

ALASKA STATE LEGISLATURE  
**SENATE TRANSPORTATION COMMITTEE**  
JANUARY 31, 2002  
1:35 p.m.

**MEMBERS PRESENT**

Senator John Cowdery, Chair  
Senator Jerry Ward, Vice Chair  
Senator Robin Taylor  
Senator Kim Elton  
Senator Gary Wilken

**COMMITTEE CALENDAR**

CS FOR HOUSE BILL NO. 241(RES)

"An Act relating to a railroad utility corridor for extension of the Alaska Railroad to Canada and to extension of the Alaska Railroad to Whitehorse, Yukon, Canada."

MOVED CSHB 241(RES) OUT OF COMMITTEE

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 209

"An Act relating to authorizing the Alaska Railroad Corporation to lease land within certain terminal reserves for a period of up to 55 years."

MOVED CSSSSB 209(TRA) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

No previous action.

**WITNESS REGISTER**

Representative Jeannette James, Sponsor  
State Capitol, Room 214  
Juneau, AK 99801-1182

Joseph Fields  
Fairbanks Chamber of Commerce Transportation Committee  
P.O. Box 71047  
Fairbanks, AK 99707

**POSITION STATEMENT:** Supports CSHB 241

Don Lowell  
Alaska Transportation Consultants  
P.O. Box 71114  
Fairbanks, AK 99707

**POSITION STATEMENT:** Supports CSHB 241

William Britt  
Gas Pipeline Coordinator  
Office of the Commissioner  
Department of Natural Resources

**POSITION STATEMENT:** Opposes CSHB 241

Paul Metz  
University of Alaska, Fairbanks  
P.O. Box 73606  
Fairbanks, AK 99707

**POSITION STATEMENT:** Supports CSHB 241

Wendy Lindskoog  
Alaska Railroad Corporation  
P.O. Box 107500  
Anchorage, AK 99510-7500  
**POSITION STATEMENT:** Supports SSSB 209

Jim Kubitz  
Alaska Railroad Corporation  
P.O. Box 107500  
Anchorage, AK 99510-7500  
**POSITION STATEMENT:** Supports SSSB 209

Bill Hupprich  
Alaska Railroad Corporation  
PO Box 107500  
Anchorage, AK 99510-7500  
**POSITION STATEMENT:** Supports SSSB 209

**ACTION NARRATIVE**

**TAPE 02-3, SIDE A**

**CHAIRMAN JOHN COWDERY** called the Senate Transportation Committee meeting to order at 1:35 p.m. Present were Senator Wilken, Senator Elton and Chairman Cowdery. The first order of business was CSHB 241(RES).

#HB 241

**HB 241-RAIL AND UTILITY CORRIDOR TO CANADA**

**CHAIRMAN COWDERY** announced that the sponsor was present. He welcomed Representative Jeannette James and invited her to make a presentation. He announced that Senator Ward was present.

REPRESENTATIVE JAMES thanked the committee for hearing the bill and explained the intent:

- To make it specifically clear that the state will authorize the Alaska Railroad to survey and identify such a corridor not to be less than 500 feet wide.
- To list the natural things they must consider on page 2.
- To evaluate whether or not they ought to go on from the Canadian border to Whitehorse, Yukon.

She wanted it clear that she did not select a specific corridor or connection points because several years ago Senator Murkowski filed in the U.S. Congress a piece of legislation that referred to the appointment of a bilateral commission consisting of 12 U.S. citizens and 12 Canadian citizens to do a feasibility study of such a connection over a three-year period. A \$6 million appropriation went with that piece of legislation. Negotiations with the federal government of Canada to participate in the bilateral commission are underway. People are working in Yukon, British Columbia, Alberta, Saskatchewan and Manitoba to get this through the federal government in Canada and she thought they would be making some decision on that soon.

REPRESENTATIVE JAMES said she suggested the line go to Whitehorse was because it was about half way to a North American rail connection. That would be holding a hand out to the Yukon and British Columbia because this corridor would affect Alaska more positively than Canada due to Alaska being at the end of the line. She felt Alaska ought to be willing to go half way to Whitehorse.

She explained two possible routes:

- One route would follow the 1942 survey done by the Corps of Engineers when they were preparing to build a railroad connection rather than a highway during the war. That route went down the Tintina Trench, which is a natural place for a railroad to go and also goes past a number of mineral interests on both sides of the border.
- The second route would be down the highway. That route might not be quite as easy in some places. If a railroad was to be built to implement or assist in getting a gas pipeline down the highway and all or part of that railroad connection was in place it would certainly improve the opportunities and the cost of implementation of building a gas pipeline.

REPRESENTATIVE JAMES explained HB 241 authorizes no money for the process. When the Alaska Railroad finds the money, time or need to go forward this would be ready and they would be able to move in that direction. They would assume some funds from the federal level. The Department of Defense might fund the railway from Eielson Air Force Base to Fort Greeley for the missile defense system. All of this would be looking into the future without any real knowledge of what exactly would be happening.

