

**ALASKA STATE LEGISLATURE**  
**SENATE TRANSPORTATION STANDING COMMITTEE**

March 13, 2014

1:30 p.m.

**MEMBERS PRESENT**

Senator Dennis Egan, Chair  
Senator Fred Dyson, Vice Chair  
Senator Anna Fairclough  
Senator Click Bishop  
Senator Hollis French

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 178

"An Act relating to the application of the passenger vehicle rental tax; and providing for an effective date."

- HEARD & HELD

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 94

"An Act vacating a portion of the Copper Center - Valdez right-of-way; relating to rights-of-way acquired under former 43 U.S.C. 932 that cross land owned by a private landowner; and relating to the use of eminent domain to realign a right-of-way."

- HEARD & HELD

SENATE BILL NO. 197

"An Act extending the termination date of the Department of Transportation and Public Facilities' interim project authorization regarding naturally occurring asbestos; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 178

SHORT TITLE: PASSENGER VEHICLE RENTAL TAX

SPONSOR(s): SENATOR(s) BISHOP

02/18/14 (S) READ THE FIRST TIME - REFERRALS  
02/18/14 (S) TRA  
02/25/14 (S) TRA AT 1:30 PM BUTROVICH 205  
02/25/14 (S) Heard & Held  
02/25/14 (S) MINUTE(TRA)  
03/04/14 (S) TRA AT 1:30 PM BUTROVICH 205  
03/04/14 (S) -- MEETING CANCELED --  
03/11/14 (S) TRA AT 1:30 PM BUTROVICH 205  
03/11/14 (S) Scheduled But Not Heard  
03/13/14 (S) TRA AT 1:30 PM BUTROVICH 205

BILL: SB 94

SHORT TITLE: RIGHTS-OF-WAY

SPONSOR(s): SENATOR(s) OLSON

03/29/13 (S) READ THE FIRST TIME - REFERRALS  
03/29/13 (S) TRA, JUD  
02/26/14 (S) SPONSOR SUBSTITUTE INTRODUCED-REFERRALS  
02/26/14 (S) TRA, JUD  
03/13/14 (S) TRA AT 1:30 PM BUTROVICH 205

**WITNESS REGISTER**

BRITTANY HUTCHISON

Staff to Senator Click Bishop

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Explained the draft committee substitute (CS) to SB 178(), version 28-LS1406\C.

DOUG JOHNSON, CFO

Tyler Rental, Inc.

Ketchikan, Alaska

**POSITION STATEMENT:** Supported SB 178.

RUDI VONIMHOF

Delta Leasing

Anchorage, Alaska

**POSITION STATEMENT:** Supported SB 178.

JOHN COOK, CFO

Airport Equipment Rentals

Brice Enterprise

**POSITION STATEMENT:** Supported CSSB 178.

SAM BRICE, President

Brice Enterprises, Inc.  
Fairbanks, Alaska  
**POSITION STATEMENT:** Supported SB 178.

JOHANNA BALES, Deputy Director  
Tax Division  
Alaska Department of Revenue (DOR)  
Juneau, Alaska  
**POSITION STATEMENT:** Explained how the tax provisions in SB 178 worked.

DAVID SCOTT, staff to Senator Donald Olson  
Alaska State Legislature  
Juneau, Alaska  
**POSITION STATEMENT:** Explained SB 94 for the sponsor.

JOE BOVEE, Vice President  
Land and Resources  
Ahtna Incorporated  
Glennallen, Alaska  
**POSITION STATEMENT:** Supported SB 94.

GEORGE HELMS, representing himself  
Anchorage, Alaska  
**POSITION STATEMENT:** Supported SB 94.

NICOLE BORROMEO, General Council  
Alaska Federation of Natives (AFN)  
Anchorage, Alaska  
**POSITION STATEMENT:** Supported SB 94.

RANDLE MAULDIN, representing himself  
Birchwood, Alaska  
**POSITION STATEMENT:** Supported SB 94.

