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Referred: Rules

Original sponsors: Hayes, Ringstad,
Shultz, et al

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 512 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Railroad Corporation
7 to manage and operate the Alaska Railroad; and pro-
8 viding for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature
11 finds that

12 (1) it is the policy of the state to

13 (A) provide safe, economical, and efficient transportation
14 to residents, businesses, visitors, and military installations in the
15 state;

16 (B) foster and promote the long-term economic growth and
17 development of the state;

18 (C) develop and implement plans for a transportation net-
19 work;

20 (D) foster and promote the development of the state's land
21 and natural resources;

22 (2) the Alaska Railroad is an essential part of the state trans-
23 portation network that may, unless preserved by state action, cease to be a
24 transportation option in Alaska;

25 (3) the federal government has offered to the state the option
26 of taking over the Alaska Railroad to ensure its continued existence;

27 (4) it is in the state's best interest to accept the railroad
28 under the terms and conditions offered by the United States government; and

29 (5) there is vast potential in Alaska's natural resource areas

1 and extension of the Alaska Railroad into natural resource areas is neces-
2 sary for long-term economic growth.

3 (b) It is the purpose of this Act to

4 (1) create a viable economic entity with the powers and duties
5 necessary to operate and manage the Alaska Railroad pending eventual trans-
6 fer of the railroad to the private sector for its ownership or operation or
7 both consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
8 1982);

9 (2) provide for the level of railroad service that best satis-
10 fies the needs of the people of the state consistent with the other find-
11 ings and policies of this section;

12 (3) create a public corporation with the powers, duties, and
13 functions needed to operate the Alaska Railroad and manage its rail, indus-
14 trial, port and other properties in the best interest of the people of the
15 state by ensuring that the corporation will

16 (A) be exclusively responsible for the management of the
17 financial and legal obligations of the Alaska Railroad;

18 (B) operate the railroad as a common carrier subject to the
19 jurisdiction of the United States Interstate Commerce Commission
20 consistent with 45 U.S.C. 1207;

21 (C) have the ability to raise capital for expansion by
22 issuing bonds exempt from federal and state taxation;

23 (D) generally carry out its responsibilities on a self-
24 sustaining basis;

25 (E) provide the best possible combination of types and
26 levels of safe, efficient, and economical railroad transportation to
27 meet the overall needs of the state, supported when necessary by state
28 investment;

29 (F) provide for the most efficient and prudent operation of

1 the railroad according to sound business management practices
2 consistent with the technology in use;

3 (G) preserve the integrity of the railroad utility corridor
4 for transportation, communication, pipeline, and transmission
5 purposes;

6 (H) in all job classifications, provide for the employment
7 of women and minorities if qualified;

8 (I) provide for the payment of equal pay for equal work;

9 (4) ensure that borrowing by the corporation does not directly
10 or indirectly endanger the state's own borrowing capacity.

11 * Sec. 2. AS 42 is amended by adding a new chapter to read:

12 CHAPTER 40. ALASKA RAILROAD CORPORATION.

13 ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

14 Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is
15 established the Alaska Railroad Corporation. The corporation is a
16 public corporation and is an instrumentality of the state within the
17 Department of Commerce and Economic Development. The corporation has
18 a legal existence independent of and separate from the state. The
19 exercise by the corporation of the powers provided in this chapter is
20 considered an essential government function of the state.

21 Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the
22 corporation are vested in the board of directors. The board consists
23 of the commissioner of commerce and economic development, the commis-
24 sioner of transportation and public facilities, and seven members
25 appointed by the governor. The seven appointed members must be regis-
26 tered voters in the state except as provided in (1) and (2) of this
27 subsection. A member of the board may not be an employer of a
28 transportation company, a company using the railroad's freight
29 services, except infrequently, or a lessee of corporation land.

1 Except for the commissioners and the member appointed under (5) of
2 this subsection, a member may not be a state officer or employee.
3 Appointed members shall have the following qualifications:

4 (1) one member of the board shall be a person who has
5 substantial experience in railroad management; a person who is not a
6 resident of the state may be appointed under this paragraph;

7 (2) one member of the board shall be or have been an execu-
8 tive official of a United States railroad and shall be selected in
9 accordance with 49 U.S.C. (Interstate Commerce Act); a person who is
10 not a resident of the state may be appointed under this paragraph;

11 (3) two members shall have substantial experience as owners
12 or managers of a business in the state;

13 (4) at least two members shall be from each judicial
14 district directly served by the Alaska Railroad;

15 (5) one member shall be an employee of the corporation who
16 is a member of a collective bargaining unit.

17 (b) Except for the commissioners, the members of the board shall
18 be confirmed by a majority of the members of each house of the legis-
19 lature in joint session. A member appointed by the governor has the
20 full powers and responsibilities of a confirmed board member until the
21 member is rejected by the legislature or the legislature adjourns
22 without confirming the member.

23 Sec. 42.40.030. TERM OF OFFICE; REMOVAL. (a) Except for the
24 commissioner of commerce and economic development, and the commission-
25 er of transportation and public facilities, the members of the board
26 serve for staggered terms of five years each.

27 (b) The governor may, by written notice to a member, remove the
28 member from the board for

29 (1) incapacitation caused by injury or sickness that leaves

1 the member unable to perform duties under this chapter;

2 (2) continued refusal or inability to attend meetings of
3 the board;

4 (3) conviction of a felony; or

5 (4) malfeasance or misfeasance.

6 Sec. 42.40.040. VACANCIES. (a) Except for the commissioner of
7 commerce and the commissioner of transportation and public facilities,
8 a vacancy on the board is filled by appointment by the governor, and
9 the appointment must be confirmed by the members of each house of the
10 legislature in joint session. A member appointed to fill a vacancy
11 holds office for the balance of the term for which the member's prede-
12 cessor was appointed.

13 (b) A vacancy on the board does not impair the authority of a
14 quorum of members to exercise the powers and perform the duties of the
15 board.

16 (c) An appointed member of the board whose term has expired
17 shall serve until a successor has been appointed.

18 Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed
19 member of the board is entitled to compensation at a rate of \$400 for
20 each day the member is engaged in the actual performance of duties as
21 a member of the board. The board may provide by rule for compensation
22 for partial days during which an appointed member is engaged in actual
23 performance of duties as a member of the board.

24 (b) In addition to compensation under (a) of this section, an
25 appointed member of the board is entitled to per diem and travel
26 expenses authorized by law for state boards and commissions.

27 Sec. 42.40.060. BOARD OFFICERS. (a) The board shall elect from
28 its membership a chairman and vice-chairman and prescribe their duties
29 by rule.

1 (b) The board shall appoint a secretary and prescribe the duties
2 of the secretary.

3 ARTICLE 2. MANAGEMENT.

4 Sec. 42.40.100. MANAGEMENT BY THE BOARD. The board is responsi-
5 ble for the management of the corporation but may delegate certain
6 powers and duties to the chief executive officer in accordance with
7 AS 42.40.120. In managing the corporation the board shall

8 (1) be responsible for the management of the financial and
9 legal obligations of the Alaska Railroad;

10 (2) operate the Alaska Railroad as a common carrier subject
11 to the jurisdiction of the United States Interstate Commerce Commis-
12 sion consistent with 45 U.S.C. 1207;

13 (3) generally manage the corporation on a self-sustaining
14 basis;

15 (4) provide for safe, efficient, and economical railroad
16 transportation to meet the overall needs of the state;

17 (5) raise needed capital for expansion by issuing bonds of
18 the corporation while ensuring that borrowing by the corporation does
19 not directly or indirectly endanger the state's own borrowing
20 capacity;

21 (6) review state and other land disposal proposals to aid
22 in planning for future development or expansion of railroad transpor-
23 tation services;

24 (7) ensure that standards of the United States Interstate
25 Commerce Commission for class I railroads are used for accounting
26 purposes by the corporation;

27 (8) ensure that the procurement procedures of the corpora-
28 tion comply with the procurement standards and procedures established
29 for state agencies to the extent practicable consistent with efficient

1 railroad operations;

2 (9) apply to the legislature for an appropriation to be
3 used to provide a service that is not otherwise self-sustaining if a
4 subsidy is required to maintain that service.

5 Sec. 42.40.110. EXECUTIVE OFFICERS. (a) The board shall ap-
6 point the chief executive officer of the corporation who serves at the
7 pleasure of the board. The board shall fix the compensation for the
8 chief executive officer.

9 (b) The chief executive officer of the corporation shall appoint
10 and fix the compensation for other executive officers. The compensa-
11 tion for an executive officer appointed under this subsection is
12 subject to board approval.

13 Sec. 42.40.120. DELEGATION. (a) The board may by rule delegate
14 to the chief executive officer powers and duties necessary or appro-
15 priate for the management of the daily affairs and operations of the
16 corporation.

17 (b) The board shall by rule establish procedures for carrying
18 out the following powers and duties of the corporation and may dele-
19 gate the exercise of the following powers and duties in accordance
20 with the procedures to the chief executive officer or other executive
21 officers designated by the board:

22 (1) leasing, granting easements in, issuing permits for the
23 use of, or conveying other interests in property, except the corpo-
24 ration's entire interest in land;

25 (2) establishing specific rates, tariffs, divisions, and
26 contract rate agreements;

27 (3) making routine changes in service levels;

28 (4) establishing procurement and accounting procedures for
29 the corporation; and

1 (5) performing procurement activities.