CHAIRMAN COWDERY noted the full committee was present.

SENATOR ELTON asked if the federal review had not begun because there was no Canadian participation at this time.

REPRESENTATIVE JAMES answered that is correct. The United States was prepared to appoint 12 members to the bilateral commission but they still would need 12 members from Canada. In Canada people have been identified who meet the qualifications of the bilateral commission design and are willing and able to go forward. They need the federal government in Canada to agree to participate and that is the decision being discussed in Ottawa. Larry Bagnell, a strong supporter from the Yukon, is carrying that message to Ottawa.

SENATOR ELTON said this bill would get them out ahead and they did not necessarily need to do that right then. He looked through the bill to see if there was anything that prevented the railroad from having the ability to place a lien on properties that could otherwise be disposed of for other purposes. He wanted to know if they were giving them an authority they did not need now that could interfere with transfer of state land in the future.

REPRESENTATIVE JAMES answered there was a comment in the bill that the State of Alaska should consider that issue. It would be difficult to be specific because the 500 foot wide right-of-way had not been delineated at all. They did have, from the late 70's and early 80's, centerline identification on a map taken from the air that determined where a right-of-way might be. She said:

Of course in establishing a railroad corridor it's not just exactly where do you want to go but where can you go because there is geological and other topographical issues that would determine where is the right place to go. So actually aside from authorizing the railroad to go forward with this issue I believe everything will be maintaining as it is currently and if there were, as an example, some other occupations that would be taking

place on some of these properties I would suspect it would be subject to, if we go with the railroad, that they would have to move out of the way.

SENATOR ELTON said the bill would be placing on the books future authority for the railroad and part of that would be the power of eminent domain. It would leave open a potential question for other people that might want to do other business activities on land in the future if there was the potential that they could have to go away because there was a statute on the books that gave the railroad the power of eminent domain. This would be given for a project that hadn't been outlined specifically.

REPRESENTATIVE JAMES said this actually would put people on notice that the railroad already has the rights of eminent domain. People could go in and make a big investment in something and the railroad could come along with eminent domain and take them out. Going forward with this issue would put people on notice.

She discussed the approximately 40 at-grade crossings through Fairbanks and how separated grade crossings are much safer and a better way to build railroads. Getting ahead might eliminate some of those kinds of problems over the long run. This would put people on notice of the eminent domain opportunity, which is there without this legislation.

SENATOR ELTON said the railroad did have the power of eminent domain but it seemed to him they would have more power with this legislation because it specified they have first claim on a potential route where, right now, there is no route. This would be an extension of the power that they have.

CHAIRMAN COWDERY said he did not think there was a route specific in this bill.

REPRESENTATIVE JAMES said the most specific route was the route previously chosen for the railroad. That route on the map for over 20 years goes down the highway to Tetlin, up over the hill and down the Ladue River to Carmacks and on to Faro, Watson Lake and Fort Nelson. Some years ago the Department of Transportation and Public Facilities (DOTPF) decided to abandon that selected route. Legislation had to be changed to make them put it back on the map. She said there should be no surprise to anyone that route was there. This legislation would widen the route and give the railroad the authority to survey on the ground as opposed to the centerline that was currently activated. NASA had flown the area using high resolution to do the topography on the Department of Natural Resources (DNR) map.

SENATOR ELTON said he was going to ask DOTPF the same questions and they would have some time to prepare.

SENATOR WARD thanked Representative James for keeping the issue alive and well all the years he had been in the legislature. He intended to support the legislation. He thought the bilateral coalition and this legislation showed that Alaska and its U. S. Senator are very serious about the railroad going forward and wanted to explore its feasibility. He asked if the bill showed the effort of the State of Alaska to proceed with this and would it encourage Canada to actually appoint the 12 members they have identified.

REPRESENTATIVE JAMES thought it would. She felt the authorization to go to the halfway point at Whitehorse was very important. She explained that in the late 70's and early 80's Canada was building the British Columbia rail towards the border with Alaska and Alaska was planning to go to the border with Canada. They built the rail bed all the way to Dease Lake and laid some of the rails but Alaska didn't go forward. She didn't know if that was the total issue but they have since pulled up the rails and backed down to where the rail now ends at Chipmunk, out from Fort Saint James. The rail bed to Dease Lake is still there. Alaska and Canada were working together and then all of a sudden Alaska was not. Now, more that 20 years later, Alaska is trying to do a similar thing.

SENATOR WARD said it is time to show a real effort. He thanked her for doing that.

SENATOR TAYLOR thanked her for all her work. He appreciated her mentioning the rail bed to Dease Lake. He said east of Highway 37 a level mound parallels the road for over 100 miles.

