

**ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE**

February 9, 2018

3:30 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Kevin Meyer

COMMITTEE CALENDAR

SENATE BILL NO. 86

"An Act relating to the sale or other disposal, leasing, or encumbrance of Alaska Railroad Corporation land; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 166

"An Act amending requirements for qualifications to acquire or hold mining rights; amending rental rates for mining locations and leases; repealing annual labor requirements for mining locations; providing for waiver of a cure penalty for abandonment because of failure to properly record a statement of labor; and providing for an effective date."

- HEARD & HELD

OVERVIEW: ARCTIC STRATEGIC TRANSPORTATION & RESOURCES PROJECT (ASTAR)

- HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 86

SHORT TITLE: ALASKA RAILROAD CORPORATION LAND
SPONSOR(s): SENATOR(s) COGHILL

03/10/17 (S) READ THE FIRST TIME - REFERRALS
03/10/17 (S) RES, FIN
04/07/17 (S) RES AT 3:30 PM BUTROVICH 205
04/07/17 (S) Heard & Held
04/07/17 (S) MINUTE(RES)
02/09/18 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 166

SHORT TITLE: MINING: CLAIMS;RIGHTS;RENTAL RATES;LABOR
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/29/18 (S) READ THE FIRST TIME - REFERRALS
01/29/18 (S) RES, FIN
02/09/18 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

AKIS GIALOPSOS, staff to Senator Giessel and the Senate
Resources Committee
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Explained the changes from SB 86, version A
to CSSB 86(RES), version 30-LS0487\J.

RYNNIEVA MOSS, staff to Senator Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Commented on SB 86 for the sponsor.

BILL O'LEARY, CEO
Alaska Railroad Corporation (ARRC)
Anchorage, Alaska

POSITION STATEMENT: Supported SB 86.

JON COOK, Chairman of the Board
Alaska Railroad Corporation (ARRC)
Fairbanks, Alaska

POSITION STATEMENT: Supported SB 86.

ED KING, Special Assistant to the Commissioner
Department of Natural Resources (DNR)
Juneau, Alaska

POSITION STATEMENT: Introduced himself and said the deputy
commissioner would start with opening remarks on SB 166.

HEIDI HANSEN, Deputy Commissioner
Department of Natural Resources (DNR)
Juneau, Alaska

POSITION STATEMENT: Presented SB 166 and commented on the Arctic Strategic Transportation & Resources Project (ASTAR).

DON PERRIN, Large Project Coordinator
Office of Project Management and Permitting (OPMP)
Department of Natural Resources (DNR)
Anchorage, Alaska

POSITION STATEMENT: Commented on the Arctic Strategic Transportation & Resources Project (ASTAR).

JASON BERGERSON, Manager
North Slope Borough
Anchorage, Alaska

POSITION STATEMENT: Commented on the Arctic Strategic Transportation & Resources Project (ASTAR).

JENNIFER EDLEMAN, ASTAR coordinator
Office of Project Management and Permitting (OPMP)
Department of Natural Resources (DNR)

POSITION STATEMENT: Commented on the Arctic Strategic Transportation & Resources Project (ASTAR).

ACTION NARRATIVE

[3:30:00 PM](#)

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

SB 86-ALASKA RAILROAD CORPORATION LAND

[3:30:54 PM](#)

CHAIR GIESSEL announced consideration of SB 86, sponsored by Senator Coghill, that authorizes the Alaska Railroad (ARRC) to sell parcels of land without checking in with the legislature each time. This bill was first heard on April 7, 2017, and at that time public testimony was left open.

SENATOR COGHILL moved to adopt CSSB 86(RES), version 30-LS0487\J, as the working document.

CHAIR GIESSEL objected for discussion purposes.

AKIS GIALOPSOS, staff to Senator Giessel and the Senate Resources Committee, Alaska State Legislature, Juneau, Alaska, explained the changes from SB 86, version \A to CSSB 86(RES), version 30-LS0487\J, and said the sponsor's staff would explain the rationale for those changes.

MR. GIALOPSOS said there are three changes. The first adds a new section 17 sunset provision that would take effect three years after the effective date of this bill. That in turn created new conforming sections 2, 4, 5, 7, 9, 11, and 13. All those sections are conforming to the preceding sections that would be enumerated after the sunset provision would have taken effect.

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The second change further conforms to the sunset provision.

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The third change is language that introduces the first right of refusal. Both the prior version of the bill and the proposed CS repeal and rewrite AS 42.40.852. However, the proposed CS, version J, adds language in section 12 on page 6, line 19, giving existing lease holders to railroad land the right of first refusal when the railroad plans a permanent disposal of the land.