KENT SULLIVAN, Assistant Attorney General  
Civil Division  
Natural Resources Section  
Alaska Department of Law (DOL)  
Juneau, Alaska  
**POSITION STATEMENT:** Stated that the department/administration didn't have a position on SB 94 and explained some of his concerns with it.

**ACTION NARRATIVE**

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**CHAIR DENNIS EGAN** called the Senate Transportation Standing Committee meeting to order at 1:30 p.m. Present at the call to order were Senators Bishop, Dyson and Chair Egan.

**SB 178-PASSENGER VEHICLE RENTAL TAX**

[1:31:58 PM](#)

CHAIR EGAN announced SB 178 to be up for consideration.

[1:32:06 PM](#)

BRITTANY HUTCHISON, staff to Senator Click Bishop, explained the draft committee substitute (CS) to SB 178(), version 28-LS1406\C. Language in section 1 on page 1, line 4, consolidates two sections regarding the terms "recreational" and "passenger" for better organization of the statute and except for the tax rates, the factors are the same for both types of vehicles. Section 2 on page 1, line 10, reduces the rental term from 90 days to 30 days for which a vehicle is exempt. An extension of the contract is also exempt as long as the extension is agreed upon before the expiration of the initial 30-day period. There is no break between the initial period and the period of extension.

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Section 3 on page 2, line 6, consolidates the terms "passenger" and "recreational." It states that passenger vehicles are taxed at a total of 10 percent of all fees and costs and recreational vehicles are taxed at 30 percent. That has not changed from the original statute.

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Section 4 on page 2, line 13, amends the term "passenger vehicle" to specify that it is for the primary purpose of transporting passengers. This is done to help clarify that the tax applies only to passenger vehicles and not to vehicles that have another purpose. Section 4(f) on page 2, line 28, reduces the gross vehicle weight from 8,500 lbs. to 6,500 lbs. in order to better define what size of trucks the legislature intends to be taxed.

Section 5 on page 3, line 7, repeals AS 43.52.030 and .040, because they are no longer needed since they have already been consolidated in sections 1 and 3. The original version of SB 178 had a section regarding retroactivity, and the CS does not have that. But to address that issue they drafted a letter of intent which says the passenger vehicle rental tax should not be applied to Alaskan businesses doing business with other Alaskan

businesses and that tax should not be applied retroactively. However, if DOR is able to determine that a business collected the tax but did not remit the tax to DOR, then DOR should charge back taxes, penalties and/or interest on those unpaid taxes.

She explained that in 2003, the legislature passed House Bill 271, a passenger vehicle rental tax intended to raise revenue from tourists renting passenger vehicles so that they could help pay for the wear and tear they inflict on the State's publically-maintained roads.

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SENATOR FAIRCLOUGH joined the committee.

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MS. HUTCHISON continue to explain that since the passage of HB 271, AS 43.52 has been amended three times; two of which were to exempt Alaskan businesses doing business with other Alaskan businesses. The third time was to exempt motorcycles.

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SENATOR DYSON moved to adopt CSSB 178(), version\C.

CHAIR EGAN objected for discussion purposes.

MS. HUTCHISON said the intent of SB 178 is to clarify, once again, which rental vehicles are to be covered by the tax and which are not. It is the committee's intent that only passenger rental cars, as described in section 4 of CSSB 178, should be taxed under AS 43.52.010.

SENATOR DYSON asked if there is a fiscal note.

MS. HUTCHISON answered not yet for the CS.

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DOUG JOHNSON, CFO, Tyler Rental, Inc., Ketchikan, Alaska, supported SB 178. He said they have been in business for 25 years and operates from five different locations in Southeast Alaska with 58 Alaskan employees. Tyler never received notice of this tax from the state. Their core business is rental of large equipment to the construction, timber and mining, industries. They rent half-ton and large pickups to support contractor needs such as at the Kensington Mine and Greens Creek Mine that are not on the state highway system.