He said British Columbia has decided the way to cut its budget is to fire 11,700 employees out of a workforce of 38,000 and they are in special session working on that. Senator Phillips discussed with him how the Canadians are excited about the potential of starting anew the process to get a railroad built and extended. The benefits to their economy are huge so it is a shared thing. He asked if she had discussed with the Alaska Congressional Delegation possible funding of the project and, if so, what they indicated.

REPRESENTATIVE JAMES said they had not discussed it. She had been using, as a rule of thumb, something between 2 to 3 million dollars a mile to build the railroad and that was probably generous. Her opinion is if they got the final go ahead to build the railroad track, it would be a partnership of public and private money. Up until last summer there had been a kind of nonchalant attitude from Canadian National, one of the larger

railroad companies in Canada, and now they were interested and wanted to be at the table. She hoped there would be some kind of methodology for having not just one train company running over this track but would have some lease arrangement on the track that would allow other rail companies to travel on it if they so choose.

SENATOR TAYLOR asked if she had had discussions with the Alaskan Congressional Delegation about federal funding that may be available. He said when they rebuilt the Alaska Canadian Highway the United States Government paid the full cost and the Canadians hired the contractors and did the work. He didn't think this project would have much of an opportunity to move forward if there was not some sort of commitment from the Alaska Congressional Delegation that a good portion of the cost would come from federal funding. The Canadian economy was in trouble because of the timber industry and the exchange rate.

REPRESENTATIVE JAMES explained when they had a conference in Fairbanks in October they heard from Gil Carmichael, the CEO and Chairman of the Inter-modal Transportation Institute in Denver Colorado, who had served the Federal Railroad Association under the previous President Bush. He was a very knowledgeable person who had been working with Congressman Don Young on Ride 21. Mr. Carmichael had indicated there could possibly be money available from there for this corridor. There could also possibly be money from other transportation plans. They have the cooperation and support of the Congressional Delegation in Washington.

SENATOR TAYLOR believed they had their strong support. He added there also was a national defense element with the missile defense program. He thought the defense program would go forward under the current administration and having a railroad route connected to the North American grid would be very important to them considering what they would be shipping.

REPRESENTATIVE JAMES said they had been talking about the technology opportunities of running fiber-optic cable down the rail corridor giving more capacity in the state as well as all along the line. Technology would be an important part of this issue and there would probably be some funds coming from that area as well.

SENATOR TAYLOR said it would be difficult to contemplate a major gas line going south through Canada without looking at available infrastructure in the area. The pipeline would involve moving large amounts of pipe and heavy equipment therefore putting the pipeline parallel to or in the same right-of-way as the railroad

would be efficient.

He commended Representative James for what she had done and he supported the legislation.

CHAIRMAN COWDERY said based on the information he had on the proposed pipeline and the pipe size there was not a truck in the state that could legally haul one length. Also many of the bridges could not hold the weight of the pipe while most of the railroad facilities could handle the pipe.

JOSEPH FIELDS, Chair, Greater Fairbanks Chamber of Commerce Transportation Committee, and President of Kantishna Holdings Incorporated, explained it was a company designed to build railways. That morning the Transportation Committee had passed a resolution in support of HB 241. This was a good foundation bill and a good way to orient the project to get the land delineated for rail development and have the resources along it analyzed for the development of that rail corridor. He urged the Committee to support it and pass the bill.

DON LOWELL, Alaska Transportation Consultants, said they were a non-profit corporation dedicated to expanding Alaska's transportation system. This was a very fine bill and they support it wholeheartedly.

Two members of Alaska Transportation Consultants were involved in previous studies, one determining the route selection of the railroad from Eielson Air Force Base to the Canadian border and another was involved in doing the environmental assessment. He felt those studies needed to be updated. He said the Department of Transportation did a study in 1982 and 1983 but there had been a lot of changes in land ownership along that route. The Department of Interior's trustee for the Alaska Native Corporation Land Selections had identified and transferred ownership of many lands along the route. He said the environmental concerns focused on sensitive species or environments that could impact the routing or eventual construction of the railroad needed to be reassessed. The route needed to be reviewed and modified to comply with updated railroad geometric standards.

Mr. Lowell noted the Department of Defense would award 150 to 250 million dollars toward a ballistic missile system at Fort Greeley. Fort Greeley is 82 miles south of Eielson Air Force Base and on the proposed corridor to the Canadian border. Should the federal government decide to extend the rail to Fort Greeley, at a cost estimated at 125 million dollars, the completion of

early studies would be vital to the rail extension.

