

Offered: 5/11/84  
Referred: Finance

Original sponsors: Hayes, Ringstad,  
Shultz, et al

1 IN THE HOUSE BY THE TRANSPORTATION COMMITTEE  
2 SENATE CS FOR CS FOR HOUSE BILL NO. 512 (Transportation)  
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; and  
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.  
29 (b) It is the purpose of this Act to

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

6           (2) provide for the level of transportation service that best  
7 satisfies the needs of the people of the state consistent with the other  
8 findings and policies of this section;

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

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

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

18                   (C) have the ability to raise capital by issuing bonds upon  
19 approval of the legislature exempt from federal and state taxation and  
20 applying for federal money to which the state may be entitled or that  
21 may be available;

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

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

28                   (F) provide for the prudent operation of the railroad  
29 according to sound business management practices; and

1 (G) preserve the integrity of the railroad utility corridor  
2 for transportation, communication, and transmission purposes;

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

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

6 CHAPTER 40. ALASKA RAILROAD CORPORATION.

7 ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

8 Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is  
9 established the Alaska Railroad Corporation. The corporation is a  
10 public corporation and is an instrumentality of the state within the  
11 Department of Commerce and Economic Development. The corporation has  
12 a legal existence independent of and separate from the state. The  
13 continued operation of the Alaska Railroad by the corporation as  
14 provided in this chapter is considered an essential government func-  
15 tion of the state.

16 Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the  
17 corporation are vested in the board of directors. The board consists  
18 of the commissioner of commerce and economic development, the commis-  
19 sioner of transportation and public facilities, the chief executive  
20 officer of the corporation, and six members appointed by the governor.  
21 The six appointed members must be registered voters in the state  
22 except as provided in (1) and (2) of this subsection. Except for the  
23 commissioners, the chief executive officer, and the member appointed  
24 under (3) of this subsection, a member may not be a state officer or  
25 employee. Appointed members shall have the following qualifications:

26 (1) one member of the board shall be a person who has at  
27 least 10 years of experience in railroad management; a person who is  
28 not a resident of the state may be appointed under this paragraph;

29 (2) one member of the board shall be or have been an

1 executive official of a United States railroad and shall be selected  
2 in accordance with any requirements imposed under 49 U.S.C. (Inter-  
3 state Commerce Act); a person who is not a resident of the state may  
4 be appointed under this paragraph;

5 (3) one member shall be an employee who is a member of a  
6 bargaining unit representing employees of the corporation;

7 (4) at least two members, other than the member appointed  
8 under (3) of this subsection, shall be from each judicial district  
9 directly served by the Alaska Railroad;

10 (5) two members shall have at least five years experience  
11 as owners or managers of a business in the state.

12 (b) Except for the commissioners and the chief executive officer  
13 of the corporation, the members of the board shall be confirmed by a  
14 majority of the members of the legislature in joint session. A member  
15 appointed by the governor has the full powers and responsibilities of  
16 a confirmed board member until the member is rejected by the legisla-  
17 ture or the legislature adjourns without confirming the member.

18 Sec. 42.40.030. TERM OF OFFICE. Except for the commissioners of  
19 commerce and economic development, the commissioner of transportation  
20 and public facilities, and the chief executive officer of the corpora-  
21 tion, members of the board serve for staggered terms of five years  
22 each at the pleasure of the governor.

23 Sec. 42.40.040. VACANCIES. (a) Except for the commissioner of  
24 commerce, the commissioner of transportation and public facilities and  
25 the chief executive officer of the corporation, a vacancy on the board  
26 is filled by appointment by the governor, and the appointment must be  
27 confirmed by the members of the legislature in joint session. A  
28 member appointed to fill a vacancy holds office for the balance of the  
29 term for which the member's predecessor was appointed.

1 (b) A vacancy on the board does not impair the authority of a  
2 quorum of members to exercise the powers and perform the duties of the  
3 board.

4 (c) A member of the board whose term has expired shall serve  
5 until a successor has been appointed.

6 Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed  
7 member of the board is entitled to compensation at a rate of \$400 for  
8 each day the member is engaged in the actual performance of duties as  
9 a member of the board. The board may provide by rule for compensation  
10 for partial days during which an appointed member is engaged in actual  
11 performance of duties as a member of the board.

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

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

18 (b) The board shall appoint a secretary and prescribe the duties  
19 of the secretary.

20 ARTICLE 2. MANAGEMENT.

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

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

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

1 (3) generally manage the corporation on a self-sustaining  
2 basis;

3 (4) apply to the legislature for an appropriation with the  
4 concurrence of the governor to be used to provide a particular service  
5 that is not otherwise self-sustaining if a subsidy is required to  
6 maintain that service;

7 (5) provide for safe, efficient, and economical transporta-  
8 tion to meet the overall needs of the state;

9 (6) raise needed capital by issuing bonds of the corpora-  
10 tion upon approval by the legislature while ensuring that borrowing by  
11 the corporation does not directly or indirectly endanger the state's  
12 own borrowing capacity;

13 (7) review all state and other land disposal proposals to  
14 aid in planning for future development or expansion of transportation  
15 services;

16 (8) ensure that the procurement procedures of the corpora-  
17 tion meet accepted railroad industry standards;

18 (9) ensure that the accounting procedures of the corpora-  
19 tion meet generally accepted accounting principles consistent with  
20 industry standards for comparable railroads.

21 Sec. 42.40.110. EXECUTIVE OFFICERS. (a) The board shall ap-  
22 point the chief executive officer of the corporation who serves at the  
23 pleasure of the board. The board shall fix compensation for the chief  
24 executive officer.

25 (b) The chief executive officer of the corporation shall appoint  
26 and fix the compensation for other executive officers. The compen-  
27 sation for an executive officer appointed under this subsection is  
28 subject to board approval.

29 Sec. 42.40.120. DELEGATION. (a) The board shall by rule

1 delegate to the chief executive officer powers and duties necessary or  
2 appropriate for the management of the daily affairs and operations of  
3 the corporation. The board may by rule require the exercise of a  
4 delegated power or duty to be subject to board approval.

5 (b) Within 60 days after its first meeting, the board shall  
6 delegate the following activities of the corporation to the chief  
7 executive officer or other executive officers designated by the board:

8 (1) leasing subject to AS 42.40.285 and 42.40.350(d),  
9 granting easements in, issuing permits for the use of, or conveying  
10 other interests in property that do not constitute a transfer of the  
11 corporation's entire interest in land;

12 (2) establishing specific rates, tariffs, divisions, and  
13 contract rate agreements;

14 (3) making routine changes in service levels;

15 (4) establishing procurement and accounting procedures for  
16 the corporation; and

17 (5) performing procurement activities.