2 (c) The board may by rule require the exercise of a power or
3 duty delegated under (a) or (b) of this section to be subject to board
4 approval. Specific board approval is required for the following:

5 (1) issuing bonds;

6 (2) mortgaging or pledging corporation assets;

7 (3) donating property or other assets belonging to the
8 corporation;

9 (4) acting as a surety or guarantor;

10 (5) adopting a long-range program or capital improvement
11 plan;

12 (6) adopting annual reports;

13 (7) effecting general, comprehensive increases and de-
14 creases in rates;

15 (8) diversifying, expanding, or reducing services in a
16 major way;

17 (9) expanding the main or branch rail lines, other than
18 performing routine track alignment as necessary to maintain service
19 levels in effect on the date of transfer;

20 (10) selecting independent auditors and accountants;

21 (11) exercising the power of eminent domain;

22 (12) entering into collective bargaining agreements;

23 (13) adopting annual budgets; and

24 (14) beginning capital projects with an estimated completion
25 cost of more than \$500,000 or an estimated completion time of more
26 than one year.

27 ARTICLE 3. ADMINISTRATIVE PROVISIONS.

28 Sec. 42.40.150. MEETINGS OF THE BOARD. (a) The chairman of the
29 board shall call meetings of the board at least once every three

1 months and may call other meetings of the board as necessary. The
2 chairman shall preside at meetings.

3 (b) Except for executive sessions, the meetings of the board are
4 public. The board shall provide by rule for a method of providing
5 notice to the public of its meetings.

6 (c) The board shall keep minutes of each meeting.

7 Sec. 42.40.160. QUORUM AND VOTING. (a) Five members of the
8 board constitutes a quorum for the transaction of business.

9 (b) Five affirmative votes are required for board action. The
10 board shall provide by rule for the manner of voting, except that the
11 board may not provide for voting by proxy. The rules may provide for
12 voting and conferring by telecommunication devices.

13 Sec. 42.40.170. EXECUTIVE SESSIONS. (a) The question of hold-
14 ing an executive session shall be determined in accordance with
15 AS 42.40.160. A subject may not be considered at an executive session
16 unless it is mentioned in the motion calling for the executive session
17 or is auxiliary to a subject mentioned. An action may not be taken at
18 an executive session.

19 (b) Only the following subjects may be discussed in an executive
20 session:

21 (1) matters, the immediate knowledge of which would clearly
22 have an adverse effect upon the finances of the corporation;

23 (2) unless the person has requested to have the subjects
24 discussed in public, subjects that tend to prejudice the reputation
25 and character of a person;

26 (3) matters that, by law or municipal charter or ordinance,
27 are permitted to be kept confidential from public disclosure;

28 (4) matters pertaining to personnel;

29 (5) matters pertaining to the corporation's legal position;

1 (6) land acquisition or disposal; and

2 (7) proprietary or other information of a type treated as
3 confidential under the standards and practices of the United States
4 Interstate Commerce Commission, including practices that protect
5 information associated with specific shippers, divisions, and contract
6 rate agreements.

7 Sec. 42.40.180. RULES. (a) The board shall adopt rules to
8 carry out its functions and the purposes of this chapter, including
9 rules to safeguard property owned, managed, or transported by the
10 corporation and to protect employees and persons using the corpora-
11 tion's property or services. At least 15 days before the adoption of
12 a rule, the board shall give public notice of the proposed action by
13 publishing a notice in at least three newspapers of general circula-
14 tion in the state and by mailing a copy of the notice to each person
15 who has requested notice of proposed rules. The notice must state the
16 time, place, and nature of the proceedings and must contain a summary
17 of the subject of the proposed change.

18 (b) On the date and at the time and place designated in the
19 notice required under (a) of this section the board shall provide each
20 interested person an opportunity to present statements in writing
21 concerning the proposed rule and shall give members of the public an
22 opportunity to present oral statements for a total period of at least
23 one hour.

24 (c) The board shall consider all relevant matters presented to
25 it before adopting a rule. The board may take action on a rule that
26 varies in content from the summary provided with the notice of the
27 proposed rule if the subject of the rule was reflected in the summary
28 and it provided reasonable notice to the public as to whether their
29 interests could be affected by the board's action on that subject.

1 (d) The board shall establish in the bylaws of the corporation
2 additional procedures for adopting rules if necessary.

3 Sec. 42.40.190. EMERGENCY RULES. (a) The board shall establish
4 in the bylaws of the corporation a procedure for the adoption of a
5 rule on an emergency basis. An emergency rule may be adopted only
6 when necessary for the orderly operation of the corporation's facil-
7 ities or programs. The requirements of AS 42.40.180 do not apply to
8 actions taken under this section. However, within 10 days after the
9 adoption of a rule on an emergency basis the board shall give notice
10 of its action that substantially complies with the notice requirements
11 of AS 42.40.180(a).

12 (b) An action taken under this section remains in effect for not
13 more than 120 days. To prevent an emergency rule from lapsing the
14 board may adopt the same rule under AS 42.40.190 before the end of the
15 120-day period.

16 Sec. 42.40.200. VALIDITY OF RULES. (a) Failure to mail notice
17 to a person under AS 42.40.180(a) or 42.40.190(a) does not invalidate
18 an action taken by the board.

19 (b) An interested person may challenge a rule adopted by the
20 board by bringing an action in the superior court. In addition to
21 other grounds, a court may declare a rule invalid

22 (1) for substantial failure by the board to comply with
23 AS 42.40.180 or 42.40.190; or

24 (2) if the rule was adopted under AS 42.40.190, upon the
25 grounds that the emergency rule was not necessary for the orderly
26 operation of the corporation's facilities or programs.

27 Sec. 42.40.205. APPLICATION. Adoption of a rule is not subject
28 to AS 42.40.180 or 42.40.190 if it

29 (1) relates only to the internal management of the

1 corporation;

2 (2) relates to specific rates, tariffs, divisions, and
3 contract rate agreements;

4 (3) relates to service schedules of the railroad;

5 (4) is directed to a specifically named person or to a
6 group of persons and does not apply to the general public; or

7 (5) relates to the use of public works under the jurisdic-
8 tion of the corporation if the effect of the order is indicated to the
9 public by means of signs or signals.

10 Sec. 42.40.210. PREVIOUSLY ADOPTED RULES AND ORDERS. (a) The
11 board may provide by resolution that rules and orders in effect on the
12 date of transfer remain in effect until amended or repealed by the
13 board. The board may adopt the substance of former federal rules or
14 orders relating to the Alaska Railroad and this may not be considered
15 a continuation of the federal rules or orders if adopted by the board
16 in accordance with procedural requirements of this chapter or other
17 law.

18 (b) AS 42.40.180 does not apply to actions taken under this
19 section.

20 Sec. 42.40.220. PUBLIC DISCLOSURE OF INFORMATION. (a) Except
21 as provided under (b) of this section, information in the possession
22 of the corporation is public and is open to public inspection at
23 reasonable times.

24 (b) The corporation may by rule designate as confidential and
25 withhold public disclosure of matters of a nonpublic, privileged, or
26 proprietary nature. Those matters include personnel records, communi-
27 cations with and work product of legal counsel, and, consistent with
28 the standards and practices of the United States Interstate Commerce
29 Commission for the protection of these matters, other information

1 including proprietary information associated with specific shippers,
2 divisions and contract rate agreements.

3 Sec. 42.40.230. CONFLICTS OF INTEREST. (a) Except as provided
4 in this section, a board member or executive officer of the corpora-
5 tion may not participate in a decision of the corporation in which
6 that person or a member of that person's immediate family has a direct
7 or indirect financial interest unless the financial interest is a
8 remote financial interest and participation is approved under (b) of
9 this section.

10 (b) A board member or executive officer may participate in a
11 decision if that person or a member of that person's immediate family
12 has only a remote interest, the fact and extent of the interest is
13 disclosed to the board in a public meeting and is noted in the minutes
14 of the board before any participation by the member or in the deci-
15 sion, and thereafter in a public meeting the board by vote authorizes
16 or approves the participation. If the person whose participation is
17 under consideration is a board member, that person may not vote under
18 this subsection. For purposes of this subsection, "remote interest"
19 means an interest that in good faith is defined as remote by rules
20 adopted by the corporation.

21 (c) A board member or executive officer is not considered to be
22 financially interested in a decision when the decision could not
23 affect that person in a manner different from its effect on the public
24 or community.

25 (d) Within 120 days of the first meeting of the board, the board
26 shall adopt and may subsequently amend rules implementing this sec-
27 tion, providing additional conflict of interest and ethical rules it
28 considers appropriate, and providing for the removal by the board of a
29 board member or executive officer who intentionally violates a

1 prohibition contained in this section.

2 (e) For purposes of this section

3 (1) "participate in a decision" includes all discussions,
4 deliberations, preliminary negotiations, and votes;

5 (2) "immediate family" means

6 (A) spouse;

7 (B) dependent parent, parent-in-law, child, son-in-
8 law, daughter-in-law, sibling, uncle, aunt, niece, or nephew.

9 Sec. 42.40.240. COMPLAINT PROCEDURE. The board shall provide by
10 rule for a formal procedure for the receipt and consideration of
11 complaints or suggestions regarding activities of the corporation.

