

COMMITTEE REPORT
SENATE

FURTHER:

5/11/84

Date: 5/23/84

Mr. President:

The Committee on FINANCE has had CSHB 512(FIN)

establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; efd.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for CSHB 512(FIN) same title
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent" New Fiscal Notes
- reports it back without recommendation 5/23/84 14,250.0 Capital
5/23/84 7,432.2 G.F.
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

Alfred Pickett

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob [Signature] N/R

V. [Signature] N/R

[Signature]

CHAIRMAN

LETTER OF INTENT
SENATE FINANCE COMMITTEE
TO ACCOMPANY SCS CSHB 512 (Finance)

It is the policy of the State that the Alaska Railroad should be operated in a business like manner so as to foster the development of a strong and financially sound system of Interstate Commerce. Accordingly, although the Railroad may use public resources or the benefits of its public status to extend its lines or to provide passenger service, it should not use direct subsidies to compete unfairly with privately owned carriers.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 5/22/84

REQUEST SCS CSHB
Bill/Resolution No.: 512 (Finance)
Title: Alaska Railroad Corporation
Sponsor: Hayes, Ringstad, Shultz
Requestor:
Date of Request:

FISCAL DETAIL Alaska Railroad
Agency Affected: Corporation
Program Category Affected:
BRU, Program or Subprogram(s) Affected:
Alaska Railroad Corporation

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCE' ANEOUS						
TOTAL OPERATING						
CAPITAL		14,250.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		14,250.0				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Capital Projects to be funded from this appropriation are detailed in Attachment A.

ANALYSIS: Attach a separate page for analysis

Prepared By: *Wm. C. Schmitt* Phone: _____
Division: Senate Finance Committee Date: 5/23/84

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Alaska Railroad
FY 85 Capital Budget Request

<u>Track and Roadbed</u>	6185.0
Ties - Install 50,000 @ \$42 each	2100.0
Rail - Install 6 miles @\$350,000 each	2100.0
Ballast - Install 85,000 yd ³ @14 yd ³	1190.0
Other - Turnouts, sledding, culverts, ditching	795.0
<u>Bridges</u>	883.0
Replace stringers, bents and spans	
Reset bearings, piles and abutments	
<u>Tunnels</u>	1060.2
Line with multi-plate	
Excavate rock fall areas	
<u>Docks</u>	706.8
Preliminary work to rebuild barge slip #1 at Whittier	
<u>Communications</u>	570.0
Complete microwave system	
Remove pole lines	
Acquire equipment	
<u>Motive Power and Equipment</u>	4845.0
Locomotives	2250.0
Upgrade facilities	1845.0
Equipment	750.0
	14,250.0

The above is based on the December, 1983 ARR Acquisition Assessment.

Senate CS CSHB 512 (Finance)

Explanation (continued)

3/ Working capital fund which equals one month of operating expenses. Calculations explained in Attachment B.

* Sec. 608(a)(5) of the Alaska Railroad Transfer Act stipulates "Revenues generated by the State-owned railroad shall be retained and managed by the State-owned railroad for railroad and related purposes". As a result, cost of operating the railroad after the transfer are not reflected in this fiscal note since they do not require legislative appropriation. Copy of the federal legislation is found in Attachment C.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 5/22/84

REQUEST
Bill/Resolution No.: SCS CSHB 512 (Finance)
Title: Alaska Railroad Corporation

FISCAL DETAIL
Agency Affected: Commerce/Economic Development
Program Category Affected: Public Protection

Sponsor: Hayes, Ringstad, Shultz
Requestor: _____
Date of Request: _____

BRU, Program or Subprogram(s) Affected:
Commissioner/Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		120.0 ^{1/}				
200 TRAVEL		40.0 ^{1/}				
300 CONTRACTUAL		2372.2 ^{2/}				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		2532.2				
CAPITAL		4900.0^{3/}				
REVENUE		*				

FUNDING: (Thousands of Dollars)

GENERAL FUND		7432.2				
FEDERAL FUNDS		0				
OTHER		*				
TOTAL		7432.2				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

1/ In FY 86, these costs will be funded from the railroad's revenues. Details provided in Attachment A.

2/ Contractual expenses are detailed in Attachment A.

ANALYSIS: Attach a separate page for analysis (continued)

Prepared By: John P. Schmitt
Division: _____

Phone: _____
Date: 5-23-84

Approved by Commissioner: _____
Agency: _____

Date: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 5/22/84

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Bill/Resolution No.: SCS CSHB 512 (Finance)
Title: Alaska Railroad Corporation

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Date of Request: _____

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TEMPORARY					

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

1/ In FY 86, these costs will be funded from the railroad's revenues. Details provided in Attachment A.

2/ Contractual expenses are detailed in Attachment A.

ANALYSIS: Attach a separate page for analysis (continued)

Prepared By: Alan P. Schutt
Division: _____

Phone: _____
Date: 5-23-84

Approved by Commissioner: _____
Agency: _____

Date: _____

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

Explanation

SCS CSHB 512 (Finance)
Fiscal NotePersonal Services 120.0

Compensation for Board members based on \$400/day, 60 days of meetings and work activity to reflect a "working board" during the first year of activity.

For FY 86, board compensation shall be budgeted within the corporation's budget.

Travel 40.0

Board travel expenses is based on assumption of approximately \$500 per trip for air fare, per diem and expenses times four board members and assumes two of the public members will be from Anchorage. Also assumes 20 separate occasions for meetings or related activity requiring board travel.

For FY 86, board travel costs shall be budgeted within the corporation's budget.

ContractualTransfer/Transition Team Staff 286.2
Department of Commerce and Economic Development

5 positions	242.2
Special Assistant II	
Planner IV	
Planner III	
Engineer Assistant III	
Correspondence Secretary III	

Travel	36.0
Commodities	8.0

These positions are funded in FY 84 from capital appropriations and the team's duties should be largely completed by the end of FY 85.

RSA: Department of Labor 213.5

Perform extensive survey of the railroad's physical facilities in relation to federal and state OSHA laws, regulations and standards. The Department of Labor has statutory authority and

required Federal approval for OSHA compliance. Expected to be one-time funding.

2 Full Time Positions	142.7
Safety Consultant	
Electrical Inspector	
2 Part Time Positions	
Administrative Officer	
Clerk Typist III	
Travel	7.3
Contractual	45.0
Commodities	6.5
Equipment	12.0

RSA: Department of Administration 182.4

1. Analysis of current collective bargaining agreements which will be made available for use by the corporation in the process of renegotiating these agreements as required by the federal transfer law.
2. Conduct an orderly transition from federal to state ownership for all personnel matters and ensure that all of the specified requirements from the federal transfer legislation are properly met;
3. Assistance with insurance and risk management needs.

1 Full Time Position	60.0
Travel	15.0
Contractual	105.0
45.0 actuarial analysis by Mercer Inc.	
60.0 liaison work and staff assistance with pre-transfer audit	
Supplies	2.4

RSA: Department of Natural Resources 170.1

1. Most of the funds will continue the Division of Technical Services work for the preparation of conveyance documents and related title work. Two positions are currently engaged in this activity (funded from the Transfer's FY 84 capital appropriation) and a third technical assistant will be added under this request.
2. Work with the Bureau of Land Management's cadastral survey work;
3. Assistance from the Division of Land and Water Management to implement the railroad transfer.

Four positions	148.0
Two existing technical assistants	

One new technical assistant
 One non-permanent position in Land and Water
 Management

Travel	12.6
Contractual	6.5
Appraisals, printing	
Supplies	3.0

RSA: Department of Law 500.0

1. Legal work pertaining to the 3(e) (ANCSA) claims against railroad property by village corporations;
2. Legal assistance for the preparation of transfer documents and attention to related land conveyance problems and personal property;
3. Preparation of personnel-related legal documents in concert with the U.S. Office of Personnel Management;
4. Timely response to various court actions by third parties because of the transfer;
5. Representation of the state vis-a-vis the Interstate Commerce Commission to obtain certification and to initiate filings for rate-making purposes;
6. Additional expenses encountered with the actual establishment of the corporation.

Staff Attorneys	180.0
65% of two attorneys clerical and associated costs	
Travel	20.0
Contractual	300.0
Wickwire Lewis -	150.0
David Walsh -	75.0
David Rogers -	75.0

OTHER CONTRACTUAL EXPENSES

ICC Rate Valuation/Capital Plan Activity 255.0

1. Initiation of planning work necessary to file the appropriate valuation studies before the ICC for purposes of rate-making justification;
2. Ongoing capital planning effort to better assist the corporation in making investment decisions and provide additional support for the ICC filings;

3. Disassembling the current accounting system, restructure all cost center allocations accordingly and appraise the value of the railroad as a going concern;

These funds will enable the consulting assistance with financial and operational railroad experts familiar with similar types of railroads and Class I ICC rate-making procedures. The federal legislation gives the state a two year hiatus before these filings must be made, however, it is important these efforts begin as soon as possible given the complexity of the project. Responsibility for this task will be transferred to the corporation as soon as is possible.

Labor Relations Expertise 50.0

The contractual dollars will enable the Commerce Department to contract or RSA the monies to another state agency for expertise in the field of labor relations.

Personnel Records 30.0

Enable the department to provide for the orderly transfer of personnel records and assure orderly cataloguing and storage of archival records at the railroad at Sand Point, Washington and at Washington, D.C.

Labor Relations Agency 35.0

Required by the legislation, budget provides 7.0 in travel and per diem and 28.0 in contractual services for labor relations attorneys and specialists. This cost estimate is based on actual experience of the existing Labor Relations Agency and reflects performing activity for nine months.

The agency is in response to concerns raised in the House and Senate Transportation Committees who wished to keep railroad employees as separate from normal state systems.

OSHA Compliance 50.0

Legislation authorizes a two-year period from date of transfer to develop OSHA compliance plans. The requested funds will complement the 213.0 RSA'd to the Department of Labor for the inspections and preparation of the OSHA compliance plan.

Building Code Activity 200.0

In addition to OSHA compliance, the railroad's property must meet the building code. The 200.0 will fund the necessary assistance in preparing the building code compliance plan for the over 100 separate facilities in five major locations.

Transfer Financial Audit

200.0

Required by legislation.

Governor's Special Report

200.0

State legislation requires the Governor prepare a long-range report on the railroad. These funds would be RSA'd to the Office of the Governor.

Attachment B

Back-up for FY85
Funding Request for
Working Capital Fund

United States Railway Association

VALUATION

OF THE

ALASKA RAILROAD

September 1983

(4) Additional Administrative Expense. USRA has assumed that, as a result of the loss of certain administrative support currently provided by various Federal agencies, the Railroad will incur an additional annual expense of \$108,000 representing three person years to handle this work.

(5) Tort Claims. Currently, all tort settlements or awards in excess of \$2,500 are paid by the Federal treasury. After transfer, these will all be the responsibility of the Railroad. Over the four-year period 1980-83, the Federal treasury paid a total of \$288,000, an average of \$72,000 a year. From this experience, USRA assumed an additional average cost of \$75,000 per year.

* (6) Working Capital. As with all businesses, the Railroad will require working capital. USRA assumed that none of the revolving fund will be transferred to the State because pre-conveyance claims and contingent liabilities that must be paid are likely to consume the entire fund. After reviewing the working capital requirements of other railroads, it was USRA's judgment that one month's worth of operating expenses would be adequate working capital for the Alaska Railroad. This amounts to approximately \$4.4 million in the first year, varying over the forecast period as operating expenses vary.

(7) Lack of Access to Federal Surplus Equipment. After transfer, the Railroad's access to excess Federal equipment will be greatly diminished. In our judgment, this should not increase the Railroad's costs.

Table 3

ALASKA RAILROAD ADJUSTED CASH FLOW FORECAST FOR RAIL OPERATIONS
1984-1993
(\$ IN 000)
CONSTANT 1983 \$

ITEM	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993
RR FORECAST REV. *	56746	64106	65446	67806	70186	72656	72656	72656	72656	72656
RR FORECAST EXP.	46590	50130	50790	51390	51990	52610	52610	52610	52610	52610
NET CASH	10156	13976	14656	16416	18196	20046	20046	20046	20046	20046
ADJUST RR FORECAST										
EXPORT COAL	0	-1750	-250	0	0	0	0	0	0	0
PRODUCTIVITY	-580	-624	-632	-639	-647	-654	-654	-654	-654	-654
MOW ADJUSTMENT	-1220	-810	-850	-870	-1010	-1050	-1150	-1110	-1270	-1440
CAPITAL EXPENDED	-12000	-12000	-12000	-12000	-12000	-12000	-12000	-12000	-12000	-12000
ADJ. RR FORECAST	-3644	-1208	924	2907	4539	6342	6242	6282	6122	5952
STARTUP COSTS										
PENSIONS	-4514	-4316	-4145	-3967	-3821	-3675	-3524	-3377	-3225	-3079
CODE CONFORMITY	-1500	-1500	-1500	-1500	-1500	-1500	-1500	-1500	-1500	-1500
ADD'L LEGAL FEES	-600	-600	-600	-600	-600	-600	-600	-600	-600	-600
OSHA	-500	-500	-500	-500	-500	0	0	0	0	0
TORT CLAIMS	-75	-75	-75	-75	-75	-75	-75	-75	-75	-75
OTHER EXPENSES	-108	-108	-108	-108	-108	-108	-108	-108	-108	-108
WORKING CAPITAL	-4377	-95	-168	-57	-49	-42	4	16	-1	-2
ONE TIME STARTUP	-1750	0	0	0	0	0	0	0	0	0
TOTAL STARTUP	-13424	-7194	-7096	-6807	-6653	-6000	-5803	-5644	-5509	-5364
ADJUSTED CASH	-17068	-8402	-6172	-3900	-2114	342	439	636	613	588

* DOES NOT INCLUDE REAL ESTATE LEASES, DOES INCLUDE MISCELLANEOUS LEASES SUCH AS WIRE AND PIPE EASEMENTS OF \$296. REAL ESTATE LEASES ARE TREATED SEPERATELY.

*ARR FY 83 Operating Expenses were \$53 million ÷ 12 months = \$4.4 million; Inflated to 1985 dollars by use of an annual 6% rate = \$4.9 million

ARTA Provisions
re: Transfer of
Revolving Fund

14, 1983

PUBLIC LAW 97-468—JAN. 14, 1983

96 STAT. 2557

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TRANSFER

aska Railroad Transfer

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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. 1653)) 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)).

SEC. 60.
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ALASKA RAILROAD TRANSFER REPORT

*more explanation of Revolving
Fund treatment under ARTA*



PREPARED BY:

THE STATE OF ALASKA

AND

THE UNITED STATES

DEPARTMENT OF TRANSPORTATION

JULY 14, 1983

under Section 605(b) of ARTA shall be submitted to the Commissioner of Transportation and Public Facilities for approval before the railroad undertakes the proposed action or incurs any obligation to do so.

* Sec. 3. Revolving Fund. On the date of transfer the Secretary will pay to the State any moneys in the Alaska Railroad Revolving Fund except:

(a) any unobligated funds appropriated from general tax revenues; and

(b) an amount demonstrated by the Secretary to be needed to pay liabilities arising from Alaska Railroad operations that would have been paid from the Revolving Fund during the period of Federal ownership and that remain obligations of the United States after the date of transfer.

This Report does not attempt to estimate the amount in the Revolving Fund which the State will receive upon transfer. The Revolving Fund balance is subject to fluctuation and the amounts needed to be withheld, if any, cannot be determined at this early date in the transfer process. The parties accept that there will be additions to and deletions from the Revolving Fund due to normal operations following the date of this Report. The State will receive the Alaska Railroad's monthly financial statement which reports the status of the Revolving Fund. The Secretary will notify the State as soon as estimates of amounts likely to be withheld can reliably be made and of changes in such estimates as they may be made.

While both appropriated funds and railroad revenues are deposited into one Revolving Fund account, historically all appropriated funds have been obligated for capital improvements to the railroad, not for operating subsidies. Congress appropriated \$6.1 million in FY 1982 and \$7.6 million in FY 1983 for a total of \$13.7 million. Of this amount, \$12.7 million has been obligated for capital improvements and major maintenance. The remaining \$1 million in appropriated funds has been obligated to pay for ARTA implementation and transition expenses. It is not anticipated that any funds will be appropriated to the Alaska Railroad Revolving Fund for FY 1984.

The Department will withhold an amount from the Revolving Fund to satisfy known obligations as of the date of transfer, including:

- (a) accrued annual leave of non-transferring employees;
- (b) accrued turn-around leave of non-transferring employees; and
- (c) accrued relocation travel for non-transferring employees.

The parties acknowledge that other obligations may become known prior to the date of transfer for which withholdings may be necessary and will amend this Report to reflect any such additional obligations. The amount withheld will be reasonably sufficient to cover the obligations and any excess

643-

amount remaining upon satisfaction of the obligations will be paid to the State-owned railroad.

The Department also will withhold amounts reasonably sufficient to satisfy various contingent liabilities unless the State agrees to indemnify the United States for any such liabilities, up to the amount in the Revolving Fund transferred to the State. In the event funds are so withheld, the Department will pay to the State any amount in excess of any amount actually required to satisfy such contingent obligations following their determination and satisfaction.

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the rights and
for discontinued

(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

Original sponsors: Hayes, Ringstad,
Shultz, et al

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 512 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 CHAPTER 40. ALASKA RAILROAD CORPORATION.

7 ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

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

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

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

28 (2) one member of the board shall be or have been an execu-
29 tive official of a United States railroad and shall be selected in

1 accordance with any requirements imposed under 49 U.S.C. (Interstate
2 Commerce Act); a person who is not a resident of the state may be ap-
3 pointed under this paragraph;

4 (3) at least one member shall be from each judicial dis-
5 trict directly served by the Alaska Railroad;

6 (4) two members shall have at least five years experience
7 as owners or managers of a business in the state.

8 (b) Except for the commissioners, the members of the board shall
9 be confirmed by a majority of the members of the legislature in joint
10 session. A member appointed by the governor has the full powers and
11 responsibilities of a confirmed board member until the member is
12 rejected by the legislature or the legislature adjourns without con-
13 firming the member.

14 Sec. 42.40.030. TERM OF OFFICE. Except for the commissioner of
15 commerce and economic development and the commissioner of transporta-
16 tion and public facilities, members of the board serve for staggered
17 terms of five years each at the pleasure of the governor.

18 Sec. 42.40.040. VACANCIES. (a) Except for the commissioner of
19 commerce and economic development and the commissioner of transporta-
20 tion and public facilities, a vacancy on the board is filled by ap-
21 pointment by the governor, and the appointment must be confirmed by
22 the members of the legislature in joint session. A member appointed
23 to fill a vacancy holds office for the balance of the term for which
24 the member's predecessor was appointed.

25 (b) A vacancy on the board does not impair the authority of a
26 quorum of members to exercise the powers and perform the duties of the
27 board.

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

1 maintain that service;

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

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

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

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

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

16 Sec. 42.40.110. EXECUTIVE OFFICERS. (a) The board shall ap-
17 point the chief executive officer of the corporation who serves at the
18 pleasure of the board. The board shall fix compensation for the chief
19 executive officer.

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

24 Sec. 42.40.120. DELEGATION. (a) The board shall by rule dele-
25 gate to the chief executive officer powers and duties necessary or
26 appropriate for the management of the daily affairs and operations of
27 the corporation. The board may by rule require the exercise of a
28 delegated power or duty to be subject to board approval.

29 (b) Within 60 days after its first meeting, the board shall

1 delegate the following activities of the corporation to the chief
2 executive officer or other executive officers designated by the board:

3 (1) leasing subject to AS 42.40.285 and 42.40.350(b) and
4 (d), granting easements in, issuing permits for the use of, or convey-
5 ing other interests in property that do not constitute a transfer of
6 the corporation's entire interest in land;

7 (2) establishing specific rates, tariffs, divisions, and
8 contract rate agreements;

9 (3) making routine changes in service levels;

10 (4) establishing procurement and accounting procedures for
11 the corporation; and

12 (5) performing procurement activities.

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

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

16 (2) mortgaging or pledging corporation assets;

17 (3) donating property or other assets belonging to the
18 corporation;

19 (4) acting as a surety or guarantor;

20 (5) adopting a long-range capital improvement and program
21 plan;

22 (6) adopting annual reports;

23 (7) effecting general, comprehensive increases and de-
24 creases in rates;

25 (8) expanding or reducing services in a major way;

26 (9) expanding the main or branch rail lines including spur,
27 industrial, team, switching or side tracks, other than performing
28 routine track alignment as necessary to maintain service levels;

29 (10) selecting independent auditors and accountants;

- 1 (11) entering into collective bargaining agreements; and
2 (12) adopting annual budgets;
3 (13) beginning a capital project with an estimated comple-
4 tion cost of more than \$500,000 or an estimated completion time of
5 more than one year;
6 (14) exchanging, donating, selling, or otherwise conveying
7 its entire interest in land after approval by the legislature.

8 ARTICLE 3. ADMINISTRATIVE PROVISIONS.

9 Sec. 42.40.150. MEETINGS OF THE BOARD. (a) The chairman of the
10 board shall call meetings of the board at least once every three
11 months. The chairman or a majority of the members of the board may
12 call other meetings of the board as necessary. The chairman shall
13 preside at meetings.

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

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

18 Sec. 42.40.160. QUORUM AND VOTING. (a) Four voting members of
19 the board constitutes a quorum for the transaction of business.

20 (b) Four affirmative votes are required for board action. The
21 board shall provide by rule for the manner of voting, except that the
22 board may not provide for voting by proxy. The rules may provide for
23 voting and conferring by telecommunication devices.

24 Sec. 42.40.170. EXECUTIVE SESSIONS. (a) The question of hold-
25 ing an executive session shall be determined in accordance with
26 AS 42.40.160. A subject may not be considered at an executive session
27 unless it is mentioned in the motion calling for the executive session
28 or is auxiliary to a subject mentioned. An action may not be taken at
29 an executive session.