18 (c) Notwithstanding (a) and (b) of this section, specific board  
19 approval is required for the following:

20 (1) issuing bonds upon approval by the legislature;

21 (2) mortgaging or pledging corporation assets;

22 (3) donating property or other assets belonging to the  
23 corporation;

24 (4) acting as a surety or guarantor;

25 (5) adopting a long-range capital improvement and program  
26 plan;

27 (6) adopting annual reports;

28 (7) effecting general comprehensive increases and decreases  
29 in rates;

- 1 (8) expanding or reducing services in a major way;  
2 (9) expanding the main or branch rail lines, other than  
3 performing routine track alignment as necessary to maintain service  
4 levels in effect on the date of transfer;  
5 (10) selecting independent auditors and accountants;  
6 (11) entering into collective bargaining agreements; and  
7 (12) adopting annual budgets;  
8 (13) beginning a capital project with an estimated comple-  
9 tion cost of more than \$500,000 or an estimated completion time of  
10 more than one year;  
11 (14) exchanging, donating, selling, or otherwise conveying  
12 its entire interest in land upon approval by the legislature.

13 ARTICLE 3. ADMINISTRATIVE PROVISIONS.

14 Sec. 42.40.150. MEETINGS OF THE BOARD. (a) The chairman of the  
15 board shall call meetings of the board at least once every three  
16 months. The chairman or a majority of the members of the board may  
17 call other meetings of the board as necessary. The chairman shall  
18 preside at meetings.

19 (b) Except for executive sessions, the meetings of the board are  
20 public. The board shall provide by rule for a method of providing  
21 reasonable notice to the public of its meetings.

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

23 Sec. 42.40.160. QUORUM AND VOTING. (a) Five voting members of  
24 the board constitutes a quorum for the transaction of business.

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

29 Sec. 42.40.170. EXECUTIVE SESSIONS. (a) The question of

1 holding an executive session shall be determined in accordance with  
2 AS 42.40.160. A subject may not be considered at an executive session  
3 unless it is mentioned in the motion calling for the executive session  
4 or is auxiliary to a subject mentioned. An action may not be taken at  
5 an executive session.

6 (b) Only the following subjects may be discussed in an executive  
7 session:

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

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

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

15 (4) matters pertaining to personnel;

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

17 (6) land acquisition or disposal; and

18 (7) proprietary or other information of a type treated as  
19 confidential under the standards and practices of the United States  
20 Interstate Commerce Commission, including practices that protect  
21 information associated with specific shippers, divisions, and contract  
22 rate agreements.

23 Sec. 42.40.180. RULES. (a) The board shall adopt rules to  
24 carry out its functions and the purposes of this chapter, including  
25 rules to safeguard property owned, managed, or transported by the  
26 corporation and to protect employees and persons using the corpora-  
27 tion's property or services. At least 15 days before the adoption of  
28 a rule, the board shall give public notice of the proposed action by  
29 publishing a notice in at least three newspapers of general

1 circulation in the state and by mailing a copy of the notice to each  
2 person who has requested notice of proposed changes to rules. The  
3 notice must state the time, place, and nature of the proceedings and  
4 must contain a summary of the subject of the proposed rule.

5 (b) On the date and at the time and place designated in the  
6 notice required under (a) of this section the board shall provide each  
7 interested person an opportunity to present statements in writing  
8 concerning the proposed rule and shall give members of the public an  
9 opportunity to present oral statements for a total period of at least  
10 one hour.

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

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

19 Sec. 42.40.190. EMERGENCY RULES. (a) The board shall establish  
20 in the bylaws of the corporation a procedure for the adoption of a  
21 rule on an emergency basis. An emergency rule may be adopted only  
22 when necessary for the orderly operation of the corporation's facili-  
23 ties or programs. The requirements of AS 42.40.180 do not apply to  
24 actions taken under this section. However, within 10 days after the  
25 adoption of a rule on an emergency basis the board shall give notice  
26 of its action that substantially complies with the notice requirements  
27 of AS 42.40.180(a).

28 (b) An action taken under this section remains in effect for not  
29 more than 120 days. To prevent an emergency rule from lapsing the

1 board may adopt the same rule under AS 42.40.180 before the end of the  
2 120-day period.

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

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

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

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

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

16 (1) relates only to the internal management of the corpo-  
17 ration;

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

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

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

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

26 Sec. 42.40.210. PREVIOUSLY ADOPTED RULES AND ORDERS. The board  
27 may provide by resolution that rules and orders in effect on the date  
28 of transfer remain in effect until amended or repealed by the board.  
29 AS 42.40.180 does not apply to actions taken under this section.

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

5           (b) The corporation may by rule designate and withhold public  
6 disclosure of matters of a privileged or proprietary nature. Those  
7 matters include personnel records, communications with and work pro-  
8 duct of legal counsel, and, consistent with the standards and prac-  
9 tices of the United States Interstate Commerce Commission for the  
10 protection of these matters, other information including proprietary  
11 information associated with specific shippers, divisions and contract  
12 rate agreements.

13           Sec. 42.40.230. CONFLICTS OF INTEREST. (a) Except as provided  
14 in this section, a board member or executive officer of the corpora-  
15 tion may not participate in a decision of the corporation in which  
16 that person or a member of that person's immediate family has a direct  
17 or indirect financial interest unless the financial interest is a  
18 remote financial interest and participation is approved under (b) of  
19 this section.

20           (b) A board member or executive officer may participate in a  
21 decision if that person or a member of that person's immediate family  
22 has only a remote interest, the fact and extent of the interest is  
23 disclosed to the board in a public meeting and is noted in the minutes  
24 of the board before any participation by the member or in the deci-  
25 sion, and thereafter in a public meeting the board by vote authorizes  
26 or approves the participation. If the person whose participation is  
27 under consideration is a board member, that person may not vote under  
28 this subsection. For purposes of this subsection, "remote interest"  
29 means an interest that in good faith is defined as remote by rules

1 adopted by the corporation.

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

6 (d) Within 120 days of the first meeting of the board, the board  
7 shall adopt and may subsequently amend rules implementing this sec-  
8 tion, providing additional conflict of interest and ethical rules it  
9 considers appropriate, and providing for the removal by the board of a  
10 board member or executive officer who intentionally violates a prohi-  
11 bition contained in this section.

12 (e) For purposes of this section

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

15 (2) "immediate family" means

16 (A) spouse;

17 (B) dependent, parent, parent-in-law, child, son-in-  
18 law, daughter-in-law, sibling, uncle, aunt, niece, or nephew of  
19 the board member or executive officer.

20 ARTICLE 4. POWERS AND DUTIES.

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

23 (1) adopt a seal;

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

25 (3) sue and be sued;

26 (4) appoint trustees and agents of the corporation and  
27 prescribe their powers and duties;

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

29 (6) make contracts and execute instruments necessary or

1 convenient in the exercise of its powers and duties;

2 (7) acquire by purchase, lease, bequest, devise, gift,  
3 exchange, the satisfaction of debts, the foreclosure of mortgages, or  
4 otherwise, personal property, rights, rights-of-way, franchises,  
5 easements, and other interest in land, and acquire by appropriation  
6 water rights that are located in the state, taking title to the prop-  
7 erty in the name of the corporation;

8 (8) hold, maintain, use, operate, improve, lease, exchange,  
9 or encumber, or otherwise grant a security interest in land or person-  
10 al property and exchange, donate, convey, alienate, or otherwise  
11 dispose of personal property, subject to other provisions of this  
12 chapter;

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

17 (10) undertake and provide for the management, operation,  
18 maintenance, use, and control of all of the property of the corpo-  
19 ration, including all land and personal property of the Alaska Rail-  
20 road transferred under 45 U.S.C. 1203(a) and described in the report  
21 dated July 14, 1983, as amended, submitted to Congress and the legis-  
22 lature under 45 U.S.C. 1204(a);

23 (11) recommend to the legislature and the governor any tax,  
24 financing, or financial arrangement the corporation considers appro-  
25 priate for expansion or extension and operation of the Alaska Rail-  
26 road;

27 (12) maintain offices and facilities at places it desig-  
28 nates;

29 (13) apply to the state, the United States, and foreign

1 countries or other proper agencies for the permits, licenses, rights-  
2 of-way, or approvals necessary to construct, maintain, and operate  
3 transportation and related services, and obtain, hold, and reuse the  
4 licenses and permits in the same manner as other railroad operators;

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

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

10 (16) enter into contracts, leases, and other agreements  
11 with connecting carriers, shippers, and other persons concerning the  
12 services, activities, operations, property, and facilities of the  
13 corporation, including agreements that contain provisions to preserve  
14 and expand the railroad's traffic base;

15 (17) plan for and undertake expansion of the railroad and  
16 railroad activities, including extension of the rail system, and  
17 contract with other modes of transportation service connecting to the  
18 rail system;

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

21 (19) assume all rights and liabilities of the Alaska Rail-  
22 road in accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Trans-  
23 fer Act of 1982);

24 (20) maintain a security force to enforce municipal ordi-  
25 nances, state laws, and the corporation's rules with respect to viola-  
26 tions that occur on or to property owned, managed or transported by  
27 the corporation;

28 (21) issue its bonds upon approval of the legislature and  
29 provide for and secure their payment, provide for the rights of their

1 holders and hold or dispose of them;

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

4 (23) cancel bonds of the corporation purchased by the corpo-  
5 ration;

6 (24) secure the payment of its bonds by pledge, mortgage, or  
7 other lien on its contracts, revenues, income, or property;

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

12 (26) borrow money, including the amounts necessary to estab-  
13 lish reasonable reserves, and pay financing charges and interest on  
14 bonds for a reasonable period after which the corporation estimates  
15 other money will be available to pay the interest, consultant, advi-  
16 sory, and legal fees, and other expenses necessary or incident to  
17 borrowing;

18 (27) acquire, hold, and dispose of stocks, memberships,  
19 contracts, bonds, general or limited partnership interests or other  
20 interests in another corporation, association, partnership, joint  
21 venture, or other legal entity, and exercise the powers or rights in  
22 connection with these interests that are provided in contracts or  
23 agreements and that are allowed by law concerning the satisfaction of  
24 debts;

25 (28) undertake and provide for the acquisition, construc-  
26 tion, maintenance, equipping, and operation of connecting, switching,  
27 terminal, or other railroads and railroad facilities;

28 (29) enter into agreements with a state agency or other  
29 instrumentality of the state; and

1           (30) do all things necessary or desirable to carry out the  
2 powers and duties of the corporation granted or necessarily implied in  
3 this chapter or other laws of the state or the laws or regulations of  
4 the federal government.

5           Sec. 42.40.260. ANNUAL REPORT. (a) Within 90 days following  
6 the end of the fiscal year of the Alaska Railroad the board shall  
7 distribute to the governor and to the legislature a report describing  
8 the operations and financial condition of the corporation during the  
9 preceding fiscal year. The report may include suggestions for legis-  
10 lation relating to structure, powers or duties of the corporation or  
11 to the operation or facilities of the corporation. Subject to AS 42.-  
12 40.220, the report shall itemize the cost of providing each category  
13 of service offered by the railroad and the income generated by each  
14 category.

15           (b) Every five years the annual report shall include an analysis  
16 of potential sale arrangements whereby the corporation may be trans-  
17 ferred into private ownership. The analysis shall include documenta-  
18 tion of at least three offers to sell the corporation initiated by the  
19 corporation during the last five years.

20           Sec. 42.40.270. AUDITS. (a) The board shall have the financial  
21 records of the corporation audited annually by an independent certi-  
22 fied public accountant experienced in railroad accounting. The board  
23 shall have an annual performance audit conducted by a recognized  
24 railroad management expert to assure that the railroad is being  
25 managed and operated effectively and efficiently in accordance with  
26 the requirements of this chapter. Auditors shall use the standards  
27 required under AS 42.40.100(9).

28           (b) The corporation shall make all of its financial records  
29 available to an auditor appointed by the governor and to the

1 legislative audit division for examination. Disclosure to the public  
2 by the auditor or legislative audit division of this information is  
3 subject to AS 42.40.220 and rules implementing that section.

4 Sec. 42.40.280. STATE OVERSIGHT REPORTS. (a) The board shall  
5 provide a state oversight report to the governor and the legislature  
6 before undertaking

7 (1) expansion, reduction, or diversification of services  
8 provided by the railroad upon the date of transfer or as provided  
9 under this chapter that the board determines would represent a signif-  
10 icant and permanent change in the level and nature of services pro-  
11 vided; or

12 (2) an application for an appropriation to be used for  
13 providing any service that is not self-sustaining.

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

16 (1) its financial impact on the corporation;

17 (2) its impact on the level and nature of services provided  
18 by the corporation;

19 (3) the reasons the action is necessary or desirable to  
20 achieve the purposes of this chapter; and

21 (4) whether and when the undertaking or service is expected  
22 to be self-sustaining financially.

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

25 (1) exchange, donate, sell, or otherwise convey its entire  
26 interest in land;

27 (2) issue bonds;

28 (3) extend railroad lines; this paragraph does not apply to  
29 a spur, industrial, team, switching or side track;

1           (4) lease land for a period in excess of 20 years unless  
2 the corporation reserves the right to terminate the lease if the land  
3 is needed for railroad purposes.

4           Sec. 42.40.290. LONG-RANGE CAPITAL IMPROVEMENT AND PROGRAM PLAN.

5           (a) The corporation shall prepare and the board shall adopt a long-  
6 range capital improvement and program plan. The plan shall explain  
7 the manner in which the corporation intends to accomplish the purposes  
8 of this chapter and the corporation's anticipated capital improvements  
9 during each of the five years after the plan is adopted.

10           (b) The board shall annually review and approve revisions to the  
11 long-range capital improvement and program plan. The board shall  
12 provide copies of the updated plan to the governor and the legislature  
13 by December 1 of each year.

14           Sec. 42.40.300. USE OF CORPORATION ASSETS. The corporation  
15 shall apply all money, property, other assets, and credit of the  
16 corporation toward activities authorized by this chapter. The corpo-  
17 ration may not issue shares of stock, pay dividends, make private  
18 distributions of assets, make loans to board members or employees, or  
19 engage in business for private benefit. The use of money, property,  
20 another asset, or credit of the corporation for a purpose not author-  
21 ized by law by a person having the possession or control of it is  
22 prohibited.