WILLIAM BRITT, Gas Pipeline Coordinator Department of Natural Resources (DNR), said he would like to identify several concerns with the bill on behalf of the Department. He made the following six points:

- There is likely to be overlap between the railroad corridor and the gas pipeline right-of-way. Any gas pipeline right-of-way lands that are transferred to the railroad from the state will reduce the state's control over the authorization, construction, operation, maintenance and termination of the gas pipeline. The transfer would reduce state lease payments associated with the right-of-way.
  - It may affect the tariffs if the railroad charges more for gas pipeline right-of-way than the state would. This is not an abstract concern since in recent times the railroad has charged as much as 10 times what the state charges for fiber-optic right-of-way.
  - This concern could be addressed by allowing the Commissioner of DNR to retain portions of the corridor where a greater state interest is involved such as the gas pipeline or reject a proposed corridor route especially where overlap exists. Alternatively the bill could allow the commissioner to transfer only a right-of-way across portions of the corridor where the greater state interest is involved.
  - The bill does not allow DNR to protect valid existing rights on the land that would be conveyed. The bill should make the conveyance subject to third party interest.
- The bill does not protect the state's mineral interests in the land. DNR might be forced to include the mineral estate in the conveyance. This could be a violation of the Statehood Act and could preclude future staking of mining locations and future oil and gas leases. The bill should make the transfer subject to AS 38.05.125 in that regard.
- The bill does not protect public use and access within and across the corridor. At a minimum the bill should make the transfer subject to AS 38.05.127, which would retain access along navigable waterways. They may wish to do more.
- The bill does not make clear who bears the expense

associated with the conveyance. The DNR fiscal note includes survey costs but these should be borne by the railroad.

- There does not appear to be an upper limit on the amount of land that could be required to be conveyed. The corridor is described as at least 500 feet wide but no upper limit is given.

Mr. Britt thanked them for the opportunity to provide the testimony. He said he was with Nancy Welsh, Deputy Director of Mining, Land and Water (DNR) and they would answer any questions the committee might have.

CHARIMAN COWDERY said Mr. Britt had stated that the right-of-way could be in conflict with the pipeline route. He wanted to know if Mr. Britt knew where the pipeline route would be or where the railroad route would be. He asked if his department had established that.

MR. BRITT said he had a right-of-way application from Foothills Pipeline pursuant to the Alaska Natural Gas Transportation Act. His office was in the process of adjudicating that application so they currently had an application for a pipeline route. There was a commercial offering from Foothills Pipeline to the Gas Producers pending. He said it was entirely possible based upon the ultimate outcome of those negotiations that the route might change and the volume might change. The outcome was far from certain. They had maps that showed a route for a pipeline that was in play. He had received maps from their legislative liaison that he believed had come from Representative James office showing a possible railroad corridor. He had no idea if that is likely to be the corridor or not but it had been noted there are only a limited number of places where the grade is such that a railroad could be built.

CHAIRMAN COWDERY asked if he was saying that the Foothills route would be the route they would be going with for the pipeline.

MR. BRITT said he was not saying that. He had an application before him from Foothills for a route.

CHAIRMAN COWDERY asked if there was a possibility of other applications from other entities.

MR. BRITT said there was.

SENATOR WARD asked if Mr. Britt was suggesting they don't do

anything with the railroad going to Canada until everybody has applied for a gas line route.

MR. BRITT said he was not suggesting that. He was suggesting the state might wish to leave the option open. Some portion of the corridor may have a greater state interest than conveying the land in total to the railroad, which would not preclude the development of the railroad at all. It would preclude the state's giving up ownership of a portion that might underlie a gas pipeline.

SENATOR WARD asked if he had understood that it was the position of the state that the natural gas line was a higher priority to the state than the railroad.

MR. BRITT answered he had made no such statement.

SENATOR TAYLOR asked if Mr. Britt had communicated the points that DNR opposed in the legislation to Representative James and her office.

MR. BRITT said the testimony was not appreciably different than testimony he had provided a year ago on the same bill.

SENATOR TAYLOR asked had he at any point communicated the points to Representative James after she filed the bill or had he just come in and testified when the hearing finally occurred.

MR. BRITT said he has had no contact with Representative James regarding this bill.

SENATOR TAYLOR asked why that was. He asked if it was not a fairly major thing for DNR when somebody submitted a bill to extend a railroad several hundred miles. He thought Mr. Britt's department which looks into mineral leasing and gravel pits and whether or not timber is going to be harvested would have a very strong interest in the extension of any railroad in Alaska and would work with the people who are trying to carry out the concept. He asked if he was misunderstanding what had gone on.

MR. BRITT asked Senator Taylor to please not misunderstand concerns over a specific bill for non-support of extension of the railroad.

SENATOR TAYLOR said he was not suggesting that. He was trying to find out why these major stumbling blocks were now being thrown in the way of this bill after it had already been through the House and there had been a year of time involved. He thought the

department would have been working with Representative James to assist her in making sure the bill had things in it that DNR wanted for the development of the resources that are under their jurisdiction.

MR. BRITT said most of the concerns they were expressing are specific to that bill. They were expressed in substantially the same form a year ago and they continued to exist.

SENATOR TAYLOR asked if he had amendments that he would suggest to the bill to clear up each of these concerns.

MR. BRITT said he believed his testimony contained possible remedies for each of the concerns that were expressed.