MR. JOHNSON said Tyler just became aware of the rental vehicle tax from another Alaska-based equipment rental company and have filed their fourth quarter 2013 return to the DOR and paid this tax under protest on the basis that they were never informed of this tax requirement. This general lack of notice to equipment rental companies and their inability to bill customers for this tax from prior periods is why they support SB 178.

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RUDI VONIMHOF, Delta Leasing, Anchorage, Alaska, supported SB 178. He said they are based out of Prudhoe Bay with a small office in Anchorage and a big chunk of their business is equipment leasing similar to Tyler Rentals.

MR. VONIMHOF became involved with Delta Leasing in 2007; they have 28 Alaska employees. Their primary office and 95 percent of their business is in Prudhoe Bay with oil field service contractors. They lease half-ton and three-quarter ton vehicles to the customers who request them. Their insurance limits them to doing business with business entities, so they can't do any business with consumers.

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SENATOR FRENCH joined the committee.

MR. VONIMHOF said they first became aware of the rental car tax in 2010 when they received a notification from the DOR. They then exchanged two letters with the department; the last one asked to see a copy of several of their leases, which they sent along with an offer to answer any questions. An earlier letter to the department said they did not feel this tax was applicable to their operations, because they are in the heavy industrial rental business in Prudhoe Bay to business entities.

Going forward three years, Mr. Vonimhof said, on November 6, 2013 a criminal search warrant was served on them by a DOR criminal investigator who had tried to rent a three-quarter ton truck from them and was refused rental. Then he obtained a fictitious business license posing as a construction entity, and after showing them his business license, he was granted credit with the company. Apparently that transaction enabled him to obtain a search warrant. The truck had a gross vehicle weight (GVW) rating in excess of 8,500 lbs., which is an exempt vehicle class under existing statute, so he didn't know how that enabled his business to be searched.

Nevertheless, DOR agents simultaneously showed up at their Anchorage office and at their Prudhoe Bay office. At least four armed DOR agents were in their Prudhoe Bay office for the majority of the day and between the two offices the department confiscated approximately 70 banker's boxes consisting of all of their accounting hard files as well as their asset files and computers. That was the first time they had heard from the DOR since the 2010 correspondence and that was a fairly shocking way to be notified.

Since that time Mr. Vonimhof said they had put a lot of time into this issue. He wrote a letter to Commissioner Rodell in late December asking how they could interpret their company as falling under the existing law since there are no state maintained roads in Prudhoe Bay. State maintenance ends at the end of the Dalton highway and all of their activities occur beyond that point. Their customers lease vehicles for use on their oil field exploration sites that are behind guarded security check points. There is no way that this could by any means fall within the realm of a public right-of-way, at least by their legal council's opinion.

He said that basically they have had very little interaction with the DOR over the past four months and have more or less written off their confiscated computers and bought new ones, although keeping their business going for a couple of weeks was quite a scramble without access to their electronic or paper records. Just selling a vehicle when you don't have a title for it is problematic. In summary he said SB 178 clarifies the intent of the original legislation, and he urged its passage.

SENATOR DYSON asked if the DOR agents had search warrants.

MR. VONIMHOF answered yes.

SENATOR DYSON asked how long it took to get their property back.

MR. VONIMHOF replied that they had not received any of their files or computers back.

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SENATOR DYSON noted that public safety police officers regularly have equipment that can quickly copy hard drives, and they passed a bill to get property returned. Also, the law clearly provides ways for them to copy and establish the chain of custody and get the property back to citizens. He found this all very alarming and he was sorry they had to go through it.

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MR. VONIMHOF clarified that the department did not take their server, and they returned the electronic files with credit card numbers. They had received one or two of their key computers, but zero on the paper files.

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SENATOR FAIRCLOUGH asked if they could go into executive session to speak with the administration and their attorneys about this.

CHAIR EGAN said he thought that could be arranged.

SENATOR DYSON said he had been around long enough to know there are always at least two sides to every story and he wanted to hear the department's take on this case.

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JOHN COOK, CFO, Airport Equipment Rentals, Brice Enterprise, supported CSSB 178. He supported many of the comments of the previous testifier regarding the tax. But he wanted to point out that there is a difference in interpretation between businesses and the department on what the current exemption of 8,500 GVW means and the CS clears that up. Secondly, the department has never provided any reason as to why vehicles rented on the North Slope are defined as passenger vehicles. AS 43.52.099 (2) defines a passenger vehicle as a motor vehicle that is driven on a highway or a public right-of-way; clearly activities off the Dalton Highway are not conducted on either of those types of roadways. They believe this bill will clarify the original intent and clear up the disagreement between the private sector doing business with businesses in Alaska and the department.

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SAM BRICE, President, Brice Enterprises, Inc., supported SB 178. His is a 50-year old Alaskan construction business that was bought by the Chulista Corporation four years back. They have up to 60 full-time employees and 200 seasonal employees. Brice Equipment Rental is a subsidiary of their company, and it is a small equipment rental company based on the North Slope. A small part of heavy equipment rental business is pickup rental for the North Slope producers and service companies as well as their own construction company, mainly in rural Alaska.

He related that they received a letter making them aware of the tax in November 2013; the letter invited them to file quarterly tax returns for all quarters back to 2004 in which they had

vehicle rental income. They questioned the applicability of the tax on their use of pickups on surface roads on the North Slope and with other Alaska businesses. Their liability goes back to 2010, their first year of light vehicle rental, and is approximately \$31,000; they wrote the check so as not to incur further penalties. They feel this bill clarifies the intent of law.

SENATOR FRENCH asked Johanna Bales to explain how the department settled the problem of back taxes several years ago with the motorcycle rentals bill.

JOHANNA BALES, Deputy Director, Tax Division, Alaska Department of Revenue (DOR), explained that they worked with the individual companies and most of them did pay. Capturing back taxes was limited through an agreement with the Department of Law, but they were required to pay taxes that were due prior to the change.

SENATOR FRENCH asked what the time was limited to.

MS. BALES explained that they had done this type of limiting back taxes with taxpayers who come forward and cooperated with them, and their general timeframe is three to five years.

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SENATOR FAIRCLOUGH asked if there is a requirement for the department to notify taxpayers when taxes are going to be placed against a business.

MS. BALES answered no. In fact, they do not tell corporations coming to Alaska that they are subject to corporate income tax. But whenever a new tax or statute is implemented they try to reach out to all affected companies that they believe could be subject it, but they also rely on those companies to try and look out for themselves and reach out to the taxing authority or business licensing agent to try to get information about any regulations, taxes, fees, that they might be subject to.

[2:00:16 PM](#)

At ease from 2:00 to 2:02 p.m.

[2:02:51 PM](#)

CHAIR EGAN called the meeting back to order.

SENATOR DYSON moved to hold SB 178 until next Tuesday and to ask DOR and DOL to attend an executive session on the bill. There were no objections and it was so ordered.

SENATOR FAIRCLOUGH said Delta Leasing was the second constituent that said the DOR seized their property; the other was Ryan Peterkin with Maytech Alaska.

CHAIR EGAN held SB 178 in committee.

**SB 94-RIGHTS-OF-WAY**

[2:05:05 PM](#)

CHAIR EGAN announced SB 94 to be up for consideration [SSSB 94, version 28-LS0516\C was before the committee].

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DAVID SCOTT, staff to Senator Donald Olson, sponsor of SB 94, explained that SB 94 offers ease of mind to private landowners that have RS-2477s (public access easements) going through their properties. Section 1 deals with a specific RS-2477 that would be explained later. Section 2 limits RS-2477s that cross private lands to a 60 ft. width and for the purpose of transportation. Another subsection allows the state to perform routine maintenance, repair, and make necessary improvements to preserve the transportation use of the right-of-way (ROW). It also requires the state to consult and gain permission from the private land owner prior to making improvements other than routine maintenance and repair. It allows for mediation of disputes between the state and a private land owner and it also requires the state to consult with the land owner who owns the underlying land if the ROW has been damaged beyond repair and needs to be realigned. The eminent domain section of law is in that same section (page 3, line 5) AS 09.55.240 - AS 09.55.460. The bill has a zero fiscal note.

