

**SB**

**252**

# FISCAL NOTE No. 1

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

BIL Bill Version: SB 252  
 (S) Publish Date: 2-8-00

Revision Date/Time: \_\_\_\_\_ Dept Affected: Natural Resources  
 Title: Relating to certain state rights-of-way BRU: Statehood Defense  
 Component: RS 2477/Navigability  
 Sponsor: Rules Committee  
 Requestor: Governor Component No: 2226

Expenditures/Revenues (Thousands of Dollars)  
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES (fund code)</b>	0.0	0.0	0.0	0.0	0.0	0.0

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: \$ n/a

**POSITIONS**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS:**

*(Attach a separate page if necessary)*

Sec. 1 of this bill updates the list of state rights-of-way that qualify under RS 2477, removing from AS 19.30.400 those that are no longer thought to qualify. Instead of adding newly identified routes to the statutory list, it requires DNR to maintain a master data base of routes that are either listed in the statute or reported to the legislature in the annual report DNR must submit each January. As DNR is already maintaining the data base of RS 2477 routes, no extra fiscal impact is envisioned.

Sec. 2 addresses recording. It would replace a temporary recording requirement that applied only to the statutory list of routes, and whose deadline expired in January 1999, with a permanent requirement applying only to routes that are surveyed, shown on a supplemental plat, or otherwise sufficiently known to identify the parcels it encumbers. Because the bill allows but does not require surveying, this recording requirement is expected to apply to only a few routes each year, creating no extra fiscal impact.

Prepared by: Bob Loeffler Phone: 269-8600  
 Division: Mining, Land and Water Date: 19-Jan-00  
 Approved by Commissioner: John Shively Date: 1-10-2000  
 Agency: Natural Resources

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**

TONY KNOWLES

GOVERNOR

STATE OF ALASKA

OFFICE OF THE GOVERNOR

JUNEAU

February 4, 2000

The Honorable Drue Pearce  
President of the Senate  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear President Pearce:

I am transmitting a bill amending the list and recording requirements as prescribed by a 1998 state law for state rights-of-way, commonly known as RS 2477. The need to correct the list and recording requirements results from further Department of Natural Resources (DNR) land research and recent experience in trying to record the routes.

The state was required to have had every listed right-of-way recorded by January 1, 1999. Most of the 602 routes listed in the 1998 law are unsurveyed. Experience has shown recording unsurveyed routes clouds the title of landowners whose property is not necessarily subject to the historical RS2477 trail or route. Many affected private landowners objected when DNR notified them that it was required to record all the routes, particularly unsurveyed trails, noting they often reflect inaccurate routings.

This proposed bill requires that most RS2477 routes be recorded only if surveyed, and within one year of the survey. Those unsurveyed trails still subject to recording would be limited to routes crossing larger privately owned parcels (at least 160 acres), or that cross public lands. Those routes would be recorded within two years of listing.

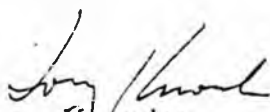
In addition, this bill deletes 12 routes from the current list. Examination of early land records indicates these 12 trails were constructed after the land was reserved or appropriated, making RS 2477 inapplicable. Based on what is now known, they do not qualify as valid RS 2477 rights-of-way.

Ab 252

The Honorable Drue Pearce  
February 4, 2000  
Page 2

This bill simplifies the recording process for RS2477 trails and removes the concern many private landowners may have with the current law. I urge your support of this measure.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tony Knowles".

Tony Knowles  
Governor

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

*Tony Knowles, GOVERNOR*

*State-Federal Issues;  
ANILCA Program  
Navigable Waters Program  
333 Raspberry Road  
Anchorage, AK 99518-1599  
PHONE: (907) 267-2248  
FAX: (907) 267-2472*

November 16, 1999

Department of Natural Resources  
Division of Mining, Land, and Water  
3700 Airport Way  
Fairbanks, AK 99709

To Whom it May Concern:

The Department of Natural Resources (DNR) RS2477 trail notice proposes to report to the Legislature numerous RS2477 trails for addition to Alaska Statute 19.30.400(d). At the same time, DNR recommends 12 trails be removed from the statute due to lack of historical use evidence or due to status of withdrawals of the public land, rendering it "reserved". Staff conducted a preliminary review of these twelve trails and provided the attached additional information for consideration.