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RYNNIEVA MOSS, staff to Senator Coghill, sponsor of SB 86, Alaska State Legislature, Juneau, Alaska, explained the rationale behind the changes in CSSB 86(RES), version 30-LS0487\J. She said the sponsor felt the right of first refusal, on page 6, line 19, language was only fair. The three-year sunset is to give the legislature a chance to take a relook at how the railroad is managing and disposing its land and investing the profits from those sales.

SENATOR COGHILL added that the timing is important as some real estate issues are currently on the table. Knowing that private land in Alaska is rare, the ability to get some of these lands into private hands is a good economic development opportunity and the railroad could do well with it.

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SENATOR WIELECHOWSKI asked her to describe how the railroad got the land in the first place, if it is constitutional to allow a

separate entity to sell what he assumes to be state land, and who gets the proceeds from it.

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MS. MOSS replied that the federal government transferred the land to the state, and it remains state land even though it belongs to a public agency. The proceeds go back to that public agency.

[3:36:52 PM](#)

BILL O'LEARY, CEO, Alaska Railroad Corporation (ARRC), Anchorage, Alaska, said the land was transferred from the federal government when the state purchased the railroad and the other assets (36,000 acres). The proceeds of land sales remain with the ARRC. Those funds are intended for additional real estate development.

CHAIR GIESSEL remembered a federal railroad act in the late 1800s that appropriated land to the Alaska Railroad.

SENATOR WIELECHOWSKI asked if he had a legal opinion on the constitutionality of allowing a separate corporation to sell land and keep the assets. He also wanted to know if there was a map of the land descriptions.

MS. MOSS said yes, and she will make sure the committee gets the [map and land descriptions] before Monday.

CHAIR GIESSEL asked Mr. Cook if he could respond to the constitutionality question of the railroad selling state land.

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JON COOK, Chairman of the Board, Alaska Railroad Corporation (ARRC), Fairbanks, Alaska, replied that he couldn't speak to the constitutionality, but he would assume that issue was addressed by legal staff while drafting the bill.

CHAIR GIESSEL asked if it's true that the railroad has disposed of land in the past, because they have come to the legislature.

MR. COOK answered yes. The railroad has come before the legislature for approval of several disposals of land to DOTPF, other state agencies and municipalities, and Eklutna Native Corporation. Even though the number is limited, he assumed the issues were vetted at the time.

SENATOR COGHILL remarked that they have given corporations - like Alaska Housing Finance Corporation (AHFC) and the Department of Transportation and Public Facilities (DOTPF) - rights to work within those parameters for land transfers.

SENATOR WIELECHOWSKI asked for a description of the sale process if this measure passes.

MR. COOK replied that the railroad is required to obtain fair market value for any land disposal either through an appraisal or a competitive bid process.

SENATOR WIELECHOWSKI asked where that language was in statute.

MR. COOK answered that it is in AS 42.40.350(d).

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SENATOR BISHOP asked if there is a timeline for the right of first refusal referring to language on page 6, line 19, to try to put a deal together.

MS. MOSS replied that is in the policy and procedures for sales.

MR. COOK said that it might be in AS 42.40.352(b)(2), but that their policy and or intent is to never sell land out from underneath an existing leaseholder. The railroad has no desire to sell land it is getting rents from. They are trying to grow this endowment through monetizing lands that aren't already earning a current return and invest that into income producing property, which produces an 8 percent return at fair market value. Their goal is not to get rid of revenue-producing customers.

SENATOR WIELECHOWSKI asked when property is sold now, and has to be approved by the legislature, if the proceeds go back to the railroad or if that is discretionary.

MR. COOK answered that those proceeds would remain with the railroad and be reinvested in its real estate portfolio.

SENATOR WIELECHOWSKI asked if that money has always gone to the railroad in the past.

MR. COOK answered that in his almost 10 years on the board, he was aware of only one transaction and in that instance the railroad kept \$1.5 million in proceeds of the sale of property to DOTPF.

SENATOR WIELECHOWSKI asked if that is subject to legislative appropriation and if it is legal for the railroad to receive money directly.

MR. COOK said he assumed not. He said the railroad is not subject to the Executive Budget Act.

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SENATOR WIELECHOWSKI asked if Legislative Legal had evaluated that, as a recent Supreme Court case addressed the issue of funds and appropriations and it seemed that the money now has to be appropriated.

CHAIR GIESSEL said her intention was to adopt the committee substitute (CS) but hold the bill until Monday. She asked Mr. O'Leary and Mr. Cook to get those answers for the committee. She noted that she had received a map of the railroad's lands that would address the first question.

SENATOR WIELECHOWSKI asked if the railroad owns land outside of the railroad corridor.

MS. MOSS answered yes; the railroad owns parcels outside of the corridor.

SENATOR COGHILL noted that the railroad owns a dock front in Nenana and leases it out. It has many loading fronts.

