

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

March 1, 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 CONCURRENT RESOLUTION NO. 28

Relating to the socioeconomic impacts of salmon harvesting cooperatives.

- HEARD AND HELD

HOUSE BILL NO. 319

"An Act relating to the disposal of state land by lottery; and relating to the disposal, including sale or lease, of remote recreational cabin sites."

- HEARD AND HELD

HOUSE BILL NO. 486

"An Act relating to reclamation bonding and financial assurance for certain mines; relating to financial assurance limits for lode mines; establishing the mine reclamation trust fund; and providing for an effective date."

- MOVED HB 486 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HCR 28

SHORT TITLE: STUDIES OF SALMON HARVESTING COOPERATIVES
SPONSOR(s): REPRESENTATIVE(s) SEATON BY REQUEST OF SALMON
INDUSTRY TASK FORCE

01/28/04 (H) READ THE FIRST TIME - REFERRALS
01/28/04 (H) EDT, RES
02/12/04 (H) EDT AT 10:00 AM CAPITOL 120
02/12/04 (H) Moved Out of Committee
02/12/04 (H) MINUTE(EDT)
02/19/04 (H) EDT AT 10:00 AM CAPITOL 120
02/19/04 (H) Mvd Out of Committee w/new fiscal notes
02/23/04 (H) EDT RPT 4DP
02/23/04 (H) DP: MCGUIRE, CISSNA, CRAWFORD, HEINZE
02/23/04 (H) FIN REFERRAL ADDED AFTER RES
03/01/04 (H) RES AT 1:00 PM CAPITOL 124

BILL: HB 319

SHORT TITLE: REMOTE REC.CABIN SITE SALES/LOTTERY SALE
SPONSOR(s): REPRESENTATIVE(s) FATE

05/14/03 (H) READ THE FIRST TIME - REFERRALS
05/14/03 (H) STA, RES, FIN
01/13/04 (H) STA AT 8:00 AM CAPITOL 102
01/13/04 (H) Heard & Held
01/13/04 (H) MINUTE(STA)
02/03/04 (H) STA AT 8:00 AM CAPITOL 102
02/03/04 (H) Heard & Held
02/03/04 (H) MINUTE(STA)
02/10/04 (H) STA AT 8:00 AM CAPITOL 102
02/10/04 (H) Heard & Held
02/10/04 (H) MINUTE(STA)
02/19/04 (H) STA AT 8:00 AM CAPITOL 102
02/19/04 (H) Moved CSHB 319(STA) Out of Committee
02/19/04 (H) MINUTE(STA)
02/23/04 (H) STA RPT CS(STA) 2DP 4NR 1AM
02/23/04 (H) DP: GRUENBERG, LYNN; NR: SEATON, HOLM,
02/23/04 (H) COGHILL, WEYHRAUCH; AM: BERKOWITZ
03/01/04 (H) RES AT 1:00 PM CAPITOL 124

BILL: HB 486

SHORT TITLE: MINING RECLAMATION ASSURANCES/FUND
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/16/04 (H) READ THE FIRST TIME - REFERRALS
02/16/04 (H) RES, FIN
03/01/04 (H) RES AT 1:00 PM CAPITOL 124

WITNESS REGISTER

REPRESENTATIVE PAUL SEATON, Sponsor
by request of the Joint Legislative Salmon Industry Task Force
Alaska State Legislature

POSITION STATEMENT: Presented HCR 28 as sponsor by request of
the Joint Legislative Salmon Industry Task Force.

REPRESENTATIVE HUGH FATE, Sponsor
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 319 as sponsor.

JIM POUND, Staff
to Representative Hugh Fate
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During hearing on HB 319, provided
information and answered questions.

DICK MYLIUS, Deputy Director
Division of Mining, Land and Water
Department of Natural Resources
Anchorage, Alaska

POSITION STATEMENT: During hearing on HB 319, provided
information and answered questions.

NANCY WELCH, Special Assistant
Office of the Commissioner
Department of Natural Resources
Anchorage, Alaska

POSITION STATEMENT: During hearing on HB 319, provided
information and answered questions.

BOB LOEFFLER, Director
Division of Mining, Land and Water
Department of Natural Resources
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 486.

ROGER FEATHERSTONE, Campaign Director
Alaskans for Responsible Mining
Anchorage, Alaska

POSITION STATEMENT: During hearing on HB 486, expressed
concerns about corporate guarantees.

STEVE BORELL, Executive Director

Alaska Miners Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 486.

ACTION NARRATIVE

TAPE 04-9, SIDE A

Number 0001

CO-CHAIR NANCY DAHLSTROM called the House Resources Standing Committee meeting to order at 1:07 p.m. Representatives Dahlstrom, Masek, Gatto, Lynn, Stepovich, Wolf, and Guttenberg were present at the call to order. Representatives Heinze and Kerttula arrived as the meeting was in progress.

HCR 28-STUDIES OF SALMON HARVESTING COOPERATIVES

CO-CHAIR DAHLSTROM announced that the first order of business would be HOUSE CONCURRENT RESOLUTION NO. 28, Relating to the socioeconomic impacts of salmon harvesting cooperatives.

Number 0130

REPRESENTATIVE PAUL SEATON, Alaska State Legislature, Sponsor by request of the Joint Legislative Salmon Industry Task Force, testified. He explained that HCR 28 was recommended by the Joint Legislative Salmon Industry Task Force and the industry. It involves an analysis of the Chignik fishery, which was established as cooperative fishery in the summer of 2000. He said this is the first time there has ever been a cooperative that was actually allocated a share of a resource. This was a restructuring program that went through the Board of Fisheries process. He said HCR 28 attempts to get a better handle on the social and economic impacts. The economic impacts of the allocation co-op were looked at, but the social impacts and the community impacts have really not been looked at in any detail. He said the Joint Legislative Salmon Industry Task Force, while looking to address some of the public policy issues that are impacted by an allocation cooperative, found that it didn't have the background information on which to do it. He said the purpose of this is to ask the Institute of Social and Economic Research (ISER), a division of the University of Alaska, to look at these questions.

REPRESENTATIVE SEATON said the management becomes somewhat controversial as any restructuring does. The proponents talked about the efficiency that this promotes using less boats to

harvest the fish. He said working with the Alaska Department of Fish & Game (ADF&G) improves quality because the fish can be taken in a measured way over a much longer period of time only harvesting what can be processed at that point in time to get excellent quality. It decreases the operating costs to those involved in harvesting and is less competitive and more relaxed work. He said the opponents talk about the decreased number of jobs because there are fewer boats, less deckhands employed, and the possibility of decreased dollars flowing through the local economy caused by a decrease in people going to that particular area. He noted that there is non-participation from public resources. Normally, he said fisheries require that a permit holder operates his or her own gear. However, this allows a fisherman who is a member of the cooperative not to be on board harvesting fish. Representative Seaton said there are 100 permits, of which 77 permit holders were allocated. The opponents maintain that it unfairly disadvantages the processing sector, and there are some questions of fairness to independent fishermen, he said.

REPRESENTATIVE SEATON said these are social economic questions that are "hard to get to." He said the public policy questions are about non-participation and allocation of a common property resource to a group and the structure that promotes industry versus a structure that spreads wealth among the absolute maximum number of people. Representative Seaton said ISER is being asked to look at the community aspects so the legislature and other groups can address whether this is good restructuring or is something to get away from. He said the fiscal note, from University of Alaska, estimated this project to be \$100,000. Representative Seaton explained that the Joint Legislative Salmon Industry Task Force has money left over from its budget and is looking at several different things to do with that money. He said this may be one of the things that it may decide to do, but that decision hasn't been made yet. He brought attention to the last page of a study contained in the bill packet entitled, "Effects of the Chignik Salmon Cooperative: What Permit Holders Say," and he noted that ISER is planning several other studies of Alaska salmon management as part of its "Understanding Alaska" project."