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SENATOR FAIRCLOUGH directed attention to page 2 of the fiscal note that indicated the loss of value of these routes would exceed \$48.5 million, assuming a \$1,000 per acre base cost for the land along the public access. She asked if there is any RS-2477 access on the TAPS.

MR. SCOTT said he didn't know.

SENATOR FAIRCLOUGH asked if there is any RS-2477 in Parks.

MR. SCOTT said he knew of some in the Wrangell St. Elias Park.

SENATOR DYSON asked what happens on page 2, line 14. It says, "before improvements other than routine maintenance the state shall consult with and gain permission from the private land owner." Taken in isolation, that would seem that they couldn't go forward without permission, but then line 25 says if they don't come to agreement then there is mediation. He thought things stopped without the agreement of the land owner, but they don't, and he wanted to know what was going on.

[2:12:01 PM](#)

JOE BOVEE, Vice President, Land and Resources, Ahtna Incorporated, Glennallen, Alaska, supported SB 94. He explained that basically that meant notification of the land owner for any improvements where they would be widening the road and installing bridges and culverts, something outside the 60 ft., but if they couldn't come to terms of agreement in working outside the ROW, then they would go into mediation.

SENATOR DYSON asked if they could go to court if they don't agree at the end of mediation.

MR. BOVEE said that is the idea.

SENATOR DYSON asked what problem they are trying to solve in that section.

MR. BOVEE said he had a power point that might answer some of his questions.

SENATOR BISHOP asked if there is a dispute resolution process if an agreement can't be reached under mediation.

MR. BOVEE didn't know how that would go.

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At ease from 2:14 to 2:17 p.m.

[2:17:58 PM](#)

CHAIR EGAN called the meeting back to order and invited Mr. Bovee to present his power point.

MR. BOVEE explained that the RS-2477 is an obscure 1866 mining law statute that was prepared for the western states and the Alaska Territory to encourage development. The word "highway" was historically used to refer to "foot trails, pack trails,

sled dog trails, crudely built wagon roads, and other corridors for transportation." Most of the RS-2477s in the state were developed either as Indian and mining trails and eventually became some of the state's major highways, such as the Farmer's Loop Rd. in Fairbanks and the Debarr Rd. in Anchorage.

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In 1998, the Alaska Legislature provided for the public's right to use these historic access easements, and that "every effort should be made to minimize the effect on private property owners." The intent was for the agencies and the administration to work with the private land owners. Currently there are 669 RS-2477s; out of those, 142 are located in the Ahtna region.

SENATOR DYSON asked if most of the lands on his map were Native held lands.

MR. BOVEE answered yes; Ahtna lands contain 402 linear miles of RS-2477-classified roads. If the ROWs are 100 ft., which the state is encouraging them to be, over 9,000 acres of Ahtna land would be consumed. Ahtna lands also contain 221 linear miles of 17(b) easements, required under the Alaska Native Claims Settlement Act (ANCSA) allowing travel across private lands to public lands on the other side. There are 520 miles worth of 17(b) easements that are duplicative of RS-2477s.

SENATOR FAIRCLOUGH pointed out that bullet 2 said, "proposed 100 ft. right-of-ways" and asked why the word "proposed" was used.

MR. BOVEE answered that there is a real loose definition of these RS-2477s and this bill is trying to define and interpret the regulations. Even today it is uncertain who has the authority over RS-2477s, the feds or the state.

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He showed several slides of easements. One was Cantwell, the access into Denali National Park referred to as Windy Creek Trail. He stated that RS-2477s are a burden on the underlying landowner. They are never really described in a deed or a patent, and it's hard to find out. Often the trails were constructed as the shortest point between point A and point B.