3:50:10 PM

SENATOR WIELECHOWSKI asked how much coordination occurs now with DOTPF and what protections can be put in place for easements. He didn't want the railroad to have the freedom to go ahead and sell land that could possibly create problems for the gas pipeline or other easements the state might want to retain.

MS. MOSS said the railroad currently works very closely with the DOTPF and has a half dozen land exchanges between the two for realignment of the highway and the railroad.

SENATOR WIELECHOWSKI remarked that they work together now, because they have to get legislative approval for land sales. But if SB 86 passes, they won't need to do that, and he was interested in putting protections in place for sales that might impact state property.

SENATOR VON IMHOF added that there seems to be a risk/reward evaluation of all components that go into a sale. She used a housing development on the Chena Pump Road, for an example. She would be hesitant to say hold off on the housing development for a few years just in case there is an AKLNG project. That kind of evaluation is fair. But, at the same time if the housing market is hot, it's only three years, so let's let them try to get money for their operations and whatever else they need: a risk/reward evaluation.

MS. MOSS said she believed the legislature already passed a statute that set out the right-of-way for that gasline.

CHAIR GIESSEL said that is true.

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SENATOR WIELECHOWSKI said he worries a little bit about giving the railroad free rein, because it's a very valuable corridor. He wanted to make sure this was being done in coordination with local communities and the state, and a lot of that is taken away in SB 86.

CHAIR GIESSEL said she appreciated the question and believed that is part of the philosophy behind the three-year sunset. They also gave a lot of leeway to a gas project and now they are somewhat restrained in their ability to interact with that project. She asked the railroad to come back on Monday with some concrete legal discussions about the questions Senator Wielechowski had asked.

SENATOR WIELECHOWSKI clarified that the railroad couldn't sell the entire railroad to some private corporation, for example, just land.

MS. MOSS said that was correct.

CHAIR GIESSEL, finding no further questions, removed her objection and announced that CSSB 86(RES), version 30-LS0487\J was adopted. She held the bill in committee.

SB 166-MINING: CLAIMS;RIGHTS;RENTAL RATES;LABOR

[3:56:04 PM](#)

CHAIR GIESSEL announced consideration of SB 166 relating to mining statements of labor. This bill is from the administration and it is being managed by the Department of Natural Resources

(DNR). This committee held an informational hearing on the subject of the mining claim process on January 22, 2018.

ED KING, Special Assistant to the Commissioner, Department of Natural Resources (DNR), Juneau, Alaska, introduced himself and said the deputy commissioner would start with opening remarks.

HEIDI HANSEN, Deputy Commissioner, Department of Natural Resources (DNR), Juneau, Alaska, said SB 166 is an attempt to help the mining community solve an increasingly prevalent problem of the unintentional abandonment of mining claims. This bill provides one option to begin the dialogue, but the department is happy to work with the committee and the public to find a best outcome for all the parties involved.

She noted that a mining claim is structurally different than a lease agreement. A mining claim is a self-initiated right, which is perpetuated by the miner's actions. Failure to meet the legal requirements to maintain a claim results in the automatic termination of the claim by operation of law not by departmental action. The department has little discretionary authority under the current statute to "forgive" errors on affidavits or failure to pay rent. The rights, themselves, and the preservation of those rights fall to the claimant.

She explained that over the last few years, the department has received numerous complaints that the current statutory requirements are too rigid and punitive, and they agree in many regards. The department is looking for a solution that will decrease rather than increase DNR's administrative burden in the face of budget cuts and staff reductions.

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MS. HANSEN said the labor requirement for a mining claim is minimal, but the reality is that the holder of the mining claim is very likely to want to work their claim to generate value from their exclusive right to the locatable minerals. A legal requirement to do that work is not necessary. Meanwhile the requirement to pay rents already provides an additional economic incentive to do that same work.

As the options to address this issue were evaluated, it became clear that a simple fix was not available. A waiver system was considered but administering it would require additional staff. A grace period was contemplated along with a required notification but that, too, would put an increased burden on staff, and as did other alternatives.

The department came up with the idea of repealing the annual labor requirement as a win/win way to improve miners' tenure security without increasing departmental workload and SB 166 begins the dialogue.

MR. KING said they had received a lot of feedback since the bill was introduced and are preparing a frequently asked questions (FAQ) to supplement the materials early next week.

4:00:40 PM

Section 1 is a conforming change since the annual labor requirement is being removed throughout the statute.

Sections 2 and 3 surround the idea of a "bonafide miner" that they are recommending as a new term in state statutes. Basically, someone that is taking the exclusive rights to the state's resources should have a responsibility to develop those resources. In many ways the annual labor requirement was ensuring that work was happening, and the department wanted to be very clear that their intention is that a holder of a mining claim still has that obligation to develop those resources. They think that all the miners who are out there doing their annual labor today by their actions have already demonstrated that they are bonafide miners. This language is not an intent to take away anyone's claims. Even without this language, the department believes it is implied. The bonafide miner in section 2 is added to the qualifications to hold a mining claim in good faith.

