

AK. Railroad

Transfer

Act - 1982

15176

The Alaska Railroad

Edwin M. Fitch

FOREWORD BY
Senator E. L. Bartlett



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APPENDIX I

Public Law No. 69—63d Congress

(S. 48)

An Act to authorize the President of the United States to locate, construct, and operate railroads in the Territory of Alaska, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby empowered, authorized, and directed to adopt and use a name by which to designate the railroad or railroads and properties to be located, owned, acquired, or operated under the authority of this Act; to employ such officers, agents, or agencies, in his discretion, as may be necessary to enable him to carry out the purposes of this Act; to authorize and require such officers, agents, or agencies to perform any or all of the duties imposed upon him by the terms of this Act; to detail and require any officer or officers in the Engineer Corps in the Army or Navy to perform service under this Act; to fix the compensation of all officers, agents, or employees appointed or designated by him; to designate and cause to be located a route or routes for a line or lines of railroad in the Territory of Alaska not to exceed in the aggregate one thousand miles, to be so located as to connect one

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or more of the open Pacific Ocean harbors on the southern coast of Alaska with the navigable waters in the interior of Alaska, and with a coal field or fields so as best to aid in the development of the agricultural and mineral or other resources of Alaska, and the settlement of the public lands therein, and so as to provide transportation of coal for the Army and Navy, transportation of troops, arms, munitions of war, the mails, and for other governmental and public uses, and for the transportation of passengers and property; to construct and build a railroad or railroads along such route or routes as he may so designate and locate, with the necessary branch lines, feeders, sidings, switches, and spurs; to purchase or otherwise acquire all real and personal property necessary to carry out the purposes of this Act; to exercise the power of eminent domain in acquiring property for such use, which use is hereby declared to be a public use, by condemnation in the courts of Alaska in accordance with the laws now or hereafter in force there; to acquire rights of way, terminal grounds, and all other rights; to purchase or otherwise acquire all necessary equipment for the construction and operation of such railroad or railroads; to build or otherwise acquire docks, wharves, terminal facilities, and all structures needed for the equipment and operation of such railroad or railroads; to fix, change, or modify rates for the transportation of passengers and property, which rates shall be equal and uniform, but no free transportation or passes shall be permitted except that the provisions of the interstate commerce laws relating to the transportation of employees and their families shall be in force as to the lines constructed under this Act; to receive compensation for the transportation of passengers and property, and to perform generally all the usual duties of a common carrier by railroad; to make and establish rules and regulations for the control and operation of said railroad or railroads, or any portion thereof, including telegraph and telephone lines, after completion under such terms as he may deem proper, but no lease shall be for a longer period than twenty years, or in the event of failure to lease, to operate the same until the further action of Congress: *Provided, That if said railroad or railroads, including telegraph and telephone lines, are leased under the authority herein given,*

then and in that event they shall be operated under the jurisdiction and control of the provisions of the interstate commerce laws; to purchase, condemn, or otherwise acquire upon such terms as he may deem proper any other line or lines of railroad in Alaska which may be necessary to complete the construction of the line or lines of railroad designated or located by him: *Provided*, That the price to be paid in case of purchase shall in no case exceed the actual physical value of the railroad; to make contracts or agreements with any railroad or steamship company or vessel owner for joint transportation of passengers or property over the road or roads herein provided for, and such railroad or steamship line or by such vessel, and to make such other contracts as may be necessary to carry out any of the purposes of this Act; to utilize in carrying on the work herein provided for any and all machinery, equipment, instruments, material, and other property of any sort whatsoever used or acquired in connection with the construction of the Panama Canal, so far and as rapidly as the same is no longer needed at Panama, and the Isthmian Canal Commission is hereby authorized to deliver said property to such officers or persons as the President may designate, and to take credit therefor at such percentage of its original cost as the President may approve, but this amount shall not be charged against the fund provided for in this Act.

The authority herein granted shall include the power to construct, maintain, and operate telegraph and telephone lines so far as they may be necessary or convenient in the construction and operation of the railroad or railroads as herein authorized and they shall perform generally all the usual duties of telegraph and telephone lines for hire.

That it is the intent and purpose of Congress through this Act to authorize and empower the President of the United States, and he is hereby fully authorized and empowered, through such officers, agents, or agencies as he may appoint or employ, to do all necessary acts and things in addition to those specially authorized in this Act to enable him to accomplish the purposes and objects of this Act.

The President is hereby authorized to withdraw, locate, and

dispose of, under such rules and regulations as he may prescribe, such area or areas of the public domain along the line or lines of such proposed railroad or railroads for town site purposes as he may from time to time designate.

Terminal and station grounds and rights of way through the lands of the United States in the Territory of Alaska are hereby granted for the construction of railroads, telegraph and telephone lines authorized by this Act, and in all patents for lands hereafter taken up, entered, or located in the Territory of Alaska there shall be expressed that there is reserved to the United States a right of way for the construction of railroads, telegraph and telephone lines to the extent of one hundred feet on either side of the center line of any such road and twenty-five feet on either side of the center line of any such telegraph or telephone lines, and the President may, in such manner as he deems advisable, make reservation of such lands as are or may be useful for furnishing materials for construction and for stations, terminals, docks, and for such other purposes in connection with the construction and operation of such railroad lines as he may deem necessary and desirable.

Section 2. That the cost of the work authorized by this Act shall not exceed \$35,000,000, and in executing the authority granted by this Act the President shall not expend nor obligate the United States to expend more than the said sum; and there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$1,000,000 to be used for carrying out the provisions of this Act, to continue available until expended.

Section 3. That all moneys derived from the lease, sale, or disposal of any of the public lands, including townsites, in Alaska, or the coal or mineral therein contained, or the timber thereon, and the earnings of said railroad or railroads, together with the earnings of the telegraph and telephone lines constructed under this Act, above maintenance charges and operating expenses, shall be paid into the Treasury of the United States as other miscellaneous receipts are paid, and a separate account thereof shall be kept and annually reported to Congress.

Section 4. That the officers, agents, or agencies placed in charge of the work by the President shall make to the President annually,

and at such other periods as may be required by the President or by either House of Congress, full and complete reports of all their acts and doings and of all moneys received and expended in the construction of said work and in the operation of said work or works and in the performance of their duties in connection therewith. The annual reports herein provided for shall be by the President transmitted to Congress.

Approved March 12, 1914

Public Law No. 232—84th Congress

(H.R. 3332)

An Act to amend section 1 of the Act of March 12, 1914.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 1 of the Act of March 12, 1914 (38 Stat. 305), as amended (48 U.S.C., sec. 301), is amended by striking out "but no lease shall be for a longer period than twenty years," and inserting in lieu thereof "but no lease of such railroad or railroads shall be for a longer period than twenty years and no other lease authorized in this Act shall be for a longer period than fifty-five years."

Approved August 4, 1955

APPENDIX II

Executive Order No. 1

Alaska Railroad

By authority of an act entitled "An Act to authorize the President of the United States to locate, construct, and operate railroads in the Territory of Alaska and for other purposes," I do now designate and cause to be located the following routes for lines of railroad in the Territory of Alaska:

For a main line of railroad—

Commencing at the town of Seward on the westerly shore of Resurrection Bay, Alaska: thence following along said westerly shore in a northerly direction to the head of said bay: thence following up the drainage of Salmon Creek to a summit between said drainage and the drainage of Snow River: thence following the drainage of Snow River to Kenai Lake: thence continuing northerly along the easterly shore of Kenai Lake, along Falls Creek, along the shores of Lower and Upper Trail Lake, and up Trail Creek to a summit in the Kenai Mountains near mile 45 from Seward: thence descending along the drainage of Placer River to the head of Turnagain Arm of Cook Inlet: thence following the northeasterly shore of said Turnagain Arm and crossing Portage Creek and Twenty Mile River to the mouth of Kern Creek near mile 71 from Seward: thence in a northwesterly direction along the shore of Turnagain Arm to near the mouth of Big Rabbit Creek: thence leaving Turnagain Arm and running northerly to a summit in section 26, Township 14 North, Range 3 West, Seward Meridian: thence running northeasterly to near the head of Knik Arm of Cook Inlet: thence running northerly across the flats at the head of said Arm and crossing Knik and Matanuska Rivers, to a point about two miles north of the Matanuska River: thence running in a westerly and northwesterly direction, crossing the little Susitna River and following along the south-

(c) Shall post the rates for public inspection and file them with the Interstate Commerce Commission.

Section 3. *Rates; Interstate Commerce Commission.* (a) In respect of rates filed with the Interstate Commerce Commission pursuant to the provisions of this order, the Commission may act, to the extent practicable, and subject to the limitations provided in subsection (b) of this section, in the same manner as though the railroad were subject to Sections 1(1)(a), 1(4), 1(5), 1(5½), 1(6), 6(3), 6(6), 6(9), 13(1), 13(2) (to the extent that it relates to action by the Interstate Commerce Commission on its own motion), 15 (except 15(12) and 15(14)), 15a, 202(c) (1) and 202(c)(2) of the Interstate Commerce Act, as amended.

(b) When determining the justness and reasonableness of rates or charges maintained, or from time to time proposed to be maintained by the railroad, the Interstate Commerce Commission shall exclude for valuation and cost finding purposes the portion of capital investment allocated to national public purposes by the Secretary of the Interior under Section 2(a) hereof, and such rates and charges shall not be deemed to be unjust or unreasonable by reason of failure to yield sufficient revenues to cover any amounts for taxes not actually required by law to be paid or provide a return on capital investment.

Section 4. *Transitional provisions.* (a) The issuance of this order shall not affect any action heretofore taken by the Secretary of the Interior or his representative until such action has been modified or revoked in accordance with the provisions of this order.

(b) As promptly after the date of this order as may be convenient, the Secretary of the Interior shall post for public inspection and file with the Interstate Commerce Commission rates as referred to in Section 2(c) of this order. The rates posted and filed under this subsection may be the rates in force on the date of this order, with or without subsequent changes or modifications, or new rates.

This order supersedes Executive Order No. 3861 of June 8, 1923, and shall be codified for inclusion in the Code of Federal Regulations.

JOHN F. KENNEDY

The White House
April 25, 1963

APPENDIX III

Statement of Assets and Liabilities of The Alaska Railroad

June 30, 1966

ASSETS			
Current assets			
Cash	\$ 7,281,762.89		
Accounts receivable	3,033,651.75		
Inventories of supplies and materials	3,743,169.79	\$ 14,058,584.43	
Fixed assets			
Road property	\$ 98,315,998.64		
Equipment	30,269,989.55		
Non operating property	3,604,428.96		
	132,190,417.15		
Less: Provision for depreciation	27,518,911.25		
	104,671,505.90		
Additions and betterments in progress	1,016,077.80		
Construction work in progress (Seward dock)	10,129,886.47	115,817,470.17	
Other assets and undistributed charges		10,964,163.84	
Total assets		<u>\$140,840,218.44</u>	
LIABILITIES			
Current liabilities			
Accounts payable	\$ 2,647,246.72		
Accrued payrolls payable	351,572.76	\$ 2,998,819.48	
Other liabilities		778,110.48	
Total liabilities		<u>3,776,929.96</u>	
Proprietary interest of the U.S. Government			
Net investment		139,220,907.11	
Retained earnings:			
Retained earnings July 1, 1964 to June 30, 1965	— 936,648.21		
Current year operating results	—1,220,970.42	—2,157,618.63	
Total proprietary interest of the U.S. Government		137,063,288.48	
Total liabilities and capital		<u>\$140,840,218.44</u>	

(2) a person who is able to assure that adequate transportation will be provided over a substantial portion of the feeder line described in subsection (a) of this section for a period of not less than 3 years; or

(3) any combination of members of the classes of applicants described in paragraphs (1) and (2) of this subsection.

Alaska Railroad
Transfer Act of
1982.

TITLE VI—ALASKA RAILROAD TRANSFER

SHORT TITLE

45 USC 1201
note.

SEC. 601. This title may be cited as the "Alaska Railroad Transfer Act of 1982".

FINDINGS

45 USC 1201.

SEC. 602. The Congress finds that—

(1) the Alaska Railroad, which was built by the Federal Government to serve the transportation and development needs of the Territory of Alaska, presently is providing freight and passenger services that primarily benefit residents and businesses in the State of Alaska;

(2) many communities and individuals in Alaska are wholly or substantially dependent on the Alaska Railroad for freight and passenger service and provision of such service is an essential governmental function;

(3) continuation of services of the Alaska Railroad and the opportunity for future expansion of those services are necessary to achieve Federal, State, and private objectives; however, continued Federal control and financial support are no longer necessary to accomplish these objectives;

(4) the transfer of the Alaska Railroad and provision for its operation by the State in the manner contemplated by this title is made pursuant to the Federal goal and ongoing program of transferring appropriate activities to the States;

(5) the State's continued operation of the Alaska Railroad following the transfer contemplated by this title, together with such expansion of the railroad as may be necessary or convenient in the future, will constitute an appropriate public use of the rail system and associated properties, will provide an essential governmental service, and will promote the general welfare of Alaska's residents and visitors; and

(6) in order to give the State government the ability to determine the Alaska Railroad's role in serving the State's transportation needs in the future, including the opportunity to extend rail service, and to provide a savings to the Federal Government, the Federal Government should offer to transfer the railroad to the State, in accordance with the provisions of this title, in the same manner in which other Federal transportation functions (including highways and airports) have been transferred since Alaska became a State in 1959.

DEFINITIONS

45 USC 1202.

SEC. 603. As used in this title, the term—

(1) "Alaska Railroad" means the agency of the United States Government that is operated by the Department of Transportation as a rail carrier in Alaska under authority of the Act of

March 12, 1914 (43 U.S.C. 975 et seq.) (popularly referred to as the "Alaska Railroad Act") and section 6(i) of the Department of Transportation Act (49 U.S.C. 1655(i)), or, as the context requires, the railroad operated by that agency;

(2) "Alaska Railroad Revolving Fund" means the public enterprise fund maintained by the Department of the Treasury into which revenues of the Alaska Railroad and appropriations for the Alaska Railroad are deposited, and from which funds are expended for Alaska Railroad operation, maintenance and construction work authorized by law;

Definitions

(3) "claim of valid existing rights" means any claim to the rail properties of the Alaska Railroad on record in the Department of the Interior as of the day before the date of enactment of this Act;

(4) "date of transfer" means the date on which the Secretary delivers to the State the four documents referred to in section 604(b)(1) of this title;

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

(6) "exclusive-use easement" means an easement which affords to the easement holder the following:

(A) the exclusive right to use, possess, and enjoy the surface estate of the land subject to this easement for transportation, communication, and transmission purposes and for support functions associated with such purposes;

(B) the right to use so much of the subsurface estate of the lands subject to this easement as is necessary for the transportation, communication, and transmission purposes and associated support functions for which the surface of such lands is used;

(C) subjacent and lateral support of the lands subject to the easement; and

(D) the right (in the easement holder's discretion) to fence all or part of the lands subject to this easement and to affix track, fixtures, and structures to such lands and to exclude other persons from all or part of such lands;

(7) "Native Corporation" has the same meaning as such term has under section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6));

(8) "officers of the Alaska Railroad" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer: General Manager; Assistant General Manager; Assistant to the General Manager; Chief of Administration; and Chief Counsel;

(9) "public lands" has the same meaning as such term has under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e));

(10) "rail properties of the Alaska Railroad" means all right, title, and interest of the United States to lands, buildings, facilities, machinery, equipment, supplies, records, rolling stock, trade names, accounts receivable, goodwill, and other real and personal property, both tangible and intangible, in which there is an interest reserved, withdrawn, appropriated, owned, administered or otherwise held or validly claimed for the Alaska Railroad by the United States or any agency or instrumentality

thereof as of the date of enactment of this Act, but excluding any such properties disposed of, and including any such properties acquired, in the ordinary course of business after that date but before the date of transfer, and also including the exclusive-use easement within the Denali National Park and Preserve conveyed to the State pursuant to this title and also excluding the following:

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

(B) the right of the United States to exercise the power of eminent domain;

(C) any moneys in the Alaska Railroad Revolving Fund which the Secretary demonstrates, in consultation with the State, are unobligated funds appropriated from general tax revenues or are needed to satisfy obligations incurred by the United States in connection with the operation of the Alaska Railroad which would have been paid from such Fund but for this title and which are not assumed by the State pursuant to this title;

(D) any personal property which the Secretary demonstrates, in consultation with the State, prior to the date of transfer under section 604 of this title, to be necessary to carry out functions of the United States after the date of transfer; and

(E) any lands or interest therein (except as specified in this title) within the boundaries of the Denali National Park and Preserve;

(11) "right-of-way" means, except as used in section 609 of this title—

(A) an area extending not less than one hundred feet on both sides of the center line of any main line or branch line of the Alaska Railroad; or

(B) an area extending on both sides of the center line of any main line or branch line of the Alaska Railroad appropriated or retained by or for the Alaska Railroad that, as a result of military jurisdiction over, or non-Federal ownership of, lands abutting the main line or branch line, is of a width less than that described in subparagraph (A) of this paragraph;

(12) "Secretary" means the Secretary of Transportation;

(13) "State" means the State of Alaska or the State-owned railroad, as the context requires;

(14) "State-owned railroad" means the authority, agency, corporation or other entity which the State of Alaska designates or contracts with to own, operate or manage the rail properties of the Alaska Railroad or, as the context requires, the railroad owned, operated, or managed by such authority, agency, corporation, or other entity; and

(15) "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(j)).

TRANSFER AUTHORIZATION

SEC. 604. (a) Subject to the provisions of this title, the United States, through the Secretary, shall transfer all rail properties of the Alaska Railroad to the State. Such transfer shall occur as soon as practicable after the Secretary has made the certifications required by subsection (d) of this section and shall be accomplished in the manner specified in subsection (b) of this section. 45 USC 1203.

(b)(1) On the date of transfer, the Secretary shall simultaneously:

(A) deliver to the State a bill of sale conveying title to all rail properties of the Alaska Railroad except any interest in real property;

(B) deliver to the State an interim conveyance of the rail properties of the Alaska Railroad that are not conveyed pursuant to subparagraph (A) of this paragraph and are not subject to unresolved claims of valid existing rights;

(C) deliver to the State an exclusive license granting the State the right to use all rail properties of the Alaska Railroad not conveyed pursuant to subparagraphs (A) or (B) of this paragraph pending conveyances in accordance with the review and settlement or final administrative adjudication of claims of valid existing rights;

(D) convey to the State a deed granting the State (i) an exclusive-use easement for that portion of the right-of-way of the Alaska Railroad within the Denali National Park and Preserve extending not less than one hundred feet on either side of the main or branch line tracks, and eight feet on either side of the centerline of the "Y" track connecting the main line of the railroad to the power station at McKinley Park Station and (ii) title to railroad-related improvements within such right-of-way.

Prior to taking the action specified in subparagraphs (A) through (D) of this paragraph, the Secretary shall consult with the Secretary of the Interior. The exclusive-use easement granted pursuant to subparagraph (D) of this paragraph and all rights afforded by such easement shall be exercised only for railroad purposes, and for such other transportation, transmission, or communication purposes for which lands subject to such easement were utilized as of the date of enactment of this Act. In the event of reversion to the United States, pursuant to section 610 of this title, of the State's interests in all or part of the lands subject to such easement, such easement shall terminate with respect to the lands subject to such reversion, and no new exclusive-use easement with respect to such reverted lands shall be granted except by Act of Congress.

(2) The Secretary shall deliver to the State an interim conveyance of rail properties of the Alaska Railroad described in paragraph (1)(C) of this subsection that become available for conveyance to the State after the date of transfer as a result of settlement, relinquishment, or final administrative adjudication pursuant to section 606 of this title. Where the rail properties to be conveyed pursuant to this paragraph are surveyed at the time they become available for conveyance to the State, the Secretary shall deliver a patent therefor in lieu of an interim conveyance.

(3) The force and effect of an interim conveyance made pursuant to paragraphs (1)(B) or (2) of this subsection shall be to convey to and vest in the State exactly the same right, title, and interest in and to the rail properties identified therein as the State would have received had it been issued a patent by the United States. The

Secretary of the Interior shall survey the land conveyed by an interim conveyance to the State pursuant to paragraphs (1)(B) or (2) of this subsection and, upon completion of the survey, the Secretary shall issue a patent therefor.

(4) The license granted pursuant to paragraph (1)(C) of this subsection shall authorize the State to use, occupy, and directly receive all benefits of the rail properties described in the license for the operation of the State-owned railroad in conformity with the Memorandum of Understanding referred to in section 606(b)(3) of this title. The license shall be exclusive, subject only to valid leases, permits, and other instruments issued before the date of transfer and easements reserved pursuant to subsection (c)(2) of this section. With respect to any parcel conveyed pursuant to this title, the license shall terminate upon conveyance of such parcel.

(c)(1) Interim conveyances and patents issued to the State pursuant to subsection (b) of this section shall confirm, convey and vest in the State all reservations to the United States (whether or not expressed in a particular patent or document of title), except the unexercised reservations to the United States for future rights-of-way made or required by the first section of the Act of March 12, 1914 (43 U.S.C. 975d). The conveyance to the State of such reservations shall not be affected by the repeal of such Act under section 615 of this title.

(2) In the license granted under subsection (b)(1)(C) of this section and in all conveyances made to the State under this title, there shall be reserved to the Secretary of the Interior, the Secretary of Defense and the Secretary of Agriculture, as appropriate, existing easements for administration (including agency transportation and utility purposes) that are identified in the report required by section 605(a) of this title. The appropriate Secretary may obtain, only after consent of the State, such future easements as are necessary for administration. Existing and future easements and use of such easements shall not interfere with operations and support functions of the State-owned railroad.

(3) There shall be reserved to the Secretary of the Interior the right to use and occupy, without compensation, five thousand square feet of land at Talkeetna, Alaska, as described in ARR lease numbered 69-25-0003-5165 for National Park Service administrative activities, so long as the use or occupation does not interfere with the operation of the State-owned railroad. This reservation shall be effective on the date of transfer under this section or the expiration date of such lease, whichever is later.

(d)(1) Prior to the date of transfer, the Secretary shall certify that the State has agreed to operate the railroad as a rail carrier in intrastate and interstate commerce.

(2) (A) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to assume all rights, liabilities, and obligations of the Alaska Railroad on the date of transfer, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, and accounts payable, except as otherwise provided by this title.

(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, the United States shall be solely responsible for—

(i) all claims and causes of action against the Alaska Railroad that accrue on or before the date of transfer, regardless of the date on which legal proceedings asserting such claims were or may be filed, except that the United States shall, in the case of

any tort claim, only be responsible for any such claim against the United States that accrues before the date of transfer and results in an award, compromise, or settlement of more than \$2,500, and the United States shall not compromise or settle any claim resulting in State liability without the consent of the State, which consent shall not be unreasonably withheld; and

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

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

"Accrue."