SENATOR TAYLOR said he didn't know it said in the bill who was going to bear the expense. If DNR wanted to make sure the state didn't bear any expense that would be easy to rectify.

SENATOR TAYLOR addressed the point of no upper limit on land conveyance. He asked why it would be necessary to convey the land and not just merely grant a state right-of-way like would be done if a city wanted to extend a road through some state land. He said in that case they would be given a state right-of-way, not the land.

MR. BRITT said the bill calls for the conveyance of the land.

SENATOR WARD asked if in the lower 48 were they given every other section and said that might work in here.

MR. BRITT said the answer would seem to fall in Section 1 of the bill (C)(1). It says that the Department of Natural Resources shall convey the land within the corridor. It does not indicate that we would grant a right-of-way but convey the land without cost.

SENATOR TAYLOR said he was concerned about that because some of the lands that might be conveyed might very well be private lands. He said that might very well be the only way anybody can get land out of DNR. He had been working at it for over 10 years and he hadn't found a way to get an inch of land out of them yet. He thanked Mr. Britt for his comments and his patience.

SENATOR ELTON asked Chairman Cowdery what other committees this bill would go to.

CHAIRMAN COWDERY answered Senate Resources.

SENATOR ELTON asked Mr. Britt if the bill were already on the books, were statute, how would that effect his review of the application by Foothills.

MR. BRITT said that would be difficult to figure out because ultimately, if at some point along the line of his adjudication of this application, the land was in fact conveyed he could not grant a right-of-way across it. It would be up to the railroad to grant a right-of-way. As long as it was state land, up until the point of conveyance, it would be his obligation to consider it as potentially part of the leasehold. If he granted the right-of-way before the conveyance, this is their concern about third party interest, it is not clear that they would be allowed to convey the land subject to the right-of-way that they had granted. They might be called upon to convey the land not subject to that right-of-way which would mean that the lessee would have to then subsequently obtain a separate right-of-way from the railroad.

CHAIRMAN COWDERY said it was possible Foothills or the gas pipeline or the railroad could be miles and miles apart.

PAUL METZ, Department of Geological Engineering, University of Alaska Fairbanks (UAF), explained they have been in the process of developing a proposal for an economic and systems analysis of the synergistic effect of a rail link, gas pipeline, fiber-optic cable, multi-modal transportation corridor from Fairbanks through the Yukon Territory to connect with the contiguous states. This project is predicated on the timely construction of both the railroad and the gas pipeline and to demonstrate the economic benefits of having a rail system in place prior to construction of the gas line but at the same time not constrain the timely construction of the gas line. After a gas line is built there is going to be a large amount of development that will be greatly enhanced by a rail corridor. So even if the gas line is constructed prior to the railroad there would be some tremendous advantage from the railroad for the transport of products, machinery, equipment and steel that will need to be put in place. He thought that HB 241 provided a mechanism for getting this whole process started. He said to remember that an analysis of the corridor is going to be predicated on a final feasibility study that would be done by the railroad or by the bilateral-commission.

**TAPE 02-3 SIDE B**

PROFESSOR METZ discussed the potential conflicts between the

rail corridor that is advocated in HB 241 and the gas line. The gas line is going to be a high-pressure gas line, 2500 pounds per square inch (psi) and at a minimum the separation between the gas line and the rail is going to be on the order of 1/2 mile. His opinion was the establishment of a 500-foot corridor was not going to impinge upon the right-of-way of the gas line. The gas line could be built to handle grades that are substantially from horizontal to vertical where a rail link would be predicated on a grade of 2% or less. The rail link had a much greater constraint in terms of the topography and the underlying geology than the gas line. He said it was technically reasonable to expect that both systems can accommodate one another.

PROFFESOR METZ explained when they first made this proposal they took the drafts to the North Slope Producers and also to Foothills. They had unequivocal support from both the North Slope Producers as well as Foothills in an examination of the synergisms that may be provided by this rail link. He thought there was strong support rather than potential areas of conflict between gas transmission and rail transmission.

JIM KUBITZ, Alaska Railroad Corporation, said he was on line and available for questions. He said they have always been supportive of the efforts of Representative James to move this forward, it was visionary and something that the railroad would like to see happen.

SENATOR WARD asked Paul Metz if he had said the railroad needed to be 1 mile away from the natural gas line or 1/2 mile.

MR. METZ answered the exact spacing was not determined because this will be a uniquely high-pressure gas line. It probably will need something in the neighborhood of a 1/2-mile separation.

SENATOR WARD asked if he thought they should make the right-of-way a little wider than 500 feet.

MR. METZ said he did not think that was necessary.

SENATOR WARD said if the railroad was going to be hauling some of the gas pipe it might be able to actually determine a route if we made it 1000 feet.

PROFFESOR METZ said getting the pipe into a location that is within even a dozen miles of where it is going to be laid would be a major step forward in terms of decreasing the logistic cost of the gas line construction.