4:02:25 PM

SENATOR WIELECHOWSKI asked the definition of "bonafide miner."

MR. KING replied that the definition is added in section 3 subsection (d) as follows:

An entity or person who seeks to acquire, acquires, or holds exploration or mining rights under AS 38.05.185 - AS 38.05.275 in good faith for the purpose of mineral exploration and development and not for the prevention of mineral exploration and development.

SENATOR WIELECHOWSKI asked if he sees a lot of instances of people acquiring land not for the purpose of mineral exploration or development.

MR. KING replied they don't go through that exercise now but that doesn't mean people aren't doing it. What they are trying

to make clear through this legislation is that they don't want to open up a new way for someone to get this new opportunity to withhold minerals from development.

SENATOR WIELECHOWSKI asked him to cite some examples of lands where people are holding exploration or mining rights for the prevention of mineral exploration or development.

MS. HANSEN replied more to the point, they are trying to encourage the development of mineral exploration and production.

SENATOR WIELECHOWSKI said he took that as a no.

MR. KING said that was correct. In removing the annual labor requirement, they don't want to create an opportunity for someone to get those exclusive rights and deny them indefinitely to someone who wants to develop them.

[4:05:01 PM](#)

CHAIR GIESSEL remarked that the annual labor report is kind of like a plan of development for an oil lease by documenting that work was done. But if that requirement is to be removed, they want to make sure something is in place that says some work still has to be done even though the department is not asking for the written document.

MR. KING replied that is their expectation.

[4:06:02 PM](#)

MR. KING said section 3 (c) of AS 38.05.090 adds a new subsection intended to address how the department will administer this bonafide miner requirement. He elaborated that in applying for a lease, the applicant would have to submit an affidavit that says they are intending to work that claim. A mining claim doesn't have that requirement, because a miner has self-initiated rights: it is assumed that they are bonafide unless the department asks for verification, which can be in the form of a recorded sworn statement.

SENATOR WIELECHOWSKI asked if it is correct that under current law, someone has to provide an affidavit that they are doing the work on the property.

MR. KING answered yes.

SENATOR WIELECHOWSKI remarked that they are changing that now so that someone doesn't have to do the work, and he asked if they think that is going to encourage more mining.

MR. KING replied the issue is that these unintended abandonments create a lot of uncertainty about whether a claim is still under claim. If that can be clarified, they believe it would encourage more investment. The economic incentives themselves will drive that investment.

SENATOR WIELECHOWSKI asked how much the annual labor costs.

MR. KING said the labor requirement amounts to \$100 per year.

SENATOR WIELECHOWSKI asked if he had thought about extending the time someone has to actually perform labor on their property from one to two years. He added that he just didn't see how this encourages people to do more.

MR. KING said he saw his point, but the purpose of this bill isn't to encourage more development. It's to secure a miner's tenure and to take away that uncertainty that they might be working a claim that has been invalidated and that someone else can take away from them (by going out and staking that claim). He pointed out that \$100 per year labor is required, but more labor above that rolls forward into the next year(s) - a miner don't have to be out there every year. And if a miner can't get out to his claim and actually perform the labor, he can just send a check for \$100.

The current environment isn't doing anything to necessarily encourage that investment. It's the miners' actions and their motivation for economic gain that is generating this resource development. That isn't being taken away, but the department is trying to help secure that tenure to make them very comfortable to continue investing.

[4:10:03 PM](#)

SENATOR BISHOP asked if the \$100 is for a one-quarter quarter section claim and commented that adding quarter sections gets expensive really quick.

CHAIR GIESSEL said she was trying to interpret the problem this legislation is trying to solve and thought it was the question of top-filing. Someone else seeing an unintentional error in an annual filing, top-files on a miner and he loses that claim. DNR

is trying to fix that problem by removing the requirement for that paperwork. Is that close to what they are doing?

MR. KING clarified when that erroneous affidavit is recorded, the abandonment already occurred. It's not the action of someone else staking over that claim that invalidates the previous claim, and it's not a notification from the department that abandons that claim either. The claimant's actions making that error is what abandoned that claim.

CHAIR GIESSEL said she was trying to drill down to the motivation and asked if there is no grace period or notification of the mistake, and are they trying to fix that, too.

MR. KING said that was correct. Under current statute the department doesn't have any leeway to forgive an error. It's not a decision that the department makes and therefore, it's not a decision they can rescind.

If the requirement for annual labor and the recording of the annual labor affidavits is removed, the problem goes away. If they don't want to go that far, they could consider a grace period. However, in doing that, one of the goals they had in providing this legislation was not to increase the state budget and they are worried that a grace period would create more work for the department.