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As a solution they propose limiting the scope of use of RS-2477s to transportation purposes only across private lands as well as limiting the physical width of the ROW to the established or historical use of the route. (An Assistant Attorney General said

that these trails would be defined with their previous historical use whether they were 25 ft. or 150 ft. as on some of the state highways). They also propose to limit the state's authority to maintain, repair and improve the ROW; the state would still have the authority to do the maintenance within a 60 ft. ROW, but for anything outside of that permission from the underlying private land owner would be needed.

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SENATOR FRENCH asked who pays to maintain that trail [referring to the Parks Highway, mile 228].

MR. BOVEE answered that it also serves as an access for Golden Valley Electric Association, and their agreement with them is to "backplate." Primarily that trail is used only for hunting, horse travel and light-use ATVs.

SENATOR FRENCH asked if the maintenance was paid for by Golden Valley.

MR. BOVEE responded that was another consideration with establishing all these RS-2477s; there is no management plan or money to development or maintain them. A DOTPF representative told him that there are 10,000 miles of RS-2477s across the state on private lands. Local people take care of them.

SENATOR FRENCH asked if it was fair to say that he didn't know who pays to maintain that road.

MR. BOVEE said there are no maintenance funds at all. Occasionally, the BLM (since this is duplicative of a 17(b) trail) does some, but mostly the owners do what they can to maintain roads or trails, because it keeps people off of their property.

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SENATOR FAIRCLOUGH asked if a 17(b) easement is BLM property.

MR. BOVEE replied that 17(b) is a provision in ANCSA that provides a federal easement across private ANCSA land from public land to public land. The owner of the trail is technically Ahtna, Inc. and BLM through the federal government is supposed to allocate funds to maintain these, which they haven't. So, he cautioned, if the state exerts a lot of these RS-2477s across the state, someone is going to be responsible for maintaining them, but eventually the state would be on the hook.

SENATOR BISHOP asked if he knew how many 3 ft. wide walking trails have been identified.

MR. BOVEE didn't know, because the state asserts that they are all 100 ft. He said Ahtna signed an MOU with the DOTPF, ADF&G, and DNR last year to meet quarterly, so issues could be resolved early. He stated that Ahtna is not trying to stop development, but wants to do it in a "good stewardship" and sustainable fashion. Specifically, the Klutina Lake Road that travels up from the Richardson Highway to the head of Klutina Lake not only crosses Ahtna property for about 22 miles, it also crosses private non-ANCSA properties.

He said people have been developing places to recreate, but there is no management plan in place for what to do when people come there: how to take care of the trash and to put out fires. It's good to have the discussion now.

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SENATOR BISHOP said he had also experienced the maintenance problems and understood what he was talking about.

[2:34:15 PM](#)

GEORGE HELMS, representing himself, Anchorage, Alaska, supported SB 94 in its current version. He was one of the private property owners affected by this bill. When the state exerted [sic] these rights in his area, they picked the route and didn't give the property owners any say. The 100 ft. route will encompass man-made development that currently exists including cabins, decks, and sheds. This bill will help limit the use of that to just transportation. He had suffered losses from break-ins and malicious behavior. He was also hearing that the department will take not only the RS-2477s but the potential for arterials for which the state could take more land.

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NICOLE BORROMEO, General Council, Alaska Federation of Natives (AFN), Anchorage, Alaska, supported SB 94. It generally seeks to remedy the effects of RS-2477s that threatens to thwart the effective management of much of Alaska's lands due to several uncertainties including which rights-of-way were accepted prior to the act repeal. The remedy in SB 94 is to narrow the ROW widths and confine them to transportation and emergency purposes and to redefine the state's authority to maintain, repair, and improve them.