1 (b) Only the following subjects may be discussed in an executive
2 session:

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

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

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

10 (4) matters pertaining to personnel;

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

12 (6) land acquisition or disposal; and

13 (7) proprietary or other information of a type treated as
14 confidential under the standards and practices of the United States
15 Interstate Commerce Commission, including practices that protect
16 information associated with specific shippers, divisions, and contract
17 rate agreements.

18 Sec. 42.40.180. RULES. (a) The board shall adopt rules to
19 carry out its functions and the purposes of this chapter, including
20 rules to safeguard property owned, managed, or transported by the
21 corporation and to protect employees and persons using the corpora-
22 tion's property or services. At least 15 days before the adoption of
23 a rule, the board shall give public notice of the proposed action by
24 publishing a notice in at least three newspapers of general circula-
25 tion in the state and by mailing a copy of the notice to each person
26 who has requested notice of proposed changes to rules. The notice
27 must state the time, place, and nature of the proceedings and must
28 contain a summary of the subject of the proposed rule.

29 (b) On the date and at the time and place designated in the

1 notice required under (a) of this section the board shall provide each
2 interested person an opportunity to present statements in writing
3 concerning the proposed rule and shall give members of the public an
4 opportunity to present oral statements for a total period of at least
5 one hour.

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

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

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

23 (b) An action taken under this section remains in effect for not
24 more than 120 days. To prevent an emergency rule from lapsing the
25 board may adopt the same rule under AS 42.40.180 before the end of the
26 120-day period.

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

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

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

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

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

11 (1) relates only to the internal management of the corpo-
12 ration;

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

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

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

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

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

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

29 (b) The corporation may by rule designate and withhold public

1 disclosure of matters of a privileged or proprietary nature. Those
2 matters include personnel records, communications with and work pro-
3 duct of legal counsel, and, consistent with the standards and prac-
4 tices of the United States Interstate Commerce Commission for the
5 protection of these matters, other information including proprietary
6 information associated with specific shippers, divisions and contract
7 rate agreements.

8 Sec. 42.4¹ 230. CONFLICTS OF INTEREST. (a) Except as provided
9 in this section, a board member or executive officer of the corpora-
10 tion may not participate in a decision of the corporation in which
11 that person or a member of that person's immediate family has a direct
12 or indirect financial interest unless the financial interest is a
13 remote financial interest and participation is approved under (b) of
14 this section.

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

26 (c) A board member or executive officer is not considered to be
27 financially interested in a decision when the decision could not
28 affect that person in a manner different from its effect on the pub-
29 lic.

1 (d) Within 120 days of the first meeting of the board, the board
2 shall adopt and may subsequently amend rules implementing this sec-
3 tion, providing additional conflict of interest and ethical rules it
4 considers appropriate.

5 (e) The board may recommend to the governor the removal of a
6 board member or executive officer who intentionally violates this
7 section or a rule adopted under this section.

8 (f) For purposes of this section

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

11 (2) "immediate family" means

12 (A) spouse;

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

15 ARTICLE 4. POWERS AND DUTIES.

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

18 (1) adopt a seal;

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

20 (3) sue and be sued;

21 (4) appoint trustees and agents of the corporation and
22 prescribe their powers and duties;

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

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

26 (7) acquire by purchase, lease, bequest, devise, gift,
27 exchange, the satisfaction of debts, the foreclosure of mortgages, or
28 otherwise, personal property, rights, rights-of-way, franchises,
29 easements, and other interests in land, and acquire by appropriation

1 water rights that are located in the state, taking title to the prop-
2 erty in the name of the corporation;

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

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

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

18 (11) recommend to the legislature and the governor any tax,
19 financing, or financial arrangement the corporation considers appro-
20 priate for expansion or extension and operation of the Alaska Rail-
21 road;

22 (12) maintain offices and facilities at places it desig-
23 nates;

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

29 (14) prescribe rates to be charged for services provided by

1 the Alaska Railroad consistent with 45 U.S.C. 1201 - 1214 (Alaska
2 Railroad Transfer Act of 1982);

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

5 (16) enter into contracts, leases, and other agreements
6 with connecting carriers, shippers, and other persons concerning the
7 services, activities, operations, property, and facilities of the
8 corporation, including agreements that contain provisions to preserve
9 and expand the railroad's traffic base;

10 (17) plan for and undertake expansion of the railroad and
11 railroad activities, including extension of the rail system, and
12 contract with other modes of transportation service connecting to the
13 rail system;

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

16 (19) assume all rights, liabilities, and obligations of the
17 Alaska Railroad in accordance with 45 U.S.C. 1201 - 1214 (Alaska
18 Railroad Transfer Act of 1982);

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

23 (21) issue its bonds upon approval of the legislature and
24 provide for and secure their payment, provide for the rights of their
25 holders and hold or dispose of them;

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

28 (23) cancel bonds of the corporation purchased by the corpo-
29 ration;

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

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

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

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

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

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

25 (30) do all things necessary or desirable to carry out the
26 powers and duties of the corporation granted or necessarily implied in
27 this chapter or other laws of the state or the laws or regulations of
28 the federal government.

29 Sec. 42.40.260. ANNUAL REPORT. (a) Within 90 days following

1 the end of the fiscal year of the Alaska Railroad the board shall
2 distribute to the governor and to the legislature a report describing
3 the operations and financial condition of the corporation during the
4 preceding fiscal year. The report may include suggestions for legis-
5 lation relating to the structure, powers or duties of the corporation
6 or to the operation or facilities of the corporation. Subject to
7 AS 42.40.220, the report shall itemize the cost of providing each
8 category of service offered by the railroad and the income generated
9 by each category.

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

15 Sec. 42.40.270. AUDITS. (a) The board shall have the financial
16 records of the corporation audited annually by an independent certi-
17 fied public accountant experienced in railroad accounting. The board
18 shall have an annual performance audit conducted by a recognized
19 railroad management expert to assure that the railroad is being
20 managed and operated effectively and efficiently in accordance with
21 the requirements of this chapter and that each appropriation is used
22 to directly support those services for which the appropriation was
23 requested. Auditors shall use the standards required under AS 42.-
24 40.100(9) and determine whether each appropriation is used in accor-
25 dance with United States Interstate Commerce Commission standards for
26 determining rail services continuation subsidies if appropriate.

27 (b) The corporation shall make all of its financial records
28 available to an auditor appointed by the governor and to the legisla-
29 tive audit division for examination. Disclosure to the public by the

1 auditor or legislative audit division of this information is subject
2 to AS 42.40.220 and rules implementing that section.

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

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

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

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

15 (1) its financial impact on the corporation;

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

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

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

22 (5) if the undertaking requires an appropriation to be used
23 for providing a service that is not self-sustaining, that the amount
24 of the appropriation has been strictly calculated in accordance with
25 United States Interstate Commerce Commission standards for determining
26 rail services continuation subsidies.

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

29 (1) exchange, donate, sell, or otherwise convey its entire

1 interest in land;

2 (2) issue bonds;

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

5 (4) lease land for a period in excess of 35 years unless
6 the corporation reserves the right to terminate the lease if the land
7 is needed for railroad purposes.

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

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

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

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

27 Sec. 42.40.310. INDEMNIFICATION. (a) The corporation may
28 defend and indemnify a current or former member of the board, em-
29 ployee, or agent of the corporation against all costs, expenses,

1 judgments, and liabilities, including attorney's fees, incurred by or
2 imposed upon that person in connection with a civil or criminal action
3 in which the person is involved by affiliation with the corporation,
4 if the person acted in good faith on behalf of the corporation and
5 within the scope of official duties or powers.

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

15 ARTICLE 5. CORPORATION PROPERTY.

16 Sec. 42.40.350. LAND. (a) The corporation shall receive from
17 the United States and, in its own name, take title to all rail proper-
18 ty transferred under 45 U.S.C. 1201 - 1214 (Alaska Transfer Act of
19 1982). All land that is transferred or acquired by the corporation is
20 designated as follows:

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

23 (b) Railroad utility corridors shall be of a width at least 100
24 feet on both sides of the centerline of the extended main or branch
25 line, unless the corporation does not own or control sufficient land
26 to allow a corridor of that width. Railroad utility corridors may be
27 surveyed by the metes and bounds method. The corporation may not
28 convey its entire interest in land within a utility corridor except as
29 provided in AS 42.40.285, 42.40.370(d) and 42.40.400. However, the

520-84
5/23/84
14

SENATE AMENDMENT

By FERGUSON

To: _____ SENATE BILL No. _____

To: amend _____ SCS for HOUSE BILL No. 512(Fin)

PAGE: 21 LINE: 17

Insert a new subsection to read:

(e) Notwithstanding any other provision of this chapter, the state-owned railroad as defined under 45U.S.C.1002(14) may not apply for a right-of-way or exercise eminent domain across the Western(Kobuk River) unit of the Gates of the Arctic National Preserve under 16U.S.C410hh(4)(b)-(4)(b)-(e).

1 corporation may lease, subject to AS 42.40.285 and (d) of this sec-
2 tion, grant easements in or permits for, or otherwise authorize use of
3 portions of a utility corridor for transportation, communication, and
4 transmission purposes and support functions associated with those
5 purposes, and for commercial and other uses authorized under this
6 chapter if the use does not restrict other parallel uses of the utili-
7 ty corridor.

8 (c) The corporation may lease, subject to AS 42.40.285 and (d)
9 of this section, grant easements or permits for, or otherwise author-
10 ize use of portions of rail land. However, the corporation may not
11 convey its entire interest in rail land except as provided in AS 42.-
12 40.285, 42.40.370(d) and 42.40.400.

13 (d) A lease or disposal of land approved by the legislature
14 under AS 42.40.225 by the corporation to a party other than the state
15 shall be made at fair market value as determined by a qualified ap-
16 praiser or by competitive bid.

17 *Ferguson* (e) *Insert*
Adopted Sec. 42.40.360. REQUEST FOR LAND. (a) The board may nominate
18 federal land it determines may be useful for present or future rail-
19 road purposes for selection under the Alaska Statehood Act (P.L. 85 -
20 508, 72 Stat. 339), as amended, and request the commissioner of natu-
21 ral resources to select the land for the state through the federal
22 land selection process.

23 (b) The board may identify and request the commissioner of
24 natural resources to convey land necessary or useful for present or
25 future railroad purposes owned by or tentatively approved for transfer
26 to the state, including land not contiguous with a railroad utility
27 corridor or rail land. The request must include a statement of and
28 justification for the present or future railroad use. Upon receipt of
29 a request, the commissioner shall temporarily reserve the land

1 identified in the request for railroad purposes and defer disposal or
2 lease of that land under other laws to a party other than the corpo-
3 ration. The temporary reservation of land is subject to valid exist-
4 ing rights and remains in effect for 180 days.

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

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

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

13 (3) approve the request in part and deny it in part and
14 convey as appropriate.

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

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

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

29 Sec. 42.40.380. USE OF STATE LAND. When emergency conditions

1 require that track or other right-of-way fixtures of the corporation
2 be moved from the existing location and relocated on state land adja-
3 cent to or in the vicinity of the existing right-of-way and the chief
4 executive officer determines that relocation is necessary to maintain
5 safe and adequate rail operations, the corporation may effect the
6 relocation and notify the the Department of Natural Resources. The
7 relocation must affect only the amount of state land necessary to
8 adequately restore or continue safe rail operations at a normal level.

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

16 Sec. 42.40.400. VACATION OF EASEMENTS. The corporation may
17 vacate an easement acquired under this chapter by executing and filing
18 a deed in the appropriate recording district. If the easement was
19 acquired by the corporation under 45 U.S.C. 1201 - 1214 (Alaska Rail-
20 road Transfer Act of 1982), the state shall acquire the easement for
21 use in conformity with those laws.

22 Sec. 42.40.410. FEDERAL LAND. The corporation may submit appli-
23 cations on its own behalf as an instrumentality of the state for
24 acquisition of federal land available under federal law that will
25 enhance the operations of the corporation if it is available under a
26 federal law other than the Alaska Statehood Act of 1958 (P.L. 85 -
27 508, 72 Stat 339), as amended. The corporation may receive in its own
28 name conveyances of all interests in federal land.

29 Sec. 42.40.420. MUNICIPAL USE OF RAILROAD LAND. Upon request by

1 a municipality the corporation may authorize use of railroad land for
2 municipal purposes. Subject to AS 42.40.350(b), the corporation may
3 authorize a municipality to establish a walkway or trail over a util-
4 ity corridor. Before authorizing a use under this section the board
5 shall require the municipality to execute an agreement in a form
6 approved by the board to

7 (1) hold the corporation harmless from and indemnify the
8 corporation for any liability and claims arising from any use autho-
9 rized under this section including

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

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

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

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

1 AS 44.71.010 - 44.71.040.

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

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

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

20 ARTICLE 6. FINANCIAL PROVISIONS.

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

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

1 bonded person.

2 Sec. 42.40.520. INSURANCE. Except as provided in AS 42.40.310-
3 (b), the corporation shall protect its assets, services, and employees
4 by purchasing insurance or providing for certain self-insurance re-
5 tentions. The corporation shall also maintain casualty, property,
6 business interruption, marine, boiler and machinery, pollution liabil-
7 ity, and other insurance in amounts reasonably calculated to cover
8 potential claims against the corporation or state for bodily injury,
9 death or disability and property damage that may arise from or be
10 related to corporation operations and activities.

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

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

19 ARTICLE 7. BONDS.

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

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

25 (1) be dated;

26 (2) bear fixed or variable interest at a specified rate or
27 rates per year or within a maximum rate;

28 (3) be in a specified denomination;

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

- 1 (5) carry conversion or registration provisions;
2 (6) have a specified rank or priority;
3 (7) be executed in the specified manner and form;
4 (8) be payable as specified from the sources, in the medium
5 of payment, and place or places inside or outside the state;
6 (9) be subject to authentication by a trustee or fiscal
7 agent; and
8 (10) be subject to terms of redemption with or without
9 premium.

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

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

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

29 Sec. 42.40.630. PAYMENT OF BONDS. The principal and interest on

1 bonds of the corporation is payable from corporation money or assets.
2 Bonds may be additionally secured by a pledge of a grant or contribu-
3 tion from the federal or state government, a municipality, a corpo-
4 ration, an association, an institution or a person, or a pledge of
5 money, income, or revenue of the corporation from any source.

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

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

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

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

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

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

29 (E) the vesting in the trustee of rights and remedies

1 exercisable by the trustee for the protection of the holders of
2 bonds of the corporation and not otherwise in violation of law
3 and the restriction of the rights of an individual holder of
4 bonds of the corporation;

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

8 (3) provide for any other matters of like or different
9 character that in any way affect the security or protection of the
10 bonds.

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

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

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

27 (b) Nothing in this section prohibits the corporation from
28 selling assets subject to a pledge, except that a sale may be re-
29 stricted by the trust agreement or resolution providing for the

1 issuance of the bonds.

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

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

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

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

27 Sec. 42.40.690. CREDIT OF STATE NOT PLEDGED. (a) The state and
28 its political subdivisions are not liable for the debts of the corpo-
29 ration. Bonds issued under this chapter are payable solely from the

1 revenue or assets of the corporation and do not constitute a

2 (1) debt, liability, or obligation of the state or of a
3 political subdivision of the state; or

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

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

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

11 (2) neither the faith and credit nor the taxing power of
12 the state or of a political subdivision of the state is pledged to the
13 payment of it.

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

18 ARTICLE 3. PERSONNEL AND LABOR RELATIONS.

19 Sec. 42.40.705. POLITICAL ACTIVITIES. (a) Money, assets, or
20 property of the corporation may not be used for political activities.
21 However, board members and employees may communicate with and appear
22 before committees of Congress, the state legislature, and municipal
23 governing bodies in connection with matters directly affecting the
24 corporation.

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

29 Sec. 42.40.710. CORPORATION EMPLOYEES. Employees of the Alaska

1 Railroad are employees of the corporation and not of the state. The
2 provisions of AS 39 do not apply to employees of the corporation.

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

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

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

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

20 Sec. 42.40.740. COLLECTIVE BARGAINING UNIT. The railroad labor
21 relations agency shall decide in each case, in order to ensure employ-
22 ees the fullest freedom in exercising the rights guaranteed by AS 42.-
23 40.710 - 42.40.890 the unit appropriate for the purposes of collective
24 bargaining, based on such factors as community of interest, wages,
25 hours and other working conditions of the employees involved, the
26 history of collective bargaining, and the desires of the employees.
27 Bargaining units shall be as large as is reasonable, and unnecessary
28 fragmenting shall be avoided.

29 Sec. 42.40.750. REPRESENTATIVES AND ELECTIONS. (a) The

1 railroad labor relations agency shall investigate a petition if it is
2 submitted in a manner prescribed by the railroad labor relations
3 agency by

4 (1) an employee or group of employees or an organization
5 acting in their behalf alleging that 30 percent of the employees of a
6 proposed bargaining unit

7 (A) want to be represented for collective bargaining
8 by a labor or employee organization as exclusive representative;
9 or

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

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

17 (b) If the railroad labor relations agency has reasonable cause
18 to believe that a question of representation exists, it shall provide
19 for a hearing upon due notice. If the railroad labor relations agency
20 finds that there is a question of representation, it shall direct an
21 election by secret ballot to determine whether or by which organiza-
22 tion the employees desire to be represented and shall certify the
23 results of the election. Nothing in this subsection prohibits the
24 waiving of hearings by stipulation for the purpose of a consent elec-
25 tion in conformity with the regulations of the railroad labor rela-
26 tions agency or an election in a bargaining unit agreed upon by the
27 parties.

28 (c) The railroad labor relations agency shall determine who is
29 eligible to vote in an election held under this section and shall

1 establish rules governing the election. In an election in which none
2 of the choices on the ballot receives a majority of the votes cast, a
3 runoff election shall be conducted, the ballot providing for selection
4 between the two choices receiving the largest number of valid votes
5 cast in the election. If an organization receives the majority of the
6 votes cast in the election it shall be certified by the railroad labor
7 relations agency as exclusive representative of all the employees in
8 the bargaining unit. An election may not be held in a bargaining unit
9 or in a subdivision of a bargaining unit if a valid election has been
10 held within the preceding 12 months.

11 (d) Nothing in this chapter prohibits recognition of an orga-
12 nization as the exclusive representative by the corporation by mutual
13 consent.

14 (e) An election may not be directed by the railroad labor rela-
15 tions agency in a bargaining unit in which there is in force a valid
16 collective bargaining agreement, except during a 90-day period preced-
17 ing the expiration date. However, a collective bargaining agreement
18 may not bar an election upon petition of employees in the bargaining
19 unit if

20 (1) the petitioners are not parties to the agreement; and
21 (2) more than three years have elapsed since the execution
22 of the agreement or its last timely renewal, whichever was later.

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

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

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

29 (3) discriminate in regard to hire or tenure of employment

1 or a term or condition of employment to encourage or discourage mem-
2 bership in an organization;

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

6 (5) refuse to bargain collectively in good faith with an
7 organization that is the exclusive representative of employees in an
8 appropriate unit, including the discussing of grievances with the
9 exclusive representative.

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

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

16 (2) payment by the employee to the exclusive bargaining
17 agent of a service fee to reimburse the exclusive bargaining agency
18 for the expense of representing the members of the bargaining unit.

19 (c) An organization or its agents may not

20 (1) restrain or coerce

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

23 (B) the corporation in the selection of a representa-
24 tive for the purposes of collective bargaining or the adjustment
25 of grievances;

26 (2) refuse to bargain collectively in good faith with the
27 corporation, if it has been designated in accordance with AS 42.40.-
28 710 - 42.40.890 as the exclusive representative of employees in an
29 appropriate unit.

1 Sec. 42.40.770. INVESTIGATION AND CONCILIATION OF COMPLAINTS.

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

12 Sec. 42.40.780. COMPLAINT AND ACCUSATION. If the railroad labor
13 relations agency fails to eliminate the prohibited practice by concil-
14 iation and to obtain voluntary compliance with AS 42.40.710 - 42.40.-
15 890 or before it attempts conciliation, it may serve a copy of the
16 complaint or accusation upon the respondent. The complaint or accusa-
17 tion and the subsequent procedures shall be handled in accordance with
18 the administrative adjudication portion of the Administrative Proce-
19 dure Act (AS 44.62).

20 Sec. 42.40.790. ORDERS AND DECISIONS. If the railroad labor
21 relations agency finds that a person named in the written complaint or
22 accusation has engaged in a prohibited practice, the railroad labor
23 relations agency shall issue and serve on the person an order or
24 decision requiring the person to cease and desist from the prohibited
25 practice and to take affirmative action that will carry out the pro-
26 visions of AS 42.40.710 - 42.40.890. If the railroad labor relations
27 agency finds that a person named in the complaint or accusation has
28 not engaged or is not engaging in a prohibited practice, the railroad
29 labor relations agency shall state its findings of fact and issue an

1 order dismissing the complaint or accusation.

2 Sec. 42.40.800. ENFORCEMENT BY INJUNCTION. The railroad labor
3 relations agency may apply to the superior court in the judicial
4 district in which the prohibited practice occurred for an order en-
5 joining the prohibited acts specified in the order or decision of the
6 railroad labor relations agency. Upon showing by the railroad labor
7 relations agency that the person has engaged or is about to engage in
8 the practice, an injunction, restraining order, or other order that is
9 appropriate may be granted by the court and shall be without bond.

10 Sec. 42.40.810. POWER TO INVESTIGATE AND COMPEL TESTIMONY. (a)
11 For the purpose of the investigations, proceedings, or hearings that
12 the railroad labor relations agency considers necessary to carry out
13 AS 42.40.710 - 42.40.890, the railroad labor relations agency may
14 issue subpoenas requiring the attendance and testimony of witnesses
15 and the production of relevant evidence.

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

18 (c) The attendance of witnesses and the production of evidence
19 may be required from any place in the state at any designated place of
20 hearing.

21 (d) If a person refuses to obey a subpoena issued under AS 42.-
22 40.710 - 42.40.890, the superior court in the district in which the
23 person resides or is found may, upon application by the railroad labor
24 relations agency, issue an order requiring the person to comply with
25 the subpoena.

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

29 Sec. 42.40.830. PENALTY FOR VIOLATION OF ORDER OR DECISION. A

1 person who violates a provision of an order or decision of the rail-
2 road labor relations agency is guilty of a misdemeanor and is punish-
3 able by a fine of not more than \$500.

4 Sec. 42.40.840. MEDIATION. (a) If, after a reasonable period
5 of negotiation over the terms of a collective bargaining agreement, an
6 impasse as determined by the railroad labor relations agency exists
7 between the corporation and an organization, the railroad labor re-
8 lations agency shall appoint a person mutually agreeable to the
9 parties from a list of seven qualified mediators or arbitrators knowl-
10 edgeable in railway labor agreements to act as mediator in the dis-
11 pute.

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

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

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

24 (b) The corporation may apply to the superior court in the
25 judicial district in which the strike is occurring for an order en-
26 joining the strike. A strike may not be enjoined unless it can be
27 shown that it has begun to threaten, or is about to threaten, the
28 health, safety, or welfare of the public. A court, in deciding wheth-
29 er to enjoin the strike, shall consider the total equities in the

1 particular case, including the impact of a strike on the public and
2 the extent to which an employee organization and the corporation have
3 met their statutory obligations.

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

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

12 Sec. 42.40.860. AGREEMENTS. (a) The Department of Administra-
13 tion may participate in labor negotiations between the corporation and
14 an organization. The corporation may seek advice of the Department of
15 Administration before entering into a collective bargaining agreement
16 concerning wages, hours, and other terms and conditions of employment.
17 However, the final decision regarding collective bargaining agreements
18 shall be made by the board.

19 (b) Upon the completion of negotiations between an organization
20 and the corporation, if a settlement is reached, the corporation shall
21 reduce it to writing in the form of an agreement. The agreement shall
22 include a grievance procedure that shall have binding arbitration as
23 its final step. Either party to the agreement has a right of action
24 to enforce the agreement by petition to the railroad labor relations
25 agency.

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

28 Sec. 42.40.870. ORGANIZATION DUES AND EMPLOYEE BENEFITS, DEDUC-
29 TION AND AUTHORIZATION. Upon written authorization of an employee

1 within a bargaining unit, the corporation shall deduct from the pay-
2 roll of the employee the monthly amount of dues, fees, and other
3 employee benefits as certified by the secretary of the exclusive
4 bargaining representative and shall deliver it to the chief fiscal
5 officer of the exclusive bargaining representative.

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

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

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

28 (2) require or coerce an employee to make any report con-
29 cerning an activity or undertaking of the employee unless the activity

1 or undertaking is related to the performance of official duties;

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

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

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

9 (C) sexual matters;

10 (D) the employee's political affiliation or philoso-
11 phy;

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

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

18 (b) The provisions of (a) of this section do not diminish the
19 authority of an authorized law enforcement agency to conduct criminal
20 investigations of employees suspected of being involved in criminal
21 activity or to investigate other activity directly related to official
22 railroad business.

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

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

28 (2) "organization" means a labor or employee organization
29 of any kind in which employees participate and that exists for the

1 primary purpose of dealing with the corporation concerning grievances,
2 labor disputes, wages, rates of pay, hours of employment and condi-
3 tions of employment.

4 ARTICLE 9. GENERAL PROVISIONS.

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

9 (b) For the purposes of actionable claims, undertakings, pay-
10 ments of judgments, execution, interest, punitive damages, statutes of
11 limitations, bonds, costs, and similar matters related to the pres-
12 entation and prosecution of claims by and against the corporation, the
13 corporation and its board members and employees enjoy the same rights,
14 privileges, and immunities as the state and state officers.

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

17 (d) The corporation is not subject to the provisions of AS 44.-
18 80.010, regarding the state as a party to an action.

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

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

28 Sec. 42.40.910. EXEMPTION FROM TAXATION. (a) The exercise of
29 the powers granted by this chapter shall be in all respects for the

1 benefit of the people of the state, for their well-being and prosper-
2 ity, and for the improvement of their social and economic conditions.
3 Subject to (b) of this section, the real and personal property of the
4 corporation and its assets, income, and receipts are exempt from all
5 taxes and special assessments of the state or a political subdivision
6 of the state.

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

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

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

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

- 24 (1) AS 19;
25 (2) AS 30.15;
26 (3) AS 35;
27 (4) AS 37.05;
28 (5) AS 37.07;
29 (6) AS 37.10.010 - 37.10.060;

Technical Amendment

Page 44, line 12, after "corporation" insert:

"in consultation with the Department of Labor"

1 (7) AS 37.10.085;

2 (8) AS 37.20;

3 (9) AS 37.25;

4 (10) AS 38;

5 (11) AS 44.62.040 - 44.62.320.

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

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

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

27 Sec. 42.40.940. SALE OR LEASE OF THE RAILROAD. (a) The gover-
28 nor may provide for the sale or lease of the Alaska Railroad and
29 dissolve the corporation if

1 (1) it can be assured that the railroad will continue to
2 operate after the sale or lease; and

3 (2) under the terms of the sale or lease, the state will
4 receive the amount of money it has spent in connection with the Alaska
5 Railroad.

6 (b) A sale under this section is subject to approval by law.

7 Sec. 42.40.950. REVERSION OF ASSETS. Except as provided in
8 AS 42.40.940, if the corporation ceases to exist its assets revert to
9 the state.

10 Sec. 42.40.980. DEFINITIONS. In this chapter unless the context
11 otherwise requires,

12 (1) "board" means the board of directors of the Alaska
13 Railroad Corporation;

14 (2) "bonds" means bonds, bond anticipation notes, notes,
15 refunding bonds, or other obligations;

16 (3) "collective bargaining" means the performance of the
17 mutual obligation of the corporation or its designated representatives
18 and the representatives of the employees to meet at reasonable times,
19 including meetings in advance of the budget making process, and nego-
20 tiating in good faith with respect to wages, hours, and other terms
21 and conditions of employment, or the negotiation of an agreement, or
22 negotiation of a question arising under an agreement and the execution
23 of a written contract incorporating an agreement reached if requested
24 by either party, but these obligations do not compel either party to
25 agree to a proposal or require the making of a concession;

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

27 (5) "date of transfer" means the date on which the United
28 States Secretary of Transportation delivers the transfer documents
29 under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

1 (6) "employees" means all persons employed by the corpo-
2 ration including executive officers;

3 (7) "executive officer" means the corporation's chief
4 executive officer, assistant chief executive officer, assistant to the
5 chief executive officer, chief of administration, superintendent of
6 transportation, manager of marketing and sales, chief engineer, chief
7 mechanical officer, manager of industrial development and real estate,
8 manager of budget and accounting, manager of planning, manager of
9 personnel, manager of supply and procurement, chief of security,
10 manager of operating rules, manager of data processing, manager of
11 strategy, manager of operations planning, manager of supply, manager
12 of procurement, manager of safety, manager of administrative proce-
13 dure, chief counsel, or, if so designated by the board, any employee
14 who fulfills these management functions under a different title or who
15 exercises a similar or comparable level of responsibility or super-
16 vision;

17 (8) "land" means any interest in real property, including
18 tide and submerged land, and any right appurtenant to the interest;

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

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

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

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

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

9 * Sec. 4. AS 42.40.030 is amended to read:

10 Sec. 42.40.030. TERM OF OFFICE; REMOVAL. Except for the commis-
11 sioner of commerce and economic development and the commissioner of
12 transportation and public facilities, members of the board serve for
13 staggered terms of five years each [AT THE PLEASURE OF THE GOVERNOR].

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

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

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

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

21 (3) conviction of a felony; or

22 (4) malfeasance or misfeasance.

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

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

29 (b) The board shall adopt rules to safeguard property owned,

1 managed, or transported by the corporation and to protect employees
2 and persons using the corporation's property or services.

3 * Sec. 7. AS 42.40.205 is amended to read:

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

6 (1) relates only to the internal management of the corpo-
7 ration;

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

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

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

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

16 * Sec. 8. SPECIAL REPORTS. (a) The governor shall contract with a
17 private consultant for the preparation of a report on the long-term op-
18 erations of the Alaska Railroad that are in the best interest of the state.
19 The report shall be submitted to the governor and the legislature by
20 February 1, 1987. It shall contain specific recommendations on operational
21 alternatives and the transfer of all or part of the railroad operation to
22 the private sector.

23 (b) The corporation shall study any problems created by vibrations
24 due to operating the railroad from Ship Creek through Inlet View to the
25 Turnagain Area and extending to Potter's Marsh. The study shall include
26 consideration of any potential for problems that may be created by hauling
27 coal and larger quantities of gravel along that portion of the rail line.
28 By February 1, 1986, the corporation shall present a report to the
29 legislature on the study containing recommendations for correcting any

1 problems identified.

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

- 6 (1) one shall serve a term of two years;
- 7 (2) one shall serve a term of three years;
- 8 (3) one shall serve a term of four years; and
- 9 (4) two shall serve a term of five years.

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

18 (b) The board of directors of the Alaska Railroad Corporation shall
19 on or before the date of transfer of the Alaska Railroad to the state adopt
20 personnel rules necessary to prevent an interruption of services of the
21 railroad.

22 (c) Subject to 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
23 1982), within 180 days after the first meeting of the board of directors of
24 the Alaska Railroad Corporation, the board and representatives of employee
25 bargaining units shall establish procedures for the renegotiation of bar-
26 gaining agreements adopted under (a) of this section. The board shall
27 renegotiate all agreements adopted under (a) of this section with two years
28 after the date of transfer of the Alaska Railroad to the state unless the
29 parties agree to the contrary.

1 * Sec. 11. AS 42.40.190 and 42.40.200 are repealed.

2 * Sec. 12. Sections 3 - 7 and 11 of this Act take effect on the effec-
3 tive date of an amendment to the Constitution of the State of Alaska relat-
4 ing to the Alaska Railroad.

5 * Sec. 13. Sections 1, 2, and 8 - 10 of this Act take effect imme-
6 diately in accordance with AS 01.10.070(c).
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STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

*Original
accompanied
Committee
Budget
5/28/84*

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 512
Title: Alaska Railroad Corp.
Sponsor: Hayes, et al.
Requestor: Conference Cmttee.
Date of Request: 5/28/84

FISCAL DETAIL

Agency Affected: Commerce
Program Category Affected: Alaska Railroad Corporation
BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		2372.2				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS		37350.0				
TOTAL OPERATING		39722.2				
CAPITAL						
REVENUE		37350.0				

FUNDING: (Thousands of Dollars)

GENERAL FUND		2372.2				
FEDERAL FUNDS						
OTHER		37350.0				
TOTAL		39722.2				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Alaska Railroad Corporation revenues are the funding source for everything but the contractual line item, which is funded with general funds.

ANALYSIS: Attach a separate page for analysis

Prepared By: John Sackett, Chair Phone: 465-3753
Division: Senate Finance Committee Date: _____

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 5/22/84

REQUEST SCS CSHB FISCAL DETAIL Alaska Railroad
 Bill/Resolution No.: 512 (Finance) Agency Affected: Corporation
 Title: Alaska Railroad Corporation Program Category Affected:
 Sponsor: Hayes, Ringstad, Shultz BRU, Program or Subprogram(s) Affected:
 Requestor: Alaska Railroad Corporation
 Date of Request:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL		14,250.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		14,250.0				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Capital Projects to be funded from this appropriation are detailed in Attachment A.

ANALYSIS: Attach a separate page for analysis

Prepared By: *John C. Shultz* Phone:
 Division: Senate Finance Committee Date: 5/22/84

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Alaska Railroad
FY 85 Capital Budget Request

<u>Track and Roadbed</u>	6185.0
Ties - Install 50,000 @ \$42 each	2100.0
Rail - Install 6 miles @\$350,000 each	2100.0
Ballast - Install 85,000 yd ³ @14 yd ³	1190.0
Other - Turnouts, sledding, culverts, ditching	795.0
<u>Bridges</u>	883.0
Replace stringers, bents and spans	
Reset bearings, piles and abutments	
<u>Tunnels</u>	1060.2
Line with multi-plate	
Excavate rock fall areas	
<u>Docks</u>	706.8
Preliminary work to rebuild barge slip #1 at Whittier	
<u>Communications</u>	570.0
Complete microwave system	
Remove pole lines	
Acquire equipment	
<u>Motive Power and Equipment</u>	4845.0
Locomotives	2250.0
Upgrade facilities	1845.0
Equipment	750.0
	14,250.0

The above is based on the December, 1983 ARR Acquisition Assessment.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 5/22/84

REQUEST SCS CSHB
Bill/Resolution No.: 512 (Finance)
Title: Alaska Railroad Corporation

FISCAL DETAIL Alaska Railroad
Agency Affected: Corporation
Program Category Affected:

Sponsor: Hayes, Ringstad, Shultz
Requestor:
Date of Request:

BRU, Program or Subprogram(s) Affected:
Alaska Railroad Corporation

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL		14,250.0				
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		14,250.0				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Capital Projects to be funded from this appropriation are detailed in Attachment A.

ANALYSIS: Attach a separate page for analysis

Prepared By: Mark C. Schultz
Division: Senate Finance Committee

Phone: _____
Date: 5/22/84

Approved by Commissioner: _____
Agency: _____

Date: _____

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

ATTACHMENT A

Alaska Railroad
FY 85 Capital Budget Request

<u>Track and Roadbed</u>	6185.0
Ties - Install 50,000 @ \$42 each	2100.0
Rail - Install 6 miles @\$350,000 each	2100.0
Ballast - Install 85,000 yd ³ @14 yd ³	1190.0
Other - Turnouts, sledding, culverts, ditching	795.0
<u>Bridges</u>	883.0
Replace stringers, bents and spans	
Reset bearings, piles and abutments	
<u>Tunnels</u>	1060.2
Line with multi-plate	
Excavate rock fall areas	
<u>Docks</u>	706.8
Preliminary work to rebuild barge slip #1 at Whittier	
<u>Communications</u>	570.0
Complete microwave system	
Remove pole lines	
Acquire equipment	
<u>Motive Power and Equipment</u>	4845.0
Locomotives	2250.0
Upgrade facilities	1845.0
Equipment	750.0
	14,250.0

The above is based on the December, 1983 ARR Acquisition Assessment.

37C-84
by Fischer 5/23/84

Failed

SCS CSHB 512 (Fin)

Amend board of directors to include union official.

page 3, line 22

After "commissioners" add "and the member appointed under (5) of this section"

page 4, line 8

Add a section (5): "one member shall be an employee who is a member of a bargaining unit representing employees of the corporation."

3FC-84

5/23/84

Jim Josephson

Suggested Letter of Intent Language

#1



It is the policy of the State that the Alaska Railroad should be operated in a business like manner so as to foster the development of a strong and financially sound system of Interstate Commerce. Accordingly, although the Railroad may use public resources or the benefits of its public status to extend its lines or to provide passenger service, it ~~may not use these resources or benefits~~ ^{should} to compete unfairly with privately owned carriers.

The Alaska Public Utility Commission will not have jurisdiction to regulate the Railroad's rates, because that would be inconsistent with federal law. For example, the Railroad will not file tariffs with the Public Utility Commission, nor may the Public Utility Commission investigate or suspend the Railroad's rates. However, subsection (c)(1) directs the managers of the state-owned Railroad, as a matter of the State's public policy for managing the State's Railroad, to price the Railroad's services in accordance with the principle that rates should be just, reasonable, and nondiscriminatory under the standards used by the Public Utility Commission. Thus subsection (c)(1) is a self-imposed limitation by the State on the management discretion of the state-owned Railroad to propose and file rates. It incorporates the Public Utility Commission's principles of fairness by reference and applies them by analogy, but it does not interfere with the jurisdiction of the Interstate Commerce Commission to review rates filed by the Railroad.

Subsection (c)(2) prevents the Railroad from utilizing the public benefits of direct or indirect subsidy (such as ability to issue tax-exempt bonds and freedom from taxation and license and permit fees) to undercut rates established in the competitive marketplace. This section only prohibits the Railroad from using its subsidy to undercut the rates of the private carriers for comparable service. If the Railroad can price below the privately owned carriers and still earn a profit, it is certainly permitted to do this.

Proposed Amendments to SCS CSHB 512 (Trsp)

Add a new Subsection (c) to Section 1, as follows:

(c) It is the policy of the State of Alaska that the Alaska Railroad:

- (1) shall establish just, reasonable, and nondiscriminatory rates and practices consistent with the principles and standards administered by the Alaska Public Utilities Commission pursuant to AS 42.05.381 and 42.05.391; and

(2) shall not use direct or indirect subsidy to compete unfairly with privately owned and operated carriers.

Failed
3/8/70
Jos. Mul. Ferry

Nothing herein shall affect the provisions of Sec. 12.40.220(b)

ALASKA RAILROAD
Operating Expenses*
FY 85 (in \$000)

ATTACHMENT

Supporting Data for State of Alaska
1984 Legislative Session Fiscal Note (CS for SB 352)

	Alaska Railroad								Other Expenditures				
	Dec.	Jan.	Feb.	March	April	May	June	Total	Board of Dir.	ARR Trans. Team	Est. Corp.	Other	Total
<u>Personal Services</u>													
Wages	2,400	2,640	2,640	2,800	2,910	3,035	3,160	19,585					
Fringe	540	590	590	625	650	675	700	4,370					
Sub Total								<u>23,955</u>	<u>70</u>		<u>275</u>		<u>24,300</u>
<u>Travel</u>													
	12	12	12	16	16	16	16	<u>100</u>	<u>40</u>				<u>140</u>
<u>Contracts</u>													
	370	370	360	350	350	350	350	<u>2,500</u>		<u>1,650</u>	<u>1,200</u>	<u>550</u>	<u>5,900</u>
<u>Supplies</u>													
	340	350	330	480	555	700	720	<u>3,475</u>			<u>525</u>		<u>4,000</u>
<u>Equipment</u>													
	100	148	140	180	200	212	220	<u>1,200</u>					<u>1,200</u>
<u>Grants & Claims</u>													
	200	200	200	200	200	250	250	<u>1,500</u>					<u>1,500</u>
 Total													
	<u>3,962</u>	<u>4,310</u>	<u>4,272</u>	<u>4,651</u>	<u>4,881</u>	<u>5,238</u>	<u>5,416</u>	<u>32,730</u>	<u>110</u>	<u>1,650</u>	<u>2,000</u>	<u>550</u>	<u>37,040</u>

*Minor Discrepancies due to rounding

(1)

04/10/84

Attachment A

ALASKA RAILROAD
Operating Expenses*
Analysis by Department
FY 85

Supporting Data for State of Alaska
1984 Legislative Session Fiscal Note (CS for SB 352)

	December	January	February	March	April	May	June	Total
<u>General Manager & Staff</u>								
<u>Personal Services</u>								
Wages	72	92	92	98	101	106	110	671
Fringe	16	21	21	22	22	23	24	149
Travel	2	2	2	3	3	3	3	18
Contracts	2	2	2	2	2	1	1	12
Supplies	9	9	8	11	12	15	16	80
Equipment	0	0	0	0	0	0	0	0
Grants & Claims	0	0	0	0	0	0	0	0
Total	101	126	125	136	140	148	154	930
<u>Transportation</u>								
<u>Personal Services</u>								
Wages	985	1,080	1,080	1,148	1,190	1,241	1,290	8,014
Fringe	222	243	243	257	267	277	286	1,795
Travel	2	2	2	2	2	2	2	14
Contracts	166	165	166	166	164	165	165	1,157
Supplies	140	143	133	202	236	300	310	1,464
Equipment	5	13	10	15	20	20	20	103
Grants & Claims	0	0	0	0	0	0	0	0
Total	1,520	1,646	1,634	1,790	1,879	2,005	2,073	12,547
<u>Motive Power & Equipment</u>								
<u>Personal Services</u>								
Wages	505	557	557	588	609	634	661	4,111
Fringe	114	124	124	131	137	141	146	917
Travel	1	1	1	2	2	2	2	11
Contracts	49	48	47	47	47	47	47	332
Supplies	76	77	73	107	124	157	162	776
Equipment	60	80	75	100	105	110	110	640
Grants & Claims	0	0	0	0	0	0	0	0
Total	805	887	877	975	1,024	1,091	1,128	6,787

*Minor Discrepancies due to rounding

(Continued)

	December	January	February	March	April	May	June	Total
<u>Engineering</u>								
Personal Services								
Wages	480	539	539	558	580	604	629	3,929
Fringe	108	118	118	125	130	134	140	873
Travel	1	1	1	2	2	2	2	11
Contracts	18	19	15	12	12	12	12	100
Supplies	70	74	69	100	115	143	147	718
Equipment	30	50	50	60	65	67	75	397
Grants & Claims	0	0	0	0	0	0	0	0
Total	707	801	792	857	904	962	1,005	6,028
<u>Administration</u>								
Personal Services								
Wages	289	304	304	332	347	362	377	2,315
Fringe	65	67	67	74	78	80	84	515
Travel	2	2	2	3	3	3	3	18
Contracts	111	113	107	101	104	104	104	744
Supplies	9	9	8	10	11	14	15	76
Equipment	0	0	0	0	0	0	0	0
Grants & Claims	0	0	0	0	0	0	0	0
Total	476	495	488	520	543	563	583	3,668
<u>Marketing & Sales</u>								
Personal Services								
Wages	48	48	48	53	58	58	62	375
Fringe	11	11	11	12	13	13	14	85
Travel	4	4	4	4	4	4	4	28
Contracts	6	5	5	4	4	4	4	32
Supplies	3	3	3	4	4	5	6	28
Equipment	0	0	0	0	0	0	0	0
Grants & Claims	0	0	0	0	0	0	0	0
Total	72	71	71	77	83	84	90	548
<u>Overheads</u>								
Personal Services								
Wages	21	21	21	24	25	30	32	174
Fringe	5	5	5	5	5	7	7	39
Travel	0	0	0	0	0	0	0	0
Contracts	18	18	18	18	17	17	17	123
Supplies	35	37	35	46	51	65	67	336
Equipment	5	5	5	5	10	15	15	60
Grants & Claims	200	200	200	200	200	250	250	1,500
Total	284	286	284	298	308	384	388	2,232

ALASKA RAILROAD
Operating Expenses*
FY 85 (in \$000)

ATTACH

Supporting Data for State of Alaska
1984 Legislative Session Fiscal Note (CS for SB 352)

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Sub Total								<u>23,955</u>	70		275		<u>24,300</u>
<u>Travel</u>													
	12	12	12	16	16	16	16	100	40				140
<u>Contracts</u>													
	370	370	360	350	350	350	350	2,500		1,650	1,200	550	5,900
<u>Supplies</u>													
	340	350	330	480	555	700	720	3,475			525		4,000
<u>Equipment</u>													
	100	148	140	180	200	212	220	1,200					1,200
<u>Grants & Claims</u>													
	200	200	200	200	200	250	250	1,500					1,500
Total	<u>3,962</u>	<u>4,310</u>	<u>4,272</u>	<u>4,651</u>	<u>4,881</u>	<u>5,238</u>	<u>5,416</u>	<u>32,730</u>	110	1,650	2,000	550	<u>37,040</u>

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(1)

04/10/84

Attachment A

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Operating Expenses*
Analysis by Department
FY 85

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Grants & Claims	200	200	200	200	200	250	250	1,500
Total	284	286	284	298	308	384	388	2,232

Alaska State Legislature

H. PAPPY MOSS, CHAIRMAN
BETTYE FAHRENKAMP, VICE CHAIRMAN
JAN FAJCS
DON GILMAN
JALMAR KERTTULA



STATE CAPITOL
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JUNEAU, ALASKA
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Senate Committee on Transportation

SENATE TRANSPORTATION COMMITTEE
Staff Analysis
Senate CS for CS for House Bill No. 512 (Finance)

May 23, 1984

*Section 1 This is a statement of legislative findings and purpose. In (a) the legislature finds that the Alaska Railroad is an essential part of the state transportation network that may cease to be an option without state action. It also states that the railroad is necessary for long-term economic growth of the state and an essential part of the state transportation network. In (b) the purpose of the Act is stated to be the creation of an entity to operate and manage the railroad pending the transfer of the railroad to the private sector. That it will be responsible for the management of the financial and legal obligations of the railroad, will constitute a common carrier under the Interstate Commerce Commission, will have the ability to issue tax exempt obligations, carry out its responsibilities on a self-sustaining basis, and so that the best transportation can be provided supported by state investment when necessary, the railroad may be operated prudently, and borrowing by the corporation does not endanger the state's own borrowing capacity. It is also charged with protecting the railroad utility corridor.