12 ARTICLE 4. POWERS AND DUTIES.

13 Sec. 42.40.250. GENERAL POWERS. In addition to the exercise of
14 other powers authorized by law, the corporation may

15 (1) adopt a seal;

16 (2) adopt bylaws governing the business of the corporation;

17 (3) sue and be sued;

18 (4) appoint trustees and agents of the corporation and
19 prescribe their powers and duties;

20 (5) hire legal counsel to represent the corporation;

21 (6) make contracts and execute instruments necessary or
22 convenient in the exercise of its powers and duties;

23 (7) acquire by purchase, lease, bequest, devise, gift,
24 exchange, condemnation, the satisfaction of debts, the foreclosure of
25 mortgages, or otherwise, personal property, rights, rights-of-way,
26 franchises, easements, and other interest in land, and acquire by
27 appropriation water rights that are located in the state, taking title
28 to the property in the name of the corporation;

29 (8) hold, maintain, use, operate, improve, lease, encumber

1 and otherwise grant security interests in land or personal property
2 and exchange, donate, convey, alienate, or otherwise dispose of per-
3 sonal property, subject to other provisions of this chapter;

4 (9) contract with and accept transfers, gifts, grants or
5 loans of funds or property from the United States and the state or its
6 political subdivisions, subject to other provisions of federal or
7 state law or municipal ordinances;

8 (10) undertake and provide for the management, operation,
9 maintenance, use, and control of all of the property of the corpo-
10 ration, including tracks, equipment and other property transferred to
11 the corporation by the federal government or any person;

12 (11) recommend to the legislature and the governor any tax,
13 financing, or financial arrangement the corporation considers appro-
14 priate to carry out the duties under this chapter;

15 (12) maintain offices and facilities at places it desig-
16 nates;

17 (13) apply to the state, the United States, and foreign
18 countries or other proper agencies for the permits, licenses, rights-
19 of-way, or approvals necessary to construct, maintain, and operate
20 transportation and related services, and obtain, hold, and reuse the
21 licenses and permits in the same manner as other railroad operators;

22 (14) prescribe rates to be charged for services provided by
23 the Alaska Railroad consistent with 45 U.S.C. 1201 - 1214 (Alaska
24 Railroad Transfer Act of 1982);

25 (15) determine the routes, schedules, and types of service
26 to be provided by the Alaska Railroad;

27 (16) enter into contracts, leases, and other agreements
28 with connecting carriers, shippers, and other persons concerning the
29 services, activities, operations, property, and facilities of the

1 corporation, including agreements that contain provisions to preserve
2 and expand the railroad's traffic base;

3 (17) plan for and undertake expansion of the railroad and
4 railroad activities, including extension of the rail system, and
5 contract with other modes of transportation service connecting to the
6 rail system;

7 (18) hire and discharge railroad personnel and determine
8 benefits and other terms and conditions of employment;

9 (19) assume all rights, liabilities, and obligations of the
10 Alaska Railroad consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad
11 Transfer Act of 1982);

12 (20) maintain or provide for a security force to protect
13 property owned, managed or transported by the corporation and persons
14 using railroad transportation services provided by the corporation;

15 (21) issue its bonds and provide for and secure their pay-
16 ment, provide for the rights of their holders and hold or dispose of
17 them;

18 (22) purchase the corporation's bonds at a price not more
19 than the principal amount of them plus interest;

20 (23) cancel bonds of the corporation purchased by the corpo-
21 ration;

22 (24) secure the payment of its bonds by pledge, mortgage, or
23 other lien on its contracts, revenue, income, or property;

24 (25) consent to the modification of the rate of interest,
25 time of payment of an installment of principal or interest, or other
26 term of a loan, contract, or agreement to which the corporation is a
27 party;

28 (26) borrow money, including the amounts necessary to estab-
29 lish reasonable reserves, and pay financing charges and interest on

1 the obligations for a reasonable period after which the corporation
2 estimates other money will be available to pay the interest, consul-
3 tant, advisory, and legal fees, and other expenses necessary or inci-
4 dent to borrowing;

5 (27) acquire, hold, and dispose of stocks, memberships,
6 contracts, bonds, general or limited partnership interests or other
7 interests in another corporation, association, partnership, joint
8 venture, or other legal entity, and exercise the powers or rights in
9 connection with these interests that are provided in contracts or
10 agreements and that are allowed by law concerning the satisfaction of
11 debts;

12 (28) undertake and provide for the acquisition, construc-
13 tion, maintenance, equipping, and operation of connecting, switching,
14 terminal, or other railroads and railroad facilities in the state;

15 (29) do all things necessary or desirable to carry out the
16 powers and duties of the corporation granted or necessarily implied in
17 this chapter or other laws of the state or the laws or regulations of
18 the federal government.

19 Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end
20 of the fiscal year of the Alaska Railroad the board shall distribute
21 to the governor and to the legislature a report describing the opera-
22 tions and financial condition of the corporation during the preceding
23 fiscal year. The report may include suggestions for legislation re-
24 lating to the structure, powers or duties of the corporation or to the
25 operation or facilities of the corporation. Subject to AS 42.40.220,
26 the report shall itemize the cost of providing each category of ser-
27 vice offered by the railroad and the income generated by each cate-
28 gory.

29 Sec. 42.40.270. AUDITS. (a) The board shall have the financial

1 records of the corporation audited annually by an independent cer-
2 tified public accountant experienced in railroad accounting. The
3 board shall have an annual performance audit conducted by a recognized
4 railroad management expert to assure that the railroad is being man-
5 aged and operated effectively and efficiently in accordance with the
6 requirements of this chapter. Auditors shall use the standards of the
7 United States Interstate Commerce Commission for Class I railroads.

8 (b) The corporation shall make all of its financial records
9 available to an auditor appointed by the governor and to the legisla-
10 tive audit division for examination. Disclosure to the public by the
11 auditor or legislative audit division of this information is subject
12 to AS 42.40.200 and rules implementing that section.

13 Sec. 42.40.280. STATE OVERSIGHT REPORTS. (a) The board shall
14 provide a state oversight report to the governor and the legislature
15 before undertaking

16 (1) expansion, reduction, or diversification of services
17 provided by the railroad upon the date of transfer or as provided
18 under this chapter that the board determines would represent a signif-
19 icant and permanent change in the level and nature of services pro-
20 vided;

21 (2) extension of the main or branch lines by more than 25
22 miles or five percent of the railroad's total track mileage, whichever
23 is greater;

24 (3) the issuance of securities, bonds or contracts in an
25 amount exceeding \$5,000,000; or

26 (4) an application for an appropriation to be used for
27 providing any service that is not self-sustaining.

28 (b) The report under (a) of this section shall be in writing,
29 describe the proposed undertaking in detail, and specify

- 1 (1) its financial impact on the corporation;
- 2 (2) its impact on the level and nature of services provided
3 by the corporation;
- 4 (3) the reasons the action is necessary or desirable to
5 achieve the purposes of this chapter; and
- 6 (4) whether and when the undertaking is expected to be
7 self-sustaining financially.

8 Sec. 42.40.285. LEGISLATIVE APPROVAL REQUIRED. Unless the
9 legislature approves the action by law, the corporation may not

- 10 (1) exchange, donate, sell, or otherwise convey its entire
11 interest in land;
- 12 (2) issue securities, bonds, or contracts in an amount
13 exceeding \$5,000,000;
- 14 (3) extend main or branch lines by more than 25 miles or
15 five percent of the railroad's total track mileage, whichever is
16 greater.

17 Sec. 42.40.290. LONG RANGE PROGRAM AND CAPITAL IMPROVEMENT
18 PLANS. (a) The corporation shall prepare and the board shall adopt a
19 long range program plan and a capital improvement plan. The board
20 shall consult with affected state agencies and municipalities in
21 preparing the plans. The long range program plan shall explain the
22 manner in which the corporation intends to accomplish the purposes of
23 this chapter during each of the five years after the plan is adopted.
24 The capital improvement plan shall present and explain the corpora-
25 tion's anticipated capital improvements for each of the five years
26 after the plan is adopted and shall reflect efforts to upgrade the
27 railroad and develop safer, more cost-effective rail operations.

28 (b) The board shall annually review and update the long range
29 program and capital improvement plans. The board shall provide copies

1 of the updated plans to the governor and the legislature by December 1
2 of each year.

3 Sec. 42.40.300. USE OF CORPORATION ASSETS. The corporation
4 shall apply all money, property, other assets, and credit of the
5 corporation toward activities authorized by this chapter. The corpo-
6 ration may not issue shares of stock, pay dividends, make private
7 distributions of assets, make loans to board members or employees, or
8 engage in business for private benefit. The use of money, property,
9 other assets, or credit of the corporation for a purpose not author-
10 ized by law by a person having the possession or control of it is
11 prohibited.

12 Sec. 42.40.310. INDEMNIFICATION. (a) The corporation may
13 defend and indemnify a current or former member of the board, em-
14 ployee, or agent of the corporation against all costs, expenses, judg-
15 ments, and liabilities, including attorney's fees, incurred by or
16 imposed upon that person in connection with a civil or criminal action
17 in which the person is involved by affiliation with the corporation,
18 if the person acted in good faith on behalf of the corporation and
19 within the scope of official duties or powers.

20 (b) The corporation may purchase insurance to protect and hold
21 personally harmless its employees, agents, and board members from an
22 action, claim, or proceeding arising out of the performance, purported
23 performance, or failure of performance, in good faith, of duties for,
24 or employment with, the corporation and to hold them harmless from
25 expenses connected with the defense, settlement, or monetary judgments
26 from that action, claim, or proceeding. The purchase of insurance is
27 discretionary with the board and insurance is not considered to be
28 compensation to the insured person.