23           Sec. 42.40.310. INDEMNIFICATION. (a) The corporation may  
24 defend and indemnify a current or former member of the board, em-  
25 ployee, or agent of the corporation against all costs, expenses, judg-  
26 ments, and liabilities, including attorney's fees, incurred by or  
27 imposed upon that person in connection with a civil or criminal action  
28 in which the person is involved by affiliation with the corporation,  
29 if the person acted in good faith on behalf of the corporation and

1 within the scope of official duties or powers.

2 (b) The corporation may purchase insurance to protect and hold  
3 personally harmless its employees, agents, and board members from an  
4 action, claim, or proceeding arising out of the performance, purported  
5 performance, or failure of performance, in good faith, of duties for,  
6 or employment with, the corporation and to hold them harmless from  
7 expenses connected with the defense, settlement, or monetary judgments  
8 from that action, claim, or proceeding. The purchase of insurance is  
9 discretionary with the board and insurance is not considered to be  
10 compensation to the insured person.

11 ARTICLE 5. CORPORATION PROPERTY.

12 Sec. 42.40.350. LAND. (a) The corporation shall receive from  
13 the United States and, in its own name, take title to all rail proper-  
14 ty transferred under 45 U.S.C. 1201 - 1214 (Alaska Transfer Act of  
15 1982). All land that is transferred or acquired by the corporation is  
16 designated as follows:

- 17 (1) railroad rights-of-way are railroad utility corridors;  
18 (2) land outside railroad utility corridors is rail land.

19 (b) Railroad utility corridors shall be of a width at least 100  
20 feet on both sides of the centerline of the extended main or branch  
21 line, unless the corporation does not own or control sufficient land  
22 to allow a corridor of that width. Railroad utility corridors may be  
23 surveyed by the metes and bounds method. The corporation may not  
24 convey its entire interest in land within a utility corridor except as  
25 provided in AS 42.40.285, 42.40.370(d) and 42.40.400. However, the  
26 corporation may lease, subject to AS 42.40.285 and (d) of this sec-  
27 tion, grant easements in or permits for, or otherwise authorize use of  
28 portions of a utility corridor for transportation, communication, and  
29 transmission purposes and support functions associated with those

1 purposes, and for commercial and other uses authorized under this  
2 chapter if the use does not restrict other parallel uses of the util-  
3 ity corridor.

4 (c) The corporation may lease, subject to AS 42.40.285 and (d)  
5 of this section, grant easements or permits, or otherwise authorize  
6 use of portions of rail land. However, the corporation may not convey  
7 its entire interest in rail land except as provided in AS 42.40.285,  
8 42.40.370(d) and 42.40.400.

9 (d) A lease or disposal of land approved by the legislature  
10 under AS 42.40.285 by the corporation to a party other than the state  
11 shall be made at fair market value as determined by an appraisal or by  
12 competitive bid.

13 Sec. 42.40.360. REQUEST FOR LAND. (a) The board may nominate  
14 federal land it determines may be useful for present or future rail-  
15 road purposes for selection under the Alaska Statehood Act (P.L. 85 -  
16 508, 72 Stat. 339), as amended, and request the commissioner of natu-  
17 ral resources to select the land for the state through the federal  
18 land selection process.

19 (b) The board by rule may identify and request the commissioner  
20 of natural resources to convey land necessary or useful for present,  
21 future, or intended railroad purposes owned by or tentatively approved  
22 for transfer to the state, including land not contiguous with a rail-  
23 road utility corridor or rail land. The request must include a state-  
24 ment of and justification for the present, future or intended railroad  
25 use. Upon receipt of a request, the commissioner shall temporarily  
26 reserve the land identified in the request for railroad purposes and  
27 defer disposal or lease of that land under other laws to a party other  
28 than the corporation. The temporary reservation of land is subject to  
29 valid existing rights and remains in effect for 180 days.

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

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

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

9           (3) approve the request in part and deny it in part and  
10 convey as appropriate.

11          (b) A conveyance of land under this section may be for less than  
12 its appraised value as determined by the commissioner of natural  
13 resources.

14          (c) In the absence of a reservation to the contrary, a convey-  
15 ance of land under this section vests in the corporation ownership,  
16 control of the surface, material and mineral estate, including the  
17 exclusive right to extract or use timber and other construction mate-  
18 rials, sand, gravel, rock, and the right to tunnel, ditch, recontour,  
19 excavate, or otherwise use the land for railroad, transportation,  
20 transmission, communication, and related purposes.

21          (d) The corporation may reconvey to the state land received  
22 under this section that the corporation and the commissioner of natu-  
23 ral resources jointly identify as unnecessary or unsuitable for the  
24 corporation's purposes.

25          Sec. 42.40.380. USE OF STATE LAND. When emergency conditions  
26 require that track or other right-of-way fixtures of the corporation  
27 be moved from the existing location and relocated on state land adja-  
28 cent to or in the vicinity of the existing right-of-way and the chief  
29 executive officer determines that relocation is necessary to maintain

1 safe and adequate rail operations, the corporation may effect the  
2 relocation and notify the the Department of Natural Resources. The  
3 relocation must affect only the amount of state land necessary to  
4 adequately restore or continue safe rail operations at a normal level.

5 Sec. 42.40.390. LAND USE RULES. The board may adopt exclusive  
6 rules governing land use by parties having interests in or permits for  
7 land owned or managed by the corporation. The power conferred by this  
8 section is exercised for the common health, safety, and welfare of the  
9 public and to the extent constitutionally permissible, may not be  
10 limited by the terms and conditions of leases, contracts, or other  
11 transactions.

12 Sec. 42.40.400. VACATION OF EASEMENTS. The corporation may  
13 vacate an easement acquired under this chapter by executing and filing  
14 a deed in the appropriate recording district. Upon filing the deed  
15 the state shall acquire the easement. If the easement was acquired by  
16 the corporation under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer  
17 Act of 1982), the state shall acquire the easement for use in confor-  
18 mity with those laws.

19 Sec. 42.40.410. FEDERAL LAND. The corporation may submit appli-  
20 cations on its own behalf as an instrumentality of the state for  
21 acquisition of federal land available under federal law that will  
22 enhance the operations of the corporation if it is available under a  
23 federal law other than the Alaska Statehood Act of 1958 (P.L. 85 -  
24 508, 72 Stat 339), as amended. The corporation may receive in its own  
25 name conveyances of all interests in federal land.

26 Sec. 42.40.420. MUNICIPAL USE OF RAILROAD LAND. Upon request  
27 the corporation may authorize use of railroad land for municipal  
28 purposes. Subject to AS 42.40.350(b), the corporation may authorize a  
29 municipality to establish a walkway or trail over a utility corridor.