SENATOR WARD said he was hoping the gas line would maybe help pay for the railroad.

PROFFESOR METZ said that it would even if it was not laid in the same corridor. The savings on the freight and the after gas line construction freight would be immense. He said we are going to see the development of a gas economy in the United States in the next 20 years and that is going to be predicated on North Slope gas. They are going to be drilling a large number of wells and are going to be moving a large amount of machinery northward to those drilling fields. The gas development will be a long-term source of revenue for the railroad.

SENATOR WARD said there were sure a lot of optimistic people up in Fairbanks. He thanked Professor Metz.

CHAIRMAN COWDERY asked if there was anyone else to testify. There was no one. He noted he had a zero fiscal note from last year signed by the Commissioner of the Department of Commerce and Economic Development. Now he had a fiscal note from DNR for something different. It was his intention to carry forward the zero fiscal note until such time it was proven there was going to be a cost.

SENATOR TAYLOR said before they moved the bill he had concerns about the conveyance to the extent that it might violate the Public Trust Doctrine in the conveyance of land. He said every time he had tried to do it they had stopped him saying you cannot sell any land or convey any land in the state for less than market value. That had always been a stumbling block. He thought it needed to be reflected on the record:

That by the building of a railroad and they only get the land if they build a railroad that's my assumption that that is a sufficient value to the state that it more than compensates for the value of the land that is being conveyed.

CHAIRMAN COWDERY said the conveyance was from one state agency to another one.

SENATOR TAYLOR explained that they would be conveying to a wholly owned state entity, which was a state agency that today doesn't comply with the Executive Budget Act it acts very autonomously; it's run by a group of political appointees, none of who are elected. He said if in fact they were going to enter into a public private partnership in the ownership of that asset he wanted it reflected on the record that they as a committee or at

least he had indicated:

That the increased value brought to the state through the building of this rail transport system, it more than compensates the state for the value of the land that the state is conveying to whatever entity it is. Whether it's a public / private, whether it's totally a state agency or it's the Alaska Railroad as we know it today. I feel that is good value for the land that is being conveyed.

REPRESENTATIVE JAMES said she would like to respond with her belief and how she saw the issue. She agreed that there was a lot of consternation about Alaska Railroad and its organization. She had always been the biggest supporter of the railroad and their biggest critic. The issue is that the Alaska Railroad does belong to the state. She said she was not opposed to selling Alaska Railroad but she was not willing to give it away. She wanted to put on the record:

I believe it is like taking it from one hand to the other. If there ever is such a time when we sell the Alaska Railroad, which I am quite sure sometime, if we get this longer connection, will happen then we'll get more money from that for our state coffers than we would have if we don't go forward and try to encourage the railroad to do the things it needs to do.

SENATOR TAYLOR said he was concerned only about the Public Trust Doctrine and the requirements within the Constitution for fair value, which hadn't been addressed. He agreed with Representative James and appreciated her explanation. He said part of his frustration, which needed to be debated or discussed, was the autonomous and independent nature with which the railroad had operated. They had legislation pending right now to extend their ability to lease up to 55 years and he had no objection to that.

He went into detail regarding rights-of-way for the fiber-optic cables from Anchorage to Fairbanks. Some followed the pipeline and others went up the railroad. He said the railroad as a state agency charged 10 times or more what DNR and other state agencies charged for the same number of feet of right-of-way. He said the Parks Division charged an even higher rate. They had serious discussions in the Resources Committee about what was the appropriate measure for determining the value of a piece of right-of-way. They ended up with a tremendous conflict between the lands people within DNR and their Deputy Commissioner who was

directly opposed to the way the Commissioner of DNR was trying to cut a deal with the Governor and others in a back room. He said they eventually cut a deal.

He explained the result was a totally irrational marketing of state lands by different agencies. They were paying pennies per foot or yard on DNR land and State Parks charged over a dollar a foot. The railroad charged about 4 or 5 times more. This meant it was almost impossible to know what the cost would be to build a fiber-optic cable. Conveying this to the railroad might be a good idea because only one entity of the state would have to be dealt with. He added it might be a very bad idea if they continue to operate, much as they have in the past, to maximize their profits and they drive the cost of a right-of-way for a fiber-optic cable up so high they cannot connect up to the lower 48. He believed there were some public policy concerns and questions that needed to be discussed before that actual conveyance occurs.

REPRESENTATIVE JAMES agreed with him on that issue. They should have some kind of a program that makes it fair overall. The Alaska Railroad had been told when they were formed to go out and act like a private corporation and not to come back to the state for money. She thought what they did in that legislation set them up to make a profit. If that needed to be changed for any reason they should look at that.

SENATOR TAYLOR said they ought to have a standard state policy so people did not get over charged but this wasn't necessarily the vehicle to address that.