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SENATOR VON IMHOF asked if a 60-day grace period could alleviate some of Senator Wielechowski's concerns. She asked how many errors were made in the past and how much staff time a grace period would take.

MR. KING responded because the abandonment actually occurs when the error occurs, the error may have happened 10 years ago. In that case, a 60-day grace period would have also expired. So, unless the grace period is attached to a notification that the abandonment has occurred, there would be no opportunity to cure it, but then the department has to provide the staff to do that.

SENATOR VON IMHOF said she thought paperwork is required annually and therefore, it should be caught before 10 years.

MR. KING indicated no.

SENATOR WIELECHOWSKI asked how someone could have abandoned their claim 10 years ago and still be paying the annual fee for

the same claim. He asked how many mining claims there are each year and how many are abandoned.

MR. KING answered there are about 35,000 mining claims today and about 5-10 percent per year are known to be abandoned, but he would get better figures for him.

SENATOR WIELECHOWSKI asked if people are checking the records and taking over a claim.

[4:16:38 PM](#)

MR. KING answered yes, people are finding mistakes on affidavits, over-staking those claims, and accusing the senior claimant of being in default or having abandoned their claim and claiming ownership of it. He corrected that his earlier estimate was for "known" abandonments. It's possible other errors haven't been detected. It creates a property rights issue that needs to be settled in civil court ultimately, because when these issues have been brought to the department's attention, it doesn't have any tools to do anything about it.

MS. HANSEN added that a number of people have expressed concern to DNR that when they believe that their claims are abandoned, they have to go back and re-stake them, and depending on the number of claims, that could cost a lot, as well. So, this is not only curing the problem that Mr. King just mentioned, but it also cures this re-staking issue.

MR. KING said he was sure some of the committee members had heard about this from their constituents.

CHAIR GIESSEL said, yes, many.

SENATOR VON IMHOF said she was eager to get his FAQs and asked him to put them in layman's terms and start with what concerns they are trying to address, what they are proposing to do and what the consequences are.

MS. HANSEN said she would be happy to do that.

[4:19:19 PM](#)

SENATOR BISHOP said he would provide a little historical perspective on why this discussion is taking place: his office has files from people who have been on a staked claim for 10 years and through an error on recording the affidavit of annual labor they were sent an abandonment notice. In the meantime, someone top-filed over them. So, after 10 years' worth of effort

and one mistake, it's gone. The top-filer now has the ground. That is just one example but there are more. Hopefully, a solution can be found, because he thinks this is wrong.

[4:21:24 PM](#)

MR. KING said if there is a problem with the definition of "bonafide miner" in sections 2 and 3 the rest of the bill can survive without those provisions.

Section 4 is a conforming change and removes the reference to "annual labor" elsewhere in statute. Section 5 is the increase in the annual rental payment.

The fiscal analysis for SB 166 indicates that repealing the annual labor requirement would result in an annual loss of \$584,000 to the state. Currently there are 21,000 quarter claims (each claim has four 40-acre claims within them), which calculates into a total of 85,000 40-acre claims. There are 57,975 acres under lease; if each of those leases were converted to 40-acre claims that would result in 1,449 equivalent claims. Then they have 13,294 actual 40-acre claims; for a total of just under 100,000 40-acre equivalent claims.

[4:26:52 PM](#)

The rental amount goes from \$20 to \$50 on page 3, line 29, of the bill. It looks like it's more than double. But he pointed out that \$20 was put in place in 1989 and adjusted for inflation every 10 years. So, today, miners pay \$35 (for that same zero to five-year old 40-acre claim). The last time this number was adjusted for inflation was 2009, so next year it will be adjusted again. Applying that inflation adjustment today brings one to the numbers on the fifth line of that box on the third page of the fiscal analysis. If this bill were not to pass, the miners would be paying \$40, \$85, and \$200. The correct way to look at the rental increase in this bill is to compare it to that baseline.

[4:28:07 PM](#)

SENATOR BISHOP asked if the 10-year consumer price index (CPI) increment in the statute is still at the discretion of the commissioner.

MR. KING replied yes; the fee schedule is updated every 10 years by regulation: so, to the extent that the commissioner has the authority to implement a regulation.

SENATOR BISHOP said that could be in the FAQ sheet at the chair's prerogative.

CHAIR GIESSEL indicated that would be fine.

SENATOR WIELECHOWSKI asked if this bill affects claims on federal property.

MR. KING replied that they talked to the Bureau of Land Management (BLM) to make sure what this measure doesn't affect federal claims. There are state requirements that do govern federal claims, but a federal claim must also follow federal law, and that is what state law says. The department thought it made sense because they were removing the annual labor requirement from state law that it got removed everywhere. If that creates a problem, there is no requirement that the Title 27 references to annual labor should be repealed.

[4:29:47 PM](#)

SENATOR WIELECHOWSKI asked what the federal requirements are to establish and keep a mining claim.

MR. KING replied that the federal law is still the General Mining Act of 1872, and it requires just an annual work assessment that is also \$100 for 40 acres.

SENATOR WIELECHOWSKI asked if the state system is identical to the federal system currently.

MR. KING replied prior to 1989 it was; Alaska adopted the federal law and the federal system at statehood. However, in 1989, the Supreme Court ruled against the state and started requiring that the state also impose annual rental and royalty payments, which don't exist for federal claims. The debate was always if Alaska wants a location system like the federal government or a leasing system that requires rents and royalties, and right now, we have both. So, they are suggesting removing that annual labor requirement that is really kind of unnecessary.

[4:31:08 PM](#)

MR. KING said they have received many questions about section 5 and he hoped his answer is adequate. He would be happy to discuss the fiscal note with the committee at any time.

He said section 6 is the inflation adjustment, and because the rental payments are being adjusted, it makes sense to inflation-

adjust the statutory requirements into today's dollars. So, section 6 rebases the inflation index to the 2018 timeframe instead of the 1989 timeframe in the original rental requirements.

Section 7 maintains definitions that would otherwise be lost through repeal and those are found in the annual labor chapter, AS 38.05.242. Because most of those definitions are related to things associated with annual labor the only surviving definition that needs to be maintained is the meridian, township, range section claim (MTRSC). So, that section is pulled out of section .242 and moved into section .211.

Section 8 is a conforming change that removes the repealed statutes from the abandonment provision in AS 38.05.065.

Section 9 is a new subsection (c) that is added to the abandonment section. It is intended to help existing errors on affidavits that are in existing files. Because the department doesn't have the discretion to grant them immunity, they were trying to figure out the best way to allow those cures to occur and decided to waive the penalty associated with curing those abandoned claims. He explained that section .265 already allows one to cure an abandoned claim that is the result of an error in an essential fact, but it requires paying a penalty.

SENATOR BISHOP asked the timeline on that.

MR. KING replied that no time is defined in statute to cure an abandonment. It is indefinite. He added that the only caveat is that the cure provision doesn't apply whenever there is a competing interest. If two people assert their rights to a claim the cure can't happen and it must be litigated before going forward.

[4:36:03 PM](#)

Section 10 repeals the annual labor requirement.

Section 11 is transition language that was inserted to clarify what happens when annual labor is removed in the middle of an annual labor year. It creates transition language to go along with an effective date of September 1.

SENATOR WIELECHOWSKI asked if section 10 repeals a number of statutes that are conforming changes.

MR. KING answered yes. It is the annual labor requirement and all the statutes surrounding the enforcement of it.

He said section 12 clarifies the timing in which the commissioner can calculate the changes of rentals in each year. It clarifies that the next inflation adjustment will happen in the year 2028.

Section 13 authorizes the department to adopt regulations and implement changes that are made by this act.

Section 14 authorizes the department to amend existing leases to conform with statutory changes in this bill. The reason that is important is because a lease, unlike a claim, is an actual contract and has contract terms, and the legislature can't just strike a term of a contract. This language allows the department to take those terms out of the lease to conform with the statutory changes this bill would be making.

Section 15 provides for an immediate effective date for section 13, and section 16 provides for the effective date of September 2 for first day of the next annual labor year. That concluded the provisions in SB 166.

CHAIR GIESSEL thanked him and finding no further questions, held SB 166 in committee.

Overview: Arctic Strategic Transportation & Resources Project
(ASTAR)

[4:39:27 PM](#)

CHAIR GIESSEL announced the final order of business was to hear about the Arctic Strategic Transportation and Resources Project (ASTAR) that deals with road infrastructure on the North Slope. It is becoming increasingly challenging to put in ice roads there due to some warming and this project looks at the possibility of putting in some gravel roads, as well.

HEIDI HANSEN, Deputy Commissioner, Department of Natural Resources (DNR), Juneau, Alaska, said the ASTAR protect is a partnership with the North Slope Borough in collaboration with area communities and other stakeholders. They are seeking to identify, evaluate, and advance community infrastructure. A 2017 supplemental set aside \$17.3 million for this project.

ASTAR is operating under a formal partnership agreement that established a working relationship and open dialogue between DNR

and the North Slope Borough. This partnership will help ensure the needs of the people and the communities within the borough are reflected in ASTAR's outcomes.

She said the participating state agencies are Department of Natural Resources (DNR), Department of Health and Social Services (DHSS), Department of Commerce, Community and Economic Development (DCCED), and Department of Transportation and Public Facilities (DOTPF). Within DNR, the Office of Management and Permitting (OPMP) provides management and coordination for the project and the contractors. The Division of Mining, Land, and Water's (DMLW) Resource Assessment Development Section provides planning and website content. The Support Services Division within DNR provides Geographic Information System (GIS) and data processing and some website design and management. The Division of Parks and Outdoor Recreation is providing some graphic support with regard to the interpretation and education component of the Parks Division. The Division of Geological and Geophysical Surveys (DGGs) and the Division of Oil and Gas (DOG) will provide subject matter expertise associated with resource industry operations and available data.

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MS. HANSEN said they are also working with DHSS to provide the baseline health summary report for the North Slope Borough that will identify and explain health data gaps and potential means to fill those gaps. Potential health connectivity opportunities may include advancing telemedicine, which would require broadband.

Discussions are under way with the DCCED to engage multiple staff to focus on the regional funding opportunities, community resilience and adaptation, and other community resources.

She said ASTAR will provide opportunities for leadership and capacity-building within the region. The team is working closely with the DOTPF to enhance the overall project outcomes and to minimize any duplication that might result without better coordination.

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CHAIR GIESSEL commented that some folks might think it odd that the DNR is collaborating with the DHSS, but DNR led the way nationally in considering social and health impacts on developing Alaska's resources several years ago. Another thing of interest is that the Northwest Territories just finished a road to their Arctic Coast and it means cost of living savings

of \$12,000/year for each village occupant along that road. "So, it's a huge impact."

MS. HANSEN thanked her for those comments and said they absolutely agree. She said the desired outcomes for the ASTAR project is increased cultural connectivity, reduction in cost of living, decreased rehabilitation costs for the National Petroleum Reserve-Alaska (NPR-A) legacy wells, more efficient development of natural resources, and increased economic activity. This project covers the entire North Slope Borough down to Anaktuvuk Pass. Cumulative benefits are being identified for the specific infrastructure and this collaborative effort will help inform state and local discussions with federal agencies on any sort of development.

She said some of the transportation corridor routing include seasonal ice and snow roads, year-round gravel roads, trail identification and maintenance, opportunities for utility corridors such as for natural gas pipelines, power lines or renewable sources, fiber optic networks for high speed data connection, and port/barge/shipping marine and aviation facilities. Their minds are open to possibilities.

CHAIR GIESSEL asked how many miles of road she envisioned in this project.

MS. HANSEN said she didn't know but would happy to go back to see if there is a sense of that. She added that this is just the beginning of the analysis.

CHAIR GIESSEL said she assumed it would be an incremental process.

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SENATOR WIELECHOWSKI asked if a plan is in place to finance these developments.

MS. HANSEN answered that assessing the sources of funding is as part of the ASTAR project. ASTAR money will not actually build it.

SENATOR WIELECHOWSKI asked if this part of state's long-range transportation plan was developed by the Alaska DOTPF and approved by the federal DOT.

MS. HANSEN answered no; this is specifically a resource development analysis of how to increase connectivity (not just

roads) to enhance and enable development in the North Slope Borough.

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SENATOR WIELECHOWSKI said his experience is that roads go from \$1 million/mile to \$20-plus million/mile road. Do they think in terms of general obligation (GO) bonds or federal funds to pay for them?

MS. HANSEN said she would have to get back to him on that.

MS. HANSEN pointed out that proof of concept is under way now: the ASTAR team is coordinating with the North Slope Borough on a pilot project that includes participation in pre-application meetings and permitting follow-up, as well as assistance from the OPMP coordinators. The borough submitted several applications to state and federal agencies for permits to connect community winter access trails through some of the villages in the North Slope Borough. They hope this proof of concept project will be very enlightening in terms of what is possible on a larger scale for ASTAR. It will provide valuable data collection opportunities including learning about how many and why people utilize transportation opportunities; for example, whether it's viable to use these transportation alternatives as an alternative to flying. It would be good to analyze what the various capacities of the different transportation means (flying and barging) to see what it means to the economic and socio-economic output for communities.

This proof of concept project would also allow and provide for regulatory expertise for future projects. These types of projects are complex in terms of permits and when they require local, state, and federal processes, this will allow them to look at multiple uses by multiple users in NPR-A and benefit from those experiences.

MS. HANSEN said the state and federal permitting processes that are currently under way involve multiple proposed routes for the activities of organized caravanning of personal vehicles of residents on the snow roads. A route for hauling fuel between Utqiagvik (Barrow) and Atqasuk has been permitted and the permitting for the caravanning route is currently under way. It is interesting to have these projects going on at the same time, because they will be able to evaluate the benefits if ice roads versus snow roads and a mixture of those two different kinds of access opportunities. The ice roads provide access for heavier equipment versus the caravanning that is just a snow road.

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CHAIR GIESSEL asked the difference in cost of an ice road versus a snow road.