*Section 2
Section 42.40.010

The Alaska Railroad is established as a public corporation within the Department of Commerce and Economic Development. However, Section 3 would remove the corporation from the Department of Commerce and Economic Development if the Constitutional Amendment passes.

Section 42.40.020

The corporation is run by a board with seven members including the commissioners of the Departments of Transportation and Commerce. In addition, there are five public members who may not be state employees. One of the public members must have 10 years experience and one shall have been an executive official of a U.S. railroad. Except for the two public members just mentioned, all public members must be registered

Alaskan voters. With the exception of the commissioners, the board shall be confirmed by the majority of the members of each house of the legislature in joint session.

Section 42.40.030 All members required to be confirmed by the Legislature serve for staggered five year terms. Section 9 sets up how the first board of directors will serve which results in staggered terms for members that follow. All board members serve at the pleasure of the governor.

However, see Section 4 and Section 5 which amend 42.40.030 if the Constitutional Amendment passes. Under these amendments a board member could be removed only for cause.

Section 42.40.040 A vacancy on the board is filled by the governor and the appointment must be confirmed by the legislature. Despite a vacancy the board may exercise its power if it has a quorum of members.

Section 42.40.050 An appointed member of the board received \$400 for each day he is engaged in the performance of duties as a board members and partial day provisions may be established by the board. In addition, he is entitled to per diem and travel expenses.

Sec. 42.40.060 The board is to elect a chairman and vice-chairman from its membership and appoint a secretary.

Section 42.40.100 - The board is to manage the corporation according to the guidelines provided in this section. This corporation is to be generally self-sustaining, subject to the ICC consistent with the Transfer Act and provide safe, efficient and economical transportation. The board must apply to the legislature for appropriations if a service is provided which is not self-sustaining. In addition, the board is responsible for reviewing all land disposals so that future expansions of the railroad are not restricted.

Section 42.40.110 The board appoints the Chief Executive Officer of the corporation and fixes his compensation. The Chief Executive Officer of the corporation appoints other executive officers. The salaries of the executive officers appointed by the Chief Executive Officer are subject to board approval.

Section 42.40.120 By rule the board delegates duties necessary for the management of daily affairs of the corporation to the Chief Executive Officer. Within 60 days after it is established, the board must delegate certain specified activities of the corporation. Some activities are delegated but require specific board approval for final action. Specific board approval is required for projects with an estimated completion cost of \$500,000 or more or an estimated completion time of more than one year.

Section 42.40.150 Meetings of the board are public with the exception of executive sessions. The board provides by rule how notice of the

meetings shall be given. The board is required to keep minutes of the meetings.

Section 42.40.160 A quorum is established as four and an affirmative action by the board also requires five votes. The board may confer and vote by teleconferencing but may not vote by proxy.

Section 42.40.170 Executive sessions are limited to matters listed. No action may be taken at an executive session and discussion must be limited to the topic of the motion or an auxiliary subject.

Section 42.40.180 The board is to adopt rules to carry out the purposes of this chapter. It is required to give public notice 15 days before it adopts, amends, or repeals a rule. Public notice consists of publishing in at least three newspapers of statewide circulation and to persons requesting notice. Every interested party must be given one hour to testify and all relevant matter must be considered.

But see Section 6 which repeals the rule making procedure if the Constitutional Amendment passes. In its place, the new section would give all powers to adopt a rule making procedure to the board.

Section 42.40.190 The board is required to set up a process for adopting emergency rules. Emergency rules are to be limited to situations where they are necessary for the orderly operation of the corporation's facilities or programs. The requirements of 42.40.180 need not be followed but within 10 days public notice is to be given of the action. Rules adopted under this section remain in effect for no more than 120 days unless the procedures of 42.40.180 are followed.

Section 42.40.200 Sets up a procedure for challenging a rule adopted under 42.40.180(a) and 42.40.190(a) but restricts the ability to declare a rule invalid for procedural deficiency.

Section 42.40.205 Daily operation, and other management functions, are not subject to the rule making process.

Section 42.40.210 The board may, by resolution, adopt the existing rules without following the rule making procedure of 42.40.180.

Section 42.40.220 Records of the corporation are open to public inspection except the corporation may withhold certain matters from disclosure by rule if they are of a nonpublic, privileged, or proprietary nature.

Sec 42.40.230 A board member or executive officer may not participate in a decision of the corporation if he, or an immediate family member, has an interest unless their interest is remote. Interest and remote are defined and a procedure is set out for situations where the application of the section is not clear. In addition, the board shall adopt rules to further define conflict of interest and ethical rules 120 days after its first meeting.

Section 42.40.250 In addition to other powers authorized by law, the corporation may exercise certain specified general powers listed in this

section. The corporation does not have the power of eminent domain nor may it sell land.

Section 42.40.260 A report describing the operation and financial condition of the corporation during the preceding fiscal year of the railroad shall be distributed to the governor and the legislature within 90 days after the fiscal year ends. An analysis of at least three corporation initiated attempts to sell the railroad to private enterprise must be included every five years.

Section 42.40.270 The board must have the records of the corporation audited annually. Corporation records will be made available to an auditor appointed by the governor or to the legislative audit division. In addition, the board is required to have an annual performance audit conducted by a recognized railroad management expert.

Section 42.40.280. Requires a written report to the governor and the legislature before a major change in service. In addition, a written report is also required for an appropriation if it is required for a service which is not self-sustaining.

Section 42.40.285 The corporation may not convey an entire interest in land, issue bonds, extend railroad lines or lease land over 35 years without approval by law.

Section 42.40.290 The board must adopt a long-range program and capital improvement plan. The plan covers a five year period and must be updated annually. Copies of the updated plan are to be provided to the governor and the legislature by December 1 of each year.

Section 42.40.300 The corporation may not issue stock, pay dividends, make private distributions of assets, make loans to board members or employees or engage in business for private benefit.

Section 42.40.310 The corporation may defend and indemnify a current or former employee, agent, or board member against costs incurred in connection with a civil or criminal action if the person acted in good faith on behalf of the corporation and within the scope of his official duties or powers. The corporation may purchase insurance to protect its employees, agents, and board members for actions arising out of the performance or failure of performances of duties for or employment with the corporation.

Section 42.40.350 Land acquired by the corporation is under the control of the corporation. Railroad rights-of-way or easements are railroad utility corridors. Land other than right-of-way or easements is rail land. Future railroad utility corridors must be at least 100 feet wide on both sides of the center line of the extended main or branch line, or may be less if adjoining land does not belong to the corporation. Portions of the utility corridor may be leased or rented for other transportation services if the use does not restrict other parallel uses of the utility corridor. The corporation may lease rail land for fair market value.

Section 42.40.360 The board may nominate federal land for state selection for a railroad purpose. The Commissioner of Natural Resources would acquire the land through the federal land selection process.

In addition, the board may request any state land from the Department of Natural Resources. Upon receipt of the written request the Commissioner of the Department of Natural Resources must reserve the land in the railroad's name for 180 days.

Section 42.40.370 When the railroad requests state land under the preceding section the Commissioner has 90 days to reply in writing whether or no the request has been denied, denied in part or if the request has been granted. A conveyance under this section may be for less than fair market value and, absence a reservation to the contrary, vest full ownership of surface and subsurface rights. The land may be reconveyed back to the state if it is no longer necessary for the corporation's purposes.

Section 42.40.380 The corporation is authorized to relocate rail facilities to state land when an emergency exists. The Chief Executive Officer makes the determination that it is necessary to relocate for safe and adequate rail operations. After the relocation the corporation is required to notify the Department of Natural Resources.

Section 42.40.390 The board may develop rules governing land used by a third party. The rules are to protect the common health, safety, and welfare of the public and may not be limited by leases, contracts or other transaction.

Section 42.40.400 The corporation may vacate land acquired for railroad purposes by filing in the appropriate recording district.

Section 42.40.410 The corporation may acquire interests in federal land on its own behalf.

Section 42.40.420 The corporation may authorized municipal use of rail land. It may also authorize a walkway or trail on the utility corridor so long as parallel uses are not restricted. Before authorizing the use of either rail land or the utility corridor, the municipality must sign a hold harmless agreement and indemnify the corporation for any judgment against it for use related to the municipal use. When the corporation determines the use is inconsistent with expansion or replacement of railroad facilities the municipal use must be stopped.

Section 42.40.430 The corporation may acquire surplus property from either the federal government or the state.

Section 42.40.435 The corporation may exchange land.

Section 42.40.440 The corporation must comply with state law regarding the application of pesticides or herbicides.

Section 42.40.450 No land of the railroad may be claimed under adverse possession.

Section 42.40.500 A liability incurred by the corporation may be satisfied only from the assets of the corporation and no creditor has a right of action against the state.

Section 42.40.510 The corporation must obtain a fidelity bond for its board members and officers responsible for finances.

Section 42.40.520 The corporation is required to keep in force all manners of insurance to protect its assets, services, and employees from any potential liability. It may, however, provide for certain self-insurance retentions.

Section 42.40.530 Revenue generated by or appropriated to the corporation shall be retained and used for railroad purposes by the corporation.

Section 42.40.540 With the concurrence of the governor, the corporation may request an appropriation from the legislature to assist it in carrying out its general powers.

Section 42.49.600 - 42.49.700 Contains standard bonding provisions.

Section 42.40.705 Assets of the corporation may not be used for political purposes except matters directly concerning the operation of the corporation.

Section 42.40.710 Employees of the railroad are employees of the corporation and not of the state. Laws relating to public employees do not apply.

Section 42.40.720 The provisions of the Public Employee Relations Act do not apply. However, non-executive officials may organize and engage in collective bargaining.

Section 42.40.730 There is created a railroad labor relations agency made up of three members appointed by the governor. The agency shall perform the functions described in AS 23.40.090 - 23.40.190 which are the functions currently carried out by the state personnel board for all state employees and are listed in this bill as 42.40.740 - 42.40.840.

Section 42.40.850 Employees are permitted to strike for a limited time and may be enjoined by a court of law at the request of the corporation. After being enjoined the dispute is automatically sent to binding arbitration. The arbitrator is the same person as was the original mediator chosen under 42.40.840.

Section 42.40.860 The corporation may seek the advice of the Department of Administration on labor contract terms and may invite the Department of Administration to sit in on labor negotiations.

Section 42.40.870 With written permission the corporation may withhold employee union dues.

Section 42.40.885 The corporation may not coerce employees to refrain from or perform activities beyond those required or prohibited as part of their employment.

Section 42.40.890 Definitions for Article 8.

Section 42.40.900 Claims involving activities of the railroad shall be brought against the corporation and not against the state. The corporation board members and employees have the same immunities from liability for claims against the corporation as do other state officers. Claims against the corporation must first go through an administrative appeal process to the Department of Administration before going to court action.

Section 42.40.905 The corporation is required to give advance notice of any legal action.

Section 42.40.910 The property of the corporation and its assets are exempt from taxes and special assessments of the state or a political subdivision of the state. Bonds and notes issued by the corporation are exempt from taxation except for inheritance, transfer, and estate taxes.

Section 42.40.920 The corporation is exempt from the jurisdiction of the Alaska Transportation Commission. In addition, it is exempt from the following statutes:

The statutes are:

AS 19 - Title 19 is the statute which sets out the duties of state agencies in regard to highways and ferries and related activities.

AS 23.40 - Chapter 40 deals with the relationship between state entities and labor organizations. But see Article 3 of this legislation for Personnel and Labor Relations provisions.

AS 30.15 - Chapter 15 is concerned with state participation in port facilities and development.

AS 35 - Title 35 sets out the duties and powers of DOT&PF with regard to public facilities.

AS 37.05 - Chapter 05 is the Fiscal Procedures Act. For provisions in this legislation which replace similar provisions in the Fiscal Procedures Act see Section 1, 3(A) and (F); 42.40.100(1) and (8); 42.40.120(b)(4), (C)(11); 42.40.260; 42.40.270.

AS 37.07 - Chapter 07 contains the Executive Budget Act. For similar provisions in this legislation see 42.40.260; and 42.40.270 and 42.40.280.

AS 37.10.010 - 37.10.060 - Give the Department of Administration duties related to Public Funds.

AS 37.10.085 prohibits financial aid to corporations by state or

political subdivisions.

AS 37.20 sets out a method for the state to receive federal property. Sec. 42.40.360; 42.40.420 and 42.40.440 for comparable provisions.

AS 37.25 is the miscellaneous provisions of the public finance title.

AS 38 - Title 38 is the Public Lands statute. For similar provisions see 42.40.350; 42.40.360; 42.40.370; 42.40.380; 42.40.390; 42.40.400; 42.40.410; 42.40.420 and 42.40.430.

AS 39 - Title 39 is the public officer and employees statute. See sections 112.40.020; 42.40.030; 42.40.040; (see also Sections 3,4,5, and 6); 42.40.050; 42.40.060 and Article 8 of this Act.

AS 44.62.040 - 44.62.320 - is the Administrative Procedures Act. But see 42.40.150; 42.40.160; 42.40.170; 42.40.180; (see also Section 8); 42.40.200; 42.40.210; 42.40.220 for similar provisions contained in this Act.

Section 42.40.930 If provisions of this Act conflict with the provisions of other law, the provisions of this Act prevail. Where possible, provisions of the Act shall be construed so that they do not conflict with the Alaska Railroad Transfer Act of 1982.

Section 42.40.935 The corporation has two years to develop a plan for conforming with the state's safety statute and appropriate building codes.

Section 42.40.940 The governor, with legislative approval, may force sale of the railroad.

Section 42.40.950 The assets of the corporation revert to the state if it ceases to exist.

Section 42.40.980 Definitions of the chapter are provided.

Section 42.40.990 The short title of this chapter is the Alaska Railroad Corporation Act.

*Section 3 Amends 42.40.010 by removing the corporation from the Department of Commerce and Economic Development if the Constitutional Amendment passes.

*Section 4 Amends 42.40.030 if the Constitutional Amendment passes by removing the ability of the governor to remove board members at his pleasure.

*Section 5 Amends 42.40.030 if the Constitutional Amendment passes by adding a new section which would state specific reasons for which a governor may remove board members.

*Section 6 Repeals 42.40.180 if the Constitutional Amendment passes by adding a new section. The new section gives the board discretion in adopting a rule making process.

*Section 7 Technical amendment required by constitutional amendment.

*Section 8 The corporation must prepare a report on the long-term operations of the railroad that is due January 1, 1988. The report shall include recommendations on the transfer of railroad operations to the private sector and a report on the vibration problem in Anchorage.

*Section 9 Members of the first board of directors serve terms that differ in length and will result in staggered terms for members that follow.

*Section 10 Existing collective bargaining agreements are to be adopted by the corporation and remain in effect for two years. Within 180 days of the first meeting the board and the unions shall establish a procedure for renegotiating the existing collective bargaining agreements.

*Section 11 Repeals 42.40.190 and 42.40.200 if the Constitutional Amendment passes.

*Section 12 The effective date of Section 3-7 and 11 is the effective date of the Constitutional Amendment should it pass.

*Section 13 Sections 1,2, and 8-10 take effect immediately.

Offered: 5/11/84
Referred: Finance

Original sponsors: Hayes, Ringstad,
Shultz, et al

1 IN THE HOUSE BY THE TRANSPORTATION COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 512 (Transportation)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act establishing the Alaska Railroad Corporation
7 to manage and operate the Alaska Railroad; and pro-
8 viding for an effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature
11 finds that
12 (1) it is the policy of the state to
13 (A) provide safe, economical, and efficient transportation
14 to residents, businesses, visitors, and military installations in the
15 state;
16 (B) foster and promote the long-term economic growth and
17 development of the state;
18 (C) develop and implement plans for a transportation net-
19 work;
20 (D) foster and promote the development of the state's land
21 and natural resources;
22 (2) the Alaska Railroad is an essential part of the state trans-
23 portation network that may, unless preserved by state action, cease to be a
24 transportation option in Alaska;
25 (3) the federal government has offered to the state the option
26 of taking over the Alaska Railroad to ensure its continued existence; and
27 (4) it is in the state's best interest to accept the railroad
28 under the terms and conditions offered by the United States government.
29 (b) It is the purpose of this Act to

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

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

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

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

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

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

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

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

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

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

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

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

6 CHAPTER 40. ALASKA RAILROAD CORPORATION.

7 ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 ARTICLE 2. MANAGEMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (3) making routine changes in service levels;

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

17 (5) performing procurement activities.

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

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

21 (2) mortgaging or pledging corporation assets;

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

24 (4) acting as a surety or guarantor;

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

27 (6) adopting annual reports;

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

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

13 ARTICLE 3. ADMINISTRATIVE PROVISIONS.

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

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

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

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

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

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

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

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

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

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

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

15 (4) matters pertaining to personnel;

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

17 (6) land acquisition or disposal; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 adopted by the corporation.

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

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

12 (e) For purposes of this section

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

15 (2) "immediate family" means

16 (A) spouse;

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

20 ARTICLE 4. POWERS AND DUTIES.

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

23 (1) adopt a seal;

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

25 (3) sue and be sued;

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

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

29 (6) make contracts and execute instruments necessary or

1 convenient in the exercise of its powers and duties;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 holders and hold or dispose of them;
- 2 (22) purchase the corporation's bonds at a price not more
3 than the principal amount of them plus interest;
- 4 (23) cancel bonds of the corporation purchased by the corpo-
5 ration;
- 6 (24) secure the payment of its bonds by pledge, mortgage, or
7 other lien on its contracts, revenues, income, or property;
- 8 (25) consent to the modification of the rate of interest,
9 time of payment of an installment of principal or interest, or other
10 term of a loan, contract, or agreement to which the corporation is a
11 party;
- 12 (26) borrow money, including the amounts necessary to estab-
13 lish reasonable reserves, and pay financing charges and interest on
14 bonds for a reasonable period after which the corporation estimates
15 other money will be available to pay the interest, consultant, advi-
16 sory, and legal fees, and other expenses necessary or incident to
17 borrowing;
- 18 (27) acquire, hold, and dispose of stocks, memberships,
19 contracts, bonds, general or limited partnership interests or other
20 interests in another corporation, association, partnership, joint
21 venture, or other legal entity, and exercise the powers or rights in
22 connection with these interests that are provided in contracts or
23 agreements and that are allowed by law concerning the satisfaction of
24 debts;
- 25 (28) undertake and provide for the acquisition, construc-
26 tion, maintenance, equipping, and operation of connecting, switching,
27 terminal, or other railroads and railroad facilities;
- 28 (29) enter into agreements with a state agency or other
29 instrumentality of the state; and

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

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

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

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

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

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

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

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

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

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

16 (1) its financial impact on the corporation;

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

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

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

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

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

27 (2) issue bonds;

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

1 within the scope of official duties or powers.