29 ARTICLE 5. CORPORATION PROPERTY.

1 Sec. 42.40.350. LAND. (a) The corporation shall take title in
2 its own name to all land transferred under 45 U.S.C. 1201 - 1214
3 (Alaska Railroad Transfer Act of 1982). All land that is transferred
4 or acquired by the corporation is designated as follows:

5 (1) railroad rights-of-way are railroad utility corridors;

6 (2) land outside the railroad utility corridors is rail
7 land.

8 (b) A railroad utility corridor shall be of a width at least 100
9 feet on both sides of the centerline of the extended main or branch
10 line, unless the corporation does not own or control sufficient land
11 for a corridor of that width. A railroad utility corridor may be
12 surveyed by the metes and bounds method. The corporation may not
13 convey its entire interest in land within a railroad utility corridor
14 except as provided in AS 42.40.285, 42.40.370(d), and 42.40.400. The
15 corporation may lease, grant easements or permits, or otherwise autho-
16 rize use of portions of a utility corridor for transportation, commu-
17 nication, and transmission purposes, including pipelines and support
18 functions associated with those purposes and for commercial and other
19 uses if the use does not restrict other parallel uses of the utility
20 corridor.

21 (c) The corporation may lease, grant easements or permits, or
22 otherwise authorize use of portions of rail land. However, the corpo-
23 ration may not convey its entire interest in rail land except as
24 provided in AS 42.40.285, 42.40.370(d), and 42.40.400.

25 (d) A lease by the corporation to a party other than the state
26 shall be made at fair market value as determined by appraisal by a
27 qualified appraiser or by competitive bid.

28 Sec. 42.40.360. REQUEST FOR LAND. (a) The board may nominate
29 federal land it determines may be useful for railroad purposes and

1 request the commissioner of natural resources to select the land for
2 the state through the federal land selection process.

3 (b) The board may identify and request the commissioner of
4 natural resources to convey land necessary or useful for present or
5 future railroad purposes owned by or tentatively approved for transfer
6 to the state, including land not contiguous to land already held by
7 the corporation. The request must include a statement of and justi-
8 fication for the present or future railroad use. Upon receipt of a
9 request, the commissioner shall temporarily reserve the land iden-
10 tified in the request for railroad purposes and defer disposal or
11 lease of that land under other laws to a party other than the corpo-
12 ration. The temporary reservation of land is subject to valid exist-
13 ing rights and remains in effect for 180 days.

14 Sec. 42.40.370. CONVEYANCE OF STATE LAND. (a) Within 90 days
15 after receiving a request under AS 42.40.360(b) the commissioner of
16 natural resources shall by written decision

17 (1) designate the identified land for railroad purposes
18 and, subject to valid existing rights, convey the state's interests in
19 the land to the corporation;

20 (2) notify the corporation of reasons for refusal to desig-
21 nate the identified land for railroad purposes; or

22 (3) approve in part and deny in part the request for desig-
23 nation of the identified land and convey as appropriate.

24 (b) A conveyance of land under this section may be for less than
25 fair market value as determined by the commissioner of natural re-
26 sources.

27 (c) In the absence of a reservation to the contrary, a convey-
28 ance of land under this section vests in the corporation ownership,
29 control of the surface, material, and mineral estate, including the

1 right to extract or use timber and other construction materials, sand,
2 gravel, rock, and the right to tunnel, ditch, recontour, excavate, or
3 otherwise use the land for railroad, transportation, transmission, or
4 communication services.

5 (d) The corporation may reconvey to the state land received
6 under this section, under 45 U.S.C. 1201 - 1214 (Alaska Railroad
7 Transfer Act of 1982), by eminent domain, or otherwise that the corpo-
8 ration and the commissioner of natural resources jointly identify as
9 unnecessary or unsuitable for the corporation's purposes.

10 Sec. 42.40.380. USE OF STATE LAND. When emergency conditions
11 require that track or other right-of-way fixtures of the corporation
12 be moved from the existing location and relocated on state land adja-
13 cent to or in the vicinity of the existing right-of-way and the chief
14 executive officer determines that relocation is necessary to maintain
15 safe and adequate rail operations, the corporation may effect the
16 relocation with the concurrence of the Department of Natural Re-
17 sources. The relocation must affect only the amount of state land
18 necessary to adequately restore or continue safe rail operations at a
19 normal level.

20 Sec. 42.40.390. EMINENT DOMAIN. (a) The corporation may exer-
21 cise the power of eminent domain under AS 09.55.240 - 09.55.460 to
22 acquire land for railroad purposes consistent with this chapter.
23 Notwithstanding AS 09.55.250, the corporation may acquire a fee simple
24 title whenever, in the judgment of the board, ownership of a fee
25 simple title is necessary to carry out the purposes of this chapter.

26 (b) The corporation may file a declaration of taking in the
27 manner provided for the state under AS 09.55.420.

28 (c) The power of eminent domain conferred under this section
29 includes the power to obtain clay, gravel, sand, timber, rock, or

1 other material for the operation of the railroad, the land necessary
2 to obtain the material, and access to the land and material.

3 Sec. 42.40.400. VACATION OF EASEMENTS. The corporation may
4 vacate an easement acquired under 45 U.S.C. 1201 - 1214 (Alaska Rail-
5 road Transfer Act of 1982) by executing and filing a deed in the
6 appropriate recording district. Upon filing the deed the state shall
7 acquire the easement for use in conformity with 45 U.S.C. 1201 - 1214.

8 Sec. 42.40.410. FEDERAL LAND. The corporation may submit appli-
9 cations on its own behalf as an instrumentality of the state for
10 acquisition of federal land that will enhance the operations of the
11 corporation if it is available under a federal law other than the
12 Alaska Statehood Act of 1958 (P.L. 85-508, 72 Stat. 339). The corpo-
13 ration may receive in its own name conveyances of all interests in
14 federal land.

15 Sec. 42.40.420. MUNICIPAL USE OF LAND. Upon request of a munic-
16 ipality the corporation may authorize use of the railroad utility
17 corridor or rail land for a pedestrian walkway or trail. Before
18 authorizing a use under this section the board shall require the
19 municipality to execute an agreement in a form approved by the board
20 to

21 (1) hold the corporation harmless from and indemnify the
22 corporation for liability and claims arising from any use authorized
23 under this section including

24 (A) defending the corporation in a cause of action
25 brought against the corporation as a result of the use; and

26 (B) indemnifying the corporation for the amount of a
27 judgment, including prejudgment and postjudgment interest, ren-
28 dered against the corporation or for the amount of a settlement
29 entered into by the corporation, and for all costs and attorney's

1 fees incurred by the corporation in settling or defending the
2 claim; and

3 (2) stop the use upon request of the corporation if the use
4 interferes with expansion or replacement of railroad facilities,
5 creates a safety hazard, or interferes with railroad operations.

6 Sec. 42.40.430. ACQUISITION OF GOVERNMENT PROPERTY. The corpor-
7 ation, as an instrumentality of the state, may acquire in its own name
8 from the United States under 50 App U.S.C. 1622 - 1622c (Surplus
9 Property Act of 1944), 40 U.S.C. 471 et seq. (Federal Property and
10 Administrative Services Act of 1949), or other law, property under the
11 control of a federal department or agency that is useful for the
12 corporation's purposes. The corporation may acquire from the Depart-
13 ment of Administration property of the state made available under
14 AS 44.71.010 - 44.71.040.

15 Sec. 42.40.435. EXCHANGE OF LAND. The corporation may exchange
16 land subject to AS 42.40.285. The corporation is an instrumentality
17 and agency of the state for purposes of exchanging land with the
18 United States, municipalities, corporations including corporations
19 formed under 43 U.S.C. 1601 - 1628 (Alaska Native Claims Settlement
20 Act), and individuals.

21 Sec. 42.40.440. USE OF PESTICIDES AND HERBICIDES. Vegetation
22 control involving the use of pesticides or herbicides on land owned or
23 managed by the corporation may be conducted only in compliance with
24 state requirements applicable to other state pesticide or herbicide
25 use.

26 Sec. 42.40.450. ADVERSE POSSESSION. No prescription or statute
27 of limitations runs against the title or interest of the corporation
28 to or in land owned by the corporation or under its jurisdiction.
29 Title to or interest in land owned by the corporation or under its

1 jurisdiction may not be acquired by adverse possession or prescrip-
2 tion, or in any other manner except by conveyance from or formal
3 vacation by the corporation.

4 ARTICLE 6. FINANCIAL PROVISIONS.

5 Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred
6 by the corporation shall be satisfied exclusively from the assets or
7 revenue of the corporation and no creditor or other person has a right
8 of action against the state because of a debt, obligation, or liabil-
9 ity of the corporation.

10 Sec. 42.40.510. FIDELITY BOND. The corporation shall obtain a
11 fidelity bond in an amount determined by the board for board members
12 and each officer of the corporation responsible for accounts and
13 finances. A bond must be in effect during the entire tenure in office
14 of the bonded person.