1 Before authorizing a use under this section the board shall require  
2 the municipality to execute an agreement in a form approved by the  
3 board to

4 (1) hold the corporation harmless from and indemnify the  
5 corporation for any liability and claims arising from any use autho-  
6 rized under this section including

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

9 (B) indemnifying the corporation for the amount of a  
10 judgment, including prejudgment and postjudgment interest, ren-  
11 dered against the corporation or for the amount of a settlement  
12 entered into by the corporation, and for all costs and attorney's  
13 fees incurred by the corporation in settling or defending the  
14 claim; and

15 (2) stop the use of railroad land upon request of the  
16 corporation if, as determined by the corporation, the use interferes  
17 with expansion or replacement of railroad facilities, creates a safety  
18 hazard, or interferes with railroad operations.

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

28 Sec. 42.40.435. EXCHANGE OF LAND. The corporation may exchange  
29 land subject to AS 42.40.285. The corporation is an instrumentality

1 and agency of the state for purposes of exchanging land with the  
2 United States, municipalities, corporations including corporations  
3 formed under 43 U.S.C. 1601 - 1628 (Alaska Native Claims Settlement  
4 Act), and individuals.

5 Sec. 42.40.440. USE OF PESTICIDES AND HERBICIDES. Vegetation  
6 control involving the use of pesticides or herbicides on land owned or  
7 managed by the corporation may be conducted only in compliance with  
8 state requirements applicable to other state pesticide or herbicide  
9 use.

10 Sec. 42.40.450. ADVERSE POSSESSION. No prescription or statute  
11 of limitations runs against the title or interest of the corporation  
12 to or in land owned by the corporation or under its jurisdiction.  
13 Title to or interest in land owned by the corporation or under its  
14 jurisdiction may not be acquired by adverse possession or prescrip-  
15 tion, or in any other manner except by conveyance from or formal  
16 vacation by the corporation.

17 ARTICLE 6. FINANCIAL PROVISIONS.

18 Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred  
19 by the corporation shall be satisfied exclusively from the assets or  
20 revenue of the corporation and no creditor or other person has a right  
21 of action against the state because of a debt, obligation, or liabil-  
22 ity of the corporation.

23 Sec. 42.40.510. FIDELITY BOND. The corporation shall obtain a  
24 fidelity bond in an amount determined by the board for board members  
25 and each executive officer responsible for accounts and finances. A  
26 bond must be in effect during the entire tenure in office of the  
27 bonded person.

28 Sec. 42.40.520. INSURANCE. Except as provided in AS 42.40.300-  
29 (b), the corporation shall protect its assets, services, and employees

1 by purchasing insurance or providing for certain self-insurance re-  
2 tentions. The corporation shall also maintain casualty, property,  
3 business interruption, marine, boiler and machinery, pollution liabil-  
4 ity, and other insurance in amounts reasonably calculated to cover  
5 potential claims against the corporation or state for bodily injury,  
6 death or disability and property damage that may arise from or be  
7 related to corporation operations and activities.

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

12 Sec. 42.40.540. APPROPRIATIONS. The corporation may request,  
13 with the concurrence of the governor, a direct appropriation or grant  
14 from the legislature to assist in carrying out the provisions of this  
15 chapter.

16 ARTICLE 7. BONDS.

17 Sec. 42.40.600. GENERAL PROVISIONS. (a) Upon receiving legis-  
18 lative approval under AS 42.40.285 the corporation may issue bonds by  
19 resolution to provide money to carry out its purposes.

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

- 22 (1) be dated;
- 23 (2) bear fixed or variable interest at a specified rate or  
24 rates per year or within a maximum rate;
- 25 (3) be in a specified denomination;
- 26 (4) be in a coupon or registered form;
- 27 (5) carry conversion or registration provisions;
- 28 (6) have a specified rank or priority;
- 29 (7) be executed in the specified manner and form;

1           (8) be payable as specified from the sources, in the medium  
2 of payment, and place or places inside or outside the state;

3           (9) be subject to authentication by a trustee or fiscal  
4 agent; and

5           (10) be subject to terms of redemption with or without  
6 premium.

7           (c) Bonds may be sold in the manner, on the terms, and at the  
8 price the board determines. Notes shall mature at the time or times  
9 determined by the board. Except for bond anticipation notes, notes,  
10 or other obligations, bonds shall mature at the time, not exceeding 50  
11 years from their date, determined by the board.

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

16           Sec. 42.40.620. BONDS ELIGIBLE FOR INVESTMENT. Bonds issued  
17 under this chapter are securities in which all public officers and  
18 public bodies of the state and its political subdivisions, all insur-  
19 ance companies, trust companies, banking associations, investment  
20 companies, executors, administrators, trustees and other fiduciaries  
21 may properly and legally invest funds, including capital in their  
22 control or belonging to them. These bonds may be deposited with a  
23 state or municipal officer of an agency or political subdivision of  
24 the state for any purpose for which the deposit of bonds of the state  
25 is authorized by law.

26           Sec. 42.40.630. PAYMENT OF BONDS. The principal and interest on  
27 bonds of the corporation is payable from corporation money or assets.  
28 Bonds may be additionally secured by a pledge of a grant or contribu-  
29 tion from the federal government or a corporation, association,

1 institution or person, or a pledge of money, income, or revenue of the  
2 corporation from any source.

3 Sec. 42.40.640. SECURITY FOR BONDS. In the discretion of the  
4 board, an issue of bonds may be secured by a trust indenture, which  
5 may be a trust company, bank or national banking association, with  
6 corporate trust powers, located inside or outside the state, or by a  
7 secured loan agreement or other instrument or under resolution giving  
8 powers to a corporate trustee by means of which the corporation may

9 (1) make and enter into any and all the covenants and  
10 agreements with the trustees or the holders of the bonds that the  
11 corporation may determine to be necessary or desirable, including  
12 covenants, provisions, limitations and agreements as to

13 (A) the application, investment, deposit, use and  
14 disposition of the proceeds of bonds of the corporation or of  
15 money or other property of the corporation or in which it has an  
16 interest;

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

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

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

26 (E) the vesting in the trustee of rights and remedies  
27 exercisable by the trustee for the protection of the holders of  
28 bonds of the corporation and not otherwise in violation of law  
29 and the restriction of the rights of an individual holder of

1           bonds of the corporation;

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

5           (3) provide for any other matters of like or different  
6 character that in any way affect the security or protection of the  
7 bonds.

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

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

16           Sec. 42.40.670. VALIDITY OF PLEDGE. (a) The pledge of assets  
17 or revenue of the corporation to the payment of the principal or  
18 interest on bonds of the corporation is valid and binding from the  
19 time the pledge is made and the assets or revenue are immediately  
20 subject to the lien of the pledge without physical delivery or further  
21 act. The lien of a pledge is valid and binding against all parties  
22 having claims of any kind against the corporation, irrespective of  
23 whether those parties have notice of the lien of the pledge.

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

28           Sec. 42.40.675. PLEDGE OF THE STATE. The state pledges to and  
29 agrees with the holders of bonds issued under this chapter and with

1 the federal agency that loans or contributes funds in respect to a  
2 project, that the state will not limit or alter the rights and powers  
3 vested in the corporation by this chapter to fulfill the terms of a  
4 contract made by the corporation with the holders or federal agency,  
5 or in any way impair the rights and remedies of the holders until the  
6 bonds together with the interest on them with interest on unpaid  
7 installments of interest, and all costs and expenses in connection  
8 with an action or proceeding by or on behalf of the holders, are fully  
9 met and discharged. The corporation is authorized to include this  
10 pledge and agreement of the state, insofar as it refers to holders of  
11 bonds of the corporation, in a contract with the holders and insofar  
12 as it relates to a federal agency, in a contract with the federal  
13 agency.