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

11 ARTICLE 5. CORPORATION PROPERTY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 ARTICLE 6. FINANCIAL PROVISIONS.

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

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

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

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

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

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

16 ARTICLE 7. BONDS.

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

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

22 (1) be dated;

23 (2) bear fixed or variable interest at a specified rate or
24 rates per year or within a maximum rate;

25 (3) be in a specified denomination;

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

27 (5) carry conversion or registration provisions;

28 (6) have a specified rank or priority;

29 (7) be executed in the specified manner and form;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 bonds of the corporation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

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

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

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

1 governor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the effective date of the agreement, whichever is later; or
2 (2) payment by the employee to the exclusive bargaining
3 agent of a service fee to reimburse the exclusive bargaining agency
4 for the expense of representing the members of the bargaining unit.

5 (c) An organization or its agents may not

6 (1) restrain or coerce

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

9 (B) the corporation in the selection of a representa-
10 tive for the purposes of collective bargaining or the adjustment
11 of grievances;

12 (2) refuse to bargain collectively in good faith with the
13 corporation, if it has been designated in accordance with AS 42.40.-
14 710 - 42.40.890 as the exclusive representative of employees in an
15 appropriate unit.

16 Sec. 42.40.770. INVESTIGATION AND CONCILIATION OF COMPLAINTS.
17 If a verified written complaint by or for a person claiming to be
18 aggrieved by a practice prohibited by AS 42.40.760 or a written accu-
19 sation that a person subject to AS 42.40.710 - 42.40.890 has engaged
20 in a prohibited practice, is filed with the railroad labor relations
21 agency, it shall investigate the complaint or accusation. If it
22 determines after a preliminary investigation that probable cause
23 exists in support of the complaint or accusation, it shall try to
24 eliminate the prohibited practice by informal methods of conference,
25 conciliation, and persuasion. Nothing said or done during this en-
26 deavor may be used as evidence in a subsequent proceeding.

27 Sec. 42.40.780. COMPLAINT AND ACCUSATION. If the railroad labor
28 relations agency fails to eliminate the prohibited practice by concil-
29 iation and to obtain voluntary compliance with AS 42.40.710 .

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

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

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

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

1 and the production of relevant evidence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (C) sexual matters;

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

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

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

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

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

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

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

20 ARTICLE 9. GENERAL PROVISIONS.

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

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

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

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

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

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

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

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

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

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

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

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

- 11 (1) AS 19;
- 12 (2) AS 30.15;
- 13 (3) AS 35;
- 14 (4) AS 37.05;
- 15 (5) AS 37.07;
- 16 (6) AS 37.10.010 - 37.10.060;
- 17 (7) AS 37.10.065;
- 18 (8) AS 37.20;
- 19 (9) AS 37.25;
- 20 (10) AS 38;
- 21 (11) AS 44.62.040 - 44.62.320.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is
15 established the Alaska Railroad Corporation. The corporation is a
16 public corporation and is an instrumentality of the state [WITHIN THE
17 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT]. The corporation has
18 a legal existence independent of and separate from the state. The
19 exercise by the corporation of the powers provided in this chapter is
20 considered an essential government function of the state.

21 * Sec. 4. AS 42.40.030 is amended to read:

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

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

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

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

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

5 (3) conviction of a felony.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Offered: 5/2/84
Referred: Rules

Original sponsors: Hayes, Ringstad,
Shultz, et al

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 512 (Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 CHAPTER 40. ALASKA RAILROAD CORPORATION.

13 ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

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

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

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

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

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

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

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

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

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

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

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

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

1 the member unable to perform duties under this chapter;

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

4 (3) conviction of a felony; or

5 (4) malfeasance or misfeasance.

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

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

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

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

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

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

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

3 ARTICLE 2. MANAGEMENT.

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

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

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

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

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

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

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

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

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

1 railroad operations;

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

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

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

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

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

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

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

27 (3) making routine changes in service levels;

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

1 (5) performing procurement activities.

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

5 (1) issuing bonds;

6 (2) mortgaging or pledging corporation assets;

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

9 (4) acting as a surety or guarantor;

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

12 (6) adopting annual reports;

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

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

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

20 (10) selecting independent auditors and accountants;

21 (11) exercising the power of eminent domain;

22 (12) entering into collective bargaining agreements;

23 (13) adopting annual budgets; and

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

27 ARTICLE 3. ADMINISTRATIVE PROVISIONS.

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

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

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

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

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

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

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

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

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

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

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

28 (4) matters pertaining to personnel;

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

1 (6) land acquisition or disposal; and

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

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

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

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

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

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

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

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

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

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

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

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

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

1 corporation;

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

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

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

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

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

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

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

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

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

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

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

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

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

1 prohibition contained in this section.

2 (e) For purposes of this section

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

5 (2) "immediate family" means

6 (A) spouse;

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

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

12 ARTICLE 4. POWERS AND DUTIES.

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

15 (1) adopt a seal;

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

17 (3) sue and be sued;

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

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

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

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

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

- 1 and otherwise grant security interests in land or personal property
2 and exchange, donate, convey, alienate, or otherwise dispose of per-
3 sonal property, subject to other provisions of this chapter;
- 4 (9) contract with and accept transfers, gifts, grants or
5 loans of funds or property from the United States and the state or its
6 political subdivisions, subject to other provisions of federal or
7 state law or municipal ordinances;
- 8 (10) undertake and provide for the management, operation,
9 maintenance, use, and control of all of the property of the corpo-
10 ration, including tracks, equipment and other property transferred to
11 the corporation by the federal government or any person;
- 12 (11) recommend to the legislature and the governor any tax,
13 financing, or financial arrangement the corporation considers appro-
14 priate to carry out the duties under this chapter;
- 15 (12) maintain offices and facilities at places it desig-
16 nates;
- 17 (13) apply to the state, the United States, and foreign
18 countries or other proper agencies for the permits, licenses, rights-
19 of-way, or approvals necessary to construct, maintain, and operate
20 transportation and related services, and obtain, hold, and reuse the
21 licenses and permits in the same manner as other railroad operators;
- 22 (14) prescribe rates to be charged for services provided by
23 the Alaska Railroad consistent with 45 U.S.C. 1201 - 1214 (Alaska
24 Railroad Transfer Act of 1982);
- 25 (15) determine the routes, schedules, and types of service
26 to be provided by the Alaska Railroad;
- 27 (16) enter into contracts, leases, and other agreements
28 with connecting carriers, shippers, and other persons concerning the
29 services, activities, operations, property, and facilities of the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 ARTICLE 5. CORPORATION PROPERTY.

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

- 5 (1) railroad rights-of-way are railroad utility corridors;
6 (2) land outside the railroad utility corridors is rail
7 land.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 ARTICLE 6. FINANCIAL PROVISIONS.

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

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

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

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

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

1 carrying out the provisions of this chapter.

2 ARTICLE 7. BONDS.

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

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

7 (1) be dated;

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

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

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

12 (5) carry conversion or registration provisions;

13 (6) have a required rank or priority;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (c) An organization or its agents may not

29 (1) restrain or coerce

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

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

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

10 Sec. 42.40.770. INVESTIGATION AND CONCILIATION OF COMPLAINTS.
11 If a verified written complaint by or for a person claiming to be
12 aggrieved by a practice prohibited by AS 42.40.760 or a written accu-
13 sation that a person subject to AS 42.40.710 - 42.40.890 has engaged
14 in a prohibited practice, is filed with the railroad labor relations
15 agency, it shall investigate the complaint or accusation. If it
16 determines after a preliminary investigation that probable cause
17 exists in support of the complaint or accusation, it shall try to
18 eliminate the prohibited practice by informal methods of conference,
19 conciliation, and persuasion. Nothing said or done during this en-
20 deavor may be used as evidence in a subsequent proceeding.

21 Sec. 42.40.780. COMPLAINT AND ACCUSATION. If the railroad labor
22 relations agency fails to eliminate the prohibited practice by concil-
23 iation and to obtain voluntary compliance with AS 42.40.710 - 42.40.-
24 890 or before it attempts conciliation, it may serve a copy of the
25 complaint or accusation upon the respondent. The complaint or accusa-
26 tion and the subsequent procedures shall be handled in accordance with
27 the administrative adjudication portion of the Administrative Proce-
28 dure Act (AS 44.62).

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

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

11 Sec. 42.40.900. ENFORCEMENT BY INJUNCTION. The railroad labor
12 relations agency may apply to the superior court in the judicial
13 district in which the prohibited practice occurred for an order en-
14 joining the prohibited acts specified in the order or decision of the
15 railroad labor relations agency. Upon showing by the railroad labor
16 relations agency that the person has engaged or is about to engage in
17 the practice, an injunction, restraining order, or other order that is
18 appropriate may be granted by the court and shall be without bond.

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

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

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

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

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

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

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

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

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

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

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

4 (b) The corporation may apply to the superior court in the
5 judicial district in which the strike is occurring for an order en-
6 joining the strike. A strike may not be enjoined unless it can be
7 shown that it has begun to threaten, or is about to threaten, the
8 health, safety, or welfare of the public. A court, in deciding wheth-
9 er to enjoin the strike, shall consider the total equities in the
10 particular case, including the impact of a strike on the public and
11 the extent to which an employee organization and the corporation have
12 met their statutory obligations.

13 (c) If an impasse or deadlock still exists after the issuance of
14 an injunction, the parties shall submit the dispute to binding arbi-
15 tration. The arbitrator shall be the same person selected under
16 AS 42.40.840 and shall fashion the award the arbitrator considers
17 equitable.

18 (d) Notwithstanding (a) - (c) of this section, an organization
19 and the corporation may mutually agree to submit a dispute to binding
20 arbitration at any time.

21 Sec. 42.40.860. AGREEMENTS. (a) The Department of Administra-
22 tion may participate in labor negotiations between the corporation and
23 an organization. The corporation shall seek advice of the Department
24 of Administration before entering into a collective bargaining agree-
25 ment concerning wages, hours, and other terms and conditions of em-
26 ployment. However, the final decision regarding collective bargaining
27 agreements, shall be made by the board.

28 (b) Upon the completion of negotiations between an organization
29 and the corporation, if a settlement is reached, the corporation shall

1 reduce it to writing in the form of an agreement. The agreement shall
2 include a grievance procedure that shall have binding arbitration as
3 its final step. Either party to the agreement has a right of action
4 to enforce the agreement by petition to the railroad labor relations
5 agency.

6 (c) The parties to an agreement under this section may agree to
7 terms that specify an expiration date for the agreement.

8 Sec. 42.40.870. ORGANIZATION DUES AND EMPLOYEE BENEFITS, DEDUC-
9 TION AND AUTHORIZATION. Upon written authorization of an employee
10 within a bargaining unit, the corporation shall deduct from the pay-
11 roll of the employee the monthly amount of dues, fees, and other
12 employee benefits as certified by the secretary of the exclusive
13 bargaining representative and shall deliver it to the chief fiscal
14 officer of the exclusive bargaining representative.

15 Sec. 42.40.880. EXEMPTION. Notwithstanding the provisions of
16 AS 42.40.870, a collective bargaining settlement reached, or agreement
17 entered into, under AS 42.40.860 that incorporates union security
18 provisions, including a union shop or agency shop provision or agree-
19 ment, shall safeguard the rights of nonassociation of employees having
20 bona fide religious convictions based on tenets or teachings of a
21 church or religious body of which an employee is a member. Upon
22 submission of proper proof of religious conviction to the railroad
23 labor relations agency, the agency shall declare the employee exempt
24 from becoming a member of an organization. The employee shall pay an
25 amount of money equivalent to regular organization dues, initiation
26 fees, and assessments to the organization. Nonpayment of this money
27 subjects the employee to the same penalty as if it were nonpayment of
28 dues. The receiving organization shall contribute an equivalent
29 amount of money to a charity of its choice not affiliated with a

1 religious, labor, or employee organization. The organization shall
2 submit to the railroad labor relations agency proof of contribution.

3 Sec. 42.40.885. PROHIBITED ACTS. (a) The corporation or an
4 employee may not directly or indirectly

5 (1) require or coerce an employee to participate in any way
6 in any activity or undertaking unless the activity or undertaking is
7 related to the performance of official duties;

8 (2) require or coerce an employee to make any report con-
9 cerning an activity or undertaking of the employee's activities or
10 undertakings unless the activity or undertaking is related to the
11 performance of official duties;

12 (3) except as directly related to the performance of offi-
13 cial duties, require or coerce an employee to submit to an interro-
14 gation, examination, or psychological test that is designed to elicit
15 information concerning

16 (A) a personal relationship with a person connected
17 with the employee by blood or marriage,

18 (B) the employee's religious beliefs or practices,

19 (C) sexual matters,

20 (D) the employee's political affiliation or philoso-
21 phy;

22 (4) coerce an employee to invest or contribute earnings in
23 any manner or for any purpose;

24 (5) restrict or attempt to restrict after-working-hour
25 statements, pronouncements or other activities, not otherwise prohib-
26 ited by law or personnel rule, of an employee, if the employee does
27 not purport to speak or act in an official capacity.

28 (b) The provisions of (a) of this section do not diminish the
29 authority of an authorized law enforcement agency to conduct criminal

1 investigations of employees suspected of being involved in criminal
2 activity or to investigate other activity directly related to official
3 railroad business.

4 Sec. 42.40.890. DEFINITIONS. In AS 42.40.710 - 42.40.890

5 (1) "collective bargaining" means the performance of the
6 mutual obligation of the corporation or its designated representatives
7 and the representatives of the employees to meet at reasonable times,
8 including meetings in advance of the budget making process, and nego-
9 tiating in good faith with respect to wages, hours, and other terms
10 and conditions of employment, or the negotiation of an agreement, or
11 negotiation of a question arising under an agreement and the execution
12 of a written contract incorporating an agreement reached if requested
13 by either party, but these obligations do not compel either party to
14 agree to a proposal or require the making of a concession;

15 (2) "election" means a proceeding conducted by the labor
16 relations agency in which the employees in a collective bargaining
17 unit cast a secret ballot for collective bargaining representatives,
18 or for any other purpose specified in AS 42.40.710 - 42.40.890;

19 (3) "organization" means a labor or employee organization
20 of any kind in which employees participate and that exists for the
21 primary purpose of dealing with the corporation concerning grievances,
22 labor disputes, wages, rates of pay, hours of employment and condi-
23 tions of employment;

24 (4) "terms and conditions of employment" means the hours of
25 employment, the compensation and fringe benefits, and the employer's
26 personnel policies affecting the working conditions of the employees,
27 but does not mean the general policies describing the function and
28 purposes of an employer.

29 ARTICLE 9. GENERAL PROVISIONS.

1 Sec. 42.40.900. CLAIMS. (a) All claims and lawsuits involving
2 activities of the railroad, including suits in contract, quasi-con-
3 tract, or tort, shall be brought against the corporation and not
4 against the state.

5 (b) For the purposes of actionable claims, undertakings, pay-
6 ments of judgments, execution, interest, punitive damages, statutes of
7 limitations, bonds, costs, and similar matters related to the pres-
8 entation and prosecution of claims by and against the corporation, the
9 corporation and its board members and employees enjoy the same rights,
10 privileges, and immunities as the state and state officers under
11 AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

12 (c) Claims against the corporation are not subject to the pro-
13 visions of AS 44.77 regarding claims against the state.

14 (d) The corporation is not subject to the provisions of AS 44.-
15 80.010, regarding the state as a party to an action.

16 Sec. 42.40.905. NOTICE OF LEGAL ACTIONS. (a, The corporation
17 shall notify the Department of Law within 30 days before initiating
18 legal action unless special circumstances exist that require immediate
19 legal action to protect the corporation assets or to continue existing
20 service.

21 (b) If notice of legal action is not given under (a) of this
22 section, within seven days of taking action the board shall notify the
23 Department of Law of the action taken and of the special circumstances
24 that exempted the action from the requirements of (a) of this section.

25 Sec. 42.40.910. EXEMPTION FROM TAXATION. (a) The exercise of
26 the powers granted by this chapter shall be in all respects for the
27 benefit of the people of the state, for their well-being and prosper-
28 ity, and for the improvement of their social and economic conditions.
29 Subject to (b) of this section, the real and personal property of the

1 corporation and its assets, income, and receipts are exempt from all
2 taxes and special assessments of the state or a political subdivision
3 of the state.

4 (b) Bonds and notes issued under this chapter are issued by a
5 body corporate and public of the state and for an essential public and
6 governmental purpose. Therefore, the bonds and notes, the interest
7 and income from them, and all fees, charges, funds, revenue, income
8 and other money pledged or available to pay or secure the payment of
9 the bonds and notes or interest on them, are exempt from taxation
10 except for inheritance, transfer, and estate taxes.

11 (c) This section does not affect or limit an exemption from
12 license fees, property taxes, excise taxes, income taxes, or other
13 taxes, provided under any other law, nor does it create a tax exemp-
14 tion with respect to the interest of any business enterprise or other
15 person, other than the corporation.

16 Sec. 42.40.92(). APPLICATION OF EXISTING LAWS. (a) The corpo-
17 ration is not subject to the jurisdiction of the Alaska Transportation
18 Commission.

19 (b) Unless specifically provided otherwise in this chapter, the
20 following laws do not apply to the operations of the corporation:

- 21 (1) AS 19;
- 22 (2) AS 30.15;
- 23 (3) AS 35;
- 24 (4) AS 37.05;
- 25 (5) AS 37.07;
- 26 (6) AS 37.10.010 - 37.10.060;
- 27 (7) AS 37.10.085;
- 28 (8) AS 37.20;
- 29 (9) AS 37.25;

1 (10) AS 38;

2 (11) AS 44.62.040 - 44.62.320.

3 (c) The corporation is subject to AS 45.50.562 - 45.50.596.

4 Sec. 42.40.930. CONFLICTING LAWS INAPPLICABLE. If provisions of
5 this chapter conflict with the provisions of other state law, the pro-
6 visions of this chapter prevail. Provisions of this chapter shall be
7 construed so that they do not conflict with 45 U.S.C. 1201 - 1214
8 (Alaska Railroad Transfer Act of 1982).

9 Sec. 42.40.935. RAILROAD FACILITIES CODE COMPLIANCE. (a) Not
10 later than two years after the date of transfer, the Department of
11 Labor in consultation with the corporation shall develop and the
12 corporation, shall adopt a plan to achieve compliance with AS 18.60.
13 The plan shall be implemented and compliance achieved within five
14 years after it is adopted.

15 (b) No later than two years after the date of transfer, the
16 corporation in consultation with the Department of Public Safety and
17 appropriate municipal officials, shall develop and adopt a plan to
18 achieve compliance with building and related safety codes applicable
19 to facilities of the corporation. The plan shall be implemented and
20 compliance achieved within five years after it is adopted. In the
21 sole determination of the commissioner of public safety, any existing
22 building owned or controlled by the corporation that does not present
23 a serious safety hazard and for which compliance would be uneconomical
24 in consideration of its remaining useful life shall be exempted from
25 compliance with state or municipal safety codes.

26 Sec. 42.40.940. NEGOTIATION FOR SALE OF THE RAILROAD. The
27 governor may require the board to negotiate in good faith the sale of
28 the Alaska Railroad.

29 Sec. 42.40.950. REVERSION OF ASSETS. If the corporation ceases

1 to exist, for reasons other than sale of the Alaska Railroad, its
2 assets revert to the state.

3 Sec. 42.40.980. DEFINITIONS. In this chapter, unless the con-
4 text otherwise requires,

5 (1) "board" means the board of directors of the Alaska
6 Railroad Corporation;

7 (2) "bonds" means bonds, bond anticipation notes, notes,
8 refunding bonds, or other obligations;

9 (3) "corporation" means the Alaska Railroad Corporation;

10 (4) "date of transfer" means the date on which the United
11 States Secretary of Transportation delivers the transfer documents
12 under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

13 (5) "employees" means all persons employed by the corpo-
14 ration including executive officers;

15 (6) "executive officer" means the corporation's chief
16 executive officer, an employee who fulfills management functions and
17 is so designated by the board, and employees occupying the following
18 positions on the date of transfer: general manager, assistant general
19 manager, assistant to the general manager, chief of administration,
20 and general counsel;

21 (7) "land" means any interest in real property, including
22 tide and submerged land and any right appurtenant to the interest;

23 (8) "rule" means a standard of general application or the
24 amendment, supplement, revision, or repeal of a standard adopted by
25 the corporation to implement, interpret, or make specific the law
26 enforced or administered by it to govern its procedure.

27 Sec. 42.40.990. SHORT TITLE. This chapter may be referred to as
28 the Alaska Railroad Corporation Act.

29 * Sec. 3. AS 42.40.010 is amended to read:

1 Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is
2 established the Alaska Railroad Corporation. The corporation is a
3 public corporation and is an instrumentality of the state [WITHIN THE
4 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT]. The corporation has
5 a legal existence independent of and separate from the state. The
6 exercise by the corporation of the powers provided in this chapter is
7 considered an essential government function of the state.

8 * Sec. 4. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD
9 CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act,
10 the terms of the appointed members of the first board of directors of the
11 Alaska Railroad Corporation are as follows:

- 12 (1) one shall serve a term of two years;
- 13 (2) two shall serve a term of three years;
- 14 (3) two shall serve a term of four years; and
- 15 (4) two shall serve a term of five years.