15 Sec. 42.40.520. INSURANCE. Except as provided in AS 42.40.-
16 310(b), the corporation shall protect its assets, services, and em-
17 ployees by purchasing insurance or providing for certain self-insur-
18 ance retentions. The corporation shall also maintain casualty, prop-
19 erty, business interruption, marine, boiler and machinery, pollution
20 liability, and other insurance in amounts reasonably calculated to
21 cover potential claims against the corporation or state for bodily
22 injury, death or disability, and property damage that may arise from
23 or be related to corporation operations and activities.

24 Sec. 42.40.530. REVENUE. Revenue generated by or appropriated
25 to the corporation shall be retained and managed by the corporation
26 for railroad and related purposes in accordance with 45 U.S.C. 1207-
27 (a)(5) (Alaska Railroad Transfer Act of 1982).

28 Sec. 42.40.540. APPROPRIATIONS. The corporation may request a
29 direct appropriation or grant from the legislature to assist in

1 carrying out the provisions of this chapter.

2 ARTICLE 7. BONDS.

3 Sec. 42.40.600. GENERAL PROVISIONS. (a) The corporation by
4 resolution may issue bonds to provide money to carry out its purposes.

5 (b) Bonds may be issued in one or more series and shall, as
6 provided by the resolution of the board,

7 (1) be dated;

8 (2) bear fixed or variable interest at a required rate or
9 rates per year or within a maximum rate;

10 (3) be in a required denomination or denominations;

11 (4) be in a coupon or registered form;

12 (5) carry conversion or registration provisions;

13 (6) have a required rank or priority;

14 (7) be executed in the required manner and form;

15 (8) be payable as required from the sources, in the medium
16 of payment, and place or places inside or outside the state;

17 (9) be subject to authentication by a trustee or fiscal
18 agent; and

19 (10) be subject to terms of redemption with or without
20 premium.

21 (c) Bonds may be sold in the manner, on the terms, and at the
22 price the board determines. Bonds shall mature at the time, not
23 exceeding 50 years from their date, determined by the board, but notes
24 shall mature at the time or times determined by the board.

25 Sec. 42.40.610. NEGOTIABLE INSTRUMENTS. Bonds issued under this
26 chapter and interest coupons attached to them are negotiable instru-
27 ments under the laws of this state, subject only to applicable pro-
28 visions for registration.

29 Sec. 42.40.620. BONDS ELIGIBLE FOR INVESTMENT. Bonds issued

1 under this chapter are securities in which all public officers and
2 public bodies of the state and its political subdivisions, all insur-
3 ance companies, trust companies, banking associations, investment
4 companies, executors, administrators, trustees and other fiduciaries
5 may properly and legally invest funds, including capital in their
6 control or belonging to them. These bonds may be deposited with a
7 state or municipal officer of an agency or political subdivision of
8 the state for any purpose for which the deposit of bonds of the state
9 is authorized by law.

10 Sec. 42.40.630. PAYMENT OF BONDS. The principal and interest on
11 bonds of the corporation is payable from corporation money or assets.
12 Bonds may be additionally secured by a pledge of a grant or contribu-
13 tion from the federal, state, or municipal government or a corpora-
14 tion, association, institution or person, or a pledge of money, in-
15 come, or revenue of the corporation from any source.

16 Sec. 42.40.640. SECURITY FOR BONDS. In the discretion of the
17 board, an issue of bonds may be secured by a trust indenture, which
18 may be a trust company, bank or national banking association, with
19 corporate trust powers, located inside or outside the state, or by a
20 secured loan agreement or other instrument or under resolution giving
21 powers to a corporate trustee by means of which the corporation may

22 (1) make and enter into any and all the covenants and
23 agreements with the trustees or the holders of the bonds that the
24 corporation may determine to be necessary or desirable, including
25 covenants, provisions, limitations and agreements as to

26 (A) the application, investment, deposit, use and
27 disposition of the proceeds of bonds of the corporation or of
28 money or other property of the corporation or in which it has an
29 interest;

1 (B) the fixing and collection of rentals, charges,
2 fees or other consideration for, and the other terms to be incor-
3 porated in, contracts with respect to the use of any of the
4 corporation's property;

5 (C) the fixing and collection of tariffs, fees,
6 charges or other consideration for the use or service of the
7 Alaska Railroad by passengers, and other users and freight;

8 (D) the terms and conditions upon which additional
9 bonds of the corporation may be issued;

10 (E) the vesting in the trustee of rights and remedies
11 exercisable by the trustee for the protection of the holders of
12 bonds of the corporation and not otherwise in violation of law
13 and the restriction of the rights of an individual holder of
14 bonds of the corporation;

15 (2) pledge, mortgage, or assign money, leases, agreements,
16 assets, or property of the corporation either presently in hand or to
17 be received in the future, or both; and

18 (3) provide for any other matters of like or different
19 character that in any way affect the security or protection of the
20 bonds.

21 Sec. 42.40.650. INDEPENDENT FINANCIAL ADVISOR. In negotiating
22 the private or public sale of bonds to an underwriter, the board shall
23 retain a financial advisor who is independent from the underwriter.

24 Sec. 42.40.660. VALIDITY OF SIGNATURES. If an officer of the
25 corporation whose signature or a facsimile of whose signature appears
26 on bonds or coupons attached to them ceases to be an officer before
27 the delivery of the bond or coupon, the signature or facsimile is
28 valid the same as if the person had remained in office until delivery.

29 Sec. 42.40.670. VALIDITY OF PLEDGE. (a) The pledge of assets

1 or revenue of the corporation to the payment of the principal or
2 interest on bonds of the corporation is valid and binding from the
3 time the pledge is made and the assets or revenue are immediately
4 subject to the lien of the pledge without physical delivery or further
5 act. The lien of a pledge is valid and binding against all parties
6 having claims of any kind against the corporation, irrespective of
7 whether those parties have notice of the lien of the pledge.

8 (b) Nothing in this section prohibits the corporation from
9 selling assets subject to a pledge, except that a sale may be re-
10 stricted by the trust agreement or resolution providing for the issu-
11 ance of the bonds.

12 Sec. 42.40.675. PLEDGE OF THE STATE. The state pledges to and
13 agrees with the holders of bonds issued under this chapter and with
14 the federal agency that loans or contributes funds in respect to a
15 project, that the state will not limit or alter the rights and powers
16 vested in the corporation by this chapter to fulfill the terms of a
17 contract made by the corporation with the holders or federal agency,
18 or in any way impair the rights and remedies of the holders until the
19 bonds together with the interest on them with interest on unpaid
20 installments of interest, and all costs and expenses in connection
21 with an action or proceeding by or on behalf of the holders, are fully
22 met and discharged. The corporation is authorized to include this
23 pledge and agreement of the state, insofar as it refers to holders of
24 bonds of the corporation, in a contract with the holders and insofar
25 as it relates to a federal agency, in a contract with the federal
26 agency.

27 Sec. 42.40.680. REMEDIES. A holder of bonds issued under this
28 chapter or of coupons attached to them, and a trustee under a trust
29 agreement or resolution authorizing the issuance of the bonds, except

1 as restricted by a trust agreement or resolution, either at law or in
2 equity, may

3 (1) enforce all rights granted under this chapter, the
4 trust agreement or resolution, or any other contract executed by the
5 corporation under this chapter; and

6 (2) compel the performance of all duties of the corporation
7 required by this chapter or by the trust agreement or resolution.

8 Sec. 42.40.690. CREDIT OF STATE NOT PLEDGED. (a) The state and
9 its political subdivisions are not liable for the debts of the corpo-
10 ration. Bonds issued under this chapter are payable solely from the
11 revenue or assets of the corporation and do not constitute a

12 (1) debt, liability, or obligation of the state or of a
13 political subdivision of the state; or

14 (2) pledge of the faith and credit of the state or of a
15 political subdivision of the state.

16 (b) The corporation may not pledge the credit or the taxing
17 power of the state or its political subdivisions. Each bond issued
18 under this chapter shall contain on its face a statement that

19 (1) the corporation is not obligated to pay it or the
20 interest on it except from the revenue or assets pledged for it; and

21 (2) neither the faith and credit nor the taxing power of
22 the state or of a political subdivision of the state is pledged to the
23 payment of it.

24 Sec. 42.40.700. LIMITATION ON PERSONAL LIABILITY. A board
25 member or employee of the corporation is not subject to personal
26 liability or accountability because of the execution or issuance of
27 bonds.

28 ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

29 Sec. 42.40.705. POLITICAL ACTIVITIES. (a) Money, assets, or

1 property of the corporation may not be used for political activity.
2 However, board members and employees may communicate with and appear
3 before committees of Congress, the state legislature, and municipal
4 governing bodies in connection with matters directly affecting the
5 corporation.

6 (b) A board member or employee who violates the provisions of
7 this section is personally subject to a civil penalty assessed by a
8 judge of the superior court in an amount not to exceed \$5,000. An
9 action to enforce this section may be brought by any person.

10 Sec. 42.40.710. CORPORATION EMPLOYEES. Employees of the Alaska
11 Railroad are employees of the corporation and not of the state. The
12 provisions of AS 39 do not apply to employees of the corporation.

13 Sec. 42.40.720. COLLECTIVE BARGAINING RIGHTS. The provisions of
14 AS 23.40.070 - 23.40.260 do not apply to the corporation or to its
15 employees. However, employees who are not executive officers may
16 organize and form, join, or assist an organization to engage in col-
17 lective bargaining through representatives of their own choosing and
18 engage in concerted activities for the purpose of collective bargain-
19 ing or other mutual aid or protection.