While we understand the need to delete trails which do not have documentation of sufficient use prior to reservation of the public lands, additional research would be appropriate prior to making a final determination, as noted. It would be our hope that funding could become available for you to do further research on these trails prior to deleting them. As we complete research in these areas for navigability or easements, we will continue to provide you any relevant information we find regarding historic public use of trails.

If you have any questions regarding the attached, please feel free to call me at 267-2248 or Kamie Simmons at 267-2242.

Sincerely,

Tina Cuning  
Program Manager

Attachment

**Historical information for the following 6 trails recommended for deletion indicates that use may have occurred prior to the federal withdrawal order, warranting additional research.**

(The DNR quotes are from the April 16, 1999 summary memo from Nancy Welch to Commissioner Shively, indicating the "reason for removal".)

**RST 738 Gambell—Boxer Bay Trail**

DNR: *"A 1903 hisotric withdrawal (EO Withdrawal St. Lawrence Island) pulled all of St. Lawrence Island from the public domain on 1/7/03. The earliest documentation in the file is 1949. Documentation prior to 1903 would have to be uncovered to change the file's RS 2477 status.*

RST 738, located on St. Lawrence Island, is identified as beginning at the village of Gambell and running south for .35 miles to Boxer Bay. It is identified on the 1949 USGS St. Lawrence Island map as a "spring trail to Boxer Bay". In addition, it is included in the 1973 DOT Trails Inventory on Map 93 as Trail #2. All of St. Lawrence Island was withdrawn by Executive Order on January 7, 1903 (Reference 44) *"for a reindeer station, subject to any legal existing rights to any land in the limits of the reservation hereby established."*

In January 1977, the Bureau of Indian Affairs (BIA), Department of the Interior, published a paper titled Gambell: It's History, Population and Economy. The report states, "It was probably the fear of encroachment by whites into the reindeer herding on the island that explains the actions of [William] Harris and [Sheldon] Jackson in requesting the withdrawal of St. Lawrence Island."

Robert Ackerman, an anthropologist from the University of Pennsylvania, conducted studies on St. Lawrence Island in the 1950s and 1960s. He noted a number of whalebone drying racks, boat supports, and house pits in the Boxer Bay region of St. Lawrence Island. He also remarked that, "Geist noted in 1926 that the water of the Bay and stream erosion from the land side were rapidly wearing away the [archeological] site". Ackerman also noted that Geist reported that, "burials and several 'lookouts' were located on the tops of several high mountains in the vicinity of Boxer Bay". A mention of how these lookouts were accessed was not mentioned but likely via trails. Additional research into historic records is warranted.

- Question: Does a reservation for establishing a station completely close the island to other entrances upon the land once the station was established? The people living in the area at the time of the withdrawal appear to have continued to use this trail.
- Another question concerning the Gambell—Boxer Bay Trail: On the 1949 USGS topographic map in the DNR file for RST 738 located in Fairbanks there is another trail listed as the "Regular Trail" from Boxer Bay to Gambell, by way of Niyghak-puk (Big) Lake. Is this trail an RS2477? It may have additional use information relevant to RST 738.

**RST 881 Alexander Village—Veh/Tenjerlow Lakes**

DNR: "This route is affected by F030632, Application Withdrawal Power Project (Power Site 445), which withdraws the entire T23N, R11E, FM township, and affects Metes and Bounds within T23N, R10E, FM. This withdrawal was in effect from 1/9/63 until revoked by PLO 6795, 9/19/90. Additionally, T23N, R9E, FM; T24N, R9E, FM; and T25E, R8E, FM are affected by a Secretarial Order withdrawing land for an Indian Reservation, effective 5/20/43. These townships are also affected by Power Site Withdrawal #445. Documentation prior to 1943 would be necessary to change the file status."