Number 0604

REPRESENTATIVE SEATON said it's not as if ISER doesn't know or isn't considering that there is further investigation that needs to be done on restructuring and the cooperative management tool. He said although the \$100,000 is listed as the price of the

project, it doesn't mean that ISER may not be investigating it anyway.

Number 0644

CO-CHAIR DAHLSTROM asked Representative Seaton to comment on the amount of funds left over in the [Joint Legislative Salmon Industry Task Force's] budget. She asked whether it would equal the \$100,000 fiscal note.

REPRESENTATIVE SEATON said the study was done on the Chignik cooperative fishery and the Joint Legislative Salmon Industry Task Force felt [it was appropriate for the University of Alaska to be involved] because it has already done some of the work. He said there have been some suggestions that it go out to a private bid; however, it seemed logical for the legislature to request the University of Alaska to study this and provide background data. Representative Seaton said there is more than [\$100,000] left in the Joint Legislative Salmon Industry Task Force's budget, but there is more than one project, such as studying the Chignik restructuring and looking at a request to investigate several different methods of restructuring the salmon industry. He said the determination of where that money would be spent has not been made, and he couldn't say that the money would be available. He said the University of Alaska doesn't have to do the study if it doesn't have the money. He noted that the initial report indicated that further studies are needed.

Number 0831

REPRESENTATIVE LYNN asked if the University of Alaska had been asked to conduct the study and whether it is necessary to use a resolution for the request.

REPRESENTATIVE SEATON said the Joint Legislative Salmon Industry Task Force, which was appointed by the legislature, asked the legislature to request the University of Alaska to conduct the study. He indicated that individual requests to can be made to the University of Alaska, but it is not the same as legislation asking for the study to be conducted.

Number 0921

REPRESENTATIVE GATTO asked if the \$100,000 needed for the study is within the normal range of the usual costs for this kind of a study, and whether a graduate student could do the study.

REPRESENTATIVE SEATON replied that a social economic study can be quite involved because the effects of a mismanagement strategy on villages, processors, and employees could be extensive. Noting that ISER had provided the [fiscal note], he said he didn't know the [amount of funding] requested for the original study, which was basically a survey, but this request was something much more than that.

REPRESENTATIVE GATTO where the money would go and if it would sidestep the university's administration if it went to a group.

REPRESENTATIVE SEATON said the fiscal note is from the University of Alaska and therefore the process would be done through it. He said it's Joint Legislative Salmon Industry Task Force money; not something that the legislature itself controls.

Number 1054

REPRESENTATIVE GATTO turned attention to literature contained in the bill packet relating to the Chignik salmon cooperative, and he said he expected that the people in the co-op would like it and people outside of the co-op would not like it. Noting that it appeared that some people outside of the co-op where involved in a lawsuit, he asked how many people are not in the co-op. He commented that it almost sounded like agriculture.

REPRESENTATIVE SEATON explained that of the 100 permit holders in Chignik, 77 permit holders joined the cooperative effort, and 23 did not. He said the permit holders who did not join do not get paid for not participating, and are in a competitive open-access fishery. He said an equal share would be 1 percent, so the Board of Fisheries allocated nine-tenths of a percent to each fisherman in the co-op, and if the co-op had over 80 participants, the allocation would be 1 percent. He said there was a little more of a percentage left for those permit holders that didn't join the co-op on an average basis than were in the co-op.

REPRESENTATIVE SEATON said the [project] has been conducted that way for two years and seems to be functioning fine for the people that are in the co-op, but the people outside the co-op would like more access. He said the biggest problem is, with an allocation of fish, the co-op has a very slow harvesting rate over time and has a lot of days to fish, whereas competitive fishermen catch fish in a hurry and get fewer days to fish. He said [it has been speculated] that competitive fishermen don't

get nearly as much time, but the co-op fishermen are catching a maximum number of fish per day, rather than trying to catch as many fish as possible. He said it is definitely a different structure to the two fisheries.

Number 1225

REPRESENTATIVE GUTTENBERG said the Chignik co-op is a pretty unique situation. He said some permits were not in use or were about to be sold and have now come into play because of the co-op. He said some of the permit holders are not from the area, and it must have an economic impact. He asked who will form the questions that for the study.

REPRESENTATIVE SEATON said those are the answers [are not known] and it is the purpose for the study. He said the University of Alaska is being asked to look at the other social aspects, such as about all the crewmembers who are not hired under this new format, and at the non-economic effects. He said the question is whether this restructuring makes good sense for the state and can be weighed and balanced. He said the University of Alaska will be generating the questions and is being asked to do the study because people within the university are skilled in doing this kind of research.

Number 1354

REPRESENTATIVE GUTTENBERG asked if, regardless of the study, the Joint Legislative Salmon Industry Task Force had developed a criteria of questions it wanted answered.

REPRESENTATIVE SEATON said the Joint Legislative Salmon Industry Task Force found it was lacking social and community data, and [information related to] effects on non-participatory fishermen. He said this would cover participatory fishermen, but the effects on the community and the effects on how many jobs are held locally versus non-locally, for crewmembers as well as permit holders, are things that the Joint Legislative Salmon Industry Task Force didn't have information on, and is the whole purpose of this resolution.

Number 1413

REPRESENTATIVE WOLF asked if the Chignik fishery cooperative had developed a "branding program."

REPRESENTATIVE SEATON replied yes.

REPRESENTATIVE WOLF expressed concern regarding language on page 1, lines 3-4, and he asked why the branding program is not looking at it. He said regional branding programs are all over the state, such as in Cook Inlet, and have expanded the efficiency, education, and quality of Alaska salmon. Representative Wolf suggested the University of Alaska would be getting \$100,000 to do the same thing the branding program does.

REPRESENTATIVE SEATON said the branding programs are basically a marketing program and puts certain standards on fish to ensure it is a certain quality. However, he said it is not a basic restructuring of the industry, and hypothetically, if there was a cooperative in Cook Inlet, half of the boats that are now participating would not. He said other boats would go out everyday, harvest a certain number of fish, and come in, so that the flow of fish is different. He said Cook Inlet would still have a fishery that opens, people would go out and catch as many fish as they could that day, and it would still be quite competitive.

REPRESENTATIVE SEATON said the Chignik salmon cooperative is no longer competitive, because ADF&G determines how many fish will be caught each day, and since it is no longer competitive, the participants are seining the fish and taking them live to the processor. He said there are 5 seiners harvesting for 77 permit holders, so it is not necessary to worry about an over harvest. Representative Seaton said the increased efficiency and quality come from the fact that fishermen are not competitively harvesting and are taking the processing capabilities of that particular day. He said it is quite different than a competitive fishery that has a branding program.

REPRESENTATIVE WOLF said a third of the fleet in Cook Inlet didn't fish last year because of price restrictions. He said the branding program is already restructuring the entire industry in Cook Inlet, and he agreed that the branding program has developed a higher quality branding, but it also expanded the educational component. He said the marketing and the industry itself are taking that quality to the next level and are able to get a higher brand. Representative Wolf asked why this money needs to be given to the University of Alaska if the industry and the branding program are doing it.

Number 1697

REPRESENTATIVE SEATON said the difference is that the Board of Fisheries has restructured the Chignik fishery, and the study is needed to understand the impacts of that restructuring. He said if there was a co-op in Cook Inlet, a few boats would go out each day and catch a limited number of fish. If the fishing was good, the boats wouldn't continue to fish, only the amount of fish that the boat and the processor could handle that day would be fished, he explained. He said there wouldn't be a situation where 200,000 to 300,000 or 700,000 red salmon are caught in a day, which is what the drift fleet can do in Cook Inlet, instead there would be a limited number of boats that went out and it would be changed to so those boats go out every day. He said there is a restructuring that's taken place by the board in the way the fishery is conducted. Representative Seaton said the intention is to understand the impacts to the community when there is a change in the way the fishery is conducted.

REPRESENTATIVE WOLF suggested he'd seen a change in Cook Inlet, and he added that the Board of Fisheries has forcibly restructured Cook Inlet over the years and there has been no social economic study.

REPRESENTATIVE HEINZE asked how much money [U.S. Senator Ted Stevens] has brought to Alaska for marketing fish and studying the socio-economic impacts.

REPRESENTATIVE SEATON said an amount of money [was provided] for salmon marketing but he was not sure how much that is, and it is totally different from this money. Representative Seaton said this study is looking at the restructuring of the industry and at the effects of the restructuring. He said this study is not looking at marketing the fish or at the value of the fish, instead it is looking at the social impacts of the restructuring of the industry, which made it so a few fishermen could harvest many fishermen's fish. He said it is quite different than marketing.

Number 1857

REPRESENTATIVE HEINZE asked if the \$100,000 for the study will be taken from [federal money].

REPRESENTATIVE SEATON replied that the money from the Joint Legislative Salmon Industry Task Force has nothing to do with [federal] money. He said some money allocated to the Joint Legislative Salmon Industry Task Force is left in that pool for

operation of the task force and may be designated for conducting the study.

Number 1906

REPRESENTATIVE STEPOVICH said he had no problem with the money, but he did have a problem with the concept. He said the words "fishermen" and "independent" seem to be the same, and "any time you strike the word cooperative" it makes him wonder if that is a part of the free market system. Representative Stepovich asked if people who are a part of the cooperative that aren't fishing or don't catch fish can still make money.

REPRESENTATIVE SEATON said yes; one of the public policy questions that the Joint Legislative Salmon Industry Task Force was trying to address was the non-participatory utilization by fishermen that have a permit and don't participate in the fishery and receive the benefit from that. He said that is one of the major questions being looked at, and one of the problems in addressing this whole issue was that there wasn't a good handle on the real and whole effect of this restructuring that the Board of Fisheries was legally able to adopt.

REPRESENTATIVE STEPOVICH asked if the number of jobs and money in the community will decrease because of the co-op. He noted that free markets are based on self-determination, individualism, and entrepreneurship. He asked if Representative Seaton felt that the cooperatives are the only way to efficiently harvest the fish and why cooperatives weren't used before.

Number 2025

REPRESENTATIVE SEATON said there are cooperatives across Alaska, but the difference in this cooperative, established by the Board of Fisheries, is that it receives an allocation. He said many cooperatives occur that fishermen get together and participate in, but are done in a competitive fishery in which fishermen are pooling their resources and efforts. He said this is the first cooperative that has been allocated a percentage of the harvest of an area. Representative Seaton said this resolution does not support or oppose the cooperatives; rather it is an attempt to understand the effect of the cooperative. He said [the purpose of the study] is to understand the effects on the communities and the people of the region of the establishment of a cooperative, which has been challenged in court and found to be a constitutional use of [the Board of Fisheries] powers to

restructure the fisheries in this way. Representative Seaton clarified that his bringing forward this resolution is not supporting or expanding cooperatives.

Number 2107

CO-CHAIR MASEK asked Representative Seaton what the cost to the state was for forming the Joint Legislative Salmon Industry Task Force.

REPRESENTATIVE SEATON said the Joint Legislative Salmon Industry Task Force was formed the year before he came to the legislature. He said he believed the cost was \$650,000, which was designated federal money, but he couldn't say for sure. Representative Seaton said he thought there was about \$375,000 left from the initial phase, which was the amount the legislature authorized the Joint Legislative Salmon Industry Task Force to continue with last year.

CO-CHAIR MASEK asked why the Joint Legislative Salmon Industry Task Force doesn't do the study with the remaining funds.

REPRESENTATIVE SEATON said the Joint Legislative Salmon Industry Task Force is trying to go forward with the study, which is looking at the Board of Fisheries process, so the decision makers can weigh these subjects. He said there is no request for funding in this resolution, it simply asks for a study to be done. He explained that the university has identified that this study may cost \$100,000, and he didn't know if the Joint Legislative Salmon Industry Task Force was going to dedicate some of its remaining funds to this study.

CO-CHAIR MASEK said she thought it was important to know [where the funding for this study would come from] before the committee takes any action with this resolution. She noted that the Joint Legislative Salmon Industry Task Force already has the [funding needed for this study]. She said the [fiscal note] for the resolution specifies that the money would come out of the general fund.

REPRESENTATIVE SEATON said the [fiscal note] is from the University of Alaska, which has indicated it would like \$100,000 from the general fund to conduct this study.

CO-CHAIR MASEK suggested that Representative Seaton clarify that the [the resolution] is requesting that the money come from the general fund, "rather than having some hopes" that the money

would come out of the Joint Legislative Salmon Industry Task Force funds.

REPRESENTATIVE SEATON replied that this resolution does not request any money to be appropriated, rather it asks the university to conduct this study. He noted that the university had indicated during the previous study that is planning to perform additional studies to understand the full effects of restructuring in Alaska. He reiterated that this resolution is a request to do the study, but does not put an appropriation forward for the study.

Number 2324

CO-CHAIR MASEK said the study is dated for November 1, 2004, and she asked what will happen to the study once it has been produced. She said she didn't want to see \$100,000 spent on a study if it was going to sit on a shelf and collect dust.

Number 2345

REPRESENTATIVE SEATON explained that the study will form the basis for the Board of Fisheries and for the legislature to weigh the positives and negatives of this kind of restructuring. He said the restructuring is in the Board of Fisheries, which is legally allowed to do these things, and has done it in the past. He noted it has been approved by the courts. Representative Seaton said the legislature may look at this and say the social-economic impacts are great and take the authority away from the Board of Fisheries, but right now [the legislature] does not have the information to say what those impacts are. He said some people come forward and say it's great, and others come forward and say it's bad, but there isn't really any social data to show what those impacts are.

CO-CHAIR MASEK referred to the last paragraph of the sponsor statement, which read, "Yet, this isolated coastal community and the salmon cooperative have become the center of a statewide controversy." She asked for more information regarding the statement.

REPRESENTATIVE SEATON explained that the House Special Committee on Fisheries held an overview of the Chignik cooperative, which has been heard twice by the Board of Fisheries. He said the controversy lies around those people in the co-op and those that decided not to join the co-op; the amount of time that each group gets to fish; and also the public policy issues of whether

someone that is not physically there operating gear should be able to benefit from the fishery by putting his or her allocation into the co-op and having that fish harvested. He said Chignik is very unique because there are 100 permits and basically all of them were fished every year, which is quite different than most other areas, and it's also a very controlled situation because the fish come in, are counted, and the [amount to be caught is designated]. Representative Seaton said that kind of thing can't be done in most areas, such as in Cook Inlet. He said the applicability of co-ops to other regions of the state is not known yet, and indicated the impacts of this style of management, even in a place as confined and controlled as Chignik, is what needs to be figured out.

Number 2508

REPRESENTATIVE HEINZE said the Joint Legislative Salmon Industry Task Force puts a lot of thought and work into any request it puts forward. She indicated she has a lot of trust in the individuals that sit on the Joint Legislative Salmon Industry Task Force [board] and applauds their work. Representative Heinze asked about the sunset date.

REPRESENTATIVE SEATON replied that the sunset date is at the end of this session.

Number 2537

REPRESENTATIVE HEINZE referred to Co-Chair Masek's point of ensuring that the study is utilized once it is completed.

Number 2550

CO-CHAIR DAHLSTROM said her original intent was to move the resolution today, but the fiscal note has changed since she first heard the resolution, and that there are a lot of questions and some apprehensions from committee members. Co-Chair Dahlstrom said she would like to hold the bill and have Representative Seaton meet with committee members to "hash out this stuff" to get a better understanding, and to get the work done in committee rather than on the floor.

REPRESENTATIVE SEATON said he appreciates the committee's time. He noted that because of the fiscal note, the resolution will receive a House Finance Committee referral to look at the fiscal note and the date the [study is scheduled to begin on], which is November 1. He said if money isn't allocated for this, the

Joint Legislative Salmon Industry Task Force will meet to figure out where the money is going to be designated from. He said if there isn't money designated for [the study], the date will probably be moved back in the House Finance Committee, so the university can conduct the study on it's own schedule.

CO-CHAIR DAHLSTROM asked Representative Seaton to touch base with her in the next few days. She said the resolution would be rescheduled back in committee once Representative Seaton addressed the items that had been discussed.

REPRESENTATIVE SEATON said he thought the fiscal note is something that's going to require a decision by the Joint Legislative Salmon Industry Task Force, and he doesn't control that process. He asked which questions the committee would like him to address.

CO-CHAIR DAHLSTROM said she would provide him with a couple of short questions.

REPRESENTATIVE SEATON said that would be great.

[HCR 28 was held over.]

HB 319-REMOTE REC.CABIN SITE SALES/LOTTERY SALE

CO-CHAIR DAHLSTROM announced that the next order of business would be HOUSE BILL NO. 319, "An Act relating to the disposal of state land by lottery; and relating to the disposal, including sale or lease, of remote recreational cabin sites."

Number 2719

REPRESENTATIVE HEINZE moved to adopt the proposed committee substitute (CS), labeled 23-LS0477\S, Bullock, 2/25/04, as the work draft. There being no objection Version S was before the committee.

Number 2740

REPRESENTATIVE HUGH FATE, Alaska State Legislature, speaking as sponsor, characterized the bill as another tool for the Department of Natural Resources (DNR) to allow private individuals or other individuals, after nomination and at the discretion of the commissioner, to finally secure private land from public land in Alaska. He said with the hundreds of thousands of acres available in the state, he hopes there will

never again be an excuse [for not allowing] this opportunity. He said this bill will provide that opportunity, and noted that the bill has gone through several iterations. Representative Fate said the present iteration of the bill has been received well by the Alaska Miners Association (AMA), although there are still some "hurdles" to go over with respect to the fiscal note. He said there are timeline issues [regarding the fiscal note] that have to be worked out. Representative Fate said it is an important bill that has been needed in Alaska.

Number 2839

REPRESENTATIVE KERTTULA noted that the bill is now discretionary and had a lot of work done to it. She turned attention to page 2, lines 27-31, and page 3, lines 1-3, which read:

Filing of a claim for relief by an owner against the state or a person entering, opening, developing, drilling, and working mines or wells on these or other lands, not based on physical damage to the owner's land, that hampers these reservations constitutes a breach of this contract and will result in an immediate assessment against the owner for a penalty equal to 150 percent of the current appraised value of the land, including the value of improvements. Failure to pay this assessment will result in foreclosure proceedings by the state.

REPRESENTATIVE KERTTULA asked why this was put in this bill. She said it is in the broader section of the Lands Act, so it is going to apply "across the board." She said she has real concerns about it.

Number 2888

JIM POUND, Staff to Representative Hugh Fate, Alaska State Legislature, testified. Mr. Pound said this incident deals with contractual law in statute, which this whole section essentially is. He said as far as Section 2 is concerned, this is contractual language that was basically put in the bill to take care of some technical errors. Mr. Pound said one change was made in addition to the contractual language. He said he and Representative Kerttula's staff had discussed Section 3, and he thought that could be fixed.

REPRESENTATIVE KERTTULA said she didn't understand because the [bill contains] the reservations section of reserving the

mineral rights of the state for subsurface, which is correct after statehood, but this section sounds as if filing a claim alone is the breach of contract. She said she didn't like that and it concerns her. She asked what the justification is.

MR. POUND said there have been situations in the news lately about surface and subsurface rights. He said this is basically to assure that that confusion does not take place from the very beginning. Mr. Pound said for some reason people don't tend to read that the State of Alaska maintains subsurface rights. In this particular case, he said if a situation does occur in which a remote recreational cabin site ends up being valuable for subsurface rights, the [cabin owner] is not in a position to immediately start filing a cause of action because the state or government is going drill or mine underneath his or her property.

TAPE 04-9, SIDE B

REPRESENTATIVE KERTTULA asked if that section would be better left to other pieces of legislation, rather than bringing issues raised in the coal bed methane situation into this bill.

MR. POUND said he questions why contractual law is being done in statute.

REPRESENTATIVE KERTTULA indicated she would offer a clean up amendment at some point.

Number 2958

REPRESENTATIVE GATTO asked if a neighbor would be subject to a penalty for complaining about drilling or mining activities occurring on adjacent property.

MR. POUND answered correct.

REPRESENTATIVE GATTO said the term "peaceful enjoyment of the owner's property" had been used in a different bill. He said this would certainly violate peaceful enjoyment.

MR. POUND suggested that the peaceful enjoyment of one's property is probably unconstitutional.

REPRESENTATIVE GATTO said he didn't think that constitutionality question could be addressed in the House Resources Standing Committee. He said the language wasn't invented in Alaska; it

comes from other states, and he is suspicious about the constitutionality or the unconstitutionality of it. Representative Gatto mentioned that the issue of coal bed methane has been at the [forefront], and four bills have been introduced to address it. He said residents feel that maybe it shouldn't be done in concentrated areas or in areas where the water could be contaminated, and residents have several justifiable reasons to be concerned. He remarked:

We are trying to address those reasons and it looks like this ... just did a reversal on all of that, in this regard, for this land, to bring all of those thoughts and statements and considerations and legislative attempts back to ground zero by saying you don't have any rights.

REPRESENTATIVE GATTO asked if that is the intent. He said if he bought five acres of wilderness area, he wouldn't want it to be next to the Red Dog Mine.

MR. POUND said he used the example of coal bed methane because it is obviously the one subject that has been on everybody's minds. He said this is basically language that will go into the contractual agreement between DNR and the buyer [of the property], and should eliminate concerns that have been taking place with coal bed methane by addressing it in the contract right up front.

Number 2825

REPRESENTATIVE GATTO asked if that is done by the [Alaska] Statehood Act.

MR. POUND said if that were the case, he didn't believe [the state] would have the coal bed methane problem it has now.

REPRESENTATIVE GATTO said that is exactly the point. He said a number of people to file lawsuits, and [the bill would create] a big penalty just for filing the lawsuit.

MR. POUND said it is the intent because that question continues without going back to coal bed methane, which is not the impetus for this. He said it is to ensure that ownership of subsurface rights are known up front.

Number 2785

REPRESENTATIVE HEINZE said less than one percent of Alaska's land is in "private hands," and [she supports] moving more land into private hands. She asked what dispute resolution the department has if two parties nominate the same land.

REPRESENTATIVE FATE said the commissioner has the authority to nominate the land; the nomination isn't automatic. Representative Fate said the commissioner has the final say and there is also a public process. He said constitutionally there has to be a public notice and a process for [providing] public notice. Representative Fate said there is ample opportunity for any withdrawal for that, including the designation as to mineral content. He said even though that possibility may exist, it is very remote by the very nature that this bill embodies, which makes it very difficult for that to happen. Furthermore, he said there are also regulations in place, which were passed last year, that if a permitting process is in place, the likelihood for an injunction, for example, has not been negated. He said there are several things in place that will mitigate the problem, although there is never 100 percent assurance that a property owner won't file a cause of action for some reason. Representative Fate said there are other ways, after nomination, to determine whether land can be disposed of.

REPRESENTATIVE HEINZE asked if the commissioner has the right of refusal.

REPRESENTATIVE FATE said first rights of refusal are not uncommon and are not prohibited in the constitution, and there is already statute law giving first right of refusal to people who are already leaseholders in Alaska. He said those laws have been on the books for years, and there is nothing that prohibits that first right of refusal, but equal opportunity is something different.

Number 2627

REPRESENTATIVE GUTTENBERG expressed concerns, and he said the Bureau of Land Management (BLM) had been talking about surveying the state and the prohibitive costs. He said he is wondering about the actual value of a piece of property or remote parcel, besides the fair market value, and about adding an appraisal and a survey cost to that. Representative Guttenberg asked if an analysis had been done on the costs of an [appraisal and survey] for 10 acres of property.

REPRESENTATIVE FATE said his staff, Jim Dieringer, did a lot of the fiscal work, and did an exhausting analysis. He suggested that [the costs are not] prohibitive and most people are willing to pay them if certain they can get fee simple to the property. He suggested that the person purchasing the property would determine what's prohibitive. He added that the cost will not accrue to the State of Alaska.

REPRESENTATIVE STEPOVICH said he is under the impression that the commissioner has full discretion over who is nominated, what that person is being nominated for, and whether that person can have the land.

REPRESENTATIVE FATE said it is basically correct that [the commissioner makes] the final [determination].

Number 2522

REPRESENTATIVE STEPOVICH said there are some inherent difficulties in the point that people competing for the land are going to be competing for the nomination. He said the constitution calls for the highest yield possible, and talked about destroying the whole concept of Alaskans owning land for recreation as well as for the resource value.

REPRESENTATIVE FATE asked for clarification.

Number 2485

REPRESENTATIVE STEPOVICH said the commissioner has full power over the nominations, and the people who want the land, Alaskans and businesses working within Alaska, are going to be in competition for the nomination. He said it kind of puts the commissioner in a "sticky" position.

REPRESENTATIVE FATE said it may or may not be; it may be a parcel of land that has been used for a single purpose, and there may or may not be competition. He indicated that there is equal opportunity to compete for the land, and said part of equal opportunity is to allow people to do this. The assessed evaluation will be the final judgment in what the state will receive and how much it will cost the person who wins the lottery. He said it is not as though people will be competing or bidding on a price; there would be a determination of the parcel's value, and when the value is fixed, somebody will pay that value. He said unless there is an open bid, which usually

isn't done, it is done on a lottery basis or over-the-counter sales "when it's not done in the other direction,"

REPRESENTATIVE FATE remarked, "When you maximize this opportunity, you maximize the land available, so that you have more money that accrues to the State of Alaska through these sales." He said there has been a determination as to what the lowest value of property is, what a low median is, and what the highest evaluations of property are. He said very little property with high value is sold in the state, either through lottery or anything else. He said much of [the property value] is low and only about 40 percent of it is successful. Noting that the land ends up in over-the-counter sales, he suggested the present lottery system isn't that successful for various reasons.

REPRESENTATIVE FATE suggested that privatizing the land will maximize the sales to the benefit of the state, in those instances that don't maximize a sale.

REPRESENTATIVE STEPOVICH said Representative Fate's efforts to privatize land are much needed. He said he thinks a land reform is one of the biggest issues that will face the state in the future with the lack of privately owned land. He said he could still see the inherent problems that the state already has in its leasing process with competitive leasing. He remarked, "If you want to call it a true lottery, it has to go all the way to the end; there has to be a lucky break for the Alaskan right up to getting the land itself." Representative Stepovich suggested that the ability of the commissioner to pick who [gets the parcel] ruins the chance for Alaskans heavily.

REPRESENTATIVE FATE said he thought the leasing programs the state has come under different statutes, provisions, and are completely different than some of the other leases envisioned. For example, he said private leases to individuals in which a person can have a leasehold for some kind of a "manufacturing side" or "something like this." He said the oil and gas leases or the mineral leasing, even itself under the mining laws, are far different than the leases being discussed. He remarked, "We're not talking leasing ... here; we're talking outright fee simple ownership."

Number 2216

REPRESENTATIVE GUTTENBERG, inquiring about the current land disposal program, asked what is wrong with [the program] and why land is not getting out to the public.

Number 2198

NANCY WELCH, Special Assistant, Office of the Commissioner, Department of Natural Resources, testified. She explained that the remote recreation parcel program is offered quite differently; it was redesigned through statutory change from some of the programs that were offered in the early 1980s. Ms. Welch said the department has gained quite a bit of efficiencies in the last few years that it has offered under this new program in which an area is designated and a determination is made of how many people can stake in the area. She said before the sale, the surveyor provides a proposal of the costs to have the survey done. That cost is spread uniformly across all of the numbers that will be offered, so that people know up front what the costs are that are going to be, she explained.

MS. WELCH added that the actual survey and appraisal cost is borne by the applicant. The survey cost is a part of the fair market value price. She said it is set in regulation that the state will receive no less than \$1,000. In the old program, she said it was found that the state was almost giving the land away and not getting any return to the state at all. She said it was felt that the state should at least receive a minimum price on that. She said she knows that the complaint has been that the state is not offering larger blocks of land. She said [the state] is working with a lot of municipalities, some of which have limitations on what parcel sites [the state] can have without having to do capital improvements such as roads or power. She said the five acre rule, in the municipalities, may be a problem; 20 acres is the current maximum amount that can be staked, and the average staked by individuals is about 13.5 acres.

REPRESENTATIVE GUTTENBERG asked if parcels are still available over-the-counter.

Number 2020

DICK MYLIUS, Deputy Director, Division of Mining, Land and Water, Department of Natural Resources, testified. He explained that there are parcels for sale over-the-counter, although not in the remote recreation program, which is when parcels are basically awarded through a lottery at an annual offering. He

said the parcels available over-the-counter are subdivision lots for the most part.

REPRESENTATIVE GUTTENBERG asked if this bill represents a process that is significantly different than what is currently being done.

MR. MYLIUS indicated that the most significant difference is that the areas and the amount of that can be staked are identified up front. He said six or seven areas are offered a year. One best interest finding and public notice is done for all of those areas, and one appraiser and surveyor are contracted with to do the appraisal. Under the proposed bill, he said hundreds of individual applications would come in and have to be processed separately. He said the best interest finding, public notice, surveys, and appraisals are all separate.

CO-CHAIR MASEK said CSHB 319(STA) is accompanied by a fiscal note. She asked if the current CS is accompanied by a fiscal note.