20 Sec. 42.40.730. RAILROAD LABOR RELATIONS AGENCY. (a) There is
21 established a railroad labor relations agency that consists of three
22 members appointed by the governor. One member shall be a member of
23 the state personnel board. Members serve at the pleasure of the
24 governor.

25 (b) The railroad labor relations agency shall carry out the
26 provisions of AS 42.40.710 - 42.40.890.

27 (c) Members of the railroad labor relations agency receive no
28 compensation for their services, but are entitled to per diem and
29 travel expenses authorized for boards and commissions.

1 Sec. 42.40.740. COLLECTIVE BARGAINING UNIT. The railroad labor
2 relations agency shall decide in each case, in order to ensure employ-
3 ees the fullest freedom in exercising the rights guaranteed by AS 42.-
4 40.710 - 42.40.890 the unit appropriate for the purposes of collective
5 bargaining, based on such factors as community of interest, wages,
6 hours and other working conditions of the employees involved, the
7 history of collective bargaining, and the desires of the employees.
8 Bargaining units shall be as large as is reasonable, and unnecessary
9 fragmenting shall be avoided.

10 Sec. 42.40.750. REPRESENTATIVES AND ELECTIONS. (a) The rail-
11 road labor relations agency shall investigate a petition if it is
12 submitted in a manner prescribed by the railroad labor relations
13 agency by

14 (1) an employee or group of employees or an organization
15 acting in their behalf alleging that 30 percent of the employees of a
16 proposed bargaining unit

17 (A) want to be represented for collective bargaining
18 by a labor or employee organization as exclusive representative;
19 or

20 (B) assert that the organization that has been certi-
21 fied or is currently being recognized by the corporation as
22 bargaining representative is no longer the representative of the
23 majority of employees in an appropriate unit; or

24 (2) the corporation alleging that one or more organizations
25 have presented to it a claim to be recognized as a representative of a
26 majority of employees in an appropriate unit.

27 (b) If the railroad labor relations agency has reasonable cause
28 to believe that a question of representation exists, it shall provide
29 for a hearing upon due notice. If the railroad labor relations agency

1 finds that there is a question of representation, it shall direct an
2 election by secret ballot to determine whether or by which organiza-
3 tion the employees desire to be represented and shall certify the
4 results of the election. Nothing in this subsection prohibits the
5 waiving of hearings by stipulation for the purpose of a consent elec-
6 tion in conformity with the regulations of the railroad labor rela-
7 tions agency or an election in a bargaining unit agreed upon by the
8 parties.

9 (c) The railroad labor relations agency shall determine who is
10 eligible to vote in an election held under this section and shall
11 establish rules governing the election. In an election in which none
12 of the choices on the ballot receives a majority of the votes cast, a
13 runoff election shall be conducted, the ballot providing for selection
14 between the two choices receiving the largest number of valid votes
15 cast in the election. If an organization receives the majority of the
16 votes case in the election it shall be certified by the railroad labor
17 relations agency as exclusive representative of all the employees in
18 the bargaining unit. An election may not be held in a bargaining unit
19 or in a subdivision of a bargaining unit if a valid election has been
20 held within the preceding 12 months.

21 (d) Nothing in this chapter prohibits recognition of an organiza-
22 tion as the exclusive representative by the corporation by mutual
23 consent.

24 (e) An election may not be directed by the railroad labor rela-
25 tions agency in a bargaining unit in which there is in force a valid
26 collective bargaining agreement, except during a 90-day period preced-
27 ing the expiration date. However, no collective bargaining agreement
28 may bar an election upon petition of employees in the bargaining unit
29 but not parties to the agreement if more than three years have elapsed

1 since the execution of the agreement or the last timely renewal,
2 whichever was later.

3 Sec. 42.40.760. UNFAIR LABOR PRACTICES. (a) The corporation or
4 its agent may not

5 (1) interfere, restrain, or coerce an employee in the
6 exercise of the rights guaranteed in AS 42.40.720;

7 (2) dominate or interfere with the formation, existence, or
8 administration of an organization;

9 (3) discriminate in regard to hire or tenure of employment
10 or a term or condition of employment to encourage or discourage mem-
11 bership in an organization;

12 (4) discharge or discriminate against an employee because
13 the employee has signed or filed an affidavit, petition or complaint
14 or given testimony under AS 42.40.710 - 42.40.890;

15 (5) refuse to bargain collectively in good faith with an
16 organization that is the exclusive representative of employees in an
17 appropriate unit, including the discussing of grievances with the
18 exclusive representative.

19 (b) Nothing in AS 42.40.710 - 42.40.890 prohibits the corpo-
20 ration from making an agreement with an organization to require as a
21 condition of employment

22 (1) membership in the organization that represents the unit
23 on or after the 30th day following the beginning of employment or on
24 the effective date of the agreement, whichever is later; or

25 (2) payment by the employee to the exclusive bargaining
26 agent of a service fee to reimburse the exclusive bargaining agency
27 for the expense of representing the members of the bargaining unit.

28 (c) An organization or its agents may not

29 (1) restrain or coerce

1 (A) an employee in the exercise of the rights guaran-
2 teed in AS 42.40.720; or

3 (B) the corporation in the selection of a representa-
4 tive for the purposes of collective bargaining or the adjustment
5 of grievances;

6 (2) refuse to bargain collectively in good faith with the
7 corporation, if it has been designated in accordance with AS 42.40.-
8 710 - 42.40.890 as the exclusive representative of employees in an
9 appropriate unit.

10 Sec. 42.40.770. INVESTIGATION AND CONCILIATION OF COMPLAINTS.

11 If a verified written complaint by or for a person claiming to be
12 aggrieved by a practice prohibited by AS 42.40.760 or a written accu-
13 sation that a person subject to AS 42.40.710 - 42.40.890 has engaged
14 in a prohibited practice, is filed with the railroad labor relations
15 agency, it shall investigate the complaint or accusation. If it
16 determines after a preliminary investigation that probable cause
17 exists in support of the complaint or accusation, it shall try to
18 eliminate the prohibited practice by informal methods of conference,
19 conciliation, and persuasion. Nothing said or done during this en-
20 deavor may be used as evidence in a subsequent proceeding.

21 Sec. 42.40.780. COMPLAINT AND ACCUSATION. If the railroad labor

22 relations agency fails to eliminate the prohibited practice by concil-
23 iation and to obtain voluntary compliance with AS 42.40.710 - 42.40.-
24 890 or before it attempts conciliation, it may serve a copy of the
25 complaint or accusation upon the respondent. The complaint or accusa-
26 tion and the subsequent procedures shall be handled in accordance with
27 the administrative adjudication portion of the Administrative Proce-
28 dure Act (AS 44.62).

29 Sec. 42.40.790. ORDERS AND DECISIONS. If the railroad labor

1 relations agency finds that a person named in the written complaint or
2 accusation has engaged in a prohibited practice, the railroad labor
3 relations agency shall issue and serve on the person an order or
4 decision requiring the person to cease and desist from the prohibited
5 practice and to take affirmative action that will carry out the pro-
6 visions of AS 42.40.710 - 42.40.890. If the railroad labor relations
7 agency finds that a person named in the complaint or accusation has
8 not engaged or is not engaging in a prohibited practice, the railroad
9 labor relations agency shall state its findings of fact and issue an
10 order dismissing the complaint or accusation.

11 Sec. 42.40.800. ENFORCEMENT BY INJUNCTION. The railroad labor
12 relations agency may apply to the superior court in the judicial
13 district in which the prohibited practice occurred for an order en-
14 joining the prohibited acts specified in the order or decision of the
15 railroad labor relations agency. Upon showing by the railroad labor
16 relations agency that the person has engaged or is about to engage in
17 the practice, an injunction, restraining order, or other order that is
18 appropriate may be granted by the court and shall be without bond.

19 Sec. 42.40.810. POWER TO INVESTIGATE AND COMPEL TESTIMONY. (a)
20 For the purpose of the investigations, proceedings, or hearings that
21 the railroad labor relations agency considers necessary to carry out
22 AS 42.40.710 - 42.40.890, the railroad labor relations agency may
23 issue subpoenas requiring the attendance and testimony of witnesses
24 and the production of relevant evidence.

25 (b) The railroad labor relations agency may administer oaths,
26 examine witnesses, and receive evidence.

27 (c) The attendance of witnesses and the production of evidence
28 may be required from any place in the state at any designated place of
29 hearing.

1 (d) If a person refuses to obey a subpoena issued under AS 42.-
2 40.710 - 42.40.890, the superior court in the district in which the
3 person resides or is found may, upon application by the railroad labor
4 relations agency, issue an order requiring the person to comply with
5 the subpoena.

6 Sec. 42.40.820. REGULATIONS. The railroad labor relations
7 agency shall adopt regulations under the Administrative Procedure Act
8 (AS 44.62) to carry out AS 42.40.710 - 42.40.890.

9 Sec. 42.40.830. PENALTY FOR VIOLATION OF ORDER OR DECISION. A
10 person who violates a provision of an order or decision of the rail-
11 road labor relations agency is guilty of a misdemeanor and is punish-
12 able by a fine of not more than \$500.

13 Sec. 42.40.840. MEDIATION. (a) If, after a reasonable period
14 of negotiation over the terms of a collective bargaining agreement, an
15 impasse as determined by the railroad labor relations agency exists
16 between the corporation and an organization, the railroad labor re-
17 lations agency shall appoint a person mutually agreeable to the
18 parties from a list of seven qualified mediators/arbitrators knowl-
19 edgeable in railway labor agreements to act as mediator in the dis-
20 pute.