He stated they had a department on record indicating some very strong conveyance concerns including subsurface rights and access rights. He said it was a "leap of faith" to say they will just trust the railroad to take care of all these things because he had seen things abused in the past. He wanted to make certain that they did have the Public Trust Doctrine taken care of and also to raise those issues. He thanked Representative James for bringing the bill forward.

SENATOR WARD made a motion to move CSHB 241(RES) out of committee with individual recommendations and the accompanying zero fiscal note.

SENATOR ELTON objected. He made the point that it was not just the cost to do this but also the lost opportunity cost. What would they lose in their ability to subsidize business-enhancing developments like fiber optics by turning it over to the

railroad.

He thought it unusual to not move a fiscal note when what they had heard was they hoped the costs are not there. He said there were some other significant public policy issues. One was that they had not heard a good answer as to whether this will force business applications for permits to either cross state lands or get state lands to go into a two permit review process; one a DNR process and the other an Alaska Railroad process.

They had heard concerns that were raised up to a year ago. He did not know why the lack of communication might have occurred but clearly the issues were still extant. He had no problem with the vision but he did have a problem with how they were implementing it at that point and what the net effect was going to be on other people who might want to access minerals or access rights-of-way.

He thought that this would be an easier decision for him if they knew what the route of the railroad would be. If they knew where the railroad corridor was going to be they could identify the areas where impacts would occur. He thought that made it more difficult to make a decision.

He wanted his objection on the record. He wanted to explain why he was voting no, not because he disliked the vision but he thought the questions were important questions. He also wanted to point out that he might have a potential conflict of interest if Senator Ward's bill on a Port Authority that combines the Marine Highway with the Railroad were to pass he might be more in favor of this because there is a real opportunity for the railroad to make a lot of money on this which might kick back to the Marine Highway. Despite that potential benefit to his region of the state he was still going to vote no. He hoped he would have an opportunity to vote yes as they work on the bill.

SENATOR TAYLOR said the first point he wanted to address was lost opportunity. He said it was a tragic loss of opportunity for the State of Alaska when the Knowles, Ulmer team entered office seven years ago. Senator Murkowski had been very strong on the issue but not the state. "They were making certain that no railroad got built because if you can't build a road in this state to even access this capital through this administration you sure can't build a railroad anyplace with this administration."

SENATOR TAYLOR said DNR came up with 5 to 7 major roadblocks and waited until the bill was heard on the House side before those were announced. They did not come up with one single amendment

to offer the Transportation Committee to correct those defects. He questioned the lost opportunity to people who have mineral claims, want to harvest timber, lay fiber-optic cable or build a gas pipeline along the route. He agreed with Senator Elton that there were some difficulties but felt DNR should have worked with Representative James or worked with the Transportation Committee to provide the way to fix the problem.

He said the major oil companies have refused to give them their report on a designated route for a gas pipeline. That report was due at the end of 2001 and they have announced they would not submit that report until the end of 2002.

That to me is very frustrating even though the questions themselves I think are very valid and these are issues that need to be resolved. But if no one in this administration is going to assist this legislature, or within the agencies and departments responsible for these things if they are not going to step forward and assist us I am left with no alternative today but to say go for it Jeannette and we'll let the devil take the hindmost. We'll work out those problems in the future I guess because obviously people would rather kill the project than work those projects out today.

SENATOR WARD spoke to the motion to move the bill out of committee with individual recommendations. He agreed with Senator Taylor's and Senator Elton's comments but suggested that they do move it out with individual recommendations that day. He believed that the Knowles and Ulmer Administration would be able to come in with amendments that would satisfy them for consideration for the next committee of referral, Resources.

SENATOR ELTON told Chairman Cowdery he appreciated the latitude that he gave them on debate because he thought the issues were very important. He wanted the record to reflect that he thought they had taken some policy questions and had turned them into personalities.

As tempting as that is and as difficult as it is sometimes to work with any Executive Branch, I mean I don't think that gets to the issue of, you know, what actually happens. Now we can, we can blame a lot of people and certainly I'm quick to criticize sometimes and I'm sometimes too quick to criticize. In this instance, I mean, I think that leaving on the record the impression that the Executive Branch isn't

interested in economic development ignores a lot of things that are going on and have been going on including the work on the gas pipeline. So with that, I just thought it was very, very important to let the record reflect that not everybody, while we may agree on the questions we don't always agree on fault.

CHAIRMAN COWDERY said they don't want to get in a box. He called for a roll call vote.

Senator Ward, Senator Taylor, Senator Wilken, and Senator Cowdery voted yes. Senator Elton voted no. The motion carried and CSHB 241 was moved out of committee.  
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#SB 209

**SB 209-LEGISLATIVE APPROVAL OF RAILROAD LEASES**

SENATOR LEMAN, sponsor of SSSB 209, said he represented District G in the Senate, which includes the reserve area. The legislation was precipitated by of desires to lease some railroad property. The existing 35-year lease is insufficient to get long term financing for larger projects. This bill extends the length of time that the railroad can lease lands within 4 terminal reserves at Anchorage, Fairbanks, Seward and Healy from the current 35 years to 55 years.