(3)(A) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has established arrangements pursuant to section 607 of this title to protect the employment interests of employees of the Alaska Railroad during the two-year period commencing on the date of transfer. These arrangements shall include provisions—

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

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

(iii) for the payment of compensation to transferred employees (other than employees provided for in subparagraph (E) of this paragraph), except in cases of separation for cause, resignation, retirement, or lack of work, for two years commencing on the date of transfer at or above the base salary levels in effect for such employees on the date of transfer, unless the parties otherwise agree during that two-year period;

(iv) for priority of reemployment at the State-owned railroad during the two-year period commencing on the date of transfer for transferred employees who are separated for lack of work, in accordance with subparagraph (C) of this paragraph (except for officers of the Alaska Railroad, who shall receive such priority for one year following the date of transfer);

(v) for credit during the two-year period commencing on the date of transfer for accrued annual and sick leave, seniority rights, and relocation and turnaround travel allowances which have been accrued during their period of Federal employment by transferred employees retained by the State-owned railroad (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer);

(vi) for payment to transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, including for one year officers retained or separated under subparagraph (E) of this paragraph, of an amount equivalent to the cost-of-living allowance to which they are entitled as Federal employees on the day before the date of transfer, in accordance with the provisions of subparagraph (D) of this paragraph; and

(vii) for health and life insurance programs for transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, substantially

equivalent to the Federal health and life insurance programs available to employees on the day before the date of transfer (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer).

(B) The State-owned railroad shall adopt all collective bargaining agreements which are in effect on the date of transfer. Such agreements shall continue in effect for the two-year period commencing on the date of transfer, unless the parties agree to the contrary before the expiration of that two-year period. Such agreements shall be renegotiated during the two-year period, unless the parties agree to the contrary. Any labor-management negotiation impasse declared before the date of transfer shall be settled in accordance with chapter 71 of title 5, United States Code. Any impasse declared after the date of transfer shall be subject to applicable State law.

(C) Federal service shall be included in the computation of seniority for transferred employees with priority or reemployment, as provided in subparagraph (A)(iv) of this paragraph.

(D) Payment to transferred employees pursuant to subparagraph (A)(vi) of this paragraph shall not exceed the percentage of any transferred employee's base salary level provided by the United States as a cost-of-living allowance on the day before the date of transfer, unless the parties agree to the contrary.

(E) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has agreed to the retention, for at least one year from the date of transfer, of the offices of the Alaska Railroad, except in cases of separation for cause, resignation, retirement, or lack of work, at or above their base salaries in effect on the date of transfer, in such positions as the State-owned railroad may determine; or to the payment of lump-sum severance pay in an amount equal to such base salary for one year to officers not retained by the State-owned railroad upon transfer or, for officers separated within one year on or after the date of transfer, of a portion of such lump-sum severance payment (diminished pro rata for employment by the State-owned railroad within one year of the date of transfer prior to separation).

(4) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to allow representatives of the Secretary adequate access to employees and records of the Alaska Railroad when needed for the performance of functions related to the period of Federal ownership.

(5) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to compensate the United States at the value, if any, determined pursuant to section 605(d) of this title.

TRANSITION PERIOD

SEC. 605. (a) Within 6 months after the date of enactment of this Act, the Secretary and the Governor of Alaska shall jointly prepare and deliver to the Congress of the United States and the legislature of the State a report that describes to the extent possible the rail properties of the Alaska Railroad, the liabilities and obligations to be assumed by the State, the sum of money, if any, in the Alaska Railroad Revolving Fund to be withheld from the State pursuant to section 603(8)(C) of this title, and any personal property to be withheld pursuant to section 603(8)(D) of this title. The report shall separately identify by the best available descriptions (1) the rail properties of the Alaska Railroad to be transferred pursuant to

5 USC 7101 et
seq.

Report to
Congress
and State
legislature.
45 USC 1204.

section 604(b)(1) (A), (B), and (D) of this title; (2) the rail properties to be subject to the license granted pursuant to section 604(b)(1)(C) of this title; and (3) the easements to be reserved pursuant to section 604(c)(2) of this title. The Secretaries of Agriculture, Defense, and the Interior and the Administrator of the General Services Administration shall provide the Secretary with all information and assistance necessary to allow the Secretary to complete the report within the time required.

(b) During the period from the date of enactment of this Act until the date of transfer, the State shall have the right to inspect, analyze, photograph, photocopy and otherwise evaluate all of the rail properties of the Alaska Railroad and all records related to the rail properties of the Alaska Railroad maintained by any agency of the United States under conditions established by the Secretary to protect the confidentiality of proprietary business data, personnel records, and other information, the public disclosure of which is prohibited by law. During that period, the Secretary and the Alaska Railroad shall not, without the consent of the State and only in conformity with applicable law and the Memorandum of Understanding referred to in section 606(b)(3) of this title—

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

(2) (except as required by law) sell, exchange, give, or otherwise transfer any real property included in the rail properties of the Alaska Railroad; or

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

(c) Prior to transfer of the rail properties of the Alaska Railroad to the State, the Alaska Railroad's accounting practice systems shall be capable of reporting data to the Interstate Commerce Commission in formats required of comparable rail carriers subject to the jurisdiction of the Interstate Commerce Commission.

(d)(1) Within nine months after the date of enactment of this Act, the United States Railway Association (hereinafter in this section referred to as the "Association") shall determine the fair market value of the Alaska Railroad under the terms and conditions of this title, applying such procedures, methods and standards as are generally accepted as normal and common practice. Such determination shall include an appraisal of the real and personal property to be transferred to the State pursuant to this title. Such appraisal by the Association shall be conducted in the usual manner in accordance with generally accepted industry standards, and shall consider the current fair market value and potential future value if used in whole or in part for other purposes. The Association shall take into account all obligations imposed by this title and other applicable law upon operation and ownership of the State-owned railroad. In making such determination, the Association shall use to the maximum extent practicable all relevant data and information, including, if relevant, that contained in the report prepared pursuant to subsection (a) of this section.

(2) The determination made pursuant to paragraph (1) of this subsection shall not be construed to affect, enlarge, modify, or diminish any inventory, valuation, or classification required by the Interstate Commerce Commission pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.).

45 USC 712.

(e) Section 202(a) of the Regional Rail Reorganization Act of 1973 is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(11) determine the value of the Alaska Railroad, as required by section 605 of the Alaska Railroad Transfer Act of 1982."

LANDS TO BE TRANSFERRED

45 USC 1205.

SEC. 606. (a) Lands among the rail properties of the Alaska Railroad shall not be—

(1) available for selection under section 12 of the Act of January 2, 1976, as amended (43 U.S.C. 1611, note), subject to the exception contained in section 12(b)(8)(i)(D) of such Act, as amended by subsection (d)(5) of this section;

Post, p. 2568.

(2) available for conveyance under section 1425 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2515);

(3) available for conveyance to Chugach Natives, Inc., under sections 1429 or 1430 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2531) or under sections 12(c) or 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c) and 1613(h)(8), respectively); or

(4) available under any law or regulation for entry, location, or for exchange by the United States, or for the initiation of a claim or selection by any party other than the State or other transferee under this title, except that this paragraph shall not prevent a conveyance pursuant to section 12(b)(8)(i)(D) of the Act of January 2, 1976 (43 U.S.C. 1611, note), as amended by subsection (d)(5) of this section.

(b)(1)(A) During the ten months following the date of enactment of this Act, so far as practicable consistent with the priority of preparing the report required pursuant to section 605(a) of this title, the Secretary of the Interior, Village Corporations with claims of valid existing rights, and the State shall review and make a good faith effort to settle as many of the claims as possible. Any agreement to settle such claims shall take effect and bind the United States, the State, and the Village Corporation only as of the date of transfer of the railroad.

(B) At the conclusion of the review and settlement process provided in subparagraph (A) of this paragraph, the Secretary of the Interior shall prepare a report identifying lands to be conveyed in accordance with settlement agreements under this title or applicable law. Such settlement shall not give rise to a presumption as to whether a parcel of land subject to such agreement is or is not public land.

(2) The Secretary of the Interior shall have the continuing jurisdiction and duty to adjudicate unresolved claims of valid existing rights pursuant to applicable law and this title. The Secretary of the Interior shall complete the final administrative adjudication required under this subsection not later than three years after the date of enactment of this Act, and shall complete the survey of all lands to be conveyed under this title not later than five years after the date of enactment of this Act, and after consulting with the Governor of the State of Alaska to determine priority of survey with

regard to other lands being processed for patent to the State. The Secretary of the Interior shall give priority to the adjudication of Village Corporation claims as required in this section. Upon completion of the review and settlement process required by paragraph (1)(A) of this subsection, with respect to lands not subject to an agreement under such paragraph, the Secretary of the Interior shall adjudicate which lands subject to claims of valid existing rights filed by Village Corporations, if any, are public lands and shall complete such final administrative adjudication within two years after the date of enactment of this Act.

(3) Pending settlement or final administrative adjudication of claims of valid existing rights filed by Village Corporations prior to the date of transfer or while subject to the license granted to the State pursuant to section 604(b)(1)(C) of this title, lands subject to such claims shall be managed in accordance with the Memorandum of Understanding among the Federal Railroad Administrator, the State, Eklutna, Incorporated, Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), and Toghothele Corporation, executed by authorized officers or representatives of each of these entities. Duplicate originals of the Memorandum of Understanding shall be maintained and made available for public inspection and copying in the Office of the Secretary, at Washington, District of Columbia, and in the Office of the Governor of the State of Alaska, at Juneau, Alaska.

(4) The following procedures and requirements are established to promote finality of administrative adjudication of claims of valid existing rights filed by Village Corporations, to clarify and simplify the title status of lands subject to such claims, and to avoid potential impairment of railroad operations resulting from joint or divided ownership in substantial segments of right-of-way:

(A)(i) Prior to final administrative adjudication of Village Corporation claims of valid existing rights in land subject to the license granted under section 604(b)(1)(C) of this title, the Secretary of the Interior may, notwithstanding any other provision of law, accept relinquishment of so much of such claims as involved lands within the right-of-way through execution of an agreement with the appropriate Village Corporation effective on or after the date of transfer. Upon such relinquishment, the interest of the United States in the right-of-way shall be conveyed to the State pursuant to section 604(b)(1)(B) or (2) of this title.

(ii) With respect to a claim described in clause (i) of this subparagraph that is not settled or relinquished prior to final administrative adjudication, the Congress finds that exclusive control over the right-of-way by the Alaska Railroad has been and continues to be necessary to afford sufficient protection for safe and economic operation of the railroad. Upon failure of the interested Village Corporation to relinquish so much of its claims as involve lands within the right-of-way prior to final adjudication of valid existing rights, the Secretary shall convey to the State pursuant to section 604(b)(1)(B) or (2) of this title all right, title and interest of the United States in and to the right-of-way free and clear of such Village Corporation's claim to and interest in lands within such right-of-way.

(B) Where lands within the right-of-way, or any interest in such lands, have been conveyed from Federal ownership prior to

the date of enactment of this Act, or is subject to a claim of valid existing rights by a party other than a Village Corporation, the conveyance to the State of the Federal interest in such properties pursuant to section 604(b)(1)(B) or (2) of this title shall grant not less than an exclusive-use easement in such properties. The foregoing requirements shall not be construed to permit the conveyance to the State of less than the entire Federal interest in the rail properties of the Alaska Railroad required to be conveyed by section 604(b) of this title. If an action is commenced against the State or the United States contesting the validity or existence of a reservation of right-of-way for the use or benefit of the Alaska Railroad made prior to the date of enactment of this Act, the Secretary of the Interior, through the Attorney General, shall appear in and defend such action.

(c)(1) The final administrative adjudication pursuant to subsection (b) of this section shall be final agency action and subject to judicial review only by an action brought in the United States District Court for the District of Alaska. Review of agency action pursuant to this title shall be expedited to the same extent as the expedited review provided by section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168).

(2) No administrative or judicial action under this title shall enjoin or otherwise delay the transfer of the Alaska Railroad pursuant to this title, or substantially impair or impede the operations of the Alaska Railroad or the State-owned railroad.

(3) Before the date of transfer, the State shall have standing to participate in any administrative determination or judicial review pursuant to this title. If transfer to the State does not occur pursuant to section 604 of this title, the State shall not thereafter have standing to participate in any such determination or review.

(d)(1) Section 12(b)(7)(i) of the Act of January 2, 1976 (Public Law 94-204) is amended—

(A) by striking "subsection 12(b)(6)" and inserting in lieu thereof "section 12(b) (5) and (6)";

(B) by striking "12(b)(7)(ii)" and inserting in lieu thereof "12(b)(7)(iv)";

(C) by striking "crediting" and inserting in lieu thereof "using";

(D) by striking "this subsection 12(b)(7)(i)(b)" and inserting in lieu thereof "these subsections 12(b)(7) (i)(b) or (ii)";

(E) by striking "State" in the last sentence and inserting in lieu thereof "state"; and

(F) by striking the penultimate sentence.

(2) Section 12(b)(7) of such Act is amended—

(A) by redesignating subsections (ii) through (iv) as subsections (iv) through (vi), respectively; and

(E) by inserting immediately after subsection (i) the following:

"(ii) Subject to the exceptions stated in section 12(b)(9), and notwithstanding the foregoing subsection 12(b)(7)(i) and any provision of any other law or any implementing regulation inconsistent with this subsection, until the obligations of the Secretary and the Administrator of General Services under section 12(b) (5) and (6) are otherwise fulfilled:

"(A) concurrently with the commencement of screening of any excess real property, wherever located, for utilization by Federal agencies, the Administrator of General Services shall

notify the Region that such property may be available for conveyance to the Region upon negotiated sale. Within fifteen days of the date of receipt of such notice, the Region may advise the Administrator that there is a tentative need for the property to fulfill the obligations established under section 12(b) (5) and (6). If the Administrator determines the property should be disposed of by transfer to the Region, the Administrator or other appropriate Federal official shall promptly transfer such property;

43 USC 1611
note.

“(B) no disposition or conveyance of property under this subsection to the Region shall be made until the Administrator, after notice to affected State and local governments, has provided to them such opportunity to obtain the property as is recognized in title 40, United States Code and the regulations thereunder for the disposition or conveyance of surplus property; and

“(C) as used in this subsection, ‘real property’ means any land or interests in land owned or held by the United States or any Federal agency, any improvements on such land or rights to their use or exploitation, and any personal property related to the land.

“Real
property.”

“(iii) If the Region accepts any conveyance under section 12(b)(7) (i) or (ii), it shall be in exchange for acres or acre-equivalents as provided in subparagraph I(C)(2)(e) of the document referred to in this section, except that, after the obligation of the Secretary and the Administrator under subparagraph I(C)(2)(g) of that document has been fulfilled, the acre-equivalents under subparagraph I(C)(2)(e)(iii)(A) shall be one-half the valued increment therein stated. The entitlement of the Region under section 12(b) of this Act shall be reduced by the number of acres or acre-equivalents attributed to the Region under this subsection. The Secretary and the Administrator are directed to execute an agreement with the Region which shall conform substantially to the Memorandum of Understanding Regarding the Implementation of Section 12(b)(7), dated September 10, 1982, and submitted to the Senate Committee on Commerce, Science, and Transportation. The Secretary, the Administrator and the Region may thereafter otherwise agree to procedures to implement responsibilities under this section 12(b)(7), including establishment of accounting procedures and the delegation or reassignment of duties under this statute.”

(3) Section 12(b)(7)(iv) of such Act, as so redesignated by paragraph (2) of this subsection, is amended—

43 USC 1611
note.

(A) by striking “surplus” the first place it appears therein;

(B) by inserting immediately before the period at the end of the first sentence the following: “or paying for the conveyance of property pursuant to subsections (i) or (ii)”;

(C) by inserting immediately after “account shall be” the following: “the sum of (1)”;

(D) by striking “I(C)(2)(e)” and inserting in lieu thereof “I(C)(2)(e)(iii)(A)”;

(E) by striking “the effective date of this subsection”, and inserting in lieu thereof “December 2, 1980”;

(F) by striking “and shall be adjusted” and inserting in lieu thereof “and (2) one-half the acre or acre-equivalent exchange value under subparagraph I(C)(2)(e)(iii)(A) of townships fewer than the unfulfilled entitlement of the Region on the same date to acres or acre-equivalents under paragraph I(C)(1)

of the document referred to in this section. The balance of the property account shall be adjusted in accordance with subsection 12(b)(7)(iii)"; and

(G) by striking "subsection 12(b)(6)" and inserting in lieu thereof "section 12(b)(5) and (6)".

43 USC 1611
note.

(4) Section 12(b)(7)(v) of such Act, as so redesignated by paragraph (2) of this subsection, is amended by striking "subsection (ii)" and inserting in lieu thereof "subsection (iv)".

43 USC 1611
note.

(5) Section 12(b)(8) of such Act is amended to read as follows: "12(b)(8). Subject to the exceptions stated in section 12(b)(9), and notwithstanding any provisions of law or implementing regulation inconsistent with this section:

"(i) The deadlines in subparagraphs I(C)(2) (a) and (g) of the document referred to in this section shall be extended until the Secretary's obligations under section 12(b)(5) and (6) are fulfilled: *Provided*, That:

"(A) the obligation of the Secretary under subparagraph I(C)(2)(a) of such document shall terminate on such date, after July 15, 1984, that the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document: *Provided*, That the obligation of the Secretary under subparagraph I(C)(2)(g) of such document shall be fulfilled at such date, after July 15, 1984, that the sum of the acres or acre-equivalents identified for and placed in the pool and the acres or acre-equivalents used by the Region in purchasing property under section 12(b)(7) equals or exceeds 138,240 acres or acre-equivalents;

"(B) the authority of the Secretary under subparagraphs I(C)(2)(b) and I(C)(2)(g)(ii) of such document to contribute to the pool created under subparagraph I(C)(2)(a) of such document shall terminate (a) on July 15, 1984, if, by that date, the Secretary has fulfilled his obligation under subparagraph I(C)(2) (g), or (b) if not, on such date after July 15, 1984 as such obligation is fulfilled, or (c) if such obligation remains unfulfilled, on July 15, 1987;

"(C) the concurrence by the State as described in subparagraphs I(C)(2)(a)(vi) and I(C)(2)(c) of the document referred to in this section shall be deemed not required after the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document, but in no event after July 15, 1987. In lieu of such concurrence, after 1984 as to military property, and after the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document or July 15, 1987, whichever is earlier, as to any other property, except property of the Alaska Railroad which is governed by subsection 12(b)(6)(1)(D) of this Act, the Secretary shall place any lands in the selection pool referred to in subparagraphs I(C)(2) (a) and (g) of the document referred to in this section without the prior written concurrence of the State. Such concurrence shall be deemed obtained unless the State advises the Secretary within ninety days of receipt of a formal notice from the Secretary that he is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or municipality; and

"(D) notwithstanding section 606(a)(2) of the Alaska Railroad Transfer Act of 1982, the Secretary may include property of the Alaska Railroad in the pool of lands to be made available for selection to the extent that he is authorized to do so under a provision of section 12(b) of this Act if the State consents to its inclusion, which consent is not subject to any limitation under subsection 12(b)(8)(i)(C) herein: *Provided*, That, while the Alaska Railroad is the property of the United States, the Secretary shall obtain the consent of the Secretary of Transportation prior to including such property: *And provided further*, That, if the transfer of the Alaska Railroad to the State does not occur pursuant to the terms of the Alaska Railroad Transfer Act of 1982 or any amendments thereto, the State's consent shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that he is considering placing such property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or the municipality.

Ante, p. 2564.

Ante, p. 2568.

Ante, p. 2556.

"(ii) In addition to the review required to identify public lands under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), the Secretary shall identify for inclusion in the pool all public lands (as such term is used under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), as described in subparagraph I(C)(2)(a)(v) of the document referred to in this section, and shall, in so doing, review all Federal installations within the boundaries of the Cook Inlet Region whether within or without the areas withdrawn pursuant to section 11 of the Alaska Native Claims Settlement Act (43 U.S.C. 1610) or by the Secretary acting under authority contained in that section: *Provided*, That no such additional review under such subparagraph shall be required of military installations or of such other installations as may be mutually excluded from review by the Region and the Secretary: *And provided further*, That the Secretary shall not review any property of the Alaska Railroad unless such property becomes available for selection pursuant to subsection 12(b)(8)(i)(D).

"(iii) The concurrence required of the State as to the inclusion of any property in the pool under subparagraph I(C)(2)(b) of the document referred to in this section shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that the Secretary is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question requires the property for a public purpose of the State or the municipality.

"(iv) The deadlines in subparagraph I(C)(1)(b) of the document referred to in this section shall be extended for an additional twenty-four months beyond the dates established in the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 947).

"(v) On or before January 15, 1985, the Secretary shall report to the Congress with respect to:

Report to Congress.

"(A) such studies and inquiries as shall have been initiated by the Secretary and the Administrator of General Services, or have been prepared by other holding agencies,

to determine what lands, except for lands held by the Alaska Railroad or the State-owned railroad, within the boundaries of the Cook Inlet Region or elsewhere can be made available to the Region, to the extent of its entitlement;

"(B) the feasibility and appropriate nature of reimbursement of the Region for its unfulfilled entitlement as valued in subsection 12(b)(7)(iv) of this Act;

"(C) the extent to which implementation of the mechanisms established in section 12(b)(7) promise to meet such unfulfilled entitlement;

"(D) such other remedial legislation or administrative action as may be needed; and

"(E) the need to terminate any mechanism established by law through which the entitlement of the Region may be completed."

43 USC 1611
note.

Ante, p. 2568.

48 USC note
prec. 21.
43 USC 1635.
43 USC 1611,
1615, 1621.
43 USC 1611
note.
94 Stat. 2499,
2501-2515,
2518-2544, 2546.
43 USC 1611
note.

(6) Section 12(b) of such Act is amended by adding at the end thereof the following:

"12(b)(9). No disposition or conveyance of property located within the State to the Region under section 12(b)(6), 12(b)(7) and 12(b)(8), as amended, shall be made if the property is subject to an express waiver of rights under the provisions of subparagraph I(C)(2)(f) of the document referred to in this section, or if such disposition or conveyance violates valid rights, including valid selections or valid authorized agreements, of Native Corporations (as such term is used in section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6)) or the State existing at the time of such disposition or conveyance under section 6 of Public Law 85-508, as amended (excepting section 906(e) of the Alaska National Interest Lands Conservation Act), sections 12(a), 12(b), 16(b) or 22(f) of the Alaska Native Claims Settlement Act, section 12(h) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1154), or sections 1416, 1418 through 1425 (inclusive), 1427 through 1434 (inclusive), or 1436 of the Alaska National Interest Lands Conservation Act: *Provided, however,* That nothing within this subsection 12(b)(9) shall diminish such rights and priorities as the Region has under section 12(b) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1151), as amended by section 4 of the Act of October 4, 1976 (Public Law 94-455; 90 Stat. 1935), section 3 of the Act of November 15, 1977 (Public Law 95-178; 91 Stat. 1369), section 2 of the Act of August 14, 1979 (Public Law 96-55; 93 Stat. 386), the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 947), and section 1435 of the Alaska National Interest Lands Conservation Act.

"12(b)(10). For the purpose of its incorporation into this section, paragraph I(C)(1) of the document referred to in this section is amended as follows: (1) by striking 'withdrawn' and inserting in lieu thereof 'withdrawn or formerly withdrawn'; (2) by striking '17(d)(1)' and inserting in lieu thereof '17(d)(1) and (2)'; and (3) by striking the last sentence of subparagraph I(C)(1)(a) and inserting in lieu thereof the following: 'Cook Inlet Region, Incorporated shall not nominate any lands within the boundaries of any conservation system unit, national conservation area, national recreation area, national forest, defense withdrawal, or any lands that were made available to the State for selection pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972.'

"12(b)(11). Notwithstanding the provisions of section 906 of the Alaska National Interest Lands Conservation Act and section 6(i) of the Alaska Statehood Act (72 Stat. 339):

43 USC 1635.
48 USC note
prec. 21.

"(i) The State is hereby authorized to convey to the United States for reconveyance to the Region, and the Secretary is directed to accept and so reconvey, lands tentatively approved for patent or patented to the State, if the State and the Region enter into an agreement that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph I(C)(1) of the document referred to in this section: *Provided*, That the acreage of lands conveyed to the United States under this provision shall be added to the State's unfulfilled entitlement pursuant to section 6 of the Alaska Statehood Act, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph I(C)(1) of the document referred to in this section shall be reduced accordingly.

"(ii) The Secretary is directed to convey to the Region lands selected by the State prior to July 18, 1973 or pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972, if the State relinquishes such selections and enters into an agreement with the Region that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph I(C)(1) of the document referred to in this section, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph I(C)(1) of the document referred to in this section shall be reduced accordingly.

"(iii) The Secretary, in the Secretary's discretion, is authorized to enter into an agreement with the State and the Region to implement the authority contained in this section 12(b)(11), which agreement may provide for conveyances directly from the State to the Region. Conveyances directly conveyed shall be deemed conveyances from the Secretary pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)."

(e) The State shall be liable to a party receiving a conveyance of land among the rail properties of the Alaska Railroad subject to the license granted pursuant to section 604(b)(1)(C) of this title for damage resulting from use by the State of the land under such license in a manner not authorized by such license.

45 USC 1205.

EMPLOYEES OF THE ALASKA RAILROAD

SEC. 607. (a)(1) Any employees who elect to transfer to the State-owned railroad and who on the day before the date of transfer are subject to the civil service retirement law (subchapter III of chapter 83 of title 5, United States Code) shall, so long as continually employed by the State-owned railroad without a break in service, continue to be subject to such law, except that the State-owned railroad shall have the option of providing benefits in accordance with the provisions of paragraph (2) of this subsection. Employment by the State-owned railroad without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. The State-owned railroad shall be the employing agency for purposes of section 8334(a) of title 5, United States Code, and shall contribute to the Civil Service Retirement and Disability

45 USC 1206.

5 USC 8331.

Fund a sum as provided by such section, except that such sum shall be determined by applying to the total basic pay (as defined in section 8331(3) of title 5, United States Code) paid to the employees of the State-owned railroad who are covered by the civil service retirement law, the per centum rate determined annually by the Director of the Office of Personnel Management to be the excess of the total normal cost per centum rate of the civil service retirement system over the employee deduction rate specified in section 8334(a) of title 5, United States Code. The State-owned railroad shall pay into the Federal Civil Service Retirement and Disability Fund that portion of the cost of administration of such Fund which is demonstrated by the Director of the Office of Personnel Management to be attributable to its employees.

(2) At any time during the two-year period commencing on the date of transfer, the State-owned railroad shall have the option of providing to transferred employees retirement benefits, reflecting prior Federal service, in or substantially equivalent to benefits under the retirement program maintained by the State for State employees. If the State decides to provide benefits under this paragraph, the State shall provide such benefits to all transferred employees, except those employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program.

(3) If the State provides benefits under paragraph (2) of this subsection—

(A) the provisions of paragraph (1) of this subsection regarding payments into the Civil Service Retirement and Disability Fund for those employees who are transferred to the State program shall have no further force and effect (other than for employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program); and

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

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

(c) Transferred employees whose employment with the State-owned railroad is terminated during the two-year period commencing on the date of transfer shall be entitled to all of the rights and benefits of discontinued employees that such employees would have had under Federal law if their termination had occurred immediately before the date of the transfer, except that financial compensation paid to officers of the Alaska Railroad shall be limited to that compensation provided pursuant to section 604(d)(3)(E) of this title. Such employees shall also be entitled to seniority and other benefits accrued under Federal law while they were employed by the State-owned railroad on the same basis as if such employment had been Federal service.

(d) Any employee who transfers to the State-owned railroad under this title shall not be entitled to lump-sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the State with the unused annual leave balance at the time of transfer.

STATE OPERATION

Sec. 608. (a)(1) After the date of transfer to the State pursuant to section 604 of this title, the State-owned railroad shall be a rail carrier engaged in interstate and foreign commerce subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code, and all other Acts applicable to rail carriers subject to that chapter, including the antitrust laws of the United States, except, so long as it is an instrumentality of the State of Alaska, the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.), the Railway Labor Act (45 U.S.C. 151 et seq.), the Act of April 22, 1908 (45 U.S.C. 51 et seq.) (popularly referred to as the "Federal Employers' Liability Act"), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.). Nothing in this title shall preclude the State from explicitly invoking by law any exemption from the antitrust laws as may otherwise be available.

45 USC 1207.

(2) The transfer to the State authorized by section 604 of this title and the conferral of jurisdiction to the Interstate Commerce Commission pursuant to paragraph (1) of this subsection are intended to confer upon the State-owned railroad all business opportunities available to comparable railroads, including contract rate agreements meeting the requirements of section 10713 of title 49, United States Code, notwithstanding any participation in such agreements by connecting water carriers.

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

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

(5) Revenues generated by the State-owned railroad shall be retained and managed by the State-owned railroad for railroad and related purposes.

(6)(A) After the date of transfer, continued operation of the Alaska Railroad by a public corporation, authority or other agency of the

State shall be deemed to be an exercise of an essential governmental function, and revenue derived from such operation shall be deemed to accrue to the State for the purposes of section 115(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 115(a)(1)). Obligations issued by such entity shall also be deemed obligations of the State for the purposes of section 103(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 103(a)(1)), but not obligations within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 103(b)(2)).

(B) Nothing in this title shall be deemed or construed to affect customary tax treatment of private investment in the equipment or other assets that are used or owned by the State-owned railroad.

(b) As soon as practicable after the date of enactment of this Act, the Interstate Commerce Commission shall promulgate an expedited, modified procedure for providing on the date of transfer a certificate of public convenience and necessity to the State-owned railroad. No inventory, valuation, or classification of property owned or used by the State-owned railroad pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.) shall be required during the two-year period after the date of transfer. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 382(b) of the Energy Policy and Conservation Act (42 U.S.C. 6362(b)) shall not apply to actions of the Commission under this subsection.

(c) The State-owned railroad shall be eligible to participate in all Federal railroad assistance programs on a basis equal to that of other rail carriers subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code.

(d) After the date of transfer to the State pursuant to section 604 of this title, the portion of the rail properties within the boundaries of the Chugach National Forest and the exclusive-use easement within the boundaries of the Denali National Park and Preserve shall be subject to laws and regulations for the protection of forest and park values. The right to fence the exclusive-use easement within Denali National Park and Preserve shall be subject to the concurrence of the Secretary of the Interior. The Secretary of the Interior, or the Secretary of Agriculture where appropriate, shall not act pursuant to this subsection without consulting with the Governor of the State of Alaska or in such a manner as to unreasonably interfere with continued or expanded operations and support functions authorized under this title.

FUTURE RIGHTS-OF-WAY

45 USC 1208.

SEC. 609. (a) After the date of enactment of this Act, the State or State-owned railroad may request the Secretary of the Interior or the Secretary of Agriculture, as appropriate under law, to expeditiously approve an application for a right-of-way in order that the Alaska Railroad or State-owned railroad may have access across Federal lands for transportation and related purposes. The State or State-owned railroad may also apply for a lease, permit, or conveyance of any necessary or convenient terminal and station grounds and material sites in the vicinity of the right-of-way for which an application has been submitted.

(b) Before approving a right-of-way application described in subsection (a) of this section, the Secretary of the Interior or the

Secretary of Agriculture, as appropriate, shall consult with the Secretary. Approval of an application for a right-of-way, permit, lease, or conveyance described in subsection (a) of this section shall be pursuant to applicable law. Rights-of-way, grounds, and sites granted pursuant to this section and other applicable law shall conform, to the extent possible, to the standards provided in the Act of March 12, 1914 (43 U.S.C. 975 et seq.) and section 603(6) of this title. Such conformance shall not be affected by the repeal of such Act under section 615 of this title.

(c) Reversion to the United States of any portion of any right-of-way or exclusive-use easement granted to the State or State-owned railroad shall occur only as provided in section 610 of this title. For purposes of such section, the date of the approval of any such right-of-way shall be deemed the "date of transfer".

REVERSION

SEC. 610. (a) If, within ten years after the date of transfer to the State authorized by section 604 of this title, the Secretary finds that all or part of the real property transferred to the State under this title, except that portion of real property which lies within the boundaries of the Denali National Park and Preserve, is converted to a use that would prevent the State-owned railroad from continuing to operate, that real property (including permanent improvements to the property) shall revert to the United States Government, or (at the option of the State) the State shall pay to the United States Government an amount determined to be the fair market value of that property at the time its conversion prevents continued operation of the railroad.

45 USC 1209.

(b) If, after the date of transfer pursuant to section 604 of this title, the State discontinues use of any land within the right-of-way, the State's interest in such land shall revert to the United States. The State shall be considered to have discontinued use within the meaning of this subsection and subsection (d) of this section when:

(1) the Governor of the State of Alaska delivers to the Secretary of the Interior a notice of such discontinuance, including a legal description of the property subject to the notice, and a quitclaim deed thereto; or

(2) the State has made no use of the land for a continuous period of eighteen years for transportation, communication, or transmission purposes. Notice of such discontinuance shall promptly be published in the Federal Register by the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, and reversion shall be effected one year after such notice, unless within such one-year period the State brings an appropriate action in the United States District Court for the District of Alaska to establish that the use has been continuing without an eighteen-year lapse. Any such action shall have the effect of staying reversion until exhaustion of appellate review from the final judgment in that action or termination of the right to seek such review, whichever first occurs.

(c) Upon such reversion pursuant to subsection (b) of this section, the Secretary of the Interior shall immediately convey by patent to abutting landowners all right, title and interest of the United States. Where land abutting the reverted right-of-way is owned by different persons or entities, the conveyance made pursuant to this

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subsection shall extend the property of each abutting owner to the centerline of the right-of-way.

(d) If use is discontinued (as that term is used in subsection (b) of this section) of all or part of those properties of the Alaska Railroad transferred to the State pursuant to this title which lie within the boundaries of the Denali National Park and Preserve or the Chugach National Forest, such properties or part thereof (including permanent improvements to the property) shall revert to the United States and shall not be subject to subsection (c) of this section. Upon such reversion, jurisdiction over that property shall be transferred to the Secretary of the Interior or the Secretary of Agriculture, as appropriate, for administration as part of the Denali National Park and Preserve or the Chugach National Forest.

(e) Except as provided in subsections (a) through (d) of this section, if, within five years after the date of transfer to the State pursuant to section 604 of this title, the State sells or transfers all or substantially all of the State-owned railroad to an entity other than an instrumentality of the State, the proceeds from the sale or transfer that exceed the cost of any rehabilitation and improvement made by the State for the State-owned railroad and any net liabilities incurred by the State for the State-owned railroad shall be paid into the general fund of the Treasury of the United States.

(f) The Attorney General, upon the request of the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, shall institute appropriate proceedings to enforce this section in the United States District Court for the District of Alaska.

OTHER DISPOSITION

45 USC 1210.

SEC. 611. If the Secretary has not certified that the State has satisfied the conditions under section 604 within one year after the date of delivery of the report referred to in section 605(a) of this title, the Secretary may dispose of the rail properties of the Alaska Railroad. Any disposal under this section shall give preference to a buyer or transferee who will continue to operate rail service, except that—

(1) such preference shall not diminish or modify the rights of the Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), pursuant to such section, as amended by section 606(d) of this title; and

Ante, p. 2564.

(2) this section shall not be construed to diminish or modify the powers of consent of the Secretary or the State under section 12(b)(8) of such Act, as amended by section 606(d)(5) of this title.

Any disposal under this section shall be subject to valid existing rights.

DENALI NATIONAL PARK AND PRESERVE LANDS

45 USC 1211.

SEC. 612. On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), that portion of rail properties of the Alaska Railroad within the Denali National Park and Preserve shall, subject to the exclusive-use easement granted pursuant to section 604(b)(1)(D) of this title, be transferred to the Secretary of the Interior for administration as part of the Denali National Park and Preserve, except that a

transferee under section 611 of this title shall receive the same interest as the State under section 604(b)(1)(D) of this title.

APPLICABILITY OF OTHER LAWS

SEC. 613. (a) The provisions of chapter 5 of title 5, United States Code (popularly known as the Administrative Procedure Act, and including provisions popularly known as the Government in the Sunshine Act), the Federal Advisory Committee Act (5 U.S.C. App. 1 *et seq.*), the National Historic Preservation Act (16 U.S.C. 470 *et seq.*), section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) shall not apply to actions taken pursuant to this title, except to the extent that such laws may be applicable to granting of rights-of-way under section 609 of this title.

45 USC 1212.
5 USC 500 *et seq.*

(b) The enactment of this title, actions taken during the transition period as provided in section 605 of this title, and transfer of the rail properties of the Alaska Railroad under authority of this title shall be deemed not to be the disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622). Such events shall not constitute or cause the revocation of any prior withdrawal or reservation of land for the use of the Alaska Railroad under the Act of March 12, 1914 (43 U.S.C. 975 *et seq.*), the Alaska Statehood Act (note preceding 48 U.S.C. 21), the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1145), the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371), and the general land and land management laws of the United States.

(c) Beginning on the date of enactment of this Act, the ceiling on Government contributions for Federal employees health benefits insurance premiums under section 8906(b)(2) of title 5, United States Code, shall not apply to the Alaska Railroad.

(d) Nothing in this title is intended to enlarge or diminish the acreage entitlement of the State or any Native Corporation pursuant to existing law.

(e) With respect to interests of Native Corporations under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*) and the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 *et seq.*), except as provided in this title, nothing contained in this title shall be construed to deny, enlarge, grant, impair, or otherwise affect any judgment heretofore entered in a court of competent jurisdiction, or valid existing right or claim of valid existing right.

CONFLICT WITH OTHER LAWS

SEC. 614. The provisions of this title shall govern if there is any conflict between this title and any other law.

45 USC 1213.

REPEAL AND AMENDMENT OF EXISTING STATUTES

SEC. 615. (a) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are repealed:

(1) The Act of March 12, 1914 (43 U.S.C. 975 *et seq.*).

16 USC 353a.

48 USC 301a.

(2) The Act of June 24, 1946, to authorize certain expenditures by the Alaska Railroad (60 Stat. 304).

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

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

(b) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are amended as follows:

(1) Title 5, United States Code, is amended—

(A) in section 305(a), by striking paragraph (3), and by redesignating paragraphs (4)–(8) as paragraphs (3)–(7), respectively;

(B) in section 3401(1), by striking clause (iii), and by redesignating clauses (iv)–(viii) as clauses (iii)–(vii), respectively;

(C) in section 5102(a)(1), by striking clause (iii), and by redesignating clauses (iv)–(ix) as clauses (iii)–(viii), respectively;

(D) in section 5342(a)(1), by striking subparagraph (C), and by redesignating subparagraphs (D)–(J) as subparagraphs (C)–(I), respectively; and

(E) in section 7327, by striking subsection (a), and by striking the subsection designation “(b)”.

(2) Section 102(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 802(7)) is amended by striking “and the Alaska Railroad”.

(3) Section 10749(b) of title 49, United States Code, is amended—

(A) by inserting “or” at the end of paragraph (1)(B);

(B) by striking “; or” at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking paragraph (3).

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

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

(6) Section 1(o) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(o)) is amended by inserting immediately after “National Transportation Safety Board,” the following: “the State-owned railroad (as defined in the Alaska Railroad Transfer Act of 1982), so long as it is an instrumentality of the State of Alaska.”

SEPARABILITY

45 USC 1214.

SEC. 616. If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

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96 STAT. 2556

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(2) a person who is able to assure that adequate transportation will be provided over a substantial portion of the feeder line described in subsection (a) of this section for a period of not less than 3 years; or

(3) any combination of members of the classes of applicants described in paragraphs (1) and (2) of this subsection.

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Transfer Act of
1982

TITLE VI—ALASKA RAILROAD TRANSFER

SHORT TITLE

45 USC 1201
note

Sec. 601. This title may be cited as the "Alaska Railroad Transfer Act of 1982".

PURPOSES

45 USC 1202

Sec. 602. The Congress finds that—

(1) the Alaska Railroad, which was built by the Federal Government to serve the transportation and development needs of the Territory of Alaska, presently is providing freight and passenger services that primarily benefit residents and businesses in the State of Alaska;

(2) many communities and individuals in Alaska are wholly or substantially dependent on the Alaska Railroad for freight and passenger service and provision of such service is an essential governmental function;

(3) continuation of services of the Alaska Railroad and the opportunity for future expansion of those services are necessary to achieve Federal, State, and private objectives; however, continued Federal control and financial support are no longer necessary to accomplish these objectives;

(4) the transfer of the Alaska Railroad and provision for its operation by the State in the manner contemplated by this title is made pursuant to the Federal goal and ongoing program of transferring appropriate activities to the States;

(5) the State's continued operation of the Alaska Railroad following the transfer contemplated by this title, together with such expansion of the railroad as may be necessary or convenient in the future, will constitute an appropriate public use of the rail system and associated properties, will provide an essential governmental service, and will promote the general welfare of Alaska's residents and visitors; and

(6) in order to give the State government the ability to determine the Alaska Railroad's role in serving the State's transportation needs in the future, including the opportunity to extend rail service, and to provide a savings to the Federal Government, the Federal Government should offer to transfer the railroad to the State, in accordance with the provisions of this title, in the same manner in which other Federal transportation functions (including highways and airports) have been transferred since Alaska became a State in 1959.

DEFINITIONS

45 USC 1202

Sec. 603. As used in this title, the term—

(1) "Alaska Railroad" means the agency of the United States Government that is operated by the Department of Transportation as a rail carrier in Alaska under authority of the Act of

March 12, 1914 (43 U.S.C. 575 et seq.) (popularly referred to as the "Alaska Railroad Act") and section 5(i) of the Department of Transportation Act (49 U.S.C. 1355(i)), or, as the context requires, the railroad operated by that agency;

(2) "Alaska Railroad Revolving Fund" means the public enterprise fund maintained by the Department of the Treasury into which revenues of the Alaska Railroad and appropriations for the Alaska Railroad are deposited, and from which funds are expended for Alaska Railroad operation, maintenance and construction work authorized by law;

Definitions.

(3) "claim of valid existing rights" means any claim to the rail properties of the Alaska Railroad on record in the Department of the Interior as of the day before the date of enactment of this Act;

(4) "date of transfer" means the date on which the Secretary delivers to the State the four documents referred to in section 304(b)(1) of this title;

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

(6) "exclusive-use easement" means an easement which affords to the easement holder the following:

(A) the exclusive right to use, possess, and enjoy the surface estate of the land subject to this easement for transportation, communication, and transmission purposes and for support functions associated with such purposes;

(B) the right to use so much of the subsurface estate of the lands subject to this easement as is necessary for the transportation, communication, and transmission purposes and associated support functions for which the surface of such lands is used;

(C) subjacent and lateral support of the lands subject to the easement; and

(D) the right (in the easement holder's discretion) to fence all or part of the lands subject to this easement and to affix track, fixtures, and structures to such lands and to exclude other persons from all or part of such lands;

(7) "Native Corporation" has the same meaning as such term has under section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6));

(8) "officers of the Alaska Railroad" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer: General Manager, Assistant General Manager, Assistant to the General Manager, Chief of Administration, and Chief Counsel;

(9) "public lands" has the same meaning as such term has under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e));

(10) "rail properties of the Alaska Railroad" means all right, title, and interest of the United States to lands, buildings, facilities, machinery, equipment, supplies, records, rolling stock, trade names, accounts receivable, goodwill, and other real and personal property, both tangible and intangible, in which there is an interest reserved, withdrawn, appropriated, owned, administered or otherwise held or validly claimed for the Alaska Railroad by the United States or any agency or instrumentality

thereof as of the date of enactment of this Act, but excluding any such properties disposed of, and including any such properties acquired, in the ordinary course of business after that date but before the date of transfer, and also including the exclusive-use easement within the Denali National Park and Preserve conveyed to the State pursuant to this title and also excluding the following:

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

(B) the right of the United States to exercise the power of eminent domain;

(C) any moneys in the Alaska Railroad Revolving Fund which the Secretary demonstrates, in consultation with the State, are unobligated funds appropriated from general tax revenues or are needed to satisfy obligations incurred by the United States in connection with the operation of the Alaska Railroad which would have been paid from such Fund but for this title and which are not assumed by the State pursuant to this title;

(D) any personal property which the Secretary demonstrates, in consultation with the State, prior to the date of transfer under section 604 of this title, to be necessary to carry out functions of the United States after the date of transfer; and

(E) any lands or interest therein (except as specified in this title) within the boundaries of the Denali National Park and Preserve;

(11) "right-of-way" means, except as used in section 609 of this title—

(A) an area extending not less than one hundred feet on both sides of the center line of any main line or branch line of the Alaska Railroad; or

(B) an area extending on both sides of the center line of any main line or branch line of the Alaska Railroad appropriated or retained by or for the Alaska Railroad that, as a result of military jurisdiction over, or non-Federal ownership of, lands abutting the main line or branch line, is of a width less than that described in subparagraph (A) of this paragraph;

(12) "Secretary" means the Secretary of Transportation;

(13) "State" means the State of Alaska or the State-owned railroad, as the context requires;

(14) "State-owned railroad" means the authority, agency, corporation or other entity which the State of Alaska designates or contracts with to own, operate or manage the rail properties of the Alaska Railroad or, as the context requires, the railroad owned, operated, or managed by such authority, agency, corporation, or other entity; and

(15) "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(j)).

TRANSFER AUTHORIZATION

Sec. 604. (a) Subject to the provisions of this title, the United States, through the Secretary, shall transfer all rail properties of the Alaska Railroad to the State. Such transfer shall occur as soon as practicable after the Secretary has made the certifications required by subsection (d) of this section and shall be accomplished in the manner specified in subsection (b) of this section.

45 USC 1504.

(b)(1) On the date of transfer, the Secretary shall simultaneously:

(A) deliver to the State a bill of sale conveying title to all rail properties of the Alaska Railroad except any interest in real property;

(B) deliver to the State an interim conveyance of the rail properties of the Alaska Railroad that are not conveyed pursuant to subparagraph (A) of this paragraph and are not subject to unresolved claims of valid existing rights;

(C) deliver to the State an exclusive license granting the State the right to use all rail properties of the Alaska Railroad not conveyed pursuant to subparagraphs (A) or (B) of this paragraph pending conveyances in accordance with the review and settlement or final administrative adjudication of claims of valid existing rights;

(D) convey to the State a deed granting the State (i) an exclusive-use easement for that portion of the right-of-way of the Alaska Railroad within the Denali National Park and Preserve extending not less than one hundred feet on either side of the main or branch line tracks, and eight feet on either side of the centerline of the "Y" track connecting the main line of the railroad to the power station at McKinley Park Station and (ii) title to railroad-related improvements within such right-of-way.

Prior to taking the action specified in subparagraphs (A) through (D) of this paragraph, the Secretary shall consult with the Secretary of the Interior. The exclusive-use easement granted pursuant to subparagraph (D) of this paragraph and all rights afforded by such easement shall be exercised only for railroad purposes, and for such other transportation, transmission, or communication purposes for which lands subject to such easement were utilized as of the date of enactment of this Act. In the event of reversion to the United States, pursuant to section 510 of this title, of the State's interests in all or part of the lands subject to such easement, such easement shall terminate with respect to the lands subject to such reversion, and no new exclusive-use easement with respect to such reverted lands shall be granted except by Act of Congress.

(2) The Secretary shall deliver to the State an interim conveyance of rail properties of the Alaska Railroad described in paragraph (1)(C) of this subsection that become available for conveyance to the State after the date of transfer as a result of settlement, relinquishment, or final administrative adjudication pursuant to section 606 of this title. Where the rail properties to be conveyed pursuant to this paragraph are surveyed at the time they become available for conveyance to the State, the Secretary shall deliver a patent therefor in lieu of an interim conveyance.

(3) The force and effect of an interim conveyance made pursuant to paragraphs (1)(B) or (2) of this subsection shall be to convey to and vest in the State exactly the same right, title, and interest in and to the rail properties identified therein as the State would have received had it been issued a patent by the United States. The

Secretary of the Interior shall survey the land conveyed by an interim conveyance to the State pursuant to paragraphs (1)(B) or (2) of this subsection and, upon completion of the survey, the Secretary shall issue a patent therefor.

(4) The license granted pursuant to paragraph (1)(C) of this subsection shall authorize the State to use, occupy, and directly receive all benefits of the rail properties described in the license for the operation of the State-owned railroad in conformity with the Memorandum of Understanding referred to in section 506(b)(3) of this title. The license shall be exclusive, subject only to valid leases, permits, and other instruments issued before the date of transfer and easements reserved pursuant to subsection (c)(2) of this section. With respect to any parcel conveyed pursuant to this title, the license shall terminate upon conveyance of such parcel.

(c)(1) Interim conveyances and patents issued to the State pursuant to subsection (b) of this section shall confirm, convey and vest in the State all reservations to the United States (whether or not expressed in a particular patent or document of title), except the unexercised reservations to the United States for future rights-of-way made or required by the first section of the Act of March 12, 1914 (43 U.S.C. 975d). The conveyance to the State of such reservations shall not be affected by the repeal of such Act under section 615 of this title.

(2) In the license granted under subsection (b)(1)(C) of this section and in all conveyances made to the State under this title, there shall be reserved to the Secretary of the Interior, the Secretary of Defense and the Secretary of Agriculture, as appropriate, existing easements for administration (including agency transportation and utility purposes) that are identified in the report required by section 505(a) of this title. The appropriate Secretary may obtain, only after consent of the State, such future easements as are necessary for administration. Existing and future easements and use of such easements shall not interfere with operations and support functions of the State-owned railroad.

(3) There shall be reserved to the Secretary of the Interior the right to use and occupy, without compensation, five thousand square feet of land at Talkeetna, Alaska, as described in ARR lease numbered 69-25-0003-5165 for National Park Service administrative activities, so long as the use or occupation does not interfere with the operation of the State-owned railroad. This reservation shall be effective on the date of transfer under this section or the expiration date of such lease, whichever is later.

(d)(1) Prior to the date of transfer, the Secretary shall certify that the State has agreed to operate the railroad as a rail carrier in intrastate and interstate commerce.

(2)(A) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to assume all rights, liabilities, and obligations of the Alaska Railroad on the date of transfer, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, and accounts payable, except as otherwise provided by this title.

(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, the United States shall be solely responsible for—

(i) all claims and causes of action against the Alaska Railroad that accrue on or before the date of transfer, regardless of the date on which legal proceedings asserting such claims were or may be filed, except that the United States shall, in the case of

any tort claim, only be responsible for any such claim against the United States that accrues before the date of transfer and results in an award, compromise, or settlement of more than \$2,500, and the United States shall not compromise or settle any claim resulting in State liability without the consent of the State, which consent shall not be unreasonably withheld; and

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

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

(3XA) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has established arrangements pursuant to section 607 of this title to protect the employment interests of employees of the Alaska Railroad during the two-year period commencing on the date of transfer. These arrangements shall include provisions—

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

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

(iii) for the payment of compensation to transferred employees (other than employees provided for in subparagraph (E) of this paragraph), except in cases of separation for cause, resignation, retirement, or lack of work, for two years commencing on the date of transfer at or above the base salary levels in effect for such employees on the date of transfer, unless the parties otherwise agree during that two-year period;

(iv) for priority of reemployment at the State-owned railroad during the two-year period commencing on the date of transfer for transferred employees who are separated for lack of work, in accordance with subparagraph (C) of this paragraph (except for officers of the Alaska Railroad, who shall receive such priority for one year following the date of transfer);

(v) for credit during the two-year period commencing on the date of transfer for accrued annual and sick leave, seniority rights, and relocation and turnaround travel allowances which have been accrued during their period of Federal employment by transferred employees retained by the State-owned railroad (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer);

(vi) for payment to transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, including for one year officers retained or separated under subparagraph (E) of this paragraph, of an amount equivalent to the cost-of-living allowance to which they are entitled as Federal employees on the day before the date of transfer, in accordance with the provisions of subparagraph (D) of this paragraph; and

(vii) for health and life insurance programs for transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, substantially

equivalent to the Federal health and life insurance programs available to employees on the day before the date of transfer (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer).

(B) The State-owned railroad shall adopt all collective bargaining agreements which are in effect on the date of transfer. Such agreements shall continue in effect for the two-year period commencing on the date of transfer, unless the parties agree to the contrary before the expiration of that two-year period. Such agreements shall be renegotiated during the two-year period, unless the parties agree to the contrary. Any labor-management negotiation impasse declared before the date of transfer shall be settled in accordance with chapter 71 of title 5, United States Code. Any impasse declared after the date of transfer shall be subject to applicable State law.

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

(D) Payment to transferred employees pursuant to subparagraph (A)(vi) of this paragraph shall not exceed the percentage of any transferred employee's base salary level provided by the United States as a cost-of-living allowance on the day before the date of transfer, unless the parties agree to the contrary.

(E) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has agreed to the retention, for at least one year from the date of transfer, of the offices of the Alaska Railroad, except in cases of separation for cause, resignation, retirement, or lack of work, at or above their base salaries in effect on the date of transfer, in such positions as the State-owned railroad may determine; or to the payment of lump-sum severance pay in an amount equal to such base salary for one year to officers not retained by the State-owned railroad upon transfer or, for officers separated within one year on or after the date of transfer, of a portion of such lump-sum severance payment (diminished pro rata for employment by the State-owned railroad within one year of the date of transfer prior to separation).

(4) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to allow representatives of the Secretary adequate access to employees and records of the Alaska Railroad when needed for the performance of functions related to the period of Federal ownership.

(5) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to compensate the United States at the value, if any, determined pursuant to section 605(d) of this title.

TRANSITION PERIOD

SEC. 605. (a) Within 6 months after the date of enactment of this Act, the Secretary and the Governor of Alaska shall jointly prepare and deliver to the Congress of the United States and the legislature of the State a report that describes to the extent possible the rail properties of the Alaska Railroad, the liabilities and obligations to be assumed by the State, the sum of money, if any, in the Alaska Railroad Revolving Fund to be withheld from the State pursuant to section 503(8)(C) of this title, and any personal property to be withheld pursuant to section 503(8)(D) of this title. The report shall separately identify by the best available descriptions (1) the rail properties of the Alaska Railroad to be transferred pursuant to

5 USC 7101 et
seq

Report to
Congress
and State
legislature.
45 USC 1204

section 604(b)(1) (A), (B), and (D) of this title; (2) the rail properties to be subject to the license granted pursuant to section 604(b)(1)(C) of this title; and (3) the easements to be reserved pursuant to section 604(c)(2) of this title. The Secretaries of Agriculture, Defense, and the Interior and the Administrator of the General Services Administration shall provide the Secretary with all information and assistance necessary to allow the Secretary to complete the report within the time required.

(b) During the period from the date of enactment of this Act until the date of transfer, the State shall have the right to inspect, analyze, photograph, photocopy and otherwise evaluate all of the rail properties of the Alaska Railroad and all records related to the rail properties of the Alaska Railroad maintained by any agency of the United States under conditions established by the Secretary to protect the confidentiality of proprietary business data, personnel records, and other information, the public disclosure of which is prohibited by law. During that period, the Secretary and the Alaska Railroad shall not, without the consent of the State and only in conformity with applicable law and the Memorandum of Understanding referred to in section 606(b)(3) of this title—

(1) make or incur any obligation to make any individual capital expenditure of money from the Alaska Railroad Revolving Fund in excess of \$200,000;

(2) (except as required by law) sell, exchange, give, or otherwise transfer any real property included in the rail properties of the Alaska Railroad; or

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

(c) Prior to transfer of the rail properties of the Alaska Railroad to the State, the Alaska Railroad's accounting practices and systems shall be capable of reporting data to the Interstate Commerce Commission in formats required of comparable rail carriers subject to the jurisdiction of the Interstate Commerce Commission.

(d)(1) Within nine months after the date of enactment of this Act, the United States Railway Association (hereinafter in this section referred to as the "Association") shall determine the fair market value of the Alaska Railroad under the terms and conditions of this title, applying such procedures, methods and standards as are generally accepted as normal and common practice. Such determination shall include an appraisal of the real and personal property to be transferred to the State pursuant to this title. Such appraisal by the Association shall be conducted in the usual manner in accordance with generally accepted industry standards, and shall consider the current fair market value and potential future value if used in whole or in part for other purposes. The Association shall take into account all obligations imposed by this title and other applicable law upon operation and ownership of the State-owned railroad. In making such determination, the Association shall use to the maximum extent practicable all relevant data and information, including, if relevant, that contained in the report prepared pursuant to subsection (a) of this section.

(2) The determination made pursuant to paragraph (1) of this subsection shall not be construed to affect, enlarge, modify, or diminish any inventory, valuation, or classification required by the Interstate Commerce Commission pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.).

45 USC 711.

(e) Section 202(a) of the Regional Rail Reorganization Act of 1973 is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(11) determine the value of the Alaska Railroad, as required by section 605 of the Alaska Railroad Transfer Act of 1982."

LANDS TO BE TRANSFERRED

45 USC 1205.

Sec. 606. (a) Lands among the rail properties of the Alaska Railroad shall not be—

(1) available for selection under section 12 of the Act of January 2, 1976, as amended (42 U.S.C. 1611, note), subject to the exception contained in section 12(b)(8)(i)(D) of such Act, as amended by subsection (d)(5) of this section;

(2) available for conveyance under section 1425 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2515);

(3) available for conveyance to Chugach Natives, Inc., under sections 1429 or 1430 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2531) or under sections 12(c) or 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c) and 1613(h)(8), respectively); or

(4) available under any law or regulation for entry, location, or for exchange by the United States, or for the initiation of a claim or selection by any party other than the State or other transferee under this title, except that this paragraph shall not prevent a conveyance pursuant to section 12(b)(8)(i)(D) of the Act of January 2, 1976 (43 U.S.C. 1611, note), as amended by subsection (d)(5) of this section.

(b)(1)(A) During the ten months following the date of enactment of this Act, so far as practicable consistent with the priority of preparing the report required pursuant to section 605(a) of this title, the Secretary of the Interior, Village Corporations with claims of valid existing rights, and the State shall review and make a good faith effort to settle as many of the claims as possible. Any agreement to settle such claims shall take effect and bind the United States, the State, and the Village Corporation only as of the date of transfer of the railroad.

(B) At the conclusion of the review and settlement process provided in subparagraph (A) of this paragraph, the Secretary of the Interior shall prepare a report identifying lands to be conveyed in accordance with settlement agreements under this title or applicable law. Such settlement shall not give rise to a presumption as to whether a parcel of land subject to such agreement is or is not public land.

(2) The Secretary of the Interior shall have the continuing jurisdiction and duty to adjudicate unresolved claims of valid existing rights pursuant to applicable law and this title. The Secretary of the Interior shall complete the final administrative adjudication required under this subsection not later than three years after the date of enactment of this Act, and shall complete the survey of all lands to be conveyed under this title not later than five years after the date of enactment of this Act, and after consulting with the Governor of the State of Alaska to determine priority of survey with

Post. p. 2568.

regard to other lands being processed for patent to the State. The Secretary of the Interior shall give priority to the adjudication of Village Corporation claims as required in this section. Upon completion of the review and settlement process required by paragraph (1)(A) of this subsection, with respect to lands not subject to an agreement under such paragraph, the Secretary of the Interior shall adjudicate which lands subject to claims of valid existing rights filed by Village Corporations, if any, are public lands and shall complete such final administrative adjudication within two years after the date of enactment of this Act.

(3) Pending settlement or final administrative adjudication of claims of valid existing rights filed by Village Corporations prior to the date of transfer or while subject to the license granted to the State pursuant to section 604(b)(1)(C) of this title, lands subject to such claims shall be managed in accordance with the Memorandum of Understanding among the Federal Railroad Administration, the State, Zlutna, Incorporated, Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), and Toqhothele Corporation, executed by authorized officers or representatives of each of these entities. Duplicate originals of the Memorandum of Understanding shall be maintained and made available for public inspection and copying in the Office of the Secretary, at Washington, District of Columbia, and in the Office of the Governor of the State of Alaska, at Juneau, Alaska.

(4) The following procedures and requirements are established to promote finality of administrative adjudication of claims of valid existing rights filed by Village Corporations, to clarify and simplify the title status of lands subject to such claims, and to avoid potential impairment of railroad operations resulting from joint or divided ownership in substantial segments of right-of-way:

(A)(i) Prior to final administrative adjudication of Village Corporation claims of valid existing rights in land subject to the license granted under section 604(b)(1)(C) of this title, the Secretary of the Interior may, notwithstanding any other provision of law, accept relinquishment of so much of such claims as involved lands within the right-of-way through execution of an agreement with the appropriate Village Corporation effective on or after the date of transfer. Upon such relinquishment, the interest of the United States in the right-of-way shall be conveyed to the State pursuant to section 604(b)(1)(B) or (2) of this title.

(ii) With respect to a claim described in clause (i) of this subparagraph that is not settled or relinquished prior to final administrative adjudication, the Congress finds that exclusive control over the right-of-way by the Alaska Railroad has been and continues to be necessary to afford sufficient protection for safe and economic operation of the railroad. Upon failure of the interested Village Corporation to relinquish so much of its claims as involve lands within the right-of-way prior to final adjudication of valid existing rights, the Secretary shall convey to the State pursuant to section 604(b)(1)(B) or (2) of this title all right, title and interest of the United States in and to the right-of-way free and clear of such Village Corporation's claim to and interest in lands within such right-of-way.

(B) Where lands within the right-of-way, or any interest in such lands, have been conveyed from Federal ownership prior to

the date of enactment of this Act, or is subject to a claim of valid existing rights by a party other than a Village Corporation, the conveyance to the State of the Federal interest in such properties pursuant to section 604(b)(1)(B) or (2) of this title shall grant not less than an exclusive-use easement in such properties. The foregoing requirements shall not be construed to permit the conveyance to the State of less than the entire Federal interest in the rail properties of the Alaska Railroad required to be conveyed by section 604(b) of this title. If an action is commenced against the State or the United States contesting the validity or existence of a reservation of right-of-way for the use or benefit of the Alaska Railroad made prior to the date of enactment of this Act, the Secretary of the Interior, through the Attorney General, shall appear in and defend such action.

(c)(1) The final administrative adjudication pursuant to subsection (b) of this section shall be final agency action and subject to judicial review only by an action brought in the United States District Court for the District of Alaska. Review of agency action pursuant to this title shall be expedited to the same extent as the expedited review provided by section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168).

(2) No administrative or judicial action under this title shall enjoin or otherwise delay the transfer of the Alaska Railroad pursuant to this title, or substantially impair or impede the operations of the Alaska Railroad or the State-owned railroad.

(3) Before the date of transfer, the State shall have standing to participate in any administrative determination or judicial review pursuant to this title. If transfer to the State does not occur pursuant to section 604 of this title, the State shall not thereafter have standing to participate in any such determination or review.

43 USC 1611
note

(d)(1) Section 12(b)(7)(i) of the Act of January 2, 1976 (Public Law 94-204) is amended—

(A) by striking "subsection 12(b)(7)(C)" and inserting in lieu thereof "section 12(b)(5) and (6)";

(B) by striking "12(b)(7)(ii)" and inserting in lieu thereof "12(b)(7)(iv)";

(C) by striking "crediting" and inserting in lieu thereof "using";

(D) by striking "this subsection 12(b)(7)(i)(b)" and inserting in lieu thereof "these subsections 12(b)(7)(i)(b) or (ii)";

(E) by striking "State" in the last sentence and inserting in lieu thereof "state"; and

(F) by striking the penultimate sentence.

(2) Section 12(b)(7) of such Act is amended—

(A) by redesignating subsections (ii) through (iv) as subsections (iv) through (vi), respectively; and

(B) by inserting immediately after subsection (i) the following:

"(ii) Subject to the exceptions stated in section 12(b)(9), and notwithstanding the foregoing subsection 12(b)(7)(i) and any provision of any other law or any implementing regulation inconsistent with this subsection, until the obligations of the Secretary and the Administrator of General Services under section 12(b)(5) and (6) are otherwise fulfilled:

"(A) concurrently with the commencement of screening of any excess real property, wherever located, for utilization by Federal agencies, the Administrator of General Services shall

notify the Region that such property may be available for conveyance to the Region upon negotiated sale. Within fifteen days of the date of receipt of such notice, the Region may advise the Administrator that there is a tentative need for the property to fulfill the obligations established under section 12(b) (5) and (6). If the Administrator determines the property should be disposed of by transfer to the Region, the Administrator or other appropriate Federal official shall promptly transfer such property.

43 USC 1511
note.

"(B) no disposition or conveyance of property under this subsection to the Region shall be made until the Administrator, after notice to affected State and local governments, has provided to them such opportunity to obtain the property as is recognized in title 40, United States Code and the regulations thereunder for the disposition or conveyance of surplus property; and

"(C) as used in this subsection, 'real property' means any land or interests in land owned or held by the United States or any Federal agency, any improvements on such land or rights to their use or exploitation, and any personal property related to the land.

"Real
property"

"(iii) If the Region accepts any conveyance under section 12(b)(7) (i) or (ii), it shall be in exchange for acres or acre-equivalents as provided in subparagraph 1(CX2Xe) of the document referred to in this section, except that, after the obligation of the Secretary and the Administrator under subparagraph 1(CX2Xg) of that document has been fulfilled, the acre-equivalents under subparagraph 1(CX2XeXiiiXA) shall be one-half the valued increment therein stated. The entitlement of the Region under section 12(b) of this Act shall be reduced by the number of acres or acre-equivalents attributed to the Region under this subsection. The Secretary and the Administrator are directed to execute an agreement with the Region which shall conform substantially to the Memorandum of Understanding Regarding the Implementation of Section 12(b)(7)", dated September 10, 1982, and submitted to the Senate Committee on Commerce, Science, and Transportation. The Secretary, the Administrator and the Region may thereafter otherwise agree to procedures to implement responsibilities under this section 12(b)(7), including establishment of accounting procedures and the delegation or reassignment of duties under this statute."

(3) Section 12(b)(7)(iv) of such Act, as so redesignated by paragraph (2) of this subsection, is amended—

43 USC 1511
note.

(A) by striking "surplus" the first place it appears therein;

(B) by inserting immediately before the period at the end of the first sentence the following: "or paying for the conveyance of property pursuant to subsections (i) or (ii)";

(C) by inserting immediately after "account shall be" the following: "the sum of (1)";

(D) by striking "1(CX2Xe)" and inserting in lieu thereof "1(CX2XeXiiiXA)";

(E) by striking "the effective date of this subsection", and inserting in lieu thereof "December 2, 1980";

(F) by striking "and shall be adjusted" and inserting in lieu thereof "and (2) one-half the acre or acre-equivalent exchange value under subparagraph 1(CX2XeXiiiXA) of ten townships fewer than the unfulfilled entitlement of the Region on the same date to acres or acre-equivalents under paragraph 1(CX1)

of the document referred to in this section. The balance of the property account shall be adjusted in accordance with subsection 12(b)(7)(iii); and

(G) by striking "subsection 12(b)(6)" and inserting in lieu thereof "section 12(b)(5) and (6)".

43 USC 1611
note.

(4) Section 12(b)(7)(v) of such Act, as so redesignated by paragraph (2) of this subsection, is amended by striking "subsection (ii)" and inserting in lieu thereof "subsection (iv)".

43 USC 1611
note.

(5) Section 12(b)(8) of such Act is amended to read as follows: "12(b)(8). Subject to the exceptions stated in section 12(b)(9), and notwithstanding any provisions of law or implementing regulation inconsistent with this section:

"(i) The deadlines in subparagraphs 1(CX2)(a) and (g) of the document referred to in this section shall be extended until the Secretary's obligations under section 12(b)(5) and (6) are fulfilled: *Provided, That:*

"(A) the obligation of the Secretary under subparagraph 1(CX2)(a) of such document shall terminate on such date, after July 15, 1984, that the Secretary has fulfilled his obligation under subparagraph 1(CX2)(g) of that document: *Provided, That* the obligation of the Secretary under subparagraph 1(CX2)(g) of such document shall be fulfilled at such date, after July 15, 1984, that the sum of the acres or acre-equivalents identified for and placed in the pool and the acres or acre-equivalents used by the Region in purchasing property under section 12(b)(7) equals or exceeds 138,240 acres or acre-equivalents;

"(B) the authority of the Secretary under subparagraphs 1(CX2)(b) and 1(CX2)(g)(ii) of such document to contribute to the pool created under subparagraph 1(CX2)(a) of such document shall terminate (a) on July 15, 1984, if, by that date, the Secretary has fulfilled his obligation under subparagraph 1(CX2)(g), or (b) if not, on such date after July 15, 1984 as such obligation is fulfilled, or (c) if such obligation remains unfulfilled, on July 15, 1987;

"(C) the concurrence by the State as described in subparagraphs 1(CX2)(a)(vi) and 1(CX2)(c) of the document referred to in this section shall be deemed not required after the Secretary has fulfilled his obligation under subparagraph 1(CX2)(g) of that document, but in no event after July 15, 1987. In lieu of such concurrence, after 1984 as to military property, and after the Secretary has fulfilled his obligation under subparagraph 1(CX2)(g) of that document, or July 15, 1987, whichever is earlier, as to any other property, except property of the Alaska Railroad which is governed by subsection 12(b)(6)(i)(D) of this Act, the Secretary shall not place any lands in the selection pool referred to in subparagraphs 1(CX2)(a) and (g) of the document referred to in this section without the prior written concurrence of the State. Such concurrence shall be deemed obtained unless the State advises the Secretary within ninety days of receipt of a formal notice from the Secretary that he is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or municipality; and

"(D) notwithstanding section 606(a)(2) of the Alaska Railroad Transfer Act of 1982, the Secretary may include property of the Alaska Railroad in the pool of lands to be made available for selection to the extent that he is authorized to do so under a provision of section 12(b) of this Act if the State consents to its inclusion, which consent is not subject to any limitation under subsection 12(b)(3)(C) hereinafter provided. That, while the Alaska Railroad is the property of the United States, the Secretary shall obtain the consent of the Secretary of Transportation prior to including such property. And provided further, That, if the transfer of the Alaska Railroad to the State does not occur pursuant to the terms of the Alaska Railroad Transfer Act of 1982 or any amendments thereto, the State's consent shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that he is considering placing such property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or the municipality.

Alaska, p. 2564

Alaska, p. 2568

Alaska, p. 2556

"(ii) In addition to the review required to identify public lands under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), the Secretary shall identify for inclusion in the pool all public lands (as such term is used under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), as described in subparagraph 1(CX2)(a)(v) of the document referred to in this section, and shall, in so doing, review all Federal installations within the boundaries of the Cook Inlet Region whether within or without the areas withdrawn pursuant to section 11 of the Alaska Native Claims Settlement Act (43 U.S.C. 1610) or by the Secretary acting under authority contained in that section: Provided, That no such additional review under such subparagraph shall be required of military installations or of such other installations as may be mutually excluded from review by the Region and the Secretary: And provided further, That the Secretary shall not review any property of the Alaska Railroad unless such property becomes available for selection pursuant to subsection 12(b)(3)(D).

"(iii) The concurrence required of the State as to the inclusion of any property in the pool under subparagraph 1(CX2)(b) of the document referred to in this section shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that the Secretary is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question requires the property for a public purpose of the State or the municipality.

"(iv) The deadlines in subparagraph 1(CX1)(b) of the document referred to in this section shall be extended for an additional twenty-four months beyond the dates established in the Act of January 7, 1980 (Public Law 96-311; 94 Stat. 347).

On or before January 15, 1985, the Secretary shall report to the Congress with respect to:

Report to Congress

"(A) such studies and inquiries as shall have been initiated by the Secretary and the Administrator of General Services, or have been prepared by other holding agencies,

to determine what lands, except for lands held by the Alaska Railroad or the State-owned railroad, within the boundaries of the Cook Inlet Region or elsewhere can be made available to the Region, to the extent of its entitlement;

"(B) the feasibility and appropriate nature of reimbursement of the Region for its unfulfilled entitlement as valued in subsection 12(b)(7)(iv) of this Act;

"(C) the extent to which implementation of the mechanisms established in section 12(b)(7) promise to meet such unfulfilled entitlement;

"(D) such other remedial legislation or administrative action as may be needed; and

"(E) the need to terminate any mechanism established by law through which the entitlement of the Region may be completed."

48 USC 1611
note.

Act, p. 2561

(6) Section 12(b) of such Act is amended by adding at the end thereof the following:

48 USC note
prec 21.
43 USC 1635
43 USC 1611,
1615, 1621
43 USC 1611
note
94 Stat. 2499,
2501-2515,
2518-2544, 2546
43 USC 1611
note.

"12(b)(9). No disposition or conveyance of property located within the State to the Region under section 12(b)(6), 12(b)(7) and 12(b)(8), as amended, shall be made if the property is subject to an express waiver of rights under the provisions of subparagraph 1(C)(2)(F) of the document referred to in this section, or if such disposition or conveyance violates valid rights, including valid selections or valid authorized agreements, of Native Corporations (as such term is used in section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6)) or the State existing at the time of such disposition or conveyance under section 6 of Public Law 85-508, as amended (excepting section 906(e) of the Alaska National Interest Lands Conservation Act), sections 12(a), 12(b), 16(b) or 22(f) of the Alaska Native Claims Settlement Act, section 12(h) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1154), or sections 1416, 1418 through 1425 (inclusive), 1427 through 1434 (inclusive), or 1436 of the Alaska National Interest Lands Conservation Act: *Provided, however,* That nothing within this subsection 12(b)(9) shall diminish such rights and priorities as the Region has under section 12(b) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1151), as amended by section 4 of the Act of October 4, 1976 (Public Law 94-456; 90 Stat. 1935), section 3 of the Act of November 15, 1977 (Public Law 95-178; 91 Stat. 1369), section 2 of the Act of August 14, 1979 (Public Law 96-55; 93 Stat. 386), the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 947), and section 1435 of the Alaska National Interest Lands Conservation Act.

"12(b)(10). For the purpose of its incorporation into this section, paragraph 1(C)(1) of the document referred to in this section is amended as follows: (1) by striking 'withdrawn' and inserting in lieu thereof 'withdrawn or formerly withdrawn'; (2) by striking '17(d)(1)' and inserting in lieu thereof '17(d)(1) and (2)'; and (3) by striking the last sentence of subparagraph 1(C)(1)(a) and inserting in lieu thereof the following: 'Cook Inlet Region, Incorporated shall not nominate any lands within the boundaries of any conservation system unit, national conservation area, national recreation area, national forest, defense withdrawal, or any lands that were made available to the State for selection pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972'.

"12(b)(11). Notwithstanding the provisions of section 906 of the Alaska National Interest Lands Conservation Act and section 6(i) of the Alaska Statehood Act (72 Stat. 339):

43 USC 1225.
43 USC 3025
PROC. 21.

"(i) The State is hereby authorized to convey to the United States for reconveyance to the Region, and the Secretary is directed to accept and so reconvey, lands tentatively approved for patent or patented to the State, if the State and the Region enter into an agreement that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph 1(CX1) of the document referred to in this section: Provided, That the acreage of lands conveyed to the United States under this provision shall be added to the State's unfulfilled entitlement pursuant to section 6 of the Alaska Statehood Act, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph 1(CX1) of the document referred to in this section shall be reduced accordingly.

"(ii) The Secretary is directed to convey to the Region lands selected by the State prior to July 13, 1973 or pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972, if the State relinquishes such selections and enters into an agreement with the Region that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph 1(CX1) of the document referred to in this section, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph 1(CX1) of the document referred to in this section shall be reduced accordingly.

"(iii) The Secretary, in the Secretary's discretion, is authorized to enter into an agreement with the State and the Region to implement the authority contained in this section 12(b)(11), which agreement may provide for conveyances directly from the State to the Region. Conveyances directly conveyed shall be deemed conveyances from the Secretary pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1501 et seq.)."

(e) The State shall be liable to a party receiving a conveyance of land among the rail properties of the Alaska Railroad subject to the license granted pursuant to section 604(b)(1)(C) of this title for damage resulting from use by the State of the land under such license in a manner not authorized by such license.

43 USC 1205.

EMPLOYEES OF THE ALASKA RAILROAD

Sec. 607. (a)(1) Any employees who elect to transfer to the State-owned railroad and who on the day before the date of transfer are subject to the civil service retirement law (subchapter III of chapter 83 of title 5, United States Code) shall, so long as continually employed by the State-owned railroad without a break in service, continue to be subject to such law, except that the State-owned railroad shall have the option of providing benefits in accordance with the provisions of paragraph (2) of this subsection. Employment by the State-owned railroad without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. The State-owned railroad shall be the employing agency for purposes of section 8334(a) of title 5, United States Code, and shall contribute to the Civil Service Retirement and Disability

43 USC 1201.

5 USC 8331.

fund a sum as provided by such section, except that such sum shall be determined by applying to the total basic pay (as defined in section 8331(3) of title 5, United States Code) paid to the employees of the State-owned railroad who are covered by the civil service retirement law, the per centum rate determined annually by the Director of the Office of Personnel Management to be the excess of the total normal cost per centum rate of the civil service retirement system over the employee deduction rate specified in section 8334(a) of title 5, United States Code. The State-owned railroad shall pay into the Federal Civil Service Retirement and Disability Fund that portion of the cost of administration of such Fund which is demonstrated by the Director of the Office of Personnel Management to be attributable to its employees.

(2) At any time during the two-year period commencing on the date of transfer, the State-owned railroad shall have the option of providing to transferred employees retirement benefits, reflecting prior Federal service, in or substantially equivalent to benefits under the retirement program maintained by the State for State employees. If the State decides to provide benefits under this paragraph, the State shall provide such benefits to all transferred employees, except those employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program.

(3) If the State provides benefits under paragraph (2) of this subsection—

(A) the provisions of paragraph (1) of this subsection regarding payments into the Civil Service Retirement and Disability Fund for those employees who are transferred to the State program shall have no further force and effect (other than for employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program); and

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

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

(c) Transferred employees whose employment with the State-owned railroad is terminated during the two-year period commencing on the date of transfer shall be entitled to all of the rights and benefits of discontinued employees that such employees would have had under Federal law if their termination had occurred immediately before the date of the transfer, except that financial compensation paid to officers of the Alaska Railroad shall be limited to that compensation provided pursuant to section 604(d)(3)(2) of this title. Such employees shall also be entitled to seniority and other benefits accrued under Federal law while they were employed by the State-owned railroad on the same basis as if such employment had been Federal service.

(d) Any employee who transfers to the State-owned railroad under this title shall not be entitled to lump-sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the State with the unused annual leave balance at the time of transfer.

STATE OPERATION

Sec. 606. (a)(1) After the date of transfer to the State pursuant to section 604 of this title, the State-owned railroad shall be a rail carrier engaged in interstate and foreign commerce subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code, and all other Acts applicable to rail carriers subject to that chapter, including the antitrust laws of the United States, except, so long as it is an instrumentality of the State of Alaska, the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (25 U.S.C. 3201 et seq.), the Railway Labor Act (45 U.S.C. 151 et seq.), the Act of April 22, 1908 (45 U.S.C. 51 et seq.) (popularly referred to as the "Federal Employers' Liability Act"), and the Railroad Unemployment Insurance Act (45 U.S.C. 251 et seq.). Nothing in this title shall preclude the State from explicitly invoking by law any exemption from the antitrust laws as may otherwise be available.

45 USC 1207.

(2) The transfer to the State authorized by section 604 of this title and the conferral of jurisdiction to the Interstate Commerce Commission pursuant to paragraph (1) of this subsection are intended to confer upon the State-owned railroad all business opportunities available to comparable railroads, including contract rate agreements meeting the requirements of section 10713 of title 49, United States Code, notwithstanding any participation in such agreements by connecting water carriers.

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

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

(5) Revenues generated by the State-owned railroad shall be retained and managed by the State-owned railroad for railroad and related purposes.

(5XA) After the date of transfer, continued operation of the Alaska Railroad by a public corporation, authority or other agency of the

State shall be deemed to be an exercise of an essential governmental function, and revenue derived from such operation shall be deemed to accrue to the State for the purposes of section 115(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 115(a)(1)). Obligations issued by such entity shall also be deemed obligations of the State for the purposes of section 103(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 103(a)(1)), but not obligations within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 103(b)(2)).

(B) Nothing in this title shall be deemed or construed to affect customary tax treatment of private investment in the equipment or other assets that are used or owned by the State-owned railroad.

(b) As soon as practicable after the date of enactment of this Act, the Interstate Commerce Commission shall promulgate an expedited, modified procedure for providing on the date of transfer a certificate of public convenience and necessity to the State-owned railroad. No inventory, valuation, or classification of property owned or used by the State-owned railroad pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 1078) et seq.) shall be required during the two-year period after the date of transfer. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 382(b) of the Energy Policy and Conservation Act (42 U.S.C. 6362(b)) shall not apply to actions of the Commission under this subsection.

(c) The State-owned railroad shall be eligible to participate in all Federal railroad assistance programs on a basis equal to that of other rail carriers subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code.

(d) After the date of transfer to the State pursuant to section 604 of this title, the portion of the rail properties within the boundaries of the Chugach National Forest and the exclusive-use easement within the boundaries of the Denali National Park and Preserve shall be subject to laws and regulations for the protection of forest and park values. The right to fence the exclusive-use easement within Denali National Park and Preserve shall be subject to the concurrence of the Secretary of the Interior. The Secretary of the Interior, or the Secretary of Agriculture where appropriate, shall not act pursuant to this subsection without consulting with the Governor of the State of Alaska or in such a manner as to unreasonably interfere with continued or expanded operations and support functions authorized under this title.

FUTURE RIGHTS-OF-WAY

45 USC 1208.

Sec. 609. (a) After the date of enactment of this Act, the State or State-owned railroad may request the Secretary of the Interior or the Secretary of Agriculture, as appropriate under law, to expeditiously approve an application for a right-of-way in order that the Alaska Railroad or State-owned railroad may have access across Federal lands for transportation and related purposes. The State or State-owned railroad may also apply for a lease, permit, or conveyance of any necessary or convenient terminal and station grounds and material sites in the vicinity of the right-of-way for which an application has been submitted.

(b) Before approving a right-of-way application described in subsection (a) of this section, the Secretary of the Interior or the

Secretary of Agriculture, as appropriate, shall consult with the Secretary. Approval of an application for a right-of-way, permit, lease, or conveyance described in subsection (a) of this section shall be pursuant to applicable law. Rights-of-way, grounds, and sites granted pursuant to this section and other applicable law shall conform, to the extent possible, to the standards provided in the Act of March 12, 1914 (43 U.S.C. 975 et seq.) and section 302(6) of this title. Such conformance shall not be affected by the repeal of such Act under section 615 of this title.

(c) Reversion to the United States of any portion of any right-of-way or exclusive-use easement granted to the State or State-owned railroad shall occur only as provided in section 610 of this title. For purposes of such section, the date of the approval of any such right-of-way shall be deemed the "date of transfer".

REVERSION

Sec. 610. (a) If, within ten years after the date of transfer to the State authorized by section 504 of this title, the Secretary finds that all or part of the real property transferred to the State under this title, except that portion of real property which lies within the boundaries of the Denali National Park and Preserve, is converted to a use that would prevent the State-owned railroad from continuing to operate, that real property (including permanent improvements to the property) shall revert to the United States Government, or (at the option of the State) the State shall pay to the United States Government an amount determined to be the fair market value of that property at the time its conversion prevents continued operation of the railroad.

43 USC 1509

(b) If, after the date of transfer pursuant to section 504 of this title, the State discontinues use of any land within the right-of-way, the State's interest in such land shall revert to the United States. The State shall be considered to have discontinued use within the meaning of this subsection and subsection (d) of this section when:

(1) the Governor of the State of Alaska delivers to the Secretary of the Interior a notice of such discontinuance, including a legal description of the property subject to the notice, and a quitclaim deed thereto; or

(2) the State has made no use of the land for a continuous period of eighteen years for transportation, communication, or transmission purposes. Notice of such discontinuance shall promptly be published in the Federal Register by the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, and reversion shall be effected one year after such notice, unless within such one-year period the State brings an appropriate action in the United States District Court for the District of Alaska to establish that the use has been continuing without an eighteen-year lapse. Any such action shall have the effect of staying reversion until exhaustion of appellate review from the final judgment in that action or termination of the right to seek such review, whichever first occurs.

Publication in
Federal
Register.

(c) Upon such reversion pursuant to subsection (b) of this section, the Secretary of the Interior shall immediately convey by patent to abutting landowners all right, title and interest of the United States. Where land abutting the reverted right-of-way is owned by different persons or entities, the conveyance made pursuant to this

subsection shall extend the property of each abutting owner to the centerline of the right-of-way.

(d) If use is discontinued (as that term is used in subsection (b) of this section) of all or part of those properties of the Alaska Railroad transferred to the State pursuant to this title which lie within the boundaries of the Denali National Park and Preserve or the Chugach National Forest, such properties or part thereof (including permanent improvements to the property) shall revert to the United States and shall not be subject to subsection (c) of this section. Upon such reversion, jurisdiction over that property shall be transferred to the Secretary of the Interior or the Secretary of Agriculture, as appropriate, for administration as part of the Denali National Park and Preserve or the Chugach National Forest.

(e) Except as provided in subsections (a) through (d) of this section, if, within five years after the date of transfer to the State pursuant to section 604 of this title, the State sells or transfers all or substantially all of the State-owned railroad to an entity other than an instrumentality of the State, the proceeds from the sale or transfer that exceed the cost of any rehabilitation and improvement made by the State for the State-owned railroad and any net liabilities incurred by the State for the State-owned railroad shall be paid into the general fund of the Treasury of the United States.

(f) The Attorney General, upon the request of the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, shall institute appropriate proceedings to enforce this section in the United States District Court for the District of Alaska.

OTHER DISPOSITION

45 USC 1210

SEC. 611. If the Secretary has not certified that the State has satisfied the conditions under section 604 within one year after the date of delivery of the report referred to in section 605(a) of this title, the Secretary may dispose of the rail properties of the Alaska Railroad. Any disposal under this section shall give preference to a buyer or transferee who will continue to operate rail service, except that—

(1) such preference shall not diminish or modify the rights of the Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), pursuant to such section, as amended by section 606(d) of this title; and

Ante. p. 2564

(2) this section shall not be construed to diminish or modify the powers of consent of the Secretary or the State under section 12(b)(8) of such Act, as amended by section 606(d)(5) of this title.

Any disposal under this section shall be subject to valid existing rights.

DENALI NATIONAL PARK AND PRESERVE LANDS

45 USC 1211.

SEC. 612. On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), that portion of rail properties of the Alaska Railroad within the Denali National Park and Preserve shall, subject to the exclusive-use easement granted pursuant to section 604(b)(1)(D) of this title, be transferred to the Secretary of the Interior for administration as part of the Denali National Park and Preserve, except that a

transferee under section 611 of this title shall receive the same interest as the State under section 604(b)(1)(D) of this title.

APPLICABILITY OF OTHER LAWS

Sec. 613. (a) The provisions of chapter 5 of title 5, United States Code (popularly known as the Administrative Procedure Act, and including provisions popularly known as the Government in the Sunshine Act), the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to actions taken pursuant to this title, except to the extent that such laws may be applicable to granting of rights-of-way under section 609 of this title.

45 USC 1212
5 USC 500 et seq.

(b) The enactment of this title, actions taken during the transition period as provided in section 605 of this title, and transfer of the rail properties of the Alaska Railroad under authority of this title shall be deemed not to be the disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622). Such events shall not constitute or cause the revocation of any prior withdrawal or reservation of land for the use of the Alaska Railroad under the Act of March 12, 1914 (43 U.S.C. 975 et seq.), the Alaska Statehood Act (note preceding 48 U.S.C. 21), the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the Act of January 2, 1975 (Public Law 94-204; 39 Stat. 1145), the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371), and the general land and land management laws of the United States.

(c) Beginning on the date of enactment of this Act, the ceiling on Government contributions for Federal employees health benefits insurance premiums under section 5905(b)(2) of title 5, United States Code, shall not apply to the Alaska Railroad.

(d) Nothing in this title is intended to enlarge or diminish the acreage entitlement of the State or any Native Corporation pursuant to existing law.

(e) With respect to interests of Native Corporations under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) and the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), except as provided in this title, nothing contained in this title shall be construed to deny, enlarge, grant, impair, or otherwise affect any judgment heretofore entered in a court of competent jurisdiction, or valid existing right or claim of valid existing right.

CONFLICT WITH OTHER LAWS

Sec. 614. The provisions of this title shall govern if there is any conflict between this title and any other law.

43 USC 1213.

REPEAL AND AMENDMENT OF EXISTING STATUTES

Sec. 615. (a) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are repealed:

- (1) The Act of March 12, 1914 (43 U.S.C. 975 et seq.).

16 USC 353a.

48 USC 801a.

(2) The Act of June 24, 1946, to authorize certain expenditures by the Alaska Railroad (60 Stat. 804).

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

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

(b) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are amended as follows:

(1) Title 5, United States Code, is amended—

(A) in section 305(a), by striking paragraph (3), and by redesignating paragraphs (4)-(8) as paragraphs (3)-(7), respectively;

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

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

(D) in section 5342(a)(1), by striking subparagraph (C), and by redesignating subparagraphs (D)-(J) as subparagraphs (C)-(I), respectively; and

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

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

(3) Section 10749(b) of title 49, United States Code, is amended—

(A) by inserting "or" at the end of paragraph (1)(B);

(B) by striking "; or" at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking paragraph (3).

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

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

(6) Section 1(o) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(o)) is amended by inserting immediately after "National Transportation Safety Board," the following: "the State-owned railroad (as defined in the Alaska Railroad Transfer Act of 1982), so long as it is an instrumentality of the State of Alaska,".

SEPARABILITY

45 USC 1214.

Sec. 616. If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

ALASKA RAILROAD TRANSFER LEGISLATION
SECTION-BY-SECTION ANALYSIS

SECTION 1--TITLE

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

SECTION 2--FINDINGS

This section states the reasons that the Alaska Railroad should be transferred to the State of Alaska. While the railroad has served the interest of the Federal Government in the past, today it primarily serves residents and businesses of the State. Further, the transfer is consistent with the Federal Government's efforts today to transfer programs to the States whenever appropriate. Finally the transfer is necessary in order to insure that in the future the railroad will be rated and its services expanded to meet the needs of the State and the railroad users.

SECTION 3--DEFINITIONS

This section defines the major terms used in the legislation. Among those described is "rail properties of the Alaska Railroad." This definition is important because it describes the rail properties to be transferred. As defined in the legislation, rail properties means all right, title, and interest to real and personal properties held by or for the Alaska Railroad as of the date of enactment with limited exceptions, as follows: (1) The unexercised reservation to the United States in all patents to lands as provided for the construction of future rights-of-way; (2) the right of the Secretary of Transportation to exercise the power of eminent domain; (3) any money in the Alaska Railroad Revolving Fund that the Secretary and the State agree is needed to pay certain Federal obligations arising from operation of the railroad, which are not assumed by the State; (4) certain properties that the Secretary determines, with the consent of the State, to be necessary to carry out Federal functions after the transfer; and (5) certain properties in Denali National Park and Preserve.

This section defines "exclusive-use easement" as a surface easement for transportation, communication, and transmission purposes and support functions together with the right to use the subsurface if necessary for such purposes. The definition further guarantees adjacent and lateral support and entitles the easement holder to fence, affix, track fixtures and structures to and exclude persons from the land subject to the easement.

This section also defines the terms "State" and "State-owned Railroad". The definitions are broadly worded to give the State maximum flexibility in designating an appropriate organization for state ownership, operation, and management of the railroad after the transfer.

SECTION 4--TRANSFER AUTHORIZATION

This section establishes the primary transfer components. Under subsection (a), the Secretary of Transportation is required to transfer the rail properties of the Alaska railroad to the State without direct monetary consideration as soon as possible after four specified certifications are made.

Subsection (b) requires the Secretary of Transportation after consultation with the Secretary of the Interior to simultaneously deliver to the State the following documents on the date of transfer; (1) a bill of sale conveying title to all personal rail properties of the Alaska Railroad; (2) an interim conveyance of the real properties of the Alaska Railroad which are not subject to unresolved claims of valid existing rights; (3) an exclusive license to use rail properties not conveyed above pending resolution of claims of valid existing rights in accordance with the review, settlement, and final adjudication procedures established in section 6 (b); (4) an exclusive-use easement for railroad purposes and other existing uses to right-of-way lands located within the Denali National Park and Preserve and title to the improvements within that right-of-way. All other rail properties located in the park are transferred to the Department of the Interior for administration as part of the park.

Lands subject to an interim conveyance (including lands to be conveyed following the review, settlement and adjudication process discussed above), must be surveyed by the Department of the Interior within five years after the date of enactment pursuant to section 606 (b) (2) of the interim conveyance. Following completion of the survey, the Secretary is required to issue a patent to the State.

Subsection (c) provides that interim conveyances and patents issued to the State must transfer all U.S. reservations for the Alaska Railroad except unexercised reservations for future rights-of-way under the 1914 Alaska Railroad Act. In addition, there shall be reserved to the Secretaries of Interior, Defense and Agriculture as appropriate existing easements for administration identified in the closing report. The appropriate secretary may also obtain future easements with State consent. Existing and future easements may not interfere with operations and support functions of the Alaska Railroad.

The Park Service will continue to use and occupy through the Secretary of the Interior a small tract at Talkeetna, Alaska currently used for certain park activities. So long as this use or occupation does not interfere with railroad operations.

With respect to the required certifications, subsection (d) directs the Secretary of Transportation to find that the State will operate the railroad as a carrier in intrastate and interstate commerce. In addition,

the Secretary is to certify that the State will assume the rights, liabilities and obligations of the Railroad. However, the State will not be responsible for claims or causes accruing on or before the date of transfer, or judgments rendered before the transfer, except those tort actions which result in claims in less than \$2,500.

The Secretary must also find the State has established specified employee protection arrangements to apply during the two year period after the date of transfer. For those employees who are not officers and who choose to transfer to the State-owned railroad, the state must ensure that they are retained in their same positions, and unless otherwise agreed to, at least at the same level of compensation in effect at the time of transfer. These provisions are not to apply to those employees who are reassigned, retired, or separated for cause or lack of work.

Under this subsection, the State is to continue existing collective bargaining agreements during this two year period unless otherwise agreed to. This subsection further provides that these agreements are to be renegotiated during this period unless otherwise agreed to, and that they are to expire at the end of the two year period.

Finally, with respect to these employees, the State is to ensure that certain Federal benefits are retained. These include accrued leave, insurance, seniority rights, and cost of living increases. Also those employees who are transferred to the State-owned railroad but terminated or laid off, during the transition period, shall be entitled to priority of reemployment in the railroad and prior Federal service is to be counted in determining seniority for such purposes.

For officers of the railroad including the General Manager, Assistant General Manager, Assistant to the General Manager, Chief of Administration and Chief Consul, the Secretary must also certify that the State has agreed to retain those officers for at least one year from the date of transfer (except where separated for cause, resignation, retirement, or lack of work), at or above their base salary in effect on the date of transfer in such positions as the State may determine. As an alternative, the State may remove these employees upon payment of lump sum severance pay equal to their base salary for one year diminished pro-rata for employment by the state owned railroad within one year of the date of transfer prior to separation. Benefit guarantees discussed above for officers are in effect for one year only.

The fourth certification requirement insures that the State will allow the Secretary of Transportation access to records of the railroad and employees as needed to carry out the remaining Federal responsibilities connected with the transfer.

SECTION 5--TRANSITION PERIOD

This section sets for the the activities which are to occur, or are not the occur, during the period of enactment of the Legislation and the date of transfer. Subsection (a) provides for joint submission by the Secretary of Transportation and the Governor of Alaska, no later than six

months after enactment, of a report that describes in detail the rail properties of the railroad, the liabilities and obligations to be assumed by the State, and the sum of money, if any, in the Alaska Railroad Revolving Fund to be used by the Federal Government in carrying out its remaining responsibilities.

Under Subsection (b), the State shall have access to properties of, and records pertaining to the railroad in order to evaluate and prepare for the transfer. Also the Secretary is directed not to take certain actions such as transfer, sale, or lease of the railroad properties or the obligation of railroad monies, without the consent of the State.

Finally, subsection (c) directs the Secretary prior to transfer to ensure that the railroad's accounting practices and systems conform to reporting standards set by the ICC. This action will facilitate the transition of the railroad to its status as a regulated carrier in intrastate and interstate commerce.

SECTION 6—LANDS TO BE TRANSFERRED

This section sets forth the status of the rail properties to be transferred and provides for the orderly adjudication of claims of valid existing rights to those properties. Subsection (a) specifies that the property to be transferred is excluded from selection or conveyance provided under amendments to ANCSA relating to the Cook Inlet Region, Inc., the Chugach Natives, Inc. and certain future Eklutna Village Corporation selections provided for in ANILCA.

Subsection (b) reinforces the Department of the Interior's existing responsibility to adjudicate third party claims and to issue written opinions and appropriate documents of title. Specifically, the Secretary of the Interior is directed to complete the determination of "smallest practicable tract" under section 3(e) of ANCSA within two years of the enactment of this legislation. Prior to initiating these adjudications, a 10-month period is provided whereby all affected parties are directed to make a good faith effort to review and settle as many of these claims as possible. This subsection specifies that until settlement or final adjudication, interim management of the railroad lands subject to claims of valid existing rights shall be in accordance with standards agreed to in the Memorandum of Understanding between the FRA, the State, Cook Inlet Region, Inc. and Village Corporations. In recognition of the importance of maintaining exclusive control over right-of-way lands to ensure sufficient protection for safe and economic operation of the railroad, the final part of this subsection provides a process whereby Village Corporations are allowed to relinquish any claims to railroad lands within the right-of-way for subsequent transfer to the State. This provision further provides that failure to make such a relinquishment shall result in the conveyance to the State of all right, title and interest of the United States in the right-of-way free and clear of such claims.

Under subsection (c), any decision by the Secretary of the Interior pursuant to this section is open to review only by an action brought in the Federal District Court of Alaska and is to be expedited. The State is

allowed to participate in such an appeal as well as in any agency proceeding. To ensure that the goals of this legislation are not frustrated, this section further provides that no injunctive or other relief can delay the transfer of the railroad or impede its operations.

Lands among the rail properties are expressly excluded by subsection (d) from selection by Cook Inlet Region, Inc. (CIRI) and Chugach Natives, Inc. under 43 U.S.C. §1611 and sections 1425 and 1430 of P.L. 96-487 (ANILCA). Since the passage of P.L. 94-204 (ANCSA) in 1976, incorporating the Cook Inlet Land Exchange Agreement (exchange agreement), the Secretary of the Interior and the State of Alaska have been attempting to ensure the land entitlement of CIRI under that complex provision is fulfilled in a manner consistent with the interests of the State, environmental concerns, and concerns of other public and private entities.

In one of the integral parts of the exchange agreement, the "in-region pool" provision, the Secretary of the Interior, in conjunction with the General Services Administrator, was charged with promptly identifying and creating a selection pool of federal lands within the Cook Inlet Region. The transfer of the Alaska Railroad through this legislation would exclude rail properties from possible placement in the "in region" selection pool, unless the State or Secretary of Transportation consent to its inclusion.

ANILCA amended ANCSA to allow for "in-region pool" selections to occur out of state. Since the existing exchange agreement allows the Secretary of the Interior discretion to enlarge the "in region pool" using out of region entitlement, the objective of this section is to reaffirm this secretarial discretion and to make clear that out-of-state properties can be placed into the "in region pool". This subsection also allows CIRI to negotiate with local governments to obtain the properties being selected.

Utilization of CIRI's current statutory rights to obtain Federal surplus property wherever located will be essential for fulfillment of its entitlement. Therefore, a more detailed provision is needed to insure the properties will be made available. This section adjusts CIRI's current statutory right by specifically requiring that both the Secretary of the Interior and CIRI obtain early notice of potentially available properties. The amendments also clarify the Secretary of the Interior's authority to offer properties under his jurisdiction to CIRI as partial fulfillment of CIRI's entitlements.

In addition, to increase to properties within Alaska that can be placed into the "in region pool", section 6 extends CIRI's "in-region" priority statewide.

The amount of property within the "in-region pool" has been for various reasons less than the minimum amount required. On three separate occasions the original deadline on January 15, 1978 has had to be extended to recognize this fact. To ensure fulfillment, section 6 lifts the deadline until the pool is complete but in no event later than July 15, 1987.

Subsection (e) expressly provides that the State shall be liable to a party receiving a conveyance of land among the rail properties for damage

resulting in use by the State in a manner not authorized under the license provided in section 4.

SECTION 7—EMPLOYEES OF THE ALASKA RAILROAD

Subsection (a) of this section provides that those employees who transfer to the State-owned railroad and who presently participate in the Federal Civil Service System, may continue to participate in this system for as long as they continue to work for the State-owned railroad. However as an alternative, the State-owned railroad may provide such employees either in of substantially equivalent to those benefits the State provides it's employees under the State Retirement System. This section provides an exemption to the state alternative program for those transferred employees who are entitled to retire under the federal retirement system within five years of the date of transfer. These employees may elect to remain participants in the Federal system even if the State chooses to provide other benefits.

Subsection (b) of this section provides that those Federal employees who choose not to transfer to the State-owned railroad at the time the railroad is transferred to the State shall be entitled to all normal rights and benefits under federal law for discontinued employees.

Subsection (c) provides for similar protections for transferred employees whose employment with the State-owned railroad is involuntarily terminated during the two year period following the transfer.

SECTION 8—STATE OPERATION

Subsection (a) of this section provides that after the transfer, the State-owned railroad shall be subject to the same Federal laws, with some limited sections, as are other railroads, including the Interstate Commerce Act, the Federal antitrust laws (unless the State acts otherwise to invoke an exemption), and the railroad safety laws. The limited exemptions are the Railroad Retirement Act, the Railway Labor Act, the Federal Employers' Liability Act, and the Railroad Unemployment Insurance Act. All FRA memoranda which sanction noncompliance with Federal railroad safety regulations in effect on the date of transfer shall continue in effect according to their terms as "waivers of compliance".

In addition, subsection (a) exempts the State-owned railroad from any state or local statute specifying a minimum number of crew members that must be employed in connection with the operation of it's trains.

Subsection (a) specifies that the State-owned railroad shall retain and manage it's own revenues. The purpose of this provision is to avoid the need for annual appropriations by the State for the railroad.

Subsection (b) of this section requires the ICC to promulgate an expedited, modified procedure for providing the State-owned railroad a certificate of public need and necessity.

This subsection also exempts ICC actions under this subsection from the National Environmental Policy Act and the Energy Policy and Conservation Act in order to ensure an expeditious process.

Subsection (c) of this subsection provides that the State-owned railroad shall be eligible to participate in Federal assistance programs on the same basis as other railroads, including that provided for by the Railroad Revitalization and Regulatory Reform Act.

Subsection (d) of this section provides that the railroad properties within the Denali National Park and Preserve and Chugach National Forest shall be subject to applicable Federal Laws and regulations established for the protection of forest and park values. In making this determination, the appropriate secretary is to consult with the Governor of Alaska. Moreover, any determination by the Secretaries must be designed to avoid unreasonable interference with railroad operations. This subsection also requires that any decision to fence the right-of-way within Denali shall be subject to the concurrence of the Secretary of the Interior.

SECTION 9--FUTURE RIGHTS-OF-WAY

This section contemplates future rights-of-way for expansion of the railroad. Subsection (a) provides that the State or State-owned railroad may request the Secretary of the Interior, or the Secretary of Agriculture as appropriate, in consultation with the Secretary of Transportation to approve expeditiously pursuant to existing law, a right-of-way over Federal lands and applications for terminal and station grounds and material sites.

Subsection (b) specifies that any rights-of-ways and grounds and sites granted under this section must conform to the extent possible to the standards established in the Alaska Railroad Act of 1914.

Subsection (c) provides that a right-of-way granted under this section is subject to reversion in accordance with section 10 below.

SECTION 10--REVERSION

This section provides for the reversion to the United States of the properties of the Alaska Railroad if within ~~five~~^{7 1/2} years of the transfer such properties are converted 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 at its option, may pay the United States an amount determined to be the value of the properties at the time they were converted to a use preventing the railroad from operating.

Subsection (b) specifically provides that if the State discontinues use of any land within the right-of-way for a continuous period of 18 years, or upon a formal notification of discontinuance from the State, the State's interest in these lands will revert to the United States.

Subsection (c) further states that upon such reversion, these lands will be conveyed by patent to abutting land owners, except as specified in subsection (d). This latter subsection provides that the portion of the right-of-way within the Denali National Park and Preserve and the Chugach National Forest will revert to the Department of the Interior and the Department of Agriculture, as appropriate, for administration as part of these units.

Subsection (e) provides that if the State sells or transfers the railroad within five years after the date of transfer, the proceeds from the sale or transfer that exceed the cost of any rehabilitation and improvements and any liabilities incurred by the State shall be paid to the United States.

SECTION 11—OTHER DISPOSITION

To ensure that the railroad is transferred from Federal ownership, this section authorizes the Secretary of Transportation to otherwise dispose of the railroad if satisfaction by the State of the four conditions under section 4 cannot be certified within a year of the delivery of the report mandated under section 5. Consistent with the concern for continued rail service, this section directs the Secretary to give preference to a prospective owner who will continue to operate rail service.

SECTION 12—DENALI NATIONAL PARK AND PRESERVE

All rail properties within the Denali National Park and Preserve are transferred to the Department of Interior for administration as part of the park subject to the exclusive-use easement discussed above.

SECTION 13—APPLICABILITY OF OTHER LAWS

This section exempts actions taken under the legislation from the requirements of a number of Federal statutes, including the National Environmental Policy Act and those provisions of the Administrative Procedures Act not pertaining to judicial review. The reasons for these exemptions is to ensure that the transfer process is not delayed.

This section also clarifies that actions taken under this legislation do not constitute a disposal of surplus Federal property or a revocation of withdrawals made from or confirmed for the Alaska Railroad under a number of specifically named and generally referenced land laws, including the Federal Land Policy and Management Act. These clarifications are necessary in order to ensure that the rail properties do not become available for entry or selection by third parties as a result of actions taken under the legislation.

SECTION 14—CONFLICT WITH OTHER LAWS

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

SECTION 15--REPEAL AND AMENDMENT OF EXISTING LAWS

This section repeals the Alaska Railroad enabling act and to other related laws, and makes conforming changes to other Federal laws that mention the Alaska Railroad. These changes would become effective at the times of transfer or other disposition or at the time of any other disposition of the railroad pursuant to Section 11 of this legislation.

SECTION 16--SEPARABILITY

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

Alaska Railroad Transfer Act of 1982

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(2) a person who is able to assure that adequate transportation will be provided over a substantial portion of the feeder line described in subsection (a) of this section for a period of not less than 3 years; or

(3) any combination of members of the classes of applicants described in paragraphs (1) and (2) of this subsection.

Alaska Railroad
Transfer Act of
1982

TITLE VI--ALASKA RAILROAD TRANSFER

SHORT TITLE

45 USC 1201
note

SEC. 601. This title may be cited as the "Alaska Railroad Transfer Act of 1982".

PURPOSES

45 USC 1201

SEC. 602. The Congress finds that--

(1) the Alaska Railroad, which was built by the Federal Government to serve the transportation and development needs of the Territory of Alaska, presently is providing freight and passenger services that primarily benefit residents and businesses in the State of Alaska;

(2) many communities and individuals in Alaska are wholly or substantially dependent on the Alaska Railroad for freight and passenger service and provision of such service is an essential governmental function;

(3) continuation of services of the Alaska Railroad and the opportunity for future expansion of those services are necessary to achieve Federal, State, and private objectives; however, continued Federal control and financial support are no longer necessary to accomplish these objectives;

(4) the transfer of the Alaska Railroad and provision for its operation by the State in the manner contemplated by this title is made pursuant to the Federal goal and ongoing program of transferring appropriate activities to the States;

(5) the State's continued operation of the Alaska Railroad following the transfer contemplated by this title, together with such expansion of the railroad as may be necessary or convenient in the future, will constitute an appropriate public use of the rail system and associated properties, will provide an essential governmental service, and will promote the general welfare of Alaska's residents and visitors; and

(6) in order to give the State government the ability to determine the Alaska Railroad's role in serving the State's transportation needs in the future, including the opportunity to extend rail service, and to provide a savings to the Federal Government, the Federal Government should offer to transfer the railroad to the State, in accordance with the provisions of this title, in the same manner in which other Federal transportation functions (including highways and airports) have been transferred since Alaska became a State in 1959.

DEFINITIONS

45 USC 1202

SEC. 603. As used in this title, the term--

(1) "Alaska Railroad" means the agency of the United States Government that is operated by the Department of Transportation as a rail carrier in Alaska under authority of the Act of

March 12, 1914 (43 U.S.C. 675 et seq.) (popularly referred to as the "Alaska Railroad Act") and section 5(i) of the Department of Transportation Act (49 U.S.C. 1555(i)), or, as the context requires, the railroad operated by that agency.

(2) "Alaska Railroad Revolving Fund" means the public enterprise fund maintained by the Department of the Treasury into which revenues of the Alaska Railroad and appropriations for the Alaska Railroad are deposited, and from which funds are expended for Alaska Railroad operation, maintenance and construction work authorized by law.

Definitions.

(3) "claim of valid existing rights" means any claim to the rail properties of the Alaska Railroad on record in the Department of the Interior as of the day before the date of enactment of this Act;

(4) "date of transfer" means the date on which the Secretary delivers to the State the four documents referred to in section 304(b)(1) of this title;

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

(6) "exclusive-use easement" means an easement which affords to the easement holder the following:

(A) the exclusive right to use, possess, and enjoy the surface estate of the land subject to this easement for transportation, communication, and transmission purposes and for support functions associated with such purposes;

(B) the right to use so much of the subsurface estate of the lands subject to this easement as is necessary for the transportation, communication, and transmission purposes and associated support functions for which the surface of such lands is used;

(C) adjacent and lateral support of the lands subject to the easement; and

(D) the right (in the easement holder's discretion) to fence all or part of the lands subject to this easement and to affix track, fixtures, and structures to such lands and to exclude other persons from all or part of such lands;

(7) "Native Corporation" has the same meaning as such term has under section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6));

(8) "officers of the Alaska Railroad" means the employees occupying the following positions at the Alaska Railroad as of the day before the date of transfer: General Manager, Assistant General Manager, Assistant to the General Manager, Chief of Administration, and Chief Counsel;

(9) "public lands" has the same meaning as such term has under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e));

(10) "rail properties of the Alaska Railroad" means all right, title, and interest of the United States to lands, buildings, facilities, machinery, equipment, supplies, records, rolling stock, trade names, accounts receivable, goodwill, and other real and personal property, both tangible and intangible, in which there is an interest reserved, withdrawn, appropriated, owned, administered or otherwise held or validly claimed for the Alaska Railroad by the United States or any agency or instrumentality

thereof as of the date of enactment of this Act, but excluding any such properties disposed of, and including any such properties acquired, in the ordinary course of business after that date but before the date of transfer, and also including the exclusive-use easement within the Denali National Park and Preserve conveyed to the State pursuant to this title and also excluding the following:

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

(B) the right of the United States to exercise the power of eminent domain;

(C) any moneys in the Alaska Railroad Revolving Fund which the Secretary demonstrates, in consultation with the State, are unobligated funds appropriated from general tax revenues or are needed to satisfy obligations incurred by the United States in connection with the operation of the Alaska Railroad which would have been paid from such Fund but for this title and which are not assumed by the State pursuant to this title;

(D) any personal property which the Secretary demonstrates, in consultation with the State, prior to the date of transfer under section 604 of this title, to be necessary to carry out functions of the United States after the date of transfer; and

(E) any lands or interest therein (except as specified in this title) within the boundaries of the Denali National Park and Preserve;

(11) "right-of-way" means, except as used in section 609 of this title—

(A) an area extending not less than one hundred feet on both sides of the center line of any main line or branch line of the Alaska Railroad; or

(B) an area extending on both sides of the center line of any main line or branch line of the Alaska Railroad appropriated or retained by or for the Alaska Railroad that, as a result of military jurisdiction over, or non-Federal ownership of, lands abutting the main line or branch line, is of a width less than that described in subparagraph (A) of this paragraph;

(12) "Secretary" means the Secretary of Transportation;

(13) "State" means the State of Alaska or the State-owned railroad, as the context requires;

(14) "State-owned railroad" means the authority, agency, corporation or other entity which the State of Alaska designates or contracts with to own, operate or manage the rail properties of the Alaska Railroad or, as the context requires, the railroad owned, operated, or managed by such authority, agency, corporation, or other entity; and

(15) "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(j)).

TRANSFER AUTHORIZATION

Sec. 604. (a) Subject to the provisions of this title, the United States, through the Secretary, shall transfer all rail properties of the Alaska Railroad to the State. Such transfer shall occur as soon as practicable after the Secretary has made the certifications required by subsection (d) of this section and shall be accomplished in the manner specified in subsection (b) of this section.

46 USC 1502

(b)(1) On the date of transfer, the Secretary shall simultaneously:

(A) deliver to the State a bill of sale conveying title to all rail properties of the Alaska Railroad except any interest in real property;

(B) deliver to the State an interim conveyance of the rail properties of the Alaska Railroad that are not conveyed pursuant to subparagraph (A) of this paragraph and are not subject to unresolved claims of valid existing rights;

(C) deliver to the State an exclusive license granting the State the right to use all rail properties of the Alaska Railroad not conveyed pursuant to subparagraphs (A) or (B) of this paragraph pending conveyances in accordance with the review and settlement or final administrative adjudication of claims of valid existing rights;

(D) convey to the State a deed granting the State (i) an exclusive-use easement for that portion of the right-of-way of the Alaska Railroad within the Denali National Park and Preserve extending not less than one hundred feet on either side of the main or branch line tracks, and eight feet on either side of the centerline of the "Y" track connecting the main line of the railroad to the power station at McKinley Park Station and (ii) title to railroad-related improvements within such right-of-way.

Prior to taking the action specified in subparagraphs (A) through (D) of this paragraph, the Secretary shall consult with the Secretary of the Interior. The exclusive-use easement granted pursuant to subparagraph (D) of this paragraph and all rights afforded by such easement shall be exercised only for railroad purposes, and for such other transportation, transmission, or communication purposes for which lands subject to such easement were utilized as of the date of enactment of this Act. In the event of reversion to the United States, pursuant to section 510 of this title, of the State's interests in all or part of the lands subject to such easement, such easement shall terminate with respect to the lands subject to such reversion, and no new exclusive-use easement with respect to such reverted lands shall be granted except by Act of Congress.

(2) The Secretary shall deliver to the State an interim conveyance of rail properties of the Alaska Railroad described in paragraph (1)(C) of this subsection that become available for conveyance to the State after the date of transfer as a result of settlement, relinquishment, or final administrative adjudication pursuant to section 606 of this title. Where the rail properties to be conveyed pursuant to this paragraph are surveyed at the time they become available for conveyance to the State, the Secretary shall deliver a patent therefor in lieu of an interim conveyance.

(3) The force and effect of an interim conveyance made pursuant to paragraphs (1)(B) or (2) of this subsection shall be to convey to and vest in the State exactly the same right, title, and interest in and to the rail properties identified therein as the State would have received had it been issued a patent by the United States. The

Secretary of the Interior shall survey the land conveyed by an interim conveyance to the State pursuant to paragraphs (1)(B) or (2) of this subsection and, upon completion of the survey, the Secretary shall issue a patent therefor.

(4) The license granted pursuant to paragraph (1)(C) of this subsection shall authorize the State to use, occupy, and directly receive all benefits of the rail properties described in the license for the operation of the State-owned railroad in conformity with the Memorandum of Understanding referred to in section 506(h)(3) of this title. The license shall be exclusive, subject only to valid leases, permits, and other instruments issued before the date of transfer and easements reserved pursuant to subsection (c)(2) of this section. With respect to any parcel conveyed pursuant to this title, the license shall terminate upon conveyance of such parcel.

(c)(1) Interim conveyances and patents issued to the State pursuant to subsection (b) of this section shall confirm, convey and vest in the State all reservations to the United States (whether or not expressed in a particular patent or document of title), except the unexercised reservations to the United States for future rights-of-way made or required by the first section of the Act of March 12, 1914 (43 U.S.C. 975d). The conveyance to the State of such reservations shall not be affected by the repeal of such Act under section 615 of this title.

(2) In the license granted under subsection (b)(1)(C) of this section and in all conveyances made to the State under this title, there shall be reserved to the Secretary of the Interior, the Secretary of Defense and the Secretary of Agriculture, as appropriate, existing easements for administration (including agency transportation and utility purposes) that are identified in the report required by section 505(a) of this title. The appropriate Secretary may obtain, only after consent of the State, such future easements as are necessary for administration. Existing and future easements and use of such easements shall not interfere with operations and support functions of the State-owned railroad.

(3) There shall be reserved to the Secretary of the Interior the right to use and occupy, without compensation, five thousand square feet of land at Talkeetna, Alaska, as described in ARR lease numbered 69-25-0003-5165 for National Park Service administrative activities, so long as the use or occupation does not interfere with the operation of the State-owned railroad. This reservation shall be effective on the date of transfer under this section or the expiration date of such lease, whichever is later.

(d)(1) Prior to the date of transfer, the Secretary shall certify that the State has agreed to operate the railroad as a rail carrier in intrastate and interstate commerce.

(2)(A) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to assume all rights, liabilities, and obligations of the Alaska Railroad on the date of transfer, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, and accounts payable, except as otherwise provided by this title.

(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, the United States shall be solely responsible for—

(i) all claims and causes of action against the Alaska Railroad that accrue on or before the date of transfer, regardless of the date on which legal proceedings asserting such claims were or may be filed, except that the United States shall, in the case of

any tort claim, only be responsible for any such claim against the United States that accrues before the date of transfer and results in an award, compromise, or settlement of more than \$2,500, and the United States shall not compromise or settle any claim resulting in State liability without the consent of the State, which consent shall not be unreasonably withheld; and

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

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

"Accrue."

(3XA) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has established arrangements pursuant to section 607 of this title to protect the employment interests of employees of the Alaska Railroad during the two-year period commencing on the date of transfer. These arrangements shall include provisions—

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

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

(iii) for the payment of compensation to transferred employees (other than employees provided for in subparagraph (2) of this paragraph), except in cases of separation for cause, resignation, retirement, or lack of work, for two years commencing on the date of transfer at or above the base salary levels in effect for such employees on the date of transfer, unless the parties otherwise agree during that two-year period;

(iv) for priority of reemployment at the State-owned railroad during the two-year period commencing on the date of transfer for transferred employees who are separated for lack of work, in accordance with subparagraph (C) of this paragraph (except for officers of the Alaska Railroad, who shall receive such priority for one year following the date of transfer);

(v) for credit during the two-year period commencing on the date of transfer for accrued annual and sick leave, seniority rights, and relocation and turnaround travel allowances which have been accrued during their period of Federal employment by transferred employees retained by the State-owned railroad (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer);

(vi) for payment to transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, including for one year officers retained or separated under subparagraph (2) of this paragraph, of an amount equivalent to the cost-of-living allowance to which they are entitled as Federal employees on the day before the date of transfer, in accordance with the provisions of subparagraph (D) of this paragraph; and

(vii) for health and life insurance programs for transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, substantially

equivalent to the Federal health and life insurance programs available to employees on the day before the date of transfer (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer).

(B) The State-owned railroad shall adopt all collective bargaining agreements which are in effect on the date of transfer. Such agreements shall continue in effect for the two-year period commencing on the date of transfer, unless the parties agree to the contrary before the expiration of that two-year period. Such agreements shall be renegotiated during the two-year period, unless the parties agree to the contrary. Any labor-management negotiation impasse declared before the date of transfer shall be settled in accordance with chapter 71 of title 5, United States Code. Any impasse declared after the date of transfer shall be subject to applicable State law.

5 USC 7101 et
seq

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

(D) Payment to transferred employees pursuant to subparagraph (A)(vi) of this paragraph shall not exceed the percentage of any transferred employee's base salary level provided by the United States as a cost-of-living allowance on the day before the date of transfer, unless the parties agree to the contrary.

(E) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has agreed to the retention, for at least one year from the date of transfer, of the offices of the Alaska Railroad, except in cases of separation for cause, resignation, retirement, or lack of work, at or above their base salaries in effect on the date of transfer, in such positions as the State-owned railroad may determine; or to the payment of lump-sum severance pay in an amount equal to such base salary for one year to officers not retained by the State-owned railroad upon transfer or, for officers separated within one year on or after the date of transfer, of a portion of such lump-sum severance payment (diminished pro rata for employment by the State-owned railroad within one year of the date of transfer prior to separation).

(4) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to allow representatives of the Secretary adequate access to employees and records of the Alaska Railroad when needed for the performance of functions related to the period of Federal ownership.

(5) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to compensate the United States at the value, if any, determined pursuant to section 605(d) of this title.

TRANSITION PERIOD

Report to
Congress
and State
legislature.
45 USC 1204.

SEC. 605. (a) Within 6 months after the date of enactment of this Act, the Secretary and the Governor of Alaska shall jointly prepare and deliver to the Congress of the United States and the legislature of the State a report that describes to the extent possible the rail properties of the Alaska Railroad, the liabilities and obligations to be assumed by the State, the sum of money, if any, in the Alaska Railroad Revolving Fund to be withheld from the State pursuant to section 603(8)(C) of this title, and any personal property to be withheld pursuant to section 603(8)(D) of this title. The report shall separately identify by the best available descriptions (1) the rail properties of the Alaska Railroad to be transferred pursuant to

section 604(b)(1) (A), (B), and (D) of this title; (2) the rail properties to be subject to the license granted pursuant to section 604(c)(1)(C) of this title; and (3) the easements to be reserved pursuant to section 604(c)(2) of this title. The Secretaries of Agriculture, Defense, and the Interior and the Administrator of the General Services Administration shall provide the Secretary with all information and assistance necessary to allow the Secretary to complete the report within the time required.

(b) During the period from the date of enactment of this Act until the date of transfer, the State shall have the right to inspect, analyze, photograph, photocopy and otherwise evaluate all of the rail properties of the Alaska Railroad and all records related to the rail properties of the Alaska Railroad maintained by any agency of the United States under conditions established by the Secretary to protect the confidentiality of proprietary business data, personnel records, and other information, the public disclosure of which is prohibited by law. During that period, the Secretary and the Alaska Railroad shall not, without the consent of the State and only in conformity with applicable law and the Memorandum of Understanding referred to in section 506(b)(3) of this title—

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

(2) (except as required by law) sell, exchange, give, or otherwise transfer any real property included in the rail properties of the Alaska Railroad; or

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

(c) Prior to transfer of the rail properties of the Alaska Railroad to the State, the Alaska Railroad's accounting practices and systems shall be capable of reporting data to the Interstate Commerce Commission in formats required of comparable rail carriers subject to the jurisdiction of the Interstate Commerce Commission.

(d)(1) Within nine months after the date of enactment of this Act, the United States Railway Association (hereinafter in this section referred to as the "Association") shall determine the fair market value of the Alaska Railroad under the terms and conditions of this title, applying such procedures, methods and standards as are generally accepted as normal and common practice. Such determination shall include an appraisal of the real and personal property to be transferred to the State pursuant to this title. Such appraisal by the Association shall be conducted in the usual manner in accordance with generally accepted industry standards, and shall consider the current fair market value and potential future value if used in whole or in part for other purposes. The Association shall take into account all obligations imposed by this title and other applicable law upon operation and ownership of the State-owned railroad. In making such determination, the Association shall use to the maximum extent practicable all relevant data and information, including, if relevant, that contained in the report prepared pursuant to subsection (a) of this section.

(2) The determination made pursuant to paragraph (1) of this subsection shall not be construed to affect, enlarge, modify, or diminish any inventory, valuation, or classification required by the Interstate Commerce Commission pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.).

45 USC 712

(e) Section 202(a) of the Regional Rail Reorganization Act of 1973 is amended—

- (1) by striking "and" at the end of paragraph (9);
- (2) by striking the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and
- (3) by adding at the end thereof the following new paragraph:

"(11) determine the value of the Alaska Railroad, as required by section 605 of the Alaska Railroad Transfer Act of 1982."

LANDS TO BE TRANSFERRED

45 USC 1205.

606. (a) Lands among the rail properties of the Alaska Railroad shall not be—

Post. p. 2558.

(1) available for selection under section 12 of the Act of January 2, 1976, as amended (43 U.S.C. 1611, note), subject to the exception contained in section 12(b)(8)(i)(D) of such Act, as amended by subsection (d)(5) of this section;

(2) available for conveyance under section 1425 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2515);

(3) available for conveyance to Chugach Natives, Inc., under sections 1429 or 1430 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2531) or under sections 12(c) or 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c) and 1613(h)(8), respectively); or

(4) available under any law or regulation for entry, location, or for exchange by the United States, or for the initiation of a claim or selection by any party other than the State or other transferee under this title, except that this paragraph shall not prevent a conveyance pursuant to section 12(b)(8)(i)(D) of the Act of January 2, 1976 (43 U.S.C. 1611, note), as amended by subsection (d)(5) of this section.

(b)(1)(A) During the ten months following the date of enactment of this Act, so far as practicable consistent with the priority of preparing the report required pursuant to section 605(a) of this title, the Secretary of the Interior, Village Corporations with claims of valid existing rights, and the State shall review and make a good faith effort to settle as many of the claims as possible. Any agreement to settle such claims shall take effect and bind the United States, the State, and the Village Corporation only as of the date of transfer of the railroad.

(B) At the conclusion of the review and settlement process provided in subparagraph (A) of this paragraph, the Secretary of the Interior shall prepare a report identifying lands to be conveyed in accordance with settlement agreements under this title or applicable law. Such settlement shall not give rise to a presumption as to whether a parcel of land subject to such agreement is or is not public land.

(2) The Secretary of the Interior shall have the continuing jurisdiction and duty to adjudicate unresolved claims of valid existing rights pursuant to applicable law and this title. The Secretary of the Interior shall complete the final administrative adjudication required under this subsection not later than three years after the date of enactment of this Act, and shall complete the survey of all lands to be conveyed under this title not later than five years after the date of enactment of this Act, and after consulting with the Governor of the State of Alaska to determine priority of survey with

regard to other lands being processed for patent to the State. The Secretary of the Interior shall give priority to the adjudication of Village Corporation claims as required in this section. Upon completion of the review and settlement process required by paragraph (1)(A) of this subsection, with respect to lands not subject to an agreement under such paragraph, the Secretary of the Interior shall adjudicate which lands subject to claims of valid existing rights filed by Village Corporations, if any, are public lands and shall complete such final administrative adjudication within two years after the date of enactment of this Act.

(3) Pending settlement or final administrative adjudication of claims of valid existing rights filed by Village Corporations prior to the date of transfer or while subject to the license granted to the State pursuant to section 604(b)(1)(C) of this title, lands subject to such claims shall be managed in accordance with the Memorandum of Understanding among the Federal Railroad Administration, the State, Eklutna, Incorporated, Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), and Tognothele Corporation, executed by authorized officers or representatives of each of these entities. Duplicate originals of the Memorandum of Understanding shall be maintained and made available for public inspection and copying in the Office of the Secretary, at Washington, District of Columbia, and in the Office of the Governor of the State of Alaska, at Juneau, Alaska.

(4) The following procedures and requirements are established to promote finality of administrative adjudication of claims of valid existing rights filed by Village Corporations, to clarify and simplify the title status of lands subject to such claims, and to avoid potential impairment of railroad operations resulting from joint or divided ownership in substantial segments of right-of-way:

(A)(i) Prior to final administrative adjudication of Village Corporation claims of valid existing rights in land subject to the license granted under section 604(b)(1)(C) of this title, the Secretary of the Interior may, notwithstanding any other provision of law, accept relinquishment of so much of such claims as involved lands within the right-of-way through execution of an agreement with the appropriate Village Corporation effective on or after the date of transfer. Upon such relinquishment, the interest of the United States in the right-of-way shall be conveyed to the State pursuant to section 604(b)(1)(B) or (2) of this title.

(ii) With respect to a claim described in clause (i) of this subparagraph that is not settled or relinquished prior to final administrative adjudication, the Congress finds that exclusive control over the right-of-way by the Alaska Railroad has been and continues to be necessary to afford sufficient protection for safe and economic operation of the railroad. Upon failure of the interested Village Corporation to relinquish so much of its claims as involve lands within the right-of-way prior to final adjudication of valid existing rights, the Secretary shall convey to the State pursuant to section 604(b)(1)(B) or (2) of this title all right, title and interest of the United States in and to the right-of-way free and clear of such Village Corporation's claim to and interest in lands within such right-of-way.

(B) Where lands within the right-of-way, or any interest in such lands, have been conveyed from Federal ownership prior to

the date of enactment of this Act, or is subject to a claim of valid existing rights by a party other than a Village Corporation, the conveyance to the State of the Federal interest in such properties pursuant to section 604(b)(1)(B) or (2) of this title shall grant not less than an exclusive easement in such properties. The foregoing requirements shall not be construed to permit the conveyance to the State of less than the entire Federal interest in the rail properties of the Alaska Railroad required to be conveyed by section 604(b) of this title. If an action is commenced against the State or the United States contesting the validity or existence of a reservation of right-of-way for the use or benefit of the Alaska Railroad made prior to the date of enactment of this Act, the Secretary of the Interior, through the Attorney General, shall appear in and defend such action.

(c)(1) The final administrative adjudication pursuant to subsection (b) of this section shall be final agency action and subject to judicial review only by an action brought in the United States District Court for the District of Alaska. Review of agency action pursuant to this title shall be expedited to the same extent as the expedited review provided by section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168).

(2) No administrative or judicial action under this title shall enjoin or otherwise delay the transfer of the Alaska Railroad pursuant to this title, or substantially impair or impede the operations of the Alaska Railroad or the State-owned railroad.

(3) Before the date of transfer, the State shall have standing to participate in any administrative determination or judicial review pursuant to this title. If transfer to the State does not occur pursuant to section 604 of this title, the State shall not thereafter have standing to participate in any such determination or review.

(d)(1) Section 12(b)(7)(i) of the Act of January 2, 1976 (Public Law 94-204) is amended—

(A) by striking "subsection 12(b)(6)" and inserting in lieu thereof "section 12(b)(5) and (6)";

(B) by striking "12(b)(7)(ii)" and inserting in lieu thereof "12(b)(7)(iv)";

(C) by striking "crediting" and inserting in lieu thereof "using";

(D) by striking "this subsection 12(b)(7)(i)(b)" and inserting in lieu thereof "these subsections 12(b)(7)(i)(b) or (ii)";

(E) by striking "State" in the last sentence and inserting in lieu thereof "state"; and

(F) by striking the penultimate sentence.

(2) Section 12(b)(7) of such Act is amended—

(A) by redesignating subsections (ii) through (iv) as subsections (iv) through (vi), respectively; and

(B) by inserting immediately after subsection (i) the following:

"(ii) Subject to the exceptions stated in section 12(b)(9), and notwithstanding the foregoing subsection 12(b)(7)(i) and any provision of any other law or any implementing regulation inconsistent with this subsection, until the obligations of the Secretary and the Administrator of General Services under section 12(b)(5) and (6) are otherwise fulfilled:

"(A) concurrently with the commencement of screening of any excess real property, wherever located, for utilization by Federal agencies, the Administrator of General Services shall

43 USC 1611
note

notify the Region that such property may be available for conveyance to the Region upon negotiated sale. Within fifteen days of the date of receipt of such notice, the Region may advise the Administrator that there is a tentative need for the property to fulfill the obligations established under section 12(b) (5) and (6). If the Administrator determines the property should be disposed of by transfer to the Region, the Administrator or other appropriate Federal official shall promptly transfer such property.

6 USC 1511
note.

"(B) no disposition or conveyance of property under this subsection to the Region shall be made until the Administrator, after notice to affected State and local governments, has provided to them such opportunity to obtain the property as is recognized in title 40, United States Code and the regulations thereunder for the disposition or conveyance of surplus property; and

"(C) as used in this subsection, 'real property' means any land or interests in land owned or held by the United States or any Federal agency, any improvements on such land or rights to their use or exploitation, and any personal property related to the land.

"Real
property"

"(iii) If the Region accepts any conveyance under section 12(b)(7) (i) or (ii), it shall be in exchange for acres or acre-equivalents as provided in subparagraph 1(CX2Xe) of the document referred to in this section, except that, after the obligation of the Secretary and the Administrator under subparagraph 1(CX2Xg) of that document has been fulfilled, the acre-equivalents under subparagraph 1(CX2Xe)(iii)(A) shall be one-half the valued increment therein stated. The entitlement of the Region under section 12(b) of this Act shall be reduced by the number of acres or acre-equivalents attributed to the Region under this subsection. The Secretary and the Administrator are directed to execute an agreement with the Region which shall conform substantially to the Memorandum of Understanding Regarding the Implementation of Section 12(b)(7), dated September 10, 1982, and submitted to the Senate Committee on Commerce, Science, and Transportation. The Secretary, the Administrator and the Region may thereafter otherwise agree to procedures to implement responsibilities under this section 12(b)(7), including establishment of accounting procedures and the delegation or reassignment of duties under this statute."

(3) Section 12(b)(7)(iv) of such Act, as so redesignated by paragraph (2) of this subsection, is amended--

6 USC 1511
note.

(A) by striking "surplus" the first place it appears therein;

(B) by inserting immediately before the period at the end of the first sentence the following: "or paying for the conveyance of property pursuant to subsections (i) or (ii)";

(C) by inserting immediately after "account shall be" the following: "the sum of (1)";

(D) by striking "1(CX2Xe)" and inserting in lieu thereof "1(CX2Xe)(iii)(A)";

(E) by striking "the effective date of this subsection", and inserting in lieu thereof "December 2, 1980";

(F) by striking "and shall be adjusted" and inserting in lieu thereof "and (2) one-half the acre or acre-equivalent exchange value under subparagraph 1(CX2Xe)(iii)(A) of ten townships fewer than the unfulfilled entitlement of the Region on the same date to acres or acre-equivalents under paragraph 1(CX1)

of the document referred to in this section. The balance of the property account shall be adjusted in accordance with subsection 12(b)(7)(iii); and

(G) by striking "subsection 12(b)(5)" and inserting in lieu thereof "section 12(b)(5) and (6)".

43 USC 1611
note.

(4) Section 12(b)(7)(v) of such Act, as so redesignated by paragraph (2) of this subsection, is amended by striking "subsection (ii)" and inserting in lieu thereof "subsection (iv)".

43 USC 1611
note.

(5) Section 12(b)(8) of such Act is amended to read as follows: "12(b)(8). Subject to the exception stated in section 12(b)(9), and notwithstanding any provisions of law or implementing regulation inconsistent with this section:

"(i) The deadlines in subparagraphs 1(C)(2)(a) and (g) of the document referred to in this section shall be extended until the Secretary's obligations under section 12(b)(5) and (6) are fulfilled. *Provided, That:*

"(A) the obligation of the Secretary under subparagraph 1(C)(2)(a) of such document shall terminate on such date, after July 15, 1984, that the Secretary has fulfilled his obligation under subparagraph 1(C)(2)(g) of that document; *Provided, That* the obligation of the Secretary under subparagraph 1(C)(2)(g) of such document shall be fulfilled at such date, after July 15, 1984, that the sum of the acres or acre-equivalents identified for and placed in the pool and the acres or acre-equivalents used by the Region in purchasing property under section 12(b)(7) equals or exceeds 128,240 acres or acre-equivalents;

"(B) the authority of the Secretary under subparagraphs 1(C)(2)(b) and 1(C)(2)(g)(ii) of such document to contribute to the pool created under subparagraph 1(C)(2)(a) of such document shall terminate (a) on July 15, 1984, if, by that date, the Secretary has fulfilled his obligation under subparagraph 1(C)(2)(g), or (b) if not, on such date after July 15, 1984 as such obligation is fulfilled, or (c) if such obligation remains unfulfilled, on July 15, 1987;

"(C) the concurrence by the State as described in subparagraphs 1(C)(2)(a)(vi) and 1(C)(2)(c) of the document referred to in this section shall be deemed not required after the Secretary has fulfilled his obligation under subparagraph 1(C)(2)(g) of that document, but in no event after July 15, 1987. In lieu of such concurrence, after 1984 as to military property, and after the Secretary has fulfilled his obligation under subparagraph 1(C)(2)(g) of that document or July 15, 1987, whichever is earlier, as to any other property, except property of the Alaska Railroad which is governed by subsection 12(b)(6)(i)(D) of this Act, the Secretary shall not place any lands in the selection pool referred to in subparagraphs 1(C)(2)(a) and (g) of the document referred to in this section without the prior written concurrence of the State. Such concurrence shall be deemed obtained unless the State advises the Secretary within ninety days of receipt of a formal notice from the Secretary that he is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or municipality; and

"(D) notwithstanding section 606(a)(2) of the Alaska Railroad Transfer Act of 1982, the Secretary may include property of the Alaska Railroad in the pool of lands to be made available for selection to the extent that he is authorized to do so under a provision of section 12(b) of this Act if the State consents to its inclusion, which consent is not subject to any limitation under subsection 12(b)(3)(i)(C) herein: *Provided*, That, while the Alaska Railroad is the property of the United States, the Secretary shall obtain the consent of the Secretary of Transportation prior to including such property. *And provided further*, That, if the transfer of the Alaska Railroad to the State does not occur pursuant to the terms of the Alaska Railroad Transfer Act of 1982 or any amendments thereto, the State's consent shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that he is considering placing such property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or the municipality.

Alaska p. 2564.

Alaska p. 2568.

Alaska p. 2556.

"(ii) In addition to the review required to identify public lands under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), the Secretary shall identify for inclusion in the pool all public lands (as such term is used under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), as described in subparagraph 1(C)(2)(a)(v) of the document referred to in this section, and shall, in so doing, review all Federal installations within the boundaries of the Cook Inlet Region whether within or without the areas withdrawn pursuant to section 11 of the Alaska Native Claims Settlement Act (43 U.S.C. 1510) or by the Secretary acting under authority contained in that section: *Provided*, That no such additional review under such subparagraph shall be required of military installations or of such other installations as may be mutually excluded from review by the Region and the Secretary: *And provided further*, That the Secretary shall not review any property of the Alaska Railroad unless such property becomes available for selection pursuant to subsection 12(b)(3)(i)(D).

"(iii) The concurrence required of the State as to the inclusion of any property in the pool under subparagraph 1(C)(2)(b) of the document referred to in this section shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that the Secretary is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question requires the property for a public purpose of the State or the municipality.

"(iv) The deadlines in subparagraph 1(C)(1)(5) of the document referred to in this section shall be extended for an additional twenty-four months beyond the dates established in the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 347).

"(v) On or before January 15, 1985, the Secretary shall report to the Congress with respect to:

Report to Congress.

"(A) such studies and inquiries as shall have been initiated by the Secretary and the Administrator of General Services, or have been prepared by other holding agencies,

to determine what lands, except for lands held by the Alaska Railroad or the State-owned railroad, within the boundaries of the Cook Inlet Region or elsewhere can be made available to the Region, to the extent of its entitlement;

"(B) the feasibility and appropriate nature of reimbursement of the Region for its unfulfilled entitlement as valued in subsection 12(b)(7)(iv) of this Act;

"(C) the extent to which implementation of the mechanisms established in section 12(b)(7) promise to meet such unfulfilled entitlement;

"(D) such other remedial legislation or administrative action as may be needed; and

"(E) the need to terminate any mechanism established by law through which the entitlement of the Region may be completed."

43 USC 1611
note

(6) Section 11(b) of such Act is amended by adding at the end thereof the following:

Ariz. p. 2568

"12(b)(9). No disposition or conveyance of property located within the State to the Region under section 12(b)(6), 12(b)(7) and 12(b)(8), as amended, shall be made if the property is subject to an express waiver of rights under the provisions of subparagraph I(C)(2)(f) of the document referred to in this section, or if such disposition or conveyance violates valid rights, including valid selections or valid authorized agreements, of Native Corporations (as such term is used in section 1126) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6)) or the State existing at the time of such disposition or conveyance under section 6 of Public Law 35-508, as amended (excepting section 906(e) of the Alaska National Interest Lands Conservation Act), sections 12(a), 12(b), 16(b) or 22(f) of the Alaska Native Claims Settlement Act, section 12(b) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1134), or sections 1416, 1418 through 1425 (inclusive), 1427 through 1434 (inclusive), or 1436 of the Alaska National Interest Lands Conservation Act. *Provided, however,* That nothing within this subsection 12(b)(9) shall diminish such rights and priorities as the Region has under section 12(b) of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1151), as amended by section 4 of the Act of October 4, 1976 (Public Law 94-456; 90 Stat. 1925), section 3 of the Act of November 15, 1977 (Public Law 95-178; 91 Stat. 1369), section 2 of the Act of August 14, 1979 (Public Law 96-55; 93 Stat. 386), the Act of July 17, 1980 (Public Law 96-311; 94 Stat. 947), and section 1435 of the Alaska National Interest Lands Conservation Act.

48 USC note
para. 21
43 USC 1635
43 USC 1611,
1615, 1621
43 USC 1611
note
94 Stat. 2499,
2501-2515,
2518-2544, 2546
43 USC 1611
note

"12(b)(10). For the purpose of its incorporation into this section, paragraph I(C)(1) of the document referred to in this section is amended as follows: (1) by striking 'withdrawn' and inserting in lieu thereof 'withdrawn or formerly withdrawn'; (2) by striking '17(d)(1)' and inserting in lieu thereof '17(d)(1) and (2)'; and (3) by striking the last sentence of subparagraph I(C)(1)(a) and inserting in lieu thereof the following: 'Cook Inlet Region, Incorporated shall not nominate any lands within the boundaries of any conservation system unit, national conservation area, national recreation area, national forest, defense withdrawal, or any lands that were made available to the State for selection pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972.'

"12(b)(11). Notwithstanding the provisions of section 906 of the Alaska National Interest Lands Conservation Act and section 6(i) of the Alaska Statehood Act (72 Stat. 339):

43 USC 1225.
43 USC 3021
PROC. 21.

"(i) The State is hereby authorized to convey to the United States for reconveyance to the Region, and the Secretary is directed to accept and so reconvey, lands tentatively approved for patent or patented to the State, if the State and the Region enter into an agreement that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph 1(CX1) of the document referred to in this section: *Provided*, That the acreage of lands conveyed to the United States under this provision shall be added to the State's unfulfilled entitlement pursuant to section 6 of the Alaska Statehood Act, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph 1(CX1) of the document referred to in this section shall be reduced accordingly.

"(ii) The Secretary is directed to convey to the Region lands selected by the State prior to July 18, 1973 or pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972, if the State relinquishes such selections and enters into an agreement with the Region that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph 1(CX1) of the document referred to in this section, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph 1(CX1) of the document referred to in this section shall be reduced accordingly.

"(iii) The Secretary, in the Secretary's discretion, is authorized to enter into an agreement with the State and the Region to implement the authority contained in this section 12(b)(11), which agreement may provide for conveyances directly from the State to the Region. Conveyances directly conveyed shall be deemed conveyances from the Secretary pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1501 et seq.)."

(e) The State shall be liable to a party receiving a conveyance of land among the rail properties of the Alaska Railroad subject to the license granted pursuant to section 604(b)(1)(C) of this title for damage resulting from use by the State of the land under such license in a manner not authorized by such license.

43 USC 1225.

EMPLOYEES OF THE ALASKA RAILROAD

Sec. 607. (a)(1) Any employees who elect to transfer to the State-owned railroad and who on the day before the date of transfer are subject to the civil service retirement law (subchapter III of chapter 83 of title 5, United States Code) shall, so long as continuously employed by the State-owned railroad without a break in service, continue to be subject to such law, except that the State-owned railroad shall have the option of providing benefits in accordance with the provisions of paragraph (2) of this subsection. Employment by the State-owned railroad without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. The State-owned railroad shall be the employing agency for purposes of section 8334(a) of title 5, United States Code, and shall contribute to the Civil Service Retirement and Disability

43 USC 1226.

5 USC 8331.

Fund a sum as provided by such section, except that such sum shall be determined by applying to the total basic pay (as defined in section 8331(3) of title 5, United States Code) paid to the employees of the State-owned railroad who are covered by the civil service retirement law, the per centum rate determined annually by the Director of the Office of Personnel Management to be the excess of the total normal cost per centum rate of the civil service retirement system over the employee deduction rate specified in section 8334(a) of title 5, United States Code. The State-owned railroad shall pay into the Federal Civil Service Retirement and Disability Fund that portion of the cost of administration of such Fund which is demonstrated by the Director of the Office of Personnel Management to be attributable to its employees.

(2) At any time during the two-year period commencing on the date of transfer, the State-owned railroad shall have the option of providing to transferred employees retirement benefits reflecting prior Federal service, in or substantially equivalent to benefits under the retirement program maintained by the State for State employees. If the State decides to provide benefits under this paragraph, the State shall provide such benefits to all transferred employees, except those employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program.

(3) If the State provides benefits under paragraph (2) of this subsection—

(A) the provisions of paragraph (1) of this subsection regarding payments into the Civil Service Retirement and Disability Fund for those employees who are transferred to the State program shall have no further force and effect (other than for employees who will meet the age and service requirements for retirement under section 8336(a), (b), (c) or (f) of title 5, United States Code, within five years after the date of transfer and who elect to remain participants in the Federal retirement program); and

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

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

(c) Transferred employees whose employment with the State-owned railroad is terminated during the two-year period commencing on the date of transfer shall be entitled to all of the rights and benefits of discontinued employees that such employees would have had under Federal law if their termination had occurred immediately before the date of the transfer, except that financial compensation paid to officers of the Alaska Railroad shall be limited to that compensation provided pursuant to section 604(dx3(x2)) of this title. Such employees shall also be entitled to seniority and other benefits accrued under Federal law while they were employed by the State-owned railroad on the same basis as if such employment had been Federal service.

(d) Any employee who transfers to the State-owned railroad under this title shall not be entitled to lump-sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the State with the unused annual leave balance at the time of transfer.

STATE OPERATION

SEC. 608. (a)(1) After the date of transfer to the State pursuant to section 604 of this title, the State-owned railroad shall be a rail carrier engaged in interstate and foreign commerce subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code, and all other Acts applicable to rail carriers subject to that chapter, including the antitrust laws of the United States, except, so long as it is an instrumentality of the State of Alaska, the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (25 U.S.C. 3201 et seq.), the Railway Labor Act (45 U.S.C. 151 et seq.), the Act of April 22, 1908 (45 U.S.C. 51 et seq.) (popularly referred to as the "Federal Employers' Liability Act"), and the Railroad Unemployment Insurance Act (45 U.S.C. 251 et seq.). Nothing in this title shall preclude the State from explicitly invoking by law any exemption from the antitrust laws as may otherwise be available.

45 USC 1207.

(2) The transfer to the State authorized by section 604 of this title and the conferral of jurisdiction to the Interstate Commerce Commission pursuant to paragraph (1) of this subsection are intended to confer upon the State-owned railroad all business opportunities available to comparable railroads, including contract rate agreements meeting the requirements of section 10713 of title 49, United States Code, notwithstanding any participation in such agreements by connecting water carriers.

(3) All memoranda which sanction noncompliance with Federal railroad safety regulations contained in 49 CFR Parts 209-236, and which are in effect on the date of transfer, shall continue in effect according to their terms as "waivers of compliance" (as that term is used in section 202(n) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e))).

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

(5) Revenues generated by the State-owned railroad shall be retained and managed by the State-owned railroad for railroad and related purposes.

(5XA) After the date of transfer, continued operation of the Alaska Railroad by a public corporation, authority or other agency of the

State shall be deemed to be an exercise of an essential governmental function, and revenue derived from such operation shall be deemed to accrue to the State for the purposes of section 115(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 115(a)(1)). Obligations issued by such entity shall also be deemed obligations of the State for the purposes of section 103(a)(1) of the Internal Revenue Code of 1954 (26 U.S.C. 103(a)(1)), but not obligations within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 103(b)(2)).

(B) Nothing in this title shall be deemed or construed to affect customary tax treatment of private investment in the equipment or other assets that are used or owned by the State-owned railroad.

(b) As soon as practicable after the date of enactment of this Act, the Interstate Commerce Commission shall promulgate an expedited, modified procedure for providing on the date of transfer a certificate of public convenience and necessity to the State-owned railroad. No inventory, valuation, or classification of property owned or used by the State-owned railroad pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.) shall be required during the two-year period after the date of transfer. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 382(b) of the Energy Policy and Conservation Act (42 U.S.C. 6362(b)) shall not apply to actions of the Commission under this subsection.

(c) The State-owned railroad shall be eligible to participate in all Federal railroad assistance programs on a basis equal to that of other rail carriers subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code.

(d) After the date of transfer to the State pursuant to section 604 of this title, the portion of the rail properties within the boundaries of the Chugach National Forest and the exclusive-use easement within the boundaries of the Denali National Park and Preserve shall be subject to laws and regulations for the protection of forest and park values. The right to fence the exclusive-use easement within Denali National Park and Preserve shall be subject to the concurrence of the Secretary of the Interior. The Secretary of the Interior, or the Secretary of Agriculture where appropriate, shall not act pursuant to this subsection without consulting with the Governor of the State of Alaska or in such a manner as to unreasonably interfere with continued or expanded operations and support functions authorized under this title.

FUTURE RIGHTS-OF-WAY

45 USC 1208

Sec. 609. (a) After the date of enactment of this Act, the State or State-owned railroad may request the Secretary of the Interior or the Secretary of Agriculture, as appropriate under law, to expeditiously approve an application for a right-of-way in order that the Alaska Railroad or State-owned railroad may have access across Federal lands for transportation and related purposes. The State or State-owned railroad may also apply for a lease, permit, or conveyance of any necessary or convenient terminal and station grounds and material sites in the vicinity of the right-of-way for which an application has been submitted.

(b) Before approving a right-of-way application described in subsection (a) of this section, the Secretary of the Interior or the

Secretary of Agriculture, as appropriate, shall consult with the Secretary. Approval of an application for a right-of-way, permit, lease, or conveyance described in subsection (a) of this section shall be pursuant to applicable law. Rights-of-way, grounds, and sites granted pursuant to this section and other applicable law shall conform, to the extent possible, to the standards provided in the Act of March 12, 1914 (43 U.S.C. 975 et seq.) and section 502(6) of this title. Such conformance shall not be affected by the repeal of such Act under section 615 of this title.

(c) Reversion to the United States of any portion of any right-of-way or exclusive-use easement granted to the State or State-owned railroad shall occur only as provided in section 610 of this title. For purposes of such section, the date of the approval of any such right-of-way shall be deemed the "date of transfer".

REVERSION

Sec. 610. (a) If, within ten years after the date of transfer to the State authorized by section 504 of this title, the Secretary finds that all or part of the real property transferred to the State under this title, except that portion of real property which lies within the boundaries of the Denali National Park and Preserve, is converted to a use that would prevent the State-owned railroad from continuing to operate, that real property (including permanent improvements to the property) shall revert to the United States Government, or (at the option of the State) the State shall pay to the United States Government an amount determined to be the fair market value of that property at the time its conversion prevents continued operation of the railroad.

45 USC 1209

(b) If, after the date of transfer pursuant to section 504 of this title, the State discontinues use of any land within the right-of-way, the State's interest in such land shall revert to the United States. The State shall be considered to have discontinued use within the meaning of this subsection and subsection (d) of this section when:

(1) the Governor of the State of Alaska delivers to the Secretary of the Interior a notice of such discontinuance, including a legal description of the property subject to the notice, and a quitclaim deed thereto, or

(2) the State has made no use of the land for a continuous period of eighteen years for transportation, communication, or transmission purposes. Notice of such discontinuance shall promptly be published in the Federal Register by the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, and reversion shall be effected one year after such notice, unless within such one-year period the State brings an appropriate action in the United States District Court for the District of Alaska to establish that the use has been continuing without an eighteen-year lapse. Any such action shall have the effect of staying reversion until exhaustion of appellate review from the final judgment in that action or termination of the right to seek such review, whichever first occurs.

Publication in
Federal
Register.

(c) Upon such reversion pursuant to subsection (b) of this section, the Secretary of the Interior shall immediately convey by patent to abutting landowners all right, title and interest of the United States. Where land abutting the reverted right-of-way is owned by different persons or entities, the conveyance made pursuant to this

subsection shall extend the property of each abutting owner to the centerline of the right-of-way.

(d) If use is discontinued (as that term is used in subsection (b) of this section) of all or part of those properties of the Alaska Railroad transferred to the State pursuant to this title which lie within the boundaries of the Denali National Park and Preserve or the Chugach National Forest, such properties or part thereof (including permanent improvements to the property) shall revert to the United States and shall not be subject to subsection (c) of this section. Upon such reversion, jurisdiction over that property shall be transferred to the Secretary of the Interior or the Secretary of Agriculture, as appropriate, for administration as part of the Denali National Park and Preserve or the Chugach National Forest.

(e) Except as provided in subsections (a) through (d) of this section, if, within five years after the date of transfer to the State pursuant to section 604 of this title, the State sells or transfers all or substantially all of the State-owned railroad to an entity other than an instrumentality of the State, the proceeds from the sale or transfer that exceed the cost of any rehabilitation and improvement made by the State for the State-owned railroad and any net liabilities incurred by the State for the State-owned railroad shall be paid into the general fund of the Treasury of the United States.

(f) The Attorney General, upon the request of the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, shall institute appropriate proceedings to enforce this section in the United States District Court for the District of Alaska.

OTHER DISPOSITION

45 USC 1210

Sec. 611. If the Secretary has not certified that the State has satisfied the conditions under section 604 within one year after the date of delivery of the report referred to in section 605(a) of this title, the Secretary may dispose of the rail properties of the Alaska Railroad. Any disposal under this section shall give preference to a buyer or transferee who will continue to operate rail service, except that—

(1) such preference shall not diminish or modify the rights of the Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), pursuant to such section, as amended by section 606(d) of this title; and

Ante. p. 2564

(2) this section shall not be construed to diminish or modify the powers of consent of the Secretary or the State under section 12(b)(6) of such Act, as amended by section 606(d)(5) of this title.

Any disposal under this section shall be subject to valid existing rights.

DENALI NATIONAL PARK AND PRESERVE LANDS

45 USC 1211.

Sec. 612. On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), that portion of rail properties of the Alaska Railroad within the Denali National Park and Preserve shall, subject to the exclusive-use easement granted pursuant to section 604(b)(1)(D) of this title, be transferred to the Secretary of the Interior for administration as part of the Denali National Park and Preserve, except that a

transferee under section 611 of this title shall receive the same interest as the State under section 604(b)(1)(D) of this title.

APPLICABILITY OF OTHER LAWS

Sec. 613. (a) The provisions of chapter 5 of title 5, United States Code (popularly known as the Administrative Procedure Act, and including provisions popularly known as the Government in the Sunshine Act), the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to actions taken pursuant to this title, except to the extent that such laws may be applicable to granting of rights-of-way under section 609 of this title.

45 USC 1212
5 UDC 550 et seq.

(b) The enactment of this title, actions taken during the transition period as provided in section 605 of this title, and transfer of the rail properties of the Alaska Railroad under authority of this title shall be deemed not to be the disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622). Such events shall not constitute or cause the revocation of any prior withdrawal or reservation of land for the use of the Alaska Railroad under the Act of March 12, 1914 (43 U.S.C. 975 et seq.), the Alaska Statehood Act (note preceding 48 U.S.C. 21), the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the Act of January 2, 1975 (Public Law 94-204; 39 Stat. 1145), the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371), and the general land and land management laws of the United States.

(c) Beginning on the date of enactment of this Act, the ceiling on Government contributions for Federal employees health benefits insurance premiums under section 3905(b)(2) of title 5, United States Code, shall not apply to the Alaska Railroad.

(d) Nothing in this title is intended to enlarge or diminish the acreage entitlement of the State or any Native Corporation pursuant to existing law.

(e) With respect to interests of Native Corporations under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) and the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), except as provided in this title, nothing contained in this title shall be construed to deny, enlarge, grant, impair, or otherwise affect any judgment heretofore entered in a court of competent jurisdiction, or valid existing right or claim of valid existing right.

CONFLICT WITH OTHER LAWS

Sec. 614. The provisions of this title shall govern if there is any conflict between this title and any other law.

43 USC 1213.

REPEAL AND AMENDMENT OF EXISTING STATUTES

Sec. 615. (a) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are repealed:

(1) The Act of March 12, 1914 (43 U.S.C. 975 et seq.).

16 USC 253a.

42 USC 201a.

(2) The Act of June 24, 1946, to authorize certain expenditures by the Alaska Railroad (60 Stat. 204).

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

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

(b) On the date of transfer to the State (pursuant to section 604 of this title) or other disposition (pursuant to section 611 of this title), whichever first occurs, the following provisions are amended as follows:

(1) Title 5, United States Code, is amended—

(A) in section 305(a), by striking paragraph (3), and by redesignating paragraphs (4)–(8) as paragraphs (3)–(7), respectively;

(B) in section 3401(1), by striking clause (iii), and by redesignating clauses (iv)–(viii) as clauses (iii)–(vii), respectively;

(C) in section 5102(a)(1), by striking clause (iii), and by redesignating clauses (iv)–(ix) as clauses (iii)–(viii), respectively;

(D) in section 5342(a)(1), by striking subparagraph (C), and by redesignating subparagraphs (D)–(J) as subparagraphs (C)–(I), respectively; and

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

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

(3) Section 10749(b) of title 49, United States Code, is amended—

(A) by inserting "or" at the end of paragraph (1)(B);

(B) by striking "; or" at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking paragraph (3).

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

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

(6) Section 1(o) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(o)) is amended by inserting immediately after "National Transportation Safety Board," the following: "the State-owned railroad (as defined in the Alaska Railroad Transfer Act of 1982), so long as it is an instrumentality of the State of Alaska,".

SEPARABILITY

45 USC 1214.

Sec. 616. If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.