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RANDLE MAULDIN, representing himself, Birchwood, Alaska, supported SB 94. He is a private property owner on Klutina Road and if they were to widen access along the lake, it would almost take out several of his cabins and camp sites. The road never came as far as his place and stopped at what is called "The Boys Camp," and then the local people as they went to their recreational places punched a trail to bring materials in. He has had problems with vandalism, but he put a gate on the road and stopped it. He said an easement runs around the private properties that the state could use if it wanted to make a small trail; it's what the property owners use for the ATVs.

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SENATOR FRENCH asked whether the administration supports this bill.

KENT SULLIVAN, Assistant Attorney General, Civil Division, Natural Resources Section, Alaska Department of Law (DOL), said the department didn't have a position on SB 94 and had some concerns with how it works. One issue is that this bill attempts to very narrowly tailor the scope of rights the state already possesses. He explained that if one would think of an RS-2477 ROW as a conglomeration of rights, the parts include width, scope, the modes of transportation, the types of activities that can occur within the ROW and the rights the state has to make improvements and perform maintenance, and all of those things are separate sticks in a big bundle of sticks. Effectively, this bill would strip away many of those sticks from that bundle of rights the state currently possesses and would result in a massive give-away of state property interests on an unprecedented scale. That is part of the reason the fiscal note is \$48 million; the state would give away \$48 million worth of property and only from narrowing the width of the ROW from 100 ft. to 60 ft. That doesn't take into consideration all the other impacts to the state of reducing the scope of use.

This bill says these ROWs are frozen in place as what they were at the time RS-2477 was repealed in 1976. If there are ROWs across the state that have not yet been developed, which a very high percentage of them would qualify for in that way, that would mean they never could be developed any more than they were in 1976. So, a footpath that existed in 1976 will always be a footpath, to the extent that Debarr Rd. and Farmers Loop Rd. are frozen in place as they were in 1976; the Dalton Highway is an RS-2477 and frozen in place as to what can be done and the way that it's shaped and maintained.

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This bill also provides that the state, to the extent that it has a broader scope with regards to its ROWs, and it would be forced to buy that broadened scope back through condemnation; effectively the state would be forced to buy back that which it presently possesses.

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Another issue with the bill is a recent decision by Judge Beistline that indicates the state can't invoke condemnation proceedings against Native corporations or Native allotments in the State of Alaska now that there is no court jurisdiction to do that. So, this bill creates a mechanism for the state to buy back through condemnation things that it would give away by way of this bill, but it could not do that as to Native corporations and Native allotment owners.

Finally, Mr. Sullivan said, with regards to the Klutina Lake litigation, this bill seeks to basically do away with the state's rights in the defense it has asserted in on going active litigation against Ahtna Corporation over Klutina Lake Rd. The bill tries to make RS-2477s in Alaska synonymous with 17(b) easements, which are entirely different. The federal government owns, controls, and possesses 17(b) easements; the State of Alaska owns, controls, and manages RS-2477 easements. RS-2477s are much broader in scope than 17(b) easements. So eliminating RS-2477s where it overlaps a 17(b) would be essentially creating a patchwork of legal responsibility all along the Klutina Lake Road, because they are two very different legal animals and have very different rights and responsibilities; it would be extremely unworkable.

The other problem with Klutina Lake Road is under the bill the only thing that you could do is access the lake through ingress and egress; you could not launch boats from the easement or camp. You couldn't do all the things that the public is currently doing in recreating and using that ROW now. That is why it is important. It takes almost three hours to get from the bottom of that road on the Richardson Highway up to Klutina Lake, and if you couldn't stop along there and have day use sites or occasionally camp, it would make that ROW practically unusable and of very low utility.

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SENATOR FAIRCLOUGH asked if he had a "white paper" written on this bill or comments.

MR. SULLIVAN said he would send them.

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SENATOR BISHOP, going back to the fiscal note, commented that the \$1000/acre determination was a little troubling, because he knows people whom the state has bought property from for a road or airport construction, and they didn't receive that much.

CHAIR EGAN stated he would hold SB 94 in committee.

CHAIR EGAN adjourned the Senate Transportation Standing Committee meeting at 2:52 p.m.