RST 881, located in northeast Alaska, begins at the historical site of Alexander Village, near the Christian River, northwest through Tsukon and continues to a cabin at Veh/Tenjerlow Lakes for a total of 25 miles. It was identified on the 1956 USGS Ft. Yukon 1:63,360 map as a winter trail. In addition, it is included in the 1973 DOT Trails Inventory on Map 122 as Trail #34A. Secretarial Order of May 20, 1943 (Reference 697), withdrew the land from public land laws.

John Mertie, a geologist with the United States Geological Survey, made a scientific exploration of the Chandalar—Sheenjck District in 1926. He noted the geologic resources of the region and made notations of the settlements, roads, trails, and waterways. His writings remarked "a number of winter trails are used by the natives and trappers, however, one of the more frequented of which is the trail from Ft. Yukon to Arctic Village by way of Christian Village".

According to the USGS Fort Yukon map, the Native village of Tsukon is located on Marten Creek. Robert McKennan, an anthropologist, wrote of making an overland trip across the Yukon Flats to the fishing settlement of 'Suko', where he spent three days in August 1933. He described the village as "an outlying camp for freshwater fishing . . . where a small stream called Suko River [Marten Creek] emerges from a small lake of the same name; a few cabins and tent frames [were located there]". RST 881 passes through the village of Tsukon, and McKennan could have possibly used it.

- Based on the above, we suggest additional research is warranted to identify historic use of this trail.

**RST 457 Beeson Slough – Second Creek**

**RST 635 Beeson Slough – Shaktoolik – Unagalik**

**RST 752 Shaktoolik River – Junction Creek**

These three trails are located on the coast of Norton Sound, north of the village of Unalakleet. They are referenced on the 1973 DOT Trails Inventory, the 1950 and 1980 USGS Norton Bay Quadrangle, and the 1923 Alaska Road Commission map. These routes were affected by the Withdrawal for Military Purposes St. Michael dated October 20, 1897. DNR: "Information documenting the route's existence prior to 1897 would be necessary to change the route's RS 2477 status."

In "The Iditarod Trail (Seward-Nome Route) and other Alaskan Trails" (Department of Interior, September 1977), all three trails are listed and shown on a map as routes used during the Nome Gold Rush Era. The book documents the start of the Nome Gold Rush around 1897 but speculates that people were moving into Nome by way of St. Michael earlier than 1897. There is an extensive bibliography that accompanies the book, many citations directly related to Alaskan trails.

- Based on the above information, additional research appears warranted.
- A particular note of concern for RST 457 and 752: In the RST file for the Shaktoolik River -- Junction Creek route there is a notation that states "*justification for vacation of RST #558 is due to alternative routes including RST 457 and RST 752*".

#### **RST 1345 Long Lake - Chitina River Trail**

DNR: "*EO 645. Withdrawal Power Site Reservaticn (amended 8/17/22, partially restored by BLM department order #791, 6/19/34 and partially revoked by PLO 3362) withdrew land throughwhich this route passes 4/27/18. This withdrawal affects Metes and Bounds within T6S, R11E, Copper River Meridian (CRM). See historical index for T6S, R11E, CRM. The earliest documentation of use of this route is from 1959. Unless other documents are discovered to prove the route's existence prior to 4/27/18, this route will remain ineligible for RS 2477 status.*"

RST 1345 is a 2-mile-long trail situated in the Wrangell Mountains, along the McCarthy Road. From the southwest end of Long Lake, the trail heads southwest until it reaches a small creek that flows into the Chitina River. The route is mapped on the 1959 USGS McCarthy and DOT Trails Inventory. The route is located in an area that has been heavily used for hundreds of years. The Ahtna Indians inhabited this area and used the Chitina River Valley as hunting and fishing grounds. Allen, Abercrombie, Hayes, and Schwatka are just some of the explorers that documented and mapped their expeditions in this area in the 1800s. The Russian American Company, Chitina Exploration Company, and the Kennicott Copper Corporation became commonplace in the Chitina River Valley during the copper boom and construction of the Kennicott Copper Mine and railroad in the late 1800s. The old railroad right-of-way (now McCarthy Road) crosses the Long Lake trail. During the construction of the railroad, barges sent supplies up the Chitina River to the workers.