MR. POUND said he believes the fiscal note for \$433,000 is really comparable and may go up only slightly. He remarked, "However, we do dispute the source of the revenue; this goes to revenue (indisc.) receipts; not from the general fund."

Number 1902

REPRESENTATIVE HEINZE asked Ms. Welch if she is familiar with the Commonwealth North asset study that was just completed.

MS. WELCH said she'd heard about it but had not read it.

REPRESENTATIVE HEINZE explained that it was a six-month study that recommended increasing the financial portfolio of the state. She said a large amount of that was for doing a better management job with the state's land. Representative Heinze asked Ms. Welch if she thought this bill would aid in increasing that financial portfolio.

MS. WELCH said she wasn't sure she could answer that question without reading the study. She said one concern the commissioner had expressed is that the bill would allow random staking without really consolidating the land disposals in a particular area, so it could have an adverse effect on potential development. She remarked, "You have to balance not only what

we can ... transfer as part of our responsibility of settlement of our lands for individuals, but also having an economic return to the state on the resources that are available to us, so in that respect it could have a chilling affect."

REPRESENTATIVE FATE said the "old thinking" has always been to condense those properties into a subdivision-type setting; however, the [purpose] of the remote recreational cabin site bill is to get remote parcels into private hands. He remarked, "This is not under the concept where you take land under one large setting, have it all surveyed at the same time into one subdivision where you have your neighbor right next door." He noted that buffer zones are embodied in the bill. He said too many people talk about trying [to buy] the place where they've either hunted or fished or just want some quiet recreation, and can't get the piece of property. He said this [bill was intended] to fill those desires.

REPRESENTATIVE HEINZE suggested that the bill backs up the Commonwealth North study and provides for better management of the state's financial portfolio. She noted that it also provides Alaskans with remote cabin sites.

Number 1720

CO-CHAIR DAHLSTROM said [the committee] was in the process of setting up a briefing to review the study by Commonwealth North to become aware of and educated with the findings of the study and it pertains to the different issues being worked on. She said her intent is to hold the bill in committee for further discussion. She noted her understanding that an amendment would be brought forward, and asked the maker of the amendment to work with Representative Fate's office to see if the amendment is friendly. She said noted that after the amendment is reviewed the committee would move forward.

[CSHB 319(RES) was held over.]

HB 486-MINING RECLAMATION ASSURANCES/FUND

CO-CHAIR DAHLSTROM announced that the final order of business would be HOUSE BILL NO. 486, "An Act relating to reclamation bonding and financial assurance for certain mines; relating to financial assurance limits for lode mines; establishing the mine reclamation trust fund; and providing for an effective date."

The committee took an at-ease from 2:22 p.m. to 2:25 p.m.

Number 1597

BOB LOEFFLER, Director, Division of Mining, Land and Water, Department of Natural Resources (DNR), testified. Mr. Loeffler explained that reclamation is the process in which mined land is put back [in its original state] after being disturbed for the [extraction] of minerals. Initially, he said the mining company puts up a bond for the disturbance, and should the mining company fail to reclaim the land or to put it back to a productive state, the state can seize the bond and get the work done to protect the citizens. When current statutory framework was established in 1991, Alaska had mostly a placer-mining industry, which is very different from the placer and hard rock industry the state has today. He said when this was established in 1991, the Red Dog Mine was just starting and Fort Knox Mine, True North, Pogo Project, and Greens Creek Mine [were not operating]. The state's statutory framework was really appropriate for placer mining, he said.

Number 1436

MR. LOEFFLER said there is a \$750 per acre cap on bonds charged to companies for reclaiming the land. He suggested that may or may not be close to appropriate for placer mines, but most large hard rock mines, for example, the Pogo Project or Red Dog Mine, can't reclaim the land for anywhere near that. The bonds are expected to be \$24-26 million for the Greens Creek Mine, \$26 million for the Pogo Project, and \$50-100 million for the Red Dog Mine, he explained. He said for \$750 per acre he couldn't charge a bond that is appropriate for the large mining industry; an industry that he hopes is growing. Mr. Loeffler said HB 486 removes the \$750 per acre cap on lode mines, which are large mines. For placer mines exploration, he said DNR will maintain the current system, and for the large mines with big reclamation expenses, DNR will charge the full and reasonable cost for a bond. Secondly, he said the bill broadens the instruments companies can use to satisfy the state's requirements. He said it includes such things as letters of credit, surety bond insurance, certificates of deposit, and corporate guarantees - things of that nature.

MR. LOEFFLER said he would imagine that each individual company will end up using a different suite of those things depending on the size of the bond and the situation, and the suite may change over the life of the mine. Mr. Loeffler said [DNR] would have the ability to charge more, but would also have a greater

repertoire companies can use to satisfy the requirements. He said the mine reclamation trust fund is a voluntary fund that companies can use to satisfy the reclamation obligation. He said [DNR] frequently has long-term reclamation obligations, for example, Red Dog Mine may require water quality treatment forever. He explained that [the state] has asked Fort Knox Mine to leave the freshwater lake as a recreation site for Alaskans. He said the Fort Knox Mine will leave a bond, but to maintain the dam in perpetuity, unless the state can use the interest on that in perpetuity, it doesn't really have a reclamation fund. He said unless [the state] can keep the interest on the bond that the Red Dog Mine provides, [the state] doesn't have a perpetual reclamation mechanism.

MR. LOEFFLER said in place is a 30-year monitoring requirement for Illinois Creek Mine, and if a mining company has to come up with a bond for 30 years, it is easier if [the state] can keep the interest. The reclamation trust fund is a way for the state to deal with long-term reclamation bonding obligations or perpetual, he said. He said it has a couple of advantages for [the state], one of which is it allows the state to accommodate the large industry, which often has long-term requirements. He said while a company can use a variety of suites, "this is a mechanism that the state could hold the cash." He said that's best from the state's perspective. He said if a company is putting money aside for long-term reclamation, it is expecting to use the interest, which is taxable. The state is not a taxable entity, and if the state holds the money for the company, that interest accumulates tax-free, he explained. He said there is an advantage for the companies should they choose to use this voluntary mechanism of letting the state hold the money, and noted that there are some other tax advantages.

Number 1147

REPRESENTATIVE STEPOVICH asked if the \$750 per acre cap only applied to lode mines.

MR. LOEFFLER said currently, the cap applies to all reclamation and would only be eliminated for lode mines.

REPRESENTATIVE STEPOVICH asked why it would only be eliminated for lode mines.

MR. LOEFFLER said it is believed that the placer industry and exploration are operating just fine.

REPRESENTATIVE STEPOVICH asked, "Once they see the lode mines getting this break do you think they will be just fine?"

MR. LOEFFLER said the cap is not [the state's] ability to charge mining companies for reclamation, rather it is [the state's] ability to require mining companies to put up a bond. He said he didn't foresee the placer industry [volunteering] to "put up more money."

REPRESENTATIVE STEPOVICH remarked, "They exclude the operation that generates acid; is that obvious."

MR. LOEFFLER replied yes. He said the placer mining community really doesn't put up a bond; they go into a placer mining pool in which all of their assets are co-mingled. Mr. Loeffler said mining operations that are too big for the placer bond pool would be excluded, including mining operations that generate acid. He said while large hard-rock mines have the potential to create acid, placer mines do not.

REPRESENTATIVE STEPOVICH turned attention to page 4, line 20, and he said of the two statutes on this line, one pertains to minerals, and the other pertains to coal. He asked how the fund would work.