16 * Sec. 5. COLLECTIVE BARGAINING AGREEMENTS. (a) As soon as practi-
17 cable after establishment of the Alaska Railroad Corporation and before
18 transfer of the Alaska Railroad to the state, the Alaska Railroad Corpora-
19 tion and its employees shall adopt collective bargaining agreements that
20 continue the provisions of the agreements in effect between the Alaska
21 Railroad and its employees on the date of transfer of the railroad. The
22 collective bargaining agreements adopted under this section between the
23 corporation and its employees shall remain in effect to the extent required
24 under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

25 (b) The board of directors of the Alaska Railroad Corporation shall
26 on or before the date of transfer of the Alaska Railroad to the state adopt
27 personnel rules necessary to prevent an interruption of services of the
28 railroad.

29 (c) Subject to 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of

1 1982), within 180 days after the first meeting of the board of directors of
2 the Alaska Railroad Corporation, the board and representatives of employee
3 bargaining units shall establish procedures for the renegotiation of col-
4 lective bargaining agreements adopted under (a) of this section. The board
5 shall renegotiate all agreements adopted under (a) of this section within
6 two years after the date of transfer of the Alaska Railroad to the state
7 unless the parties agree to the contrary.

8 * Sec. 6. SALE OF RAILROAD. (a) Not later than two years following
9 the date of the transfer of the Alaska Railroad to the state, the Board of
10 Directors of the Alaska Railroad Corporation, in consultation with the
11 state, shall request proposals from the private sector for the acquisition
12 or operation of the Alaska Railroad. The board may engage the services of
13 an investment banking firm or other professional expertise to assist in the
14 development of the request and evaluation of proposals received. The board
15 shall consider every proposal from the private sector for the acquisition
16 or operation of the Alaska Railroad, even if it is not made in response to
17 a request for proposals under this subsection.

18 (b) In order to be considered responsive, a proposal must

19 (1) ensure continued or improved rail service;

20 (2) return to the state its investment in the Alaska Railroad to
21 the extent possible;

22 (3) be consistent with the terms and conditions of 45 U.S.C.
23 1201 - 1214 (Alaska Railroad Transfer Act of 1982), and not activate the
24 reversion provisions of 45 U.S.C. 1209 (Alaska Railroad Transfer Act of
25 1982);

26 (4) demonstrate with reasonable certainty that the railroad
27 after acquisition by the private sector will be operated as a profitable
28 carrier; as used in this paragraph, "profitable carrier" means a carrier
29 that will be able to

1 (A) generate sufficient revenue to meet its expenses,
2 including reasonable maintenance of necessary equipment and facil-
3 ities; and

4 (B) finance its capital needs in the private market; and

5 (5) demonstrate how the railroad can continue operation of
6 services, including current levels of passenger service.

7 (c) The board may negotiate the details of any proposal found to be
8 responsive, including the execution of a letter of intent to conclude a
9 transfer upon approval of the governor and the legislature.

10 (d) Within one year after requesting proposals under (a) of this
11 section, the board shall submit a report on the results of the process to
12 the governor, including its specific findings on the responsiveness of any
13 proposal received and its recommendations for conclusion of a transfer of
14 the railroad or its management to the private sector.

15 (e) Within 120 days after receipt of the board's report, if the board
16 has recommended transfer of the Alaska Railroad or its management to the
17 private sector, the governor shall

18 (1) disapprove the proposed transfer; or

19 (2) submit the report and recommendations to the legislature.

20 (f) Failure by the governor to act within 120 days after receipt of
21 the board's report shall be considered approval.

22 (g) The legislature may disapprove a proposed transfer without modi-
23 fication by law enacted within 45 days after the proposal is submitted. If
24 a proposal is submitted while the legislature is not in session, the legis-
25 lature may disapprove the proposal with 45 days after the beginning of the
26 next regular session. Failure by the legislature to act within the period
27 required under this subsection shall be considered approval of the pro-
28 posal.

29 (h) Unless a proposal under (a) of this section is approved, the

1 process provided in this section shall be repeated every two years.

2 (i) The board shall, within two years after the date of transfer of
3 the Alaska Railroad to the state, direct the executive officer of the
4 Alaska Railroad Corporation to prepare a report for the governor and the
5 legislature on the feasibility of other operational alternatives for trans-
6 fer consistent with the criteria under (b) of this section of all or part
7 of the railroad to the private sector, including allowing recipients of
8 permanent fund dividends to direct their dividends to a railroad purchase
9 fund.

10 * Sec. 7. SPECIAL REPORT. The corporation shall study any problems
11 created by vibrations due to operating the railroad from Ship Creek through
12 Inlet View to the Turnagain Area and extending to Potter's Marsh. The
13 study shall include consideration of any potential for problems that may be
14 created by hauling coal and larger quantities of gravel along that portion
15 of the rail line. By February 1, 1986, the corporation shall present a
16 report to the legislature on the study containing recommendations for
17 correcting any problems identified.

18 * Sec. 8. Section 3 of this Act takes effect on the effective date of
19 an amendment to the constitution of the State of Alaska relating to the
20 Alaska Railroad.

21 * Sec. 9. Sections 1, 2, and 4 - 7 of this Act take effect immediately
22 in accordance with AS 01.10.070(c).

ce
BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

POUCH Z
JUNEAU, ALASKA 99811
PHONE: (907) 465-3900

OFFICE OF THE COMMISSIONER
Alaska Railroad Transfer Team

March 23, 1984

HB 512

The Honorable Bette Cato
Chairman, House Transportation Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Cato:

Enclosed per your request is a fiscal note on the committee substitute for HB 512, an Act establishing the Alaska Railroad Corporation. Also enclosed is a detailed analysis with supporting documentation to explain its contents.

The estimates in this fiscal note are based on the results of the Alaska Railroad Transfer Team's Alaska Railroad Acquisition Assessment, released in December 1983. Although our "worst case" scenario has been used for these calculations, current indicators regarding uncertainty over potential traffic increases suggest this analysis for FY 85 is a more realistic forecast for determining actual fiscal impact.

Based on a request from the Senate Transportation Committee, the Transfer Team is re-assessing these estimates to develop a "best case" alternative for legislative consideration. This analysis will factor in the full impact of increased revenues from the export coal movement, SeaWay Express' entry into Seward, and additional special trains to meet the summer cruise ships at Whittier. This information will be provided to your committee as soon as it becomes available.

All estimates are presented in constant 1985 dollars and have been inflated from our original 1983 constant dollar estimates using an annual 6% inflation factor. The "general fund" line under the "funding component" is the projected annual shortfall to the State resulting from acquisition of the railroad. In FY 85, an overall appropriation of \$15.8 million will be needed to cover the expected shortfall.

The figures in this note are basically the same as those presented to the Senate Transportation Committee for the CS for SB 352. Another \$50,000 per year has been added to this note in response to the higher compensation levels for board members in Sec. 42.40.050, and the additional notice requirements in Sec. 42.40.090.

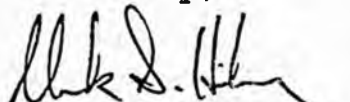
The FY 85 estimate is based on an assumption that actual transfer will occur somewhere between November and January of that fiscal year. Accordingly, most of the figures (e.g., revenues) are merely prorated for a seven month fiscal year ending in July 1985.

In addition, there are certain one-time, start-up expenditures directly attributable to the actual railroad transfer which causes the sizeable shortfall during FY 85. Included in this area are such items as \$4.9 million for replacement of the railroad's working capital fund, \$4.5 million for initiation of compliance with OSHA requirements and state and local building codes, and \$2 million for specific transition expenses to be incurred by the new corporation in taking over the railroad.

Another \$1.75 million of the 300 level contractual category is for the Alaska Railroad Transfer Team to perform its duties during FY 85. These funds are to support several one-time transition activities, most of which are already underway in this fiscal year. All other FY 85 fiscal impact to state agencies as a result of enacting this legislation has also been included in this submittal.

I trust this information helps to explain the highlights of the enclosed fiscal note. If you would like any additional assistance, please do not hesitate to contact me at 465-3900.

Sincerely,



Mark S. Hickey
State Railroad Coordinator

Enclosure

cc: Ray Gillespie, Legislative Liaison,
Office of the Governor
Ben Harding, Special Staff Assistant,
Office of the Governor
R. J. Knapp, Commissioner,
Department of Transportation &
Public Facilities
House Transportation Committee Members

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 512
 Title: Alaska Railroad Corporation Act of 1984
 Sponsor: Hayes, et. al.
 Requestor: Representative Cato
 Date of Request: 3/22/84

FISCAL DETAIL

Agency Affected: _____
 Program Category Affected: _____
 BRJ, Program or Subprogram(s) Affected: Alaska Railroad

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		24,350				
200 TRAVEL		300				
300 CONTRACTUAL		4,800				
400 SUPPLIES		5,200				
500 EQUIPMENT		1,200				
600 LAND & STRUCTURES		-0-				
700 GRANTS, CLAIMS		1,500				
800 MISCELLANEOUS		-0-				
TOTAL OPERATING	-0-	37,350	57,800	58,050	57,350	57,950
CAPITAL	-0-	15,800	20,450	20,450	20,450	20,450
REVENUE	-0-	37,350	67,200	70,200	73,300	76,350

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	15,800	11,050	8,300	4,500	2,050
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	37,350	67,200	70,200	73,300	76,350
TOTAL	-0-	53,150	78,250	78,500	77,800	78,400

POSITIONS:

FULL-TIME	-0-	478	478			
PART-TIME	-0-	38	38			
TEMPORARY	-0-	64/300	64/300			

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

General Fund (Although the legislation does not speak to this point, every indication suggests use of a general fund appropriation to offset fiscal impact.)

ANALYSIS: Attach a separate page for analysis

Prepared By: Mark S. Hickey, State Railroad Coord. Phone: 465-3900
 Division: Alaska Railroad Transfer Team Date: 3/22/84

Approved by Commissioner: R. J. Knapp Date: 3/22/84
 Agency: Department of Transportation & Public Facilities

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION

FISCAL NOTE

Bill/Resolution No.: HB 512

Title: Alaska Railroad Corporation Act of 1984

BILL ANALYSIS

Overview:

This fiscal note is based upon the results of the Alaska Railroad Team's Alaska Railroad Acquisition Assessment, released in December 1983. That document provides a comprehensive analysis of the major issues concerning acquisition of the Alaska Railroad (ARR). It includes a thorough assessment of the financial exposure to the State from ensuring continued rail operations in accordance with the requirements of the Alaska Railroad Transfer Act of 1982 (ARTA)

The estimates presented in this fiscal note are derived from the "worst case" scenario of future railroad activity. Current indicators such as the continued uncertainty over the export coal contracts suggest use of this analysis as the most realistic forecast for determining actual fiscal impact. Please note that the acquisition cost of \$22.3 million for railroad purchase has been addressed in a separate fiscal note attached to the acquisition legislation.

While the data and forecasts used in both the Acquisition Assessment and this fiscal note reflect the input and work of the railroad and the United States Railway Association (USRA), the final estimates are based on independent analysis and downward adjustment by the Transfer Team. Our work includes such factors as removal of uncertain revenue increases, increased costs for compliance with state and local building codes, and additional adjustments for necessary capital rehabilitation.

This bill analysis is limited to providing explanations of the fiscal impact resulting from the proposed legislation. It should be noted that there exist policy conflicts between provisions of this legislation and the Sheffield Administration's Policy Statement of January 26, 1984.

Assumptions:

The FY 85 figures are based upon an assumption that actual railroad transfer will occur somewhere between November and January of that fiscal year. As a result, most of the estimates are merely prorated for a partial fiscal year ending in July 1985. However, there are certain one-time, start-up expenditures directly attributable to the actual railroad transfer which cause the sizeable shortfall during what is only a partial fiscal year.

Although a breakout of specific operating expenditures has been provided for FY 85 in order to provide the railroad operating entity a functioning program during its first year of operations, an actual budget structure has not been included to avoid prejudicing the new operating entity's prerogatives to formulate its own budget structure and subsequent submissions. Please note that the FY 85 submittal also contains the request for all funds needed by the Transfer Team and other state agencies to perform the duties resulting from passage of this legislation and acquisition of the railroad.

Although the current legislation places the Alaska Railroad within the Department of Commerce and Economic Development for purposes of the constitution, other sections of this bill anticipate removing it if a proposed constitutional amendment passes next November. Accordingly, this note does not address a specific "agency affected" to avoid a future conflict in this area.

Since the constitutional amendment cannot become effective until November if it passes, this note is predicated on an assumption that all funds for the corporation will be passed through by the respective line agency under which the corporation is located. Funds for all other state agencies will be passed on to the Transfer Team for further processing as appropriate.

Administrative costs incurred by the line agency under which the corporation is located should be minimal and will be covered as part of the corporation's overhead. Please note that all fiscal impact to state agencies resulting from this legislation have been coordinated by the Transfer Team and are reflected in this note.

All estimates are presented in constant 1985 dollars. An annual inflation factor of 6% has been used to convert the original 1983 constant dollar estimates in the Acquisition Assessment.

Operating Expenditures:

This estimate includes both general operating expenses and new expenditures resulting from the railroad transfer (i.e., additional costs due to potential loss of railroad gravel reserves under third-party claims). Included in the former category are costs for maintenance-of-way, maintenance of power and equipment, transportation services, communications, administration and overhead, marketing and real estate management. The latter category includes increased legal and overhead expenses, additional insurance and risk management contributions, fiscal impact to the Transfer Team and other state agencies because of railroad acquisition, and one-time, start-up costs for items such as the printing of new letterhead and the marking of personal property.

Although revenue is projected to increase during FY 87-89, costs during that period are not significantly larger than the first two years of operations due to the sizeable, one-time transfer related expenses immediately following transfer. These estimates are based on historical data provided by current railroad personnel and reflect anticipated operating expenditures needed to comply with the terms of ARTA.

Attachment A provides more details on the FY 85 submittal by object of expenditure. Some \$4 million of this estimate is to cover immediate expenditures resulting from actual transfer of the railroad. This includes the following:

- (1) \$1.750 million for the Alaska Railroad Transfer Team to perform its duties as outlined in Attachment B;
- (2) \$2 million for specific one-time, start-up costs to be incurred by the new entity for items such as the marking and inventorying of personal property, the printing of new stationery and payment warrants, additional legal costs, and certain corporation expenditures for the new Board of Directors;
- (3) \$200,000 in funds to conduct a final pre-transfer audit to establish the accuracy of balance sheets and the identification of accounting problem areas; and
- (4) \$80,000 in additional fiscal impact to the Department of Administration to ensure preservation of railroad archival records and additional labor relations work not budgeted for in the Transfer Team's FY 85 budget memo.

Another component of the FY 85 submittal includes \$270,000 in funds in direct response to the following requirements of the legislation:

- (1) \$200,000 to initiate the Special Report required in Section 9 on the feasibility of attracting private sector involvement in the railroad's operations;
- (2) \$35,000 to the Department of Natural Resources to respond to any state land request by the corporation under Section 42.40.360; and
- (3) \$35,000 to fund costs for the new railroad employees labor relations agency as provided in Section 42.40.780.

The remaining estimates in this area reflect the normal operating expenses by category for the part of FY 85 involving state operation of the railroad. These specific estimates have been prepared with the close cooperation of railroad administration and budgeting personnel. All expenditures for per diem and compensation of the Board of Directors have been included in the general estimates for the 100 and 200 categories.

Capital Expenditures:

The capital component of this fiscal note represents a combination of increased capital costs resulting from transfer and prorated expenditures for ongoing railroad operations. The analysis contained in Chapters 4 and 5 of the Acquisition Assessment serve as the basis for both of these estimates.

In addition, the results from the State's independent engineering condition assessment have been used to project an increased level of expenditure minimally acceptable to begin reversing deterioration of the railroad's physical plant, including the initiation of a systematic plan for replacing aged rolling stock. It is important to understand that engineering condition alone cannot be the basis for a projected level of sustained capital expenditure, but must be tempered by national trade-offs between long-term plant condition and available revenues.

The capital estimate of \$15.8 million includes a one-time expenditure of \$4.9 million to replace the railroad's working capital fund. ARTA establishes a process where little, if any, money will be transferred from the ARR's Revolving Fund because of pre-transfer federal claims and contingent liabilities that must be paid by the fund. As a result, an amount equal to about one month's worth of operating expenses (which is similar

to working capital requirements for other railroads) is needed to fund and maintain adequate working capital for the railroad after transfer.

Another capital expenditure resulting from railroad transfer is the initiation of compliance with Occupational Safety and Health Act (OSHA) requirements and state and local building codes. Approximately \$4.5 million per year has been set aside during the forecasted period to move toward compliance in these areas. Chapter 5.3 of the Acquisition Assessment provides more details regarding this requirement.

The remaining \$6.4 million of this estimate covers general railroad capital needs, prorated for the period of state ownership during FY 85. An additional \$7.85 million is projected for expenditure by the railroad for this program. Attachment C provides additional information regarding the capital improvement program to be performed during FY 85.

It should also be noted that based on a recent audit review of the ARR's financial statements, about \$4 million per year of capital expenditures could just as easily be categorized as operating costs (primarily maintenance-of-way expenditures) if generally accepted accounting principles are applied to the railroad. However, no adjustments have been made with our estimates to avoid creating greater confusion by conflicting with existing railroad procedures prior to a general system overhaul by the corporation upon transfer.

Revenue:

This estimate on a prorated basis represents projected FY 85 revenues from its freight, passenger and real property rental activities. The FY 85 revenue figure is based on a projected commodity mix fairly similar to the last two years of railroad operations. Attachment D contains some additional information from the ARR's 1983 Draft Annual Report regarding FY 82 and FY 83 operations.

These projections are based on information from the railroad and USRA, which were then adjusted downward by the Transfer Team to remove 50% of the net cash from anticipated revenue increases in export coal, interline and pipe traffic. If either of these movements were in fact to materialize in a significant way, it could sizeably reduce the need for general fund assistance during FY 87-89. Likewise, any major downswing from our projections would probably result in the need for even larger general fund assistance during those years.

Funding Source:

The "Other Funds" appearing on the fiscal note are railroad revenues.

Positions:

ARTA basically mandates a two-year period of full protection of current salaries and benefits for all employees who choose to transfer. What happens following that period becomes a matter for contractual negotiation between management and employees.

The figures presented in this part of the fiscal note are the actual number of employees in each category as of March 1, 1984. No estimate can be made of the actual number of those choosing to transfer, although it is anticipated that most employees will do so. In the case of temporary employees, the first number on this line is the actual number today, while the second estimate reflects the average number of temporary hires used in the summer for major maintenance work.

Summary:

The estimates provided in the attached fiscal note are primarily based on the Transfer Team's assessment of the likely fiscal impacts from state acquisition of the Alaska Railroad. It is important to reiterate that the acquisition cost of \$22.3 million has been addressed in a separate fiscal note attached to the acquisition legislation.

It is our view that the corporation's overall organization as currently envisioned in the proposed legislation will not have any appreciable impact immediately on the railroad's general financial condition. Beyond the increased cost for modifying the existing administrative and management systems during the first two or three years following state takeover, it is difficult to predict whether the proposed organizational arrangements in this legislation will generate cost efficiencies not enjoyed during federal ownership.

The philosophy in the current legislation is, to the extent possible, to foster a self-sustaining business orientation for railroad operations. This is consistent with the Transfer Team's analysis of the types of steps necessary to achieve a break-even position at some point during the first decade of state operations.

There is no specific mandate in this legislation for new extensions or any more services than those currently in existence. This should allow the railroad adequate time to reorganize and streamline its existing operations. In addition, although several specified planning responsibilities have been added to the railroad's duties, the long-term savings from performing these kinds of systematic assessments should more than compensate for any short-term costs resulting from performance of these efforts.

Attachment E is a ten year summary (FY 73-82) of the railroad financial operations during federal ownership. It should be noted that an additional \$66.2 million dollars in congressional appropriations was provided during this period to cover passenger expenses and certain capital needs.

ATTACHMENT A

Operating Budget - FY85

In Thousands (000) of Dollars

This operating budget is prorated for FY 85 except for the impacts to state agencies depicted in the 300 level. All amounts shown are in 1985 dollars. These estimates represent the total prorated FY 85 operating budget for the railroad following state acquisition. Projected revenues from the railroad's operations will serve as the main source of funds for these expenditures, with limited assistance from general fund appropriations.

<u>Category</u>	<u>Amount</u>	<u>Explanation</u>
100 Personal Services	\$24,350.0	This funding level is based upon current work force of 478 permanent full-time, 38 part-time and 64 temporary positions. Of this amount salary comprises \$19,980 and benefits comprise \$4,370. Also included in this estimate are the Board of Directors' compensation expenses.
200 Travel	300.0	This funding level is the estimate of travel funding needs, including the Board of Directors' travel expenses.
300 Contractual	4,800.0	This funding level includes coverage of the following areas: continuation of Transfer Team activities for FY 85 - \$1,750.0 (see Attachment B); Transfer Financial Audit - \$200.0; \$200.0 for initiation of the Special Report required in Section 9 of the bill; Department of Administration - \$80.0 for archives preservation and labor relations coordination; costs for the labor relations agency under Article 8 of the bill - \$35.0; Department of Natural Resources - \$35.0 for land designation activities under Article 5 of the bill. The remainder of these funds are for the railroad's general contractual needs resulting from capital improvement, operations and financial planning activities.

400 Supplies	5,200.0	This funding level is required for the day-to-day operations of the railroad, supporting all facets of operations from administration to maintenance of way.
500 Equipment	1,200.0	This item is the complement of the supply item also supporting day-to-day railroad operations.
700 Grants & Claims	1,500.0	This item provides for funds for the railroad's risk management expenses, payment of damage claims, workmen's compensation expenses and other money claims against the railroad. No grants are anticipated.
TOTAL:	<u>37,350.0</u>	

ALASKA RAILROAD TRANSFER PROJECT

FY 85 PROJECT BUDGET

The goal of the Alaska Railroad Transfer Team is to provide an orderly and informed decision-making process for possible transfer of the Alaska Railroad from federal ownership, thus ensuring continuation of essential rail services in Alaska. If a decision is reached to pursue state take-over of the railroad, then it is also the goal of the Alaska Railroad Transfer Team to organize and oversee a systematic transition from federal ownership.