14 Sec. 42.40.680. REMEDIES. A holder of bonds issued under this  
15 chapter or of coupons attached to them, and a trustee under a trust  
16 agreement or resolution authorizing the issuance of the bonds, except  
17 as restricted by a trust agreement or resolution, either at law or in  
18 equity, may

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

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

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

28 (1) debt, liability, or obligation of the state or of a  
29 political subdivision of the state; or

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

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

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

8           (2) neither the faith and credit nor the taxing power of  
9 the state or of a political subdivision of the state is pledged to the  
10 payment of it.

11           Sec. 42.40.700. LIMITATION ON PERSONAL LIABILITY. A board  
12 member or employee of the corporation is not subject to personal  
13 liability or accountability because of the execution or issuance of  
14 bonds.

15           ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

16           Sec. 42.40.710. CORPORATION EMPLOYEES. Employees of the Alaska  
17 Railroad are employees of the corporation and not of the state. The  
18 provisions of AS 39 do not apply to employees of the corporation.

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

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

1 governor.

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

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

7 Sec. 42.40.740. COLLECTIVE BARGAINING UNIT. The railroad labor  
8 relations agency shall decide in each case, in order to ensure employ-  
9 ees the fullest freedom in exercising the rights guaranteed by AS 42.-  
10 40.710 - 42.40.890 the unit appropriate for the purposes of collective  
11 bargaining, based on such factors as community of interest, wages,  
12 hours and other working conditions of the employees involved, the  
13 history of collective bargaining, and the desires of the employees.  
14 Bargaining units shall be as large as is reasonable, and unnecessary  
15 fragmenting shall be avoided.

16 Sec. 42.40.750. REPRESENTATIVES AND ELECTIONS. (a) The rail-  
17 road labor relations agency shall investigate a petition if it is  
18 submitted in a manner prescribed by the railroad labor relations  
19 agency by

20 (1) an employee or group of employees or an organization  
21 acting in their behalf alleging that 30 percent of the employees of a  
22 proposed bargaining unit

23 (A) want to be represented for collective bargaining  
24 by a labor or employee organization as exclusive representative;  
25 or

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

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

4                   (b) If the railroad labor relations agency has reasonable cause  
5 to believe that a question of representation exists, it shall provide  
6 for a hearing upon due notice. If the railroad labor relations agency  
7 finds that there is a question of representation, it shall direct an  
8 election by secret ballot to determine whether or by which organiza-  
9 tion the employees desire to be represented and shall certify the  
10 results of the election. Nothing in this subsection prohibits the  
11 waiving of hearings by stipulation for the purpose of a consent elec-  
12 tion in conformity with the regulations of the railroad labor rela-  
13 tions agency or an election in a bargaining unit agreed upon by the  
14 parties.

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

27                   (d) Nothing in this chapter prohibits recognition of an orga-  
28 nization as the exclusive representative by the corporation by mutual  
29 consent.

1 (e) An election may not be directed by the railroad labor rela-  
2 tions agency in a bargaining unit in which there is in force a valid  
3 collective bargaining agreement, except during a 90-day period preced-  
4 ing the expiration date. However, a collective bargaining agreement  
5 may not bar an election upon petition of employees in the bargaining  
6 unit but not parties to the agreement if more than three years have  
7 elapsed since the execution of the agreement or the last timely re-  
8 newal, whichever was later.

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

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

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

15 (3) discriminate in regard to hire or tenure of employment  
16 or a term or condition of employment to encourage or discourage mem-  
17 bership in an organization;

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

21 (5) refuse to bargain collectively in good faith with an  
22 organization that is the exclusive representative of employees in an  
23 appropriate unit, including the discussing of grievances with the  
24 exclusive representative.

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

28 (1) membership in the organization that represents the unit  
29 on or after the 30th day following the beginning of employment or on

- 1 the effective date of the agreement, whichever is later; or
- 2 (2) payment by the employee to the exclusive bargaining
- 3 agent of a service fee to reimburse the exclusive bargaining agency
- 4 for the expense of representing the members of the bargaining unit.
- 5 (c) An organization or its agents may not
- 6 (1) restrain or coerce
- 7 (A) an employee in the exercise of the rights guaran-
- 8 teed in AS 42.40.720; or
- 9 (B) the corporation in the selection of a representa-
- 10 tive for the purposes of collective bargaining or the adjustment
- 11 of grievances;
- 12 (2) refuse to bargain collectively in good faith with the
- 13 corporation, if it has been designated in accordance with AS 42.40.-
- 14 710 - 42.40.890 as the exclusive representative of employees in an
- 15 appropriate unit.

16 Sec. 42.40.770. INVESTIGATION AND CONCILIATION OF COMPLAINTS.

17 If a verified written complaint by or for a person claiming to be

18 aggrieved by a practice prohibited by AS 42.40.760 or a written accu-

19 sation that a person subject to AS 42.40.710 - 42.40.890 has engaged

20 in a prohibited practice, is filed with the railroad labor relations

21 agency, it shall investigate the complaint or accusation. If it

22 determines after a preliminary investigation that probable cause

23 exists in support of the complaint or accusation, it shall try to

24 eliminate the prohibited practice by informal methods of conference,

25 conciliation, and persuasion. Nothing said or done during this en-

26 deavor may be used as evidence in a subsequent proceeding.

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

28 relations agency fails to eliminate the prohibited practice by concil-

29 iation and to obtain voluntary compliance with AS 42.40.710

1 42.40.890 or before it attempts conciliation, it may serve a copy of  
2 the complaint or accusation upon the respondent. The complaint or  
3 accusation and the subsequent procedures shall be handled in accor-  
4 dance with the administrative adjudication portion of the Administra-  
5 tive Procedure Act (AS 44.62).

6 Sec. 42.40.790. ORDERS AND DECISIONS. If the railroad labor  
7 relations agency finds that a person named in the written complaint or  
8 accusation has engaged in a prohibited practice, the railroad labor  
9 relations agency shall issue and serve on the person an order or  
10 decision requiring the person to cease and desist from the prohibited  
11 practice and to take affirmative action that will carry out the pro-  
12 visions of AS 42.40.710 - 42.40.890. If the railroad labor relations  
13 agency finds that a person named in the complaint or accusation has  
14 not engaged or is not engaging in a prohibited practice, the railroad  
15 labor relations agency shall state its findings of fact and issue an  
16 order dismissing the complaint or accusation.

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

25 Sec. 42.40.810. POWER TO INVESTIGATE AND COMPEL TESTIMONY. (a)  
26 For the purpose of the investigations, proceedings, or hearings that  
27 the railroad labor relations agency considers necessary to carry out  
28 AS 42.40.710 - 42.40.890, the railroad labor relations agency may  
29 issue subpoenas requiring the attendance and testimony of witnesses

1 and the production of relevant evidence.