MR. LOEFFLER said it's in the reclamation trust fund and it says the trust fund can be used whether the reclamation obligation is under AS 27.19, which is used for metal mines, or whether it's under coal. He said this trust fund is available for either opportunity.

REPRESENTATIVE STEPOVICH directed attention to page 5, paragraphs (1)-(7), and he asked how those activities are currently paid for.

MR. LOEFFLER said the company has the obligation to do the reclamation and the [bill] doesn't change that; it says if [the company gives the state] the money to hold, it can reimburse the company if it does any of the [activities in paragraphs (1)-(7)]. He said the company would still have the responsibility to reclaim the mine.

REPRESENTATIVE STEPOVICH asked if this [bill] is an incentive or a savings.

MR. LOEFFLER said he believes it will be both an incentive and a savings for companies that need to accumulate cash in order to

do the reclamation later. It is an incentive for companies to give the state cash and it will be a savings to those companies because some of that cash can be held tax-free, he said.

Number 0909

REPRESENTATIVE HEINZE said she thinks this is a good bill, but the corporate guarantee is a concern. She asked Mr. Loeffler to explain the Alaska Bond Pool program.

MR. LOEFFLER, noting that the Alaska Bond Pool program is for placer mines, said if small "mom and pop" [mining operations] couldn't come up with a full bond, it would join a bond pool. For each acre that is disturbed by mining, the placer mine gives the state \$150, of which [75 percent] or \$112.50 per acre is refunded upon [approval of the reclamation]. He explained that the state has the ability to pull the full amount of money for each operation's reclamation from the bond pool if necessary. Mr. Loeffler said it's like an insurance pool [for participating operations] that can be used to pay for any default.

REPRESENTATIVE HEINZE asked Mr. Loeffler to elaborate on the corporate guarantee.

MR. LOEFFLER said the purpose of a corporate guarantee is to guarantee that the mining company has the money to perform the work, although if the company goes bankrupt, the corporate guarantee is of no value. He said the coal program has corporate guarantees in that the state puts a series of financial tests together to ensure that the company is not in any danger of going bankrupt. He said the company has to have "four times the assets to liabilities ratio" and a number of financial tests. Mr. Loeffler said [the state] hires a consulting firm to go through Usibelli Coal Mine, Inc.'s [financial records] each year to assure the state that it is a "good risk" and that it meets the state's regulations. He said he expects that the state will be writing regulations to ensure that it doesn't accept corporate guarantees from companies that are bad risks.

Number 0720

MR. LOEFFLER said he also expects that the state would be more likely to accept corporate guarantees from a mine that has to come up with a lot of money over 20 to 30 years to reclaim it. He said in the first part of the mine life there is a little less risk because there's less disturbance, and the state might

have some amount of actual cash and some amount of corporate guarantees. He said as "it gets to the end" where the [state] would need cash, it would probably want to change the mix, so "we have less guarantee, less risk" that if the company went bankrupt, "citizens would be holding the bag." He said he expects that corporate guarantees would be used as one instrument in some locations, and would only be used where [the state] has done financial testing to ensure that the company's a good risk. [Corporate guarantees] would not necessarily be used in all parts of the mine life, he added. He said typically a corporate guarantee is done with a parent corporation, for example, the Red Dog Mine is run by Teck Cominco Limited. He said there is a parent corporation with mines all over the world, and a corporate guarantee is a way to bring some of those assets to bear to guarantee the Alaskan operation.

MR. LOEFFLER, in response to a question from Representative Heinze, said if a company wished to use a corporate guarantee, [the state] would probably go towards that.

Number 0515

REPRESENTATIVE KERTTULA asked whether the [state] has drawn from the bonding pool in the past, and how much was drawn out of it.

MR. LOEFFLER said this year [the state] seized about \$4,000 from the bonding pool for placer mines. He said [the state] managed to reclaim two or three sites in the Petersville area and one in the "forty mile" [area], and received a lot of help from mining communities that donated a lot of time. Mr. Loeffler said a bond for \$1.5 million was seized in 1999 from Illinois Creek Mine, which was a large mine that was not in the bonding pool.

REPRESENTATIVE KERTTULA asked if Illinois Creek Mine was a company that went bankrupt.

MR. LOEFFLER said yes, and Illinois Creek Mine was not in the bond pool.

REPRESENTATIVE KERTTULA asked what type of bond Illinois Creek Mine had given the state.

MR. LOEFFLER said the company had cash in the bank. He said the state wrote a letter [to the bank] and much to his surprise a check appeared 3 days later. He said he was told that is not the usual situation.

REPRESENTATIVE KERTTULA asked if the corporate guarantee will be done "up front" when the agreement is made or if "they roll over." She remarked, "I'm just wondering how you get from having guarantee to having cash."

MR. LOEFFLER said he expects that the state will [put into place] regulations that will require a relatively detailed financial test, and the company must meet that financial test yearly. He said he also expects [the state] will have a reclamation agreement up front that would set out the reclamation expectations for the life of the mine, but knowing that mines and conditions change and that that agreement would be revisited on a regular and periodic basis.

REPRESENTATIVE KERTTULA if other states do something similar to this.

MR. LOEFFLER said he believes that the reclamation trust fund itself is somewhat innovative, and he doesn't know that other states do anything exactly like it. He said the concept of reclamation agreements, full and reasonable costs, and corporate guarantees are all done nationally. He said internationally there are some states that have outlawed corporate guarantees. He said some states use corporate guarantees and the federal government uses them in some situations.

REPRESENTATIVE KERTTULA asked what the policy reason is for not having corporate guarantees.

MR. LOEFFLER said the reason is that if the corporation goes bankrupt, the guarantee is meaningless. He said corporate guarantees should only be used in those situations where the risk is low or where there is a plan to use it as part of an instrument to put aside money. Mr. Loeffler said given a full reclamation and a very large [amount of money] needed for a multi-million dollar bond, he expects there situations will arise in which a corporate guarantee is an absolute necessity for at least some period of time. He said he expects the state will have regulations to ensure that it is not used inappropriately.

Number 0195

REPRESENTATIVE STEPOVICH asked who is opposed to the bill the bill.

MR. LOEFFLER said he believed he should let those people speak for themselves.

REPRESENTATIVE STEPOVICH asked if he knows who those people are.

MR. LOEFFLER said he believes this makes the world better for reclamation. Mr. Loeffler, noting his belief that Alaskans for Responsible Mining was present, said whether [Alaskans for Responsible Mining] opposes the bill or not is up to them, but he couldn't speak for them.

REPRESENTATIVE STEPOVICH asked if anyone had been in contact with him.

MR. LOEFFLER said he had talked extensively with [Alaskans for Responsible Mining] and there are parts of [the bill] they like and parts they are not sure about, but he was uncomfortable voicing their opinion.

REPRESENTATIVE STEPOVICH clarified that he is not asking for an opinion, rather he is asking who contacted Mr. Loeffler in opposition to this bill.

MR. LOEFFLER said he didn't know that anybody was against the bill as a whole, and any concerns about corporate guarantees would only be from the environmental community.

REPRESENTATIVE STEPOVICH said he is trying to get a more rounded look at some of these issues. He remarked, "I've been hearing that people who are writing the bills are bringing them in; they're the ones that are the only ones we get." He said he figured the proponents would know who the opponents are.

MR. LOEFFLER said he is often able to unify.

Number 0037

REPRESENTATIVE GATTO said the traditional opponents are the Sierra Club and the Friends Of The Earth.

MR. LOEFFLER said he believes this bill strengthens [the state's] position with reclamation. He said currently companies give the state a voluntary reclamation bond and this bill would make it a requirement.