This document discusses the major work components of the FY 85 budget submittal. The need to pursue some of these efforts is entirely contingent on a decision to acquire, while other work efforts are separate from that decision. Attachment A provides the FY 85 budget submittal as introduced by the Governor. Attachment B is the project budget for FY 84 and provides considerable detail regarding several work tasks, many of which are ongoing in 1985.

The following breakdown is structured on a component or agency basis, versus reiterating specific details regarding ongoing work tasks. As a result, some of this explanation should be read in conjunction with Attachment B in order to fully understand all of the scheduled work efforts.

Work Component #1 - Alaska Railroad Transfer Team Staff

As indicated in Attachment A, funding is needed to support four positions in the Office of the Commissioner, Department of Transportation and Public Facilities. These positions are as follows: a State Railroad Coordinator (Special Assistant II); a Planner IV; a Planner III; and a Correspondence Secretary III. These four individuals comprise the Transfer Team Staff with direct responsibility for performance and coordination of all team activities. This group reports directly to the Commissioner of DOT&PF in the performance of their duties. The following breakdown represents expenditures directly related to this area by object of expenditure.

<u>Object of Expenditure</u>	<u>Description</u>	<u>Amount</u>
Personal Services	4 Positions - DOT&PF	\$195,100
Travel	4 Positions - DOT&PF	66,000
Contractual	Printing/limited Professional Services	35,000
Supplies	Miscellaneous	8,000
	Total	<u>\$304,100</u>

Work Component #2 - Department of Natural Resources Assistance

An existing Reimbursable Services Agreement with the Department of Natural Resources will be continued during FY 85. Work efforts covered by this assistance include ongoing support activity by the Division of Technical Services for conveyance documents and related title review work. Additional support by DNR will be provided for coordination with the Bureau of Land Management's cadastral survey work and assistance from the Division of Land and Water Management to implement the railroad transfer. The following breakdown by object of expenditure presents the needed funding for these services.

<u>Object of Expenditure</u>	<u>Description</u>	<u>Amount</u>
Personal Services	4 Positions - DNR	\$191,900
Travel	4 Positions - DNR	20,000
Contractual	Miscellaneous	
	Professional Services	30,000
Supplies	Miscellaneous	8,100
	Total	\$250,000

Work Component #3 - Department of Labor Assistance

Specific assistance is still needed by the Department of Labor to perform an extensive survey of the railroad's physical facilities in relation to federal and state occupational safety and health laws, regulations and standards. Although this was scheduled for performance during FY 84, insufficient funding required postponement of this work effort until FY 85. Scheduled funds during FY 84 for this effort were diverted to cover additional labor relations work by the Department of Administration and the use of an Engineer-in-Training position to assist with the engineering condition assessment. The following breakdown provides an estimate for this activity by object of expenditure.

<u>Object of Expenditure</u>	<u>Description</u>	<u>Amount</u>
Personal Services	2 Full-time - DOL	\$142,700
	2 part-time	
Travel	2 Full-time - DOL	7,300
Training	2 Full-time	5,200
Contractual	Miscellaneous Professional Services	39,800
Supplies	Miscellaneous	6,500
Equipment	Health Sampling Equipment/ Memory Typewriter	12,000
	Total	\$213,500

Work Component #4 - Department of Administration Assistance

Activity in the area will consist of continuing work efforts initiated during FY 84 explained under task #6 of Attachment B. Particular attention must be paid to the analysis of the five collective bargaining agreements, which will support the full scale initiation of the two-year renegotiation process in conjunction with the new entity established to operate the railroad. Another important work effort will be to conduct an orderly transition from federal to state ownership for all personnel matters and ensure that all of the specified requirements from the federal transfer legislation are properly met by the new organization established to operate the railroad. Other efforts include assistance with insurance and risk management needs. The following breakdown by object of expenditure presents the necessary funding for this area.

<u>Object of Expenditure</u>	<u>Description</u>	<u>Amount</u>
Personal Services	1 Full-time Position	\$105,000
	2 Part-time Positions	45,000
Travel	1 Full-time, 2 Part-time	105,000
Contractual	Liaison Assistance/ Miscellaneous	105,000
	Professional Services	
Supplies	Miscellaneous	<u>2,400</u>
	Total	\$257,400

Work Component #5 - Department of Law Assistance

Assistance from the Department of Law is needed for several tasks to be performed by existing AG staff and retained special counsel. Included are the following work efforts: (1) legal work pertaining to the 3(e) (ANCSA) claims against railroad property by native village corporations, including ongoing negotiation and staff work to support the State's position during the adjudication process; (2) legal assistance for the preparation of transfer documents and attention to related land conveyance problems; (3) resulting from the response to various court actions by third parties because the railroad transfer; (4) ongoing legal assistance with issues involving regulation by the Interstate Commerce Commission (ICC); and (5) support of efforts relating to personnel/labor relation matters. The following breakdown by object of expenditure presents the needed funding for this area.

<u>Object of Expenditure</u>	<u>Description</u>	<u>Amount</u>
Personal Services	Staff Attorneys	\$180,000
Travel	Staff Attorneys	20,000
Contractual	Wickwire Lewis	150,000
	David Walsh	75,000
	David Rogers	<u>75,000</u>
	Total	\$500,000

Work Component #6 - ICC Rate Valuation/Capital Plan Activity

Work efforts under this component will consist of the following: (1) initiation of planning work necessary to file the appropriate valuation studies before the ICC for purposes of rate-making justification; and (2) performance of ongoing capital planning analysis. This second task will be a continuation of efforts performed under task #5 in Attachment B. It will be coordinated with the initiation of the ICC valuation studies to maximize generation of a data base useful to both efforts. Funding in this area is needed for contractual assistance, which will be directly managed by the Transfer Team Staff.

<u>Object of Expenditure</u>	<u>Description</u>	<u>Amount</u>
Contractual	Consulting Assistance	<u>\$225,000</u>
	Total	\$225,000

ALASKA RAILROAD TRANSFER PROJECT BUDGET

PROJECT BUDGET

The following depicts the project budget by work component and amount:

	<u>Amount</u>
(1) Alaska Railroad Transfer Team Staff	\$ 304,100
(2) Department of Natural Resources Assistance	250,000
(3) Department of Labor Assistance	213,500
(4) Department of Administration Assistance	257,400
(5) Department of Law Assistance	500,000
(6) ICC Rate Valuation/Capital Plan Activity	<u>225,000</u>
Project Total	\$1,750,000

ATTACHMENT C

Capital Improvement Program - FY85

In Thousands (000) of Dollars

This CIP is prorated for FY 85. All amounts shown are in 1985 dollars. These estimates represent costs to the State, and are only part of the ARR's total capital budget. Revenues from the ARR for capital improvements will be added to State funding.

<u>Item</u>	<u>Amount</u>	
Working Capital Fund	\$ 4,900	As with all businesses, the ARR will need working capital. It is estimated that one month's worth of operating expenses will be adequate working capital for the ARR.
OSHA/Code Compliance	\$ 4,500	As a federal agency, the ARR has not been subject to many health, safety, and building code standards that would otherwise apply. These codes will apply upon transfer, and initial surveys conducted by the State have been used to determine necessary compliance levels. See Appendix C of the Alaska Railroad Acquisition Assessment for more details.
Other Capital Improvements	\$ 6,400	These expenses represent the minimal expenditure necessary for the ARR to maintain current levels of service, while initiating efforts to reverse deterioration of physical plant condition. Component priorities have been selected using the findings of the State's independent condition assessment. As indicated in the attached supplement, most capital improvements are for track and roadbed, upgrade of certain cargo handling facilities, and motive power and equipment purchases.
TOTAL	<u>\$15,800</u>	

Supplement to Item #3, Attachment C

Track & Roadbed - \$6,185,000

Ties - Install 50,000 @ \$42.00 ea.	= \$2,100,000
Rail - Install 6 miles @ \$350,000 ea.	= \$2,100,000
Ballast - Install 85,000 yd ³ @ \$14 yd ³	= \$1,190,000
Other - (Turnouts, sledding, culverts, ditching)	= \$ 795,000

Bridges - \$883,000

Replace stringers, bents, and spans
Reset bearings, piles, and abutments

Tunnels - \$1,060,200

Line with multi-plate
Excavate rock fall areas

Docks - \$706,800

Preliminary work to rebuild barge slip #1 at Whittier

Communications - \$570,000

Complete microwave system
Remove pole lines
Acquire equipment

Motive Power & Equipment - \$4,845,000

Locomotives	= \$2,250,000
Upgrade Facilities	= \$1,845,000
Equipment	= \$ 750,000

Note: This totals \$14.25 million and is the ARR's overall FY 85 capital budget, of which \$6.4 million is covered under this fiscal note.

FINANCIAL

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The following four financial statements (Tables VIII through XI) describe the financial situation (Note 1) of The Alaska Railroad.

TABLE VIII: STATEMENT OF INCOME
FISCAL YEARS 1982-83
(Thousand dollars)

CATEGORY	1983	1982
REVENUES (Note 2):		
Operating Revenues:		
Freight	\$43,787	\$47,877
Passenger	3,305	2,627
Other (Note 15)	5,305	4,941
Total Operating Revenues	<u>52,397</u>	<u>55,445</u>
Non-Operating Revenues (Note 16)	3,697	3,352
Total Revenues	<u>\$56,094</u>	<u>\$58,797</u>
EXPENSES (Note 3):		
Operating Expenses:		
Maintenance of Way & Structures (Note 4)	\$9,859 ⁽¹⁾	\$8,554
Maintenance of Equipment	12,325	11,702
Transportation	19,551	18,685
Traffic Management	865	757
Incidental	4,529	4,152
General and Administration (Note 5)	5,863	5,128
Total Operating Expenses	<u>52,993</u>	<u>48,978</u>
Non-Operating Expense (Note 17)	277	258
Total Expenses	<u>\$53,270</u>	<u>\$49,236</u>
NET PROFIT (Surplus)	\$2,824	\$9,561
Add Depreciation included in Expenses	4,404	3,712
CASH FLOW (Gain)	<u>\$7,228</u>	<u>\$13,273</u>

Notes follow Table XI

(1) Includes \$1.7 million which was part of Congressional Appropriation major maintenance and not included in FY 1982 expense.

Expense/Revenue Ratio	94.97%	83.74%
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TABLE IX: BALANCE SHEET
SEPTEMBER 1982-83
(Thousand dollars)

CATEGORY	1983	1982
ASSETS:		
Current Assets:		
Cash (Note 8)	\$9,646	\$14,966
Trust and Deposit Funds (Note 9)	32	7
Accounts Receivable	14,195	13,105
Materials and Supplies (Note 10)	10,143	7,040
Prepaid Expenses	20	0
	<u>34,036</u>	<u>35,118</u>
Properties:		
Land (Note 11)	265	265
Buildings	12,943	12,921
Roadway Structures & Facilities	127,215	125,000
Equipment	57,895	49,864
Non-Operating Property	1,947	1,877
Total Properties	<u>200,265</u>	<u>189,927</u>
Less Accumulated Depreciation:	<u>60,516</u>	<u>57,678</u>
Properties - Net	<u>139,749</u>	<u>132,249</u>
Additions & Betterments in Progress (Note 12)	<u>11,599</u>	<u>12,059</u>
	<u>151,348</u>	<u>144,308</u>
Other Assets and Deferred Charges	2,526	3,029
Total Assets	<u>\$187,910</u>	<u>\$182,455</u>
LIABILITIES & PROPRIETARY INTEREST OF THE U.S. GOVERNMENT:		
Current Liabilities:		
Accounts Payable	\$4,721	\$3,416
Accrued Payrolls Payable	1,320	1,056
Trust and Deposit Funds (Note 9)	32	7
	<u>6,073</u>	<u>4,479</u>
Other Liabilities and Unadjusted Credits	<u>2,209</u>	<u>3,152</u>
Total Liabilities	<u>\$8,282</u>	<u>\$7,631</u>
Proprietary Interest (Note 13):		
Net Investment	200,621	192,995
Retained Earnings from July 1, 1954	(18,171)	(23,578)
Current Year Operating Results	2,824	9,561
Extraordinary Items (Note 6)	(5,646)	(4,154)
Total Proprietary Interest (Note 13)	<u>179,628</u>	<u>174,824</u>
Total Liabilities & Proprietary Interest	<u>\$187,910</u>	<u>\$182,455</u>

Notes follow Table XI

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TABLE X: STATEMENT OF CHANGES IN FINANCIAL POSITION
FISCAL YEARS 1982-83
(Thousand dollars)

CATEGORY	1983	1982
Funds were provided by:		
Revenues and Other Receipts	\$56,438	\$58,699
Appropriations from Congress (Note 14)	<u>7,600</u>	<u>6,160</u>
Total Funds Provided	64,038	64,859
Funds were used for:		
Labor	35,579	33,221
Other	14,044	17,839
Capital Improvements & Replacements	<u>16,348</u>	<u>11,821</u>
Total Funds Used	65,971	62,881
Increase (Decrease) in Government Equity	(1,933)	1,978
Other increases (Decreases):		
Undelivered Orders	(2,924)	3,983
Supplies and Materials	3,103	1,119
Properties	7,040	3,964
Other	<u>(482)</u>	<u>513</u>
Total, Other	6,737	9,579
Total Increase (Decrease) in Government Equity	<u>\$4,804</u>	<u>\$11,557</u>
Proprietary Interest:		
Beginning Balance	\$174,824	\$163,267
Increase (Decrease)	<u>4,804</u>	<u>11,557</u>
Ending Balance (Note 13)	\$179,628	\$174,824

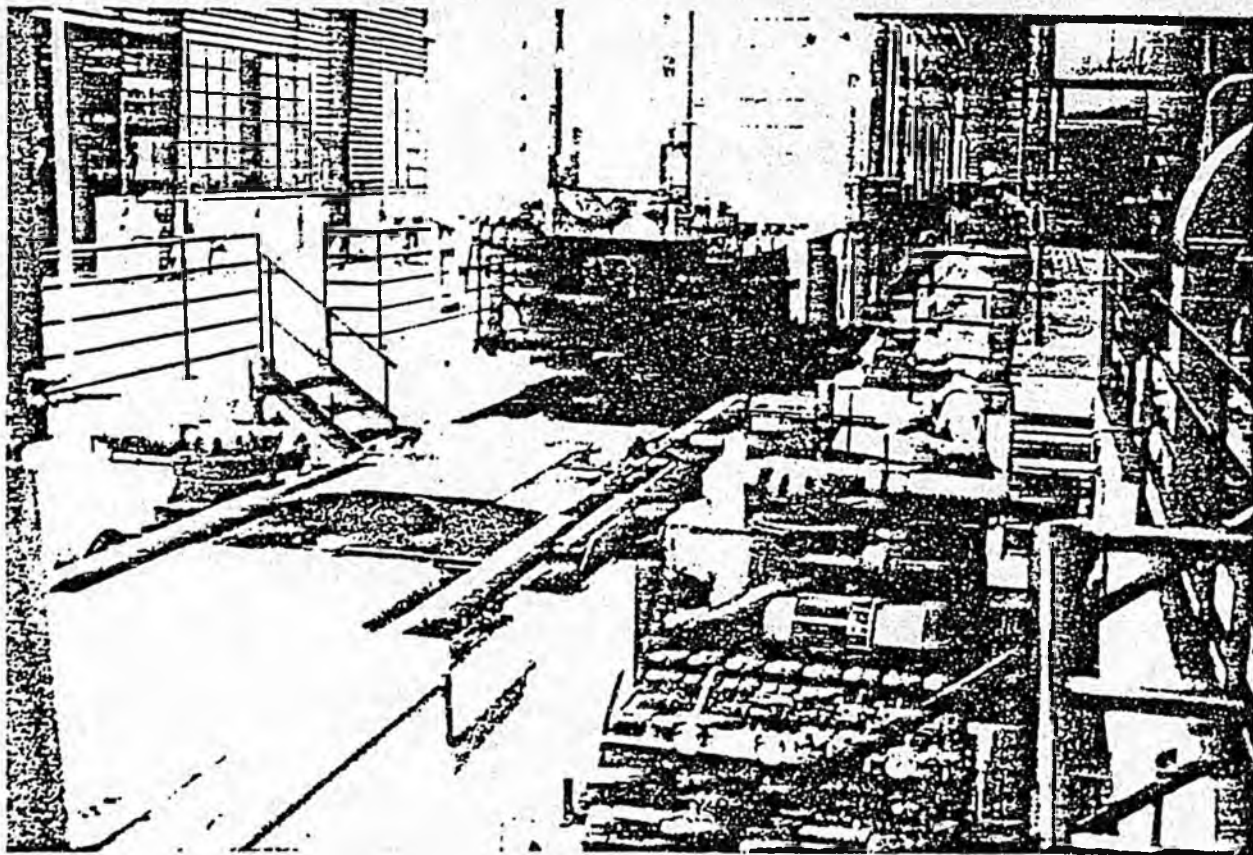
Notes follow Table XI

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TABLE XI: FIVE-YEAR CONDENSED SUMMARY OF OPERATIONS
FISCAL YEARS 1979-83
(Thousand dollars)

CATEGORY	1983	1982	1981	1980	1979
REVENUES:					
Operating	\$52,397	\$55,445	\$40,782	\$26,737	\$23,200
Non-Operating (Note 16)	<u>3,697</u>	<u>3,352</u>	<u>3,159</u>	<u>2,155</u>	<u>2,081</u>
Total Revenues	\$56,094	\$58,797	\$43,941	\$28,892	\$25,181
EXPENSES:					
Operating	\$52,993	\$48,978	\$40,358	\$34,380	\$31,285
Non-Operating (Note 17)	<u>277</u>	<u>258</u>	<u>273</u>	<u>344</u>	<u>204</u>
Total Expenses	\$53,270	\$49,236	\$40,631	\$34,724	\$31,489
NET PROFIT (LOSS)	\$2,824	\$9,561	\$3,310	(\$5,832)	(\$6,308)
Less Extraordinary Items (Note 6)	<u>(\$5,646)</u>	<u>(\$4,154)</u>	<u>(\$204)</u>	<u>(\$692)</u>	<u>(\$319)</u>
Annual Retained Earnings	(\$2,822)	\$5,407	\$3,106	(\$6,524)	(\$6,627)
Expense/Revenue Ratio	94.97%	83.74%	92.47%	120.19%	125.05%

Notes follow Table XI



A modern wheel truing machine was installed in a newly constructed shop building in 1933.

NOTES TO FINANCIAL STATEMENTS

1. SUMMARY OF ACCOUNTING POLICIES

The Alaska Railroad uses the generally accepted principles, standards, and related requirements of governmental accounting as approved by the Comptroller General of the United States. Operations are conducted in a manner consistent with related commercial enterprises and, at the same time, in conformance with the requirements incumbent upon a Government agency.

As is the customary practice of the industry, the Railroad uses betterment and retirement accounting instead of depreciation accounting for roadbed and track. Under this method, prescribed by the Interstate Commerce Commission, the cost of replacing tracks and structures--less salvage recovered--is charged to the appropriate operating expense account and only the cost of betterments is capitalized. These capitalized items are not depreciated, but upon retirement of the tracks and structures, the entire capitalized amounts--less salvage recovered--are charged to expense.

The accounting system and related procedures disclose financial condition and operating results to provide full accountability of the Government's investment in the Railroad and to afford management the necessary data to carry out its responsibility in the most efficient and economical manner.

The Railroad is financed from a revolving fund.

2. REVENUES

Revenues from rail operations are included in income on an accrual basis upon the completion of service.

3. EXPENSES

Expenses are accrued or applied or both on a basis consistent with generally accepted accounting principles.

4. MAINTENANCE OF WAY AND STRUCTURES

Maintenance of way and structures include expenses incurred by engineering (\$9,207,000) and communications (\$652,000).

5. GENERAL AND ADMINISTRATION

General and administration accounts include expenses for headquarters and staff (\$1,378,000) and the administration department (\$4,485,000).

6. EXTRAORDINARY ITEMS

Extraordinary items include the loss on excess current inventories (\$23,000), deferred outlays (\$3,760,000), prior-year adjustments (\$697,000), and costs associated with the transfer evaluation (\$1,166,000).

7. DEPRECIATION

Depreciation is computed using the straightline method and is based on estimated service lives of depreciable properties, except for the railway track and structures, which are computed using the industry betterment method. Depreciation charges are determined by using the composite or group rates applicable to various classes of property.

The following is a list of depreciation charges in FY 1983:

	(Thousand dollars)
Mechanical - equipment	\$2,807
Engineering - buildings and structures	892
Transportation - docks	438
Communications	170
Non-operating	66
Other	<u>31</u>
Total	\$4,404

8. CASH

Cash refers to the fund balance with the U.S. Treasury, which is the net amount of cash receipts, e.g., revenues, proceeds from sales, and amounts of congressional appropriations, less disbursements.

9. TRUST AND DEPOSIT FUNDS

Trust and deposit funds include special deposits and other collections not covered by the revolving fund and cleared by disbursement or transfer, as appropriate. A contra account to this asset account is reflected in the liability section.

10. MATERIALS AND SUPPLIES

Inventories, consisting of replacement or repair parts for equipment and road property, construction materials, and fuel, are valued at average cost, including freight.

11. LAND

Land includes only property purchased by the Railroad from private owners and carried at acquisition cost. The Railroad owns over 38,000 acres withdrawn from the public domain at no cost; this land is not included in the financial records.

12. ADDITIONS AND BETTERMENTS IN PROGRESS

This is a control account for authorized capital projects during the period of construction or procurement. Upon completion of the capital project, the related costs are transferred into the appropriate fixed asset property account.