21 (b) Before the determination of an impasse under this section,
22 the parties may also select a mediator by mutual consent.

23 (c) It shall be the function of the mediator to bring the
24 parties together to effectuate a settlement of the dispute, but nei-
25 ther the mediator nor the railroad labor relations agency has any
26 power of compulsion in mediation proceedings.

27 Sec. 42.40.850. STRIKES. (a) Following a decision by the
28 mediator to end the mediation proceedings, employees of a collective
29 bargaining unit may engage in a strike for a limited time if a

1 majority of the employees in that collective bargaining unit vote by
2 secret ballot to do so. The limit of the strike is determined by the
3 interest of the health, safety, or welfare of the public.

4 (b) The corporation may apply to the superior court in the
5 judicial district in which the strike is occurring for an order en-
6 joining the strike. A strike may not be enjoined unless it can be
7 shown that it has begun to threaten, or is about to threaten, the
8 health, safety, or welfare of the public. A court, in deciding wheth-
9 er to enjoin the strike, shall consider the total equities in the
10 particular case, including the impact of a strike on the public and
11 the extent to which an employee organization and the corporation have
12 met their statutory obligations.

13 (c) If an impasse or deadlock still exists after the issuance of
14 an injunction, the parties shall submit the dispute to binding arbi-
15 tration. The arbitrator shall be the same person selected under
16 AS 42.40.840 and shall fashion the award the arbitrator considers
17 equitable.

18 (d) Notwithstanding (a) - (c) of this section, an organization
19 and the corporation may mutually agree to submit a dispute to binding
20 arbitration at any time.

21 Sec. 42.40.860. AGREEMENTS. (a) The Department of Administra-
22 tion may participate in labor negotiations between the corporation and
23 an organization. The corporation shall seek advice of the Department
24 of Administration before entering into a collective bargaining agree-
25 ment concerning wages, hours, and other terms and conditions of em-
26 ployment. However, the final decision regarding collective bargaining
27 agreements, shall be made by the board.

28 (b) Upon the completion of negotiations between an organization
29 and the corporation, if a settlement is reached, the corporation shall

1 reduce it to writing in the form of an agreement. The agreement shall
2 include a grievance procedure that shall have binding arbitration as
3 its final step. Either party to the agreement has a right of action
4 to enforce the agreement by petition to the railroad labor relations
5 agency.

6 (c) The parties to an agreement under this section may agree to
7 terms that specify an expiration date for the agreement.

8 Sec. 42.40.870. ORGANIZATION DUES AND EMPLOYEE BENEFITS, DEDUC-
9 TION AND AUTHORIZATION. Upon written authorization of an employee
10 within a bargaining unit, the corporation shall deduct from the pay-
11 roll of the employee the monthly amount of dues, fees, and other
12 employee benefits as certified by the secretary of the exclusive
13 bargaining representative and shall deliver it to the chief fiscal
14 officer of the exclusive bargaining representative.

15 Sec. 42.40.880. EXEMPTION. Notwithstanding the provisions of
16 AS 42.40.870, a collective bargaining settlement reached, or agreement
17 entered into, under AS 42.40.860 that incorporates union security
18 provisions, including a union shop or agency shop provision or agree-
19 ment, shall safeguard the rights of nonassociation of employees having
20 bona fide religious convictions based on tenets or teachings of a
21 church or religious body of which an employee is a member. Upon
22 submission of proper proof of religious conviction to the railroad
23 labor relations agency, the agency shall declare the employee exempt
24 from becoming a member of an organization. The employee shall pay an
25 amount of money equivalent to regular organization dues, initiation
26 fees, and assessments to the organization. Nonpayment of this money
27 subjects the employee to the same penalty as if it were nonpayment of
28 dues. The receiving organization shall contribute an equivalent
29 amount of money to a charity of its choice not affiliated with a

1 religious, labor, or employee organization. The organization shall
2 submit to the railroad labor relations agency proof of contribution.

3 Sec. 42.40.885. PROHIBITED ACTS. (a) The corporation or an
4 employee may not directly or indirectly

5 (1) require or coerce an employee to participate in any way
6 in any activity or undertaking unless the activity or undertaking is
7 related to the performance of official duties;

8 (2) require or coerce an employee to make any report con-
9 cerning an activity or undertaking of the employee's activities or
10 undertakings unless the activity or undertaking is related to the
11 performance of official duties;

12 (3) except as directly related to the performance of offi-
13 cial duties, require or coerce an employee to submit to an interro-
14 gation, examination, or psychological test that is designed to elicit
15 information concerning

16 (A) a personal relationship with a person connected
17 with the employee by blood or marriage,

18 (B) the employee's religious beliefs or practices,

19 (C) sexual matters,

20 (D) the employee's political affiliation or philoso-

21 phy;

22 (4) coerce an employee to invest or contribute earnings in
23 any manner or for any purpose;

24 (5) restrict or attempt to restrict after-working-hour
25 statements, pronouncements or other activities, not otherwise prohib-
26 ited by law or personnel rule, of an employee, if the employee does
27 not purport to speak or act in an official capacity.

28 (b) The provisions of (a) of this section do not diminish the
29 authority of an authorized law enforcement agency to conduct criminal

1 investigations of employees suspected of being involved in criminal
2 activity or to investigate other activity directly related to official
3 railroad business.

4 Sec. 42.40.890. DEFINITIONS. In AS 42.40.710 - 42.40.890

5 (1) "collective bargaining" means the performance of the
6 mutual obligation of the corporation or its designated representatives
7 and the representatives of the employees to meet at reasonable times,
8 including meetings in advance of the budget making process, and nego-
9 tiating in good faith with respect to wages, hours, and other terms
10 and conditions of employment, or the negotiation of an agreement, or
11 negotiation of a question arising under an agreement and the execution
12 of a written contract incorporating an agreement reached if requested
13 by either party, but these obligations do not compel either party to
14 agree to a proposal or require the making of a concession;

15 (2) "election" means a proceeding conducted by the labor
16 relations agency in which the employees in a collective bargaining
17 unit cast a secret ballot for collective bargaining representatives,
18 or for any other purpose specified in AS 42.40.710 - 42.40.890;

19 (3) "organization" means a labor or employee organization
20 of any kind in which employees participate and that exists for the
21 primary purpose of dealing with the corporation concerning grievances,
22 labor disputes, wages, rates of pay, hours of employment and condi-
23 tions of employment;

24 (4) "terms and conditions of employment" means the hours of
25 employment, the compensation and fringe benefits, and the employer's
26 personnel policies affecting the working conditions of the employees,
27 but does not mean the general policies describing the function and
28 purposes of an employer.

29 ARTICLE 9. GENERAL PROVISIONS.

1 Sec. 42.40.900. CLAIMS. (a) All claims and lawsuits involving
2 activities of the railroad, including suits in contract, quasi-con-
3 tract, or tort, shall be brought against the corporation and not
4 against the state.

5 (b) For the purposes of actionable claims, undertakings, pay-
6 ments of judgments, execution, interest, punitive damages, statutes of
7 limitations, bonds, costs, and similar matters related to the pres-
8 entation and prosecution of claims by and against the corporation, the
9 corporation and its board members and employees enjoy the same rights,
10 privileges, and immunities as the state and state officers under
11 AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

12 (c) Claims against the corporation are not subject to the pro-
13 visions of AS 44.77 regarding claims against the state.

14 (d) The corporation is not subject to the provisions of AS 44.-
15 80.010, regarding the state as a party to an action.

16 Sec. 42.40.905. NOTICE OF LEGAL ACTIONS. (a) The corporation
17 shall notify the Department of Law within 30 days before initiating
18 legal action unless special circumstances exist that require immediate
19 legal action to protect the corporation assets or to continue existing
20 service.

21 (b) If notice of legal action is not given under (a) of this
22 section, within seven days of taking action the board shall notify the
23 Department of Law of the action taken and of the special circumstances
24 that exempted the action from the requirements of (a) of this section.

25 Sec. 42.40.910. EXEMPTION FROM TAXATION. (a) The exercise of
26 the powers granted by this chapter shall be in all respects for the
27 benefit of the people of the state, for their well-being and prosper-
28 ity, and for the improvement of their social and economic conditions.
29 Subject to (b) of this section, the real and personal property of the

1 corporation and its assets, income, and receipts are exempt from all
2 taxes and special assessments of the state or a political subdivision
3 of the state.

4 (b) Bonds and notes issued under this chapter are issued by a
5 body corporate and public of the state and for an essential public and
6 governmental purpose. Therefore, the bonds and notes, the interest
7 and income from them, and all fees, charges, funds, revenue, income
8 and other money pledged or available to pay or secure the payment of
9 the bonds and notes or interest on them, are exempt from taxation
10 except for inheritance, transfer, and estate taxes.

11 (c) This section does not affect or limit an exemption from
12 license fees, property taxes, excise taxes, income taxes, or other
13 taxes, provided under any other law, nor does it create a tax exemp-
14 tion with respect to the interest of any business enterprise or other
15 person, other than the corporation.

16 Sec. 42.40.920. APPLICATION OF EXISTING LAWS. (a) The corpo-
17 ration is not subject to the jurisdiction of the Alaska Transportation
18 Commission.