TAPE 04-10, SIDE A

REPRESENTATIVE GATTO asked why miners are against it. He said the bill is forcing miners to go from voluntary to compulsory.

MR. LOEFFLER deferred the question to [the mining industry].

Number 0046

CO-CHAIR MASEK directed attention to a handout in the bill packet entitled "Alaskans for Responsible Mining," which read in part [original punctuation provided], "Another mine that was part of the Alaska Bond Pool Program is also bankrupt, with clean-up costs likely to exceed \$250,000 (Nixon Fork)." She asked Mr. Loeffler if he cared to comment.

MR. LOEFFLER, noting that the mine was on federal land, said he expects the mine to reopen again with a new operator, and did not expect there would be any clean-up costs. He said nothing has been taken from the bond pool for that mine, and he didn't expect [any bond money] would have to be taken. He said it will fully reclaim itself.

Number 0137

ROGER FEATHERSTONE, Campaign Director, Alaskans for Responsible Mining, testified. He said Alaskans for Responsible Mining had not taken a position on the bill, although there are things about the bill that the coalition likes and things it has concerns about. He said in general, he thought the coalition is supportive of removing the cap, which was put in place at a time when mining was substantially different in Alaska. He said with large mines coming on line, it's clearly not adequate for the business of mining responsibly. Mr. Featherstone said the trust fund is intriguing and he was not sure if the coalition has come up with a position yet on that portion of the bill. He said his "gut feeling" is that if [the bill] brings in money and fully reclaims the mines; protects the air and water, salmon, and everything else; and most importantly, if the state isn't left "holding the bag," then it's probably a good thing.

MR. FEATHERSTONE expressed concerns about corporate guarantees, and he referred to the aforementioned handout, which outlines those concerns. He said with companies going in and out of business, the potential of bankruptcy does make [the corporate guarantees] not worth a whole lot of money. Mr. Featherstone said he is hopeful that if corporate guarantees do happen, the parent companies [will be held responsible]. He said in [bankruptcy situations] often "you're chasing after the person

that owns the license," but the parent company has tons of money and doesn't put anything into reclamation or clean up, and he hopes that can be avoided.

MR. FEATHERSTONE said Alaskans for Responsible Mining feels there are other forms of financial assurances that aren't so risky, and would like to ensure that those are utilized instead of going with something that might be a problem in the future. He said Alaskans for Responsible Mining is interested in looking at the possibilities on these courses of action. He noted that large mines are a fact in Alaska and are not going to go away, and remarked, "We ... need to make sure that when they do happen, ... they're done right and there is enough money left to make sure that they're reclaimed at the end safely"

REPRESENTATIVE KERTTULA asked what kinds of assurances the state should consider that would be less risky.

MR. FEATHERSTONE said the Alaskans for Responsible Mining is a coalition, so coming to a consensus on everything is sometimes difficult. He remarked:

The two things that we have the problems with, if any, are corporate guarantees, and ... although it's been explained somewhat by Mr. Loeffler, sinking funds or any other form of financial insurance seems a little vague to us. ... We would hope ... if this bill should pass, that when it comes time to do the regulations that those things at least can be defined a little more, so it's not quite so much an open door policy.

REPRESENTATIVE HEINZE said Jerry Gallagher was the director of the Division of Mining when the \$750 cap was put into place in the 1990s. She asked, "From that point ... until now, when we're looking at this bill before us, do you think we're almost there?" Representative Heinze asked Mr. Featherstone how happy he is with this bill on a scale of 1 to 10.

MR. FEATHERSTONE said it depends on what parts of the bill are being looked at; "we're right up there" with regard to removing the cap; "we're probably pretty close to that as well" regarding the trust; and "we're probably on the lower end of the scale" regarding corporate guarantees.

REPRESENTATIVE HEINZE asked if was fair to say that [this bill] is a "leap forward."

MR. FEATHERSTONE said it is not a leap forward. He said he thought the intent of this bill is good, but "the devil's in the details." He remarked:

A lot of it will depend on what the regulations say. A lot of it will depend on the nuts and bolts of enforcement. A lot of it will depend on people being responsible citizens - ... from the mining companies making really good faith effort to ... meet the intent that, ... perhaps, ... DNR's looking at, and not just the minimum that you'd buy. ... All of those things will make a huge difference whether this is a great leap forward or whether it's ... a good start.

REPRESENTATIVE KERTTULA asked if federal regulations are applicable to mines in addition to state regulations, and she indicated that Mr. Loeffler had responded no. She asked if the reclamation is [entirely] the state's responsibility.

MR. FEATHERSTONE said he is the "policy person" and is dependant on coalition members for technical expertise.

Number 0784

STEVE BORELL, Executive Director, Alaska Miners Association (AMA), testified. He stated that AMA is in support of HB 486. He said this bill will make several important changes to requirements for mining and financial assurance for mining operations. He said some of the changes clarify and define the procedures and the requirement that DNR had been following for several years regarding large mines. Other changes will providing for a sinking fund or trust account approach to collect funds over the life of a project to ensure that the monies are in place with the state when long-term water treatment or environmental monitoring or other related work is needed after the mine has been reclaimed and closed. He said the current statute requiring financial assurance for mining was sponsored by the late Senator Betty Fahrenkamp in 1990, and the statute and the approach it established has served Alaska and the mining industry well for almost 14 years. However, he said the statute has had some questions raised about it.

MR. BORELL said it was focused primarily on small family placer mines. Since that time it has become clear that some changes to statute are needed to effectively address the financial assurances needed for large load mines, he explained. He said

the mining industry has been discussing this need for several years, and over the past six months the industry has worked with DNR and the Department of Environmental Conservation (DEC), and participated in coming up with this approach. Mr. Borell said [the bill] has been through many iterations to ensure that it works for the state and the industry, and "we believe we have found that in this." He remarked:

I appreciate the questions about corporate guarantees, and not just corporate guarantees, but the entire reclamation topic. It's far more important to the mining industry than it is to any individual stream, ... any individual environmental group or anybody else, because if somebody goes out and makes a mess and it isn't corrected and there isn't an ability to do that properly, it's the mining industry that gets the bloody nose; it's not the environmental organization that gets a bloody nose.

It's me and my membership that get the problem and so it's extremely important that a corporate guarantee not allow somebody to just walk away and not be able to cover it or any of the other mechanisms. We look at these not just from the standpoint of how can ... some mining operator get out of something, not at all. ... It's far more important to the industry that this be done right than it is to any other group at all.

MR. BORELL urged the committee to move the bill at the earliest possible date.

Number 1061

CO-CHAIR DAHLSTROM, upon determining no one else wished to testify, closed public testimony.

REPRESENTATIVE GUTTENBERG turned attention to page 6, line 5, and he asked if that [language] was normal. He said it seems like this is going to be a "regulation heavy" statute change.

MR. LOEFFLER said that sentence only pertains to the reclamation trust fund. He said he believes the critical regulations about corporate guarantee are regulations under AS 27.19, and are in the existing regulatory authorities. He said he could guarantee that [DNR] would be adopting regulations.

REPRESENTATIVE KERTTULA asked how quickly that would be done.

MR. LOEFFLER said he thought that would be started as soon as the bill passes.

REPRESENTATIVE KERTTULA asked if [DNR] had any [personnel] left to do it.

Number 1180

CO-CHAIR MASEK moved to report HB 486 out of committee with individual recommendations and the accompanying fiscal notes, and asked for unanimous consent. There being no objection, HB 486 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 2:58 p.m.