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

4 (c) The attendance of witnesses and the production of evidence  
5 may be required from any place in the state at any designated place of  
6 hearing.

7 (d) If a person refuses to obey a subpoena issued under AS 42.-  
8 40.710 - 42.40.890, the superior court in the district in which the  
9 person resides or is found may, upon application by the railroad labor  
10 relations agency, issue an order requiring the person to comply with  
11 the subpoena.

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

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

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

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

29 (c) It shall be the function of the mediator to bring the

1 parties together to effectuate a settlement of the dispute, but nei-  
2 ther the mediator nor the railroad labor relations agency has any  
3 power of compulsion in mediation proceedings.

4 Sec. 42.40.850. STRIKES. (a) Following a decision by the  
5 mediator to end the mediation proceedings, employees of a collective  
6 bargaining unit may engage in a strike for a limited time if a major-  
7 ity of the employees in that collective bargaining unit vote by secret  
8 ballot to do so. The limit of the strike is determined by the interest  
9 of the health, safety, or welfare of the public.

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

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

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

27 Sec. 42.40.860. AGREEMENTS. (a) The Department of Administra-  
28 tion may participate in labor negotiations between the corporation and  
29 an organization. The corporation shall seek advice of the Department

1 of Administration before entering into a collective bargaining agree-  
2 ment concerning wages, hours, and other terms and conditions of em-  
3 ployment. However, the final decision regarding collective bargaining  
4 agreements shall be made by the board.

5 (b) Upon the completion of negotiations between an organization  
6 and the corporation, if a settlement is reached, the corporation shall  
7 reduce it to writing in the form of an agreement. The agreement shall  
8 include a grievance procedure that shall have binding arbitration as  
9 its final step. Either party to the agreement has a right of action  
10 to enforce the agreement by petition to the railroad labor relations  
11 agency.

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

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

21 Sec. 42.40.880. EXEMPTION. Notwithstanding the provisions of  
22 AS 42.40.870, a collective bargaining settlement reached, or agreement  
23 entered into, under AS 42.40.860 that incorporates union security  
24 provisions, including a union shop or agency shop provision or agree-  
25 ment, shall safeguard the rights of nonassociation of employees having  
26 bona fide religious convictions based on tenets or teachings of a  
27 church or religious body of which an employee is a member. Upon  
28 submission of proper proof of religious conviction to the railroad  
29 labor relations agency, the agency shall declare the employee exempt

1 from becoming a member of an organization. The employee shall pay an  
2 amount of money equivalent to regular organization dues, initiation  
3 fees, and assessments to the organization. Nonpayment of this money  
4 subjects the employee to the same penalty as if it were nonpayment of  
5 dues. The receiving organization shall contribute an equivalent  
6 amount of money to a charity of its choice not affiliated with a  
7 religious, labor, or employee organization. The organization shall  
8 submit to the railroad labor relations agency proof of contribution.

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

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

14 (2) require or coerce an employee to make any report con-  
15 cerning an activity or undertaking of the employee's activities or  
16 undertakings unless the activity or undertaking is related to the  
17 performance of official duties;

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

22 (A) a personal relationship with a person connected  
23 with the employee by blood or marriage;

24 (B) the employee's religious beliefs or practices;

25 (C) sexual matters;

26 (D) the employee's political affiliation or philoso-  
27 phy;

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

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

5           (b) The provisions of (a) of this section do not diminish the  
6 authority of an authorized law enforcement agency to conduct criminal  
7 investigations of employees suspected of being involved in criminal  
8 activity or to investigate other activity directly related to official  
9 railroad business.

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

11           (1) "election" means a proceeding conducted by the labor  
12 relations agency in which the employees in a collective bargaining  
13 unit cast a secret ballot for collective bargaining representatives,  
14 or for any other purpose specified in AS 42.40.710 - 42.40.890;

15           (2) "organization" means a labor or employee organization  
16 of any kind in which employees participate and that exists for the  
17 primary purpose of dealing with the corporation concerning grievances,  
18 labor disputes, wages, rates of pay, hours of employment and condi-  
19 tions of employment.

20           ARTICLE 9. GENERAL PROVISIONS.

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

25           (b) For the purposes of actionable claims, undertakings, pay-  
26 ments of judgments, execution, interest, punitive damages, statutes of  
27 limitations, bonds, costs, and similar matters related to the pres-  
28 entation and prosecution of claims by and against the corporation, the  
29 corporation and its board members and employees enjoy the same rights,

1 privileges, and immunities as the state and state officers.

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

4 (d) The corporation is not subject to the provisions of AS 44.-  
5 80.010, regarding the state as a party to an action.

6 Sec. 42.40.905. NOTICE OF LEGAL ACTIONS. (a) The corporation  
7 shall notify the Department of Law within 30 days before initiating  
8 legal action unless special circumstances exist that require immediate  
9 legal action to protect the corporation assets or to continue existing  
10 service.

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

15 Sec. 42.40.910. EXEMPTION FROM TAXATION. (a) The exercise of  
16 the powers granted by this chapter shall be in all respects for the  
17 benefit of the people of the state, for their well-being and prosper-  
18 ity, and for the improvement of their social and economic conditions.  
19 Subject to (b) of this section, the real and personal property of the  
20 corporation and its assets, income, and receipts are exempt from all  
21 taxes and special assessments of the state or a political subdivision  
22 of the state.

23 (b) Bonds and notes issued under this chapter are issued by a  
24 body corporate and public of the state and for an essential public and  
25 governmental purpose. Therefore, the bonds and notes, the interest  
26 and income from them, and all fees, charges, funds, revenue, income  
27 and other money pledged or available to pay or secure the payment of  
28 the bonds and notes or interest on them, are exempt from taxation  
29 except for inheritance, transfer, and estate taxes.

1 (c) This section does not affect or limit an exemption from  
2 license fees, property taxes, or excise, income or other taxes, pro-  
3 vided under any other law, nor does it create a tax exemption with  
4 respect to the interest of any business enterprise or other person,  
5 other than the corporation.

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

9 (b) The following laws do not apply to the operations of the  
10 corporation:

- 11 (1) AS 19;
- 12 (2) AS 30.15;
- 13 (3) AS 35;
- 14 (4) AS 37.05;
- 15 (5) AS 37.07;
- 16 (6) AS 37.10.010 - 37.10.060;
- 17 (7) AS 37.10.085;
- 18 (8) AS 37.20;
- 19 (9) AS 37.25;
- 20 (10) AS 38;
- 21 (11) AS 44.62.040 - 44.62.320.

22 Sec. 42.40.930. CONFLICTING LAWS INAPPLICABLE. If provisions of  
23 AS 42.40 conflict with the provisions of other state law, the pro-  
24 visions of AS 42.40 prevail. Provisions of AS 42.40 shall be con-  
25 strued so that they do not conflict with 45 U.S.C. 1201 - 1214 (Alaska  
26 Railroad Transfer Act of 1982).

