stakes the claim, that person gets the claim. He indicated that a miner could not lose his or her claim if over-staked by another miner as long as the paperwork is current.

Number 2105

REPRESENTATIVE GATTO asked how long a person could be late on filing his or her paperwork.

MR. LOEFFLER said as long as no one stakes a claim to the contrary and the miner wants to pay all of the penalties, it is fine with him.

REPRESENTATIVE STEPOVICH asked if a slow pay is better than no pay.

MR. LOEFFLER replied yes.

Number 2039

REPRESENTATIVE HEINZE moved to report CSHB 344(RES), Version 23-LS1298\I, Bullock, 2/20/04 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 344(RES) was reported from the House Resources Standing Committee.

HB 341-DIVE FISHERY MANAGEMENT ASSESSMENT

CO-CHAIR DAHLSTROM announced that the final order of business would be HOUSE BILL NO. 341, "An Act relating to the dive fishery management assessment."

Number 1988

TIM BARRY, Staff to Representative Bill Williams, Alaska State Legislature, speaking on behalf of Representative Williams, sponsor, told the committee HB 341 is a "housekeeping measure" requested by the Southeast Alaska Regional Dive Fisheries Association (SARDFA) to provide more flexibility in its operations. He turned attention to a fact sheet provided by SARDFA, and explained that SARDFA members pay a tax that is based on the percentage of the value of their catch. He said the revenue from this tax is spent on managing the various dive fisheries that members are involved with. Mr. Barry said under current state law, association members elect to tax themselves by species at a rate of 1, 3, 5, or 7 percent of the value of the landings in a given dive fishery.

Number 1857

JULIE DECKER, Executive Director, Southeast Alaska Regional Dive Fisheries Association, testified. She stated that this bill is mainly a housekeeping measure. Members are currently allowed to assess themselves at either 1,3,5, or 7 percent and would also like to be given the ability to assess themselves at 2, 4, or 6 percent, which is what this bill would do, she said. Currently, she said the sea cucumber and the geoduck fisheries assess themselves at 5 percent, and the sea urchin fishery is at 7 percent. Ms. Decker said she believes the original reason why the bill had to specify the 1, 3, 5, or 7 percentages is because the legislature is the only body that has the authority to tax and it couldn't give that authority in a broad sense to SARDFA. However, she said the legislature could give SARDFA the authority to vote and tax itself at a [specific percentage amount].

REPRESENTATIVE GUTTENBERG asked Ms. Decker if \$66,695 is SARDFA's administrative budget.

MS. DECKER said correct but she thought that amount was from a previous year. She said the [administrative budget] is in the \$50,000 range each year.

REPRESENTATIVE GUTTENBERG asked Ms. Decker if SARDFA is only trying to raise the amount of money needed for its administrative budget.

MS. DECKER said SARDFA is not looking to change anything with this legislation aside from the ability in the future to possibly change the rate that SARDFA assesses itself at. She said the rate at which SARDFA assesses itself equates to the [total value of assessments for each fiscal year] and the total amounts are generated by the percents, which are currently 1, 3, 5, and 7. Ms. Decker said SARDFA would like the ability to do 2,4, or 6 percent if it needs to. She said currently, in the sea cucumber fishery, in particular, SARDFA has a little bit of an excess at 5 percent, but if it lowers the assessment down to 3 percent it would be a 40 percent reduction and SARDFA would be a little bit short. Ms. Decker said SARDFA is trying to foresee that it may be able to reduce it down to 4 percent and be just right.

Number 1665

REPRESENTATIVE WOLF asked Ms. Decker if SARDFA currently assesses itself at 1, 3, 5, or 7 percent.

MS. DECKER said SARDFA has the ability to vote to tax itself at those percentages.

REPRESENTATIVE WOLF asked Ms. Decker how the percentages would be adjusted with the passage of the bill.

MS. DECKER said there was talk among divers in the sea cucumber industry that they may look at reducing the assessment to 4 percent, if they had that ability. She remarked, "We don't have that ability, so we're trying to look forward and ... see that coming." She said the geoduck fishery is also talking about increasing its assessment but if the assessment needs to be changed, it has to come from a petition from within membership or within the permit holders, and they always have that ability to change the assessment if they would like.

Number 1584

REPRESENTATIVE HEINZE directed attention to page 1, line 8, and she asked who determines the election.

MS. DECKER explained that the association would hold an election and all of the permit holders within each fishery who have legitimate permits would be able to vote.

Number 1539

REPRESENTATIVE GATTO said it looked as though the executive director's salary is half of SARDFAs budget, and he asked how that salary is determined.

MS. DECKER said every year SARDFAs board of directors signs a contract with the current executive director and every year that is up for change. She said the budget within the administration is just the "nuts and bolts," and SARDFAs has a budget outside of that for having contracts with people to do (indisc.) work and PSD [prevention of significant deterioration] sampling, water sampling, and other projects.

REPRESENTATIVE GATTO said he was curious to see how much money SARDFAs is spending. He asked how much money SARDFAs actually spends.

MS. DECKER turned attention to the SARDFAs handout entitled "Dive Fisheries Fact Sheet - Corrected," and she said number six is the assessment that SARDFAs collects each year.

Number 1426

REPRESENTATIVE STEPOVICH moved to report HB 341 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 341 was reported from the House Resources Standing Committee.

#### **ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:25 p.m.