

SFB

212

COMMITTEE REPORT

5/29  
R. J. ...

(5)

HOUSE

FURTHER:

Date: May 29, 1982

Mr. Speaker:

The Committee on RULES has had CSSB 212 (Trsp)

"An Act relating to the Alaska Railroad; and providing for an effective date."

under consideration and reports it back as follows:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with <sup>H</sup>CS for CSSB 212 (Trsp)  same title
- new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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*[Handwritten Signature]*

CHAIRMAN

COMMITTEE REPORT

5/13

HOUSE

(7)

FURTHER:

FINANCE  
(added 5/12)

5/6/82

Date: May 12, 1982

Mr. Speaker:

The Committee on Transportation has had CSSB 212 (Trsp)

"An Act relating to the Alaska Railroad; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[X] do pass with attached amendments(s)

~~[ ]~~ replace with CS for ~~CSSB 212 (Trsp)~~ ~~[ ]~~ same title  
[ ] new title  
and recommends \_\_\_\_\_

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[X] reports it back <sup>with individual</sup> without recommendation

[ ] referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

[Signature]  
[Signature]  
[Signature]  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Signature] No Rec  
[Signature] No Rec  
[Signature] do not pass transportation  
[Signature] NO REC

[Signature]  
CHAIRMAN

COMMITTEE REPORT

HOUSE

5/15  
Ruler

(11)

FURTHER:

5/13/82

Date: 5-15-82

Mr. Speaker: (Finance added 5/12/82)

The Committee on Finance has had CSSB 212(Trsp)

"An Act relating to the Alaska Railroad: and providing for an effective date."

under consideration and reports it back as follows:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with <sup>#</sup>CS for CSSB 212 (Finance)  <sup>same title</sup> ~~new title~~
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation *gen analysis* Duppl #57
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

*Butterworth*  
*McNary*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_ *Fried*  
 \_\_\_\_\_ *Forthcoming*  
 \_\_\_\_\_ *Note new*  
 \_\_\_\_\_ *letter E.*

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

*Adams - no Rec*  
*Blanchard - no Rec*  
*Fuller - no Rec*  
*Jan into DO NOT PASS*  
*Jack Fuller No Rec*  
*Montgomery - No Rec*

*Adams*  
 CHAIRMAN

A M E N D M E N T

Offered in the HOUSE

By the Transportation Committee

TO: CSSB 212 (Transportation)

Page 17, lines 3 - 4, following "system and":

Delete all material and insert "negotiation of through-tariffs with providers of intrastate and interstate transportation;"

A M E N D M E N T

Offered in the HOUSE

By the Transportation Committee

TO: CSSB 212 (Transportation)

Delete "the leadership of" in the following places:

Page 6, line 13

Page 11, lines 18 and 19

Page 19, line 11

Page 22, line 7

Page 34, line 17

Page 35, line 24

Page 36, line 27

Page 44, line 26 - page 45, line 2:

Delete all material

Renumber subsequent paragraphs

A M E N D M E N T

Offered in the HOUSE

By the Transportation Committee

TO: CSSB 212(Trsp)

Page 1, line 6:

Delete "Alaska Railroad" and insert "railroads"

Page 45, following line 28:

Insert the following:

\* Sec. 5. AS 23.10.420(b) is amended to read:

(b) Except for hostling movements and duties as negotiated for each railroad company, no person operating an Interstate Commerce Commission-regulated railroad offering passenger service in this state may operate an engine or locomotive, regardless of the form of energy used for propulsior, for switching cars or in transfer movements, unless every engine or locomotive is manned by a minimum crew consisting of one locomotive engineer, [ONE LOCOMOTIVE FIREMAN (OR HELPER),] one conductor, and one brakeman [TWO HELPERS].

Renumber subsequent bill sections

Page 48, line 28:

Delete "This Act takes" and insert "Sections 1 - 4 and 6 - 15 of this Act take"

Page 49, following line 4:

Insert the following:

\* Sec. 17. EFFECTIVE DATE. Section 5 of this Act takes effect immediately in accordance with AS 01.10.070(c).

A M E N D M E N T

Offered in the HOUSE

By the Transportation Committee

TO: CSSB 212 (Transportation)

Page 44, line 18, following "spouse":

Add "or partner in a meretricious relationship"

AMENDED TITLE: CSSB 212(TRSP)

AN ACT RELATING TO THE ALASKA RAILROAD; AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSOR: DANKWORTH.

CO-SPONSORS: KERTTULA, STURGULEWSKI.

CURRENT STATUS: 5/15/82 IN (H) RULES

SB 212 SENATE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/23/81	01	0320	FIRST READING -- COMMITTEE REPORTS
04/19/82	02	0956	FIN REFERRAL WAIVED BY UNAN CONSENT
05/04/82	03	1129	TRAN -- CS04, NR01
05/05/82	04	1153	RLS -- TRAN CS03, OTHER03 TAKEN UP IMMEDIATELY
05/05/82	05	1155	SECOND READING
05/05/82	06	1155	TRAN CS ADOPTED BY UNAN CONSENT
05/05/82	07	1155	ADVANCED TO 3RD READING BY UNAN CONSENT
05/05/82	08	1156	THIRD READING
05/05/82	09	1156	PASSED BY DIV 19-00-01
05/05/82	10	1156	EFFECTIVE DATE VOTE SAME AS PASSAGE
05/05/82	11	1157	NOTICE OF RECONSIDERATION GIVEN
05/05/82	12	1158	PASSED ON RECONSIDERATION BY DIV 19-00-01
05/05/82	13	1158	EFFECTIVE DATE VOTE SAME AS PASSAGE

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SB 212 HOUSE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
05/05/82	14	1682	FIRST READING -- COMMITTEE REPORTS
05/12/82	15	1812	FIN COMM REFERRAL ADDED BY UNAN CONSENT
05/13/82	16	1826	TRAN -- DNP01, DP(AM)03, NR03, OTHER01
05/15/82	17	1883	FIN -- DNP01, CS02, NR05
05/15/82	18	1883	F/NOTE EQUALS ZERO HSE SUPPL #57 RULES RULES

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THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for SB 212 (Transportation Committee)  
 Title An Act relating to the Alaska Railroad  
 Requested by Sens. Kerttula; Dankworth; Rav Date 4/23/82

II. FISCAL DETAIL

Agency Affected DOT/PF  
 Program Category Affected Alaska Railroad Authority  
 BRU, Program, Or Subprogram(s) Affected N/A  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	(See Analysis Below)			

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL	-0-	-0-				

POSITIONS

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

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

The effective date for this bill is triggered only upon acceptance by the legislature of the closing report under the federal transfer legislation, or acceptance by the legislature arrangements to operate the Federal Alaska Railroad by the authority. Consequently, there will be no direct fiscal impact resulting from this bill prior to the occurrence of either of these events. It should also be noted that any costs incurred by the State associated with the ongoing transfer discussions have already been adequately budgeted for within existing DOT/PF submittals.

IV. DATE April 23, 1982

PREPARED BY Mark S. Hickey  
 AGENCY DOT/PF: S.F. Planning & Programming

Original: Legislative Finance  
 cc: Budget and Management

PHONE 364-4337

Prime Sponsor (First Legislator Named)



Official Business

# Alaska State Legislature

Senate

Office of the President

Pouch V  
State Capitol  
Juneau, Alaska 99811

## MEMORANDUM

TO : ALL LEGISLATORS

FROM : SENATOR JAY KERTTULA  
SENATE PRESIDENT

DATE : MAY 15, 1982

SUBJECT: SB 212

A handwritten signature in dark ink, appearing to read "Jay", is written over the "FROM" line of the memorandum.

A considerable amount of time, effort and resources have gone into SB 212 which achieves the delicate task of operating a publicly held entity as a profit-making business. Jack Burton, President of Local 133 of the American Federation of Government Employees, shares this view (copy attached).

It is important to recognize that this bill does not propose to address all the issues pertaining to the Alaska Railroad and no one has claimed it will. It is the first step in providing a framework for state acquisition and operation of the railroad.

Jk/gt/aj

# American Federation of Government Employees

LOCAL 183

\*\*\*\*\*  
AFFILIATED WITH THE AFL-CIO

\*\*\*\*\*  
WASHINGTON, D.C.



LOCAL 183  
POST OFFICE BOX 35  
ANCHORAGE, ALASKA 99510  
TELEPHONE 575-2126

REFER TO FILE

FOR IMMEDIATE RELEASE

For further information,  
contact Jack Burton at  
288-3644, day or night.

## A.F.G.E. PRESIDENT URGES IMMEDIATE PASSAGE OF RAILROAD TRANSFER LEGISLATION

Jack Burton, President of Local 183 of the American Federation of Government Employees, says Senators Kerttula and Dankworth are to be commended for their efforts on behalf of The Alaska Railroad employees. A great deal of hard work has gone into SB212. This bill is the final product of long and difficult negotiations that have quite successfully balanced the needs of all parties involved with State acquisition of The Alaska Railroad.

~~This is not to say that we are completely satisfied with SB212 - we~~  
are not. The bill (SB212) is a solid move in the right direction,  
~~and satisfies the most important objective - it provides a framework~~  
for State acquisition and operation of The Alaska Railroad.

No one individual or group should place in jeopardy the transfer of the Railroad. This must always remain the overriding objective of all concerned. Any dissatisfaction that we or any others may have

with SB212 should not be pursued to the point of placing the passage of SB212 in jeopardy.

The Alaska Railroad employees and their families, that we represent, are grateful for the fair and equitable treatment accorded by Senators Dankworth and Kerttula. The tremendous foresight of these two fine representatives will become readily apparent, once the Alaska Railroad is operating under State stewardship. We strongly urge all Alaskans to support the transition to State operation, and urge the Legislature to proceed with all possible speed.

SECTION-BY-SECTION EXPLANATION TO CS FOR SENATE BILL 212

Sec. 1. LEGISLATIVE FINDINGS, POLICY AND DECLARATION. The individual findings are self-explanatory. Each was included for a specific purpose. In addition to describing the factual and policy setting in which the transfer of the railroad to the state is occurring, findings are necessary to establish the legislature's expectations with respect to the authority. Some findings are required by the state Constitution and others will strengthen the ability of the authority to secure tax-exempt financing.

Sec. 2. Amends AS 42 to add a new chapter as follows:

ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF AUTHORITY. The Alaska Railroad Authority is established in this section. To comply with the state Constitution, the authority is established as an instrumentality of the state within the Department of Transportation and Public Facilities but it clearly has a legal existence independent of and separate from the state.

Sec. 42.40.020. LIMITATION OF LIABILITY. That all the authority's liabilities are exclusively its own and not the state's is clearly stated in this section.

Sec. 42.40.030. BOARD OF COMMISSIONERS. Subsection (a) provides that the board consists of seven voting members, the Commissioner of Transportation and Public Facilities and six "public" members, who may not be state officers or employees.

The authority's chief executive officer and an authority employee, appointed by the governor, representing the unions on the property are non-voting members. A general qualification standard is provided in order to encourage the appointment of persons who can make substantive contributions to the council. One member is to be or have been an executive of a non-connecting railroad, if legally permissible. At least four public members must come from areas served by the railroad.

Subsection (b) provides for confirmation of board members by the legislature but also provides that appointed members have full powers and responsibilities until rejected.

Subsections (c), (d), and (e) relate to the election of board officers and the removal of board members for specific reasons.

Sec. 42.40.040. TERM OF OFFICE; VACANCIES. Other than initial board members who serve staggered terms as provided in Section 7 to ensure long-term continuity, board members will serve five year terms, as provided in this section. The section also provides for the appointment, subject to confirmation, of replacement members to fill unexpired terms and the preservation of the authority of a board quorum in the event of a vacancy. A member whose term has expired serves until his successor has been appointed.

Sec. 42.40.050. COMPENSATION AND EXPENSES. Compensation in the amount of \$300 per day for public board members is provided in this section. The board is responsible for determining, in

its rules, how partial work days will be compensated. Members also are entitled to per diem and travel expenses.

Sec. 42.40.060. QUORUM AND NOTICE OF MEETINGS. A quorum of four voting members is established by this section. In addition to the notice requirements of state law, this section provides that notice of meetings must be given to board members, certain state officials, two newspapers of statewide circulation and, upon request, members of the general public.

Sec. 42.40.070. VOTING. This section provides that the board rules will prescribe the manner of voting and any representation of absent members.

Sec. 42.40.080. MANAGEMENT OF AUTHORITY. This section provides for appointment of authority officials and personnel. The board itself appoints and fixes compensation for a chief executive officer and legal counsel. Appointment of legal counsel is subject to the approval of the governor for competence. The chief executive officer, subject to board approval, names the other executive officials. These officials, designated in the definitions, all serve at the pleasure of the board. The chief executive officer appoints all other personnel. No executive official, except as may be temporarily required by the federal transfer legislation, may receive more compensation than state departmental commissioners.

Subsection (b) provides that the board may provide for the management and operation of the railroad by a third party contractor, subject to state review under Sec. 42.40.600(g).

Sec. 42.40.090. DELEGATION. This section provides that the daily affairs and operations of the railroad are the responsibility of the chief executive officer. The board is required to delegate to the chief executive officer certain matters such as leasing, specific rate-setting, routine changes in service levels and procurement. General or particular board authorization or concurrence is required for other enumerated activities.

#### ARTICLE 2. ADMINISTRATIVE PROVISIONS

Sec. 42.40.200. CONFLICTS OF INTEREST. This section prohibits a board member or employee from participating in a decision in which he, or a member of his immediate family, has a financial interest. The board may authorize a member or employee to participate when the financial interest is only a remote one, as defined in subsection (b). Additionally, a board member or employee may participate where he will not be affected in a manner different from the public generally. Subsection (d) voids board action where a vote or participation in violation of Sec. 42.40.200 was necessary to the decision. Otherwise, the board may ratify action taken after a separate vote without participation by the interested person. An intentional violation of Sec. 42.40.200 or A.S. 39.50 results in the forfeit of the member's or employee's office.

Subsection (e) extends A.S. 39.50, requiring the submission of financial disclosure statements and compliance with conflict of interest standards, to authority executive officials and board members. The board is also required in subsection (f) to adopt within 120 days of the first meeting rules implementing the conflict of interest section.

Sec. 42.40.210. PUBLIC BOARD MEETINGS. This section requires that board meetings be public and that executive sessions be used only when permitted by the state open meetings statute, A.S. 44.62.310, or when the matters under discussion pertain to personnel, the authority's legal position, land acquisition or disposal or proprietary information.

Sec. 42.40.220. MINUTES OF MEETINGS. This section requires the board to keep minutes of its meetings and to send certified copies of the minutes covering the public portion of each meeting to the governor and to the leadership of the legislature.

Sec. 42.40.230. ADMINISTRATIVE PROCEDURE. This section provides that the state's Administrative Procedure Act does not apply to the authority, with the exception that the Open Meeting Act, as modified in Sec. 42.40.210, applies to the authority's meetings. The authority is required to make its rules and regulations available to the public. The legislature may annul or temporarily suspend an authority regulation.

Subsection (b) requires the authority to provide advance notice and opportunity for the public to comment on regulations that are likely to have a substantial impact on the public.

Emergency regulations may be adopted, but may remain in effect for only 120 days. Subsection (c) requires that certain types of rules and regulations be submitted to the attorney general for review and approval. Subsection (d) exempts from the rulemaking procedures four designated classes of regulations. Subsection (e) provides that the authority shall be considered an agency of the state for purposes of judicial review of the authority's actions.

Sec. 42.40.240. PUBLIC DISCLOSURE OF INFORMATION. This section requires that information in the possession of the authority is public unless the authority, by rule or regulation, withholds such information by designating it to be of a nonpublic or privileged nature. A procedure is also established whereby individuals may object to public disclosure of information in the possession of the authority, and such information may be withheld if the public interest is not adversely affected.

### ARTICLE 3. POWERS AND DUTIES

Sec. 42.40.300. GENERAL POWERS. This section delineates the numerous powers the authority needs in order to effectively manage and operate the Alaska Railroad. The list is intended to be nonexclusive but each of the enumerated powers appears for a specific reason. Most are obviously required by the authority to enable it to operate and manage the railroad. Others strengthen the authority's ability to engage in tax-exempt financing. Others will enable the authority to satisfy reasonably foreseeable requirements of the federal transfer legislation and

still others anticipate the role the railroad will play in the future economic development of the state.

Sec. 42.40.310. ANNUAL REPORT. A report generally describing the operation and financial condition of the authority, certified by the board, is required by this section to be submitted to the governor and each member of the legislature by February 1 of each year.

Sec. 42.40.320. ANNUAL AUDIT. This section obligates the board to have the authority's financial records audited annually by an independent certified public accountant experienced in rail accounting. The financial records of the authority also are subject to audit and inspection by the governor's internal auditor and the legislative auditor. Access to these materials by these officials is unrestricted but disclosure is limited.

Sec. 42.40.325. LONG-RANGE PROGRAM AND CAPITAL IMPROVEMENT PLANS. This section obligates the authority to prepare long-range program and capital plans. The planning process is intended to ensure authority fidelity with the purposes of this chapter. The five-year, annually updated program plan required under this section is to provide information substantially consistent with that required of line agencies by the Executive Budget Act, although the format in which it is presented is to be developed by the authority, the legislative auditor and the division of budget and management. The section also provides for a companion five-year capital improvement plan which also is to be

annually updated. The information provided in this plan is to be consistent with that required in Sec. 42.40.600(b) for projects subject to state review.

Subsection (e) requires distribution of the annually updated plans to state officials.

Subsection (f) and Section 10 provide that, three years after the preparation of the first program plan, the governor and legislative auditor may conduct performance and efficiency audits of the authority's compliance with its plan.

Sec. 42.40.330. USE OF AUTHORITY ASSETS. This section requires use of authority funds, property, assets and credit for activities authorized by this chapter. It also precludes the issuance of stock, loans to board members or employees, business for private benefit and other activities inappropriate for a public authority. Subsection (b) makes it clear that the authority is allowed to serve its employees or board members in the same manner it would others in the same general class, such as passengers or shippers, as long as no special privilege is accorded the employees or board members. It also expressly permits the authority to indemnify and insure its employees, agents and board members.

#### ARTICLE 4. RAIL PROPERTIES

Sec. 42.40.400. RAIL PROPERTIES. Sec. 42.40.400 provides that the authority will receive and own the properties of the Alaska Railroad transferred under the federal legislation. These properties, as defined by A.S. 42.40.900(10), include both real

and personal property of the railroad. Like state lands, the authority's lands are protected from adverse possession by A.S. 38.95.010. Subsection (a) also provides that the authority's lands may not be disposed of without compliance with the specific procedures contained in Chapter 40.

Subsection (b) requires the authority to convey the subsurface estate of the lands it receives to the state within 120 days after transfer. The authority may reserve the right to use sand, gravel, coal and other materials on the lands conveyed to the state. Its retained interest includes the right to tunnel and otherwise use the subsurface as necessary for transportation and related purposes.

Under subsection (c), the authority is given the power to litigate and settle any claims arising out of the transfer process, including claims for breach of warranty by the United States. Under subsection (d), the authority may submit applications for interests in federal lands, such as rights-of-way, and receive conveyances of those interests. Additionally, the authority is authorized by subsection (e) to acquire state and federal surplus property under existing law.

Subsection (f) requires the authority to give public notice of the disposal of interests in land, other than leases, easements, and land-use permits.

Sec. 42.40.410. CLASSIFICATION, ACQUISITION AND USE OF STATE LAND FOR RAILROAD PURPOSES. Sec. 42.40.410 provides a mechanism

allowing the authority to acquire state lands for railroad purposes with the concurrence of the Commissioner of Natural Resources. Such acquisition would be necessary in the event of an expansion which involves use of state lands for new routes. The acquisition procedure is initiated by a resolution of the authority's council identifying specific lands for rail purposes. Within 180 days after receiving the resolution, the Commissioner of Natural Resources is required either to permanently classify and convey the surface estate of the requested lands for railroad purposes or to deny the classification as not in the best interest of the state. Conveyances under this section include sand, gravel, other construction materials and coal useful for railroad purposes, unless the Commissioner reserves them to the state.

Subsection (d) also allows the authority and the Commissioner to engage in joint management of railroad lands, to agree to conditions for the classification of state lands as railroad lands, and to periodically review both state and railroad lands to determine their suitability for railroad purposes. The authority may reconvey to the state lands which it no longer needs.

Subsection (e) elaborates on the nature of the authority's interest in surface estate conveyed to it by the state.

Subsection (f) provides an emergency procedure for relocation of right-of-way and related fixtures to state lands where such

relocation is necessary to maintain safe and adequate rail operations. Within 45 days after relocation, the authority must request classification and conveyance of the state lands under the normal procedure.

Subsection (g) permits the authority to use coal on its lands for operational purposes (e.g., generation of electrical power) if the Department of Natural Resources first finds the coal is located on authority land and is not owned by another party. Use of coal for operational purposes includes payment in kind of a contractor engaged to extract the coal.

Sec. 42.40.415. DEVELOPMENT OF OIL, GAS, MINERALS AND GEOTHERMAL RESOURCES ON AUTHORITY LAND. The Department of Natural Resources may lease or develop resources on authority lands only after a review procedure involving both the Department of Natural Resources and the authority has been completed. The review procedure requires an agreement as to suitable reimbursement for any costs incurred by the authority as a result of the development unless undertaken by the state itself. The authority's approval of the development must be evidenced by a written authorization. Additionally, subsection (b) requires the department of natural resources to require a surety bond from any party other than the state engaged in resource development on railroad lands.

Subsection (c) requires the Department of Natural Resources to maintain records and annually report to the legislature concerning the income received from the subsurface of railroad lands

and the value of all subsurface conveyed by the authority to the state.

Subsection (d) establishes the Alaska Railroad Income Fund in the State Treasury for income received by the state from lands in which the authority has an interest. The fund is subject to appropriation by the Legislature.

Sec. 42.40.420. LAND USE REGULATION. This section authorizes the authority to promote the common health, safety, and welfare of the public by adopting exclusive regulations governing land use by private parties having interests, such as leases or permits, in lands owned or managed by the authority.

Sec. 42.40.430. EMINENT DOMAIN AND ACQUISITION OF PROPERTY AND MATERIALS. This section confers eminent domain power on the authority under the state's general eminent domain statute. When the authority acquires a fee simple interest, which may be necessary to insure control of activities on the surface estate, the authority must reconvey the subsurface to the state.

Subsection (c) authorizes the authority to acquire land by filing a declaration of taking.

Subsection (d) clarifies that the authority may exercise eminent domain to obtain materials as well as the land and access necessary to develop them. The authority is also authorized by subsection (e) to vacate land, or any part of it, and reconvey title to the state, if compensation was paid for it.

## ARTICLE 5. FINANCIAL PROVISIONS

Sec. 42.40.500. BONDS AND NOTES. This section authorizes the authority, by resolution of the board, to issue bonds and bond anticipation notes to provide money to carry out its purposes. The section vests broad discretion in the board in the exercise of this authority. Other than specific limitations provided in this section such as a maximum term of 50 years for instruments and the requirement that bond or note proceeds be dedicated to activities specifically related to the purposes for which the instruments are issued, it is intended that the board have the maximum flexibility legally permissible in financing its activities. The 18 covenants and powers delineated in subsection (g) are not intended to be exclusive. Paragraph (19) is a general grant of authority to the board to exercise such other powers and make such other covenants, notwithstanding their omission from the specific list, as may be necessary, convenient and desirable.

Sec. 42.40.510. INDEPENDENT FINANCIAL ADVISOR. The board is required by this section to retain a financial advisor independent of the underwriter in negotiating the private sale of bonds and notes.

Sec. 42.40.515. VALIDITY OF PLEDGE. This procedural section facilitates the pledge of assets or revenues to the payment of authority debt. It provides for automatic lien attachments; gives the liens priority against all parties with junior position

regardless of notice; and allows the authority to sell assets subject to a pledge.

Sec. 42.40.520. REMEDIES. For the benefit of holders of authority securities, this section provides that remedies and rights available under the terms of such instruments are to be broadly enforceable.

Sec. 42.40.525. NEGOTIABLE INSTRUMENTS. Self-explanatory.

Sec. 42.40.530. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. This section authorizes public and private entities and individuals, including the state, and its other political subdivisions, institutions and others subject to regulation by state law to invest in authority securities.

Sec. 42.40.535. REFUNDING BONDS. The issuance of refunding bonds to refund outstanding bonds is authorized by this section. Insofar as may be appropriate, provisions of this chapter also apply to refunding bonds. Subsection (b) authorizes investment of refunding bond proceeds, pending their application as contemplated upon issuance, in direct or guaranteed obligations of the United States, the state or other entities with comparably rated credit.

Sec. 42.40.540. CREDIT OF STATE NOT PLEDGED; REQUIRED DISCLAIMER. This section states that the authority's securities are not obligations of the state and are payable exclusively from revenues or assets of the authority, without recourse to the state or its other political subdivisions. It also requires that

each instrument issued by the authority contain a disclaimer on its face to this effect.

Sec. 42.40.545. NO PERSONAL LIABILITY. Self-explanatory.

Sec. 42.40.50. REVENUES. This section provides for authority retention and management of its own revenues, which do not become part of the state's general fund.

Sec. 42.40.555. INSURANCE. In addition to requiring the authority to maintain adequate insurance, this section requires that the state be named as an additional insured.

Sec. 42.40.560. SAFEGUARDING OF MONEY. Self-explanatory.

Sec. 42.40.565. FIDELITY BOND. Self-explanatory.

Sec. 42.40.570. REVERSION OF ASSETS. Self-explanatory.

#### ARTICLE 6. STATE OVERSIGHT

Sec. 42.40.600. STATE REVIEW. This section requires the authority to obtain the approval of at least the governor and possibly the legislature for certain enumerated major actions. The authority must first notify the governor and the leadership of the legislature that it proposes to undertake any of the designated actions. The governor may either disapprove the proposal, suspend it pending review by the legislature or approve it. Approval or disapproval are final and dispositive. If the governor suspends the proposal, he transmits his decision and his recommendation to the legislature. The legislature may then reject it. If either the governor or the legislature fail to act

within the time provided, the proposal is deemed approved and the authority may proceed.

Subsection (g), the foregoing notwithstanding, requires specific authorization by the legislature by law of any proposed extension representing more than 50 percent of the railroad's total track mileage and requiring the issuance of securities in an amount greater than \$50 million or provision for the management and operation of the railroad by a third party contractor.

Subsection (h) provides that this section is satisfied if the authority has been directed to proceed with a project through the Sec. 42.40.610 action-forcing mechanism or in the event the legislature has funded a project independently.

Sec. 42.40.610. ACTION-FORCING MECHANISM. This section requires the authority to respond formally to a request for consideration of a proposal by either the governor or the legislature. Within 30 days of receiving such a request, the authority, in writing, must commit to undertake the suggested proposal or explain why it will not or is precluded from doing so. At the request of the governor or on its own initiative, the legislature may then direct the authority to proceed, its response notwithstanding, if the legislature also provides funds to plan and implement the proposal.

Sec. 42.40.615. INTERVENTION. This section provides that the governor, when so authorized by the legislature, must intervene in and exercise control of the authority under certain delineated circumstances. The intervention mechanism permits the

governor to correct the deficiencies and is to cease as soon as the necessary corrections have been made.

Sec. 42.40.620. TRUSTEESHIP. This section provides that the legislature may also authorize the governor to petition the State Superior Court at Anchorage to impose a trusteeship over the authority under specific circumstances, including insolvency, misapplication of resources or impairment of the state's credit-worthiness. The trustees appointed by the court are given broad powers to cure the situation.

#### ARTICLE 7. MISCELLANEOUS PROVISIONS

Sec. 42.40.700. PERSONNEL. This section provides that the employees of the authority are not employees of the state. It also provides for application of the state's Public Employment Relations Act to the authority's employees.

Subsection (c) precludes organization of the authority's executive officials.

Sec. 42.40.710. POLITICAL ACTIVITIES. This section precludes use of authority funds in political activities including legislative efforts. Nevertheless, board members and employees are authorized to participate in legislative proceedings at all levels of government in connection with matters directly affecting the authority. Violations of this section are subject to personal fines up to \$5,000 under subsection (b).

Sec. 42.40.720. LICENSES AND PERMITS. This section provides that the authority, to the same extent as the state and except as

otherwise provided in this chapter, will comply with local, state and federal licensing and permitting requirements.

Sec. 42.40.730. UNAUTHORIZED REPRESENTATION. Self-explanatory.

Sec. 42.40.740. CLAIMS AGAINST THE AUTHORITY. Subsection (a) requires that all legal claims involving the authority be brought against the authority and not against the State of Alaska. This requirement reaffirms that the debts of the authority are not the debts of the state.

Subsection (b) extends certain rights, privileges and immunities of the state and state officers to the authority and its board members and employees. Among these are requirements relating to statutes of limitations, immunity from suit, and exemptions from giving bond.

Subsection (c) provides that claims against the authority will not be subject to the administrative procedure for presenting and deciding claims against the state or its agencies. (A.S. 44.77.010 et seq.)

Subsection (d) clarifies that A.S. 44.80.010, concerning the state's status as a party to actions against departments and agencies, does not apply to the authority. As a result, the state may not be named in an action against the authority and the Department of Law is not required to bring or defend actions concerning the authority.

Sec. 42.40.755. EXEMPTION FROM TAXATION. This section exempts the authority from state and political subdivision taxation. Subsection (c) provides that authority property is considered taxable for the limited purposes of computing state aid to local school districts.

Sec. 42.40.770. PAYMENTS IN PLACE OF LOCAL REAL PROPERTY TAXATION AND IMPACT AID. This section authorizes the authority to provide, in its discretion and under certain circumstances, partial payments in lieu of local real property taxation by communities in which the authority has substantial land holdings. The authority also is allowed to provide discretionary impact aid to localities for public education and other facilities required to be developed as a result of expanded authority activities in such areas.

#### ARTICLE 8. GENERAL PROVISIONS

Sec. 42.40.870. ENFORCEMENT OF LAW AND AUTHORITY REGULATIONS BY AUTHORITY SECURITY FORCE. This section provides for an authority security force to enforce state laws and authority regulations with respect to violations of the laws or regulations that occur on or to authority property. Security force members have the same enforcement powers granted by law to state law enforcement officers.

Sec. 42.40.880. PENALTY FOR VIOLATION OF DESIGNATED REGULATION. This section makes a violation of the authority's regulations designated as necessary to protect life, health, or

property a misdemeanor punishable by a \$1,000 fine and/or six months imprisonment. The authority is expected to be able to deal with the problem of violations by employees incidental to and within the scope of their employment in regulations implementing this section.

Sec. 42.40.890. CONSTRUCTION. Self-explanatory.

Sec. 42.40.900. DEFINITIONS.

(1) through (6) Self-explanatory.

(7) "Immediate family" is defined for purposes of Sec.

42.40.200 CONFLICTS OF INTEREST.

(8) Self-explanatory.

(9) "Leadership of the legislature" is defined for purposes of notice and filings required by this chapter. The definition specifically provides that the designated office-holders may designate persons or offices to receive such notices and filings.

(10) Self-explanatory.

(11) "Regulation" is defined to have the same meaning as that term is defined under the State Administrative Procedure Act.

(12) "Rule" is distinguished from "regulation" as it relates to the authority's internal affairs and not to activities affecting the public at large.

Sec. 3. Amendment to A.S. 09.55.310(a)(4)

Sec. 4. Amendment to A.S. 09.55.350

Sections 3 and 4 amend A.S. 09.55.310(a)(4) and A.S. 09.55.350 respectively to exempt the authority from any requirement that it pay for or erect fences and cattleguards along right-of-way it condemns.

Sec. 5. Amendment to A.S. 39.50.200(b)

Section 5 amends A.S. 39.50.200(b) to add the authority to the list of state commissions and boards whose officials are subject to the conflict of interest and reporting requirements of A.S. 39.50.

Sec. 6. COMMENCEMENT OF LEGAL EXISTENCE OF ALASKA RAILROAD AUTHORITY. This section provides that the authority's legal existence commences when the governor appoints all of its initial members.

Sec. 7. APPOINTMENT OF FIRST MEMBERS OF THE BOARD OF COMMISSIONERS. This section provides for the appointment of the initial members of the board. The governor may exercise his power of appointment only upon acceptance by the legislature of the closing report prepared under the federal transfer legislation. The section also directs the governor to designate the terms of the initial public members and staggers the terms to ensure long-term continuity on the board.

Sec. 8. CLOSING REPORT SUBMITTED UNDER FEDERAL TRANSFER LEGISLATION. The closing report prepared under the transfer legislation is to include a specific accounting of the assets and

liabilities being transferred. This section also provides that the legislature may not condition its acceptance of the report on its modification but may only accept or reject it.

Sec. 9. ASSETS AND LIABILITIES TO BE NOTED IN AUDIT. The audit, during the five years following transfer, is to include the status of the assets and liabilities identified in the closing report prepared under the federal transfer legislation.

Sec. 10. INITIAL LONG-RANGE PROGRAM AND CAPITAL IMPROVEMENT PLANS. This section requires the authority to prepare and the board to adopt initial long-range program and capital improvement plans within 18 months of the date of transfer.

Sec. 11. PRE-EXISTING RULES, REGULATIONS AND ORDERS OF THE ALASKA RAILROAD. This section allows the authority board to continue in effect the Alaska Railroad's existing rules, regulations and orders for a period not to exceed two years.

Sec. 12. COLLECTIVE BARGAINING AGREEMENTS BETWEEN ALASKA RAILROAD AUTHORITY AND EMPLOYEES. This section requires the authority, as soon as practicable after transfer of the railroad, to adopt collective bargaining agreements with its employees that continue the provisions of the agreements in effect immediately prior to the date of transfer. The agreements are to remain in effect until they expire by their terms or as required under the transfer legislation, they are renegotiated, subject to board approval.

Sec. 13. CONFLICTING LAWS INAPPLICABLE. Self-explanatory.

Sec. 14. APPLICATION OF EXISTING STATUTES.

(a) A.S. Title 19 does not apply to the authority -- sets forth the responsibilities of and restrictions on the Department of Transportation and Public Facilities in the construction and operations of highways; some of its provisions regarding construction, public bids, etc., arguably apply to other activities of DOT/PF, to which the authority will be nominally assigned.

(b) The authority is considered a "political subdivision" for purposes of A.S. 23.10.055 -- state wage and hour statute.

(c) A.S. 23.10.420 does not apply to the authority -- full-crew law.

(d) A.S. 30.15 does not apply to the authority -- procedures for state grants for construction of local port facilities.

(e) Authority activities are not subject to A.S. Title 35, which deals generally with public works. The authority is exempt from public bidding requirements. Department of Transportation and Public Facilities supervision of construction, planning of projects, etc.

(f) The following provisions of A.S. Title 37 do not apply to the authority's operations and budgeting procedures:

A.S. 37.05 -- the Fiscal Procedures Act establishes uniform accounting, purchasing, post auditing, and related financial provisions for all "state agencies" and

requires state agencies to submit reports, documents, and statements to the Department of Administration for accounting purposes, requires federal funds received by state agencies to be deposited in the state treasury, makes the Department of Administration responsible for all accounts and purchases of state agencies, requires competitive bidding procedures, and imposes other financial and reporting requirements;

A.S. 37.07 -- Executive Budget Act;

A.S. 37.10.010 - .060 -- these sections make the Department of Administration the custodian of state funds and require all officers, boards, commissions, etc., to account to the Department of Revenue for all moneys received;

A.S. 37.10.085 -- prohibits a political subdivision of the state from subscribing to the stock of the corporation for loaning credit or borrowing money for use of the corporation;

A.S. 37.20 -- authorizes the governor to accept federal grants and transfers of property, and makes land so transferred subject to the jurisdiction of the Department of Natural Resources; and

A.S. 37.25 -- determines which unexpended appropriations lapse and which do not.

(g) The authority is not subject to the jurisdiction of the Alaska Transportation Commission.

(h) Provides subsequently enacted statutes shall not be interpreted to apply to the authority unless they do so specifically by their terms.

Sec. 15. EFFECTIVE DATE. This section provides that the chapter becomes effective upon acceptance by the legislature of the closing report submitted under the federal transfer legislation or upon approval by the legislature of operation of the federal Alaska Railroad by the authority.

SB 212  
Staff Assigned: Pamela Garvie  
Extension: 4-4852  
Date: 5/5/82

DIGEST OF S. 1500, A BILL  
TO PROVIDE FOR THE TRANSFER OF THE  
ALASKA RAILROAD TO THE STATE OF ALASKA

Background

Congress authorized the construction of the Alaska Railroad in 1914 to serve the transportation and development needs of the Territory of Alaska. The 525-mile railroad has been in operation since 1923, and is administered by the Department of Transportation. Although the railroad has served the interest of the Federal Government in the past, today it exists primarily for the benefit of residents and shippers in Alaska and those who visit the State. The Administration supports legislation ending its responsibility for the railroad. The State of Alaska had indicated a strong interest in taking over the railroad and expanding its operations in the future. In view of the respective interests in the railroad, the transfer of the railroad to the State is considered appropriate at this time. Further, such a transfer would be consistent with that provided for in the recently enacted Conrail legislation.

On July 7, 1981, Senator Stevens introduced on behalf of himself and Senator Murkowski S.1500, a bill to provide for the transfer of the railroad to the State. On August 10th and 11th the Commerce Committee held two days of hearings on the bill in the State of Alaska. During the Executive Session, Senator Stevens will offer an amendment in the form of a substitute bill, which

reflects recommendations made during the hearings and in subsequent meetings with representatives of the State, the U.S. Department of Transportation and other interested persons. No additional amendments are expected at the Executive Session.

#### Summary of the Legislation

The substitute bill authorizes the transfer of the Alaska Railroad to the State of Alaska on an expedited basis. In order to ensure continued operation of the railroad, the bill requires the State to provide the Secretary with assurances that it will operate the railroad as a rail carrier. In addition, the State must assume the railroad subject to its rights, obligations, and liabilities. This is intended to protect shippers, suppliers and other interested persons against major service disruptions, and to help ensure that the Federal Government's ties with the railroad are severed. Further, the State must offer certain protections for employees of the railroad, including the continuation of collective bargaining agreements and employees' positions and salary levels for a two-year period. The transfer is to be made without any monetary consideration on the part of the State.

The bill contains several provisions governing the future operation of the railroad by the State. One of the provisions makes the Railroad subject to the jurisdiction of the Interstate Commerce Commission and most other Federal railroad laws. Another authorizes the grant of future rights-of-way for the expansion of the railroad across Federal lands. A third provision is included to protect the Federal Government's

S. 1500  
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investment in the railroad and its interest in continued railroad operations. It provides that if, within five years of transfer, the rail properties are converted to a use that prevents the railroad from continuing to operate, the properties shall revert to the Federal Government, or alternatively the State shall pay the Federal Government the value of the properties.

Staff assigned: Pamela Garvie  
Extension: 44852  
Date: 5/5/82

SECTION-BY-SECTION ANALYSIS OF AN AMENDMENT  
IN THE FORM OF A SUBSTITUTE TO S. 1500

Section 1 - Title

This section provides that the bill may be cited as the "Alaska Railroad Transfer Act of 1982."

Section 2 - Findings

This section states the reasons for transferring the Alaska Railroad to the State. It points out that the railroad primarily serves residents and businesses in the State and that continued Federal control and financial support are no longer necessary. It also notes the importance of continued operation and future expansion of the railroad.

Section 3 - Definitions

This section defines the major terms in the bill, including a definition of the "rail properties" to be transferred to the State. The definition of rail properties does not include unexercised easements across private properties, the Federal eminent domain authority, certain monies in the Alaska Railroad Revolving Fund, certain property necessary to carry out Federal functions, and property near McKinley Park.

Section 4 - Transfer Authorization

This section provides that the Secretary of Transportation shall transfer the Alaska Railroad to the State without monetary consideration. Prior to transfer, the Secretary must certify that:

- (1) the State will operate the railroad as a rail carrier;
- (2) will assume the rights, liabilities, and obligations of the railroad; and
- (3) will provide certain protections for employees of the railroad, including the continuation of collective bargaining agreements and employees' positions and salary levels for a two-year period.

This section also provides that the Secretary shall transfer all of the properties by one deed of conveyance, and shall warrant that the State receives a fee simple interest in the railroad's right-of-way and other lands not subject to valid existing claims by third parties.

Section 5 - Transition Period

This section provides that within six months of enactment, the Secretary and the Governor of Alaska shall jointly prepare for the U.S. Congress and the Alaska State Legislature a report detailing the rail properties, the liabilities and obligations, and any money in the Revolving Fund to be transferred to the State.

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This section also authorizes the State to inspect the properties and records of the railroad prior to transfer. Further, the Secretary shall conform the railroad's accounting practices to those required of other railroads.

Section 6 - Lands to be Transferred

This section governs the application of various Federal Alaska land statutes to the Railroad's lands which are to be transferred. It provides that lands shall be transferred subject to valid existing claims, but with some limitations. First, the lands to be transferred shall not be considered public lands as defined by the Alaska Native Claims Settlement Act if determined to be the "smallest practicable tract" used in connection with the railroad. The Secretary of Interior is given one year to complete this determination. Second, the lands to be transferred are excluded from selection or conveyance pursuant to certain other statutes. Finally, any claims shall not be valid if they impair the operation of the railroad.

5/5/82

Section 7 - Employees of the Alaska Railroad

This section pertains to the retirement benefits of employees of the Alaska Railroad. It continues in the Federal Civil Service retirement system those employees now in the system who transfer to the State-operated railroad. As an alternative, the State may provide such employees with equivalent benefits under the State retirement system. This section also provides severance benefits for employees who do not transfer to the State-operated railroad or who are terminated within two years of transferring to such railroad.

Section 8 - State Operation

This section makes the State-operated railroad subject to the jurisdiction of the Interstate Commerce Commission (ICC), and other Federal railroad laws, except the Railroad Retirement Act, the Railway Labor Act, the Federal Employers' Liability Act, and the Railroad Unemployment Insurance Act. The ICC may exempt the railroad in whole or part from its regulation. The railroad properties within the boundaries of Denali National Park and Preserve shall be subject to Federal laws for the protection of fish and wildlife and other park values.

Section 9 - Future Rights-of-Way

This section authorizes the grant of future rights-of-way for the expansion or realignment of the railroad across Federal lands, subject to the applicable provisions of

certain Federal lands laws. If the State converts such lands to a use that would prevent the State-owned railroad from continuing to operate, the lands shall revert back to the United States as provided by section 10 of this Act.

#### Section 10 - Reversion

This section provides for the reversion to the United States of the properties of the Alaska Railroad, if within five years of transfer the State converts such properties to a use that would prevent the State-owned railroad from continuing to operate. As an alternative to the actual reversion of the properties, the State may pay the United States an amount determined to be the value of the properties at the time they ceased to be used for railroad purposes.

#### Section 11 - Other Disposition

This section authorizes the Secretary to dispose of the rail properties of the Alaska Railroad if the State does not acquire it pursuant to the Secretary's certification and within one year of the delivery to Congress of the closing report. In so disposing of the properties, the Secretary shall give preference to a buyer who will continue to provide rail service.

#### Section 12 - McKinley Park Station Lands

This section provides for the conveyance to the Department of the Interior of certain rail properties near McKinley Park Station.

Section 13 - Applicability of Other Laws

This section exempts the transfer process from certain Federal statutes in order to ensure that the process goes forward expeditiously.

Section 14 - Conflict with Other Laws

This section provides that the provisions of this Act shall govern in the event of any conflict between this Act and any other law.

Section 15 - Repeal and Amendment of Existing Statutes

This section repeals the Act that established the Alaska Railroad and other related laws, and makes conforming changes.

Section 16 - Separability

This section provides that if any section is held invalid, other sections shall not be affected.



1 services that primarily benefit residents and  
2 businesses in the State of Alaska;

3 (2) continuation of rail services in Alaska  
4 and the opportunity for future expansion of those  
5 services are necessary to achieve Federal, State  
6 and private objectives; however, continued Federal  
7 control and financial support are no longer  
8 necessary to accomplish these objectives;

9 (3) the transfer of the Alaska Railroad and  
10 provision for its operation by the State in the  
11 manner contemplated by this Act is made pursuant to  
12 the Federal goal and ongoing program of  
13 transferring appropriate activities to the States;

14 (4) the continued operation of the State-owned  
15 railroad following the transfer contemplated by  
16 this Act, together with such expansion of the  
17 railroad as may be necessary or convenient in the  
18 future, will constitute an appropriate public use  
19 of the rail system and associated properties and  
20 will promote the general welfare of Alaska's  
21 residents and visitors; and

22 (5) in order to give the State government the  
23 ability to determine the Alaska Railroad's role in  
24 serving the State's transportation needs in the  
25 future, including the opportunity to extend rail  
26 service, and to provide a savings to the Federal

1. Government, the Federal Government should offer to  
2 transfer the railroad to the State, in accordance  
3 with the provisions of this Act, in the same manner  
4 in which other Federal transportation functions  
5 (including highways and airports) have been  
6 transferred since Alaska became a State in 1959.

7 DEFINITIONS

8 Sec. 3. As used in this Act, the term--

9 (1) "Alaska Railroad" means the agency of the  
10 United States Government that is operated by the  
11 Department of Transportation as a rail carrier in  
12 Alaska under authority of the Act of March 12, 1914  
13 (43 U.S.C. 975 et seq.) (popularly referred to as  
14 the "Alaska Railroad Act") and section 6(i) of the  
15 Department of Transportation Act (49 U.S.C.  
16 1555(i));

17 (2) "Alaska Railroad Revolving Fund" means the  
18 public enterprise fund maintained by the Department  
19 of the Treasury into which revenues of the Alaska  
20 Railroad and appropriations for the Alaska Railroad  
21 are desposited, and from which funds are expended  
22 for operation, maintenance and construction work on  
23 the Alaska Railroad which is authorized by law;

24 (3) "date of transfer" means the date on which  
25 the Secretary delivers to the State the deed of

1 conveyance referred to in section 4(a)(2) of this  
2 Act;

3 (4) "employees" means all personnel employed  
4 by the Alaska Railroad on the date of transfer,  
5 including the officers of the Alaska Railroad,  
6 unless otherwise indicated in this Act;

7 (5) "officers of the Alaska Railroad" means  
8 the following specific positions established at the  
9 Alaska Railroad as of July 1, 1981: General  
10 Manager; Assistant General Manager; Assistant to  
11 the General Manager; Chief of Administration; and  
12 Chief Counsel;

13 (6) "rail properties of the Alaska Railroad"  
14 means all right, title, and interest of the United  
15 States, both tangible and intangible, to lands,  
16 buildings, facilities, machinery, equipment,  
17 supplies, records, and other real and personal  
18 properties in which there is an interest reserved,  
19 withdrawn, appropriated, owned, administered or  
20 otherwise claimed by or for the Alaska Railroad as  
21 of the date of enactment of this Act, but excluding  
22 any such properties disposed of, and including any  
23 such properties acquired, in the ordinary course of  
24 business after that date but before the date of  
25 transfer, and also excluding the following:

1 (A) the unexercised reservation to the  
2 United States for future rights-of-way  
3 required in all patents for land taken up,  
4 entered, or located in Alaska, as provided by  
5 the Act of March 12, 1914 (43 U.S.C. 975 et  
6 seq.);

7 (B) the right of the Secretary to  
8 exercise the power of eminent domain;

9 (C) any money in the Alaska Railroad  
10 Revolving Fund which the State and the  
11 Secretary agree is needed to satisfy  
12 obligations incurred by the United States in  
13 connection with the operation of the Alaska  
14 Railroad which would have been paid from such  
15 Fund but for this Act and which are not  
16 assumed by the State pursuant to this Act;

17 (D) real or personal property which the  
18 Secretary determines with the consent of the  
19 State, prior to the date of transfer under  
20 section 4 of this Act, to be necessary to  
21 carry out functions of the Federal Government  
22 after the date of transfer; and

23 (E) those Alaska Railroad properties near  
24 McKinley Park Station, described in section 12  
25 of this Act;



1 (notwithstanding the repeal of such Act by section 15  
2 of this Act), regardless of whether such reservations  
3 were expressed in a particular patent or other document  
4 of title. In such deed, the United States shall  
5 warrant to the State that the State receives a fee  
6 simple title in the right-of-way for the main line and  
7 branch line tracks and for lands not determined  
8 pursuant to section 6 of this Act to be equitably owned  
9 by a third party. This warranty obligation shall be  
10 deemed an express contract of and with the United  
11 States.

12 (B) In the deed of conveyance to the State, there  
13 shall be reserved to the Secretary of the Interior the  
14 right to use and occupy, without compensation, 5,000  
15 square feet of land at Talkeetna, Alaska, as described  
16 in ARR Lease Number 69-25-0003-5165 for National Park  
17 Service administrative activities, if the use or  
18 occupation does not interfere with the operation of the  
19 State-owned railroad. This reservation shall be  
20 effective on the date of transfer under this section or  
21 the expiration date of such Lease, whichever is later.

22 (b)(1) Prior to transferring the rail properties of  
23 the Alaska Railroad to the State, as provided in  
24 subsection (a) of this section, the Secretary shall  
25 certify that the State has agreed to operate the rail

1 properties of the Alaska Railroad as a rail carrier in  
2 intrastate and interstate commerce.

3 (2)(A) The Secretary shall also certify that the  
4 State has agreed to assume all rights, liabilities, and  
5 obligations of the Alaska Railroad at the time of  
6 transfer, including leases, permits, licenses,  
7 contracts, agreements, claims, tariffs, accounts  
8 receivable, and accounts payable, except as otherwise  
9 provided by this Act.

10 (B) Notwithstanding the provisions of subparagraph  
11 (A) of this paragraph, the United States shall be  
12 solely responsible for--

13 (i) all claims and causes of action against  
14 the Alaska Railroad that accrue on or before the  
15 date of transfer, regardless of the date on which  
16 legal proceedings asserting such claims were or may  
17 be filed, except that the United States shall, in  
18 the case of any tort claim, only be responsible for  
19 any such claim against the United States that  
20 accrues before the date of transfer and results in  
21 an award, compromise, or settlement of more than  
22 \$2,500, and the United States shall not compromise  
23 or settle any claim resulting in State liability  
24 without the consent of the State, which consent  
25 shall not be unreasonably withheld; and

1           (ii) all claims that resulted in a judgment or  
2       award against the Alaska Railroad before the date  
3       of transfer.

4       (C) For purposes of subparagraph (B) of this  
5       paragraph, the term "accrue" shall have the meaning  
6       contained in section 2401 of title 28, United States  
7       Code.

8       (3)(A) The Secretary shall also certify that the  
9       State-owned railroad has established arrangements  
10      pursuant to section 7 of this Act to protect the  
11      employment interests of employees of the Alaska  
12      Railroad during the two-year period commencing on the  
13      date of transfer. These arrangements shall include  
14      provisions--

15           (i) which ensure that the State-owned railroad  
16      will adopt collective bargaining agreements in  
17      accordance with the provisions of subparagraph (B)  
18      of this paragraph;

19           (ii) for the retention of all employees, other  
20      than officers of the Alaska Railroad, in their same  
21      positions, except in cases of reassignment,  
22      separation for cause, resignation, retirement, or  
23      lack of work, who elect to transfer to the State-  
24      owned railroad for the two-year period commencing  
25      on the date of transfer;

1 (iii) for the payment of compensation to  
2 transferred employees, except as provided in clause  
3 (iv) of this subparagraph or except in cases of  
4 separation for cause, resignation, retirement, or  
5 lack of work, for two years at or above the base  
6 salary levels in effect on the date of transfer,  
7 unless the parties otherwise agree during that two-  
8 year period;

9 (iv) for payment during the two-year period  
10 commencing on the date of transfer to officers of  
11 the Alaska Railroad not retained or separated by  
12 the State-owned railroad of compensation equivalent  
13 to that which such officers would receive in one  
14 year at the salary levels effective for such  
15 officers on the day before the date of transfer,  
16 except that the Secretary, at the request of the  
17 State-owned railroad, shall reassign any officer  
18 who is a member of the Federal Senior Executive  
19 Service, and the State-owned railroad shall not be  
20 required to pay the compensation provided in this  
21 clause in the event of such reassignment,

22 (v) for priority of reemployment at the State-  
23 owned railroad during the two-year period  
24 commencing on the date of transfer for transferred  
25 employees who are terminated or laid off for lack

1 of work, in accordance with subparagraph (C) of  
2 this paragraph;

3 (vi) for credit during the two-year period  
4 commencing on the date of transfer for accrued  
5 annual and sick leave, seniority rights, health and  
6 life insurance benefits, and relocation and  
7 turnaround travel allowances which have been  
8 accrued by transferred employees retained by the  
9 State-owned railroad; and

10 (vii) for payment to transferred employees  
11 retained by the State-owned railroad during the  
12 two-year period commencing on the date of transfer  
13 of an amount equivalent to the cost-of-living  
14 allowance to which they are entitled as Federal  
15 employees on the day before the date of transfer,  
16 in accordance with the provisions of subparagraph  
17 (D) of this paragraph.

18 (B) The State-owned railroad shall adopt all  
19 collective bargaining agreements which are in effect on  
20 the date of transfer. Such agreements shall continue  
21 in effect for the two-year period commencing on the  
22 date of transfer, unless the parties agree to the  
23 contrary before the expiration of that two-year period.  
24 Such agreements shall be renegotiated during the two-  
25 year period, unless the parties agree to the contrary.

1 (C) Federal service shall be included in the  
2 computation of seniority for transferred employees with  
3 priority for reemployment, as provided in subparagraph  
4 (A)(v) of this paragraph.

5 (D) Payment to transferred employees pursuant to  
6 subparagraph (A)(vii) of this paragraph shall not  
7 exceed the percentage of any transferred employee's  
8 base salary level provided by the United States on the  
9 date of transfer, unless the parties agree to the  
10 contrary.

11 (4) The Secretary shall also certify that the State  
12 has agreed to allow representatives of the Secretary  
13 adequate access to employees and records of the Alaska  
14 Railroad when needed for the performance of functions  
15 related to the period of Federal ownership.

16 TRANSITION PERIOD

17 Sec. 5. (a) Within 6 months after the date of  
18 enactment of this Act, the Secretary and the Governor  
19 of Alaska shall jointly prepare and deliver to the  
20 Congress and the Legislature of the State of Alaska a  
21 report that describes in detail the rail properties of  
22 the Alaska Railroad, the liabilities and obligations to  
23 be assumed by the State, and the sum of money, if any,  
24 in the Revolving Fund to be withheld from the State  
25 pursuant to section 3(5)(C) of this Act.

1 (b) During the period from the date of enactment of  
2 this Act until transfer of the rail properties of the  
3 Alaska Railroad pursuant to section 4 of this Act, the  
4 State shall have the right to inspect, analyze,  
5 photograph, photocopy and otherwise evaluate all of the  
6 rail properties of the Alaska Railroad and all records  
7 related to the rail properties of the Alaska Railroad  
8 maintained by any agency of the United States under  
9 conditions established by the Secretary to protect the  
10 confidentiality of proprietary business data, personnel  
11 records, and other information, the public disclosure  
12 of which is prohibited by law. During that period, the  
13 Secretary and the Alaska Railroad shall not, without  
14 the consent of the State (except as required by law)--

25 (1) make or incur any obligation to make any  
16 capital expenditure of money from the Alaska  
17 Railroad Revolving Fund in excess of \$300,000;

18 (2) sell, exchange, give, or otherwise  
19 transfer any real property included in the rail  
20 properties of the Alaska Railroad; or

21 (3) lease any rail property of the Alaska  
22 Railroad for a term in excess of 5 years.

23 (c) Prior to transfer of the rail properties of the  
24 Alaska Railroad to the State, the Secretary shall  
25 conform the Alaska Railroad's accounting practices and  
26 systems to those required of comparable rail carriers

1 subject to the jurisdiction of the Interstate Commerce  
2 Commission.

3 LANDS TO BE TRANSFERRED

4 Sec. 5. (a) Lands to be transferred by the Federal  
5 Government under section 4 of this Act shall be  
6 transferred subject to valid existing rights and  
7 subject to reconveyance to satisfy final adjudications  
8 of valid existing rights pursuant to this section, and  
9 are--

10 (1) not public lands within the definition  
11 contained in section 3(e) of the Alaska Native  
12 Claims Settlement Act (43 U.S.C. 1602(e)), if such  
13 lands are now or are subsequently determined to be  
14 the "smallest practicable tract" within the meaning  
15 of that section;

16 (2) excluded from selection under section 12  
17 of the Act of January 2, 1976 (43 U.S.C. 1611,  
18 note);

19 (3) excluded from selection under section 1425  
20 of the Alaska National Interest Lands Conservation  
21 Act (Public Law 96-487; 94 Stat. 2515); and

22 (4) not available for conveyance under section  
23 1430 of the Alaska National Interest Lands  
24 Conservation Act (Public Law 96-487; 94 Stat.  
25 2531).

1 (b) (1) The Secretary of the Interior shall have the  
2 continuing jurisdiction and duty to adjudicate claims  
3 of valid existing rights arising under Federal law in  
4 lands which are among the rail properties of the Alaska  
5 Railroad transferred pursuant to section 4 of this Act.  
6 The Secretary of the Interior shall issue written  
7 decisions following such adjudication and, after such  
8 reconveyance of legal title to the United States as may  
9 be necessary, shall issue appropriate documents of  
10 title.

11 (2) The Secretary of the Interior shall, within one  
12 year after the date of enactment of this Act, complete  
13 the determination of smallest practicable tract (within  
14 the meaning of section 3(e)(1) of the Alaska Native  
15 Claims Settlement Act (43 U.S.C. 1502(e)(1)) on lands  
16 which are among rail properties of the Alaska Railroad.  
17 In making such determination, the Secretary shall  
18 consider the findings and policies of this Act,  
19 including that--

20 (A) transfer of a right-of-way in fee is  
21 necessary for the operation and future expansion of  
22 the State-owned railroad, has been in actual use  
23 within the meaning of section 3(e)(1) of the Alaska  
24 Native Claims Settlement Act (43 U.S.C. 1602(e)),  
25 and is warranted pursuant to section 4 of this Act;  
26 and

1 (B) the characteristics of existing and future  
2 rights-of-way of the State-owned railroad must, at  
3 a minimum, conform to the physical characteristics  
4 of the Alaska Railroad on the date of transfer, as  
5 derived from common practice and authorized under  
6 section 1 of the Act of March 12, 1914 (43 U.S.C.  
7 975 et seq.), which is repealed by section 15 of  
8 this Act.

9 (c)(1) The decision of the Secretary pursuant to  
10 subsection (b) of this section shall be subject to  
11 judicial review only in the United States District  
12 Court for the District of Alaska. Review of agency  
13 action pursuant to this Act shall be expedited to the  
14 same extent as the expedited review provided by section  
15 1109 of the Alaska National Interest Lands Conservation  
16 Act (16 U.S.C. 3168).

17 (2) No administrative or judicial action under this  
18 Act shall impair or impede the operations of the Alaska  
19 Railroad.

20 (3) The State shall have standing to participate in  
21 any administrative determination or judicial review  
22 pursuant to this section.

23 (d) Nothing in this Act or any other provision of  
24 law shall give rise to any claim for compensation for  
25 use of lands among the rail properties of the Alaska  
26 Railroad that are conveyed to any person by the United

1 States or are reconveyed to the United States pursuant  
2 to the requirements of this Act. This subsection shall  
3 not prevent or impair a claim founded on the warranty  
4 obligation contained in section 4(a)(2)(A) of this Act.

5 EMPLOYEES OF THE ALASKA RAILROAD

6 Sec. 7. (a)(1) Any employees who elect to transfer  
7 to the State-owned railroad and who on the day before  
8 the date of transfer are subject to the civil service  
9 retirement law (subchapter III of chapter 83 of title  
10 5, United States Code) shall, so long as continually  
11 employed by the State-owned railroad without a break in  
12 service, continue to be subject to such law. Solely  
13 for purposes of such law, employment by the State-owned  
14 railroad without a break in continuity of service shall  
15 be considered to be employment by the United States  
16 Government. The State shall be the employing agency  
17 for purposes of section 8334(a) of title 5, United  
18 States Code, and shall contribute to the Civil Service  
19 Retirement and Disability Fund a sum as provided by  
20 section 8334(a) of title 5, United States Code, except  
21 that such sum shall be determined by applying to the  
22 total basic pay (as defined in section 8331(3) of title  
23 5, United States Code) paid to the employees of the  
24 State who are covered by the civil service retirement  
25 law, the per centum rate determined annually by the  
26 Director of the Office of Personnel Management to be

1 the excess of the total normal cost per centum rate of  
2 the civil service retirement system over the employee  
3 deduction rate specified in section 8334(a) of title 5,  
4 United States Code. The State-owned railroad shall pay  
5 into the Federal Civil Service Retirement and  
6 Disability Fund that portion of the cost of  
7 administration of such Fund which is demonstrated by  
8 the Director of the Office of Personnel Management to  
9 be attributable to its employees, except that the  
10 State-owned railroad shall have the option of providing  
11 benefits in accordance with the provisions of paragraph  
12 (2) of this subsection.

13 (2) At any time during the two-year period  
14 commencing on the date of transfer, the State-owned  
15 railroad shall have the option of providing to  
16 transferred employees retirement benefits, reflecting  
17 prior Federal service, in or substantially equivalent  
18 to benefits under the retirement program maintained by  
19 the State for State employees. The State may provide  
20 such benefits to all transferred employees, except  
21 those employees who will meet the age and service  
22 requirements for retirement under section 8336(a), (b),  
23 (c) or (f) of title 5, United States Code, within 5  
24 years after the date of transfer and who elect to  
25 remain participants in the Federal retirement program.

1 (3) If the State elects to provide benefits under  
2 paragraph (2) of this subsection--

3 (A) the provisions of paragraph (1) of this  
4 subsection regarding payments into the Civil  
5 Service Retirement and Disability Fund shall have  
6 no further force and effect; and

7 (B) all of the accrued employee and employer  
8 contributions and accrued interest on such  
9 contributions made by and on behalf of the  
10 transferred employees during their prior Federal  
11 service (other than amounts for employees who will  
12 meet the age and service requirements for  
13 retirement under section 8336(a), (b), (c) or (f)  
14 of title 5, United States Code, within 5 years  
15 after the date of transfer and who elect to remain  
16 participants in the Federal retirement program)  
17 shall be withdrawn from the Federal Civil Service  
18 Retirement and Disability Fund and shall be paid  
19 into the retirement fund utilized by the State-  
20 owned railroad for the transferred employees, in  
21 accordance with the provisions of paragraph (2) of  
22 this subsection. Upon such payment, credit for  
23 prior Federal service under the Federal civil  
24 service retirement system shall be forever barred,  
25 notwithstanding the provisions of section 8334 of  
26 title 5, United States Code.

1 (b) Employees of the Alaska Railroad who do not  
2 transfer to the State-owned railroad shall be entitled  
3 to all of the rights and benefits available to them  
4 under Federal law for discontinued employees.

5 (c) Transferred employees whose employment with the  
6 State-owned railroad is terminated during the two-year  
7 period commencing on the date of transfer shall be  
8 entitled under Federal law to all of the rights and  
9 benefits of discontinued employees that such employees  
10 would have had under Federal law if their termination  
11 had occurred immediately before the date of the  
12 transfer, except that financial compensation paid to  
13 officers of the Alaska Railroad shall be limited to  
14 that compensation provided pursuant to section  
15 4(b)(3)(A)(iv) of this Act. Such employees shall also  
16 be entitled to seniority and other benefits accrued  
17 under Federal law while they were employed by the  
18 State-owned railroad on the same basis as if such  
19 employment had been Federal service.

20 STATE OPERATION

21 Sec. 8. (a)(1) After the transfer to the State  
22 authorized by section 4 of this Act the State-owned  
23 railroad shall be a rail carrier engaged in interstate  
24 and foreign commerce subject to the jurisdiction of the  
25 Interstate Commerce Commission under chapter 105 of  
26 subtitle IV of title 49, United States Code, and all

1 other Acts applicable to rail carriers subject to that  
2 chapter, except the Railroad Retirement Act of 1974 (45  
3 U.S.C. 231 et seq.), the Railway Labor Act (45 U.S.C.  
4 151 et seq.), the Act of April 22, 1908 (45 U.S.C. 51  
5 et seq.) (popularly referred to as the "Federal  
6 Employers' Liability Act"), and the Railroad  
7 Unemployment Insurance Act (45 U.S.C. 351 et seq.).

8 (2) All memoranda which sanction non-compliance  
9 with Federal railroad safety regulations contained in  
10 49 CFR Parts 209-236, and are in effect on the date of  
11 transfer, will continue in effect according to their  
12 terms as "waivers of compliance" (as that term is used  
13 in section 202(c) of the Federal Railroad Safety Act of  
14 1970 (45 U.S.C. 431(c)).

15 (3) The operation of trains by the State-owned  
16 railroad shall not be subject to the requirement of any  
17 State or local law which specifies the minimum number  
18 of crew members which must be employed in connection  
19 with the operation of such trains.

20 (4) Assets of and revenues generated by the State-  
21 owned railroad shall be retained and managed by the  
22 State-owned railroad for railroad and related purposes.

23 (b) The Interstate Commerce Commission shall  
24 promulgate an expedited, modified procedure for  
25 providing as soon as practicable after the transfer  
26 authorized by section 4 of this Act, a certificate of

1 public convenience and necessity to the State-owned  
2 railroad. The provisions of the National Environmental  
3 Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section  
4 382(b) of the Energy Policy and Conservation Act (42  
5 U.S.C. 6362(b)) shall not apply to actions of the  
6 Commission under this subsection.

7 (c) After the transfer to the State authorized by  
8 section 4 of this Act, the Interstate Commerce  
9 Commission may, after notice and opportunity for  
10 hearing, exempt the State-owned railroad from any  
11 applicable requirement of subtitle IV of title 49,  
12 United States Code, under conditions prescribed by the  
13 Commission.

14 (d). The State-owned railroad shall be eligible to  
15 participate in all Federal railroad assistance programs  
16 on a basis equal to that of other rail carriers subject  
17 to the jurisdiction of the Interstate Commerce  
18 Commission under subtitle IV of title 49, United States  
19 Code.

20 (e) After the transfer to the State authorized by  
21 section 4 of this Act, the portion of the rail  
22 properties previously owned by the Alaska Railroad  
23 within the boundaries of the Denali National Park and  
24 Preserve shall be subject to such laws and regulations  
25 for the protection of fish and wildlife and other park  
26 values as the Secretary of the Interior may determine.

1 Such determination shall only be made with the  
2 concurrence of the Governor of Alaska, who shall not  
3 withhold concurrence unless such laws and regulations  
4 would interfere with railroad operation and support  
5 functions.

6 FUTURE RIGHTS-OF-WAY

7 Sec. 9. (a) After the date of enactment of this  
8 Act, the State or State-owned railroad may request the  
9 Secretary of the Interior or, when appropriate under  
10 applicable law, the Secretary of Agriculture to grant  
11 expeditiously a right-of-way in order that the Alaska  
12 Railroad or the State-owned railroad may have access  
13 across Federal lands for transportation and related  
14 purposes. Prior to making a decision whether to grant  
15 a right-of-way, the Secretary shall be consulted. When  
16 such a right-of-way is granted, it shall be granted in  
17 accordance with applicable provisions of law, except  
18 that the right-of-way shall--

19 (1) be granted without compensation from the  
20 State or State-owned railroad and without payment  
21 of administrative fees or costs, or posting of  
22 deposit or bond;

23 (2) extend not less than 100 feet on either  
24 side of the center line of such railroad, unless  
25 the United States does not own lands sufficient to  
26 allow the grant of such width;

2 (3) include a lease, conveyance or permit to  
3 the State or State-owned railroad of any necessary  
4 or convenient terminal and station grounds and  
5 material sites in the vicinity of the right-of-way;

6 (4) include, where requested by the State or  
7 State-owned railroad, additional rights-of-way for  
8 communication lines of not less than 25 feet on  
9 either side of such lines;

10 (5) grant to the State or State-owned railroad  
11 exclusive rights to use, quiet enjoyment, and  
12 management of the surface and subsurface of the  
13 lands within the right-of-way for transportation,  
14 communication and transmission purposes;

15 (6) grant to the State or State-owned railroad  
16 the right to authorize by lease or permit the use  
17 of the right-of-way by parties other than the State  
18 for any purpose authorized by paragraph (5) of this  
19 subsection; and

20 (7) grant to the State or State-owned railroad  
21 the exclusive right to extract and utilize  
22 construction materials situated in the right-of-way  
23 for any purpose authorized by paragraph (5) of this  
24 subsection.

25 (b) Reversion to the United States of any right-of-  
26 way granted to the State or State-owned railroad shall  
27 occur only as provided in section 10 of this Act. The

1 date of the grant of any such right-of-way shall be  
2 deemed the "date of transfer" within the meaning of  
3 section 10 of this Act.

4 REVERSION

5 Sec. 10. (a) If, within five years after the date  
6 of transfer to the State authorized by section 4 of  
7 this Act, the Secretary finds that all or part of the  
8 real property transferred to the State under this Act,  
9 except--

10 (1) the portion of that real property which  
11 lies within the boundaries of the Denali National  
12 Park and Preserve; and

13 (2) any real property conveyed by the State in  
14 satisfaction of claims of valid rights existing  
15 under Federal law at the time of transfer;  
16 is converted to a use that would prevent the State-  
17 owned railroad from continuing to operate, that real  
18 property (including permanent improvements to the  
19 property) shall revert to the United States Government,  
20 or (at the option of the State) the State shall pay to  
21 the United States Government an amount determined to be  
22 the value of that property at the time it ceased to be  
23 used for railroad purposes.

24 (b) If rail service is abandoned over that portion  
25 of the rail properties of the State-owned railroad that  
26 lies within the boundaries of the Denali National Park

1 and Preserve, that property (including permanent  
2 improvements to the property) shall revert to the  
3 United States Government. Upon such reversion,  
4 jurisdiction over that property shall be transferred to  
5 the Secretary of the Interior for administration as  
6 part of the Denali National Park and Preserve.

7 (c) The Attorney General, upon the request of the  
8 Secretary, shall institute appropriate proceedings to  
9 enforce this section in the United States District  
10 Court for the District of Alaska.

#### 11 OTHER DISPOSITION

12 Sec. 11. If the Secretary has not certified that  
13 the State has satisfied the conditions under section 4  
14 within one year after the date of delivery of the  
15 report referred to in section 5(a) of this Act, the  
16 Secretary may dispose of the rail properties of the  
17 Alaska Railroad. Any disposal under this section shall  
18 give preference to a buyer or transferee who will  
19 continue to operate rail service.

#### 20 MCKINLEY PARK STATION LANDS

21 Sec. 12. (a) On the date of transfer to the State  
22 (pursuant to section 4 of this Act) or other  
23 disposition (pursuant to section 11 of this Act), that  
24 portion (except that portion specified in subsection  
25 (b) of this section) of land of the Alaska Railroad  
26 with improvements located within one-quarter mile of

1 the McKinley Park Station shall be transferred to the  
2 Secretary of the Interior for administration as part of  
3 the Denali National Park and Preserve.

4 (b) The right-of-way land with improvements located  
5 one hundred feet on either side of the mainline track  
6 and the land eight feet on either side of the "Y" track  
7 to the power station shall not be transferred for  
8 administration as part of the Denali National Park and  
9 Preserve, as provided in subsection (a) of this  
10 section.

#### 11 APPLICABILITY OF OTHER LAWS

12 Sec. 13. (a) The provisions of chapters 5 and 7  
13 (other than sections 704 through 706) of title 5,  
14 United States Code (popularly known as the  
15 Administrative Procedure Act, and including provisions  
16 popularly known as the Government in the Sunshine Act),  
17 the Federal Advisory Committee Act (5 U.S.C. Appx. 1 et  
18 seq.), the National Historic Preservation Act (16  
19 U.S.C. 470 et seq.), section 4(f) of the Department of  
20 Transportation Act (49 U.S.C. 1653(f)), and the  
21 National Environmental Policy Act of 1969 (42 U.S.C.  
22 4321 et seq.) shall not apply to actions taken pursuant  
23 to this Act.

24 (b) The enactment of this Act, actions taken during  
25 the transition period as provided in section 5 of this  
26 Act, and transfer of the rail properties of the Alaska

1 Railroad under authority of this Act shall not be  
2 deemed the disposal of Federal surplus property under  
3 sections 3 and 203 of the Federal Property and  
4 Administrative Services Act of 1949 (40 U.S.C. 472 and  
5 484). Such events shall not constitute or cause the  
6 revocation of any prior withdrawal or reservation of  
7 land for the use of the Alaska Railroad under the  
8 Alaska Statehood Act (note preceding 48 U.S.C. 21), the  
9 Alaska Native Claims Settlement Act (43 U.S.C. 1601 et  
10 seq.), the Act of January 2, 1976 (Public Law 94-204;  
11 89 Stat. 1145), the Alaska National Interest Lands  
12 Conservation Act (Public Law 96-487; 94 Stat. 2371),  
13 and the general land laws of the United States.

#### 14 CONFLICT WITH OTHER LAWS

15 Sec. 14. The provisions of this Act shall govern if  
16 there is any conflict between this Act and any other  
17 law.

#### 18 REPEAL AND AMENDMENT OF EXISTING STATUTES

19 Sec. 15. (a) On the date of transfer to the State  
20 (pursuant to section 4 of this Act) or other  
21 disposition (pursuant to section 11 of this Act), the  
22 following provisions are repealed:

23 (1) The Act of March 17, 1914, as amended (43  
24 U.S.C. 975 et seq.).

1           (2) The Act of June 24, 1946, to authorize  
2 certain expenditures by the Alaska Railroad (50  
3 Stat. 304).

4           (3) The Act of July 19, 1932, concerning  
5 mining of coal adjacent to the Alaska Railroad (30  
6 U.S.C. 208a).

7           (4) Section 6(i) of the Department of  
8 Transportation Act (49 U.S.C. 1655(i)).

9           (b) On the date of transfer to the State (pursuant  
10 to section 4 of this Act) or other disposition  
11 (pursuant to section 11 of this Act), the following  
12 provisions are amended as follows:

13           (1) Title 5, United States Code, is amended-

14           (A) in section 305(a), by striking clause  
15 (3), and by redesignating clauses (4)-(8) as  
16 clauses (3)-(7), respectively;

17           (B) in section 3401(1), by striking  
18 clause (iii), and by redesignating clauses  
19 (iv)-(viii) as clauses (iii)-(vii),  
20 respectively;

21           (C) in section 5102(a)(1), by striking  
22 clause (iii), and by redesignating clauses  
23 (iv)-(ix) as clauses (iii)-(viii),  
24 respectively;

1 (D) in section 5342(a)(1), by striking  
2 clause (C), and by redesignating clauses (D)-  
3 (J) as clauses (C)-(I), respectively; and

4 (E) in section 7327, by striking  
5 subsection (a), and the subsection designation  
6 "(b)".

7 (2) Section 102(7) of the Railroad  
8 Revitalization and Regulatory Reform Act of 1976  
9 (45 U.S.C. 802(7)) is amended by striking "and the -  
10 Alaska Railroad".

11 (3) Section 10749 of title 49, United States  
12 Code, is amended--

13 (A) by inserting "or" at the end of  
14 subsection (b)(1)(B);

15 (B) by striking "; or" at the end of  
16 subsection (b)(2), and inserting in lieu  
17 thereof a period; and

18 (C) by striking paragraph (3).

19 (4) Section 324(a)(1) of the Public Health  
20 Service Act (42 U.S.C. 251(a)(1)) is amended by  
21 striking "employees of the Alaska Railroad and".

22 (5) Section 202(3)(a) of the Alaska National  
23 Interest Lands Conservation Act (16 U.S.C. 410hh-  
24 1(3)(a)) is amended by striking the third sentence.

25 (6) Section 1(o) of the Railroad Retirement  
26 Act of 1974 (45 U.S.C. 231(o)) is amended by

1 inserting immediately after "National  
2 Transportation Safety Board," the following: "the  
3 Alaska Railroad or the State-owned railroad, so  
4 long as it is part of the government of the State  
5 of Alaska.

6 SEPARABILITY

7 Sec. 16. If any provision of this Act or the  
8 application thereof to any person or circumstance is  
9 held invalid, the remainder of this Act and the  
10 application of such provision to other persons or  
11 circumstances shall not be affected thereby.