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DON PERRIN, Large Project Coordinator, Office of Management and Permitting (OPMP, Department of Natural Resources (DNR), Anchorage, Alaska, said he would defer that answer to the North Slope Borough and also get back to her with more accurate data.

CHAIR GIESSEL said that would be fine.

SENATOR BISHOP asked the cost for an ice road to move a drill rig (as opposed to light vehicle traffic).

MS. HANSEN said they would get back to the committee with the various scenarios.

SENATOR WIELECHOWSKI asked if the public input process is local or statewide.

MR. PERRIN replied that the Division of Mining, Land and Water (DMLW) permitting process for tundra travel has a local, state, and BLM public comment period, and that is currently under way.

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JASON BERGERSON, Manager, North Slope Borough, Anchorage, Alaska, added that the local permitting process has a 20-day public comment period. The DMLW permits have public comment periods as do the BLM permits.

MS. HANSEN said some of the 2018 work highlights were on slide 7. ASTAR is hired Alaska-based contractors hired to provide project management support, data analysis, management, and GIS analysis, stakeholder outreach and coordination and economic and socio-economics (such as for infrastructure cost comparisons and analysis, assessment of project abilities, and quality of life outcomes for residents).

After the competitive bidding process and protest period, Arctic Slope Regional Corporation (ASRC) Energy Services-Alaska (also known as AES, Inc.) and Resource Data, Inc. were selected, and contract negotiations are under way. They received 23 proposals and the evaluation team reviewed them all. An intent to award was issued on January 5; the mandatory protest period ended on the 16th and there were no protests. The fact that they received

23 proposals demonstrates that there is a lot of interest in what is going on. AES and Resource Data will be competing for task orders on the data analysis, management, and Geographic Information System (GIS) analysis and integration work going forward.

MS. HANSEN said one of the crucial pieces of planning for infrastructure is understanding the construction material sources, work the Division of Geological and Geophysical Surveys (DGGS) and the Division of Oil and Gas would be doing. The information on construction materials is scarce. The survey will be led by the DGGS and include regional and local partnerships. The work will include the office data compilation, limited field investigations in 2018 and 2019 and any subsequent publication of maps and reports. She emphasized that existing information will be utilized to the greatest extent possible.

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SENATOR BISHOP commented that it might be worth getting into the National Archives and Records Administration archives at Utqiagvik, because the Navy spent a lot of time up there.

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MS. HANSEN said slide 9 provided the 2018, 2019, and 2020 budgets. The initial pot of money was \$7.3 million, and they anticipate burning through \$2.5 million of that in 2018. The first contract term is through June 30, 2019 with the renewal option expiring June 30, 2020.

MS. HANSEN explained that the contracts and personal services are the bulk of the expenditures; DNR travel is also very high. The reason for that is not only the face-to-face interaction with folks in the communities, but the very high cost of helicopter use that DGGS may need to rely on.

She flagged an error in the Computers and Supplies category where the cost should be \$11,000 in FY 2019 and \$8,000 in 2020.

SENATOR VON IMHOF asked what the \$7.3 million in deliverables are at the end of 2020.

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JENNIFER EDLEMAN, ASTAR coordinator, Office of Project Management and Permitting (OPMP), Department of Natural Resources (DNR), Anchorage, Alaska, answered that they anticipate a variety of end products: one is the construction materials survey of multiple areas over the course of the three-

year project and will also have a health baseline report, and a strategic planning document that will include the ASTAR process. The resulting suite of materials in the plan would include identifying projects that have both local and statewide support heard through their scoping efforts, an analysis of those projects in order to determine which ones will bring the greatest cumulative benefits to the area. Those projects that demonstrate the greatest benefit will be advanced and assessed for a variety of things including funding sources, project sponsors, identifying obstacles and challenges, and identifying permitting and any data gaps. These reports will be available for subsequent efforts.

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SENATOR VON IMHOF said she saw the involvement of a lot of government agencies and asked how private developers are being engaged.

MS. EDLEMAN answered that they are just beginning to identify and map out scoping and plan to start within the communities in the North Slope Borough, meeting with community leaders, individuals, residents, and folks who survive within those areas to learn from them what local infrastructure needs to have. After that they anticipate having a wide variety of opportunities to engage both industries present on the North Slope now and industries (as well as investment industry) that may want to expand to the North Slope but don't have the ability to do that because of the infrastructure challenges. She anticipates working with the economic and socio-economic team and potential funders to be able to fund the projects if possible.

SENATOR VON IMHOF remarked those are great plans but the devil is in the details. She wished her luck.

CHAIR GIESSEL said she had heard of several investment groups that are interested in investing on the North Slope. She thanked the presenters.

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Finding no further business, Chair Giessel adjourned the Senate Resources Standing Committee meeting at 5:06 p.m.