13. PROPRIETARY INTEREST OF THE U.S. GOVERNMENT

The proprietary interest shows the Federal Government's net interest in The Alaska Railroad. At the end of FY 1983, it is summarized as follows:

	(Thousand dollars)
Appropriation by Congress	\$259,496
Allotments from other agencies, sales of lots, etc.	1,724
Property transferred or donated (not public domain)	19,903
Earthquake losses	(16,738)
Deficits from operations and capital losses to 6/30/54	(63,764)
Retained earnings (7/1/54 to 9/30/82)	(18,171)
FY 1983 operating results	2,824
Extraordinary Items (Note 6)	<u>(5,646)</u>
Total proprietary interest of the U.S. Government	\$179,628

14. CONGRESSIONAL APPROPRIATIONS

Funds appropriated by Congress were obligated within the fiscal year, as shown below:

	(Million dollars)	
	<u>FY 83</u>	<u>FY 82</u>
Congressional appropriations received	\$7.60	\$6.16
Obligated during fiscal year	<u>\$7.60</u>	<u>\$6.16</u>
Amount unobligated at end of fiscal year	\$0.00	\$0.00

15. OTHER OPERATING REVENUES

Other operating revenues include those revenues that were neither freight nor passenger. Individual accounts exceeding \$90,000 in FY 1983 were:

	(Thousand dollars)
Reimbursable services	\$2,036
Sale of non-invested property	1,301
Reimbursements - real estate, utilities, and equipment	541
Whittier shuttle - vehicles	533
Wharfage and handling	148
Mail	145
Switching	116
Equipment rentals	90
All other	<u>395</u>
Total	\$5,305

16. NON-OPERATING REVENUES

Non-operating revenues in FY 1983 were:

(Thousand dollars)

Miscellaneous rentals	\$3,466
Interest earned	144
All other	<u>87</u>
Total	\$3,697

17. NON-OPERATING EXPENSES

Non-operating expenses in FY 1983 were:

(Thousand dollars)

Buildings	\$199
Depreciation	60
Equipment	10
All Other	<u>2</u>
Total	\$277



At a re-enactment of the original golden spike ceremony Governor Sheffield wields the same maul used by President Harding in 1923.

TRAFFIC

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FREIGHT

Table II shows freight revenue tons and freight revenue dollars by major classification of commodities for fiscal years 1983 and 1982. Total tonnage for fiscal year 1983 exceeded fiscal year 1982 by 34 percent. For the third consecutive year sand and gravel led all other commodities in percentage gains. The primary cause of the 60-percent escalation was a vigorous private and business construction year plus increases in public works projects in Anchorage. The drop in movements of iron and steel products from Seward to Fairbanks destined for the North Slope from its peak in 1982 accounted for the return of manufacturers and miscellaneous products to a lower level, but still above FY 1981.

TABLE II: FREIGHT TRAFFIC BY COMMODITY

COMMODITY	1983 FY	1982 FY	% CHANGE
REVENUE TONS CARRIED (000's)			
Sand and Gravel	4,397.7	2,753.8	+ 59.7
Coal	625.8	653.6	- 4.2
Petroleum, Oil, Lubricants	462.2	439.4	+ 5.2
Manufacturers and Misc.	323.1	449.9	- 28.2
TOFC/COFC (Piggyback)	98.0	122.4	- 19.9
Products of Forests	105.1	77.0	+ 36.5
Products of Agriculture	<u>6.1</u>	<u>6.8</u>	- 10.3
Total Tonnage	6,018.0	4,502.9	+ 33.7
REVENUE DOLLARS (000's)			
Sand & Gravel	6,647	4,556	+ 45.9
Coal	5,007	5,072	- 1.3
Petroleum, Oil, Lubricants	9,723	8,376	+ 16.1
Manufacturers and Misc.	15,704	22,512	- 30.2
TOFC/COFC (Piggyback)	3,625	4,915	- 26.2
Products of Forests	2,955	2,301	+ 28.4
Products of Agriculture	<u>126</u>	<u>145</u>	- 13.1
Total Revenue	43,787	47,877	- 8.5

PASSENGER

Aggressive and expanded advertising and marketing resulted in an overall increase of 21 percent in passenger ridership as shown in Table II. The marketing efforts included active promotion of tour packages which attracted, for the first time, nine cruise ships to stop at the Railroad's Port of Whittier, and provided over 14,000 of the special train riders.

TABLE III: PASSENGERS HANDLED

SERVICE	1983 FY	1982 FY	% CHANGE
Anchorage-Denali-Fairbanks	61,887	60,810	+ 1.8
Anchorage-Portage-Whittier (Shuttle)	117,740	95,449	+ 23.4
Specials	<u>31,732</u>	<u>18,857</u>	+ 68.3
Total Passengers Handled	211,359	175,116	+ 20.7

The number of vehicles carried on the Anchorage-Portage-Whittier (shuttle) service was 19,516, up 10 percent over FY 1982.

TARRIFS

The major rate adjustments made in FY 1983 are reflected in Table IV:

TABLE IV: FY 1983 TARIFF CHANGES

TYPE	DATE	% INCREASE
Interline	1-17-83	5
Intrastate:		
General Commodities	2-12-82	5
Gravel	4-19-83	3
Passenger:		
Anchorage - Fairbanks	1-01-83	10
Whittier Shuttle	7-01-83	10

Attachment E
3/14/84

ALASKA RAILROAD OPERATIONS SUMMARY
(Dollar Amounts in Thousands)
Fiscal Years 1973-1982*

	<u>FY 1973</u>	<u>FY 1974</u>	<u>FY 1975</u>	<u>FY 1976</u>	<u>FY 1977</u>	<u>FY 1978</u>	<u>FY 1979</u>	<u>FY 1980</u>	<u>FY 1981</u>	<u>FY 1982</u>
Operating Revenue	\$16,996	\$20,783	\$41,416	\$52,517	\$33,376	\$27,440	\$23,100	\$26,737	\$40,782	\$55,445
Non-Operating Revenue	681	703	871	1,161	1,646	1,651	2,081	2,155	3,159	3,352
<u>Total Revenues</u>	<u>17,677</u>	<u>21,486</u>	<u>42,287</u>	<u>53,678</u>	<u>35,022</u>	<u>29,091</u>	<u>25,181</u>	<u>28,892</u>	<u>43,941</u>	<u>58,797</u>
Operating Expenses	\$20,057	\$22,389	\$35,884	\$49,387	\$35,703	\$33,301	\$31,285	\$34,380	\$40,358	\$48,978
Non-Operating Expenses	153	158	272	191	255	213	204	344	273	258
<u>Total Expenses</u>	<u>20,210</u>	<u>22,547</u>	<u>36,155</u>	<u>49,578</u>	<u>35,958</u>	<u>33,514</u>	<u>31,489</u>	<u>34,724</u>	<u>40,631</u>	<u>49,236</u>
<u>Gain (Loss)</u>										
Before depreciation - cash flow	(\$ 7)	\$ 1,300	\$ 8,513	\$ 6,628	\$ 2,186	(\$ 1,227)	(\$ 3,089)	(\$ 2,306)	\$ 6,567	\$13,274
After depreciation	<u>(\$ 2,533)</u>	<u>(\$ 1,061)</u>	<u>\$ 6,132</u>	<u>\$ 4,100</u>	<u>(\$ 936)</u>	<u>(\$ 4,423)</u>	<u>(\$ 6,308)</u>	<u>(\$ 5,832)</u>	<u>\$ 3,310</u>	<u>\$ 9,561</u>
<u>Capital Expenditures</u>	<u>\$ 1,260</u>	<u>\$ 313</u>	<u>\$ 2,772</u>	<u>\$ 8,602</u>	<u>\$ 8,316</u>	<u>\$ 5,823</u>	<u>\$ 8,181</u>	<u>\$ 6,893</u>	<u>\$11,409</u>	<u>\$11,821</u>
<u>Revenue Tons of Major Commodities</u> (in thousands of tons)										
Sand and Gravel	2	1	1	104	700	727	637	396	1,797	2,754
Bulk Petroleum	363	414	557	624	532	374	220	252	379	439
Coal	565	563	584	607	550	593	524	590	653	654
Iron & Steel Pipe & Fittings	11	15	107	174	16	28	33	37	83	165
Piggyback	48	57	95	114	100	100	89	92	113	122
Forest Products	49	56	120	124	82	68	55	109	101	77
Manufactured Iron & Steel	18	37	60	89	19	12	12	10	8	19
Cement	15	14	25	32	42	33	33	32	43	51
Machinery and Machines	12	21	60	31	47	47	24	16	28	24
Mfrs. & Misc. NOS	32	34	44	29	17	13	25	26	11	**
Other	216	165	209	260	200	163	156	181	146	198
<u>TOTAL</u>	<u>1,331</u>	<u>1,337</u>	<u>1,862</u>	<u>2,188</u>	<u>2,305</u>	<u>2,178</u>	<u>1,808</u>	<u>1,741</u>	<u>3,362</u>	<u>4,503</u>
<u>Passengers</u>	<u>74,000</u>	<u>84,000</u>	<u>81,000</u>	<u>84,500</u>	<u>103,632</u>	<u>126,277</u>	<u>151,045</u>	<u>150,678</u>	<u>161,068</u>	<u>175,116</u>

* The Federal Government changed its fiscal year from July 1-June 30 to October 1-September 30 beginning in FY 1977, resulting in a transition quarter in 1976. To avoid a 15-month fiscal year for comparisons, these statistics use July 1, 1975 through June 30, 1976 as FY 1976, and October 1, 1976 through September 30, 1977 as FY 1977, dropping the transition quarter.

**Mfrs. & Misc. NOS. (not otherwise specified) discontinued, now included in specific categories.

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

5/8/84

Date May 10, 1984

To a time certain; namely: 5/11/84

Mr. President

The Committee on TRANSPORTATION considered CSHB 512(FIN)

establishing the Alaska Railroad Corporation to manage and operate the Alaska Railroad; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt SCS for CS HB 512 (Trsp)
- new title
- same title and recommends my do pass
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

J. H. K. [Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

[Signature] NO REC UNTIL
Constitutional
AMENDMENT IS
DECIDED ON

[Signature]
 Chairman
[Signature]
 Chairman recommendation

Accompanied bill into Committee

ae

HOUSE JOURNAL SUPPLEMENT

May 2, 1984

No. 138

REQUEST Page 1 of 4 FISCAL NOTE HB
 Bill/Resolution No.: CS HB 512 (Fin) Agency Affected: 512
 Title: Alaska Railroad Corporation Program Category Affected:
 ion Act of 1984
 Sponsor: Hayes, et. al. BRU, Program or Subprogram(s) Affected:
 Requestor: Rep. Bettisworth Alaska Railroad
 Date of Request: 5/1/84

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		24,350				
200 TRAVEL		140				
300 CONTRACTUAL		5,900				
400 SUPPLIES		4,000				
500 EQUIPMENT		1,200				
600 LAND & STRUCTURES		-0-				
700 GRANTS, CLAIMS		1,500				
800 MISCELLANEOUS		-0-				
TOTAL OPERATING		37,090				
CAPITAL	-0-	-0-				
REVENUE	-0-	37,350				

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-				
FEDERAL FUNDS		-0-				
OTHER		37,350				
TOTAL	-0-	37,350				

POSITIONS:

FULL-TIME		478				
PART-TIME		38				
TEMPORARY		64/300				

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Representative Bettisworth *By Bettisworth* Phone: 465-3706
 Division: _____ Date: 5/1/84

Approved by Commissioner: Al Adams, Chair *APA* Date: 5/1/84
 Agency: House Finance Committee

Fiscal Note Analysis

The Fiscal Note dated 5-1-84 contains operating revenues and expenses as well as other one time only expenses related to the transfer of the Railroad.

The Fiscal Note does not include capital expense items. Capital items should be included in a separate appropriation bill. The appropriation bill should contain an appropriation for acquisition of the Railroad in the amount of \$22,300,000 and \$9,000,000 for capital improvements including OSHA and building code rehabilitation upgrades and replacement of the working capital fund, etc.

038634

CSHB 512 (Fin)

ALASKA RAILROAD
Operating Expenses*
FY 85 (in \$000)

Supporting Data for State of Alaska
1984 Legislative Session Fiscal Note (HB 352)

	Alaska Railroad								Board of Dir.	Other Expenditures		
	Dec.	Jan.	Feb.	March	April	May	June	Total		ARR Trans. Team	Est. Corp.	Other
<u>Personal Services</u>												
Wages	2,400	2,640	2,640	2,800	2,910	3,035	3,160	19,585				
Fringa	540	590	590	625	650	675	700	4,370				
Sub Total								<u>23,955</u>	120		275	24,350
<u>Travel</u>												
	12	12	12	16	16	16	16	100	40			140
<u>Contracts</u>												
	370	370	360	350	350	350	350	2,500		1,650	1,200	5,900
<u>Supplies</u>												
	340	350	330	480	555	700	720	3,475			525	4,000
<u>Equipment</u>												
	100	148	140	180	200	212	220	1,200				1,200
<u>Grants & Claims</u>												
	200	200	200	200	200	250	250	1,500				1,500
<u>Total</u>												
	<u>3,962</u>	<u>4,310</u>	<u>4,272</u>	<u>4,651</u>	<u>4,881</u>	<u>5,238</u>	<u>5,416</u>	<u>32,730</u>	<u>160</u>	<u>1,650</u>	<u>2,000</u>	<u>37,090</u>

*Minor Discrepancies due to rounding

ALASKA RAILROAD
Operating Expenses*
Analysis by Department
FY '85

CSHB 512 (Fin)

Supporting Data for State of Alaska
1984 Legislative Session Fiscal Note (HB 352)

	December	January	February	March	April	May	June	Total
General Manager & Staff								
Personal Services								
Wages	72	92	92	98	101	106	110	671
Fringe	16	21	21	22	22	23	24	149
Travel	2	2	2	3	3	3	3	18
Contracts	2	2	2	2	2	1	1	12
Supplies	9	9	8	11	12	15	16	80
Equipment	0	0	0	0	0	0	0	0
Grants & Claims	0	0	0	0	0	0	0	0
Total	101	126	125	136	140	148	154	930
Transportation								
Personal Services								
Wages	985	1,080	1,080	1,148	1,190	1,241	1,290	8,014
Fringe	222	243	243	257	267	277	286	1,795
Travel	2	2	2	2	2	2	2	14
Contracts	166	165	166	166	164	165	165	1,157
Supplies	140	143	133	202	236	300	310	1,464
Equipment	5	13	10	15	20	20	20	103
Grants & Claims	0	0	0	0	0	0	0	0
Total	1,520	1,646	1,634	1,790	1,879	2,005	2,073	12,547
Motive Power & Equipment								
Personal Services								
Wages	505	557	557	588	609	634	661	4,111
Fringe	114	124	124	131	137	141	146	917
Travel	1	1	1	2	2	2	2	11
Contracts	49	48	47	47	47	47	47	332
Supplies	76	77	73	107	124	157	162	776
Equipment	60	80	75	100	105	110	110	640
Grants & Claims	0	0	0	0	0	0	0	0
Total	805	887	877	975	1,024	1,091	1,128	6,787

*Minor Discrepancies due to rounding

	December	January	February	March	April	May	June	Total
<u>Engineering</u>								
Personal Services								
Wages	480	539	539	558	580	604	629	3,929
Fringe	108	118	118	125	130	134	140	873
Travel	1	1	1	2	2	2	2	11
Contracts	18	19	15	12	12	12	12	100
Supplies	70	74	69	100	115	143	147	718
Equipment	30	50	50	60	65	67	75	397
Grants & Claims	0	0	0	0	0	0	0	0
Total	707	801	792	857	904	962	1,005	6,028
<u>Administration</u>								
Personal Services								
Wages	289	304	304	332	347	362	377	2,315
Fringe	65	67	67	74	78	80	84	515
Travel	2	2	2	3	3	3	3	18
Contracts	111	113	107	101	104	104	104	744
Supplies	9	9	8	10	11	14	15	76
Equipment	0	0	0	0	0	0	0	0
Grants & Claims	0	0	0	0	0	0	0	0
Total	476	495	488	520	543	563	563	3,668
<u>Marketing & Sales</u>								
Personal Services								
Wages	48	48	48	53	58	58	62	375
Fringe	11	11	11	12	13	13	14	85
Travel	4	4	4	4	4	4	4	28
Contracts	6	5	5	4	4	4	4	32
Supplies	3	3	3	4	4	5	6	28
Equipment	0	0	0	0	0	0	0	0
Grants & Claims	0	0	0	0	0	0	0	0
Total	72	71	71	77	83	84	90	548
<u>Overheads</u>								
Personal Services								
Wages	21	21	21	24	25	30	32	174
Fringe	5	5	5	5	5	7	7	39
Travel	0	0	0	0	0	0	0	0
Contracts	18	18	18	18	17	17	17	123
Supplies	35	37	35	46	51	65	67	336
Equipment	5	5	5	5	10	15	15	60
Grants & Claims	200	200	200	200	200	250	250	1,500
Total	284	286	284	298	308	384	388	2,232

HOUSE JOURNAL SUPPLEMENT

May 2, 1984

No. 138

REQUEST Page 1 of 4 FISCAL NOTE HB
 Bill/Resolution No.: CS HB 512 (Fin) Agency Affected: 512
 Title: Alaska Railroad Corporation Act of 1984 Program Category Affected:
 Sponsor: Hayes, et. al. BRU, Program or Subprogram(s) Affected:
 Requestor: Rep. Bettisworth Alaska Railroad
 Date of Request: 5/1/84

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600 LAND & STRUCTURES		-0-				
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TOTAL OPERATING		37,090				
CAPITAL	-0-	-0-				
REVENUE	-0-	37,350				

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-				
FEDERAL FUNDS		-0-				
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FULL-TIME		478				
PART-TIME		38				
TEMPORARY		64/300				

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Representative Bettisworth *By Bettisworth* Phone: 465-3706
 Division: _____ Date: 5/1/84

Approved by Commissioner: Al Adams, Chair *AAA* Date: 5/1/84
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CSHB 512 (Fin)

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Fringe	540	590	590	625	650	675	700	4,370					
Sub Total								<u>23,955</u>	120		275		<u>24,350</u>
<u>Travel</u>													
	12	12	12	16	16	16	16	100	40				140
<u>Contracts</u>													
	370	370	360	350	350	350	350	2,500		1,650	1,200	550	5,900
<u>Supplies</u>													
	340	350	330	480	555	700	720	3,475			525		4,000
<u>Equipment</u>													
	100	148	140	180	200	212	220	1,200					1,200
<u>Grants & Claims</u>													
	200	200	200	200	200	250	250	1,500					1,500
<u>Total</u>													
	<u>3,962</u>	<u>4,310</u>	<u>4,272</u>	<u>4,651</u>	<u>4,881</u>	<u>5,238</u>	<u>5,416</u>	<u>32,730</u>	<u>160</u>	<u>1,650</u>	<u>2,000</u>	<u>550</u>	<u>37,090</u>

*Minor Discrepancies due to rounding

ALASKA RAILROAD
Operating Expenses*
Analysis by Department
FY '85

CSHB 512 (Fin)
Supporting Data for State of Alaska
1984 Legislative Session Fiscal Note (HB 352)

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Equipment	0	0	0	0	0	0	0	0
Grants & Claims	0	0	0	0	0	0	0	0
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<u>Transportation</u>								
<u>Personal Services</u>								
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Fringe	222	243	243	257	267	277	286	1,795
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Fringe	114	124	124	131	137	141	146	917
Travel	1	1	1	2	2	2	2	11
Contracts	49	48	47	47	47	47	47	332
Supplies	76	77	73	107	124	157	162	776
Equipment	60	80	75	100	105	110	110	640
Grants & Claims	0	0	0	0	0	0	0	0
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Travel	1	1	1	2	2	2	2	11
Contracts	18	19	15	12	12	12	12	100
Supplies	70	74	69	100	115	143	147	718
Equipment	30	50	50	60	65	67	75	397
Grants & Claims	0	0	0	0	0	0	0	0
Total	<u>707</u>	<u>801</u>	<u>792</u>	<u>857</u>	<u>904</u>	<u>962</u>	<u>1,005</u>	<u>6,028</u>
Administration								
Personal Services								
Wages	289	304	304	332	347	362	377	2,315
Fringe	65	67	67	74	78	80	84	515
Travel	2	2	2	3	3	3	3	18
Contracts	111	113	107	101	104	104	104	744
Supplies	9	9	8	10	11	14	15	76
Equipment	0	0	0	0	0	0	0	0
Grants & Claims	0	0	0	0	0	0	0	0
Total	<u>476</u>	<u>495</u>	<u>488</u>	<u>520</u>	<u>543</u>	<u>563</u>	<u>583</u>	<u>3,668</u>
Marketing & Sales								
Personal Services								
Wages	48	48	48	53	58	58	62	375
Fringe	11	11	11	12	13	13	14	85
Travel	4	4	4	4	4	4	4	28
Contracts	6	5	5	4	4	4	4	32
Supplies	3	3	3	4	4	5	6	28
Equipment	0	0	0	0	0	0	0	0
Grants & Claims	0	0	0	0	0	0	0	0
Total	<u>72</u>	<u>71</u>	<u>71</u>	<u>77</u>	<u>83</u>	<u>84</u>	<u>90</u>	<u>548</u>
Overheads								
Personal Services								
Wages	21	21	21	24	25	30	32	174
Fringe	5	5	5	5	5	7	7	39
Travel	0	0	0	0	0	0	0	0
Contracts	18	18	18	18	17	17	17	123
Supplies	35	37	35	46	51	65	67	336
Equipment	5	5	5	5	10	15	15	60
Grants & Claims	200	200	200	200	200	250	250	1,500
Total	<u>284</u>	<u>286</u>	<u>284</u>	<u>298</u>	<u>308</u>	<u>384</u>	<u>388</u>	<u>2,232</u>