27 Sec. 42.40.935. RAILROAD FACILITIES CODE COMPLIANCE. (a) Not  
28 later than two years after the date of transfer, the Department of  
29 Labor in consultation with the corporation shall develop and the

1 corporation, shall adopt a plan to achieve compliance with AS 18.60.  
2 The plan shall be implemented and compliance achieved within five  
3 years after it is adopted.

4 (b) No later than two years after the date of transfer, the  
5 corporation in consultation with the Department of Public Safety and  
6 appropriate municipal officials, shall develop and adopt a plan to  
7 achieve compliance with building and related safety codes applicable  
8 to facilities of the corporation. The plan shall be implemented and  
9 compliance achieved within five years after it is adopted. In the  
10 sole determination of the commissioner of public safety, any existing  
11 building owned or controlled by the corporation that does not present  
12 a serious safety hazard and for which compliance would be uneconomical  
13 in consideration of its remaining useful life shall be exempted from  
14 compliance with state or municipal safety codes.

15 Sec. 42.40.940. SALE OF THE RAILROAD. The governor may provide  
16 for the sale of the Alaska Railroad and dissolve the corporation if it  
17 can be assured that the railroad will continue to operate after the  
18 sale. A sale under this section is subject to approval by law.

19 Sec. 42.40.950. REVERSION OF ASSETS. Except as provided in  
20 AS 42.40.940, if the corporation ceases to exist its assets revert to  
21 the state.

22 Sec. 42.40.980. DEFINITIONS. In this chapter unless the context  
23 otherwise requires,

24 (1) "board" means the board of directors of the Alaska  
25 Railroad Corporation;

26 (2) "bonds" means bonds, bond anticipation notes, notes,  
27 refunding bonds, or other obligations;

28 (3) "collective bargaining" means the performance of the  
29 mutual obligation of the corporation or its designated representatives

1 and the representatives of the employees to meet at reasonable times,  
2 including meetings in advance of the budget making process, and nego-  
3 tiating in good faith with respect to wages, hours, and other terms  
4 and conditions of employment, or the negotiation of an agreement, or  
5 negotiation of a question arising under an agreement and the execution  
6 of a written contract incorporating an agreement reached if requested  
7 by either party, but these obligations do not compel either party to  
8 agree to a proposal or require the making of a concession;

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

10 (5) "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 (6) "employees" means all persons employed by the corpo-  
14 ration including executive officers;

15 (7) "executive officer" means the corporation's chief  
16 executive officer, assistant chief executive officer, assistant to the  
17 chief executive officer, chief of administration, superintendent of  
18 transportation, manager of marketing and sales, chief engineer, chief  
19 mechanical officer, manager of industrial development and real estate,  
20 manager of budget and accounting, manager of planning, manager of  
21 personnel, manager of supply and procurement, chief of security,  
22 manager of operating rules, manager of data processing, manager of  
23 strategy, manager of operations planning, manager of supply, manager  
24 of procurement, manager of safety, manager of administrative proce-  
25 dure, chief counsel, or, if so designated by the board, any employee  
26 who fulfills these management functions under a different title or who  
27 exercises a similar or comparable level of responsibility or super-  
28 vision;

29 (8) "land" means any interest in real property, including

1 tide and submerged land, and any right appurtenant to the interest;

2 (9) "rule" means a standard of general application or the  
3 amendment, supplement, revision, or repeal of a standard adopted by  
4 the corporation to implement, interpret, or make specific the law  
5 enforced or administered by it to govern its procedure;

6 (10) "terms and conditions of employment" means the hours of  
7 employment, the compensation and fringe benefits, and the employer's  
8 personnel policies affecting the working conditions of the employees,  
9 but does not mean the general policies describing the function and  
10 purposes of an employer.

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

13 \* Sec. 3. AS 42.40.010 is amended to read:

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. 4. AS 42.40.030 is amended to read:

22 Sec. 42.40.030. TERM OF OFFICE; REMOVAL. (a) Except for the  
23 commissioner of commerce and economic development, the commissioner of  
24 transportation and public facilities and the chief executive officer  
25 of the corporation, members of the board serve for staggered terms of  
26 five years each [AT THE PLEASURE OF THE GOVERNOR].

27 \* Sec. 5. AS 42.40.030 is amended by adding a new subsection to read:

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

1           (1) incapacitation caused by injury or sickness that leaves  
2 the member unable to perform duties under this chapter;

3           (2) continued refusal or inability to attend meetings of  
4 the board or to perform duties under this chapter; or

5           (3) conviction of a felony.

6 \* Sec. 6. AS 42.40.180 is repealed and reenacted to read:

7           Sec. 42.40.180. RULES. (a) The board shall establish a proce-  
8 dure for adopting rules to carry out its functions and the purposes of  
9 this chapter, including a procedure for the adoption of rules on an  
10 emergency basis when essential to continue or to reinstate the orderly  
11 operation of the corporation's facilities or programs.

12           (b) The board shall adopt rules to safeguard property owned,  
13 managed, or transported by the corporation and to protect employees  
14 and persons using the corporation's property or services.

15 \* Sec. 7. AS 42.40.205 is amended to read:

16           Sec. 42.40.205. APPLICATION. Adoption of a rule is not subject  
17 to AS 42.40.180 [OR 42.40.190] if it

18           (1) relates only to the internal management of the corpo-  
19 ration;

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

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

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

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

28 \* Sec. 8. SPECIAL REPORT. The governor shall contract with a private  
29 consultant for the preparation of a report on the long-term operations of

1 the Alaska Railroad that are in the best interest of the state. The report  
2 shall be submitted to the governor and the legislature by January 1, 1988.  
3 It shall contain specific recommendations on operational alternatives and  
4 the transfer of all or part of the railroad operation to the private sec-  
5 tor.

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

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

14 \* Sec. 10. COLLECTIVE BARGAINING AGREEMENTS. (a) As soon as practi-  
15 cable before transfer of the Alaska Railroad to the state, the Alaska Rail-  
16 road Corporation and its employees shall adopt collective bargaining agree-  
17 ments that continue the provisions of the agreements in effect between the  
18 Alaska Railroad and its employees on the date of transfer of the railroad.  
19 The collective bargaining agreements adopted under this section between the  
20 corporation and its employees shall remain in effect to the extent required  
21 under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

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

26 (c) Within 180 days after the first meeting of the board of directors  
27 of the Alaska Railroad Corporation, the board and representatives of em-  
28 ployee bargaining units shall establish procedures for the renegotiation of  
29 bargaining agreements adopted under (a) of this section. The board shall

1 renegotiate all agreements adopted under (a) of this section with two years  
2 after the date of transfer of the Alaska Railroad to the state unless the  
3 parties agree to the contrary.

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

12 \* Sec. 12. AS 42.40.190 and 42.40.200 are repealed.

13 \* Sec. 13. Sections 3 - 7 and 12 of this Act take effect on the effec-  
14 tive date of an amendment to the Constitution of the State of Alaska relat-  
15 ing to the Alaska Railroad.

16 \* Sec. 14. Sections 1, 2, and 8 - 11 of this Act take effect imme-  
17 diately in accordance with AS 01.10.070(c).