He explained it would help cultivate economic development. There are projects that are being proposed that will make commercial and residential property more valuable. The scenario where the railroad could step in and take away leased property after 35 years is unlikely but it is of sufficient risk that long-term lenders are not comfortable with it.

Anchorage Neighborhood Housing is working on development of a 20-unit senior housing complex on railroad property in Government Hill. The legislature was involved in part of the funding of that project and this is a continuation. Housing would be developed using Housing Urban Development (HUD) Senior Housing Funds but HUD requires a 50-year lease period.

This bill will promote economic development and job opportunities with greater flexibility. He said it was supported by a number of people and organizations and he was not aware of any opposition. The Municipality of Anchorage supported it and he believed there were support groups in Fairbanks and elsewhere.

He commended it to the committee and asked for their positive action.

CHAIRMAN COWDERY asked if on page 1 line 7, the word "sell" would restrict a buyer from coming in and buying the railroad at a later time.

SENATOR LEMAN answered that the intent of the legislation was not to affect any ability to sell or deal with transfer of the railroad. It would likely enhance the value of the railroad's sale price if it were to be sold. He said that was existing language, which the bill did not change.

SENATOR TAYLOR asked why the legislation restricted the period within which the railroad might lease its land to only those terminal reserve areas found in Anchorage, Fairbanks, Seward or Healy.

SENATOR LEMAN answered that was considered originally but they concluded to remove some of the challenges along the way or limit some of the possible objections to those areas where there has been expressed interest in some major long-term finance projects. He said someone from the railroad that had dealt with some of the negotiations was available to speak as to why the restriction but it was part of the compromise to get this through.

WENDY LINDSKOOG said it would be great if they could have the 55-year lease potential on all of their reserve lands. There were reserve lands that had not been targeted by large commercial development but someday they might be and then the railroad would be before the legislature asking again to extend to 55 years. She explained that their right-of-way land is limited to an 18-year lease due to the Federal Transfer Act.

SENATOR TAYLOR said it was a good investment policy to go from a restriction of 35 years to a restriction of 55 years. He didn't think anybody objected to that especially with financing modes the way they are today. He asked her if she was aware of any specific opposition or group that would oppose that.

MS. LINDSKOOG answered no adding that Representative Rokeberg expressed the same opinion for including all reserve lands.

SENATOR TAYLOR moved they amend by deleting lines 13, 14 on page 1 and lines 1, 2, 3 and the word "paragraph" on line 4, page 2 and delete the numeral 3 and insert the numeral 5 on line 4, page 2. It would then read (line 5 page 1) Legislative approval required. (line 12 page 1)(4) lease land for a period in excess

of 55 years unless the corporation reserves the right to terminate the lease. He said it was existing law. Changing the number 35 to 55 would grant the railroad the right to go for 55 years on all of its lands.

JIM KUBITS, Alaska Railroad Corporation, said Bill Hupprich, their associate counselor, was listening and reviewing the amendment. He thought Ms. Lindskoog characterized their feeling that it would be desirable to include all the land. He thought Senator Taylor's motion appeared to be very appropriate and accurate.

SENATOR ELTON said he did not have a problem with what they were trying to get to but it seemed to him they were not just changing the term of the lease but were striking the words "terminal reserve".

SENATOR TAYLOR said it was.

SENATOR WARD asked him to read it again.

SENATOR TAYLOR read, starting on line 12, "(4) lease land for a period in excess of 55 years." This covered all their land both the land inside a terminal reserve and the land that is outside a terminal reserve.

SENATOR ELTON said they were not only extending the period of time they were extending the land over which they can give a lease over 55 years to all their land, corridor land also.

MS. LINDSKOOG said that within their corridor they are limited to 18 years.

SENATOR TAYLOR said that was what they called right-of-way lands. They were limited to 18 years because of federal conveyance language.

BILL HUPPRICH, Alaska Railroad Corporation, said the amendment language was perfect.

SENATOR TAYLOR said the question from Senator Elton was a very good one. Would that allow the railroad to lease right-of-way lands for up to 55 years.

MR. HUPPRICH said their current policy was they do not lease any of the right-of-way land. They periodically issue permit agreements, which are license agreements. They are terminable at will for particular types of uses within the right-of-way.

According to the Federal Transfer Act if they were not to use their right-of-way for railroad purposes for a period in excess of 18 years that land could revert back to the federal government.

CHAIRMAN COWDERY called for any objection to the motion. There being no objection, the amendment passed.

SENATOR LEMAN asked if the bill would need a title change.

SENATOR TAYLOR said he did not think so but he would have title people check before it went to Resources. He moved the bill with individual recommendations from committee as amended.

CHAIRMAN COWDERY asked for any objections. There being no objection, the motion passed. The meeting was adjourned at 3:05 p.m.

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