19 (b) Unless specifically provided otherwise in this chapter, the
20 following laws do not apply to the operations of the corporation:

- 21 (1) AS 19;
- 22 (2) AS 30.15;
- 23 (3) AS 35;
- 24 (4) AS 37.05;
- 25 (5) AS 37.07;
- 26 (6) AS 37.10.010 - 37.10.060;
- 27 (7) AS 37.10.085;
- 28 (8) AS 37.20;
- 29 (9) AS 37.25;

1 (10) AS 38;

2 (11) AS 44.62.040 - 44.62.320.

3 (c) The corporation is subject to AS 45.50.562 - 45.50.596.

4 Sec. 42.40.930. CONFLICTING LAWS INAPPLICABLE. If provisions of
5 this chapter conflict with the provisions of other state law, the pro-
6 visions of this chapter prevail. Provisions of this chapter shall be
7 construed so that they do not conflict with 45 U.S.C. 1201 - 1214
8 (Alaska Railroad Transfer Act of 1982).

9 Sec. 42.40.935. RAILROAD FACILITIES CODE COMPLIANCE. (a) Not
10 later than two years after the date of transfer, the Department of
11 Labor in consultation with the corporation shall develop and the
12 corporation, shall adopt a plan to achieve compliance with AS 18.60.
13 The plan shall be implemented and compliance achieved within five
14 years after it is adopted.

15 (b) No later than two years after the date of transfer, the
16 corporation in consultation with the Department of Public Safety and
17 appropriate municipal officials, shall develop and adopt a plan to
18 achieve compliance with building and related safety codes applicable
19 to facilities of the corporation. The plan shall be implemented and
20 compliance achieved within five years after it is adopted. In the
21 sole determination of the commissioner of public safety, any existing
22 building owned or controlled by the corporation that does not present
23 a serious safety hazard and for which compliance would be uneconomical
24 in consideration of its remaining useful life shall be exempted from
25 compliance with state or municipal safety codes.

26 Sec. 42.40.940. NEGOTIATION FOR SALE OF THE RAILROAD. The
27 governor may require the board to negotiate in good faith the sale of
28 the Alaska Railroad.

29 Sec. 42.40.950. REVERSION OF ASSETS. If the corporation ceases

1 to exist, for reasons other than sale of the Alaska Railroad, its
2 assets revert to the state.

3 Sec. 42.40.980. DEFINITIONS. In this chapter, unless the con-
4 text otherwise requires,

5 (1) "board" means the board of directors of the Alaska
6 Railroad Corporation;

7 (2) "bonds" means bonds, bond anticipation notes, notes,
8 refunding bonds, or other obligations;

9 (3) "corporation" means the Alaska Railroad Corporation;

10 (4) "date of transfer" means the date on which the United
11 States Secretary of Transportation delivers the transfer documents
12 under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

13 (5) "employees" means all persons employed by the corpo-
14 ration including executive officers;

15 (6) "executive officer" means the corporation's chief
16 executive officer, an employee who fulfills management functions and
17 is so designated by the board, and employees occupying the following
18 positions on the date of transfer: general manager, assistant general
19 manager, assistant to the general manager, chief of administration,
20 and general counsel;

21 (7) "land" means any interest in real property, including
22 tide and submerged land and any right appurtenant to the interest;

23 (8) "rule" means a standard of general application or the
24 amendment, supplement, revision, or repeal of a standard adopted by
25 the corporation to implement, interpret, or make specific the law
26 enforced or administered by it to govern its procedure.

27 Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as
28 the Alaska Railroad Corporation Act.

29 * Sec. 3. AS 42.40.010 is amended to read:

1 Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is
2 established the Alaska Railroad Corporation. The corporation is a
3 public corporation and is an instrumentality of the state [WITHIN THE
4 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT]. The corporation has
5 a legal existence independent of and separate from the state. The
6 exercise by the corporation of the powers provided in this chapter is
7 considered an essential government function of the state.

8 * Sec. 4. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD
9 CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act,
10 the terms of the appointed members of the first board of directors of the
11 Alaska Railroad Corporation are as follows:

- 12 (1) one shall serve a term of two years;
- 13 (2) two shall serve a term of three years;
- 14 (3) two shall serve a term of four years; and
- 15 (4) two shall serve a term of five years.

16 * Sec. 5. COLLECTIVE BARGAINING AGREEMENTS. (a) As soon as practi-
17 cable after establishment of the Alaska Railroad Corporation and before
18 transfer of the Alaska Railroad to the state, the Alaska Railroad Corpora-
19 tion and its employees shall adopt collective bargaining agreements that
20 continue the provisions of the agreements in effect between the Alaska
21 Railroad and its employees on the date of transfer of the railroad. The
22 collective bargaining agreements adopted under this section between the
23 corporation and its employees shall remain in effect to the extent required
24 under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

25 (b) The board of directors of the Alaska Railroad Corporation shall
26 on or before the date of transfer of the Alaska Railroad to the state adopt
27 personnel rules necessary to prevent an interruption of services of the
28 railroad.

29 (c) Subject to 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of

1 1982), within 180 days after the first meeting of the board of directors of
2 the Alaska Railroad Corporation, the board and representatives of employee
3 bargaining units shall establish procedures for the renegotiation of col-
4 lective bargaining agreements adopted under (a) of this section. The board
5 shall renegotiate all agreements adopted under (a) of this section within
6 two years after the date of transfer of the Alaska Railroad to the state
7 unless the parties agree to the contrary.

8 * Sec. 6. SALE OF RAILROAD. (a) Not later than two years following
9 the date of the transfer of the Alaska Railroad to the state, the Board of
10 Directors of the Alaska Railroad Corporation, in consultation with the
11 state, shall request proposals from the private sector for the acquisition
12 or operation of the Alaska Railroad. The board may engage the services of
13 an investment banking firm or other professional expertise to assist in the
14 development of the request and evaluation of proposals received. The board
15 shall consider every proposal from the private sector for the acquisition
16 or operation of the Alaska Railroad, even if it is not made in response to
17 a request for proposals under this subsection.

18 (b) In order to be considered responsive, a proposal must

19 (1) ensure continued or improved rail service;

20 (2) return to the state its investment in the Alaska Railroad to
21 the extent possible;

22 (3) be consistent with the terms and conditions of 45 U.S.C.
23 1201 - 1214 (Alaska Railroad Transfer Act of 1982), and not activate the
24 reversion provisions of 45 U.S.C. 1209 (Alaska Railroad Transfer Act of
25 1982);

26 (4) demonstrate with reasonable certainty that the railroad
27 after acquisition by the private sector will be operated as a profitable
28 carrier; as used in this paragraph, "profitable carrier" means a carrier
29 that will be able to

1 (A) generate sufficient revenue to meet its expenses,
2 including reasonable maintenance of necessary equipment and facil-
3 ities; and

4 (B) finance its capital needs in the private market; and

5 (5) demonstrate how the railroad can continue operation of
6 services, including current levels of passenger service.

7 (c) The board may negotiate the details of any proposal found to be
8 responsive, including the execution of a letter of intent to conclude a
9 transfer upon approval of the governor and the legislature.

10 (d) Within one year after requesting proposals under (a) of this
11 section, the board shall submit a report on the results of the process to
12 the governor, including its specific findings on the responsiveness of any
13 proposal received and its recommendations for conclusion of a transfer of
14 the railroad or its management to the private sector.

15 (e) Within 120 days after receipt of the board's report, if the board
16 has recommended transfer of the Alaska Railroad or its management to the
17 private sector, the governor shall

18 (1) disapprove the proposed transfer; or

19 (2) submit the report and recommendations to the legislature.

20 (f) Failure by the governor to act within 120 days after receipt of
21 the board's report shall be considered approval.

22 (g) The legislature may disapprove a proposed transfer without modi-
23 fication by law enacted within 45 days after the proposal is submitted. If
24 a proposal is submitted while the legislature is not in session, the legis-
25 lature may disapprove the proposal with 45 days after the beginning of the
26 next regular session. Failure by the legislature to act within the period
27 required under this subsection shall be considered approval of the pro-
28 posal.

29 (h) Unless a proposal under (a) of this section is approved, the

1 process provided in this section shall be repeated every two years.

2 (i) The board shall, within two years after the date of transfer of
3 the Alaska Railroad to the state, direct the executive officer of the
4 Alaska Railroad Corporation to prepare a report for the governor and the
5 legislature on the feasibility of other operational alternatives for trans-
6 fer consistent with the criteria under (b) of this section of all or part
7 of the railroad to the private sector, including allowing recipients of
8 permanent fund dividends to direct their dividends to a railroad purchase
9 fund.

10 * Sec. 7. SPECIAL REPORT. The corporation shall study any problems
11 created by vibrations due to operating the railroad from Ship Creek through
12 Inlet View to the Turnagain Area and extending to Potter's Marsh. The
13 study shall include consideration of any potential for problems that may be
14 created by hauling coal and larger quantities of gravel along that portion
15 of the rail line. By February 1, 1986, the corporation shall present a
16 report to the legislature on the study containing recommendations for
17 correcting any problems identified.

18 * Sec. 8. Section 3 of this Act takes effect on the effective date of
19 an amendment to the constitution of the State of Alaska relating to the
20 Alaska Railroad.

21 * Sec. 9. Sections 1, 2, and 4 - 7 of this Act take effect immediately
22 in accordance with AS 01.10.070(c).