- The trail may have been used during any of the above eras of extensive use in this area. Additional research is warranted into the railroad and mining records, any of which may reveal the existence and use of this trail.

We have not done research in the areas of the following 6 trails, thus have insufficient information to make a recommendation at this time.

RST 912 North Tractor Trail from Gordon—US Border

RST 913 Nuvagapak Point Landing Strip—Kogatpak River

RST 914 Poker (Pokok) Lagoon Southeast

RST 916 Tamayariak River North—Camden Bay

RST 1042 Anderson Point East

These trails are located on the North Slope of Alaska and are noted on the 1955 USGS Demarcation Point and Flaxman Island maps and the 1956 USGS Mt. Michelson map. In addition, these trails are included in the 1973 DOT Trails Inventory. Portions of the North Slope were withdrawn by Public Land Order 82 on January 22, 1943 (Reference 685) for defense purposes.

- The above 5 trails appear to have documented use so close in time to the public land withdrawal that additional research might be appropriate.

RST 507 Stuyahok – Cabin

The Stuyahok-Cabin trail begins at Stuyahok and ends at a cabin. It is approximately 3.5 miles long. The trail appears on both the 1952 USGS Holy Cross Quadrangle. It also appears in the 1994 and 1995 Historic Trails Database and Map Atlas. This trail was affected by the Withdrawal for Military Purposes St. Michael dated October 20, 1897.

- We have insufficient information to make a recommendation.

# FISCAL NOTE

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

**BILL NO. CSSB252(RES)**

Revision Date/Tim 11-Apr-00 Dept Affected: Natural Resources  
 Title: Relating to certain state rights-of-way BRU: Statehood Defense  
 Component: RS 2477/Navigability  
 Sponsor: Rules Committee  
 Requestor: (S) RES Component No 2226

Expenditures/Revenues (Thousands of Dollars)  
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES (fund code)</b>	0.0	0.0	0.0	0.0	0.0	0.0

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: \$ n/a

**POSITIONS**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS:**

*(Attach a separate page if necessary)*

Sec. 1 of this bill updates the list of state rights-of-way that qualify under RS 2477, removing from AS 19.30.400 those that are no longer thought to qualify. Instead of adding newly identified routes to the statutory list, it requires DNR to maintain a master data base of routes that are either listed in the statute or reported to the legislature in the annual report DNR must submit each January. As DNR is already maintaining the data base of RS 2477 routes, no extra fiscal impact is envisioned.

Sec. 2 addresses recording. It would replace a temporary recording requirement that applied only to the statutory list of routes, and whose deadline expired in January 1999, with a permanent requirement applying only to routes that are surveyed, shown on a supplemental plat, or otherwise sufficiently known to identify the parcels it encumbers. Because the bill allows but does not require surveying, this recording requirement is expected to apply to only a few routes each year, creating no extra fiscal impact.

Prepared by: Bob Loeffler *[Signature]* Phone: 269-8600  
 Division: Mining, Land and Water Date: 11-Apr-00  
 Approved by Commissioner: John Shively *[Signature]* Date: 11-Apr-00  
 Agency: Natural Resources

**PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE**

For further distribution information call the Governor's Legislative Office

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 2/8/00

FURTHER: Finance

Date of 5-Day Notice: 3/10/00  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 4/12/00

Resources Committee considered

SENATE BILL NO. 252

"An Act relating to certain state rights-of-way."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 252 (RES)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

Senate Bill:  
 same title  
 new title  
House Bill:  
 same title  
 technical title  
 new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Lyle Green</i>	<input checked="" type="checkbox"/>				
<i>James ...</i>	<input checked="" type="checkbox"/>				
<i>...</i>	<input checked="" type="checkbox"/>				
<i>...</i>					
<i>...</i>					
CHAIR: <i>Rich Halford</i>	<input checked="" type="checkbox"/>	CHAIR:			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
DNR	4/11/00	<input checked="" type="checkbox"/>	

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill