

H B

4 85

# HOUSE COMMITTEE REPORT

(7)

Date referred: 2/26/88

FURTHER REFERRALS:

DATE: 3-8-88

The Labor & Commerce Committee has considered HB 485

"An Act amending provisions relating to a solicitation for offers to purchase or operate the Alaska Railroad; and providing for an effective date."

**RECOMMENDS:**

- replace with CS HB 485 (LTC)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

\_\_\_\_\_

*David Douley*

\_\_\_\_\_

*Ellis*

\_\_\_\_\_

*Cliff Davidson*

\_\_\_\_\_

*John F. ...*

\_\_\_\_\_

*Mike ...*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_

*We unananimously ...*

\_\_\_\_\_

*... R+C*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*David Douley*

\_\_\_\_\_

Chairman's signature

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB 485 (TRSP)  
PUBLISH DATE: HOUSE 2/26/88

## FISCAL NOTE

## REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Commerce & Econ. Dev.  
Title: An Act amending provisions relating to a solicitation for offers to purchase or operate the Alaska Railroad Corp.  
Sponsor: Cato Components: \_\_\_\_\_  
Requester: House Transportation Committee

## EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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## FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

## POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PARTTIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Jim Blasingame, Executive Vice President  
Division: Alaska Railroad Corporation

Phone: 265-2403  
Date: February 24, 1988

Approved by Commissioner: J. Anthony Smith, Commissioner  
Agency: Department of Commerce and Economic Development

Date: February 24, 1988

## Distribution (by preparer):

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

06910-4/022488a

# HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

Chairman - Representative Dave Donley

(907) 465-3892



March 4, 1988

To: House Labor and Commerce Committee members

Re: HB 485

There is available upon request from the committee secretary, a referral binder from House Transportation that includes:

\*HB 485 background information

\*research report - "Exemptions to and Sale Provision of the Alaska Railroad Act."

\*statutes

\*federal regulations

\*transfer overview

\*Alaska Railroad appraisal

\*assessment

\*misc.

# PROPOSAL TO SELL AK RAILROAD

## (A) ASSET APPRAISAL & INVENTORY

- 1-Land
- 2-Equipment
- 3-Facilities
- 4-Other Assets

## (B) COSTING ANALYSIS BY TYPE OF SERVICES

- 1-Freight
- 2-Coal (local & export)
- 3-Gravel
- 4-Petroleum
- 5-Pipe
- 6-TOFC-COFC
- 7-Interline
- 8-Passenger (Anch.-Fairbanks,Whittier,Seward & Charters)

## (C) DETAILED MARKETING PLAN

- 1-Freight
- 2-Passenger
- 3-Real Estate
- 4-Other

## (D) LONG-RANGE PROFITABILITY ANALYSIS

- 1-Pro-Forma Financials
- 2-Real Estate Potential

## (E) MODELS FOR FINANCING PURCHASE

- 1-Hiring of an Investment Banker

## (F) DETERMINATION OF LIQUIDATION VALUE

## (G) DEVELOP REPLACEMENT COST DATA

- 1-Land
- 2-Equipment
- 3-Facilities

## (H) RISK MANAGEMENT ANALYSIS

## (I) STATUS OF TITLE TRANSFER

- 1-Outstanding Issues ( Federal Transfer Act )
- 2-Native Claims

## (J) ANALYSIS OF LEGAL CLAIMS

(K) ANALYSIS OF LABOR CONTRACTS

- 1-Impact of Federal Transfer Act
- 2-Retirement Benefits (Federal & Corporation)
- 3-What kind of employee protection

(L) DETERMINE TYPE OF SALE (ANALYSIS)

- 1-Whole
- 2-Part
- 3-Combination

(M) DETERMINE STRUCTURE OF SALE (ANALYSIS)

- 1-Lease
- 2-Lease / Purchase
- 3-Outright Purchase
- 4-What Services To Be Retained

(N) IDENTIFICATION OF PROSPECTIVE BUYERS

PREPARED FOR HOUSE TRANSPORTATION COMMITTEE

H. B. 485

2-24-88 / G. D. VALINSKE

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Commerce & Econ. Dev.  
 Title: An Act amending provisions relating to a solicitation for offers to purchase or operate the Alaska Railroad Corp.  
 Sponsor: Cato Components: \_\_\_\_\_  
 Requester: House Transportation Committee

**EXPENDITURES / REVENUES : (Thousands of Dollars)**

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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**FUNDING: (Thousands of dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

**POSITIONS:**

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

**ANALYSIS:** (Attach a separate page if necessary.)

Prepared by: Jim Blasingame, Executive Vice President Phone: 265-2403  
 Division: Alaska Railroad Corporation Date: February 24, 1988  
 Approved by Commissioner: J. Anthony Smith, Commissioner Date: February 24, 1988  
 Agency: Department of Commerce and Economic Development

Distribution (by preparer):

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

# HOUSE COMMITTEE REPORT

(7)

Date referred: 2/15/88

FURTHER REFERRALS: Labor & Commerce

DATE: 2/24/88

The Transportation Committee has considered HB 485

"An Act amending provisions relating to a solicitation for offers to purchase or operate the Alaska Railroad; and providing for an effective date."

**RECOMMENDS:**

- replace with CS HB 485 (TRSP)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(s):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note
- zero with analysis  same as previous zero fiscal note published \_\_\_\_\_

**SIGNING DO PASS:**

Mike Hall

Herbert Long

Paul Hanks

Howard Koonce

D. C. Fisher

Bette Cato

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Bette Cato  
Chairman's signature

# Alaska State Legislature

## House of Representatives

### Committee on Transportation



Rep. Bette Cato, Chairman

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4858

February 24, 1988

\*\*\*\*\*

#### COMMITTEE CALENDAR:

HB 481: "An Act relating to naming the Woodrow Johansen Expressway."

HB 485: "An Act amending provisions relating to a solicitation for offers to purchase or operate the Alaska Railroad; and providing for an effective date."

FOR THIS MEETING, YOU HAVE BEEN GIVEN:

a folder on HB 481 that includes:

- item #1: HB 481
- #2: fiscal note - DOT/PF

a folder on HB 485 that includes:

- item #1: HB 485
- #2: CS HB 485
- #3: fiscal note - Depart. of Comm. & Economic Dev.
- #4: a green binder:
  - \* HB 485 & background info
  - \* legal services
  - \* statutes
  - \* federal regs
  - \* transfer overview
  - \* AK RR appraisal
  - \* assessment
  - \* misc.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H TRAN

2-24-88

1:30 p.m.

THE FOLLOWING PAGES WERE TREATED AS  
A UNIT IN THE ORIGINAL FILE.

FISCAL NOTE

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 Requester: House Transportation Committee

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CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Jim Blasingame, Executive Vice President Phone: 265-2403  
 Division: Alaska Railroad Corporation Date: February 24, 1988  
 Approved by Commissioner: J. Anthony Smith, Commissioner Date: February 24, 1988  
 Agency: Department of Commerce and Economic Development

Distribution (by preparer):

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

THE ALASKA RAILROAD CORPORATION

The decision to purchase the Alaska Railroad from the federal government was made in 1984 however, discussions on this subject took place from 1980 onward. Numerous bills and resolutions were introduced regarding the railroad purchase.

- SCS CSHB 512 (fin) was signed into law by the Governor July 5, 1984. This act established the Alaska Railroad Corporation to manage and operate the Alaska Railroad and provided for an effective date of July 6, 1984.
- January 5, 1985, the Alaska Railroad was transferred from federal to state ownership.
- Purchase price \$22.3 million. This price did not include any receivables or cash, therefore the legislature appropriated an additional \$10.9 million (\$4.9 million for operating and \$6 million for capital)
- Effective January 6th, 1985 the Alaska Railroad Corporation became responsible for management and operation of the Alaska Railroad. A seven member Board of Directors appointed by the Governor are responsible for the overall management of the Corporation. The Corporation is a public corporation and is an instrumentality of the state within the Department of Commerce and Economic Development. The corporation has a legal existence independent of and separate from the state.
- The first year of operations, the ARRC posted a profit of \$7.133 million. In 1986, railroad revenues declined. This, coupled with several unexpected catastrophies caused the ARRC to record a \$985,000 loss. With 1987 year end recently completed, the ARRC has recorded a \$3.017 million profit for the year.
- Actual revenues for 1987 still show a significant reduction

1985	-	\$67.234 (million)
1986	-	\$58.133
1987		\$53.703

However, actual expenses have been reduced significantly

1985	-	\$58.085
1986	-	\$56.068
1987	-	\$45.604

- Several areas have changed substantially since the first year of operations of the ARRC. The major income producers have shifted:

<u>Decrease % 1987 vs 1985</u>	<u>Increase % 1987 vs 1987</u>
Pipe - 77.9%	Passenger + 25.1%
Gravel - 65.0%	Real Estate + 20.5%
Interline - 41.6%	Coal + 19.1%

- Over the past 3 years of state ownership the ARRC has to upgraded services. In 1985 the ARRC spent \$12.5 million on capital improvements and upgrades. In 1986 \$9.2 million was spent and in 1987 \$6.3 million in capital expenditures was incurred. These upgrades have included new locomotives, new intermodal cars, new bulletproof passenger service cars, additional bud cars, as well as many many capital dollars being spent to upgrade the exist track and rail bed.
- The Corporation has also capitalized on land leasing Total land holding of the Alaska Railroad is 39,292 acres. Of this 13,759 acres is used for right of way and, 8,124 is used for operating. The ARRC currently leases 2,077 acres of land throughout the state for a total income of \$5.206 million. This is a 20.5% increase over 1985.
- The Alaska Railroad transfer act provided specific language regarding the direction for the state owned railroad to follow.  
Sec. 3 Chapter 153 SLA 84 (SCS CSHB 512 Fin)  
Sec. 42.40.260 states. Every 5 years the annual from the ARRC to the Governor and legislature shall include potential sale arrangements whereby the corporation may be transfered to private ownership. The analysis shall include documentation of at least three offers to sell the corporation initiated by the corporation. This report would be be required in the ARRC annual report year end 1989 and would be presented to the legislature ir, January 1990.

To date no sale offers have been solicited and railroad management state the necessary sale package has not yet been prepared by the corporation.



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Box Y, State Capitol  
Juneau, Alaska 99811-3100  
Mail Stop 3100  
(907) 465-3991

January 16, 1987

MEMORANDUM

TO: Representative Bette Cato

ATTN: Wendy Chamberlain

FROM: Penelope Weyhrauch  
Legislative Analyst

RE: Exemptions to and Sale Provision of the Alaska Railroad Act  
Research Request 87.057

You asked for a discussion of the Alaska Railroad Act exemptions and what effect repealing the exemptions might have on the Alaska Railroad Corporation. You also asked for a discussion of the requirement relating to offering the railroad for sale, and whether or not the Alaska Railroad Corporation is complying with this requirement.

Alaska Railroad Act Exemptions

I contacted the Alaska Railroad Corporation (ARRC) and asked them to discuss how the corporation would be affected by repealing the exemptions listed in AS 42.40.920. I asked Tad Lewis, General Counsel for the ARRC, what specific effect on the corporation's revenue and operations the repeal of each of the statutory exemptions would have. Mr. Lewis' letter of response is attached. You will note that the response is very general.

Offering the Alaska Railroad for Sale

Alaska Statutes 42.40.260(b) states that "Every five years the [corporation's] annual report shall include an analysis of potential sale arrangements whereby the corporation may be transferred into private ownership. The analysis shall include documentation of at least three offers to sell the corporation initiated by the corporation during the last five years."

According to Jack McGee, Assistant Alaska Attorney General, AS 42.40.260(b) provides all the guidelines available for ARRC to follow to meet the offer-to-sell requirement. Mr. McGee said that the first five-year period began on January 5, 1985, at the time ownership for the railroad passed from the

federal government to the State. The ARRC is required to offer the railroad for sale three times before January 5, 1990.

Mr. McGee said that he interprets the statutory offer-to-sell requirement to mean that the ARRC must actively solicit offers and not just advertise that the railroad is for sale. Mr. McGee said that if the corporation does not comply with the statutory requirement, the legislature would probably take action, the severity of which would depend on how strongly they believed that the railroad should be transferred to private ownership.

I asked Mr. Lewis if the ARRC has taken any steps to begin complying with the statute. He said that at the last corporation board meeting, the board asked the ARRC's legal counsel to begin looking at different ways the corporation could approach complying with the requirement. Mr. Lewis mentioned that the board discussed the form in which offers should be conducted and how a sale will be most advantageous to the State. Mr. Lewis said that an offering to sell will probably be in the form of a solicitation of proposals to buy the railroad.

Mr. Lewis referenced federal restraints (included in the Alaska Railroad Transfer Act) in regard to selling the railroad. He said that one restraint is that if the railroad were sold within five years of the transfer of the railroad to State ownership, any profit from the sale reverts to the federal government. This restraint was included in the act because the federal government wanted the State to operate the railroad for at least five years. Mr. Lewis said that this restraint makes it more beneficial for the State to retain the railroad until after 1990.

\* \* \* \*

I have attached the Alaska Railroad Corporation Act (AS 42.40.010-980) for your information. If you would like the ARRC to provide more specific information on each of the exemptions, please let me know and I will write a second letter to the corporation.

PW

Attachments

STATE OF ALASKA  
THE LEGISLATURE

COPY

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 2, 1988

SUBJECT: Solicitation of offers to purchase  
the Alaska Railroad (W.O. 5-1769)

TO: Representative Bette Cato  
Chairperson  
House Transportation Committee

FROM: George Utermohle  
Legislative Counsel

Enclosed is the draft bill relating to solicitation of offers to purchase the Alaska Railroad requested by Wendy Chamberlain of your staff.

The bill establishes a schedule for the Governor to solicit offers for the purchase of the Alaska Railroad and then to report back to the legislature on the results of the solicitation. The bill achieves its purpose by imposing the duty upon the Governor under his authority under AS 42.40.940, rather than upon the Board of Directors of the Alaska Railroad under the provisions of AS 42.40.260(b).

The contents of the solicitation is left to the discretion of the Governor. The bill takes this approach rather than list all the things that must be included in the solicitation, because it would be difficult to anticipate all of the kinds of information that a prospective buyer may need in order to make a decision whether to pursue the issue further. Also a detailed listing of the contents of a solicitation for offers would require the assistance of experts familiar with privatization of government enterprises, and the sale of large corporations. In the absence of such expertise, the bill relies on the Governor to develop a meaningful solicitation for offers and gives the Governor ample time in which to develop and release the solicitation.

If I can provide further assistance, please advise.

Enclosure  
GU:bb  
wkb2/027

Offered: 5/23/84  
Referred: Rules

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) am S  
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 (E) ensure that the Alaska Railroad does not use direct  
23 appropriations to fund a particular freight operation if it can be  
24 demonstrated that the appropriation has placed privately owned and  
25 operated carriers in an unfair competitive position. Nothing herein  
26 shall affect the provisions of AS 42.40.220(b);  
27 (2) the Alaska Railroad is an essential part of the state trans-  
28 portation network that may, unless preserved by state action, cease to be a  
29 transportation option in Alaska;

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

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

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

6           (1) create a viable economic entity with the powers and duties  
7 necessary to operate and manage the Alaska Railroad pending eventual trans-  
8 fer of the railroad to the private sector for its ownership or operation or  
9 both consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of  
10 1982);

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

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

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

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

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

27           (D) carry out its responsibilities on a self-sustaining  
28 basis;

29           (E) provide the best possible combination of types and

1 levels of safe, efficient, and economical transportation to meet the  
2 overall needs of the state, supported when necessary by state invest-  
3 ment;

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

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

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

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

11 CHAPTER 40. ALASKA RAILROAD CORPORATION.

12 ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

13 Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is  
14 established the Alaska Railroad Corporation. The corporation is a  
15 public corporation and is an instrumentality of the state within the  
16 Department of Commerce and Economic Development. The corporation has  
17 a legal existence independent of and separate from the state. The  
18 continued operation of the Alaska Railroad by the corporation as  
19 provided in this chapter is considered an essential government func-  
20 tion 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 five members  
25 appointed by the governor. The five appointed members must be regis-  
26 tered voters in the state except as provided in (1) and (2) of this  
27 subsection. Except for the commissioners and the member appointed  
28 under (5) of this section, a member may not be a state officer or  
29 employee. Appointed members shall have the following qualifications:

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

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

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

11 (4) one members shall have at least five years experience  
12 as owners or managers of a business in the state;

13 (5) one member shall be an employee who is a member of a  
14 bargaining unit representing employees of the corporation.

15 (b) Except for the commissioners, the members of the board shall  
16 be confirmed by a majority of the members of the legislature in joint  
17 session. A member appointed by the governor has the full powers and  
18 responsibilities of a confirmed board member until the member is  
19 rejected by the legislature or the legislature adjourns without con-  
20 firming the member.

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

25 Sec. 42.40.040. VACANCIES. (a) Except for the commissioner of  
26 commerce and economic development and the commissioner of transporta-  
27 tion and public facilities, a vacancy on the board is filled by ap-  
28 pointment by the governor, and the appointment must be confirmed by  
29 the members of the legislature in joint session. A member appointed

1 to fill a vacancy holds office for the balance of the term for which  
2 the member's predecessor was appointed.

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

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

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

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

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

20 (b) The board shall appoint a secretary and prescribe the duties  
21 of the secretary.

22 ARTICLE 2. MANAGEMENT.

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

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

29 (2) operate the Alaska Railroad as a common carrier subject

1 to the jurisdiction of the United States Interstate Commerce Commis-  
2 sion consistent with 45 U.S.C. 1207;

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

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

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

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

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

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

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

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

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

1 subject to board approval.

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

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

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

14 (2) establishing specific rates, tariffs, divisions, and  
15 contract rate agreements;

16 (3) making routine changes in service levels;

17 (4) establishing procurement and accounting procedures for  
18 the corporation; and

19 (5) performing procurement activities.

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

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

23 (2) mortgaging or pledging corporation assets;

24 (3) donating property or other assets belonging to the  
25 corporation;

26 (4) acting as a surety or guarantor;

27 (5) adopting a long-range capital improvement and program  
28 plan;

29 (6) adopting annual reports;

1 (7) effecting general, comprehensive increases and de-  
2 creases in rates;

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

4 (9) expanding the main or branch rail lines including spur,  
5 industrial, team, switching or side tracks, other than performing  
6 routine track alignment as necessary to maintain existing service  
7 levels;

8 (10) selecting independent auditors and accountants;

9 (11) entering into collective bargaining agreements;

10 (12) adopting annual budgets;

11 (13) beginning a capital project with an estimated comple-  
12 tion cost of more than \$500,000 or an estimated completion time of  
13 more than one year;

14 (14) exchanging, donating, selling, or otherwise conveying  
15 its entire interest in land subject to approval by the legislature;

16 (15) exercising the power of eminent domain.

17 ARTICLE 3. ADMINISTRATIVE PROVISIONS.

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

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

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

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

29 (b) Four affirmative votes are required for board action. The

1 board shall provide by rule for the manner of voting, except that the  
2 board may not provide for voting by proxy. The rules may provide for  
3 voting and conferring by telecommunication devices.

4 Sec. 42.40.170. EXECUTIVE SESSIONS. (a) The question of hold-  
5 ing an executive session shall be determined in accordance with  
6 AS 42.40.160. A subject may not be considered at an executive session  
7 unless it is mentioned in the motion calling for the executive session  
8 or is auxiliary to a subject mentioned. An action may not be taken at  
9 an executive session.

10 (b) Only the following subjects may be discussed in an executive  
11 session:

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

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

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

19 (4) matters pertaining to personnel;

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

21 (6) land acquisition or disposal; and

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

27 Sec. 42.40.180. RULES. (a) The board shall adopt rules to  
28 carry out its functions and the purposes of this chapter, including  
29 rules to safeguard property owned, managed, or transported by the

1 corporation and to protect employees and persons using the corpora-  
2 tion's property or services. At least 15 days before the adoption of  
3 a rule, the board shall give public notice of the proposed action by  
4 publishing a notice in at least three newspapers of general circula-  
5 tion in the state and by mailing a copy of the notice to each person  
6 who has requested notice of proposed changes to rules. The notice  
7 must state the time, place, and nature of the proceedings and must  
8 contain a summary of the subject of the proposed rule.

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

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

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

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

1 of its action that substantially complies with the notice requirements  
2 of AS 42.40.180(a).

3 (b) An action taken under this section remains in effect for not  
4 more than 120 days. To prevent an emergency rule from lapsing the  
5 board may adopt the same rule under AS 42.40.180 before the end of the  
6 120-day period.

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

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

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

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

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

20 (1) relates only to the internal management of the corpo-  
21 ration;

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

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

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

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

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

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

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

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

24           (b) A board member or executive officer may participate in a  
25 decision if that person or a member of that person's immediate family  
26 has only a remote interest, the fact and extent of the interest is  
27 disclosed to the board in a public meeting and is noted in the minutes  
28 of the board before any participation by the member or in the deci-  
29 sion, and thereafter in a public meeting the board by vote authorizes

1 or approves the participation. If the person whose participation is  
2 under consideration is a board member, that person may not vote under  
3 this subsection. For purposes of this subsection, "remote interest"  
4 means an interest that in good faith is defined as remote by rules  
5 adopted by the corporation.

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

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

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

17 (f) For purposes of this section

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

20 (2) "immediate family" means

21 (A) spouse;

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

24 ARTICLE 4. POWERS AND DUTIES.

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

27 (1) adopt a seal;

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

29 (3) sue and be sued;

1           (4) appoint trustees and agents of the corporation and  
2 prescribe their powers and duties;

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

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

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

12           (8) hold, maintain, use operate, improve, lease, exchange,  
13 donate, convey, alienate, encumber, or otherwise grant a security  
14 interest in, or authorize use or dispose of, land or personal  
15 property, subject to other provisions of this chapter;

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

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

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

1           (12) maintain offices and facilities at places it desig-  
2 nates;

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

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

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

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

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

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

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

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

1 the corporation;

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

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

7 (23) cancel bonds of the corporation purchased by the corpo-  
8 ration;

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

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

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

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

28 (28) undertake and provide for the acquisition, construc-  
29 tion, maintenance, equipping, and operation of connecting, switching,

1 terminal, or other railroads and railroad facilities;

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

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

8 Sec. 42.40.260. ANNUAL REPORT. (a) Within 90 days following  
9 the end of the fiscal year of the Alaska Railroad the board shall  
10 distribute to the governor and to the legislature a report describing  
11 the operations and financial condition of the corporation during the  
12 preceding fiscal year. The report may include suggestions for legis-  
13 lation relating to the structure, powers or duties of the corporation  
14 or to the operation or facilities of the corporation. Subject to  
15 AS 42.40.220, the report shall itemize the cost of providing each  
16 category of service offered by the railroad and the income generated  
17 by each category.

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

23 Sec. 42.40.270. AUDITS. (a) The board shall have the financial  
24 records of the corporation audited annually by an independent certi-  
25 fied public accountant experienced in railroad accounting. The board  
26 shall have an annual performance audit conducted by a recognized  
27 railroad management expert to assure that the railroad is being  
28 managed and operated effectively and efficiently in accordance with  
29 the requirements of this chapter and that each appropriation is used

1 to directly support those services for which the appropriation was  
2 requested. Auditors shall use the standards required under AS 42.-  
3 40.100(9) and determine whether appropriations received for a service  
4 that is not self-sustaining were calculated in accordance with United  
5 States Interstate Commerce Commission standards for determining rail  
6 service subsidies.

7 (b) The corporation shall make all of its financial records  
8 available to an auditor appointed by the governor and to the legisla-  
9 tive audit division for examination. Disclosure to the public by the  
10 auditor or legislative audit division of this information is subject  
11 to AS 42.40.220 and rules implementing that section.

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

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

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

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

24 (1) its financial impact on the corporation;

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

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

29 (4) whether and when the undertaking or service is expected

1 to be self-sustaining financially; and

2 (5) if the undertaking requires an appropriation to be used  
3 for providing a service that is not self-sustaining, that the amount  
4 of the appropriation has been strictly calculated in accordance with  
5 United States Interstate Commerce Commission standards for determining  
6 rail service subsidies.

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

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

11 (2) issue bonds;

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

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

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

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

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

27 Sec. 42.40.300. USE OF CORPORATION ASSETS. The corporation  
28 shall apply all money, property, other assets, and credit of the  
29 corporation toward activities authorized by this chapter. The

1 corporation may not issue shares of stock, pay dividends, make private  
2 distributions of assets, make loans to board members or employees, or  
3 engage in business for private benefit. The use of money, property,  
4 another asset, or credit of the corporation for a purpose not author-  
5 ized by law by a person having the possession or control of it is  
6 prohibited.

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

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

#### 24 ARTICLE 5. CORPORATION PROPERTY.

25 Sec. 42.40.350. LAND. (a) The corporation shall receive from  
26 the United States and, in its own name, take title to all rail proper-  
27 ty transferred under 45 U.S.C. 1201 - 1214 (Alaska Transfer Act of  
28 1982). All land that is transferred or acquired by the corporation is  
29 designated as follows:

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

3 (b) Railroad utility corridors shall be of a width at least 100  
4 feet on both sides of the centerline of the extended main or branch  
5 line, unless the corporation does not own or control sufficient land  
6 to allow a corridor of that width. Railroad utility corridors may be  
7 surveyed by the metes and bounds method. The corporation may not  
8 convey its entire interest in land within a utility corridor except as  
9 provided in AS 42.40.285, 42.40.370(d) and 42.40.400. However, the  
10 corporation may lease, subject to AS 42.40.285 and (d) of this sec-  
11 tion, grant easements in or permits for, or otherwise authorize use of  
12 portions of a utility corridor for transportation, communication, and  
13 transmission purposes and support functions associated with those  
14 purposes, and for commercial and other uses authorized under this  
15 chapter if the use does not restrict other parallel uses of the util-  
16 ity corridor.

17 (c) The corporation may lease, subject to AS 42.40.285 and (d)  
18 of this section, grant easements in or permits for, or otherwise  
19 authorize use of portions of rail land. However, the corporation may  
20 not convey its entire interest in rail land except as provided in  
21 AS 42.40.285, 42.40.370(d) and 42.40.400.

22 (d) A lease or disposal of land approved by the legislature  
23 under AS 42.40.285 by the corporation to a party other than the state  
24 shall be made at fair market value as determined by a qualified ap-  
25 praiser or by competitive bid.

26 Sec. 42.40.355. PROHIBITION. Notwithstanding any other pro-  
27 vision in AS 42.40, the state-owned railroad as defined under  
28 45.U.S.C. 1202(14) may not apply for a right-of-way across, or exer-  
29 cise eminent domain in, the western (Kobuk River) unit of the Gates of

1 the Arctic National Preserve under 16 U.S.C. 410hh(4)(b)-(e).

2 Sec. 42.40.360. REQUEST FOR LAND. (a) The board may nominate  
3 federal land it determines may be useful for present or future rail-  
4 road purposes for selection under the Alaska Statehood Act (P.L. 85 -  
5 508, 72 Stat. 339), as amended, and request the commissioner of natu-  
6 ral resources to select the land for the state through the federal  
7 land selection process.

8 (b) The board may identify and request the commissioner of  
9 natural resources to convey land necessary or useful for present or  
10 future railroad purposes owned by or tentatively approved for transfer  
11 to the state, including land not contiguous with a railroad utility  
12 corridor or rail land. The request must include a statement of and  
13 justification for the present or future railroad use. Upon receipt of  
14 a request, the commissioner shall temporarily reserve the land iden-  
15 tified in the request for railroad purposes and defer disposal or  
16 lease of that land under other laws to a party other than the corpo-  
17 ration. The temporary reservation of land is subject to valid exist-  
18 ing rights and remains in effect for 180 days.

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

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

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

27 (3) approve the request in part and deny it in part and  
28 convey as appropriate.

29 (b) A conveyance of land under this section may be for less than

1 its appraised value as determined by the commissioner of natural  
2 resources.

3 (c) In the absence of a reservation to the contrary, a convey-  
4 ance of land under this section vests in the corporation ownership,  
5 control of the surface, material and mineral estate, including the  
6 right to extract or use timber and other construction materials, sand,  
7 gravel, rock, and the right to tunnel, ditch, recontour, excavate, or  
8 otherwise use the land for railroad, transportation, transmission,  
9 communication, and related purposes.

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

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

23 Sec. 42.40.385. EMINENT DOMAIN. (a) The corporation may exer-  
24 cise the power of eminent domain under AS 09.55.240 - 09.55.460 to  
25 acquire land for railroad transportation purposes consistent with this  
26 chapter. Notwithstanding AS 09.55.250, the corporation may acquire a  
27 fee simple title whenever, in the judgment of the board, ownership of  
28 a fee simple title is necessary to carry out the purposes of this  
29 chapter.

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

3 (c) The power of eminent domain conferred under this section  
4 includes the power to obtain clay, gravel, sand, timber, rock or other  
5 material for the operation of the railroad, the land necessary to  
6 obtain the material, and access to the land and material.

7 (d) The exercise of the power of eminent domain requires the  
8 prior approval of the governor.

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. PUBLIC USE OF RAILROAD LAND. Upon request of a

1 municipality or the state, the corporation may authorize use of rail-  
2 road land for public purposes. Subject to AS 42.40.350(b), the corpo-  
3 ration shall authorize a walkway or a trail if the board first finds  
4 in writing that the proposed walkway or trail will not create a safety  
5 hazard and will not unreasonably interfere with continued or expanded  
6 operations in the utility corridor. Before authorizing a use under  
7 this section, the board shall require the municipality or state to  
8 execute an agreement in a form approved by the board to

9 (1) agree to restrictions, limitations, and conditions on  
10 the proposed use required by the corporation and reasonably calculated  
11 to reduce the risk of a safety hazard or interference with authorized  
12 uses in the utility corridor;

13 (2) hold the corporation harmless from and indemnify the  
14 corporation for liability and claims arising from any use authorized  
15 under this section including

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

18 (B) indemnifying the corporation for the amount of a  
19 judgment, including prejudgment and postjudgment interest,  
20 rendered against the corporation, and for all costs and  
21 attorney's fees incurred by the corporation in settling or  
22 defending the claim; and

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

26 Sec. 42.40.430. ACQUISITION OF GOVERNMENT PROPERTY. The corpor-  
27 ation, as an instrumentality of the state, may acquire in its own name  
28 from the United States under 50 App U.S.C. 1622 - 1622c (Surplus  
29 Property Act of 1944), 40 U.S.C. 471 et seq. (Federal Property and

1 Administrative Services Act of 1949), or other law, property under the  
2 control of a federal department or agency that is useful for the  
3 corporation's purposes. The corporation may acquire from the Depart-  
4 ment of Administration property of the state made available under  
5 AS 44.71.010 - 44.71.040.

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

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

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

#### 24 ARTICLE 6. FINANCIAL PROVISIONS.

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

1           Sec. 42.40.510. FIDELITY BOND. The corporation shall obtain a  
2 fidelity bond in an amount determined by the board for board members  
3 and each executive officer responsible for accounts and finances. A  
4 bond must be in effect during the entire tenure in office of the  
5 bonded person.

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

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

19           Sec. 42.40.540. APPROPRIATIONS. The corporation may request,  
20 with the concurrence of the governor, a direct appropriation or grant  
21 from the legislature to assist in carrying out the provisions of this  
22 chapter.

23                           ARTICLE 7. BONDS.

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

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

29                           (1) be dated;

- 1 (2) bear fixed or variable interest at a specified rate or
- 2 rates per year or within a maximum rate;
- 3 (3) be in a specified denomination;
- 4 (4) be in a coupon or registered form;
- 5 (5) carry conversion or registration provisions;
- 6 (6) have a specified rank or priority;
- 7 (7) be executed in the specified manner and form;
- 8 (8) be payable as specified from the sources, in the medium
- 9 of payment, and place or places inside or outside the state;
- 10 (9) be subject to authentication by a trustee or fiscal
- 11 agent; and
- 12 (10) be subject to terms of redemption with or without
- 13 premium.

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

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

23 Sec. 42.40.620. BONDS ELIGIBLE FOR INVESTMENT. Bonds issued  
24 under this chapter are securities in which all public officers and  
25 public bodies of the state and its political subdivisions, all insur-  
26 ance companies, trust companies, banking associations, investment  
27 companies, executors, administrators, trustees and other fiduciaries  
28 may properly and legally invest funds, including capital in their  
29 control or belonging to them. These bonds may be deposited with a

1 state or municipal officer of an agency or political subdivision of  
2 the state for any purpose for which the deposit of bonds of the state  
3 is authorized by law.

4 Sec. 42.40.630. PAYMENT OF BONDS. The principal and interest on  
5 bonds of the corporation is payable from corporation money or assets.  
6 Bonds may be additionally secured by a pledge of a grant or contribu-  
7 tion from the federal or state government, a municipality, a corpo-  
8 ration, an association, an institution or a person, or a pledge of  
9 money, income, or revenue of the corporation from any source.

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

16 (1) make and enter into any and all the covenants and  
17 agreements with the trustees or the holders of the bonds that the  
18 corporation may determine to be necessary or desirable, including  
19 covenants, provisions, limitations and agreements as to

20 (A) the application, investment, deposit, use and  
21 disposition of the proceeds of bonds of the corporation or of  
22 money or other property of the corporation or in which it has an  
23 interest;

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

28 (C) the fixing and collection of tariffs, fees,  
29 charges or other consideration for the use or service of the

1 Alaska Railroad by passengers, and other users and freight;

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

4 (E) the vesting in the trustee of rights and remedies  
5 exercisable by the trustee for the protection of the holders of  
6 bonds of the corporation and not otherwise in violation of law  
7 and the restriction of the rights of an individual holder of  
8 bonds of the corporation;

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

12 (3) provide for any other matters of like or different  
13 character that in any way affect the security or protection of the  
14 bonds.

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

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

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

1 whether those parties have notice of the lien of the pledge.

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

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

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

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

29 (2) compel the performance of all duties of the corporation

1 required by this chapter or by the trust agreement or resolution.

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

6 (1) debt, liability, or obligation of the state or of a  
7 political subdivision of the state; or

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

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

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

15 (2) neither the faith and credit nor the taxing power of  
16 the state or of a political subdivision of the state is pledged to the  
17 payment of it.

18 Sec. 42.40.700. LIMITATION ON PERSONAL LIABILITY. A board  
19 member or employee of the corporation is not subject to personal  
20 liability or accountability because of the execution or issuance of  
21 bonds.

22 ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

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

29 (b) A board member or employee who violates the provisions of

1 this section is personally subject to a civil penalty assessed by a  
2 judge of the superior court in an amount not to exceed \$5,000. An  
3 action to enforce this section may be brought by any person.

4 Sec. 42.40.710. CORPORATION EMPLOYEES. Employees of the Alaska  
5 Railroad are employees of the corporation and not of the state. The  
6 provisions of AS 39 do not apply to employees of the corporation.

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

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

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

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

24 Sec. 42.40.740. COLLECTIVE BARGAINING UNIT. The railroad labor  
25 relations agency shall decide in each case, in order to ensure employ-  
26 ees the fullest freedom in exercising the rights guaranteed by AS 42.-  
27 40.710 - 42.40.890 the unit appropriate for the purposes of collective  
28 bargaining, based on such factors as community of interest, wages,  
29 hours and other working conditions of the employees involved, the

1 history of collective bargaining, and the desires of the employees.  
2 Bargaining units shall be as large as is reasonable, and unnecessary  
3 fragmenting shall be avoided.

4 Sec. 42.40.750. REPRESENTATIVES AND ELECTIONS. (a) The rail-  
5 road labor relations agency shall investigate a petition if it is  
6 submitted in a manner prescribed by the railroad labor relations  
7 agency by

8 (1) an employee or group of employees or an organization  
9 acting in their behalf alleging that 30 percent of the employees of a  
10 proposed bargaining unit

11 (A) want to be represented for collective bargaining  
12 by a labor or employee organization as exclusive representative;  
13 or

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

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

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

1 relations agency or an election in a bargaining unit agreed upon by  
2 the parties.

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

15 (d) Nothing in this chapter prohibits recognition of an orga-  
16 nization as the exclusive representative by the corporation by mutual  
17 consent.

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

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

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

- 29 (1) interfere, restrain, or coerce an employee in the

1 exercise of the rights guaranteed in AS 42.40.720;

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

4 (3) discriminate in regard to hire or tenure of employment  
5 or a term or condition of employment to encourage or discourage mem-  
6 bership in an organization;

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

10 (5) refuse to bargain collectively in good faith with an  
11 organization that is the exclusive representative of employees in an  
12 appropriate unit, including the discussing of grievances with the  
13 exclusive representative.

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

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

20 (2) payment by the employee to the exclusive bargaining  
21 agent of a service fee to reimburse the exclusive bargaining agency  
22 for the expense of representing the members of the bargaining unit.

23 (c) An organization or its agents may not

24 (1) restrain or coerce

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

27 (B) the corporation in the selection of a representa-  
28 tive for the purposes of collective bargaining or the adjustment  
29 of grievances;

1 (2) refuse to bargain collectively in good faith with the  
2 corporation, if it has been designated in accordance with AS 42.40.-  
3 710 - 42.40.890 as the exclusive representative of employees in an  
4 appropriate unit.

5 Sec. 42.40.770. INVESTIGATION AND CONCILIATION OF COMPLAINTS.  
6 If a verified written complaint by or for a person claiming to be  
7 aggrieved by a practice prohibited by AS 42.40.760 or a written accu-  
8 sation that a person subject to AS 42.40.710 - 42.40.890 has engaged  
9 in a prohibited practice, is filed with the railroad labor relations  
10 agency, it shall investigate the complaint or accusation. If it  
11 determines after a preliminary investigation that probable cause  
12 exists in support of the complaint or accusation, it shall try to  
13 eliminate the prohibited practice by informal methods of conference,  
14 conciliation, and persuasion. Nothing said or done during this en-  
15 deavor may be used as evidence in a subsequent proceeding.

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

24 Sec. 42.40.790. ORDERS AND DECISIONS. If the railroad labor  
25 relations agency finds that a person named in the written complaint or  
26 accusation has engaged in a prohibited practice, the railroad labor  
27 relations agency shall issue and serve on the person an order or  
28 decision requiring the person to cease and desist from the prohibited  
29 practice and to take affirmative action that will carry out the

1 provisions of AS 42.40.710 - 42.40.890. If the railroad labor rela-  
2 tions agency finds that a person named in the complaint or accusation  
3 has not engaged or is not engaging in a prohibited practice, the  
4 railroad labor relations agency shall state its findings of fact and  
5 issue an order dismissing the complaint or accusation.

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

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

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

22 (c) The attendance of witnesses and the production of evidence  
23 may be required from any place in the state at any designated place of  
24 hearing.

25 (d) If a person refuses to obey a subpoena issued under AS 42.-  
26 40.710 - 42.40.890, the superior court in the district in which the  
27 person resides or is found may, upon application by the railroad labor  
28 relations agency, issue an order requiring the person to comply with  
29 the subpoena.

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

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

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

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

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

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

28           (b) The corporation may apply to the superior court in the  
29 judicial district in which the strike is occurring for an order

1 enjoining the strike. A strike may not be enjoined unless it can be  
2 shown that it has begun to threaten, or is about to threaten, the  
3 health, safety, or welfare of the public. A court, in deciding wheth-  
4 er to enjoin the strike, shall consider the total equities in the  
5 particular case, including the impact of a strike on the public and  
6 the extent to which an employee organization and the corporation have  
7 met their statutory obligations.

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

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

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

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

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

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

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

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

29 (1) require or coerce an employee to participate in any way

1 in any activity or undertaking unless the activity or undertaking is  
2 related to the performance of official duties;

3 (2) require or coerce an employee to make any report con-  
4 cerning an activity or undertaking of the employee unless the activity  
5 or undertaking is related to the performance of official duties;

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

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

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

13 (C) sexual matters;

14 (D) the employee's political affiliation or philoso-  
15 phy;

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

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

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

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

28 (1) "election" means a proceeding conducted by the labor  
29 relations agency in which the employees in a collective bargaining

1 unit cast a secret ballot for collective bargaining representatives,  
2 or for any other purpose specified in AS 42.40.710 - 42.40.890;

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

8 ARTICLE 9. GENERAL PROVISIONS.

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

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

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

21 (d) The corporation is not subject to the provisions of AS 44.-  
22 80.010, regarding the state as a party to an action.

23 Sec. 42.40.905. NOTICE OF LEGAL ACTIONS. (a) The corporation  
24 shall notify the Department of Law within 30 days before initiating  
25 legal action unless special circumstances exist that require immediate  
26 legal action to protect the corporation assets or to continue existing  
27 service.

28 (b) If notice of legal action is not given under (a) of this  
29 section, within seven days of taking action the board shall notify the

1 Department of Law of the action taken and of the special circumstances  
2 that exempted the action from the requirements of (a) of this section.

3 Sec. 42.40.910. EXEMPTION FROM TAXATION. (a) The exercise of  
4 the powers granted by this chapter shall be in all respects for the  
5 benefit of the people of the state, for their well-being and prosper-  
6 ity, and for the improvement of their social and economic conditions.  
7 Subject to (b) of this section, the real and personal property of the  
8 corporation and its assets, income, and receipts are exempt from all  
9 taxes and special assessments of the state or a political subdivision  
10 of the state.

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

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

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

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

- 28 (1) AS 19;  
29 (2) AS 30.15;

- 1 (3) AS 35;  
2 (4) AS 37.05;  
3 (5) AS 37.07;  
4 (6) AS 37.10.010 - 37.10.060;  
5 (7) AS 37.10.085;  
6 (8) AS 37.20;  
7 (9) AS 37.25;  
8 (10) AS 38;  
9 (11) AS 44.62.040 - 44.62.320.

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

15 Sec. 42.40.935. RAILROAD FACILITIES CODE COMPLIANCE. (a) Not  
16 later than two years after the date of transfer the corporation in  
17 consultation with the Department of Labor shall develop and adopt a  
18 plan to achieve compliance with AS 18.60. The plan shall be imple-  
19 mented and compliance achieved within five years after it is adopted.

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

1 compliance with state or municipal safety codes.

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

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

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

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

11 Sec. 42.40.950. REVERSION OF ASSETS. Except as provided in  
12 AS 42.40.940, if the corporation ceases to exist its assets revert to  
13 the state.

14 Sec. 42.40.980. DEFINITIONS. In this chapter unless the context  
15 otherwise requires,

16 (1) "board" means the board of directors of the Alaska  
17 Railroad Corporation;

18 (2) "bonds" means bonds, bond anticipation notes, notes,  
19 refunding bonds, or other obligations;

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

- 1                   (4) "corporation" means the Alaska Railroad Corporation;
- 2                   (5) "date of transfer" means the date on which the United  
3 States Secretary of Transportation delivers the transfer documents  
4 under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);
- 5                   (6) "employees" means all persons employed by the corpo-  
6 ration including executive officers;
- 7                   (7) "executive officer" means the corporation's chief  
8 executive officer, assistant chief executive officer, assistant to the  
9 chief executive officer, chief of administration, superintendent of  
10 transportation, manager of marketing and sales, chief engineer, chief  
11 mechanical officer, manager of industrial development and real estate,  
12 manager of budget and accounting, manager of planning, manager of  
13 personnel, manager of supply and procurement, chief of security,  
14 manager of operating rules, manager of data processing, manager of  
15 strategy, manager of operations planning, manager of supply, manager  
16 of procurement, manager of safety, manager of administrative proce-  
17 dure, chief counsel, or, if so designated by the board, any employee  
18 who fulfills these management functions under a different title or who  
19 exercises a similar or comparable level of responsibility or super-  
20 vision;
- 21                   (8) "land" means any interest in real property, including  
22 tide and submerged land, and any right appurtenant to the interest;
- 23                   (9) "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 or to govern its procedure;
- 27                   (10) "terms and conditions of employment" means the hours of  
28 employment, the compensation and fringe benefits, and the employer's  
29 personnel policies affecting the working conditions of the employees,

1 but does not mean the general policies describing the function and  
2 purposes of an employer.

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

5 \* Sec. 3. SPECIAL REPORTS. (a) The governor shall contract with a  
6 private consultant for the preparation of a report on the long-term op-  
7 erations of the Alaska Railroad that are in the best interest of the state.  
8 The report shall be submitted to the governor and the legislature by  
9 February 1, 1987. It shall contain specific recommendations on operational  
10 alternatives and the transfer of all or part of the railroad operation to  
11 the private sector.

12 (b) The corporation shall study any problems created by vibrations  
13 due to operating the railroad from Birchwood through Inlet View to the  
14 Turnagain Area and extending to Potter's Marsh. The study shall include  
15 consideration of any potential for problems that may be created by hauling  
16 coal and larger quantities of gravel along that portion of the rail line.  
17 By February 1, 1986, the corporation shall present a report to the legisla-  
18 ture on the study containing recommendations for correcting any problems  
19 identified.

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

- 24 (1) one shall serve a term of two years;  
25 (2) one shall serve a term of three years;  
26 (3) one shall serve a term of four years; and  
27 (4) two shall serve a term of five years.

28 \* Sec. 10. COLLECTIVE BARGAINING AGREEMENTS. (a) As soon as practi-  
29 cable before transfer of the Alaska Railroad to the state, the Alaska

1 Railroad Corporation and its employees shall adopt collective bargaining  
2 agreements that continue the provisions of the agreements in effect between  
3 the Alaska Railroad and its employees on the date of transfer of the rail-  
4 road. The collective bargaining agreements adopted under this section  
5 between the corporation and its employees shall remain in effect to the  
6 extent required under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act  
7 of 1982).

8 (b) The board of directors of the Alaska Railroad Corporation shall  
9 on or before the date of transfer of the Alaska Railroad to the state adopt  
10 personnel rules necessary to prevent an interruption of services of the  
11 railroad.

12 (c) Subject to 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of  
13 1982), within 180 days after the first meeting of the board of directors of  
14 the Alaska Railroad Corporation, the board and representatives of employee  
15 bargaining units shall establish procedures for the renegotiation of bar-  
16 gaining agreements adopted under (a) of this section. The board shall  
17 renegotiate all agreements adopted under (a) of this section within two  
18 years after the date of transfer of the Alaska Railroad to the state unless  
19 the parties agree to the contrary.

20 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.10  
21 070(c).

ALASKA RAILROAD TRANSFER LEGISLATION  
SECTION-BY-SECTION ANALYSIS

SECTION 1 -- TITLE

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

SECTION 2 -- FINDINGS

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

SECTION 3 -- DEFINITIONS

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

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

This section also defines the terms "State" and "State-owned Railroad." The definitions are broadly worded to give the State maximum flexibility in

designating an appropriate organization for State ownership, operation and management of the Railroad after the transfer.

#### SECTION 4 -- TRANSFER AUTHORIZATION

This section establishes the primary transfer components. Under subsection (a), the Secretary of Transportation is required to transfer the rail properties of the Alaska Railroad to the State as soon as possible after five specified certifications are made.

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

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

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

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

With respect to the required certifications, subsection (d) directs the Secretary of Transportation to find that the State will operate the

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

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

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

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

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

The fifth certification requires the Secretary to find that the State has agreed to compensate the U.S. at the value, if any, determined under Section 605 (b) below.

## SECTION 5 -- TRANSITION PERIOD

This section sets forth the activities which are to occur, or are not to occur, during the period of enactment of the legislation and the date of transfer. Subsection (a) provides for joint submission by the Secretary of Transportation and the Governor of Alaska, no later than six months after enactment, of a report that describes in detail the rail properties of the Railroad, the liabilities and obligations to be assumed by the State, and the sum of money, if any, in the Alaska Railroad Revolving Fund to be used by the Federal Government in carrying out its remaining responsibilities.

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

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

Finally, subsection (d) provides that within nine months after the date of enactment the United States Railway Association must determine the fair market value of the Railroad applying generally accepted procedures, methods and standards. This determination must include an appraisal of the real and personal property to be transferred to the State which considers the current fair market value and potential future value of this property if used in whole or in part for other purposes. The determination must also take into account all obligations imposed by this act and other applicable law upon operation and ownership of the Railroad.

## SECTION 6 -- LANDS TO BE TRANSFERRED

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

Subsection (b) reinforces the Department of the Interior's existing responsibility to adjudicate third party claims and to issue written opinions and appropriate documents of title. Specifically, the Secretary of the Interior is directed to complete the determination of "smallest practicable tract" under section 3(e) of ANCSA within three years of the enactment of this legislation. Prior to initiating these adjudications, a ten month

period is provided whereby all affected parties are directed to make a good faith effort to review and settle as many of these claims as possible. This subsection specifies that until settlement or final adjudication, interim management of the Railroad lands subject to claims of valid existing rights shall be in accordance with standards agreed to in the Memorandum of Understanding between the FRA, the State, Cook Inlet Region, Inc. and village corporations. In recognition of the importance of maintaining exclusive control over right-of-way lands to ensure sufficient protection for safe and economic operation of the Railroad, the final part of this subsection provides a process whereby village corporations are allowed to relinquish any claims to railroad lands within the right-of-way for subsequent transfer to the State. This provision further provides that failure to make such a relinquishment shall result in the conveyance to the State of all right, title and interest of the United States in the right-of-way free and clear of such claims.

Under subsection (c), any decision by the Secretary of the Interior pursuant to this section is open to review only by an action brought in Federal District Court of Alaska and is to be expedited. The State is allowed to participate in such an appeal as well as in any agency proceeding. To ensure that the goals of this legislation are not frustrated, this section further provides that no injunctive or other relief can delay the transfer of the Railroad or impede its operations.

Lands among the rail properties are expressly excluded by subsection (d) from selection by Cook Inlet Region, Inc. (CIRI) and Chugach Natives, Inc. under 43 U.S.C. 1611 and sections 1425 and 1430 of P.L. 96-487 (ANILCA); although CIRI claims can be revitalized with State consent if the Railroad is transferred to Alaska. If there is no transfer, the State may still exercise "a public purpose" veto over lands proposed to be included in the selection pool. Federal DOT also has veto power so long as the Railroad is not under State ownership. Since the passage of P.L. 94-204 (ANCSA) in 1976, incorporating the Cook Inlet Land Exchange Agreement (exchange agreement), the Secretary of the Interior and the State of Alaska have been attempting to ensure the land entitlement of CIRI under that complex provision is fulfilled in a manner consistent with the interests of the State, environmental concerns and concerns of other public and private entities.

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

ANILCA amended ANCSA to allow for "in-region pool selections to occur out of State. Since the existing exchange agreement allows the Secretary of

the Interior discretion to enlarge the "in region pool" using out of region entitlement. The objective of this section is to reaffirm this secretarial discretion and to make clear that out-of-state properties can be placed into the "in region pool." This subsection also allows CIRI to negotiate with local governments to obtain the properties being selected.

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

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

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

Subsection (e) expressly provides that the State shall be liable to a party receiving a conveyance of land among the rail properties for damage resulting in use by the State in a manner not authorized under the license provided in section 4.

#### SECTION 7 -- EMPLOYEES OF THE ALASKA RAILROAD

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

Subsection (b) of this section provides that those Federal employees who choose not to transfer to the State-owned Railroad at the time the Railroad

is transferred to the State shall be entitled to all normal rights and benefits under Federal law for discontinued employees.

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

#### SECTION 8 -- STATE OPERATION

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

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

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

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

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

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

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

any decision to fence the right-of-way within Denali shall be subject to the concurrence of the Secretary of the Interior.

#### SECTION 9 -- FUTURE RIGHTS-OF-WAY

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

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

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

#### SECTION 10 -- REVERSION

This section provides for the reversion to the United States of the properties of the Alaska Railroad if within 10 years of the transfer such properties are converted to a use that would prevent the State-owned Railroad from continuing to operate. As an alternative to the actual reversion of the properties, the State at its option, may pay the United States an amount determined to be the value of the properties at the time they were converted to a use preventing the Railroad from operating.

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

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

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

#### SECTION 11 -- OTHER DISPOSITION

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

#### SECTION 12 -- DENALI NATIONAL PARK AND PRESERVE

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

#### SECTION 13 -- APPLICABILITY OF OTHER LAWS

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

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

#### SECTION 14 -- CONFLICT WITH OTHER LAWS

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

#### SECTION 15 -- REPEAL AND AMENDMENT OF EXISTING LAWS

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

SECTION 16 -- SEPARABILITY

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

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(2) a person who is able to assure that adequate transportation will be provided over a substantial portion of the feeder line described in subsection (a) of this section for a period of not less than 8 years; or

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

Alaska Railroad  
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**TITLE VI—ALASKA RAILROAD TRANSFER**

**BRIEF TITLE**

46 USC 1301  
note.

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

**FINDINGS**

46 USC 1301.

Sec. 602. The Congress finds that—

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

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

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

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

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

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

**DEFINITIONS**

46 USC 1302.

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

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

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

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

Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## TRANSFER AUTHORIZATION

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

48 USC 1502

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) For purposes of subparagraph (B) of this paragraph, the term "accrue" shall have the meaning contained in section 2401 of title 23, United States Code.

"Accrue."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### TRANSITION PERIOD

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

Report to  
Congress  
and State  
legislature.  
45 USC 1204.

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

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

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

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

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

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

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

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

45 USC 712

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

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

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

## LANDS TO BE TRANSFERRED

45 USC 1205.

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

Publ. p. 2568.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) by striking the penultimate sentence.

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

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

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

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

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

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

43 USC 1611  
note.

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

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

"Real  
property"

"(iii) If the Region accepts any conveyance under section 12(b)(7) (i) or (ii), it shall be in exchange for acres or acre-equivalents as provided in subparagraph I(CX2)(e) of the document referred to in this section, except that, after the obligation of the Secretary and the Administrator under subparagraph I(CX2)(g) of that document has been fulfilled, the acre-equivalents under subparagraph I(CX2)(e)(iii)(A) shall be one-half the valued increment therein stated. The entitlement of the Region under section 12(b) of this Act shall be reduced by the number of acres or acre-equivalents attributed to the Region under this subsection. The Secretary and the Administrator are directed to execute an agreement with the Region which shall conform substantially to the 'Memorandum of Understanding Regarding the Implementation of Section 12(b)(7)', dated September 10, 1982, and submitted to the Senate Committee on Commerce, Science, and Transportation. The Secretary, the Administrator and the Region may thereafter otherwise agree to procedures to implement responsibilities under this section 12(b)(7), including establishment of accounting procedures and the delegation or reassignment of duties under this statute."

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

43 USC 1611  
note.

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

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

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

(D) by striking "I(CX2)(e)" and inserting in lieu thereof "I(CX2)(e)(iii)(A)";

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

(F) by striking "and shall be adjusted" and inserting in lieu thereof "and (2) one-half the acre or acre-equivalent exchange value under subparagraph I(CX2)(e)(iii)(A) of ten townships fewer than the unfulfilled entitlement of the Region on the same date to acres or acre-equivalents under paragraph I(CX1)

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

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

49 USC 1611  
note.

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

49 USC 1611  
note.

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

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

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

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

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

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

Ann. p. 2544.

Ann. p. 2544.

Ann. p. 2556.

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

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

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

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

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

Report to  
Congress.

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

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

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

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

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

48 USC 1611  
note.

Ann. p. 2568.

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

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

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

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

"12(b)(11). Notwithstanding the provisions of section 906 of the Alaska National Interest Lands Conservation Act and section 6(i) of the Alaska Statehood Act (72 Stat. 839):

43 USC 1625.  
45 USC 1205  
PROC. 21.

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

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

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

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

45 USC 1205.

#### EMPLOYEES OF THE ALASKA RAILROAD

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

45 USC 1206.

5 USC 8331.

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

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

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

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

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

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

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

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

#### STATE OPERATION

Sec. 608. (a)(1) After the date of transfer to the State pursuant to section 604 of this title, the State-owned railroad shall be a rail carrier engaged in interstate and foreign commerce subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of subtitle IV of title 49, United States Code, and all other Acts applicable to rail carriers subject to that chapter, including the antitrust laws of the United States, except, so long as it is an instrumentality of the State of Alaska, the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.), the Railway Labor Act (45 U.S.C. 151 et seq.), the Act of April 22, 1906 (45 U.S.C. 51 et seq.) (popularly referred to as the "Federal Employers' Liability Act"), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.). Nothing in this title shall preclude the State from explicitly invoking by law any exemption from the antitrust laws as may otherwise be available.

45 USC 1207.

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

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

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

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

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

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

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

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

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

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

#### FUTURE RIGHTS-OF-WAY

45 USC 1208.

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

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

Secretary of Agriculture, as appropriate, shall consult with the Secretary. Approval of an application for a right-of-way, permit, lease, or conveyance described in subsection (a) of this section shall be pursuant to applicable law. Rights-of-way, grounds, and sites granted pursuant to this section and other applicable law shall conform, to the extent possible, to the standards provided in the Act of March 12, 1914 (43 U.S.C. 975 et seq.) and section 103(6) of this title. Such conformance shall not be affected by the repeal of such Act under section 615 of this title.

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

#### REVERSION

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

45 USC 1209.

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

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

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

Publication in  
Federal  
Register.

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

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

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

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

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

#### OTHER DISPOSITION

45 USC 1210

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

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

Act, p. 2564.

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

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

#### DENALI NATIONAL PARK AND PRESERVE LANDS

45 USC 1211.

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

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

#### APPLICABILITY OF OTHER LAWS

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

45 USC 1212.  
5 USC 500 et seq.

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

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

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

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

#### CONFLICT WITH OTHER LAWS

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

45 USC 1213.

#### REPEAL AND AMENDMENT OF EXISTING STATUTES

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

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

16 USC 252a.

48 USC 201a.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) by striking paragraph (3).

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

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

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

## SEPARABILITY

48 USC 1214.

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

## TRANSFER OVERVIEW

This overview summarizes the basic statutory scheme for the proposed transfer of the Alaska Railroad to the State of Alaska, describes the anticipated timetable for the transfer and discusses a series of major issues that were considered in the development of ARTA.

The Act was signed into law by President Reagan on January 14, 1983. It authorizes transfer of the Alaska Railroad to the State of Alaska subject to several specified conditions, including the requirement that the State compensate the United States for the value, if any, of all rail properties transferred. Other important conditions include State commitments to continue railroad operations, to assume existing obligations, to provide employee protection for at least two years, and to protect retirement benefits.

Two key provisions, each tied to the date of enactment, establish an orderly process for State consideration of the transfer offer. Within six months from the date of enactment, this Report is required to be prepared by the Governor of Alaska and the Secretary of Transportation and submitted to the Alaska State Legislature and the Congress. Within nine months from the date of enactment, the railroad's fair market value must be determined by USRA.

Following delivery of this Report, the Secretary of Transportation has 12 months within which to certify that the

State has agreed to all conditions for transfer specified by ARTA. Actual transfer of the railroad is to take place "as soon as practicable" after these certifications are made. Within three months of certification, the Secretary and the State will agree on the actual date of transfer, which the parties hope will be no later than six months following certification. Although both parties are committed to proceeding expeditiously, a longer period may be needed to ensure an orderly process. If the State has been unable to satisfy the transfer conditions within the 12-month time period, ARTA permits the Secretary to dispose of the railroad and to give preference to a buyer or transferee who will continue to operate rail services.

#### Certification Process.

As noted, ARTA sets out a series of conditions that the State must meet to allow transfer certification by the Secretary. The legislation does not, however, attempt to specify how the State is to satisfy the conditions. Much will depend upon the State's decision concerning the nature of the entity it will designate or create to operate the railroad under State ownership. The working assumption of the State during development of ARTA was that State enabling legislation would be enacted to resolve this fundamental issue, and that such legislation would either satisfy the outstanding certification requirements or empower the operating entity to do so.

As a precondition to transfer, the Secretary is required to certify that the State has agreed:

- (1) to operate the railroad as a rail carrier in intrastate and interstate commerce;
- (2) to assume all rights, liabilities, and obligations of the Alaska Railroad on the date of transfer, with some limited exceptions regarding claims and causes of action;
- (3) to protect retirement benefits and to establish acceptable arrangements for continued employment during a two-year period following date of transfer;
- (4) to allow representatives of the Secretary of Transportation adequate access to railroad employees and records when needed in relation to the period of Federal ownership; and
- (5) to compensate the United States at the value, if any, determined by the valuation exercise being performed by the USRA.

Reversion.

If transferred to the State under Section 604, the railroad may revert, in whole or in part, to the United States under three separate reversion provisions in ARTA:

- (1) Under Section 610(e), any proceeds in excess of the cost of any rehabilitation and improvement and any

net liabilities from the State's sale or transfer of "all or substantially all" of the railroad within five years of transfer to an entity other than a State instrumentality are to be paid to the United States Treasury.

- (2) Section 610(a) requires the reversion to the United States, or the payment by the State of the fair market value, of all or part of the railroad's real property "converted to a use that would prevent the State-owned railroad from continuing to operate" within ten years after transfer.
- (3) Section 610(b) requires reversion to the United States generally for conveyance to the abutting owners of any land within the right-of-way if its use for transportation, communication or transmission purposes is discontinued by the State for an uninterrupted period of 18 years.

#### Claims Against Railroad Lands.

Approximately 4,000 acres of the railroad's non-right-of-way lands are subject to claims by Native Village Corporations under the Alaska Native Claims Settlement Act. Article II and Appendix D of this Report provide more detail regarding the lands involved. During the ten month period following the date of enactment of ARTA, the State, the Department of the Interior, and all affected Native Village Corporations are

directed to undertake a good faith effort to negotiate settlements for as many outstanding claims as possible.

If any of these claims cannot be settled within the ten-month period, they must be adjudicated by the Secretary of the Interior within two years of the date of enactment of ARTA, or 14 months after completion of the review and settlement process. All other unresolved claims against railroad lands on record in the Department of the Interior, as of the day before the date of enactment must be adjudicated within three years from the date of enactment. Resolution of claims to railroad land is not a precondition to transfer.

#### Survey Requirement.

ARTA requires the Secretary of the Interior to survey within a five-year period all lands among the rail properties conveyed to the State. The parties emphasize the importance of meeting the deadline and will continue to work with the Department of the Interior to do so. Article II, Appendices B-E and Exhibit 1 of this Report provide more detail about the lands involved.

#### Railroad Right-of-Way.

ARTA requires the transfer to the State of all right, title, and interest of the United States to all rail properties of the Alaska Railroad, including all railroad rights-of-way. ARTA also provides that where lands or any interests within the right-of-way have been conveyed out of Federal

ownership prior to enactment, the State shall receive, at minimum, an exclusive-use easement. These two provisions are intended to ensure that the State will receive all of the interest necessary to maintain viable railroad operations.

Future Rights-of-Way.

ARTA provides for expeditious review of any future right-of-way requests by the State across Federal lands. The Act requires that such rights-of-way conform, to the extent possible, to the standards provided by the Alaska Railroad Enabling Act of 1914 and the exclusive-use easement definition contained in ARTA. Responsibility for reviewing and granting such future rights-of-way is vested by existing law in the Secretary of the Interior or the Secretary of Agriculture, with the participation of the Secretary of Transportation as appropriate, particularly with respect to the interest to be granted for operation and economic growth of the railroad.

Denali National Park and Preserve Lands.

On the date of transfer, the Secretary will deliver to the State a deed that conveys to the State (a) an exclusive-use easement for that portion of the rights-of-way within Denali National Park and (b) title to the railroad-related improvements within such right-of-way. All other railroad holdings and improvements within the Park are to be transferred to the Secretary of the Interior for administration as part of the Park. Rail properties within the boundaries of the Chugach

National Forest and the Denali National Park and Preserve will be subject to laws and regulations for the protection of forest and park values. Implementation of those regulations will be subject to prior consultation with the Governor and may not unreasonably interfere with continued or expanded operation of the State-owned railroad.

Real Property Conveyance.

Articles II and III, related to real and personal property and supported by lengthy appendices and exhibits, are the most detailed parts of this Report. The transfer from the Federal Government of its only commercial operating railroad present property questions of first impression. This transfer is further complicated by the peculiar status of many Federal lands located in Alaska. The impact of competing claims to such lands on the transfer process accounts for the complex statutory scheme provided in ARTA and for the detailed treatment of the railroad lands in Article II.

The Act provides for four different types of conveyance documents to be issued to the State on the date of transfer. Each document will convey interests in land based on the status of the affected parcel on that date.

First, the State will receive an "interim conveyance" of lands that, like the patented lands, are free of claims by others but, unlike the patented lands, are not yet surveyed. When these lands have been surveyed after the date of

transfer, the interim conveyances will be converted into patents.

Second, the State will receive a patent for railroad lands that are surveyed and are not subject to unresolved claims made by third parties under a variety of Federal laws.

Third, the State will receive an exclusive-use easement, as defined in ARTA, for right-of-way lands within Denali National Park and Preserve.

Fourth, the State will receive a license allowing it the exclusive right to use the railroad lands that are subject to claims of third parties (such as Native Corporations) on the date of enactment but which have not been resolved by the date of transfer. As these claims are settled or decided, the lands in the license category will either be placed in the interim conveyance category (if the third party's claim is denied) or conveyed to the claimant (if the claim is approved). The real property conveyance provisions of ARTA thereby require that certain railroad lands be held in escrow (i.e., under license) until their ultimate ownership is determined through settlement or by adjudication.

#### Employee Protection.

The work force of the Alaska Railroad (described in the "Profile" section) remains one of its most valuable assets. The employee protection provisions of ARTA, more fully discussed in Article VI, testify to the continuing interest

of the State and the United States in protecting the employees' well-being in the face of the proposed transfer to the State. The provisions also are intended to facilitate and indeed encourage the transfer of the Alaska Railroad work force to the State-owned railroad, in recognition of its critical importance to the ongoing viability of the railroad. Although care has been taken to preserve employee options to elect not to transfer and to protect their rights in the event they decide to separate from the railroad upon transfer, the Secretary and the Governor hope that the vast majority of employees will remain with the State-owned railroad.

## ARTA REQUIREMENTS

### Transfer Terms and Conditions

ARTA establishes a series of conditions the State must meet to obtain certification from the Secretary of Transportation. The legislation does not, however, specify how the State is to satisfy these conditions. Much depends on our decision about the mechanism we select to operate the railroad.

Prior to transfer, the Secretary is required to certify that the State has agreed:

- (1) to operate the railroad as a rail carrier in intrastate and interstate commerce;
- (2) to assume all rights, liabilities and obligations of the ARR on the date of transfer, except for some claims and causes of action;
- (3) to protect retirement benefits and to establish acceptable arrangements for continued employment for all employees during a two-year period following the date of transfer;
- (4) to allow representatives of the Secretary of Transportation adequate access to railroad employees and records; and
- (5) to compensate the United States at the fair market value, if any, as determined by the United States Railway Association.

Other chapters of this report explain some of these conditions in greater detail, particularly those relating to employee protection and retirement benefits.\*

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\* Additionally, the first section of the Transfer Report, entitled "Transfer Overview," provides information about other key aspects of the federal transfer legislation. This includes those provisions dealing with reversion requirements, native claims against railroad lands, and the type of interest to be obtained in the railroad's right-of-way.

## Provisions Affecting Continued Operations

The following discussion analyzes the effect of ARTA's requirements (other than employee protection obligations which are addressed elsewhere), on continued operation of the railroad following acquisition. Several observations should help eliminate confusion regarding ARTA's continued rail service requirements.

First, it is important to remember that most of the federal transfer statute was structured on a premise of the so-called "no-cost transfer." The compensation requirement was a last minute compromise to obtain Congressional passage, and was merely added to the already established conditions. Consequently, certain provisions are not consistent with the purchase provision of ARTA; particularly the reversion clauses which remain in effect for a certain period of time after acquisition.

Another important consideration is the requirement that the State agree to operate the railroad as a common carrier engaged in intrastate and interstate commerce. Some interpretations suggest that when read in context with the reversion clauses under Section 610 of ARTA, there is a prescribed ten-year period for ensuring continued rail operations. However, this is not the case. The State is not required to continue rail services for any specific period.

Some also suggest that ARTA requires all existing services be continued, including passenger service. This also is not the case. The reversion requirement under Section 610 merely states that if, within the first 10 years after transfer, the State converts all or part of the real property to "a use that would prevent the State-owned railroad from continuing to operate," then the State shall be subject to a requirement to repay the United States for these holdings, or revert such property at our option.

However, under full regulation by the Interstate Commerce Commission (ICC), the State will be subject to some ICC oversight in any abandonment proceedings. Generally, these proceedings are strictly based on economic considerations related to operating history. Assuming a history of highly marginal performance, it is doubtful that ICC oversight would prevent discontinuance of service at some point in the future.\*

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\* The Transfer Team, however, is not suggesting that service be discontinued.

Other key ARTA provisions that have a bearing on continued rail operations are primarily located in Section 608, including the following:

- (1) full and formal regulation by the Interstate Commerce Commission as a rail carrier engaged in intrastate and foreign commerce;
- (2) full jurisdiction under federal antitrust laws, although the State may invoke by law any exemptions otherwise available;
- (3) exemption from the following laws so long as the State-owned railroad remains an instrumentality of the State of Alaska: the Railroad Retirement Act of 1974, the Railroad Tax Act, the Railroad Labor Act, the Federal Employers' Liability Act, and the Railroad Unemployment Insurance Act;
- (4) a clarification that ICC regulation is intended to confer on the State-owned railroad "all business opportunities available to comparable railroads, including contract rate agreements";
- (5) clarification that train operations by the State-owned railroad shall not be subject to any state or local laws specifying minimum crew size;
- (6) a specific requirement that all revenues generated by the State-owned railroad are to be retained and managed by the State-owned railroad for railroad and related purposes;
- (7) a statement by Congress that continued operation of the ARR by "a public corporation, authority or other agency of the State" is an exercise of an essential governmental function and qualifies under the Internal Revenue Code for tax-exempt status, which also would apply to obligations issued by this entity;
- (8) a requirement that rail operations within the boundaries of Chugach National Forest and Denali National Park will be subject to laws and regulations for the protection of forest and park values so long as such regulation does not "unreasonably interfere with continued or expanded operations and support functions";

- (9) guarantees that the State will receive the full federal interest in the right-of-way, but nothing less than an exclusive-use easement for transportation, communication and utility purposes in all areas, except within the Denali National Park, where the railroad is to receive an exclusive-use easement for rail purposes only; and
- (10) no guarantees for future rights-of-way across federal lands, but language which encourages the Secretary of the Interior to expeditiously review applications for that purpose.

# CERTIFICATE OF APPRAISAL

CHARLES F. SEYMOUR, RUSSELL E SNYDER, AND ARNOLD S. TESH  
DO HEREBY CERTIFY THAT UPON REQUEST FOR VALUATION BY:

THE UNITED STATES RAILWAY ASSOCIATION  
955 L'ENFANT PLAZA NORTH, S.W.  
WASHINGTON, DC 20595

THEY HAVE PERSONALLY EXAMINED THE FOLLOWING DESCRIBED PROPERTY:

ALASKA RAILROAD REAL ESTATE TO BE TRANSFERRED  
UNDER THE ALASKA RAILROAD TRANSFER ACT

AND THAT THEY ARE OF THE OPINION THAT AS OF OCTOBER 1, 1983

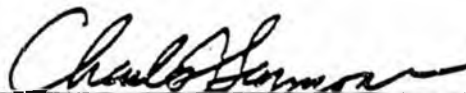
THE MARKET VALUE OF THE PROPERTY

MORE FULLY DESCRIBED HEREIN, WILL BE AS FOLLOWS:

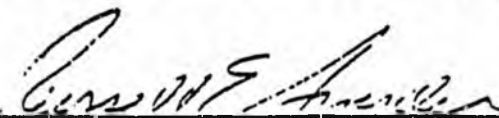
\$58,000,000

THIS MAY BE ALLOCATED AS FOLLOWS:

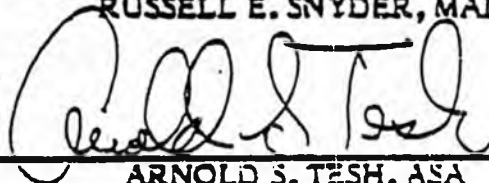
OPERATING PROPERTY:	\$ 7,000,000
NON-OPERATING PROPERTY:	\$51,000,000



CHARLES F. SEYMOUR, MAI, CRE



RUSSELL E. SNYDER, MAI



ARNOLD S. TESH, ASA

N-1

CERTIFICATION, ASSUMPTIONS,  
LIMITING CONDITIONS, AND CONTINGENCIES

Your appraiser, whose signature appears on the Certificate of Appraisal, does hereby certify that, except as otherwise noted in this appraisal report:

1. He has no present or contemplated future interest in the real estate that is the subject of this appraisal report.
2. He has no personal interest or bias with respect to the subject matter of this appraisal report or the parties involved.
3. To the best of his knowledge and belief, the statements of fact contained in this appraisal report, upon which the analyses, opinions, and conclusions expressed herein are based, are true and correct.
4. This appraisal report sets forth all of the limiting conditions imposed by the terms of the assignment or by the appraiser affecting the analyses, opinions and conclusions contained in this appraisal.
5. This appraisal report has been made in conformity with and is subject to the requirement of the Code of Professional Ethics and Standards of Professional Conduct of the American Institute of Real Appraisers of the National Association of Realtors.
6. No one other than the appraiser prepared the analyses, conclusions and opinions concerning real estate that are set forth in this appraisal report.
7. The American Institute of Real Estate Appraisers conducts a voluntary program of continuing education for its designated members. MAI's and RMI's who meet the minimum standards of this program are awarded periodic educational certification. I am certified under this program through December 31, 1983.

This appraisal is to be used in whole and not in part. No part of it shall be used in conjunction with any other appraisal.

No responsibility is assumed by the appraiser for matters which are of legal nature, nor is any opinion on the title rendered herewith. Good title is assumed. Management is assumed to be competent and the ownership to be in responsible hands.

This property has been appraised as though free of liens and encumbrances, except as herein described.

The appraiser herein, by reason of this report is not required to give testimony in court with reference to the property appraised, unless arrangements have been previously made therefore.

Disclosure of the contents of this appraisal report is governed by the By-Laws and Regulations of the American Institute of Real Estate Appraisers of the National Association of Realtors.

Neither all nor any of the contents of this report (especially any conclusions as to value, the identity of the appraiser or the firm with which he is connected, or any reference to the American Institute of Real Estate Appraisers or to the M.A.I. or R.M.I. designation) shall be disseminated to the public through advertising media, public relations media, news media, sales media or any other public means of communication without the prior written consent and approval of the appraiser(s)

**SPECIAL ASSUMPTIONS AND INSTRUCTIONS  
UNDER THE ALASKA RAILROAD TRANSFER  
ACT (ARTA)**

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In accordance with the advice and counsel of the United States Railway Association, Jackson-Cross has assumed the following in its appraisal of the Alaska Railroad:

1. Fair market value of the railroad to the State of Alaska is the price the State, as a prudent purchaser, would pay for the rights transferred under ARTA. The State is constrained by all existing state law that would affect it or any other purchaser of the railroad's property. Accordingly, we do not consider potential actions which the State might take which would affect fair market value.
2. The purchaser will operate the railroad for ten years, at a level of service that approximates current projections and in its present configuration.
3. All real estate classified as operating property would be available for transfer for non-rail use in 10 years after the date of the appraisal on October 1, 1993.
4. Upon transfer, the State will acquire full title to only those portions of the property identified by USRA as owned in fee simple by the Alaska Railroad.
5. The purchaser will be permitted to make any use of the operating property immediately after transfer of the properties to the State as long as such uses do not interfere with rail operations.
6. All non-operating property would be available for disposition immediately after transfer of the properties to the State.
7. All revenues from real estate transactions during the first ten (10) years must be used for railroad or other related purposes. Other related purposes can include transportation budget items relating in some way to the Alaska Railroad.
8. There would be no added costs to a purchaser for environmental, subdivision or zoning actions beyond that which is reflected in comparable sales.
9. The purchaser is required to assume all existing leases on the property, but will renegotiate them at fair market value upon their expiration or at the earliest date permissible under the terms of such leases.
10. USRA has provided the appraiser with the inventory of Alaska Railroad property and with its allocation between operating and non-operating real estate.

11. The analysis of real estate taxes has been performed in accordance with the normal real estate market practices, i.e. the purchaser is responsible for normal real estate taxes during the holding period and for disposition taxes normally paid by the seller when sales are consummated.
12. The purchaser is entitled to utilize all financing instruments normally available, including mortgages.
13. The discount rate reflects the cost of money attributable to a typical acquisition in the private sector.
14. Theoretical social costs and benefits associated with the transferred property are not considered within the purview of fair market value.
15. The railroad is considered a single property to be owned and controlled by a single entity.
16. The date of the appraisal is October 1, 1983.
17. No special allocation is made in this report for parcels subject to Native claims. At USRA's request, Jackson-Cross supplied a total value for such parcels. That value is \$3,200,000.
18. Corridor value for the right-of-way is not considered.
19. The Section 605(a) Closing Report is considered to the extent that information contained therein affects the real estate value.
20. No specific studies are performed to determine the existence of semi-precious and precious minerals located within the subject. Mineral rights and their potential value are only considered to the extent as reported and reflected in the real estate market transactions in the private sector.
21. Income from leases located on property designated by USRA as operating property, pipeline permits, and trackage charges, are excluded from the real estate valuation. USRA advises that this income has been considered in its projections of railroad operating income.

### PURPOSE AND FUNCTION OF THE APPRAISAL

The purpose of this appraisal is to estimate the market value of the subject property, more fully described herein, as of October 1, 1983.

As used herein, market value may be defined as:

The price which a well-informed buyer acting intelligently, voluntarily, and without necessity would be warranted in paying, and a well-informed seller acting intelligently, voluntarily, and without necessity would be warranted in accepting for the property as of a certain date.

The function of this appraisal is to provide USRA with an estimate of market value of the real estate for incorporation in its report on the market value of the Alaska Railroad properties to be conveyed under the Alaska Railroad Transfer Act (A.R.T.A.).

The subject property is valued in fee simple, subject to A.R.T.A. restrictions as interpreted by USRA.

### ACKNOWLEDGEMENT

All of the judgements and conclusions contained within this report are those of the appraisers for which they assume full professional responsibility. However, the appraisers wish to acknowledge the assistance of David W. Anderson, Douglas S. Butcher, Joseph R. Dugan, Alf Moody, and Frederick J. Williams of Jackson-Cross Company in the preparation of various facets of this report.

SUMMARY OF VALUATIONS BY MARKET AREA

<u>Market Area</u>	<u>Operating Property</u>			<u>Non-Operating Property</u>			<u>Total Property</u>
	<u>Land</u>	<u>Improvements</u>	<u>Subtotal</u>	<u>Land</u>	<u>Improvements</u>	<u>Subtotal</u>	
Anchorage	\$0,883,223	\$ 766,688	\$3,649,911	\$39,282,728	--	\$39,282,728	\$66,932,639
Fairbanks	577,461	132,132	639,373	6,186,766	--	6,186,766	6,849,317
Seward	188,618	83,666	272,276	1,393,882	--	1,393,882	1,667,356
Whittier	102,461	130,113	232,376	922,717	--	922,717	1,153,293
Valdez	--	--	--	363,431	--	363,431	363,431
Other	<u>68,374</u>	<u>23,616</u>	<u>21,228</u>	<u>2,282,183</u>	<u>116,000</u>	<u>2,892,183</u>	<u>2,991,173</u>
<b>Totals</b>	<b>\$3,770,109</b>	<b>\$1,136,213</b>	<b>\$6,906,124</b>	<b>\$38,938,923</b>	<b>\$116,000</b>	<b>\$31,049,923</b>	<b>\$37,936,249</b>
<b>Round</b>	<b>\$3,770,000</b>	<b>\$1,140,000</b>	<b>\$6,910,000</b>	<b>\$38,930,000</b>	<b>\$120,000</b>	<b>\$31,030,000</b>	<b>\$38,000,000</b>

## SUMMARY OF SALIENT FACTS AND CONCLUSIONS

PROPERTY APPRAISED:

All Alaska Railroad real estate holdings held in fee simple by the Alaska Railroad.

OWNER:

The Alaska Railroad (United States Department of Transportation).

LAND:

The total land area valued is 28,416.31 acres, based on maps and other documents provided to the appraisers by USRA and the Alaska Railroad. USRA has allocated 3,913.61 acres to Operating property and 24,502.7 acres to Non-operating property.

IMPROVEMENTS:

Numerous structures located throughout the Alaska Railroad land holdings are more fully described herein. Improvements containing a total of 512,000+ square feet of building area owned by the Alaska Railroad have value consistent with the highest and best uses of the properties under the assumptions provided by USRA.

PRESENT USE:

Operating property is devoted to rail operations. The uses of Non-Operating properties range from undeveloped wilderness to land leases for industrial, commercial, residential, agricultural, institutional, and recreational.

HIGHEST AND BEST USE:

A separate highest and best use conclusion was made for each of the Valuation Units described herein. With respect to Operating property, highest and best use conclusions are based on the assumption, provided by USRA, that rail operations will cease on October 1, 1993.

MARKET VALUE OF OPERATING PROPERTY:

Land	\$ 5,770,000
Improvements	<u>1,140,000</u>
Total	\$ 6,910,000

MARKET VALUE OF NON-OPERATING PROPERTY:

Land	\$ 50,930,000
Improvements	<u>120,000</u>
Total	\$ 51,050,000

TOTAL MARKET VALUE:

Land	\$ 56,700,000
Improvements	<u>1,250,000</u>
Total	\$ 57,960,000
Rounded to	\$ 58,000,000

VALUATION

After considering all the facts and circumstances in connection with the subject property, it is our opinion that the market value of the land and improvements, as of October 1, 1983, will be:

--- FIFTY EIGHT MILLION DOLLARS ---  
(\$58,000,000)

This may be allocated as follows:

Land	\$56,740,000	This is equivalent to 28,416.31 acres at \$1,997 per acre.
Improvements	\$ 1,260,000	This is equivalent to 512,002 square feet of building area at \$2.46 per square foot.

## OBJECTIVE AND VALUATION METHODOLOGY

The final adoption of a methodology for appraising the non-rail use fair market value of the Alaska Railroad (ARR) real estate results from comprehensive consideration of the Alaska Railroad Transfer Act of 1982 (ARTA) which defines assumptions and limiting conditions. Market factors were also considered in formulating the process.

It has been the practice of the ARR to lease its real estate, rather than sell it. Jackson-Cross assumes a continuation of this practice regardless of ownership. Valuation theory assures that proper capitalization of an income stream results in a value conclusion synonymous with an appraisal assuming sale of the leased fee interests.

To arrive at a fair market value to the State of Alaska, the basic methodology comports with conventional real estate approaches and techniques.

Two major steps are required to estimate the fair market value of the Alaska Railroad.

First, the base values are determined. Each base value represents the estimated price for a single parcel as of October 1, 1983, assuming that it is sold on that date, that it is the only piece of Alaska Railroad property on the market in that area at the time, and that there are no restrictions or encumbrances preventing the sale.

Second, the net revenues, if any, likely to be received from non-rail use leasing of the subject property are estimated; the period of time it is likely to take to realize those net revenues are estimated; and, the present value is appraised as of October 1, 1983, of the expectation of those future net revenues, considering the cost of money over time and the risk of uncertainty that the projected net revenues will, in fact, be realized.

## BASE VALUE

The first of two major valuation phases involves a determination of base value, or the total of all gross proceeds to be received for the real property if it were sold in marketable parcels on October 1, 1983. Base value assumes that each parcel is the only parcel being marketed at the subject property on October 1, 1983.

## Property Categories

The Alaska Railroad property is comprised of both operating and non-operating property. The United States Railway Association supplies Jackson-Cross with the configuration between these categories. They are distinguished by the following assumptions:

1. Operating property is not marketable for non-rail use for a period of ten years.
2. Non-operating property is immediately marketable for non-rail use.

Both categories of property are appraised by Jackson-Cross under the aforementioned conditions, except where the railroad lacks title. Jackson-Cross relies upon USRA for instructions regarding the extent to which properties should be included or excluded due to title problems.

## Market Areas

All Alaska Railroad real estate is examined by market area. Those parcels sharing economic, social, and geographic characteristics tend to have their values influenced by the same local phenomena. For instance, changes in population, real estate supply, industrial growth, property taxes and transportation, among other possibilities, may influence the property within a market area and have no direct measurable effect upon neighboring communities or jurisdictions. Most importantly, from a valuation standpoint, is that within a market area properties of similar utility compete for existing demand. Obviously, no market is totally immune to what occurs outside its borders, but whatever macro-economic impact may occur it is best to measure it with local market data if it exists.

### Valuation Unit

For all of the Alaska Railroad real property assigned for valuation, Jackson-Cross analyzes each of the permissible uses and determines which uses are most profitable and likely as of the date the property can be marketed for non-rail use.

All property in each market area is divided into valuation units. Property within a unit is of consistent highest and best use and value level. The valuation unit is different from a marketable parcel. It is a method of reporting value results only. The valuation unit may consist of one or more marketable parcels.

A review of the subject property along with sales and leases identified in the market enables the appraiser to assign preliminary parcelization. During the base valuation phase it is often necessary to modify the valuation units.

### Valuation Analysis

For each valuation unit a detailed study of market data is utilized to determine unit values. This analysis includes consideration for marketable parcel location, highest and best use, size, shape, topography, soil conditions, access, and any other variables which may have an impact on value.

The resulting base unit value for each valuation unit is multiplied by the size of the valuation unit to equal the total base value. For example, a 10,000 square foot valuation unit with a square foot value of \$2.00 results in a total Base Value of \$20,000.00. The unit value applied reflects the gross unit price likely to be received for the optimum sized marketable parcels within the valuation unit. To properly reflect market data, a 10,000 square foot valuation unit is not valued as a 10,000 square foot parcel if the standard marketable lot is 5,000 square feet. Instead, it is valued as two 5,000 square foot lots, each of which are assumed not to compete with the other.

### Base Value Limitations

As mentioned earlier, Base Value for the Alaska Railroad real estate is the sum of all of the individual marketable parcel gross selling prices on October 1, 1983. It assumes that none of these parcels are encumbered by the requirement to operate a railroad, or by the existence of leases which are not in conformity with the market. It also assumes that no other property within the subject portfolio is available for sale or lease on that date.

## PORTFOLIO MARKET VALUE

The second major phase of this valuation involves the discounting of future proceeds to a present worth. This discounted cash flow process arrives at a value for the entire Alaska Railroad real estate portfolio as a single property. The discounting technique's applicability to the subject assignment is explained below.

### Applicability of Discounted Cash Flow Technique

The discounted cash flow technique is a standard valuation tool for determining the present value of cash flows to be realized over a period of time from the disposition or use of assets. In the subject case where it is likely a purchaser would continue the practice of the Railroad to lease the property, discounted cash flow analysis is an appropriate valuation practice. As a practical matter, the same present value should be realized from leasing property at market rates or from selling the assets free of encumbrances.

The discounted cash flow technique is necessary because the amount of the Alaska Railroad's real estate holdings, the different geographic markets where that property is located and the diversity of highest and best uses cannot be directly compared to a single "comparable" sale in the market.

The subject property is especially conducive to discounted cash flow due to the:

1. Long term nature of the existing leases.
2. Diversity of the real estate inventory.
3. Heterogenous nature of the business entity which includes operating a railroad and managing a real estate portfolio.
4. Lack of a stabilized income stream or level annuity.

The procedure of performing a discounted cash flow analysis involves a projection of:

1. Periodic actual gross income likely to be received.
2. The periodic management, marketing and holding costs likely to be incurred.
3. The relative risk and time-cost of money in realizing the projections.

### Pace of Absorption

An important element of the discounted cash flow analysis is the time when the potential benefits (i.e., proceeds of sale or lease) are likely to be realized. A timetable for realizing lease income from the Alaska Railroad properties results from a detailed analysis in each of the major market areas.

Within each market area property is categorized by highest and best use. Each highest and best use category is then analyzed for quality characteristics which may affect the pace at which the property is likely to be leased. For major markets a study of existing market activity along with socio-economic factors supplies the appraiser with the basic data necessary to project the likely rate of absorption that would be predicted by an investor as of October 1, 1983.

With regard to non-operating property in Anchorage, approximately 80% of the dollar value is currently under lease; similarly, in Fairbanks approximately 60% of the dollar value of the non-operating railroad property is currently leased. Jackson-Cross considers these properties, and those under lease in other markets, to have been already absorbed into the market, and to remain under lease for the term of the existing contracts. The appraiser, using real estate market and other economic data, then estimates the rate at which the unleased property would be leased, including the effect of re-leasing property after the termination of existing contracts. While he considered that any terminating leases could be renewed immediately, because start-up time would be necessary for a new owner, Jackson-Cross assumed that no other new leases would be entered into for at least one year. The appraiser also estimates the rate at which the operating property could have been leased for alternative uses under the hypothetical assumption that railroad operations terminate after ten years.

### Rents

A review of real estate practices in both Anchorage and Fairbanks reveals that land leases generally provide for the escalation (or reduction) of rents every five years. This five-year cycle, which is contained in most of the existing leases of Alaska Railroad property, is assumed to continue for new leases. Accordingly, rents would be set at new market rents only when:

1. The escalation is due;
2. The lease expires and a renewal at market rental value is anticipated;
3. A vacant property is leased.

### Capitalization Factor

To determine market rent, a capitalization or rental factor is derived from rentals of parcels similar to subject marketable parcels. A study of property sold and leased indicates a range of 9% to 11%. An overall factor of 9.75% is considered appropriate for the individual subject properties. Both overall quality and diversity of the inventory constitute the prime consideration for the proposed factor.

### Management and Leasing Expense

A study of the major market areas indicates management fees for income producing properties ranging between 4% to 6½% of gross income. This range does not include separate brokerage commissions paid when a lease is arranged. In light of the amount of property involved here, and the extent of management and leasing activity available to a competent firm, an overall figure of 5% of the effective gross income is considered adequate. This, of course, includes any reasonable combination of in-house costs and outside commissions.

### Holding Expense

The ownership of the Alaska Railroad real estate carries certain expense obligations regardless of whether it is totally or only partially leased. The expenses include real estate taxes, administration, insurance, special legal and accounting functions, maintenance, security and supplies. The total estimated annual allowance for holding is 1½% of base value.

### Terminal Value

Both Non-operating and Operating properties have ten year earnings projections. To take into account the perpetual nature of lease income, during the tenth year of each projection, values are stabilized and discounted to October, 1983. This is known as valuing the final reversion. The procedure takes into account that proceeds will be generated beyond the lease income projection period.

### Discount Rate

Since the sum of all projected net income is not to be received on October 1, 1983 a rate for discounting the proceeds to that date is required.

A prudent investor demands a return for his investment including a real rate of interest, compensation for inflation factors and for risk associated with a proposed

investment. Also required in a real estate transaction is compensation for the relative non-liquidity of the investment. The discount rate represents the rate at which the market would take all of these factors into consideration with respect to future earnings and pay a fair price for the right to receive such future earnings.

There are no projects which can be compared directly with the valuation of approximately 23,416 acres of Alaska real estate. On individual transactions for parcels in the region, Jackson-Cross has determined that the market is currently demanding rates of return on equity before taxes of 15% to 20%. The size and complexity of the subject transaction lead to a conclusion that a higher rate of return would be necessary to attract equity capital. A prudent investor would likely structure the acquisition on the assumption of 75% debt and 25% equity mix and would require a 25% return for the equity component.

The cost of debt capital is a barometer of minimum requirements for discount. Major Alaska projects with tangible development plans are attracting mortgage capital at 1.5% to 2.5% above prime on a floating basis. Fixed rates require 13% to 14% and are subject to a typical 20 to 25 year term. Fixed rate mortgages are currently subject to call every five to six years. Mortgage constants range between 14% and 14.5%. Since the Alaska Railroad has a significant portion of undeveloped property, the portfolio as a whole would not meet prevailing standards for institutional investors. Since other lenders in such circumstances demand higher returns, it is concluded a debt cost of 16% would be appropriate.

Overall, therefore, a capitalization consisting of 75% debt at 16% cost and 25% equity at cost of 25% leads to an 18% total property return to acquire the portfolio.

Each major market area in the Alaska Railroad region has different investment characteristics. In this analysis the overall portfolio discount rate adequately considers these differences.

### Special Considerations

How the market reacts today is the best indicator of its perception of the future. Current prices, rents and absorption reflect investors' anticipations of profit and use. Current financing practices are an excellent indication of that market's anticipation of future real and inflationary trends. For these reasons much weight was placed on market data. However, due to the twenty years required for realizing optimum proceeds, Jackson-Cross also takes into account

1. Trends in government sponsored economic programs which are likely to affect the real estate market in Alaska. These include, but are not limited to, public land sales, public financing, permanent fund projections, and legislation restricting expenditures.
2. Projections for production and revenues and their impact upon employment, price changes, and ultimately real estate supply and demand.
3. Demographics, including where in Alaska growth has occurred, and where it is expected in the future. How such growth may affect prices and absorption varies by ages, occupations, and income levels.
4. New or expanding industries, such as the recent influx of service and professional businesses. This is likely to contribute towards the continuing economic growth of the state.
5. Defense spending, which is likely to continue as a major contribution to the Alaska economy.

## SUMMARY OF VALUATION PROCEDURE

Within the body of the report are computerized summaries of the valuation process. The steps taken in the appraisal calculation are as follows:

1. Total Base Value is determined for October 1, 1983.
2. For each period Total Base Value is escalated at a rate of 3% to 5% depending on the market area.
3. A rental factor of 9.75% is applied to each total periodic Base Value to arrive at a maximum potential gross income.
4. The maximum potential gross income is then modified to reflect:
  - a. Current leases which are not at market levels; and
  - b. Property which is not yet projected as leased.
5. Management and leasing expense is subtracted at a rate of 5% of effective gross income each period.
6. Holding expense is subtracted at a rate of  $1\frac{1}{2}$ % of base value each period.
7. The period net income is calculated.
8. The net income is discounted at an annual rate of 18% each period.
9. During the tenth year for non-operating property and the twentieth year for the operating property a single reversion is calculated against the total of the capitalized value for each of those years' net incomes, plus the base value of property remaining unleased. The reversion factor applied is 18%.

United States Railway Association

**VALUATION**  
**OF THE**  
**ALASKA RAILROAD**

**September 1983**

**United States Railway Association**

955 L'Enfant Plaza North, S.W.  
Washington, D.C. 20595  
(202) 488-8777  
Stephen Berger  
Chairman of the Board

September 23, 1983

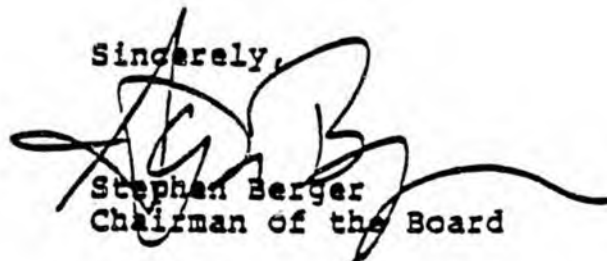
The Honorable George Bush  
President  
United States Senate  
Washington, D.C. 20510

The Honorable Thomas P. O'Neill, Jr.  
Speaker  
United States House of Representatives  
Washington, D.C. 20515

Dear Mr. President and Mr. Speaker:

Pursuant to Section 605(d)(1) of the Alaska Railroad Transfer Act of 1982, P.L. 97-468, enclosed is the United States Railway Association's determination of the fair market value of the Alaska Railroad. Copies of the reports of consultants who assisted USRA in this analysis will be transmitted separately at a later date.

Sincerely,



Stephen Berger  
Chairman of the Board

# UNITED STATES RAILWAY ASSOCIATION

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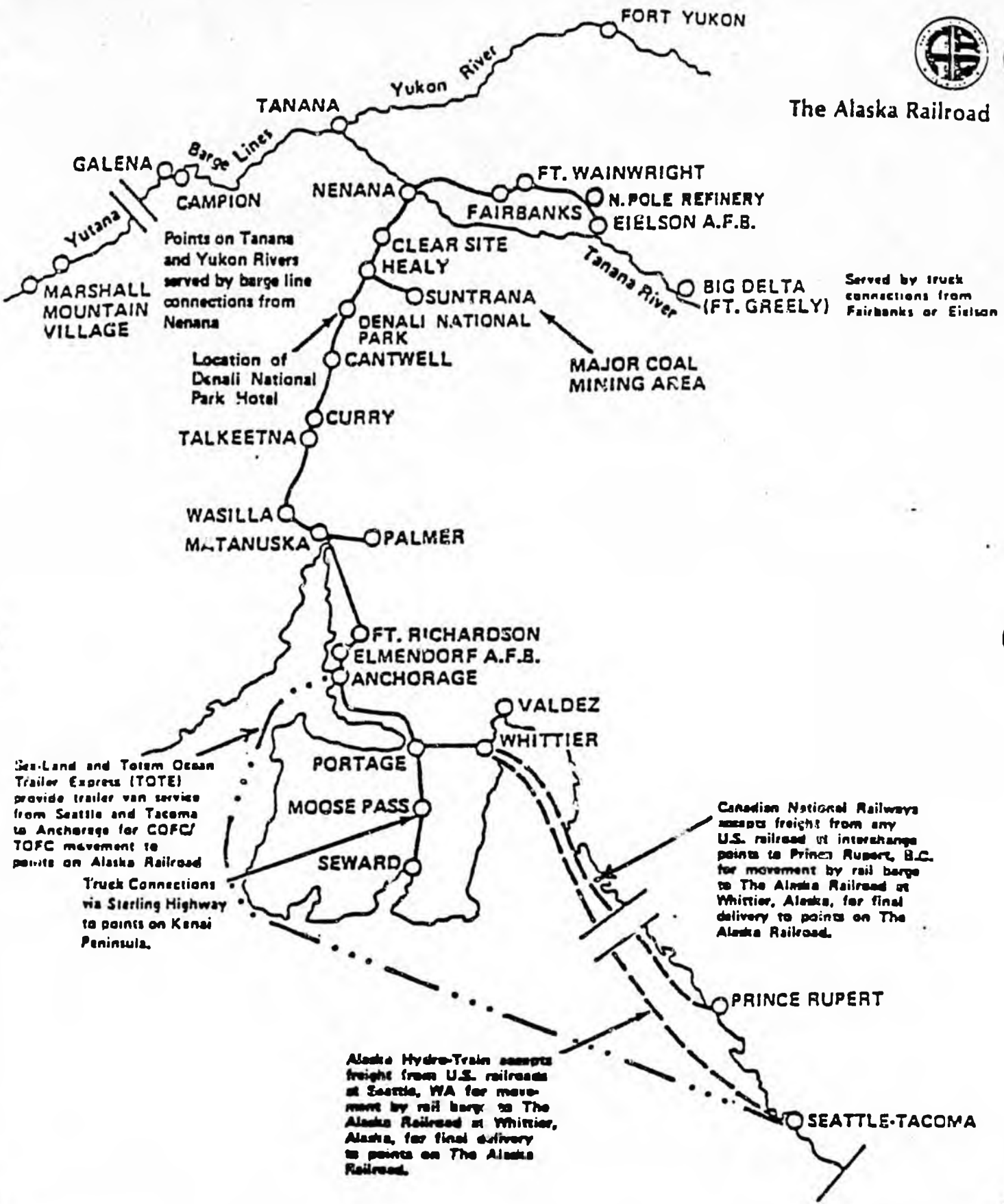
The approval and release of this report is an act of the Board of Directors of the Association. Not every member of the Board necessarily concurs in every statement or determination made in the report.

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# The Alaska Railroad



**ALASKA RAILROAD ROUTE MAP**  
Showing connecting carriers

FOREWORD

Description of the Alaska Railroad

In 1914, Congress authorized construction of the Alaska Railroad to open up Alaska's interior and to facilitate commerce through Alaska's ports. After the arduous job of building a railroad through the wilderness was completed in 1923, President Harding dedicated the railroad and a new era began in Alaska's history. The railroad went on to play a significant role in the development of Alaska's interior and as an armed forces supply link during World War II.

It has been operated by the Federal government since its inception, and today it is administered by the Federal Railroad Administration as part of the Department of Transportation. It currently operates over 525 route miles serving the principal Alaska cities of Anchorage and Fairbanks, the ports of Whittier and Seward, and natural attractions such as Denali National Park. Both freight and passenger service is offered year round. Interline rail freight traffic is interchanged at Whittier with barge lines linking the railroad with Seattle and Prince Rupert, B.C. Principal freight commodities carried include gravel, coal, aviation fuel, pipe, building materials and piggyback.

While the Alaska Railroad performs an important function within the State of Alaska, its operations and patronage are modest when compared with railroads in the lower 48 where it would be classified as a medium-sized "short-line" carrier with below average freight traffic density. Historically, the

railroad has been subsidized by Congressional appropriations. Since 1939, the appropriations have been used almost exclusively for capital and maintenance projects. Since 1975, appropriations have ranged from a low of \$3.0 million in 1978 to a high of \$12.6 million in 1981.

In fiscal year 1983, which ends September 30, it is estimated that the railroad will have carried 82,000 carloads and 204,000 passengers. Projected fiscal year 1983 revenues are \$55.5 million with operating expenses estimated at \$50.8 million. As shown in Table 1, this continues a trend begun in fiscal year 1981, the first time since the Alaska pipeline construction years that the railroad's operating revenues exceeded expenses.

Table 1  
THE ALASKA RAILROAD  
Financial Results

<u>Fiscal Year (1)</u>	<u>Revenue Millions</u>	<u>Expenses (Inc. Dep.) \$ Millions</u>	<u>Surplus (Shortfall) \$ Millions</u>	<u>Expense/ Revenue Ratio</u>	<u>Feder Appro priati \$ Mill</u>
1973	17.7	20.7	(3.0)	117	-
1974	21.5	22.6	(1.1)	105	-
1975	42.3	36.5	5.8	86	6.0
1976 (1)	53.7	49.6	4.1	92	9.0
1977	35.0	36.0	(1.0)	103	6.0
1978	29.1	33.6	(4.5)	115	3.0
1979	25.2	31.8	(6.6)	126	9.3
1980	28.9	34.7	(5.8)	120	6.5
1981	43.9	40.6	3.3	92	12.6
1982	58.8	49.2	9.6	84	6
1983	55.5	50.8 (2)	4.7	92	

1) Year end changed from June to September in 1976. Transition quarter ignored.

2) For comparison with previous years, excludes \$2.3 million of engineering expense previously treated as capital.

3) \$7.6 million was appropriated in the continuing resolution, Public Law 97-377 in December 1982. The DOT appropriations bill for fiscal year 1983 contained no funding for the Alaska Railroad.



INTRODUCTION AND SUMMARY

The Alaska Railroad Transfer Act of 1982, P.L. 97-468 (ARTA) was signed into law on January 14, 1983. In that Act, Congress found that while continuation of the Alaska Railroad is necessary to achieve Federal, State and private objectives, continued Federal control and financial support are no longer required to accomplish those objectives. Congress further found that the Alaska Railroad was primarily benefitting Alaska residents and businesses and concluded that the Federal government should offer to transfer the Railroad to the State of Alaska.

ARTA establishes the terms and conditions for transferring the Railroad, sets forth the timetable and procedures for accomplishing the transfer, and authorizes the Secretary of Transportation to effect the transfer upon certification that the State has complied with the Act's terms and conditions. As part of the transfer process, ARTA Section 605(d)(1) directs the United States Railway Association (USRA) to determine the Railroad's fair market value. This report fulfills that requirement.

On July 15, 1983, pursuant to ARTA Section 605(a), the United States Department of Transportation and the State of Alaska submitted a Joint Report (605(a) Report) describing the assets and liabilities to be transferred. As directed by ARTA, USRA has used information contained in that report to the extent relevant to determining the Railroad's fair market value.

In directing USRA to value the Alaska Railroad, ARTA provides three specific instructions concerning that valuation. First, Section 605(d)(1) states that USRA

"shall determine the fair market value of the Alaska Railroad under the terms and conditions of this title, applying such procedures, methods and standards as are generally accepted as normal and common practice."

Second, the Act provides that

"[s]uch determination shall include an appraisal of the real and personal property to be transferred to the State pursuant to this title. Such appraisal by the Association shall be conducted in the usual manner in accordance with generally accepted industry standards, and shall consider the current fair market value and potential future value if used in whole or in part for other purposes."

Finally, the Act requires that

"[t]he Association shall take into account all obligations imposed by this title and other applicable law upon operation and ownership of the State-owned railroad."

In reaching its determination of value, USRA used the normally accepted definition that fair market value is "what a willing buyer would pay . . . to a willing seller."\* In the appraisal field, the valuation of property at fair market value "means merely an attempt to estimate the price for which the

---

\*United States v. Miller, 317 U.S. 369, 374 (1943); United States v. 564.54 Acres of Land, 441 U.S. 506, 511 (1979). While the willing buyer/willing seller definition of fair market value ordinarily focuses on the loss to the seller (i.e., the loss to the United States in disposition of the railroad), ARTA Section 605(d)(1) mandates a focus on the obligations imposed by the buyer under ARTA (i.e., "obligations imposed by this title . . . upon operation and ownership of the State-owned railroad"). Consequently, to be consistent with ARTA's direction, the valuation concentrates on the present value of the property rights to be received by the purchaser under ARTA.

property could be sold by some stipulated seller to anyone else,  
... ."

Thus, fair market value is based on economic value in the marketplace. It assumes that both buyers and sellers act rationally. It ignores the special desire of any particular buyer for the property and any unique value which the property may have to that particular buyer.

This means that the fair market value of the Alaska Railroad properties is not the subjective or special value of those assets to the State of Alaska. The price which the State would have to pay to acquire the rail properties should be based upon how much it would have to pay to outbid any other potential purchaser, subject to ARTA's terms and conditions.

Consistent with ARTA's direction that USRA apply "standards as are generally accepted as normal and common practice", USRA has determined the amount which a rational buyer might pay in the marketplace for the properties to be transferred to the State of Alaska considering both (1) the "terms and conditions" of ARTA that will apply to the State's acquisition of the Alaska Railroad, and (2) all obligations imposed by ARTA and other applicable law upon operation and ownership of the State-owned railroad.

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\*1 Bonbright, Valuation of Property, p. 65 (1937); accord, American Institute of Real Estate Appraisers, The Appraisal of Real Estate, pp. 23-24 (7th ed. 1978); 1 Orgel, Valuation Under Eminent Domain, Section 20, pp. 90-96 (2nd ed., 1953).

Since ARTA's terms and conditions require the State to operate the Railroad for at least ten years (or railroad properties would revert to the United States under ARTA Section 610(a)), determining the Railroad's fair market value begins with estimating the present value of continuing railroad operations for ten years, including the present value of the Railroad's non-operating real estate.\* The next step is to estimate and compare

- (1) the present value of continuing rail operations beyond ten years in perpetuity, with
- (2) the present value of putting the Railroad's assets in whole or in part to other uses after ten years.

These alternative estimates of fair market value require analyses of the Railroad's operations, its physical plant and equipment, its real estate assets, the costs which the buyer will incur incident to the transfer, and the proceeds and costs that would be incurred if the Railroad's assets were converted to other uses.\*\*

These analyses are described in the sections which follow. They were assembled to determine the Railroad's present fair market value under two alternative hypotheses -- (1) continued rail operations in perpetuity, and (2) rail operations for ten

---

\*Any losses from continued operations could be offset by rents from the non-operating real estate, since ARTA Section 608(a)(5) requires that all railroad revenue "be retained and managed . . . for railroad and related purposes." The term "related purposes" is considered broad enough that this condition would not so restrict the State's use of railroad revenues as to materially affect fair market value.

\*\*USRA was assisted in determining the scope and nature of its analysis under ARTA by the law firm of Nossaman, Guthner, Knox & Elliott.

years followed by putting the Railroad's assets to their highest and best alternative uses. Results of these two scenarios are summarized in Table 2.

Table 2

ARR VALUATION  
as of 10/1/83

(in 000)

	<u>Continued Rail Operations Scenario</u>	<u>Alternative Use Scenario</u>
Real Estate	\$ 47,800*1	\$ 54,800*2
Rail Operations	<u>(25,529)*3</u>	<u>(35,430)*4</u>
	\$ <u>22,271</u>	\$ <u>19,370</u>

\*1) Present value of the Railroad's non-operating real estate.

\*2) Present value of the Railroad's non-operating real estate plus present value from alternate use of Railroad's operating real estate after 10 years.

\*3) Includes all start-up costs.

\*4) Includes all costs associated with rail operations during the first 10 years including start-up costs, plus labor protection costs associated with discontinuing rail operations. Also includes net proceeds from assumed liquidation of facilities and equipment.

The fair market value of both the continued rail operations scenario and the alternative use scenario consists of two components: a real estate component and a rail operations component. The fair market value of the Alaska Railroad under these two valuation scenarios was determined by reducing the cash flows from each of these two components to a present value as of October 1, 1983.

#### Continued Rail Operations Scenario

The real estate component of value was derived by projecting future lease income from the non-operating real property. The Alaska Railroad's historical practice has been to lease to others the property not required for rail operations, and an investor would likely continue this practice. Accordingly, it was assumed that the property presently under lease would continue to be leased and that other property would be leased to the extent possible. The net cash flows were discounted to produce a present value of \$47,800,000. This amount does not include the real estate which has been selected by Native corporations. However, for the reasons discussed in Appendix A, Native Claim Selection Analysis, USRA concluded that a prudent buyer would pay nothing for the possibility that significant portions of the lands subject to Native claims might eventually be conveyed.

The value of the rail operations was derived from a forecast provided by the Alaska Railroad and adjusted by USRA. The 605(a) Report was used as a beginning point for the derivation of start-up costs, and estimates of capital requirements were made by

consultants to USRA. These constant dollar cash flows were then discounted to produce a negative value of \$25,529,000,\* which was then subtracted from the \$47,800,000 value of the non-operating real estate to yield an October 1, 1983 fair market value of \$22,271,000.

#### Alternative Use Scenario

In the alternative use scenario, the Railroad is assumed to cease operations at the end of the tenth year, the facilities and equipment removed and sold, and the operating real estate made available for leasing and development in the same fashion as the non-operating real estate. The cash flows generated by this additional real estate were valued in the same manner as the non-operating real estate and increased the 1983 present value of the real estate by \$7,000,000 to \$54,800,000.\*\*

The value of the rail operations in this scenario is (1) the present value of the cash flow from rail operations for ten years (2) plus the present value of the net proceeds that would be received from dismantling and selling the Railroad's facilities

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\*It was necessary to estimate the value of the cash flows after the tenth year (the last year of the USRA projection). This was done by calculating a normal year cash flow that could be expected after the tenth year and capitalizing that amount by 16 percent and then discounting the capitalized flows back to present value.

\*\*While the \$7 million value may seem small in relation to the real estate involved, it must be kept in mind that the cash flows from alternative use of the operating real estate do not begin until the eleventh year (1994) which causes the present value to be relatively small.

and equipment starting in the eleventh year, (3) less the present value of labor protection payments attendant to discontinuing rail operations. These cash flows, which were all stated in constant dollars, were discounted at the same rate as was used to discount the cash flows in the continued rail scenario. The present value of these flows was a negative \$35,430,000 and was deducted from the \$54,800,000 real estate value to yield an October 1, 1983 fair market value of \$19,370,000 for the alternative use scenario.

Based on these valuation studies, USRA concluded that there was no persuasive evidence that a buyer would be willing to pay more than the present value of continued railroad operations for the speculative possibility that an eventual conversion of some or all of the Railroad's assets to alternative uses would produce greater value. Therefore, USRA determined that the fair market value of the Alaska Railroad pursuant to Section 605(d)(1) of ARTA is \$22,271,000.

CONTINUED EARNINGS VALUATION

The purpose of this analysis was to examine the earnings which could reasonably be expected to flow from a continuation of rail service. It was based on revenue and expense forecasts developed by the Alaska Railroad along with a projection of capital requirements to support that level of operations.

These forecasts were reviewed and validated by USRA staff, and adjustments were made as necessary. The validation process included an examination of historic performance levels and trends, field inspections, interviews with railroad and other knowledgeable personnel, and a review of proposed capital projects.

In general, the forecasts made by the Railroad were accepted as presented. As discussed later in this section, adjustments were made to projected operating expenses for some additional maintenance of way expenses. Adjustments were also made to forecasted productivity improvements, since it was USRA's judgment that a potential investor would be unwilling to pay for as yet undemonstrated cost reductions. The projected capital program was modified as well.

Other cost increases resulting from the transfer of the Railroad, identified in detail in the 605(a) report, were also reviewed and adjusted. These items include legal and administrative expenses, tort claims, working capital and employee retirement obligations. Additionally, the cost of compliance with Federal OSHA requirements and State or local

building codes not now applicable to the Railroad were estimated and included, as well as one-time transfer costs.

The resulting modified revenue, expenses, and capital requirements from operations were reduced to a single present value as of October 1, 1983.

### Revenue

Revenue is based on an Alaska Railroad passenger and freight traffic forecast for the fiscal years 1984 through 1989 (see Table 3). Passenger revenue is projected to increase 59 percent from fiscal 1984 to 1989, with freight revenue rising 34 percent. Most commodities show a gain over the period with only petroleum products declining. Gravel traffic, which has been increasing over the past several years, is expected to remain at 1983 levels as is coal moving to local Alaska destinations. The commodity showing the largest increase is pipe because of renewed activity on the North Slope and a greater need for replacement pipe.

Of particular importance is the projection of an export coal movement beginning with a test shipment in 1984. This coal would be moved in unit trains from Healy to the port of Seward for shipment to Korea. It would be handled in shipper-owned equipment and would represent a significant addition to the Railroad's traffic base. Planning for this movement has been going on for some time. However, recognizing that the necessary port facilities have not yet been built, the uncertainty of current world coal markets and the possibility of increased costs, USRA modified the Railroad's forecast by delaying the

estimated start-up date by one year. We believe that a prospective purchaser would view the uncertainties associated with the projected export coal movement as being significantly higher than the uncertainty inherent in other elements of the Railroad's forecast.

Neither the Railroad nor USRA has forecast any traffic improvements that are purely speculative. For example, there are major mineral reserves in the area which are a source of potential new traffic. However, additional facilities would be required, probably including substantial extensions of the Railroad's lines.

All elements of revenue are stated in constant 1983 dollars. This means that the average revenue per carload changes only as traffic (commodity) mix or length of haul changes. It was assumed that rate increases will be made in a timely fashion in response to cost increases. To the extent that the Railroad should prove unable to do this, operating margins would be reduced from forecasted levels.

#### Expenses

USRA adopted most of the Railroad's forecast of operating expenses. The most important modifications were additional maintenance of way expenses, the previously discussed adjustment to projected productivity improvements, and additional legal and administrative expenses attributable to the transfer itself.

Asset Condition and Maintenance Expenses

Since the condition of the Railroad's plant and equipment has been of major concern in the past and could be responsible for major shifts in expense levels, USRA physically inspected facilities and equipment as necessary to make a careful assessment of future requirements.\*

Maintenance of Way. The Railroad consists of approximately 650 active track miles in main and branch lines, yards and sidings. The main lines from Seward to Fairbanks and from Portage to Whittier consist of 115 pound rail on wood ties. The branch line and yard rail generally varies from 70 to 90 pounds. New rail was installed on the main line from 1948 to 1952 to overcome deterioration from heavy traffic during the war. Although precise numbers are not known, major tie renewals were also done at that time. The extremely large rebuilding effort during that five-year period and the relatively low traffic levels since have reduced the subsequent need for large program expenditures for tie and rail renewal.

In order to evaluate the Railroad's condition and estimated future needs, the property was inspected by observing the track structure and ride qualities from trains, hi-rail vehicles and selected walking inspections. Some tie renewal and surfacing work was observed in progress, and records for defective rails, derailments, slow orders and other engineering data were

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\*USRA was assisted in this analysis by Frank S. King and Jackson R. Bell, experts in railway engineering and equipment.

reviewed. This review clearly showed that the Railroad is currently in satisfactory condition to handle present and projected traffic levels. In 1982, the Railroad's highest traffic density was 8 million gross tons (MGT) on the 40-mile segment between Anchorage and Matanuska. The balance of the main line handled less than 4 MGT for the year. These statistics reflect a low-density railroad as compared with other railroads where density may often be over 40 MGT per year for single track lines.

Over the past three years 1981-83, the Railroad will have replaced an average of about 21,000 ties and renewed about 2.75 track miles of rail per year. The Railroad has projected some increases in program levels predicated on increased traffic, but future expense increases are partly offset by projected cost reductions due to greater efficiency.

In its analysis, USRA determined that the maintenance of way costs projected by the Railroad should be increased to assure a track structure adequate for the expected traffic. The magnitude of this adjustment varies from about \$800,000 annually to nearly \$1.5 million annually, or a total \$10.8 million for the ten years, 1984-93. This funding will provide for tie replacements of 35,000 in 1984 rising to 50,000 by 1990. Rail renewal will similarly increase from about 4.5 track miles in 1984 to 10 track miles in 1993. These program increases reflect not only traffic growth but also the age of many ties and much of the rail. Ties and rail installed in the post-war period, 1948-52, will have provided forty years of service within the next ten years, and

this should require increased replacement rates from current levels.

Maintenance of Equipment. The Railroad currently owns 62 locomotives, 46 passenger cars and 1,642 freight cars. In addition, various vehicles, maintenance and shop equipment are also maintained. The demand for equipment is high throughout the summer due to tourism and the construction season. During the winter, demand is low, providing time for programmed equipment repair. Total expenses in this category were about \$9.5 million last year, and they are projected to remain at about that level through 1984. After that, consistent with traffic growth, expenses are projected to increase each year, reaching \$11.5 million in 1989.

This projected spending should be adequate to provide the necessary level of locomotive overhauls and heavy repairs as well as running and heavy repair to freight cars. Maintenance of passenger equipment has also been provided for, premised on the current scheduled level of trains.

A part of the locomotive fleet is old and expensive to maintain, and much of the freight car fleet is or soon will be over 40 years old. However, the overall condition of the fleet should improve over the ten-year period due to the projected acquisition of new or good used locomotives and freight equipment as provided for in the capital plan.

The need for additional or replacement freight cars will have to be continually re-evaluated as traffic develops. The Railroad

has had some success in getting shippers of bulk commodities to obtain and finance needed equipment. Currently one of the major gravel shippers provides hopper cars for regular unit train moves, and the potential coal exporter has agreed to provide not only the necessary cars, but also the locomotives.

The opportunity for additional shipper equipment agreements will depend on future traffic developments. Surplus freight equipment in the lower forty-eight states may provide an economical source for some of the Railroad's future needs. In summary, based on the projected traffic and expected equipment acquisitions, the expense levels projected should be adequate not only to maintain the current fleet condition but to permit some improvement.

#### Forecasted Capital Requirements

Historically, capital spending has varied widely, and government appropriations have been required to permit any reasonable capital program. According to data provided by the Railroad, since 1975, capital spending has ranged from a low of \$2.8 million to a high of \$11.8 million.\* Uncertain funding and resulting wide swings from year to year made effective capital planning difficult, often leading to last-minute decisions on project approvals.

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\*Alaska Railroad annual reports have reported capital expenditure totals that included the cost of major track work such as tie replacement, rail renewal, track surfacing, bridge repairs, etc. Under ICC accounting, these costs properly belong in operating expenses. The spending totals shown reflect this adjustment.

The Railroad provided USRA with a capital plan averaging \$14 million annually from 1984 to 1988 funded by the Railroad's cash flow. After reviewing that plan and a proposed project list, discussions with management and on-site inspections, a yearly allocation of \$12 million was considered adequate to continue operations and to handle forecasted traffic growth.

Approximately half of this amount is allocated for acquiring and upgrading locomotives, cars and other equipment. The remaining amounts provide for rehabilitation of bridges and tunnels, track construction to serve new and existing customers, stabilization of the roadbed in the Healy Canyon and elsewhere, realignment work to reduce curvature, and other plant requirements.

#### Start-up Costs

In Appendix L of the 605(a) Report, the State of Alaska and the Department of Transportation identified 15 items which they considered to be potential start-up obligations under the Act. The Report characterized these as "'start-up' responsibilities, because they are new undertakings by the railroad, not previously imposed on the railroad because of its Federal status." For the most part, these responsibilities are not "one-time"; rather, they affect ongoing expenses and result from various changes in access to Federal government resources. USRA treated these issues as follows.

(1) Vehicle Leasing. Under Federal ownership, the General Services Administration assigns vehicles to the Railroad for a

monthly lease payment which includes maintenance. The State, the Department of Transportation, and the General Services Administration have not yet resolved whether the existing leased vehicles will be transferred. In the event the Railroad acquires the existing fleet of older leased vehicles, it will be required to make other arrangements for maintenance. USRA determined that the Railroad could most likely continue to lease vehicles at terms and conditions equivalent to those currently in effect. Regardless of the final outcome, there would be no significant change in net costs to the Railroad for vehicles, and USRA's analysis includes no adjustment to the Railroad's projected expenses for this item.

(2) Supplies and Materials. After transfer, the Alaska Railroad can no longer acquire supplies through Federal government supply depots. However, USRA's valuation assumes that the purchasing power of the State-owned railroad will offset the loss of the ability to purchase through the Federal government. USRA did include increased administrative costs associated with an additional purchasing agent.

(3) Legal Fees. Currently, much of the Railroad's legal work is performed by United States government attorneys. After transfer, this will no longer be the case, and the Railroad will have to do more of its own legal work as well as retain outside counsel. After consultation with the Alaska Railroad and with others, USRA concluded that an additional \$600,000 per year is an appropriate additional cost to factor into the valuation.

(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.

(8) ARTA Section 604(d)(3) Employee Protection Obligations.

Section 604(d)(3) requires the Secretary of Transportation to certify that the State-owned railroad has established arrangements to protect the employees of the railroad for the two years immediately following the transfer. This provision requires continuation of current labor agreements, retention for two years of all employees (other than certain officers) who elect to transfer to the Railroad, continuation of compensation at current levels, re-employment priority, and maintenance of benefit programs, as well as other items. The essence of these provisions is to continue the employees' current status. Since the forecast calls for maintaining rail operations at current levels, USRA assumed that all present employees would be offered jobs by and would transfer to the State-owned railroad. Since USRA's forecast of cash flows also assumes the continuation of current compensation levels, no protection payments would be required under these assumptions.\*

(9) Section 607 Retirement Obligations. ARTA Section 607 requires that, after transfer to the State, the Railroad must provide retirement benefits substantially equivalent to current levels for all employees who elect to transfer. As stated in the 605(a) Report, the Department of Transportation asked the Office of Personnel Management (OPM) "to calculate retirement costs and

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\*If, in fact, there are large numbers of employees who elect not to transfer, then this could cause significant disruptions to the smooth operation of the railroad which could prove to be costly. USRA has no way of directly quantifying either the likelihood of this occurring or its cost.

benefits for existing employees who participate in the Federal retirement system and to prepare an estimate of the financial consequences if all of those employees transferred to the State-owned railroad at this time" (605(a) Report, pp. 69-70). The 605(a) Report further states (at page 70) that:

"[i]n preparing its calculations, OPM assumed that if transferred employees remain in the Federal retirement system pursuant to Section 607(a)(1), the language of that provision governing the amount of the State-owned railroad's employer contributions . . . would require the State-owned railroad to pay, as the employer contribution, 29.06 percent of basic payroll for those transferred employees into the Federal retirement fund to fully fund retirement benefits that accrue for those employees after transfer. OPM's calculation assumes the current seven percent employee contribution would remain unchanged.

This is an increase of 22.06 percent over the amount the Alaska Railroad has contributed as a Federal agency and reflects the manner in which the Federal retirement system is normally funded, which for Federal agencies includes other payments from the U.S. Treasury."

The ultimate resolution of this issue will not occur until after the date of this report. Indeed, in the 605(a) Report, the Department of Transportation and the State of Alaska acknowledge that an "accurate estimate of the retirement obligations that would be imposed on the State-owned railroad pursuant to Section 607(a) cannot be calculated at this time." However, for purposes of completing this valuation in a timely manner, USRA has been required to make assumptions as to the cost of this provision to the Railroad.

USRA's analysis assumes that all permanent employees would transfer to the State-owned railroad and would be included in a plan that will have an annual cost to the Railroad equivalent to the cost that OPM has suggested -- that is, a 22.06 percent

additional contribution over and above the 7 percent contribution which the Railroad is currently paying. USRA assumed all new employees hired after the date of the transfer would be covered under a new pension plan that would require the Railroad to contribute 12 percent of the new employees' base salary.

USRA's analysis of the additional pension costs used the actuarial base developed by OPM which listed current employees, by sex, for each year until the last Railroad employee currently in the Federal retirement system has left the payroll. These data were costed using the 1983 average wage levels to yield the total wage base for each year. This wage base was multiplied by an additional 22.06 percent to arrive at the additional pension costs.

As each current employee leaves the payroll, USRA assumed a replacement would be added, but that the replacement's pension expense would be only 5 percent in addition to the current 7 percent contribution. This approximates the contribution now required for employees of the State. These cash flows were then included with all other expenses, and the first 10 years of additional pension expense is shown on Table 3.

The Department of Transportation and the State acknowledge that "the exact number of employees who will transfer and the value of their retirement benefits will not be known until the date of Transfer". Thus, the assumptions which USRA has made could be significantly different from the actual outcome. However, we believe the estimates provided by our assumptions are

reasonable and fair to both the Federal government and the State, as well as to any other buyer.

(10) Section 607 Severance Obligations. The severance obligations imposed upon the Railroad by Section 607 of the Act require the Railroad to pay certain compensation to employees whose employment is terminated without cause during the first two years after transfer. Because of the activity levels forecasted, we have assumed that no employees will fall into this category and, therefore, no upward adjustment to the Railroad's projected operating expenses is necessary.

(11) Non-Availability of Statutory Exemptions if the Railroad Ceases to be a State Instrumentality. If, after transfer, the Railroad ceases to be an instrumentality of the State, then the Railroad would lose its exemption from Federal income taxes, the Railroad Retirement Act, the Railway Labor Act, and the Federal Employer's Liability Act. Because of the nature of the projected cash flows, no tax liability would accrue even if a private purchaser, and not the State, acquired the Railroad. USRA also assumed that there would be no significant changes in cash flow if the labor related statutes were applied. Therefore, we have made no adjustments for these provisions.

(12) Section 608(a)(1) Antitrust Applicability. After transfer, the exemption which the Railroad enjoys from certain antitrust laws will be lost. While this may become an issue in the future that could adversely affect the Railroad's revenues, USRA has no way of quantifying what the long-range effect might be.

(13) ICC Regulation. Currently the Railroad is subject only to partial regulation by the ICC under Executive Order 12434. After transfer, ARTA Section 608(a) provides that the Railroad will be fully regulated by the ICC in a manner similar to other railroads of the same class (most likely Class II). While there will be some additional costs, they are not significant enough to quantify separately. However, as previously stated, upward adjustments were made to both legal and other administrative costs to cover these as well as other contingencies.

(14) Compliance With Various Safety Statutes and Regulations. USRA considered three separate categories of potential expenses. -- OSHA, State and local building codes, and facility condition.

\* OSHA. Based on an updated study provided by the Alaska Railroad, which indicates approximately \$2.5 million additional funding will be required to eliminate the remaining deficiencies, we have included \$500,000 per year for five years. These funds will be utilized to correct problems associated with buildings, facilities and equipment beyond expenditures budgeted elsewhere.

\* State and Local Building Codes and Existing Condition of Facilities. A recent report prepared for the State estimated the total cost to correct building deficiencies to be about \$85 million. Condition problems accounted for about 62 percent or \$53 million with the balance of \$32 million being related to code violations. Repairs, additions or replacement costs

were based on bringing the existing buildings into compliance, regardless of current use.

In the future, the Railroad will have to correct some code violations and improve the condition of some buildings. However, the Railroad will certainly conduct a careful review of current and future railroad operating needs before any large expenditures are made. Some buildings are no longer required, and some consolidations may be possible. If replacement is necessary, a much smaller and more efficient facility might be adequate. The Railroad currently has an on-going program to correct some of these deficiencies. In addition, there is some overlap with the funding required to correct OSHA deficiencies reported earlier. After consideration of these factors, discussions with the Railroad and the State, and on-site inspections, the following future needs were considered reasonable and are reflected in USRA's analysis:

- Building code deficiencies -- an allocation of \$1.5 million per year for ten years for a total of \$15 million. This allows for items such as fire separation, fire resistance in wall coverings, ventilation, lighting, electrical deficiencies, handicapped access, and other code related items.
- Condition discrepancies -- Justified projects in this category would be funded under the Railroad's normal capital budgeting process. As discussed

previously in this section, this total budget is forecast at \$12 million per year for ten years.

(15) Transition Expenses. Upon transfer to the State, there will be certain one-time costs that will have to be incurred. These would include such things as legal costs, filing fees, consulting fees and administrative costs as well as costs to the Railroad ranging from remarking equipment to indicate the new ownership to printing stationery. We estimate these one-time costs to be \$1,750,000.

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	15416	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	-100	-108	-108	-108	-100	-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	-6007	-6653	-6000	-5803	-5644	-5509	-5364
ADJUSTED CASH	-17060	-8402	-6172	-3900	-2114	342	439	630	613	580

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

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Present Value of Future Cash Flows

As previously discussed, the fair market value of the Alaska Railroad is the amount which the State would have to pay to outbid (e.g., by one dollar) any competing potential purchaser. To determine the maximum bid of a competing non-government purchaser, the estimated future cash flows must be discounted to present values at a rate equal to the cost of capital that the private purchaser would employ in valuing this railroad.

In arriving at a weighted average cost of capital to use as the discount rate in this valuation, numerous factors were considered. Among these were railroad debt-equity ratios, the cost of debt, the average real return on equities, and risk premiums used in other rail valuations. The resulting constant dollar discount rate was then compared to discount rates used in various other railroad related valuations as well as to the cost of capital for the nation's railroads as found by the ICC in Ex Parte 436. These comparisons served as a check on the reasonableness of the rate used in the Alaska Railroad valuation.

USRA determined that the appropriate constant dollar discount rate to use in this analysis was 16 percent as applied to the projected cash flows expressed in constant dollars.\* The

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\*This discount rate is not comparable to the rate used in the real estate analyses for two reasons: (1) As noted above, the continued earnings valuation was performed in constant dollars. In contrast, the real estate analysis considered the effects of appreciation in value of the real property, and was performed in inflated dollars. (2) Different special considerations were relevant to the real estate analysis than to the continued earnings valuation.

development of this discount rate required weighing the special considerations attendant to the Alaska Railroad. Elements of these special considerations include:

- \* The possibility of not realizing cash flows that, in turn, are based on estimates, not on historical evidence,
- \* The change from Federal ownership,
- \* The onset of full regulation by the ICC upon the change in ownership, and
- \* The uncertainties on the world energy markets.

#### Measuring Potential Alternative Use Value

To measure the possible alternative use value of the Alaska Railroad's assets under the terms and conditions of ARTA, USRA hypothesized that, beginning in the eleventh year, there would be an immediate cessation of all rail operations to permit the Railroad's operating assets to be placed in their highest and best alternative uses.\* To assess the effect of such an option on value, USRA performed the following analyses.

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\*In determining possible alternate uses for the Railroad's real estate, it was USRA's judgment that it would be highly speculative to assume that any operating real estate could be otherwise developed under a continued operations scenario, particularly during the early years following transfer to the State. Not only would such development require relocation of existing yards or other facilities, but it is also uncertain that any major redevelopment plan could easily obtain the required approvals of various disparate interests. Further, any assembling of operating and non-operating real estate would most likely be affected by existing leases. In light of these factors which would affect both the timing and costs of any partial alternative development of the operating real estate, USRA concluded that its consideration of the alternate use value of these parcels in a liquidation scenario after ten years was a fair method of measuring their value for other purposes.

### Rail Operations

If the Alaska Railroad were planning to totally cease operations, it might well cut back dramatically on all its expenses before the eleventh year. It is also true that shippers would begin to find alternative modes of transportation; consequently, the Railroad's revenues would also drop dramatically. For purposes of this analysis, we have assumed that revenues would drop by the same dollar amount per year as expenses. We have used the cash flows generated by the Railroad for the continued operations scenario (as adjusted by USRA) as being representative of the cash flows that the Railroad would generate in the liquidation scenario.

### Labor Protection

As a result of discontinuing rail operations, USRA has assumed that there would be imposed on the owners of the Alaska Railroad labor protection conditions similar to those commonly known as "New York Dock". These conditions essentially require employees (depending on seniority) to be paid their full salary and benefits for six years, unless they find other jobs. In the case where an employee finds another job at a lower rate of pay than the one he had on the railroad, that employee is entitled to the difference in pay between his new job and what he received on his old job. Protected employees also have the option of taking a one-time lump sum payment equivalent to one year's pay.

In order to calculate the cost to the State of these labor protection conditions, USRA assumed that all permanent employees

would be eligible to receive labor protection payments. Of these employees, based on the current age profile of the Railroad's employees, USRA assumed that (1) all those 55 and older would choose to retire, (2) 25 percent of the eligible employees would take the lump sum settlement, and (3) 25 percent of the remaining work force would find new employment each year.

FACILITIES AND EQUIPMENT ASSETS'

USRA selected Frank S. King and Jackson R. Bell, experts in railway engineering and equipment, to assist in determining the alternative use value of the Railroad's facilities and equipment; they determined the net value that could be realized from disposition of these assets taking into consideration all of ARTA's terms and conditions. Their analysis is described in greater detail in their report to USRA.

USRA first assembled and validated the Railroad's inventories of track, equipment, and other facilities. These assets include approximately 650 track miles,\* yards and port facilities, shops, buildings, bridges, communications facilities, 1,642 freight cars, 46 passenger cars and 62 locomotives, as well as maintenance and shop machinery. Physical inspections were made as required to determine the condition of the assets,\*\* and a determination was made as to which asset categories would be sold as scrap and which could be sold to others for re-use.

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\*This figure represents the total of all the Railroad's track including not only its 460-mile main line from Seward to Fairbanks, but also its branch lines as well as passing tracks and yard tracks.

\*\*USRA also relied on this condition assessment to determine the Railroad's maintenance and capital requirements for use in determining the Railroad's continued operations value, previously discussed.

USRA estimated the range of market prices for resale and for scrap, dismantling costs, shipping costs from Alaska, and costs to comply with environmental or other regulations.\* In making these estimates, USRA considered various market data such as the demand for scrap and the supply and demand for used railroad equipment and used rail.

Since ARTA requires that the State must continue to operate the railroad for at least ten years or suffer reversion, the state could not realize any alternate value from liquidating these assets until ten years after transfer.\*\* USRA estimated that an orderly dismantling and liquidation program would require 2 1/2 years, beginning in 1994 and finishing in 1996.

USRA determined that the net proceeds from sale of the Railroad's track and facilities plus its equipment would be \$11.6 million in 1983 constant dollars.

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\*USRA was assisted in these areas by Mr. Michael V. Cody.

\*\*Indeed, based on the Railroad's forecast, the positive earnings projected for 1994 and later years, if realized, would prevent the Railroad from obtaining authority to abandon under the applicable provisions of the Interstate Commerce Act. This represents a major uncertainty that any purchaser would weigh heavily before paying a price based in part on asset values to be received many years in the future and only if rail operations could be discontinued.

REAL ESTATE ASSETS

USRA selected Jackson-Cross Company, a nationwide real estate appraisal firm, to assist in valuing the Alaska Railroad's real estate assets. Jackson-Cross determined the present value, as of October 1, 1983, of the Railroad's real estate taking into consideration all of ARTA's terms and conditions. Their analysis is described in greater detail in their appraisal report to USRA.

To consider the ARTA Section 610(a) requirement that the State must continue to operate the railroad for at least ten years or suffer reversion, USRA instructed Jackson-Cross to consider the Alaska Railroad's real estate assets in two categories:

- \* "Non-operating" property -- land which is not necessary for the railroad's operations. This is essentially real estate which is leased to third parties, or which is available for development.
- \* "Operating" property -- all other property, such as the right-of-way, yards and other facilities, including the port facilities at Whittier and Seward.

Because the Railroad's "non-operating" property is not required for rail operations, it is not affected by the continued rail operation requirement. However, because of ARTA's restrictions, USRA assumed that no value could be realized from alternate use of the Railroad's operating real estate until ten years after transfer to the State.\* Jackson-Cross was instructed to determine

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\*In some locations, the Railroad is presently earning income from easements or permits on operating property which do not interfere with rail operations. This income was considered in USRA's

(1) the present value of the cash flow which can reasonably be projected from continued development of the Railroad's non-operating real estate, and (2) the present value of the cash flow which could reasonably be projected from alternate use of the Railroad's operating real estate beginning ten years after transfer.

Most of the Alaska Railroad's real property not required for rail operations is currently leased to others, and there was no reason to assume that a purchaser of the property would change this practice. Jackson-Cross, therefore, based its appraisal upon the assumption that the Railroad's real estate would be leased rather than sold. To the extent that any current rents are below market levels, the lease assumption explicitly considers that fact. USRA assumed that the State will be required to honor the terms and conditions of these leases. They were thoroughly reviewed and analyzed. and USRA has considered their effect in determining the value of the Railroad's real estate.

Jackson-Cross then assumed that, except as prevented by existing leases, rents would be set at market levels. It

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(Continued)

continued operations valuation. As discussed later, the Railroad lacks clear title to much of the right-of-way so that it would no longer be entitled to income from such property upon conversion to alternate uses. As to right-of-way properties where the State will acquire clear title under ARTA, it was not considered feasible to attempt to ascribe any separate value to this potential income, since the highest and best alternate use might well either (1) preclude the continuance of the easement or permit or (2) result in the lessee, rather than the fee owner, collecting such easement or permit income.

estimated the net revenues that most likely would be realized from a normal leasing and management program as well as the period of time an investor would perceive as necessary to realize those net revenues. Jackson-Cross then discounted these projected net revenues to consider the cost of money over time and the risk of uncertainty that those projected net revenues would, in fact, be realized.\*

USRA classified the Railroad's real estate into "non-operating" and "operating" based on current railroad operational requirements with reasonable estimates for operational expansion. All land presently leased to others was classified as non-operating, including lands leased to tenants who are also shippers on the railroad.

There is no definitive inventory available of exactly what constitutes the property of the Alaska Railroad. USRA compiled maps from the Railroad's records to correspond with an inventory estimate which had been prepared by the Department of Transportation in 1981. Additional inventory information was contained in the 605(a) Report. However, despite the best efforts of all parties involved to assemble whatever inventory data are available, substantial questions still remain.

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\*In practice, the lease assumption produces the same value as an assumption that the real estate would have been sold over a period of years, subject to the existing leases. This is because the prices investor(s) would be willing to pay are a function of the rental income that could be earned, taking into consideration both present rents and projected future rent increases.

Most notable of these questions is the definition of exactly what rights will ultimately be conveyed to the State of Alaska. Depending on future adjudication or negotiation, there are many instances where the State may receive less than fee title to portions of the Alaska Railroad's real estate, particularly its right-of-way. Exhibit 1 to the 605(a) Report summarizes existing claims against the property. According to that exhibit, prepared by the Anchorage office of the Bureau of Land Management, more than half of the Alaska Railroad's right-of-way passes through lands which were patented to private parties or to the State without a specific reservation for the Railroad's right-of-way.\* In a limited number of areas, mining claims have also been filed which are near to or encroach upon the right-of-way. Further, in other locations, ARTA provides that the State will only receive an "exclusive use easement" to certain portions of the right-of-way.

Therefore, in an alternative use scenario, the Railroad would have no legal interest to transfer in considerable portions of its right-of-way. Accordingly, in determining the value of the Railroad's operating real estate for alternate uses after ten years, Jackson-Cross was instructed not to include value for any parcels where ownership would disappear upon cessation of rail

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\*Of a total of 619.11 miles of right-of-way, 142.34 miles have been patented to individuals; 137.87 miles have been patented to the State; and 91.25 miles have been tentatively approved for patent to the State upon survey. An additional 85.92 miles have been selected by the State, and another 1.3 miles appear to have been patented to both private parties and to the State.

operations. Further, because clear title existed for very little of the right-of-way, Jackson-Cross was also instructed not to consider "corridor value" for the Alaska Railroad's right-of-way in its alternate use determination.

Additionally, significant portions of the right-of-way, as well as certain parcels of land adjacent to or away from the right-of-way, are subject to claims under the Alaska Native Claims Settlement Act of 1971 (ANCSA) and the 1906 Native Allotment Act. These claims will not have been settled prior to the issuance of this report. It is not possible for USRA to know the final outcome with respect to these parcels. Therefore, as further discussed in Appendix A, USRA has analyzed the value of these parcels separately and has evaluated their impact on the Railroad's fair market value.

Jackson-Cross determined the present value of the Railroad's non-operating real estate to be \$47.8 million. Jackson-Cross determined that the present value resulting from alternate use of the Railroad's operating real estate after a hypothetical discontinuance of rail operations is \$7 million.

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NATIVE CLAIM SELECTION ANALYSIS

The Alaska Railroad's real estate inventory includes certain parcels which are subject to claims under the Alaska Native Claims Settlement Act of 1971 (ANCSA) and the 1906 Native Allotment Act. Section 606(b)(1)(A) of ARTA directs that "[d]uring the ten months following the date of enactment of this Act, . . . the Secretary of the Interior, Village Corporations with claims of valid existing rights, and the State shall review and make a good faith effort to settle as many of the claims as possible." Failing settlement, ARTA Section 606(b)(2) further directs that the "Secretary of the Interior shall complete the final administrative adjudication required under this subsection not later than three years after the date of enactment of this Act."

According to data furnished by the Alaska Railroad and the Anchorage Office of the Bureau of Land Management, Native claims have been filed for the following ten parcels.

<u>LOCATION</u>	<u>ACRES</u>	<u>GRAVEL RESERVE</u>	<u>ROCK RESERVE</u>
EAGLE RIVER	1596	Yes	No
BIRCHWOOD	978 297	Yes	No
EKLUTNA	605 777	Yes	Yes
MATANUSKA	238 349	No	No
PITTMAN	140 571	Yes	No
BROAD PASS	561 474	Yes	No
HEALY	123 474	No	No
NENANA	231	No	No
HOLY CROSS	60	No	No

No negotiated settlements have been reached, and the ultimate disposition of these parcels cannot be known at this time. However, despite these unresolved issues affecting the basic inventory to be valued, ARTA directs that USRA report one number representing the Railroad's fair market value.

At this time, there are considerable uncertainties as to whether any of these parcels will ultimately be conveyed to the State. The possibilities range from conveyance of all or a substantial portion of these parcels, which would suggest an upward adjustment to value of as much as \$3.2 million,\* to conveyance of only operating real estate and the loss of access to currently used rock and gravel reserves, in which case a reduction in value approximating \$1.8 million\*\* would be appropriate. If the status quo was maintained -- that is, if the Railroad was conveyed lands underlying rights-of-way and facilities and the continued right to withdraw rock and gravel as needed from currently utilized reserves -- no adjustment to value would be appropriate. Moreover, some parcels may be conveyed

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\*Jackson-Cross estimated the fair market value of the Railroad's total real estate inventory with and without the parcels subject to Native claim selection. From this analysis, USRA determined that the Railroad's fair market value would be increased by \$3.2 million if all parcels subject to Native claim selection were conveyed to the State. This estimate assumes all the previously described ARTA terms and conditions.

\*\*USRA also considered the impact on value if the Railroad were to lose all of its present rights to withdraw gravel or rock from these parcels. While precise estimates are not available, increased costs for using alternate sources of rock and gravel would reduce the Railroad's fair market value by about \$1.8 million.

only if, in subsequent negotiations, the State agrees to exchange other State lands for such parcels.

In light of this broad spectrum of unknown and virtually unpredictable future events, USRA can find no basis for assuming that a prudent investor would pay for the speculative possibility that significant portions of the Native claim parcels would be conveyed in the future. Therefore, we consider that it is inappropriate for our fair market value determination to include any amount ascribed to these parcels. We feel that this conclusion is a fair balancing of both the downside risk that the Railroad might lose access to the gravel and rock reserves and the upside possibility that at least some of these parcels beyond those directly utilized in support of current rail operations might ultimately be conveyed to the Railroad in fee.

## Inventory and Condition Assessment

### EXECUTIVE SUMMARY

The results of our examination of the fixed facilities and equipment of The Alaska Railroad, including analysis of the data provided by the United States Railway Association and The Alaska Railroad, and information obtained by on-site inspections and interviews with officials of The Alaska Railroad, are summarized as follows:

The inventory of the fixed facilities has been prepared using The Alaska Railroad records and information furnished verbally by knowledgeable railroad personnel. This information was supplemented by sample inspections, but actual physical counts were beyond the scope of this effort. The track chart, yard maps, timetable and certain estimated counts furnished by the railroad are the basis for the inventory of track materials. The total quantities of this material are reasonably accurate, although there may be some insignificant variations in sub-total quantities of the smaller weight rail and associated track materials. Total counts of rail in track are within 0.7 percent of the reported total mileage of the railroad. Bridge, trestle, culvert, tunnel, building, marine facility and highway crossing schedules or summaries were prepared from lists furnished by the railroad. Communication and signal information was furnished in part verbally and from records furnished by the Engineering Department of the railroad.

The track structure of the railroad appears to be in relatively good condition for present day tonnages and train speeds. Most of the 115 lb. RE rail laid on the main line and Whittier subdivision is in relatively good condition with only minor wear and would be suitable for cropping, welding and relaying in Class 1 railroad branch lines or even low tonnage mainline tracks. However, except for some 115 lb. turnout material and a relatively few 13. inch double shoulder tieplates, other track materials would probably not be reusable on railroads in the "lower 48." The bridges including the wood trestles are in good condition. Most railroad communications are transmitted through a modern micro-wave system, including but not limited to, radio equipped locomotives, maintenance of way and automotive equipment supplemented by approximately 150 portable type radio receiver-transmitter sets.

Spending in recent years for rail, ties, ballast and surfacing appears to have been adequate to properly maintain this railroad. However, because of the overall age of the crossties and the lighter weight rail, it appears that some increase in spending is warranted for the installation of these materials. Both capital and expense spending have been adequate to properly maintain bridges, trestles and culverts, marine and communication facilities. Operating expenses for these facilities should continue at about the same level. However, capital spending will have to be increased somewhat if the railroad should be

transferred from Federal ownership. Additional expenditures will be required to correct OSHA and State of Alaska building code violations.

To estimate the Railroad's alternate use value, costs have been estimated in 1983 dollars to dismantle the tracks, to load the material (excluding crossties and ballast) into cars, and to transport it to the port at Whittier. At current scrap prices, the cost of picking up, loading, moving to port and shipping to a location of a quantity buyer would exceed the sale value of all types of steel scrap. Therefore, this report provides two options; one for handling only that material, 115 lb. reusable rail, turnouts and tieplates, with a positive resale value, and the second for reclaiming all track materials (including all steel scrap) except crossties, timber and ballast, regardless of value. Because the cost of dismantling the bridges, trestles and culverts and moving the reclaimed material to a marketplace would exceed the sale value, it is assumed that these structures would remain in place (except for the Tenana River Bridge discussed in detail at page 64). The micro-wave communication system would probably be of value to some public body or a private communications company "where is, as is."

The inventory of equipment has been prepared using The Alaska Railroad records, supplemented by on-site inspections and interviews with selected officials of the Railroad's Mechanical Department. Representative samples of each general category of

equipment were inspected and formed the basis for judging the condition of equipment.

The fleet of 62 locomotives, excepting the five GP-40-2 locomotives delivered in May 1983, is generally in poor to fair condition. Locomotives are maintained on an as needed immediately basis or on an as funded basis. Due to the relatively low annual mileage, the Railroad has managed to maintain locomotives without any major planned maintenance/overhaul/rehabilitation programs.

The passenger fleet of 52 cars is generally in fair condition with the exception of the recently rehabilitated all-electric cars which are in very good condition and which represent 20 percent of the fleet. The passenger car fleet is well maintained, but again without planned maintenance/rehabilitation programs.

The freight car fleet of 1,642 cars ranges in condition from new to not fit for service or too old for interchange. By the end of 1983, 46 percent of the fleet will be prohibited in interchange. These cars are also maintained on an as needed basis.

The highway vehicles, most of which are owned by the General Services Administration and leased to The Alaska Railroad, are generally in good condition and well maintained. Miscellaneous equipment such as snow plows, locomotive cranes and spreaders are

generally in fair condition and maintained/repaired as required. The cabooses have all been rebuilt and are in good condition.

The maintenance of way equipment is generally in fair to good condition and well maintained. Formal records for equipment maintenance are not kept by individual piece of equipment; therefore, maintenance history of equipment is difficult to determine.

The shop equipment, such as turret lathes, wheel machines, armature extractors, boring mills and drill presses, is in fair to good condition. Shop overhead cranes need general overhaul and repair and the drop pit needs total rehabilitation. The Alaska Railroad is just beginning to develop planned maintenance programs for shop equipment.

We assessed equipment condition from the point of view of service life and maintainability to provide the required service for the continuing operation analysis, and we have categorized equipment by type, quantity, scrap or reusability based upon current condition and age for the alternative use scenario.

### Conclusions

The following table summarizes our analysis of projected operating expenses and capital expenditures which will be required from 1984 through 1993 to maintain the railroad's fixed facilities and equipment in adequate condition for the forecasted traffic.

**PROJECTED OPERATING EXPENSES  
AND CAPITAL EXPENDITURES**

Facilities & Equipment  
(Millions of 1983 Dollars)

<u>Year</u>	<u>Operating Expenses*</u>		<u>Capital Expenditures**</u>
	<u>Engineering</u>	<u>Equipment</u>	
1984	10.56	9.38	14.00
1985	10.58	10.71	14.00
1986	10.68	10.92	14.00
1987	10.76	11.11	14.00
1988	10.96	11.30	14.00
1989	11.06	11.50	13.50
1990	11.16	11.50	13.50
1991	11.12	11.50	13.50
1992	11.28	11.50	13.50
1993	11.45	11.50	13.50
<b>Totals</b>	<b>109.61</b>	<b>110.91</b>	<b>137.50</b>

\* Excluding depreciation.

\*\* Includes expenditures required for compliance with OSHA as well as state and local codes.

The following describes the results of our analysis of the net liquidation value of the fixed facilities and equipment of The Alaska Railroad. These results are provided in two options:

Option No. 1-----\$13,925,000  
(does not include any scrap track materials)

Option No. 2-----\$11,639,000  
(includes all metallic scrap track materials)

## INVENTORY AND CONDITION ASSESSMENT

### Rail

Track materials comprise the major element of the fixed facility inventory, of which the biggest and most valuable item is the 115 lb. RE rail. Most of this rail was rolled by Colorado Fuel and Iron Company in the early 1950's and laid during the same period. Although much of this rail has now been in track for over thirty years, wear, except on the sharper curves, has not been appreciable due to the low tonnages handled. See Traffic Density Charts, Appendix II, Exhibit 41. A sampling of rail head wear measurements were taken on both heavy and light tonnage lines which carried 7.90 and 2.60 million gross tons respectively in 1982. These measurements indicate relatively light wear except on the sharper curves where flange wear is appreciable. See Appendix I. Exhibit 1.

The detected defective rail history is relatively good and presents no problem. Prior to 1978 the Alaska Railroad operated rail defect detector equipment over its lines once every five years, but since that time they have been operated annually except for 1978 when two inspections were made and 1979 when none was conducted. During the five-year period from 1978 through 1982, these inspections detected a total of 147 115 lb. rail defects which includes 23 defects caused by outside sources, i.e., engine burn fractures, defective welds and broken bases.

See Appendix I, Exhibit 2. For this period an average of 3.17 defective rails per year were detected per 100 miles of main track, laid with 115 lb. rail, including the Whittier subdivision. This history does not adversely affect the suitability of this rail in its present service or for relying on light tonnage tracks.

On-the-ground inspections revealed that, except for rail laid on curves of four degrees or more, the main line 115 lb. rail is in good condition with very little bending at the joints. See Appendix II, Track Pictures. Some chipping of the rail head running surface at the joints was observed which can be corrected by welding for its present usage or by cropping<sup>1/</sup> for relayer use. The railroad is turning and renewing rail on curves as required. Much of this worn reclaimed rail is then relaid in yard, industrial and storage tracks.

This 115 lb. rail laid on the main line and the Whittier Subdivision is in such condition that, with the projected program, it will adequately carry present and projected traffic levels with spot renewals on curves and replacement of defective rails as they occur. However, some of this rail will be removed from the main line in the next ten years in order to replace light rail in yard and siding tracks. Most of this 115 lb. rail

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<sup>1/</sup> Cropping a rail means sawing off approximately 18 inches on each end which eliminates the worn joint area.

is of such quality that, if it were to be removed, it could be cropped, welded into long strings and relaid in light tonnage main tracks, branch lines, sidings or yard tracks.

The inventory of rail was developed by using the track chart, the timetable, yard valuation maps, actual lengths of track and quantities of rail by section all furnished by The Alaska Railroad. Since the lengths of all tracks other than the main were provided from clearance point to clearance point or end, a factor was applied to account for the rail used on the turn-out side to the clearance point. See Appendix I, Exhibit 3. Half of this turnout rail is considered scrap to allow for worn stock rails and curved lead rails. Also, most of the rail on curves of four degrees or more is considered not reusable, and, therefore, is classified as scrap. Those scrap rail assumptions for turnouts and curves including spirals should adequately compensate for the occasional other rails with engine burns or other defects disqualifying them for main or branch line use.

The calculated length of all rail presently in track is 658.0 track miles. Inasmuch as there is no market for large quantities of rail sections of 90 lbs. or less, all rail other than the 115 lb. is considered scrap which amounts to a total of about 15,900 net tons including an estimated 238 in storage on the ground. There is approximately 14,800 net tons of 115 lb. scrap rail which is about 14.1 percent of the total of this rail presently in track. In addition, there is an estimated 435 tons of

reusable, hereafter referred to as "fit," rail in storage. The method used for calculating tonnage figures is shown in Appendix I, Exhibit 4. The fit 115 lb. rail in track and in storage amounts to approximately 90,400 net tons. A breakdown for all rail by section and track is shown in the Appendix I, Exhibit 5.

In addition, there is a small quantity of new 115 lb. rail stored on the ground principally at Anchorage. Fit and scrap material in storage was estimated by the Railroad which provided the quantities of stored fit and scrap rail. As of February 23, 1983 there was \$701,699 worth of new rail, other track material (OTM) and turnout material on hand. See Appendix II, Exhibit 42. For the purpose of this study, it is assumed that this material would, in general, be used prior to any hypothetical date of cessation of service and that scrap sales would continue so that, at that date, new material would be exhausted and scrap and fit materials on hand would be at approximately the same level as today. This same assumption is made regarding all other new maintenance of way materials now in stock.

In the latter part of 1982, the Alaska Railroad began buying and using a chrome alloy (Chroma) rail in 78-foot lengths to reduce curve wear and rail joint maintenance. At this time, the quantity of this rail, which has all been used to replace worn out curve rail, is relatively small and is, therefore, not singled out as an individual inventory item. Depending upon wear it will either be fit or scrap and fall into its proper category as described above.

### Other Track Material (OTM)

The OTM used with all rail sections is generally in good condition for its present usage. However, most of it is obsolete or of too small a size and weight to be considered reusable by another railroad. Therefore, for the purpose of this inventory, with several exceptions, most of this material is classified as scrap.

Several years ago, The Alaska Railroad changed their standards for both 115 lb. tieplates and splice bars. The new tieplates are 13 inch, double shoulder punched for both rail and hold-down or anchor spikes. These tieplates replace 11 inch double shoulder plates punched only for four rail holding spikes. Thirty-six inch, six hole splice bars replace 24 inch, four hole bars. The track between Portage and Girdwood, 10.3 miles, is equipped with the new bars and plates. Approximately another 2,000 pairs of these bars and 100,000 each of the 13 inch tieplates are scattered over the main line.

Splice bars on this railroad are well maintained including periodic oiling to prevent corrosion. Most of the 24 inch bars and all of the new 36 inch bars are in good condition, but none have any value as reusable. Any railroad buyers of the 115 lb. rail would weld it into long continuous strings eliminating

the need for the conventional splice bars. This railroad does not presently have in place any continuous welded rail except for short strings through grade crossing.

No major railroad would buy and spend the money to install small 11 inch plates including those showing any interest in the 115 lb. rail. However, the 13 inch plate punched for anchor spikes should be marketable and they are, therefore, considered as fit for resale and reuse. There are relatively few of these, numbering about 159,000. The Seattle, Washington, price of this fit material is \$2.80 each<sup>2/</sup> or \$286 per net ton.

Although the other 115 lb. OTM including rail anchors, spikes, bolts and nutlocks is in adequate condition for its present use, none has a resale value for reuse. Rail anchors are not as effective after the first application and not worth a reasonable price plus the costs of distributing and applying. Bolts and nutlocks are not required for the same reason that splice bars have no market as described above. Spikes once driven and then pulled are usually bent making them undesirable for further use. See the Appendix I, Exhibit 6 for additional information on the inventory of other track material (OTM).

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<sup>2/</sup> Mr. Michael Cody, a consultant retained by USRA, furnished all values and prices of fit and scrap track materials in his report to USRA dated September 1, 1983.

## Turnouts

The Alaska Railroad utilizes three different size turnouts in basically two rail sections. They are No. 7's and No. 9's in the 70 lb. ASCE and 115 lb. RE sections (one No. 7, 75 lb. ASCE) and 115 lb. No. 11's used in the main tracks primarily at passing sidings. Sample on-the-ground inspections revealed the 115 lb. turnout components; switches, frogs, guard rails, etc., to be in good condition although some worn and chipped switch points, a few worn stock rails and slightly worn frogs were noted. The 70 lb. turnouts were, generally, in fair condition with a few found to have well worn switch points, loose braces and other worn components.

It is estimated that 85 percent of the 115 lb. No. 11 turnouts and 80 percent of 115 lb. No. 9's in the main track are fit for reuse, and approximately 75 percent of the 115 lb. No. 9's in use in other than in main tracks are considered reusable. For the purpose of classifying fit turnout material, this report considers only turnout packages.<sup>3/</sup> No tabulation has been made of individual switch points, frogs, guard rails, plates or other turnout components. These turnout packages for 115 lb. rail are presently being purchased new by the railroad.

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<sup>3/</sup> "Turnout packages" include switch points, rods, plates, braces, heel blocks, frogs, frog plates, guard rails and all bolts associated with complete switches, frogs and guard rails if needed. They do not include any rail including the stock rails, regular tieplates, rail splice bars, track bolts, track nutlocks, anchors, switch stands or any switch timber.

Similar to the handling of 70 lb. rail and OTM all reclaimed 70 lb. turnout material is considered scrap and so tabulated in tons. Although approximately 77 No. 7-115 lb. turnout packages are in good condition and fit for reuse, there would be no buyer. Most railroads prefer No. 8 turnouts as a minimum size and use the shorter, sharper turnouts only for special unique situations. The Alaska Railroad is now replacing worn out No. 7's with No. 9's whenever possible and also avoiding the use of No. 7's in new construction. There are a total of 208 No. 9 and 93 No. 11 115 lb. turnout packages considered saleable for reuse. See Appendix I, Exhibit 6.

#### Crossties and Switch Timber

There are approximately 2,092,000 crossties and approximately 690,000 lineal feet of switch timber in track. The ties are soft wood, for the most part hemlock and fir. All ties are creosote treated and those installed in recent years and at the present time measure 7 in. x 9 in. x 8 ft. 6 in. Both ties and switch timber are generally in good condition.

These ties and timber would have little value in the alternative use scenario. It is, therefore, assumed that they would be left in place. There may be opportunities to sell a modest number of these ties and timber on a "where is-as is" basis after track removal, but the net proceeds would be negligible. Other railroads would not spend the money to buy and install used softwood ties.

### Ballast

For many years the ballast used on this railroad was pit run gravel with the grading ranging from sand to river stones as large as a man's head. In recent years the railroad has been crushing this gravel to a maximum size of about two to two and one-half inches. This has made a considerable improvement in track conditions and expedited surfacing and lining with modern track maintenance equipment. Although in many areas, but not all, this ballast is clean and dry, any reuse value would be difficult to estimate and would be less than the cost of salvaging.

### Bridges, Trestles and Culverts

There are 76 undergrade steel bridges of various types, all in good condition. See Appendix II, Bridge Pictures. These bridges are listed by location and type in Appendix II, Exhibit 43. Sample inspections were made of 17 of these structures. Although many have not been painted for some time, there was no evidence of oxidation or corrosion. Abutments and piers appeared to be in good condition with little or no spawling or undercutting. Most of these bridges have open decks. A considerable amount of bridge timber has been renewed in recent years so that the decks, in general, are in good condition. The

only component of these structures with any value is the steel as scrap. However, the cost of dismantling these bridges and loading and transporting the steel to a market would far exceed the sale price.

There are 129 wooden trestles on this railroad as of February 28, 1983; a schedule of these trestles is shown in Appendix II, Exhibit 44. Sample inspections were made of 34 of these structures. All were found to be in good condition. The Chief Engineer stated that all of the other trestles were in a similar condition. All decks, except three with ballast, are of the open type. The bridge timber on the open deck trestles, as on the steel bridges, is in good condition. Two of the ballast deck trestles were inspected and no exception could be taken. The structure condition is good, the ballast clean and dry. The track condition is good including rail, ties, surface and line. All timber including piling, caps, cross bracing, stringers and decking is treated and in good condition. Even though this timber is in good condition, its market value would be far less than the cost of dismantling.

A listing of all culverts by location, type, size and length, dated July 31, 1983, indicates a total of 1,506 scattered over the entire railroad. There are at least twelve different types including open top wooden track boxes, built with logs, built with lumber, corrugated metal pipe, concrete pipe, and multi-plate. Sizes vary from concrete and metal pipe 12 inches in

diameter to twin ten foot diameter multiplate with lengths varying from eight to 216 feet. A summary of this listing can be found in Appendix II, Exhibit 45.

Sample inspections of two multiplate and 12 corrugated metal pipe culverts were made and these facilities were found to be in good condition, open at both ends with adequate length and grade suitable for the physical characteristics of the location. There were 49 open top track boxes installed between 1949 and 1968 of which most were built in 1953 and 1958. The railroad has an ongoing program to replace these boxes with below grade pipe culverts, and by the end of this 1983 fiscal year there will be a significant reduction in their number. There are four culverts in service constructed of logs between 1935 and 1938 which will probably require replacement within the next few years. Also, of importance when considering maintenance and capital expenditures are the 226 culverts constructed with lumber or timber between 1937 and 1967.

### Tunnels

There are eleven tunnels on the railroad ranging in length from 136 feet to two and one-half miles. See Appendix II, Exhibit 46. None of these tunnels is lined. The seven tunnels between Seward and Portage are in relatively poor condition. The portals are poor to fair and the tunnels are seeping with water and have poor drainage causing serious problems. In the winter it is a seven day a week job to control the ice using bulldozers

to keep these tunnels passable for train movement. Two tunnels, one about 3/4 mile and the other one about 2-1/2 miles long, are located between Portage and Whitter. Of the 11 tunnels, these appear to be in the best condition, although they are unlined and do seep some water. Track surface and alignment appeared good and the drainage was adequate. In both cases the portals are well built and in good condition. The other two tunnels located in the vicinity of Healy appeared to be in better condition than the Seward to Portage tunnels insofar as water seepage and drainage is concerned. Track surface and alignment are adequate for the maximum authorized speed.

A wooden snow shed 225 feet long is located just south of tunnel No. 11.35. This shed is of timber construction and is in relatively poor condition. Drainage, water and track conditions within the shed are deplorable. At the time of our inspection, there was one location in this shed where 10 inch shims were in place between the ties and the rails. See Appendix II, Shim Pictures. A large diameter metal pipe is programmed to replace this shed, and also the former 460 foot snow shed north of this tunnel which was removed in the Spring of 1983.

### Buildings

See Appendix II, Exhibit 47 for a list of the buildings now in use by, or on the operating property of, the railroad. Sample inspections of these buildings indicate that most of them are in relatively good condition and well maintained. There are a few buildings requiring exterior refinishing or painting and some roof work. However, there appears to be a surplus of building space. For example, warehouse #4 in Anchorage, formerly leased out, is practically vacant. A truck storage shed was found to be empty and a B. and B. Butler building was loaded with military surplus, electrical and mechanical equipment. Building consolidations could result in savings in maintenance and capital spending.

A \$2,300,000 project is presently underway to change heating methods and conserve energy in the major buildings including shop facilities in Anchorage. This project will result in an improved environment within the buildings and a return on the investment of 10 percent.

In general these buildings compare well with similar railroad structures in the "lower 48."

### Marine Facilities

A description and listing of the major marine facilities is in Appendix II, Exhibit 48. With the exception of rail barge slip #1 and the transit shed at Whittier, these facilities

appear, from a overall general inspection, to be in fair condition. The #1 slip at Whittier is presently out of service due to electrolysis of the steel piling in the foundations under the towers.

### Signals

Except for three dragging equipment detector (DED) signals, the only signals on this railroad are for highway grade crossing protection. However, there are only four sets of these automatic flashing light crossing signals owned and maintained by the railroad. Two sets are over 20 years old and the other two were installed during the past six years. There are a number of other crossing signal sets owned by the State, City of Anchorage or armed services for which the railroad is reimbursed for all maintenance costs.

### Communications

The Alaska Railroad utilizes a modern micro-wave communication system with the exception of two short segments, i.e., the Whittier Subdivision and on the main line between Moose Pass and Portage where communications are handled through open wire and seven miles of underground cable. The original micro-wave system was installed between Portage and Anchorage in 1957 and 1958, and is being rebuilt this year using all new modern solid state components replacing vacuum tube equipment at

a cost of \$200,000. See Appendix II, Exhibit 49 for a more detailed inventory of this communication equipment.

Transmitter-receiver radio equipment is installed in the following types of equipment: locomotives, rail-highway vehicles, track mounted maintenance of way machinery, motor cars, and certain automobiles assigned to the Transportation, M. of W., M. P. & E., Administrative and Security Departments. In addition, there are 120 portable handheld and 30 portable lunch box radios. A list of this equipment is also shown in Appendix II, Exhibit 49. All of these transmitter-receiver sets are in fair to good condition, many of which are relatively new. The entire system operates on FRA assigned frequencies.

The railroad is presently dismantling the open wire pole lines replaced by the micro-wave system. Most of this work should be completed by the end of the next year.

#### Locomotives

The Alaska Railroad's locomotive fleet currently consists of sixty-two (62) diesel-electric locomotives, summarized as follows:

Alaska Railroad Locomotive Fleet

<u>Quantity</u>	<u>Type</u>	<u>Horsepower</u>
13	F-7's	1500
10	GP-7's	1800
3	GP-35's	2500
2	E-8's	2400
2	MRS-1700's	1600
11	RSD-4's	1600
<u>21</u>	GP-40's	3000
62		

Source: The Alaska Railroad

Eight (8) of these locomotives are currently out-of-service due to various major repair needs.

The F-7's, GP-7's, GP-35's and RSD-4's are generally in poor condition, needing substantial rehabilitation and repair of electrical wiring, rotating equipment and engines.

Sixteen (16) of the GP-40's are in fair to good condition, needing some engine work and basic truck overhaul. Five (5) of the GP-40's, the GP-40-2's, received by The Alaska Railroad in May, 1983, are in very good condition.

The maintenance history of the E-8's and MRS-1700's is unknown.

The Alaska Railroad will take delivery of four (4) new GP-49 diesel-electric locomotives in October, 1983.

The locomotive fleet is detailed in the Appendix I, Exhibit 7, by number, manufacturer, class/type, date built/rebuilt, date received by the Alaska Railroad, original owner, current condition and comments. The information contained in this Exhibit was compiled from railroad data, interviews with the railroad's equipment managers, and by actual inspection of available units.

The locomotive fleet, though able to handle the traffic, will require substantial planned maintenance and rehabilitation to maintain current and meet increased traffic requirements. Tradeoffs of cost to repair and rehabilitate many of the Railroad's locomotives will likely result in "buy new" decisions. The following provides some detail on locomotive condition and required repair/overhaul and rehabilitation:

The 1500 Series, F-7 locomotives which were built between 1949 and 1953, were purchased new from General Motors Corporation, Electro-Motive Division. Miscellaneous upgrading has been done on these units over the years. The general condition of these locomotives is poor as they are in need of rewiring, truck overhaul, electrical rotating equipment rehabilitation and engine rebuild.

The GP-7, yard and freight service locomotives, were built in 1951 and acquired from the Army in 1960. These locomotives were rebuilt in 1975, 1976 and 1977, and are currently in need of truck, intermediate engine, and electrical rotating equipment overhaul.

The 2500 series, GP-35 locomotives, were purchased new from General Motors, EMD Division, in 1963 and 1964 and have had no major repairs since new. They are currently in need of intermediate engine, truck and electrical rotating equipment overhaul.

The E-8 passenger service locomotives were purchased from AMTRAK in 1981, and they are currently being upgraded for operation on the Alaska Railroad.

The MRS-1700 work train service locomotives were built in 1952 and acquired from the Navy in 1977. The maintenance history of these locomotives is unknown.

The RSD-4 series, yard switcher locomotives which were built in 1953 by General Electric/ALCO and acquired from the Army in 1974 and 1975, have not had major repair work done on them since they were new. Five (5) of these units are currently stored with bad order engines and the remaining units are in poor condition requiring considerable repair/rehabilitation.

The GP-40 freight service locomotives were bought new from General Motors in 1964, 1975, 1976 and 1978 and are generally in fair condition. Five (5) of these will need intermediate engine overhaul and all units will require truck overhaul in the near future.

The GP-40-2, freight service locomotives purchased from Chrome Crankshaft (out of a Conrail lease), are in very good condition.

Photographs of some typical Alaska Railroad owned locomotives are included in Appendix II.

### Passenger Equipment

The Alaska Railroad passenger fleet currently consists of 52 cars, 46 of which are owned by the Railroad and six of which are leased from AMTRAK.

The Railroad owned passenger equipment is generally in fair condition with the exception of the recently rehabilitated all-electric cars which are in like new condition. The all-electric cars include six chair cars, one lunch counter/cafe lounge, one dome car and two baggage cars. The average age of the passenger car fleet is 29 years.

The passenger car fleet is detailed in Appendix I, Exhibit 8, by manufacturer, class/type, date built/remanufactured, date received by the Railroad, original owner, current condition, and comments/repairs needed. The information detailed in this Exhibit was obtained from The Alaska Railroad data, the railroad's equipment managers and by visual inspection of available equipment.

Photographs of typical Railroad owned passenger cars are included in Appendix II.

### Freight Cars

The Alaska Railroad currently owns 1,642 freight cars of the following types:

<u>Quantity</u>	<u>Type</u>
386	Gondolas
320	Hoppers
315	Flats
131	Boxes
123	Tanks
106	Ballast
76	Air Dump
56	Insulated Box
27	Hy-Cube Box
23	URB Flats
21	Bulkhead Flats
19	Covered Hoppers
15	Reefers
14	Shuttle Flats
10	TOFC Flats
<u>1,642</u>	

Source: The Alaska Railroad

Of the 1,642 freight cars owned by the Alaska Railroad, 197 cars are presently prohibited in interchange due to age. By the end of 1983, a total of 752 cars will be prohibited in interchange due to being over forty years old.

Thirty-six hopper cars and 51 tank cars are operating in restricted service, exclusively on the Alaska Railroad, until December 31, 1983 under a waiver granted by the Federal Railroad Administration.

There are 114 cars in service that are over 50 years old, 87 operating under FRA waiver and 27 in maintenance of way service.

The average age of The Alaska Railroad owned freight car fleet is approximately 31 years.

The freight car fleet is detailed in Appendix I, Exhibit 9, by type, date built/age, capacity, quantity, current condition and comments/repairs needed. This information was obtained from The Alaska Railroad supplied status reports, interviews with the railroad's equipment managers and by on-site inspections of available equipment.

Photographs of typical Railroad owned freight cars are included in Appendix II.

#### Highway Vehicles-Owned and Leased

The Alaska Railroad owns a fleet of 33 highway vehicles, 24 of which are equipped with hy-rail gear, and leases 106 highway vehicles from the General Services Administration. A complete listing of the leased vehicles, including lease rates, is detailed in Appendix II, Exhibit 51. The highway vehicle fleet is generally in good condition.

A schedule of Railroad owned highway vehicles, including vehicle condition, is contained in Appendix I, Exhibit 10.

A photograph of a typical hy-rail equipped highway vehicle is included in Appendix II.

#### Snow Plows, Cranes and Miscellaneous Equipment

The Alaska Railroad currently maintains 45 pieces of miscellaneous equipment including three snow plows, 11 locomotive cranes and ditchers, three spreaders, 27 cabooses and a business car.

The snow plows, cranes and miscellaneous equipment condition is described in Appendix I, Exhibit 11.

The three snow plows are in fair condition, six of the locomotive cranes/ditchers are in good condition and five are in poor condition. One of the spreaders is in poor condition and two are in good condition.

The general condition of the caboose fleet is good as they have been recently refurbished.

The Alaska Railroad business car, "Denali", was recently rebuilt and is in good condition.

Photographs of representative spreaders, locomotive cranes, cabooses and the business car are included in Appendix II.

### Maintenance of Way Equipment

The maintenance of way equipment is summarized in Exhibit 12 of Appendix I by type, quantity, current condition and comments and is detailed in Appendix II, Exhibit 50. This information was supplied by The Alaska Railroad and was supplemented and updated by the railroad's equipment managers and by actual inspection of available equipment.

The general assessment of the maintenance of way equipment is fair to good and it is well maintained.

Typical photographs of snow removal equipment and maintenance of way cranes are included in Appendix II.

### Shop Equipment

The Alaska Railroad shop equipment is detailed in Appendix I, Exhibit 13, by equipment description, quantity, capacity, location and condition.

The shop equipment, with the exception of overhead cranes and some speciality items such as drop tables, is generally in fair to good condition.

The listing of equipment and its general condition was provided by The Alaska Railroad and has been supplemented by discussions with the railroad's equipment managers.

Photographs of typical shop equipment are included in Appendix II.

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## CONTINUING OPERATION EVALUATION

### Fixed Facilities Assessment

The condition of track components, bridges, tunnels, buildings, marine facilities, signals and communication equipment has been briefly described, but it is appropriate to elaborate on track conditions.

Samples of all types of track, main line, branch line, sidings, yard, shop, storage and industrial were inspected by hy-rail vehicle and/or on foot. A walking inspection was made of the full length of the Anchorage yard with spot inspections of most of the tracks and all ladder tracks. Spot walking inspections usually consisted of a minimum of 20 rail lengths. In addition, an overall inspection was made of the main line in both directions between Anchorage and Fairbanks from a special train.

These inspections indicated the rail to be in relatively good condition for the use intended, i.e., main track, siding, yard, etc. Traffic on the sharper curves on the main line is causing considerable head wear. However, worn rail is turned<sup>4/</sup> or renewed well before the occurrence of any problems. In fact, curve worn rail is turned or renewed well before it is worn to the extent

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<sup>4/</sup> Turning means reversing a rail in the same location so that the gauge or inside becomes the field or outside, and the unworn field side becomes the gauge side.

that eastern United States heavy tonnage railroads would take similar action. When it is decided to relay this rail, it is renewed with a chrome alloy (Chroma) rail in 78 foot lengths.

On siding and yard tracks the light 70 lb. ASCE rail is generally in fair condition. Because no rail anchors are used on this rail, it is running (moving longitudinally) and, in certain instances, skewing ties at joints. A few poor conditions were noted on the auxiliary tracks at Birchwood and in Anchorage yard, involving defective and skewed ties together with poor surface and line. But, generally, surface is fair with some bent joints in certain locations, and for the most part this is not a problem. This rail, undoubtedly, would not hold up under heavy tonnage conditions. It is being replaced with second hand (S.H.) or fit 115 lb. rail as it becomes available from main line renewals.

The 90 lb. rail is in two sections, ASCE and RA of which there is a total of 17.8 track miles. Approximately 37 percent of this track was laid without tieplates. Stretches laid with tieplates and rail anchors, i.e., the Fairbanks Airport Spur, are in good line and surface. The 75 lb. ASCE rail laid only on the Eielson Branch is in fair condition. Light rail, 65 and 70 lb., is laid on the tracks in the out-of-service Valdez facility and not a factor.

For the past six years they have averaged about 20,200. See Appendix I, Exhibit 15. For this year, 40,000 were originally programed, but this number has been reduced to a projected 25,000. At present, 50,000 are programmed for 1984. Sample spot track inspections seem to indicate that a level of tie renewals somewhat more than presently projected for 1983, but less than programmed for 1984 should be adequate for the next five years. Beyond that, renewals will probably have to be increased significantly.

The Alaska Railroad has been pursuing an ambitious reballasting and surfacing program with excellent results. With the exception of certain locations, the greater portion of this railroad, including branch lines, sidings and yards, is well surfaced and lined on clean dry ballast. The crushed gravel now in use is a vast improvement over the pit run gravel. During the past two years, an average of about 77,000 cubic yards of ballast were dumped and 180 miles of track surfaced. This means that about 55 percent of the actual total mileage on the railroad was surfaced in this two year period.

Because of many factors peculiar to the Alaskan climate and the primitive methods of sub-grade construction (by today's standards) used on the original lines, there are significant miles of track that must be surfaced every year after the surface frost is gone to remove shims and long stretches of slow orders. It appears that the level of this type of work performed during the past two years is adequate. However, an increase in

The railroad projects the renewal of 31,200 feet of rail in 1983 and is presently programming 52,800 feet for 1984. Considering present and projected traffic volumes together with the present relatively good rail conditions, the Railroad's 1983 and 1984 levels appear adequate. However, in future years, new rail quantities should increase to account for increased curve wear and the need to use some main line rail to replace worn light rail in yards and sidings.<sup>5/</sup>

Even though the crossties are softwood with many of them now in track approaching or over 30 years, they are in very good condition. A few inspections revealed as few as one defective tie per 20 rail lengths (780 feet). There was no instance found where the ties did not meet the FRA Class 3 track standards on the main line or Class 2 on sidings and in yards with the few exceptions at Birchwood and Anchorage yard. Some replaced ties were inspected of which many did not appear defective as defined in the FRA Track Safety Standards. It is apparent that the tie renewals during the past five years have been adequate to properly maintain this railroad.

The railroad estimates average tie life at 37 years so that normal tie renewals should average approximately 56,000 annually.

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<sup>5/</sup> The Railroad developed a "Normal Capital Program" (see Appendix 1, Exhibit 14) covering all desired projects if cash flow and traffic warranted. That program would provide for 20 miles of new rail per year. However, future needs may not necessarily increase to the levels projected in that "Normal Capital Program".

ballast is programmed for this year and next, with a moderate increase in miles of surfacing. Regardless of depth, all ballast is charged to capital. The following table provides a comparison.

Actual and Projected Ballast and Surfacing  
1981 Through 1984

	Actual Average 1981 & 1982	1983	Inc. vs 81 & 82		1984	Inc. vs 81 & 82	
			Actual	%		Actual	%
Ballast-Cu. Yds.	77,000	120,000	43,000	56	160,000	83,000	10
Surfacing-Trk. Mi.	180	200	20	11	200	20	1

Source: The Alaska Railroad

There are many other conditions causing problems with expensive solutions. Maintaining banks to hold the subgrade along the Turnagain Arm against the tides and along rivers against the current requires continual dumping of rip-rap or armor rock. In 1981, approximately 3,800 cubic yards of this material was placed followed by 2,000 in 1982. This work continues this year and must continue in future years to keep the line in service.

Since frost heaves during the severe winters are a major problem, continual shimming is required to keep operating even under slow order conditions. Special track fastenings to permit shims up to 10 inches thick were found in the snow shed at mile post 11.3, and at mile post 151.3, concrete ties have been

installed with threaded fastenings permitting the use of "slotted" steel shims up to six inches thick. See Appendix II, Shim Pictures. At this location both sides of a shore stable stretch heave every winter requiring the shimming of the rails across the stable or "low spot." Then, as the frost thaws the track must be closely watched in order to remove these shims at the right time to avoid unsafe surface or cross level conditions. After the shims are removed surfacing and lining is usually required to restore the track to a normal speed operation. These are just two examples of an expensive frost and shimming problem on this railroad. There are 27 buildings each containing 96 sq. ft. of which the only purpose is to store shims, and they are referred to as shim sheds.

Some stretches of the main line are adjacent to hills on which there are mud slides. This mud pushes up against the track and in instances over it. See Appendix II, Slide Pictures. Drainage ditches are blocked and in some cases the track is moved from its alignment. All this results in considerable expense to move this mud out either to the opposite side of the track or to another location via dump cars. At some locations, the railroad has actually driven rail piling at the toe of the slope of the hill or mountain to reduce the pressure of these slides against the track in an attempt to preserve the alignment.

The timetable lists 35 slide areas covering a total 39.65 miles. Of these, 23 are for snow, 11 for mud and dirt and 25 for rock. (This totals more than 35 because in some slide areas more than one type of material is involved.) All types of slides can, and some do, cause disruption to train operations and considerable cost to remove the material and restore the track to service.

Conditions on the line between Seward and Portage, specifically between mile posts 40 and 54, result in severe operating problems and high maintenance expense. This stretch of track winds its way through and over the mountains around curve after curve of up to 14 degrees and up and down steep grades, including the ruling grades, southbound, 3.0 percent and northbound, 2.0 percent. Six of the poorest unlined rock tunnels with continual seeping and dripping water with poor drainage further compound the problem. In the winter large icicles as big as stalactites form and ice fills the track to over the rail. All of this must be continually removed to keep trains operating.

Between the tunnels there are rock cliffs on one side with attendant winter snow slides and falling rock at any time, with 5.7 miles of this stretch designated as "Slide Area." A steel deck truss bridge is located immediately south of the south portal of the first tunnel, another steel bridge between the first and second, and a third between the fourth and fifth tunnel. During the winter it is a seven day per week job, using

heavy equipment, to keep the track through this area open for rail traffic.

Another critical stretch of track is located in the Healy Canyon between mile posts 348.5 and 357. In this area the railroad is built on the side of the mountain along the west side of the twisting Nenana River. This stretch of track is practically all curves up to 10 degrees. The mountain rises sharply along the west side of the track, and the sub-grade on the east side drops steeply to the river over 100 feet below. Although there are rock slides on the mountain, the biggest problem is the slipping or subsidence of the sub-grade into the river. Piling has been driven along the east side of the track in many areas in an effort to stabilize the track. See Appendix II, Healy Canyon Pictures. As a result of subsidence and continual changes in alignment, no record of the degree of some curves in this area is recorded on the track chart.

Maintaining a railroad under these conditions is a most expensive undertaking. Ballast and fill materials must be repeatedly dumped, and the track surfaced and lined even for a 20 mile per hour maximum speed for passenger trains and 15 for freight. But even more critical is the fact that under the right conditions with a large volume of water draining off the mountain into the sub-grade, a slip might occur sending a stretch of the track structure down into the Nenana River. Railroad personnel are continually on the alert for such an occurrence and are, of

course, protecting the movement of all trains. If the railroad is to continue to increase its traffic and train movements and operate a reliable service, reconstruction or relocation of the track structure through this area appears to be a necessity.

Severe Alaskan winters bring heavy accumulations of snow and ice over the entire railroad resulting in abnormally high costs, considering winter traffic volumes, for removal to keep the railroad operating. The following table shows these costs for the past five years as reported by the railroad.

Costs - Snow and Ice Removal\*  
FY 1979 to FY 1983

1983	\$936,789	(to May)
1982	941,130	
1981	703,140	
1980	657,925	
1979	660,919	

\* The costs for 1981 through 1983 were furnished by the Engineering Department. Those for 1979 and 1980 are from the Financial Statements, Maintenance of Way Operating Expense, captioned "Removing Snow, Ice and Sand and Car Cleaning." (Maintenance of Way performs no car cleaning.)

Equipment Assessment

The general condition of locomotives, passenger cars, freight cars, highway vehicles, snow plows, cranes and miscellaneous equipment, maintenance of way and shop equipment has been described in the Inventory and Condition Assessment section of this report. However, for purposes of the continued operations

analysis, the condition assessment is looked at from the point of view of the service life and maintainability of the equipment to provide the required service.

To establish the maintainability of equipment, we inspected the Railroad's shops and shop facilities and had discussions with The Alaska Railroad personnel responsible for equipment maintenance.

These inspections and interviews indicated that the rolling stock has generally been maintained on an "as needed repair" basis rather than on a programmed rehabilitation/overhaul basis. However, the railroad is now establishing certain programmed maintenance, such as F-7, GP-7 and GP-40 locomotive rehabilitation and shop overhead crane overhaul.

The passenger car fleet is in fair condition and maintained to meet service requirements. Major overhaul/rehabilitation of passenger equipment has not been done on the Railroad. The all-electric passenger train overhaul/conversion was contracted to General Electric's overhaul/rehabilitation facility in Hornell, New York.

The highway vehicle fleet, including the vehicles equipped with hy-rail gear, is in good condition. However, should the ownership of The Alaska Railroad be transferred from the Federal Government, the leased vehicle fleet may no longer be available from the General Services Administration. If this fleet were no

longer available to the railroad, these vehicles could be leased from other sources at similar costs. For the detailed listing of these leased vehicles, see Appendix II, Exhibit 51.

The freight car fleet has been maintained as necessary without particular consideration for preventive/programmed maintenance.

The large number of cars prohibited in interchange, a total of 752 cars by the end of 1983, and the average age of the fleet, approximately 31 years, point out the need for The Alaska Railroad to invest in new freight cars to meet current traffic needs and future projections, even though freight car requirements for the projected export coal market will be met by the shipper.

The snow plows, cranes and miscellaneous equipment are in fair to good condition. Some overhaul work will be required on the locomotive cranes and ditchers to support increased traffic projections. The caboose fleet has recently been overhauled and is in good shape.

The heavy equipment shop, which maintains most of the Maintenance of Way equipment, is large enough and well equipped to handle the maintenance and repair of the railroad's maintenance of way equipment. Planned maintenance programs such as engine and crawler track replacements are in place and effective. Major rehabilitation/remanufacturing plans such as

repowering forklifts and graders are also in place. The number one problem of the heavy equipment shop is obtaining parts.

The shop overhead cranes are in need of general repair, primarily because they are "worn out," and crane rails need to be aligned.

The drop pit is in very bad shape, needing general repairs, and a new truck assembly.

The locomotive machine shop equipment, consisting primarily of military surplus, is generally in fair condition. The boilermaker shop equipment is about 50 percent good and 50 percent poor. The blacksmith shop is an antique, and the carpenter shop is good. The wheel shop machines are generally in fair to good shape, with a good boring mill, which is currently out of service awaiting parts from Germany. The equipment in the tin shop is old, but in fairly good condition.

The railroad has just begun a planned shop equipment maintenance program (previously equipment was maintained only if it needed immediate repair), beginning with a budget allotment for the rehabilitation of overhead cranes and the drop pit.

The heavy maintenance and running repair facilities are currently adequate, but crowded.

The diesel repair shop is overcrowded and consideration is being given to extension of the facility to provide space for two additional locomotives.

In general, expenditures for maintenance over the past five (5) years have been adequate to provide the required service. However, to maintain the same level of service, and particularly to meet the demands of the projected increases in traffic, increases in capital expenses for new purchases, programmed maintenance, and increased facility space will be needed.

For each of the major categories of freight traffic, the following table displays an index of how the traffic in each category actually changed between 1978 and 1982 and how the railroad projects traffic to change in the next five years.

Freight Traffic - 1978-87

(Revenue tons)

<u>Fiscal Year</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>70=1</u> <u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>
Sand, Gravel & Mud	.26	.23	.14	.65	1	1.37	1.37	1.37	1.37	1.37
Coal	.91	.80	.90	1.00	1	.97	.96	1.63	1.82	1.94
Petroleum Prods.	.85	.63	.57	.86	1	1.31	1.34	1.31	1.34	1.41
Mfgs. & Misc.	.68	.62	.65	.60	1	.81	.87	.99	.79	.83
TOFC/COFC	.81	.72	.75	.92	1	.88	.97	1.05	1.02	1.07
Forestry Prods.	.88	.72	1.41	1.31	1	1.44	1.63	1.93	1.93	2.00
Other	1.21	1.04	1.46	1.06	1	.69	.73	.77	.82	.75

Source: The Alaska Railroad

From these projections, the freight traffic will increase by 37 percent in Sand, Gravel and Mud, 94 percent in Coal, 41 percent in Petroleum Products, and 100 percent in Forestry Products by 1987, while TOFC/COFC, Manufacturers and Miscellaneous will remain fairly constant, and Others will decrease by 24 percent over the 1982 level. The 94 percent increase in coal traffic is The Alaska Railroad's projection of export coal. Locomotives for line haul and freight cars will be provided by the shipper. However, The Alaska Railroad will maintain the locomotives and provide helper locomotives as required.

These increases could probably be met with the current freight car fleet, except hopper cars for the increased coal traffic, if the current fleet were in good condition and available. However, the large number of cars that will be unavailable to the Alaska Railroad by the end of 1983 due to age (prohibited in interchange) will require substantial investment in freight cars over the next five (5) years.

The railroad passenger traffic is projected to increase between 1983 and 1987. This traffic increase will overburden the old and obsolete steam powered portion of the passenger car fleet.

The locomotive fleet, though able to handle the traffic, will require substantial planned maintenance and rehabilitation to maintain current and meet increased traffic requirements. Trade-offs of cost to repair and rehabilitate many of the Railroad's locomotives will likely result in "buy new" decisions.

#### Operating Expenses-Fixed Facilities

This investigation and study concludes that operating expenditures for Engineering, which includes maintenance of way and communications, should be modestly increased during the next ten years if the railroad is to be maintained at its present levels for present and projected traffic volumes. As a result of a change in certain accounting procedures effective this year, some types of roadway work formerly handled as a capital cost are now charged to operating expenses. It appears that the impact of this change may be somewhat greater than presently forecasted.

Furthermore, in ten years, the rail now in the main track will have been in service for over 40 years, with the lighter rail in the branch lines, auxiliary tracks and yards much older in service years, some rolled in 1915. Obviously annual rail renewals should be increased above present levels during the next ten years, but not necessarily to the 20 miles as contained in the previously mentioned "Normal Capital Program." The renewal of crossties as compared with past years must also be increased in future years particularly in the latter half of the next decade when most of the ties now in track will be between 35 and over 40 years old.

The following table compares actual engineering operating expenditures for the past five years with the Railroad's projections for this year and the next six.

**Engineering Operating Expenses**  
(Excluding Depreciation)

<u>Year</u>	<u>\$000</u>	<u>Notes</u>
1978	5,065	Actual*
1979	4,068	
1980	3,946	
1981	5,419	
1982	7,417	
1983	9,800	Projected 9/1/83
1984	9,340	
1985	9,770	Program in 1983 Dollars
1986	9,830	
1987	9,890	
1988	9,950	
1989	10,010	

\* Due to the previously discussed accounting change, these years are not directly comparable with 1983 and beyond.

Source: The Alaska Railroad

Except for its projected rail and crosstie renewals, we determined that other costs making up the Railroad's projected engineering operating expenses appear reasonable. Using 1983 as a base year, we modified the Railroad's tie and rail projections to arrive at what we consider would be an adequate program to support the railroad's traffic projections over the next ten years. We determined that an increase in the railroad's tie and

rail projections was appropriate (See Appendix I, Exhibit 16). We also considered that the railroad should be able to achieve a two percent productivity improvement commencing in fiscal year 1984.

A comparison of our modified projected expenses with the railroad's projections appears in the following table.

Projected Engineering Operating Expenses

(Excluding Depreciation)  
Thousands of 1983 Dollars

<u>Year</u>	<u>ARR</u>	<u>Modified</u>	<u>Difference</u>
1983	9,800	---	---
1984	9,340	10,560	1,220
1985	9,770	10,580	810
1986	9,830	10,680	850
1987	9,890	10,760	870
1988	9,950	10,960	1,010
1989	10,010	11,060	1,050
1990	10,010	11,160	1,150
1991	10,010	11,120	1,110
1992	10,010	11,280	1,270
1993	10,010	11,450	1,440
Totals (excluding 1983)	98,830	109,610	10,780

The railroad prepared a report in January 1983 entitled "Deferred Maintenance" showing a total of \$88,200,000. See Appendix I, Exhibit 17. Seven of the 13 items on this list relate to capital and perhaps should be considered as "Deferred Capital Spending." The other items are in the maintenance

category. The tie and rail numbers in that analysis are based on a theoretical life rather than actual present condition. Our modified projections for ties and rail for the next ten years appear quite adequate. On the ground inspections did not reveal any conditions of deferred maintenance in connection with the three items: yards, turnout renewal or rail joints. However, it did appear that there may be an excessive number of chipped rail heads (surface) at the joints which could be considered deferred maintenance. The railroad's report provides \$600,000 for rail end welding which appears reasonable. The railroad has accelerated this activity this year and anticipates a continuation in coming years within projected operating expenses.

The Engineering department leases 38 pieces of automotive equipment from the General Services Administration. This equipment includes automobiles and trucks from pick-ups to diesel tractors. The monthly lease rate varies from \$127 to \$372 and totals \$6,172. The State, the Department of Transportation, and the General Services Administration have not yet resolved whether these vehicles will be transferred. However, the impact of losing this equipment on engineering operating expenses would be insignificant. Similar equipment can be leased at comparable prices from other sources or purchased as a part of the capital program resulting in a slight reduction in these expenses.

### Operating Expenses-Equipment

This investigation and study indicates that the railroad's projected expenditure for motive power and equipment is sufficient for current and projected operations.

The Alaska Railroad is projecting passenger service annual mileage to remain constant at approximately 1,750,000 miles through 1989, freight service annual mileage to increase by approximately 38 percent by 1989 and locomotive mileage to increase by approximately 57 percent by 1989. These locomotive and freight train projected mileage increases are primarily the result of the anticipated export coal market.

Currently The Alaska Railroad is operating a fleet of locomotives and freight cars that are generally in fair to poor condition resulting in high maintenance cost per mile. The following table delineates the locomotive, passenger car and freight, private and leased equipment maintenance cost per mile for fiscal years 1981 and 1982, the forecasted cost for 1983 and the projected cost for 1984 through 1993.

Maintenance Cost/Mile

<u>Fiscal Year</u>	<u>Locomotives</u>	<u>Passenger Equipment</u>	<u>Freight, Private &amp; Leased Equipment</u>
1981	\$1.73	\$0.26	\$0.27
1982	1.23	0.24	0.23
1983	1.36	0.25	0.23
1984	1.35	0.24	0.21
1985*	1.15	0.24	0.17
1986	1.12	0.23	0.16
1987	1.16	0.23	0.16
1988	1.00	0.22	0.16
1993	0.95	0.22	0.14

\* Start of substantial export coal traffic as projected by The Alaska Railroad.

Source: The Alaska Railroad

The Alaska Railroad locomotive fleet currently contains 13 F-7 locomotives and 11 RSD-4 locomotives with average annual maintenance of costs of \$1.76 per locomotive mile. In October, 1983, the Railroad will take delivery of four new GP-49 locomotives with average annual maintenance cost of \$0.55 per locomotive mile. Upon receipt of 12 additional GP-49 locomotives in 1984, 1985 and 1986, the Railroad plans to scrap the 11 RSD-4's and eight of the F-7 locomotives, thereby reducing the locomotive fleet maintenance cost per mile.

The Alaska Railroad passenger car fleet currently contains ten recently rehabilitated and upgraded all-electric passenger cars and the Railroad plans to have ten additional cars

rehabilitated and converted to all electric by 1986, thus reducing the passenger car fleet maintenance cost per mile.

The Alaska Railroad's Capital Expenditure Plan calls for the replacement of approximately 15 percent of the freight car fleet by 1986, which should reduce the freight, private and leased equipment maintenance cost per mile.

Although increased track maintenance will be required to meet the needs of projected increased traffic, the purchase of new and more advanced track work machinery should offset increases in maintenance of way equipment maintenance. Engineering equipment estimated cost of repairs for November, 1982 to May, 1983 is detailed in Appendix II, Exhibit 52.

The reduction in maintenance cost per mile of locomotives, passenger and freight cars due to the purchase of new and the rehabilitation/upgrade of older equipment, the purchase of new and more advanced track work machinery, and the projected productivity gain of 2 percent a year after 1984, should permit The Alaska Railroad to operate effectively within the following projected operating expenses for equipment.

Projected Operating Expenses  
Equipment  
Excluding Depreciation  
Thousands of 1983 Dollars

<u>Fiscal Year</u>	<u>Expenses</u>
1983	\$ 9,440
1984	9,380
1985	10,710
1986	10,920
1987	11,110
1988	11,300
1989	11,500
1990	11,500
1991	11,500
1992	11,500
1993	<u>11,500</u>
Totals (excluding 1983)	\$110,920

Source: The Alaska Railroad

Capital Expenditures

The railroad provided USRA with a capital plan averaging \$14 million annually for fiscal years 1983 and 1987 funded by the railroad's projected cash flow. See Appendix I, Exhibit 18. That plan did not include much of the work which will be required incident to the transfer of ownership to comply with OSHA and state and local codes. Conversely, that plan included at least one questionable item in our opinion; namely, installing double track between M.P. 105 and M.P. 114.

The railroad also provided a master listing of potential capital projects which might be considered depending on future earnings and traffic levels. These projects total \$723 million. See Appendix I, Exhibit 19. Obviously, a prudent investor would not undertake any of these projects unless he could be assured of a reasonable return on investment, or unless they were absolutely required to continue operating the railroad. However, the listing was useful in defining the possible range of requirements which might be considered in the future depending on traffic, earnings, or external factors.

Discussions with the railroad management indicate a consensus that \$12 million per year for the next ten (10) years would adequately cover capital requirements based on present traffic projections. This amount would provide, generally, for the following:

<u>Item</u>	<u>Millions-1983 Dollars</u>
Purchase Locomotives	1.50*
Purchase Freight and Passenger Cars	2.90*
Purchase Shop Equipment	0.30*
Modify and Upgrade Motive Power	0.50*
Modify and Upgrade Passenger Cars	0.50*
Purchase M/W Equipment	0.75*
Energy Conversions	1.00*
Ballast and Riprap	0.75
Building Improvements	0.70*
Bridges and Tunnels	0.75
Line Changes	0.60*
Communications and Signals	0.50
Drainage Improvements	0.25
Contingencies	<u>1.00</u>
<b>Total</b>	<b>12.00</b>

\* These projected capital expenditures are based on an average of the total amount projected for the ten year period, not the amount projected for each year of the ten year period.

This program will generally permit the railroad to handle its forecasted traffic; however, it will not significantly increase the railroad's utility. Further, this program provides some but not all funding to correct OSHA violations and state code deficiencies.

The revised OSHA report, prepared by the railroad, shown in Appendix II, Exhibit 53, lists 78 deficiencies at a total estimated cost to correct of \$5,991,000. However, after an analysis of this list and present work programs, it was found that \$3,850,000 has already been committed with work that is in progress or is in the 1984 capital program. This leaves an

estimated total of \$2,141,000 to complete the necessary improvements. After providing for a contingency of \$350,000, we determined that this work could be completed in five years at an additional capital expenditure of \$500,000 per year.

The State of Alaska retained a consortium of consultants to study state codes, OSHA, and other building deficiencies on The Alaska Railroad. Two independent and separate estimates were made to correct the conditions found. These estimates both totaled between 85 and 90 million dollars. The results of these studies were made available about September 1, 1983.

A complete review was made of the three volumes which provides a description of each violation or deficiency and an estimated cost to correct. Our study developed the following:

1. Although the total cost of the two estimates are approximately the same, estimates for individual items and buildings vary widely, in some instances as much as 1,000 percent.
2. These listings almost completely overlap the OSHA list previously discussed.
3. The overheads as they are applied actually total 109 percent. This appears too high, and our investigation indicates that 80 percent would be a reasonable total overhead for the State of Alaska. This is for work

performed by outside contractors with no consideration given to performing any of the work by railroad forces. Quite likely, much of this work would be done by railroad forces, particularly in the outlying areas, with significantly lower overheads.

4. All improvements are estimated on an "in kind" basis. In other words, no consideration was apparently given to eliminating any facilities on which it would be expensive to make the required improvements, by building new or by moving present occupants to another facility. In one case approximately \$1,000,000 is estimated to improve a building that is practically vacant.
5. Many of the cited deficiencies are not code or OSHA violations, but desirable improvements which would be handled as required in the annual capital programs.
6. No accounting is made of work now in progress or programmed which will rectify some of these violations.

After taking all of the above factors into consideration together with our knowledge of the facilities and discussions with railroad representatives, it appears that about \$15,000,000 in addition to present commitments and the previously projected OSHA expenditures should support the required improvements to meet these code violations. For additional details regarding these calculations, see Appendix I, Exhibit 20.

If this work were to be completed over the next ten year period, another \$1.5 million per year would be added to the capital program as shown in the following table.

Summary of  
Projected Capital Spending  
Millions of 1983 Dollars

<u>Year</u>	<u>ARR</u>	<u>OSHA</u>	<u>Code Violations</u>	<u>Total</u>
1984	12.0	.5	1.5	14.0
1985	12.0	.5	1.5	14.0
1986	12.0	.5	1.5	14.0
1987	12.0	.5	1.5	14.0
1988	12.0	.5	1.5	14.0
1989	12.0	---	1.5	13.5
1990	12.0	---	1.5	13.5
1991	12.0	---	1.5	13.5
1992	12.0	---	1.5	13.5
1993	<u>12.0</u>	<u>---</u>	<u>1.5</u>	<u>13.5</u>
Totals	120.0	2.5	15.0	137.5

# ALASKA

REVIEW OF  
SOCIAL AND ECONOMIC  
CONDITIONS

UNIVERSITY OF ALASKA. INSTITUTE OF SOCIAL AND ECONOMIC RESEARCH FEBRUARY 1982 Vol. XIX No 1

## THE ALASKA RAILROAD: OVERVIEW AND OPERATIONAL ALTERNATIVES

### INTRODUCTION

*This Review takes a look at the federally owned Alaska Railroad in the context of its apparent pending transfer to the State of Alaska. After describing the history of the railroad—its present physical plant, rolling stock, and its operations—we analyze the most important issues with which the state must deal: railroad land, employees, finances, competitive environment, and passenger service. We also review organizational structures that might be applied to the railroad following the end of federal control and make recommendations for further action. (See box on page 3 for a brief summary of study findings.)*

The Alaska Railroad (ARR) is unique in that it is (1) the only railroad in North America that is a federal agency, (2) the farthest north railroad in North America, and (3) considered (by some) as a frontier development tool. It has enjoyed a varied history and has alternately been the recipient of intense criticism and extensive federal grants. Originally conceived as a development project in the grand style of the Panama Canal (from which it received much of its early equipment), it quickly fell into disrepute, emerged as a military implement, was converted from pauper to spoiled child, and then allowed to sink into an anonymity which has plagued it to the present day.

The Alaska Railroad is an operating agency of the United States Department of Transportation, Federal Railroad Administration (FRA). As such it is subject to all the obscure federal policies visited upon such agencies, and its operational motivations are both political and economic. However, it has also become an important overland transport link in Alaska

and a central element in the state's economic development process.

### Changing Federal Policy

During the past decade, FRA has become increasingly interested in transferring ownership of the property to a nonfederal entity. The agency first introduced draft federal legislation to facilitate the transfer in 1971. However, the momentary prosperity of the ARR during the Alyeska pipeline construction project diminished federal interest in disposing of the property.

With the return of "normal" economic conditions in 1978, however, FRA was once again motivated to explore means of relieving itself of the ARR. The economic downturn also coincided with a shift in FRA policy, mainly due to its increasing involvement with Conrail and Amtrak.<sup>1</sup> By 1979, it was apparent that both organizations had become major fiscal and political liabilities for FRA, leading the agency to both a fear of and disinterest in attempts to operate any railroad. Thus, FRA's policy tended toward the dissolution of any rail property which

<sup>1</sup>Federally controlled railroad properties that had been unacceptably managed in the private sector.

This article was adapted from a report prepared for the Alaska Department of Transportation and Public Facilities, Division of Planning and Programming, by the Institute of Social and Economic Research and Events and Associates, Inc.

## ALASKA REVIEW OF SOCIAL AND ECONOMIC CONDITIONS

VOL. XIX, No. 1, February 1982

Published by

Institute of Social and Economic Research  
University of Alaska  
Anchorage • Fairbanks • Juneau

Jay Barton—President, University of Alaska  
E. Lee Gorsuch—Director, Institute of Social and Economic Research

Institute Editor: Ronald Crowe  
Editorial Assistant: K. Lee Crowe  
907-278-4821

Main Institute Office:  
707 "A" St., Suite 206  
Anchorage, Alaska 99501

## FEATURE

John T. Grey  
John A. Bluns

The Alaska Railroad: Overview and Operational Alternatives

*During the preparation of this article John T. Grey was an assistant professor of transportation with the Institute of Social and Economic Research in Anchorage; he has since resigned to take the position of Marketing and Sales with the Alaska Railroad. John A. Bluns is a transportation consultant and president of Bluns and Associates, Inc., of Phoenix, Arizona.*

appeared to be economically marginal, including those controlled by FRA.

This policy, as it pertains to the Alaska Railroad, was first published in AER's 1979 annual report (in mid-1980):

*Since the Government of the State of Alaska has substantial surplus funds because of the growth of oil revenues, the Federal Government believes that ownership of the Alaska Railroad should be with the State Government. The Federal Government believes the Alaska Railroad exists primarily for the benefit of the residents and shippers of Alaska; they need and deserve a much larger voice in determining the role they want the railroad to play.*

This policy received additional emphasis when the Reagan administration took office in January 1981. The transfer of the ARR was consistent with emerging federal orientation in several areas, including (1) replacing a federal function with a local entity, (2) reducing federal employment, and (3) reducing FRA's funding requests.

The policy also supported FRA perceptions that (1) the ARR no longer served the function of a frontier development tool, but had become part of a more mature transportation and economic system, (2)

Alaska could afford to operate and subsidize the railroad if necessary, (3) future prospects suggested that private enterprise might find the railroad an increasingly attractive investment, and (4) the ARR could more effectively support public and private objectives under a revised organizational and institutional structure.

To implement these views, FRA once again prepared draft legislation to authorize transfer of the Alaska Railroad to the state. This legislation was introduced into the U.S. Senate on July 17, 1981.

## History of the Alaska Railroad

The ARR came into existence through an act of Congress on March 12, 1914. This legislation empowered the President to acquire and (or) construct a railroad, not to exceed 1,000 miles in length, to connect Alaska's interior navigable waterways and one or more coal fields with an ice-free harbor on the Gulf of Alaska. The Alaska Engineering Commission, which had previously located several potential routes, was directed by President Wilson to purchase the 71-mile Alaska Northern Railway and to extend its line from Seward to the head of navigation of Cook Inlet

and northward up the Susitna and Chulitna river valleys to a crossing of the Alaska Range near the headwaters of the Nenana River. From that point the railroad was to be built to the confluence of the Nenana and Tanana rivers and upriver to Fairbanks. Two branches were also constructed to tap coal deposits. One branch extended eastward up the Matanuska Valley and the other eastward from the juncture of the Healy and Nenana rivers. This basic system, with minor additions and deletions, has remained intact from its official completion in 1923 to the present (see Figure 1).

#### Deterioration and Rehabilitation

The decline of placer mining in the Tanana Valley prior to the completion of the railroad, the conversion of naval vessels from coal to oil soon after completion, and the general lack of economic activity along the line combined to produce operating deficits during the first decade and a half of ARR's operation. From 1924 to 1945, the railroad received no operating or capital appropriations from Congress. This resulted in a continuing deterioration of an already marginal physical structure. During the years before World War II, the railroad was maintained to only

#### SUMMARY OF ISSUES INVOLVED IN ARR TRANSFER

• **Pending Transfer of the Alaska Railroad.** The Federal Railroad Administration (FRA) is presently taking steps to transfer the Alaska Railroad (ARR) from the federal government to the State of Alaska. The FRA proposes to transfer the ARR to the state without charging a direct acquisition cost. However, FRA's proposed legislation also transfers all ARR's liabilities and obligations, which have not yet been clearly defined.

• **ARR Lands.** Lands required for effective railroad operation extend beyond the ARR's rights of way, yards, terminals, and ports, some the railroad requires not only materials-source lands, but also needs to lease lands to traffic-producing tenants. However, much of ARR's land holdings are presently uncertain, because Native claims have been filed on certain portions of it under the 1971 Alaska Native Claims Settlement Act.

• **Railroad Financials.** A 1980 ICC freight rate study of the ARR concluded that the present rates exceed the variable cost of transportation and fully compensate the carrier. In fact, in the past 3 years, even with poor economic conditions nationally and in Alaska, freight transport on the ARR fully met all out-of-pocket costs and some capital costs.

Passenger service, however, has long required subsidization by the freight traffic, and even this subsidy has not been enough. While an increase in passenger fares seems warranted, fares cannot be raised enough to fully meet the cost of passenger service without driving away passengers. This problem would be somewhat alleviated by separating revenue and cost accounting for passenger and freight service. Management needs to establish an aggressive passenger marketing program, moderately increase passenger fares, and request a public subsidy to cover remaining costs of service.

• **Outlook and Benefits of the ARR.** The ARR's freight service, available from Seward and Whittier all the way through Anchorage to Fairbanks, serves the needs of a majority of Alaskans. It is, and will continue to be, an important element in Alaska's transportation system. Not only is it essential to development of many of Alaska's resources, but by competing with nonrail carriers, the ARR assures competitive rates for shippers. Without the rail service alternative, costs of moving commodities would be much higher. And some pre-

dicts, such as large bulk shipment of coal, steel, sand and gravel could not be economically moved at all.

• **ARR Employees.** The ARR has for several years been reducing the numbers of its employees and a hiring freeze has been in effect since January 20, 1981. As of mid-April 1981, the ARR had 679 employees and 755 authorized positions, a vacancy rate of 17 percent. Freight-user service could suffer should present employment levels persist in an expanding market.

As Department of Transportation personnel, the employees of the ARR have all the privileges and rights of other federal agency personnel. In addition, most ARR employees are members of various labor unions. Enjoying such double protection under existing agreements, employees will not likely wish to relinquish any of their existing rights. As a result, transferring these employees to the state could involve several complex problems.

Meeting all employer retirement and fund contributions for ARR employees will cost about \$38 million during the next 20 years (1981 dollars). Or, if we include inflation and salary increases of 10 percent per year (compounded), the cost will total about \$195 million, or an average annual contribution of \$8.7 million. However, ARR now realizes and could expect to continue to realize adequate revenues from freight service to provide funds for this contribution. Freight revenues could also pay for employee sick leave (\$4.3 million) and annual leave (\$1.5 million).

• **Condition of Railroad.** The track, structures, and rights of way of the ARR are generally in good condition and well maintained. For the most part, the lines meet or exceed FRA Class IV standards.

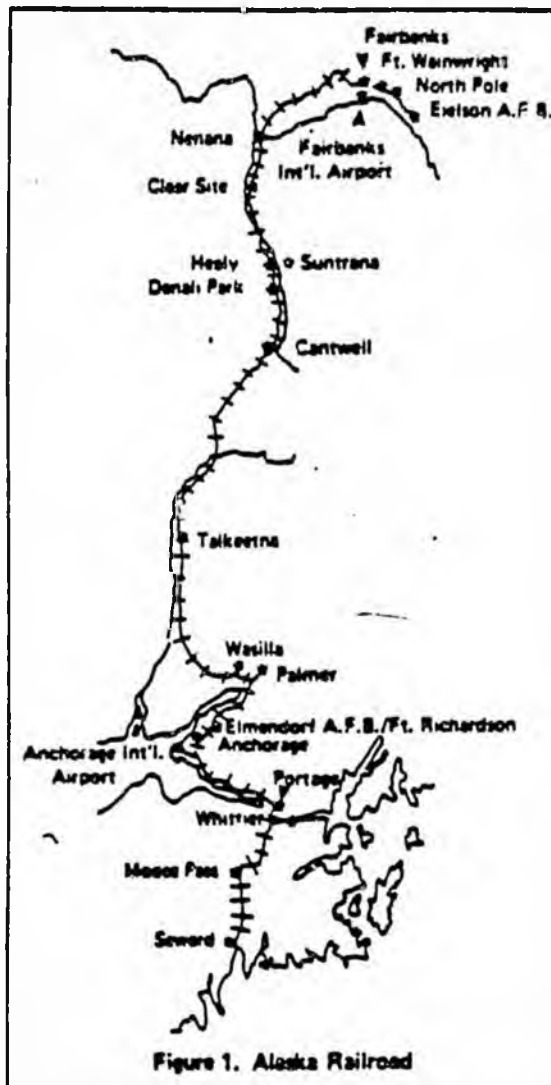
The rolling stock and locomotives are generally well maintained and adequate for the traffic carried. However, much of the locomotive and car fleet is old, being previously well used by the military or other railroads. A fleet modernization program may be needed if traffic increases significantly.

Passenger cars are generally well maintained but are old and in need of substantial modernization.

The ARR is generally capable of servicing its equipment; its mechanical and electrical shops are well equipped and adequately support effective maintenance and modification of locomotives and rolling stock.

minimal branchline standards. This condition was aggravated by the fact that "official" completion in 1923 had still left a great deal of work to be done before the system could be considered technically adequate.

World War II provided A.R.R. with a rush of traffic and much-needed income, as well as the now-important link with a second ice-free port, at Whittier. However, the war also accelerated deterioration of the property. Even with military assistance between 1942 and 1945, the railroad was almost physically exhausted by the end of the war. This



situation demanded a decision on whether to abandon the railroad or rebuild it. The Federal Government decided to rebuild.

This decision resulted in a project that was to last 30 years and become one of the most controversial episodes in the A.R.R.'s history. Actual expenditures began in 1946 and over the construction term amounted to almost \$95 million. The actual value of these improvements, however, was considerably greater since much property was transferred at nominal cost from other federal agencies. The rehabilitation included strengthening the roadbed; laying new track; replacing bridges and buildings; buying new locomotives, rolling stock, and maintenance equipment; and building new shops, as well as terminals at Anchorage, Fairbanks, and Seward.

Most of the work, from Whittier to Fairbanks, was completed by 1952; however, the main line to Seward, begun in 1953, was not completed until 1958, and only after a special appropriation was requested by the Defense Department. By the end of the rehabilitation period, the railroad would finally be considered complete and was basically in its present form.

#### The 1964 Earthquake

Total damage to the Alaska Railroad from the 1964 earthquake amounted to approximately \$27 million, of which \$25.4 million was obtained through Congressional appropriations.<sup>2</sup> Of the total, almost \$11.7 million was required to reconstruct the line from Portage to Seward and the Seward Terminal. Records of the controversy over whether or not the Seward reconstruction should be undertaken indicate that it could not be justified on the basis of capital and future operating costs. However, the Alaska Railroad and its owner, the Department of the Interior, presented funding appeals based on a combination of economic and social factors. One letter stated:

The decision on reconstruction is not restricted to economic considerations alone; in many respects humane and equitable factors assume even greater significance. The essential fact is that failure to restore rail service means that Seward will disappear as an important factor in Alaska life.

<sup>2</sup>These appropriations should be clearly distinguished from other federal funds invested in the A.R.R. The railroad's earthquake rebuilding monies were only a small part of the \$400 million in disaster relief assistance provided to Alaska. The vast majority of this money went to individuals, private companies and local governments through a variety of assistance programs. Thus, for policy purposes, the funding of the A.R.R. reconstruction should be treated in the same light as one would all other economic entities of the state, rather than as a federal agency appropriation.

Given the information available at the time, the decision to rebuild to Seward may or may not have been economically sound. The important point is that as a federal agency, the railroad based a major part of its argument to rebuild the line on factors which were not necessarily in its own economic best interest. A private firm, confronted with the same circumstances, would not likely have used the same reasoning nor have made the same decision.

#### Railroad Barges and the Port of Anchorage

Shortly before the earthquake, two other events occurred which, together with the subsequent loss of Seward, caused a long-term change in the character of both the railroad's traffic patterns and those of Alaska's entire railbelt region. These were (1) the initiation of railcar barge services between Alaska and both Canada and the continental United States and (2) the opening of the Port of Anchorage to year-round container ship service. Of the two, the most important was the barge service—not in terms of movement volumes, but rather in the options made available to Alaska shippers. The action of the railroad and its barge connections made it possible for the first time to ship directly from the manufacturer or major distributor, wherever his location, directly to an Alaska location without reloading in Seattle and Alaska ports. The economic independence from Seattle wholesalers offered by this service forced steamship companies, particularly Alaska Steamship and Sea-Land Service, to establish similar options.

#### Construction of the Trans-Alaska Oil Pipeline

The final set of events which shaped the present Alaska Railroad were those surrounding its participation in the construction of the trans-Alaska pipeline. During the years 1974 through 1977, the railroad probably moved the largest, most lucrative volumes of traffic since World War II, and the physical system underwent a similar, although somewhat milder, strain. Once again, the only possible solution, given the federal agency status of the railroad, was to transfer property from other federal organizations (most notably locomotives from the military) and to use Congressional appropriations for capital improvements and major maintenance. Twenty-four million dollars in appropriations, in addition to \$13 million in improvements financed through earnings, permitted the railroad to emerge, for the first time, from a period of heavy usage in better physical condition than it entered.

### THE PHYSICAL PLANT

#### The Main Line and Branches

The Alaska Railroad (ARR) today has a single

track mainline of 419 miles from Whittier to Fairbanks via Anchorage, Wasilla, Healy, and Nenana. In addition, there are six branches with an aggregate total of 115 miles. These include the 28-mile branch from Fairbanks to Eielson, the 10-mile Fairbanks International Airport spur from Ft. Wainwright to the airport, the 4-mile coal branch from Healy to Suntrans, the 7-mile line from Matanuska Junction to Palmer, the 3-mile Anchorage International Airport spur, and the 63-mile line from Portage to Seward.<sup>3</sup>

The mainline has only mild gradients along the water level route between Whittier and Anchorage and up the Susitna Valley as far north as Gold Creek (about 150 miles from Anchorage). However, the severe grades on the next 35 miles to the summit of the pass through the Alaska Range reduce the tonnage ratings of locomotives by about 40 percent. The grades on the north side of the range are much easier, being similar to the water level line in the lower Susitna Valley, with the exception of a single short five-mile stretch. The mainline north of the range to Fairbanks and the Eielson branch pass through generally rolling country with mild gradients.

The most severe portion of the railroad is the line from Portage to Seward, which crosses two mountain barriers with steep gradients. Both restrict southbound traffic, reducing the tonnage a locomotive can handle by 75 percent and 65 percent, respectively, when compared with what can be moved between Anchorage and Portage. Northward grades are slightly milder but still are more demanding than any of the line north of Portage.

Passing sidings are spaced about every 7-to-10-miles so that trains may meet and pass. However, sidings long enough to accommodate most freight trains are less frequent. In addition, there are tracks at various points along the line which serve industries not located at a major yard. Table 1 summarizes the physical features of the mainline and principal branches.

#### Track Conditions

The track structure of the Alaska Railroad is currently in excellent condition, particularly considering the relatively light traffic. The main line and the line to Seward are maintained to FRA Class IV quality standards which permit freight trains speeds up to 60 miles per hour and passenger trains to 80 miles per hour, if certain safety conditions are met. In fact, the Alaska Railroad must limit its train speeds

<sup>3</sup>It should be noted that the railroad considers the line to Seward as part of the main line, and it is maintained to these standards. However, it has the lightest traffic of the entire system (about 300,000 gross tons annually).



tries including the Anchorage Port, Elmendorf Air Force Base, and Fort Richardson. There are also container-on-flatcar and trailer-on-flatcar facilities in Anchorage.

Healy has a small yard and locomotive service facility and exists primarily to serve the nearby coal mines. The Nenana yard exists solely to serve the railroad's small river port in that town and several other local industries. Fairbanks contains a small classification yard, limited locomotive and car shops, and trackage to serve local industrial facilities. The yard is also the base for service to Fort Wainwright and Eielson Air Force Base, as well as the North Pole Refinery.

#### Equipment

The Alaska Railroad uses a variety of equipment to produce revenue and maintain the property. The largest and most costly units are the locomotives—the railroad has sixty-five, with an average age of 18.7 years. The most modern of the units are the fifteen 3,000-horsepower road-switcher locomotives built by General Motors between 1975 and 1978. These are comparable to the most modern equipment on any railroad. Ten older 1,600-horsepower road-switcher locomotives were completely rebuilt in 1977 and have a useful efficient life at least through 1992. Four other 2,500-horsepower road switchers acquired in the mid-sixties are old enough to be eligible for complete rebuilding, and one has already been rebuilt. Of the remaining thirty-six units, most were built between 1951 and 1953, and only about ten to twelve are usually in service under present traffic conditions.

Seven of the older car-body type locomotives are used in passenger and mixed train service between Anchorage and Fairbanks, while several ex-military road switchers are used in Anchorage yard service and as backup yard engines around the system. Several of the car-body types might be usefully rebuilt if passenger service is continued. However, the ex-military units are probably near the end of their useful lives. Several of the older locomotives of both types are being cannibalized to provide parts for the others.

The freight car fleet numbered 1,754 units in 1980, with an average age of 32 years. Table 2 shows the distribution of freight cars by functional type. Clearly, the freight car roster is dominated by the open types, including the flat cars, gondolas, open hoppers, and dump/ballast cars. This is consistent with the types of traffic being handled with most of the tonnage consisting of bulk materials, such as coal, gravel, logs, and pipe along with trailer- and con-

Table 2  
Alaska Railroad Freight Cars

Car Type	Number	Most Recent Year Built	Number Built in Most Recent Year
Box	235	1965	34
Flat	389	1976	100
Gondola	394	1943	395
Hopper, Open	348	1981	25
Hopper, Covered	21	1970	9
Tank	139	1970	3
Refrigerator	16	1966	11
Dump and Ballast	157	1958	27
Caboose	27	1977	3
Other	28	1943	2
Subtotal	1,754	1981	
Privately Owned Cars Assigned to Alaska Railroad			
Flat	52	1979	8
Tank	230	1980	16
Subtotal	282	1980	
Total	2,036		

Source: Alaska Railroad 1980 Annual Report and Alaska Railroad Equipment Summary.

tainier-on-flat-car (TOFC/COFC) service. Another important component of the car fleet available to ARR are the tank cars, particularly the privately owned cars leased to oil companies served by the railroad and used for petroleum product distribution throughout the subbelt.

Of particular concern is the age of much of the ARR's own fleet and the limited capacity of many of the units. Only 340 cars have been purchased new since 1960 and only 140 cars since 1970. Even though the fleet has been well maintained, maintenance will become more costly as the cars continue to age. The aging problem also creates problems in ARR's interchange of traffic with other railroads. Federal safety standards limit the age of equipment which may be used in interline service. Some of ARR's equipment is already prohibited from participating in this traffic, while other cars are allowed to operate only with waivers.

The limited capacity of some cars could be detrimental to the railroad, particularly for transportation of some future bulk shipments. This is also a difficulty with ARR's tank car fleet (although the private cars assigned to ARR are modern units). With a few exceptions, however, this factor does not appear to limit service of existing traffic.

Type	Number Owned	Number Leased	Average Age
Coach	21	-	29
Dome Coach	3	4	26
Combination Passenger/Baggage	3	-	36
Food Service & Recreation	10	2	27
Baggage	6	-	20
Power Car	4	-	38
Business Car	1	-	24
Total	48	6	26

Source: FY 1980 Annual Report, The Alaska Railroad.

The passenger car fleet consists of 48 units owned by the ARR and 6 leased from Amtrak for supporting the increased 1981 summer service. Table 3 shows the types and ages of the present equipment. Although not as old as the railroad's freight fleet, the passenger cars are an aging asset which will require a complete rebuilding if the present level of service is to be continued. Twenty-eight of the cars were acquired from the Union Pacific Railroad in 1971, eight came from the Southern Railway in 1980, and the remainder were rebuilt from surplus military hospital cars. In recognition of the need to extensively rebuild the current fleet, if passenger service is to continue, the railroad currently has ten cars being rebuilt under contract to General Electric.

In addition to revenue-producing equipment, the ARR also has 205 units of maintenance and emergency equipment. This includes such items as snow plows, cranes, and cars for housing mobile maintenance forces. This is supplemented by a considerable fleet of on- and off-track machinery used in maintenance and in-house construction work. Also, sufficient shop facilities and machinery are available to perform any level of maintenance required by the car and locomotive fleets; however, space and personnel limitations sometimes preclude programming a large volume of heavy repair or rebuilding work over a short period. Therefore, large projects, such as the previously mentioned passenger car rebuilding may be contracted to outside firms.

#### OPERATIONS

Clearly, the purpose of ARR's equipment is to provide train service to the railroad's customers.

Since rail operations provide the ARR's largest proportion of revenues, they are thus of special interest to this study. Table 4 lists the types of trains operated by the ARR and the number operated in the years 1976-1980; Table 5 indicates the total train miles produced by these trains on each segment of the railroad. Currently, the service can be categorized as follows:

1. Anchorage-Fairbanks - Passenger and mixed train service
2. Anchorage-Fairbanks - Freight service
3. Healy-Fairbanks - Coal trains
4. Anchorage-Palmer - Gravel trains
5. Anchorage-Whittier - Freight service
6. Anchorage-Whittier - Passenger shuttles
7. Anchorage-Seward - Freight service
8. Anchorage and Fairbanks industrial switching trains

Table 6 summarizes the present frequency of these operations along with the winter schedules for the same services. As can be seen, frequency of operation can vary considerably, particularly for the passenger and gravel trains. This leads to equipment utilization problems in that a sufficient number of cars and locomotives must be on hand to meet conditions but some can be expected to be surplus during slack seasons. This is aggravated by the difficulty that ARR, as a federal agency, has in

Service	1980	1979	1978	1977	1976
Anchorage-Seward Freight	46	53	46	68	132
Anchorage-Whittier Freight	129	123	158	187	122
Anchorage-Palmer Local Freight	32	32	34	36	37
Anchorage-Palmer Gravel Trains	102	146	158	187	225
Anchorage-Fairbanks Freight	181	182	213	271	340
Anchorage-Fairbanks Mixed <sup>a</sup>	74	70	70	69	71
Fairbanks-Healy Coal Trains <sup>b</sup>	145	138	138	156	191
Fairbanks-Eggen Industrial Shuttles <sup>b</sup>	280	243	243	260	330
Anchorage-Anchorage Industrial Shuttles <sup>b</sup>	296	280	260	277	295
Anchorage-Palmer Local Passenger	126	114	114	114	111
Anchorage-Whittier Shuttle Trains	228	222	221	234	209
Special Passenger Trains	14	13	10	-	-

<sup>a</sup>A mixed train includes both freight and passenger service in the same train.  
<sup>b</sup>Estimates based on information provided by Alaska Railroad officials.

Source: Crew Call Sheets as compiled by Interstate Commerce Commission; conversations with Alaska Railroad officials.

leasing supplemental equipment, a strategy common throughout the rail industry in such circumstances.

Also of interest is the changing traffic pattern that has been occurring during the past 5 years (Table 4). Since costs to operate additional trains (above some minimum level) do not rise as fast as the number of trains and while revenues tend to increase directly with the number of revenue trains, it is evident that the cyclic nature of Alaska's economy very directly affects ARR's net income. Table 4 graphically illustrates the difficulties faced by the railroad's management during the last 3 years of declining and stagnating economic activity.

Table 5 also shows the large part that passenger service plays in ARR operations. With passenger and mixed train service accounting for 48 percent of the 1980 train miles, it is obviously an important element in the cost structure of the railroad.

The length of ARR trains varies considerably by type of service. Freight trains to Seward generally comprise 40 to 60 cars while those to Whittier are 45 to 50 cars, depending on which barges they are meeting. The unit gravel trains between Anchorage and Palmer consistently have either 60 or 80 hopper cars each. The Anchorage-Fairbanks freights range between 60 to 100 cars and the Healy-Fairbanks freights range between 40 to 60 cars. The mixed trains between Anchorage and Fairbanks will have 2 to 6 passenger and 20 to 25 freight cars while summer passenger trains have 6 to 10 cars. In a particular

Rail Segment/Service	1980	1979	1978
<b>Healy-Fairbanks/</b>			
Freight	88,183	87,854	84,953
Mixed	15,259	16,157	16,157
Passenger	28,274	24,908	24,908
<b>Anchorage-Healy/</b>			
Freight	97,103	108,123	119,878
Mixed	33,156	35,107	35,107
Passenger	61,437	64,248	64,124
<b>Anchorage-Whittier or Seward/</b>			
Freight	27,205	28,368	29,328
Passenger	28,054	37,188	35,813
<b>ARR Total/</b>			
Freight	190,471	200,745	214,255
Mixed	48,415	51,264	51,264
Passenger	127,765	118,322	114,945
<b>Total</b>	<b>366,651</b>	<b>368,331</b>	<b>380,464</b>

Source: Computed by Institute Commerce Commission from Train Mile Reports.

Service	Summer 1981	Winter 1981-82
<b>Freight</b>		
Anchorage-Fairbanks	4	5
Anchorage-Seward	bi-monthly	1
Anchorage-Palmer/Local	bi-monthly	-
Anchorage-Palmer/Gravel	20	-
Healy-Fairbanks	3	5
Anchorage-Whittier/AHT <sup>a</sup>	every 5 days	1
Anchorage-Whittier/CNRA <sup>b</sup>	every 9 days	bi-monthly
<b>Mixed</b>		
Anchorage-Fairbanks	3	1
<b>Passenger</b>		
Anchorage-Fairbanks	7	-
Anchorage-Whittier	8	3

<sup>a</sup>AHT = Alaska Hydro Train Railway Barges.  
<sup>b</sup>CNRA = Canadian National Railway Railway Barges.

Source: Alaska Railroad officials.

circumstance, maximum train length may be dictated by length of passing sidings, traffic demands, locomotive availability, union agreements, grades, barge capacity, or climate.<sup>4</sup>

**Traffic Base**

The ARR transports only a few commodities between a small number of origins and destinations. ARR traffic logically divides itself into two basic components: local and interline. Of the two, the local movements (strictly ARR origins and destinations) generate the most tonnage but relatively low levels of revenue per ton-mile. The interline traffic is that interchanged between ARR and either Alaska Hydro-Train or Canadian National Railway through the car-barge facility at Whittier or the trailer and container movements through the Port of Anchorage that are forwarded by the railroad.

**Local**

Tables 7 and 8 show the revenue tons transported by the railroad and the resulting revenues. As can be seen, the two consistently largest movements are (1) the coal moved from Healy to power plants at Clear Air Force Station, the University of Alaska in Fairbanks, Fairbanks, Fort Wainwright, and Eielson Air Force Base and (2) the gravel moved from Palmer to the three largest aggregate companies in Anchorage. Both are fairly short hauls and involve

<sup>4</sup>In the winter, decreased airbrake response time and increased train friction may limit length.

**Table 7**  
**Freight Traffic Revenue Tons Carried**  
(in thousands of tons)

Commodity	1961	1966	1970	1976	1977
Coal	883.0	880.2	823.8	893.3	886.8
Sand & Gravel	7,796.8	396.2	837.5	727.2	689.5
Petroleum	389.1	261.7	219.6	373.9	522.3
Forest Products	100.7	108.8	84.2	87.8	82.8
Manufactured Products	311.9	282.1	278.9	308.8	336.7
TOPFC/OPFC*	112.5	92.4	89.7	88.5	88.7
Other	8.1	9.9	7.1	10.1	15.1
<b>Total</b>	<b>3,282.1</b>	<b>1,741.3</b>	<b>1,808.9</b>	<b>2,177.7</b>	<b>2,208.3</b>

\*Trailer-on-flatcar/Container-on-flatcar.  
Source: Alaska Railroad Annual Reports.

commodities of relatively low value.

Petroleum products represent the most lucrative of the larger, local movements. Since the construction of the North Pole refinery, this traffic has consisted principally of gasoline moving from Anchorage to Fairbanks. However, there has recently been a growth in the opposite direction in movements of jet and diesel fuel supplies from North Pole refinery to distributors in Anchorage and to the Anchorage International Airport. The railroad also delivers fuel to Fairbanks International Airport and the Anchorage Airport from sources other than North Pole.

The other significant intrastate movements include logs from Nenana to Seward,<sup>3</sup> cement from Anchorage to Fairbanks, pipe from either the Seward or Anchorage ports to Fairbanks for forwarding to the North Slope, and a limited amount of local trailer-on-flatcar business between Anchorage and Fairbanks.

#### Interline Traffic

Interline traffic differs considerably from local traffic. A major component is trailer-on-flatcar and container-on-flatcar traffic forwarded by the railroad on substitute service agreements with Totem Ocean Trailer Express and Sea-Land Service Company between Anchorage and Fairbanks. While this traffic amounts to only 90,000 to 100,000 tons annually, it carries a premium rate because of its time sensitivity and long distance. This traffic produces almost as much revenue as the much larger coal movement. It is time competitive with over-the-road movements and

<sup>3</sup>The movement ceased in early 1961 with the collapse of the Japanese housing market.

generally carries a lower tariff than motor carriers offer.

The railroad port at Whittier receives the larger part of the interline business. This traffic is composed of all types of consumer and industrial goods including building products, furniture, chemicals, oil field service equipment, fertilizers, machinery, vehicles, foodstuffs, and other goods. Most of these cars with west coast origins arrive aboard Alaska Hydro-Train (AHT) barges from Seattle. However, cars from mid-western, eastern, and Canadian origins tend to move through Prince Rupert via Canadian National Railway (CNR) and the barges they operate. The AHT movements total 200,000 to 300,000 tons annually while CNR moves about 30,000 to 40,000 tons. While these two comprise only 10 to 15 percent of ARR's total traffic tonnage, they generate between 30 to 40 percent of the revenues because of the value of traffic and the proportion of the total that moves fairly long distances. Presently about 50 percent goes to Anchorage while the remainder goes to Interior or Kenai Peninsula points.

Several characteristics of ARR traffic are important to understand because they define both the present and likely future markets which the railroad will serve. The railroad, as an instrument of mass movement, is generally oriented toward industrial rather than consumer customers; it provides most of its services to a limited clientele which has direct access to the system. It should be remembered that rail service is attractive to a relatively limited number of shippers; however, these shippers usually comprise the basic elements of Alaska's economy, such as petroleum production and refining, mining, construction; timber; the military; wholesaling;

**Table 8**  
**Freight Traffic Revenue**  
(in thousands of \$)

Commodity	1961	1966	1970	1976	1977
Coal	84,837	83,717	83,207	83,507	83,118
Sand & Gravel	2,712	866	1,008	872	879
Petroleum	6,700	4,891	3,877	6,382	11,314
Forest Products	1,734	1,253	888	2,131	1,602
Manufactured Products	13,631	8,275	8,738	8,370	8,891
TOPFC/OPFC*	4,414	3,064	2,327	2,434	2,639
Other	181	188	114	118	244
<b>Total</b>	<b>114,009</b>	<b>100,204</b>	<b>100,180</b>	<b>103,801</b>	<b>111,685</b>

\*Trailer-on-flatcar/Container-on-flatcar.  
Source: Alaska Railroad Annual Reports.

and, potentially, heavy manufacturing, agriculture, and chemicals. Thus, the railroad tends to serve only those organizations which ship in sufficient quantity to make use of the discounts offered by carload, multi-carload, or trainload tariffs. For local traffic, this implies that the primary shippers will be the very largest industries in the railbelt, particularly those related to energy, construction, and resource development. This is particularly true given the small size of Alaska's heavy manufacturing and agriculture sectors. Should these two traditionally rail-oriented groups develop into a significant force in the state, they would become important revenue sources for ARR.

The interline traffic, particularly the railcar movements, is a bit more complex. For these movements several factors are important in determining the appeal of rail service. While the ability to order in carload or greater amounts is important, several other factors also influence the shippers' choice of mode. An important characteristic of many of these movements is that they involve commodities which are either not produced or wholesaled in the Seattle area or which can be procured more inexpensively by going beyond Seattle and dealing in sufficiently large quantities. This is particularly important for the Canadian National traffic. Another important feature of these movements is that they usually involve commodities which normally move by rail on the continental rail system, thus, making it attractive to avoid an additional set of loading and unloading changes at the port of embarkation. A fourth characteristic of considerable importance is the distance of a shipper's plant or warehouse from a rail siding. Only 5 to 10 percent of railcar shipments are distributed to their consignee from a central public warehouse or forwarding facility by truck, and these usually to the smaller, more infrequent shippers.

Together, these factors define a fairly narrow market to which ARR's interline service can appeal. However, as noted earlier, it is a very important market. It is also a fairly volatile one which varies considerably with the levels of activity in specific industrial economic sectors (i.e., construction), rather than being oriented toward the more stable consumer sector. While innovative marketing can stabilize these patterns somewhat and also potentially increase market share, it is unlikely that it can penetrate more than 30 percent of the U.S.-Railbelt Alaska trade without a significant shift in the texture of the Alaska economy or a dramatic change in competition. It is also notable that ARR's ability to enlarge its share of the market is limited by the capability and number of railcar barges which private operators have available and are willing to commit to the service.

#### Outlook

During the next 3 to 5 years the railbelt economic prospects provide considerable encouragement for the stabilization of the railroad's freight operations at a sufficiently high level to keep it viable. There are enough moderate-to-large-scale construction projects to provide firm prospects for a continuing high level of traffic. In addition, the prospect of moving 800,000 metric tons of coal annually from Healy to a Seward export terminal provides an important long-term, as well as seasonal, element of stability. It is also the type of movement for which the railroad is ideally suited. It adds significantly to revenues without proportionally increasing costs by utilizing already existing capacity and capabilities.

#### MAJOR RESTRUCTURING ISSUES

Clearly, there is much more to the Alaska Railroad than simply the enumeration of the physical and operational features indicated above. Its land holdings, employees, finances, competitive and regulatory environment, and passenger service must also be considered in any restructuring of the property. These issues have emerged as being the most critical now being faced by the state or any new potential owner or operator of the Alaska Railroad.

#### Land

*The following discussion drawn through "Native Village Selection Area Claims" page 14, was prepared by the Office of General Counsel of the Federal Railroad Administration*

Land is perhaps the most valuable fixed asset currently controlled by the Alaska Railroad (ARR). It is also an extremely important asset for operation, maintenance, and traffic development purposes. The total lands under control of the railroad are about 38,000 acres. The ARR has acquired its land through executive order, public land order, purchase, trade, and BLM trust deed. The earliest acquisitions were in 1914—the latest (.2 acres), in 1970. While these holdings are not extensive, they are among the most valuable industrial lands in Alaska. Of the total lands, about 12,000 acres are used for the right-of-way. The remaining 26,000 acres are used or reserved for marine and rail terminals, gravel resources, right-of-way erosion protection, industrial leases, gravel and rock reserves, railroad administration, and future development and facility expansion. Since the Alaska Native Claims Settlement Act of 1971 (ANCSA), both the ownership and use of these lands has been clouded. Table 9 indicates the location and quantities of land and the Native villages that have filed claims against particular parcels.

The railroad land holdings fall within seven

Native village selection areas and four Native regions that were established by ANCSA. Approximately 8,035 acres of railroad land, or 21 percent of the total holdings, are located in Native village selection areas and are potentially subject to claims by Native village corporations. Substantially all railroad land, whether or not located in a Native village or regional area, may ultimately be claimed by Cook Inlet Keppon, Incorporated (CIRI) under the special authorization that allows CIRI to select land outside its regional boundaries.

#### Right-of-way Lands

The main line right-of-way from Seward to Fairbanks was established by executive order in 1915.<sup>6</sup> The right-of-way lands of two small, private railroads were purchased to form the first 70 miles north from Seward and part of the right-of-way approaching Fairbanks. The balance of the original right-of-way was reserved from public domain by the Alaska Engineering Commission under authority of the Alaska Railroad Act and the 1915 executive order. Other public lands have been acquired over the years and now provide branch line connections to Palmer, Whittier, and other towns. Spur lines have been constructed to provide access to airports and coal fields along the railbelt. Defense lands have been transferred to the railroad for construction of rail lines into several defense installations. The railroad has also purchased some right-of-way lands from private individuals or from state and local governments. The right-of-way is mostly 200 feet wide, with some variations. The right-of-way is wider at several locations where needed for control of wash-outs and for steep cuts and fills. Narrower rights-of-way are common on several spur lines where the railroad passes through military reservations or where other factors hindered the acquisition of a full 200-foot right-of-way.

#### Non-Right-of-Way Lands

The 26,521 acres of railroad land other than right-of-way lands were acquired by executive orders, public land orders, transfers, purchases from private owners, and by trade for other lands with state and local governments. These land parcels range in size from 0.4 acres up to 5,830 acres at twenty-seven locations adjacent to the right-of-way and three smaller locations off the railbelt. These lands were acquired to support operation of the railroad. About 1,000 acres were leased to businesses which provide lease revenue and generate rail traffic for the railroad.

<sup>6</sup>Executive Order No. 1, April 10, 1915.

Another 9,000 acres are used as active gravel and rock quarries or 425 held for the railroad's future gravel and rock needs. Other parcels are used for storage, maintenance, and terminals. About 100 acres are used for the operation of the Yutana Barge Line at Nenana and another 570 acres are part of the Seward and Whittier port and terminal facilities. The largest three parcels are located in the remote areas of Curry (4,970 acres), Midway (3,811 acres), and Healy (5,830 acres). These large parcels are mostly vacant and are held by the railroad for controlling watershed, providing gravel resources, and allowing future development or expansion of the railroad.

The three pieces of land not adjacent to the right-of-way are a presently leased 50-acre parcel in Valdez that was used to handle railcars from ocean-going barges in support of the Alaska oil pipeline construction and two parcels totaling 60.4 acres (60 acres at Holy Cross and 0.4 acres at Tanana) that are leased as docking and storage areas by Yutana Barge Lines.

#### Native Village Selection Area Claims

Table 9 shows railroad lands that are located within Native village selection areas. Claims have been filed by Native village corporations for virtually all railroad lands that lie within these areas. The extent to which these lands will ultimately be conveyed to the village corporations will depend on determinations made by the Department of the Interior as to which lands are actually used by the railroad and, therefore, exempt from selection under section 3(e) of ANCSA. The Department of the Interior published final 3(e) regulations that went into effect in late 1980, setting narrow standards for determining which lands are actually used by the railroad. Under the regulations, the railroad would not retain any leased land or gravel reserves claimed by a Native corporation, and the railroad's right-of-way would be converted into a limited easement right across land that would be conveyed to the Native claimants. In the first major claim for railroad land within a village selection area, the Federal/State Land Use Planning Commission (LUPC), an advisory body established by ANCSA, recommended that 90 percent of the railroad's land holdings claimed by the Eklutna Village Corporation should be conveyed. This recommendation includes all leased lands, all right-of-way lands, and substantially all gravel reserves and would leave the railroad with only a small storage yard and one gravel pit in this area. The railroad would retain only 240 acres out of its present 2,700 acres in this area. Although the 3(e) regulations are now final, the Department of the Interior has neither formally ruled on

Location	Total Acres	Acres Leased (Annual Lease Revenue)	Acres Containing Gravel & Rock Reserves (Est. Cubic Yards in Ground)	Acres Within Native Selection Area (Name of Native Village)
1. Seward	299	58 (\$123,000)	---	---
2. Crown Point	81	1 (\$1,800)	---	---
3. Mood Pass	5.6	---	---	---
4. Portage	900	---	---	---
5. Whittier	272	15 (\$3,500)	100 (\$150,000)	---
6. Anchorage	661	332 (\$1,500,000)	---	---
7. Eagle River	1,800	0.1 (\$9,400)	1,450 (9,000,000)	1,800 (Eklutna)
8. Birchwood	251	---	150 (1,800,000)	251 (Eklutna)
9. Eklutna	343	---	343 (2,300,000)	343 (Eklutna)
9a. Eklutna-ILM Gravel Reserve	301	---	301	301 (Eklutna)
10. Matanuska	199	---	---	199 (Eklutna)
11. Pittman	145	---	145 (2,100,000)	145 (Eklutna & Knik)
12. Willow	56	---	---	---
13. Gravel Pit	215	---	215 (2,200,000)	---
14. Talkeetna	144	---	---	---
15. Curry	4,970	---	1,200 (10,000,000)	---
16. Gold Creek	28	---	---	---
17. Chulitna	100	---	100 (1,500,000)	---
18. Midway	3,811	---	1,000 (3,900,000)	---
19. Colorado	44	---	44 (650,000)	---
20. Broad Pass	1,070	---	600 (1,600,000)	630 (Cantwell)
21. McKinley Park	18.4	0.3 (\$5,700)	---	---
22. Healy	5,830	101 (\$13,380)	600 (5,200,000)	---
23. Lignite	1,260	278 (2,400)	---	---
24. Clear	2,780	---	2,780 (40,000,000)	640 (Nenana)
25. Nenana	279	104 (\$221,000)	---	279 (Nenana)
26. Fairbanks	461	92 (\$250,000)	---	---
27. Holy Cross	60	4 (\$1)	---	60 (Holy Cross)
28. Tanana	0.4	---	---	0.4 (Tanana)
29. Moose Creek	89	---	---	89 (Eklutna)
30. Valdez	50	17 (\$41,250)	---	---
<b>Subtotal</b>	<b>28,521.4</b>	<b>999.4 (\$2,171,231)</b>	<b>9,028 (80,400,000)</b>	<b>4,737.4</b>
<b>% of Subtotal</b>		<b>3.8%</b>	<b>34.0%</b>	<b>17.9%</b>
			<b>Right-of-Way Lands</b>	<b>2,863.9*</b>
Seward-Fairbanks	10,877.2	---	---	---
Portage-Whittier	184	---	---	---
Fairbanks-Eielson	470.3	---	---	---
Healy-Suntrana	111.5	---	---	---
Matanuska-Chickaloon	434.1	---	---	434.1*
<b>Subtotal</b>	<b>11,877.1</b>			<b>3,298</b>
<b>% of Subtotal</b>	<b>27.8%</b>			
<b>TOTAL</b>	<b>38,398.5</b>			<b>8,035.4</b>
<b>% of TOTAL</b>				<b>20.9%</b>

\*Right-of-way miles in village selection area: Nenana, 40.5 miles; Cantwell, 38.7 miles; Knik, 3.5 miles; Knik and Eklutna, 43.8 miles; Eklutna, 30.6 miles; Chickaloon, 27.3 miles.

Source: Alaska Railroad records.

the Eklutna claim nor begun to process other claims. However, Department of the Interior officials in Alaska and Washington, D.C. have indicated a willingness to accept the bulk of the LUPC's recommendations. Selections of railroad land in other village areas are expected to follow the outcome of the Eklutna claims. If the result for all railroad land located in village selection areas follows the LUPC recommendation, the railroad would lose up to 90 percent of its lands located in village selection areas. This could mean the loss of 7,534 acres, or 19.8 percent of the railroad's total land holdings, the loss of 19 million cubic yards of gravel and rock reserves; and the direct loss of \$230,000 per year in lease revenue.

#### Cook Inlet Regional Corporation Selection of Railroad Land

A problem that could affect virtually all railroad lands is the special selection authority of Cook Inlet Region, Incorporated. CIRI considers substantially all railroad land holdings, whether located in Native village selection areas or not, to be eligible for selection. CIRI has formally asked that all railroad lands, except those conveyed to village corporations, be placed into the selection pool that was created by the special statutory authority for CIRI to select lands outside its regional boundaries. To date, CIRI's broad interpretation of the law has not been accepted by the Department of the Interior, which maintains that the CIRI selection pool cannot include railroad lands outside the village selection areas. However, CIRI is expected to challenge the Department of the Interior's view. If CIRI is successful in reversing the Department of the Interior's opinion either administratively or in court, substantially all railroad lands would be subject to CIRI selection. It would then be necessary for the Department of the Interior to make a 3(e) actual-use determination for all railroad lands selected, not just railroad lands located within village selection areas. The narrow standards in the final 3(e) regulations would then be applied to all railroad lands and could result in the loss of virtually all ARR's leased lands, gravel reserves, and other properties along the railbelt.

#### The Uses of Railroad Lands

The authors feel that the railroad's lands are as essential to its operations as are any of the other ARR assets. They believe that if the ARR is to act as a part of the market economy of the state, it must be capable of exercising some degree of control over the lands with which it is associated. Such control ranges from absolute and perpetual surface control over

some of the land to more limited powers over other types of real property.

Lands now under the jurisdiction of the ARR may be categorized as follows:

1. Main line and branch line rights-of-way.
2. Terminals and ports.
3. Lands leased to traffic-producing tenants.
4. Material source lands (for example, gravel deposits).
5. Lands leased to nontraffic-producing tenants.
6. Lands held for future operations and traffic development.
7. Former rights-of-way.
8. Other holdings.

In the authors' opinion, each of these types of land requires specific protection if it is to continue supporting the railroad in its role as a functional participant in the state transport network.

Requiring the most protection are the main line and branch line rights of way. The nature of railroad operations requires that these lands be under complete control of the railroad, including at a minimum the right to:

1. Have complete freedom to add to or delete from the land any structures, roadbeds, adjacent rocks, or gravel or to recontour the land as necessary.
2. Move track within the right-of-way or to add or delete track.
3. Provide loading and unloading facilities for railroad customers or for railroad purposes.
4. Add structures as may be necessary for operation.
5. Remove any vegetation which may be required to operate or expand the railroad's services.
6. Fence the right-of-way.
7. Operate any and all trains necessary.
8. Restrict or grant access to persons or vehicles as it sees fit.
9. Construct and maintain any drainage facilities necessary to preserve the right-of-way.
10. Make any provisions necessary to protect the operational capability of the right-of-way even if this requires access to and control of lands beyond the normal right-of-way limits (e.g., avalanche, flood control).
11. Take such action as may be necessary to safely operate in situations where conflict with other transport modes may exist.

12. Place all necessary communications and signal devices within the right-of-way or to maintain separate rights-of-way for these items where necessary.

The authors believe that all of these elements must be available to enable the railroad to maintain the property, provide for safe operations, protect the public, meet public regulatory requirements, operate efficiently, and be responsive to economic opportunities and influences. The normal mechanism required to exercise these responsibilities is fee ownership of the property by a railroad. In those relatively unusual circumstances in which a railroad cannot obtain fee ownership, then it occupies a land parcel via a railroad easement. This gives the railroad complete control of all surface rights to the property, including the right to exclude the fee owner from the property and to exercise all of the functions noted above. The usual railroad right-of-way is 100 feet to either side of the center line of the main line. It is very unusual for less than this width of land to be available; however, wider rights-of-way are not uncommon. The Alaska Railroad's enabling legislation specifies a right-of-way width of 200 feet total with a supplement of 50 feet for purposes of operating a communications system where necessary. Terminal or port lands usually have no specific width related to track location. Rather, they are specified in the more traditional types of descriptions used generally in real property.

#### Lands Providing for Railroad Traffic Development

This category of land is second in importance to that of rights-of-way and terminals. The importance of this category goes beyond the lease income generated by the property to the very essence of railroad traffic and marketing. An analysis of the Alaska Railroad's traffic indicates that only a very small portion of operating revenues are derived from customers whose businesses are not directly adjacent to the railroad's right-of-way.<sup>7</sup> The efficient loading, or unloading of carloads requires a customer to have direct access to railroad facilities. This factor is of such importance that it is usually quite difficult to serve a customer who is not directly linked to the railroad. One of the primary tools available to a railroad to solicit this type of traffic is land adjacent to its right-of-way on which a shipper can locate his facilities or store his goods. Thus, the lands available for leasing to traffic-producing customers contribute much to the ability of the railroad to sustain its present operation and to be economically viable. Likewise, those lands which are available for future

<sup>7</sup>See "Traffic Base," page 9.

lease to traffic-producing customers represent the long-term capability of the railroad to continue its existence as an economic enterprise.

In the authors' view, the only mechanism which will permit the railroad to manage these lands effectively is complete control of their use. While there is a clear obligation in ANCSA legislation to honor existing leases whether the landowner is the railroad or another party, the only manner in which a continuing commonality of interest between the railroad and future lease holders can be maintained is by providing ownership of those parcels for the railroad or by requiring any future owner to use them for rail traffic purposes so long as the railroad exists. It is not at all likely that the land development interests of the railroad and a future, non-railroad owner would coincide since land sale or lease for non-railroad purposes would frequently generate much higher income than would typical railroad uses.

#### Lands, Improvement, and Construction

This category includes those properties from which materials such as gravel and rock are obtained for maintenance and improvement. The authors feel that a railroad must have long-term access to such land as well as a fairly unrestricted right to remove materials as required. These needs are basic to the continuing operation of a railroad, because any railroad's roadbed and track will deteriorate rapidly if not regularly maintained and ballast renewed periodically. This renewal requirement is particularly critical in Alaska where the amount of moisture during spring breakup can, if not controlled, make track unusable within a single year. In addition to regular maintenance, there may be very large short-term demands for rock and gravel to repair damage from floods, avalanches, and earthquakes. The ARR annually requires an estimated 200,000 tons of gravel and 40,000 tons of rock for normal maintenance. In addition to this amount are requirements for emergencies and for track improvements, industry access, and alignment improvements. The latter items result from changing demands of railroad traffic and operation patterns. These are produced by such factors as changes in car types and commodities (such as bulk commodities requiring more substantial track), frequency of operations (more traffic requires more frequent attention regardless of commodity), types of operations (need to improve transit times to attract or keep time-sensitive traffic), or the need to improve operating efficiency (lower maintenance costs or operating costs by realigning track).

Unlike the previous land categories, there is no

absolute requirement for ownership of the property if the railroad has the access and extraction rights mentioned previously or has access to commercial gravel. However, without railroad ownership of the materials, the costs of maintenance and improvement will be increased in two ways. One will be the commercial cost of gravel and rock. Having to purchase gravel at the current cost of \$13 per ton would cost the ARR a minimum of \$2,600,000 annually for normal maintenance. These costs would amount to an additional charge of \$1.49 for each revenue ton carried by the Alaska Railroad (in 1980 dollars). In addition to this would be any aggregate demands for emergencies, new construction, or rebuilding. These additional costs would either have to be passed to shippers (and, thus, largely to consumers) by freight rate increases or would have to be supported by a public subsidy. Should increased freight rates be chosen, they will probably make the railroad less competitive and result in higher subsidy demands.

#### Lands Leased to Nontraffic-Producing Tenants

The lands leased to nontraffic-producing tenants are not necessary to the continued operation of the railroad, except where the lands can be converted to traffic-producing properties either by lease to customers for plant location or by exercise of mineral rights. How much these holdings may assist the railroad in its future operations will largely depend on location in relation to commercial opportunities. Even though the presently leased properties are not essential to the operational survival of the railroad, they do provide a major source of income which permits lower freight rates than might otherwise be the case. Should the railroad lose control of this land, the lost revenue would have to be obtained from other sources—either higher freight rates or public subsidy.

#### Former Rights-of-Way Land

This final land category is probably important only in terms of the future resource development role that policymakers may wish the railroad to play. Specifically, the railroad currently controls the land of a former right-of-way extending eastward up the Matanuska Valley approximately 30 miles past the Sutton, Eska, and Jonesville coal fields to Chickaloon. This right-of-way provides access to coal resources and will be an essential ingredient in any scheme to export coal from the Matanuska Valley.

According to ARR management, any railroad depends almost entirely upon the way it can use its lands if it is to operate effectively and to market that operation reasonably. Without this ability to utilize

lands, any railroad is clearly an unattractive investment. Therefore, without a satisfactory resolution of the current questionable status of Alaska Railroad lands, any potential owner should be hesitant about becoming involved with the railroad. If he should do so without obtaining the types of guarantees specified above, it should be with the clear understanding that this course of action may well lead to a large and continuing drain upon his treasury.

#### Employee Concerns and Obligations

##### Present Situation

The Alaska Railroad (ARR) is a federal agency under the Federal Railroad Administration (FRA), U.S. Department of Transportation. Few of the positions held by employees of the Alaska Railroad, the only railroad operated by the federal government, are found in other federal agencies since the majority are unique to railroad operations. The ARR employees, having significant railroad operational experience and knowledge, represent one of the railroad's most valuable assets. In addition, the ARR employees have knowledge of the special railroad operational requirements for Alaska, with its difficult climatic conditions and associated maintenance requirements.

**Declining Work Force.** After the completion of the pipeline, the Alaska Railroad experienced declining traffic and revenues until the 1981 fiscal year (June 1980). Since that time, significant traffic and revenue increases have occurred despite high interest rates, inflation, and generally poor national economic conditions. In the face of increasing costs and declining revenues and traffic, the Alaska Railroad has annually reduced its work force over the last 5 years. For example, in FY 1976, the railroad employed an average of 1,025 persons, but by April 1981, this workforce totaled only 629 employees, including both permanent and temporary workers.<sup>8</sup>

The following table demonstrates the personnel levels by department in mid-April 1981, according to a railroad manning report (see Table 10).

**Organized Labor and the ARR.** As regards organized labor for its employees, the Alaska Railroad is similar to private railroads in the continental United States. Unlike private sector railroads, however, most labor agreements with the Alaska Railroad

<sup>8</sup> Because the Alaska Railroad is a federal agency, there is substantially larger lag between the acknowledgment of declining revenue traffic and a reduction in the number of employees than would be experienced in private railroad operations.

Table 10  
Authorized vs. Actual Numbers  
of ARR Employees

Department	Authorized Position	Total Employees	Permanent Employees	Temporary Employees
Administration	86	82	77	5
Transportation	228	218	202	16
Engineering	270	181	137	44
Mechanical	142	138	130	8
Marketing	14	10	8	1
Total	760	629	555	74

are perpetually in effect until either organized labor or the railroad management wishes to open the labor agreements for renegotiation. This factor has interesting long-range implications in view of the potential transfer of the railroad's ownership and operations.

At the present time, five unions represent the Alaska Railroad employees. These are listed in Table 11 along with the number of employees which each represents.

**The Full-Crew Law.** An additional area of concern regarding employee operating agreements and a change from federal status involves a current Alaska statute, the full crew law—the only one left in the United States. It requires a five-man train crew, including a locomotive fireman, for all trains. Currently, because it is a federal agency, the ARR is exempt from this law and operates its trains on the basis of agreements negotiated with labor organizations. Usually, these require only three- or four-man crews for each train. If Alaska does not repeal this law during the course of any restructuring, it is unlikely that the railroad would ever be a self-supporting operation. If the present full crew law continues in force, the state should be prepared to pay several million dollars annually in subsidy for unnecessary labor.

Thus, the Alaska Railroad's employee situation is more complex than that of other railroads since its employees are generally not only members of various labor unions (similar to other railroads) but are also federal employees with all of the rights and benefits which are afforded participants in the federal government's civil service system. The implications of these double protection rights and benefits for the proposed transfer are far reaching and significant.

#### Financial Implications

Another significant consideration in the poten-

tial transfer of the Alaska Railroad from the federal government to the State of Alaska is the financial implications of employee protection, including federal retirement benefits.

The current employees of the Alaska Railroad have participated in and contributed to the federal Civil Service Retirement and Disability Fund. The Alaska Railroad has matched the contributions made by each employee during their employment to date, and these contributions have been made out of railroad revenues. The federal Civil Service Retirement System is under the jurisdiction of the U.S. Office of Personnel Management.

The Civil Service Retirement and Disability Fund is the accumulation of money held in trust by the U.S. Treasury for the purpose of paying annuity, refund, and death benefits to persons entitled to them. The present Alaska Railroad employees are among the persons entitled to these benefits.

The identified federal commitments which were made by the Alaska Railroad to employees at the time of employment include the total cost of relocation back to the point of recruitment of any employee and family recruited from outside Alaska when they choose to return. Other employee commitments include participation in the Federal Employees Group Life Insurance Program, health insurance benefits, accrued sick and annual leave, credit for time served as federal employees, turnaround trips to the point of recruitment every two years (as distinguished from relocation), and protection against arbitrary dismissal by the Merit Systems Protection Board.

There are many unanswered questions related to the employees and protection of their rights. These questions can best be answered and the problems

Table 11  
Labor Organizations Representing  
ARR Employees

Organization	Employees Represented
American Train Dispatchers Association	20
Brotherhood of Railway Carmen	37
United Transportation Union	127
American Federation of Government Employees*	315
International Association of Machinists and Aerospace Workers	80
Total	579

\*The American Federation of Government Employees represents both white- and blue-collar workers

solved by the federal government since it is their system and not Alaska's which has given the employees their protection. Failure to solve these obligations prior to the transition phase may well lead to lengthy and costly litigation as well as to excessive employee turnover. Thus, careful consideration of these factors as part of the federal transfer legislation would benefit all concerned.

We should also note that several of the existing labor agreements will continue in force until either the labor organizations or the railroad management wishes to open negotiations. It is probably best that these agreements remain in force for a specified time, after which they would be subject to new negotiations. The transfer legislation could provide for such negotiations and establish the framework for setting labor agreements.

In summary, ARR's legal obligations to its employees are extensive, and the federal government is in a much better position than the state to provide them with a proper transitional program. Such a program would protect the employees, the State of Alaska, and the federal government.

#### Finances

Its status as a federal agency complicates the financial condition of the Alaska Railroad. For example, none of the traditional measures of financial health such as price-earning, debt-equity, or even revenue-expense ratios properly portray the condition of the operation. In addition, the burden of passenger service (about 35 percent of all trains operated in 1980) distorts even the traditional railroad operating efficiency measures which might otherwise be employed. Financial reporting is done by methods and for reasons which differ from private practice and which are not even entirely consistent with federal government standards. Similarly, public sector capital budgeting and justification is not organized or presented using the methods of the rail industry. The differences result both from conflicting management objectives and requirements for management information which are dictated as much by federal control as by the need to manage operations.

The ARR receives operational funds from four primary sources:

1. Revenues earned by transporting freight and passengers.
2. Income from property leased to others.
3. Reimbursable services performed for others.
4. Congressional appropriations for acquiring capital assets and for major maintenance.

This income is all placed into a single revolving fund account with the U.S. Treasury against which the railroad draws to support its day-to-day operations and fund capital expenditures. Income placed in the account remains available until extended by ARR either for operations, capital expenditures, or other work authorized by appropriation.

While the revenue from the railroad's own operations is largely independent of external control,<sup>9</sup> those resources obtained by Congressional appropriation are subject to many of the same restraints common to the budgets of all federal agencies. These requirements dictate a budgetary process which may have both revenue-based funding and appropriated funding used for similar purposes while justification for their use may be quite different. The justification for appropriated funding is similar to that seen for other agencies which seek money to maintain the existing property and operations and to comply with federal guidelines. This is somewhat different from the approach used on most private rail systems where budgets are developed and justified on the basis of the probability of operations and the investment being funded.

With this background, let us look in more detail at the railroad's financial situation. This analysis will deal with the *financial statements, revenues and expenses, assets and liabilities, and capital budgets*. We will review both the information available from this material and its limitations. In addition, where possible, we will explain the future implications of these items.

#### Reporting Financial Information

The Alaska Railroad prepares three public financial documents. One of these, the *capital budget and appropriation request*, will be dealt with in another part of this section. The other two are the *annual report* and the *monthly financial statements*. While both provide useful information, they are limited in scope when compared to similar documents prepared by private railroads.

**Annual Reports.** The annual reports are prepared following the end of each federal fiscal year (September 30). They summarize the previous year's financial performances and contain a limited amount of operational data as well as a narrative outline of the previous year's events. The financial information includes a brief income statement, balance sheet, and

<sup>9</sup>The only restraint upon expenditures of these revenues is that they must be used for a function authorized the railroad in its enabling legislation, as amended.

a statement of changes in financial position. None of these are entirely consistent with private practice in stockholder reports, principally due to the federal status. The differences are most clearly apparent in the balance sheet where liabilities include only a limited number of current items and neither long-term liabilities nor stockholders' equity. The long-term liabilities do not exist since the railroad is debt free and need not provide for taxes. Substituted for stockholder's equity is an item termed "Proprietary Interest of the United States Government," which is the sum of all federal appropriations plus retained earnings from operations.

The income statement varies from that of private practice in that it does not account for fixed charges other than depreciation. It is important to note that the ARR, as is common with most railroads, does not capitalize and depreciate its track structure. Rather, it uses the practice known as betterment accounting, which charges any replacement material regardless of the amount of expenditure, to current maintenance expenses and capitalizes only the improvements. While the result of this practice for a private railroad is to present the financial status in a more conservative light, the effect on the Alaska Railroad is slightly different. Because the ARR seeks federal appropriations to perform some major track maintenance (which becomes part of the proprietary interest), this work is effectively capitalized (whether it involves replacements or improvements) and is then not depreciated. Effectively, this practice tends to understate the long-term capital requirements to maintain an adequate track structure while at the same time, it overstates current maintenance expenditures.

Table 12 shows the changes in fixed asset values which have taken place in the 1976-1981 period. The increase is due primarily to additions to equipment (mostly fifteen new locomotives) and to structures.

A difficulty on the asset side of the balance sheet involves establishing the value of assets. It should be remembered that a considerable portion of the ARR properties were transferred from other federal agencies, often at a cost of only transport charges or salvage value. This entire line from Whittier to Portage is in this category. To what extent this type of accounting for the assets understates their true value is not certain. For present day-to-day operational purposes, it is not of great importance except that it understates the depreciation charges and thus the capital reserve requirements. Any restructuring will necessitate the identification of appropriate asset values for rate-making and other purposes.

Table 12  
End of Fiscal Year Fixed Assets  
(\$ in millions)

	Date					
	8/81	8/80	8/79	8/78	8/77	8/76
Land*	.27	.27	.82	.43	.27	.27
Buildings	12.32	12.36	12.39	12.15	11.96	11.51
Other Structures & Facilities	112.13	111.89	110.89	108.83	107.83	107.20
Equipment	45.84	44.03	41.33	40.93	40.93	36.16
Nonoperating Property	1.88	2.99	3.93	3.54	3.54	3.44
Total Fixed Assets	172.44	171.34	168.96	165.88	164.33	159.28

\*Only purchased lands are included in this statement. See Table 9 for values of all lands.

Source: Alaska Railroad Financial Statements.

The lands controlled by the railroad are also not included in assets, except for those directly purchased by the ARR, because most of the land was transferred to the railroad at no cost by executive order or public land order.

Monthly Financial Statements. The monthly financial statements are much more detailed than the annual reports. They provide both an income statement and a balance sheet in the same format as the annual report. However, each line item is further broken down into relevant details. Conceptually, the same limitations apply to these statements as to the annual reports. This investigation, however, discovered an additional serious limitation: the inability to isolate passenger from freight-service costs. While revenues are separately reported, costs are separated in only a few categories. Those that are recognized appear to be only a few of the short-term, out-of-pocket costs. This clearly does not reflect the full, direct cost of providing the passenger service, which constitutes 30 to 40 percent of all train miles operated. Because of the importance of this function of the ARR, we allocated the costs left unassigned by the financial statements and present them later in this section.

Another important difference between the ARR and normal industry reporting occurs in the area of operational statistics, which allow the analyst to prepare efficiency measurements. While the annual report contains limited data on operations, the financial statements have none. Those in the annual report are not equivalent to those required of private railroads in their annual reports to the ICC or even to

many of those prepared for stockholders. This area represents an important deficiency in the ARR's public reports.

With these explanations in mind, it is appropriate to look at the financial performance of the Alaska Railroad during the past several years.

#### Financial Performance

The Alaska Railroad has experienced rather varied financial circumstances over the past decade. It experienced some of its best years during 1975 and 1976 and some of its worst in 1979 and 1980. The ARR's cyclic performance during these years is representative of the entire financial and operational history of the railroad. It also indicates the sensitivity of the railroad's financial performance to traffic changes which would be considered minor on most railroads.

Table 13 summarizes the income and expense performance between October 1975 and September 1981. As can be seen, revenues had fallen by 1979 to half their 1976 level; expenses stabilized after 1977 and remained so through 1980. This indicates the sensitivity of the profit or loss to changes in revenue rather than to cost factors. This is a basic fact for all light-density railroads: they must operate at certain minimum levels if they are to handle available traffic and maintain certain operable levels. That is what has occurred on the Alaska Railroad. To retain traffic, it has had to maintain and operate the property at a certain level. However, it would cost only marginally

	FY 81	FY 80	FY 79	FY 78	FY 77	FY 76
<b>REVENUE</b>						
Operating	\$40.78	\$28.74	\$21.08	\$27.44	\$33.38	\$44.08
Nonoperating	1.16	2.13	2.08	1.65	1.66	1.18
<b>Total</b>	<b>41.94</b>	<b>30.87</b>	<b>23.16</b>	<b>29.09</b>	<b>35.04</b>	<b>45.26</b>
<b>EXPENSES</b>						
Operating	40.38	34.38	31.28	33.30	38.70	48.67
Nonoperating	.27	.34	.21	.21	.25	.18
<b>Total</b>	<b>40.65</b>	<b>34.72</b>	<b>31.49</b>	<b>33.51</b>	<b>38.95</b>	<b>48.85</b>
<b>Gain (Loss)</b>	<b>1.29</b>	<b>(3.85)</b>	<b>(8.33)</b>	<b>(4.42)</b>	<b>(3.91)</b>	<b>(3.59)</b>
<b>Depreciation</b>						
Included in Expenses	2.27	2.53	2.72	2.70	2.13	2.61
<b>Cash Gain (Loss)</b>	<b>(1.00)</b>	<b>(6.38)</b>	<b>(11.05)</b>	<b>(7.12)</b>	<b>(6.04)</b>	<b>(6.20)</b>

Source: Alaska Railroad Financial Statements.

Table 14  
1978 Revenues and Expenses  
(\$ in millions)

	Freight	Passenger	Other	Total
<b>Revenue-Total</b>	<b>\$23.68</b>	<b>\$1.50</b>	<b>\$3.77</b>	<b>\$28.95</b>
Operating	23.68	1.50	2.12	27.31
Nonoperating			1.65	1.65
<b>Cost Expense</b>	<b>21.98</b>	<b>6.35</b>	<b>1.98</b>	<b>30.32</b>
Engineering	4.24	0.64		4.88
Financial	5.29	1.28		6.57
Transportation	8.30	2.95		11.25
Traffic	0.29	0.13		0.42
Communications	0.30	0.14		0.44
Administration	2.57	1.21		3.78
Other Operating			1.86	1.86
Nonoperating			0.12	0.12
<b>Depreciation</b>	<b>2.81</b>	<b>0.28</b>	<b>0.12</b>	<b>3.19</b>
<b>Total Expense</b>	<b>24.80</b>	<b>6.63</b>	<b>2.10</b>	<b>33.53</b>
<b>Gain (Loss) Before Depreciation</b>	<b>1.70</b>	<b>(4.88)</b>	<b>1.79</b>	<b>(2.39)</b>
<b>Fully Allocated Gain (Loss)</b>	<b>(1.11)</b>	<b>(5.11)</b>	<b>1.87</b>	<b>(4.35)</b>

Source: Alaska Railroad Financial Statements and Annual Report. Revenues and Expenses computed using ICC cost allocation methods.

more to operate at a considerably higher level, generating much more revenue. The 1981 results further illustrate this problem. As noted below, the composition of costs and revenues provides significant insight into the various cost factors.

Tables 14, 15, and 16 provide a more detailed analysis of 1978, 1979, and 1980 revenues and expenses distributed to freight and passenger service and to other activities. It is important to note that the method used by this analysis develops fully allocated costs.<sup>10</sup> That is, the method allocates both the direct, short-term, out-of-pocket costs and the various types of joint costs and overhead to the appropriate service. This estimates the resources used to supervise the passenger trains' operation and maintenance, to market and administer them, to provide the incremental track maintenance required by them, to service and supply them, and to control their activities. It should be realized that if the passenger trains were eliminated, many of these joint and common costs would remain. However, over the long term, it would be possible to eliminate them

<sup>10</sup>Where the financial statements provided specific cost breakouts (such as passenger or freight car maintenance), these were used directly rather than being allocated.

**Table 15**  
1979 Revenues and Expenses  
(\$ in millions)

	Freight	Passenger	Other	Total
Revenue-Total	\$19.08	\$1.98	\$4.11	\$25.18
Operating	18.08	1.98	2.03	22.07
Nonoperating			2.08	2.08
Cash Expenses	20.10	6.17	2.00	28.27
Engineering	3.29	0.59		3.88
Mechanical	4.77	1.15		5.92
Transportation	8.86	2.86		11.72
Traffic	0.31	0.16		0.47
Communications	0.25	0.13		0.38
Administration	2.36	1.29		3.65
Other Operating			1.91	1.91
Nonoperating			0.08	0.08
Depreciation	2.82	0.25	0.15	3.22
Total Expense	22.92	6.42	2.15	31.49
Gain (Loss) Before Depreciation	(1.02)	(4.21)	2.11	(3.12)
Fully Allocated Gain (Loss)	(3.84)	(4.48)	1.96	(6.34)

Source: Alaska Railroad Financial Statements and Annual Report reconstructed using ICC cost allocation methods.

or to divert the resources they represent to more productive uses.<sup>11</sup>

The analysis indicates that the nonrail activities have consistently shown a positive net income. The freight service has shown a positive cash flow (net income before deduction of depreciation) in 1978 and 1980, but 1979 indicates a \$1.02 million cash loss. For the 3 years, the total cash gain on freight operations was \$2.48 million. While this is not sufficient to cover all depreciation charges, it does represent an impressive performance, particularly when considered in relation to the weak Alaska economy during this period. With freight and other activities combined, the cash flow is positive for all 3 years, and total net income is positive (or zero) in 1976 and 1980. This leaves the passenger service as the principal source of the substantial losses shown in the annual reports. Such a result is consistent with the problems experienced by other North American railroads during the past 30 years.

<sup>11</sup>Where ARR accounting records did not specifically allocate costs to either freight or passenger service, they were so allocated using methods prescribed by the Interstate Commerce Commission to the extent that the required operating statistics were available. See Code of Federal Regulations, Title 49, Part 1242.

There are two possible causes for the passenger service's poor financial situation: excessive expenses or inadequate revenues. An examination of the various expense categories indicates that they are not excessive considering the substantial proportion of the operations represented by passenger service. Given the nature of passenger train operations, this is in fact a substantial compliment to the ARR management. This result is confirmed by comparing the ARR passenger service to that of the Denver and Rio Grande Western (D&RGW) passenger service for comparable periods. During 1978 to 1980, approximately the same number of passenger train miles were operated by both railroads. Expenses were also comparable; however, the D&RGW revenues were 50 percent to 100 percent greater, resulting in a significantly smaller loss attributed to passenger service. ARR revenues, on the other hand, were not large enough to be comparable to the proportion of total operations represented by passenger service.

A more detailed discussion of the passenger problem is contained in the following section (Competitive and Regulatory Environment). It appears, however, that it would be impossible to generate enough passenger traffic to make the net income from passenger operations positive. This is the basis of a substantial long-term public policy question. It

**Table 16**  
1980 Revenues and Expenses  
(\$ in millions)

	Freight	Passenger	Other	Total
Revenue-Total	\$27.72	\$2.09	\$4.08	\$33.89
Operating	22.72	2.08	1.92	26.73
Nonoperating			2.16	2.16
Cash Expenses	20.92	7.60	2.67	31.19
Engineering	3.20	0.56		3.76
Mechanical	6.27	1.59		7.86
Transportation	9.34	3.58		12.92
Traffic	0.22	0.20		0.42
Communications	0.25	0.15		0.40
Administration	2.53	1.49		4.02
Other Operating			2.42	2.42
Nonoperating			0.25	0.25
Depreciation	3.08	0.32	0.13	3.53
Total Expense	24.00	7.92	2.80	34.72
Gain (Loss) Before Depreciation	1.80	(5.51)	1.41	(2.30)
Fully Allocated Gain (Loss)	(1.28)	(9.83)	1.28	(9.83)

Source: Alaska Railroad Financial Statements and Annual Report reconstructed using ICC cost allocation methods.

is also important to realize that, except for a modest depreciation charge against passenger service, this analysis has not included any capital costs.

Since it appears that freight service is a fairly stable income source even in economically depressed years, it is useful to examine the effects of adding a major additional long-term movement. For purposes of this discussion, it is assumed that the recently announced pending coal movement from Healy to Seward for export saw its initial operation in 1980. The revised income statement is shown in Table 17 based on the proposed 800,000 metric tons moving at a rate of \$10.10 per ton. Operation expenses are based on data supplied by ARR, and depreciation costs are computed at current rates based on the assumption that all new equipment is used for the movement. For this analysis, only freight and other

activities are considered. The changes in performance due to this single movement are considerable. Overall net income of \$0 becomes a positive \$1.2 million, and total cash generated goes from \$3 million to \$5.37 million. This clearly indicates the dependence of a light-density railroad on such movements and, more importantly, the positive effects of a substantial traffic source with long-term prospects.

Thus, the overall indication is of a property that has undergone substantial financial changes over the past 5 years. Although it has seen serious diminution in the volume and ton-miles of available freight traffic, there has been sufficient control of costs to maintain an overall positive cash flow each year after the passenger service is deducted from the results. A high-revenue, moderate-cost movement such as that proposed for coal could add stability to the performance.

#### Capital Budgets

Unlike private railroads, the Alaska Railroad does not have access to capital markets. It cannot borrow funds for equipment and cannot mortgage property to generate capital. These factors mean that the only methods of obtaining funds for capital improvements are through internal generation of depreciation charges or financial surpluses or appropriation. It also means that it must have sufficient capital to pay cash for improvements.<sup>12</sup>

Table 18 lists the capital and major maintenance expenses between July 1975 and September 1980 along with the source of funds. Clearly about 75 percent of the funding came from appropriations rather than from earnings. As noted in the previous section, it appears that the principal reason for this is the negative impact of passenger service on income. It also indicates that without passenger service, the ARR would have produced \$7.79 million internal capital between 1975 and 1980 instead of the \$1.2 million actually available. This would have reduced the necessary appropriation from \$17.3 million to \$9.51 million, even assuming that no money had been retained from earlier, more prosperous years. Clearly, the recognition of passenger service as a public good requiring public support could have a major impact upon the railroad's capital budget flexibility.

<sup>12</sup>The usual method used by private railroads to purchase rail equipment is through the "Philadelphia Plan," in which the down payment is 20 percent of purchase price, with the balance paid over 15 years. Because rail equipment offers excellent security, the interest rates are usually substantially below the prime rate.

	Freight	Other	Total
<b>With Coal</b>			
Revenue	\$22.72	\$4.08	\$26.80
Operating	22.72	1.92	24.64
Nonoperating		2.16	2.16
Cash Expense	20.92	2.67	23.59
Operating	20.92	2.42	23.34
Nonoperating		0.25	0.25
Depreciation	2.00	0.13	2.21
Total Expense	24.90	2.80	28.80
Gain (Loss) Before Depreciation	1.80	1.41	3.21
Fully Amortized Gain (Loss)	11.281	1.28	0.00
<b>With Coal</b>			
Revenue	31.82	4.08	36.70
Operating	31.82	1.92	33.74
Nonoperating		2.16	2.16
Cash Expense	27.68	2.67	30.35
Operating	27.68	2.42	30.10
Nonoperating		0.25	0.25
Depreciation	2.42	0.13	2.21
Total Expense	31.08	2.80	33.88
Gain (Loss) Before Depreciation	3.86	1.41	5.27
Fully Amortized Gain (Loss)	0.54	1.28	1.82

Source: Table 16 and Alaska Railroad records.

Table 18  
Capital and Major Maintenance Programs  
(\$ in millions)

Use	1980	1979	1978	1977	1976 <sup>a</sup>	Total
Buildings	80.7	80.1	80.1	80.1	80.5	81.0
Roadbed, Tract, Structures	3.3	2.2	2.8	3.5	4.2	16.4
Equipment	1.8	0.7	0.3	4.5	12.8	19.9
Other Projects	0.2	6.4 <sup>b</sup>	0.4	0.3	0.5	7.8
<b>Total</b>	<b>85.5</b>	<b>94</b>	<b>26</b>	<b>88</b>	<b>17.8</b>	<b>48.1</b>
<b>Fund Sources:</b>						
Appropriations	8.0	8.3	3.0	6.0	9.0	32.3
Railroad Earnings	0.5	0.1	0.6	2.8	8.8	12.5

<sup>a</sup>1976 was a 15-month fiscal year.

<sup>b</sup>\$6.3 million for repairs to Seward and Whittier docks.

Source: Alaska Railroad 1980 Annual Report.

It is in capital budgeting that the Alaska Railroad differs the most financially from private operations. This difference results from, and is evident in, several features of the budget, including the distribution among expenditure types, the budget process and line item justifications, and the types of programs included in the budget. As noted earlier, many of the budgeting objectives, fund sources, and utilization capabilities differ. These variations are reflected in the documents themselves.

The budget tends to be heavily weighted toward improving facilities and light equipment rather than purchasing rolling stock. In private industry, the reverse tends to be true. There are three reasons for the difference. One is the ease with which private industry can finance equipment. This ease permits a relatively modest cash flow to leverage substantial amounts of equipment purchases, particularly when used in conjunction with reasonable interest rates and tax advantages related to interest, investment tax credits, and accelerated depreciation. Obviously, the ARR cannot take advantage of any of these. A second reason that equipment expenditures receive less emphasis, particularly in marginal years, is that individual items are so expensive. A locomotive costs \$750,000 to \$900,000, while cars run \$40,000 to \$50,000 each. Thus, if an ARR budget is cut by FRA, OMB, or the Congress, an event which occurs regularly, it is easier to reduce the size of track programs than equipment purchases, since the former tends to comprise a large number of smaller items and personnel requirements. With track or structure programs, at least some of the improvement can

usually be made, but an equipment acquisition program must often be written off entirely even if a portion of the funding is not approved. A third reason for these budget priorities is that it is easier to repair older equipment and to keep it operating than it is to operate over track which has not been properly maintained. Ultimately, the differences in budget priorities provide for physical facilities maintenance in the manner of most federal agencies, but they do not necessarily respond to marketplace influences.

The next difference between ARR's budget and those of private capital arises in the budget development process and the basis for project selection and justification. On private railroads, the projects for a capital improvement plan are developed on the basis of either rate of return or net present value of the proposal. The ability to contribute to the profitability (usually long term) of the organization is the primary criteria of selection. On the Alaska Railroad, this does not appear to be strictly the case. ARR budgeting documents must conform to U.S. Department of Transportation requirements. These requirements rarely reflect a need to operate profitably. Thus, the justification for projects in the ARR budget is almost inevitably based on cost minimization criteria or satisfaction of federal requirements. While cost minimization is an important part of developing an efficient operation, it may or may not reflect the most profitable use of resources. Such an approach also fails to consider the opportunity costs of alternative uses of capital. Between the 1978 and 1982 budget requests, that of 1979 was the only one which contained a cost-benefit analysis and a computation of internal rate-of-return for individual projects. In no case was there an attempt to estimate overall returns for groups of projects. These overall numbers may be considerably different from the sum of individual returns due to various project interdependencies and timings. It should be emphasized that the majority of these problems result from the requirement that the ARR follow federal budgeting procedures rather than allowing its management to develop programs, as much as possible, on the same basis as private firms.

The final difference between ARR and private budgeting practices is the type of projects incorporated into the capital budget. The ARR's budget includes both strict capital items and major maintenance, which would be part of ordinary expenses under ICC accounting rules and within most private organizations. This causes the income requirements to be understated. This problem is exacerbated by

the use of betterment accounting for track structure as explained earlier. The proportion of the budget which is actually devoted to maintenance rather than to capital expenditures is difficult to estimate from available data. However, the FY 1982 budget, at the minimum level, lists such items as cross-tie replacement, track surfacing, vegetation control, equipment repair and refurbishing, and building repair, none of which appear to be normal capital items. Once again, the requirement to conform with federal budgeting (this time coupled with railroad betterment accounting) distorts the financial picture of the railroad.

The final capital budgeting item which requires review is the question of deferred maintenance. ARR defines deferred maintenance as:

"... the accumulated maintenance that would have to be performed in order to bring the physical plant up to the material condition and capacity considered necessary to accommodate the level of freight and passenger traffic expected."

In 1977, the ARR estimated deferred maintenance at \$58.9 million, with this increasing to \$63 million by 1980. Of the 1977 total, \$38.7 million was considered to be delayed capital expenditures.<sup>13</sup> Table 19 shows the breakdown of the 1977 total by functional area. It is important to realize that these areas do not represent items which make it unsafe or difficult to operate the railroad. These are items which should be programmed projects but have had implementation delayed. It is not unusual practice in the rail industry to adopt this strategy when revenues are not at an adequate level. Since much of the programming is on a cyclical basis and the items are long-term assets, the practice becomes crucial only when it is continued over an extended period. It is also possible to "trade" capital expenditures in exchange for higher current maintenance expenditures. Both are part of the situation at the ARR. This is particularly true for the roadbed and track category where many of the charges are for subgrade which should be upgraded to eliminate future maintenance demand. However, the principal result of not performing the work will be higher current costs, not unsafe conditions or major operational problems. This is the nature of many of ARR's problems, particularly the delayed capital expenditures, although a good deal of the tie renewal appears to be true deferred maintenance.

Thus, it appears that while deferred maintenance

<sup>13</sup>Once again, the effect of betterment accounting for track is to increase the apparent level of deferred maintenance. Actually, many track-related deferred-maintenance items are delayed capital expenditures.

Table 19  
Deferred Maintenance by Functional Area  
(\$ in millions)

Rail Relay	\$ 7.8
Tie Renewal	7.5
Other Roadbed and Track	15.7
Tunnels	1.7
Bridges	4.3
Buildings	4.9
Other Fixed Facilities	15.7
Communications	0.9
Equipment	0.4
<b>Total</b>	<b>58.9</b>

Source: Alaska Railroad FY 1982 Budget Submittal Documentation.

may become a long-term difficulty if there is a very large traffic increase (more than the currently projected coal traffic), it does not seem to be a major current problem. The solution of the problem remains difficult to project until the type of structure under which this railroad will be operated can be determined. If structured correctly, the projected organization may provide considerable potential to address the problem, certainly more than the present federal structure.

#### Competitive and Regulatory Environment

The Alaska Railroad both competes and cooperates with Alaska motor carriers and, through barge connections, with marine carriers operating between Alaska and the United States. Because local freight carried by ARR is unsuitable for road haulage due to its bulk, the railroad is relatively free from local competition. The exceptions to this are some petroleum products movement and the local TOFC/COFC service between Anchorage and Fairbanks, which amounts to less than 10 percent of the total traffic between these two points.

However, there are numerous examples of local tariffs which represent cooperative arrangements. In fact, the Anchorage-Fairbanks TOFC/COFC represents one such tariff, while others include grain between Delta and rail points, pipe from Seward to Anchorage to Prudhoe Bay, cement from Anchorage to interior points, and petroleum products between variety of places. Table 20 lists several Alaska Railroad tariffs which include through rates involving both the Alaska Railroad and motor carriers. Motor carriers also provide drayage services in Anchorage

Tariff	Between	Concerns
3085-C	Prize Ruston, B.C., and Al.	Water/rail/motor rates
3089-A	Washington & British Columbia and Alaska	Water/rail/motor rates
3101-K	British Columbia, Idaho, Montana, Oregon, Washington, Wyoming, and Alaska	Rail/motor/rail/motor rates
3018-J	Alaska Ports	Rail/motor and motor/rail rates

Source: Alaska Railroad Tariffs 3085-C, 3089-A, 3101-K, 3018-J.

and Fairbanks for the railroad. Table 21 provides a partial list of motor carriers involved in joint arrangements.

It is the interline traffic which brings the railroad into the most direct competition with private carriers. However, even here, ARR is functioning in cooperation with other private firms. The nature of the commodities moved makes the interline traffic more competitive than the local.<sup>14</sup> The marine competitors in this service are Sea-Land Service and Totem Ocean Trailer Express, who operate container ships and roll-on-roll-off trailer ships, respectively, between Puget Sound ports and Anchorage. Both also have through tariff arrangements with motor carriers, as well as with the railroad.

The importance of this traffic is in the volumes available and its high value. The total container, trailer, and railcar traffic through Anchorage and Whittier is presently about 1,000,000 tons annually. Of this, the railroad hauls about 250,000 tons. Some of this is not subject to alternate routings (like heavy machinery, many chemicals, heavy structural shapes); however, most could move by any carrier.

The shipper's choice of carrier is usually based on a combination of price and service characteristics depending on value of cargo and delivery requirements. The most recent innovation used to influence market share was the introduction of contract rates by the railroad. These require the shipper to provide a certain minimum number of carloads in exchange for certain long-term rate maximums and service guarantees. This type of rate was authorized by federal legislation in 1976 and has begun to gain fairly wide

<sup>14</sup>See "Traffic Base," pages 9-11 for a description of the competitive commodity types.

acceptance nationally only in the last 2 years. It has created considerable controversy in Alaska, principally because of its success. It has also been the subject of court action and a congressionally mandated ICC investigation to determine whether the prices in the railroad's contracts are in conformance with statutory requirements. Preliminary results indicate that the rates exceed the minimum levels allowed by law and are well below maximum allowable levels.<sup>15</sup>

It is the Interstate Commerce Commission which is responsible for regulation of the economic relations of the various Alaska motor, rail, and water carriers. Executive Order 11107 of April 25, 1963, placed the Alaska Railroad partially under the jurisdiction of the ICC for rate-setting purposes. There were two exceptions which have created difficulties in the railroad's relationship with its competitors, both in terms of marketing and in rate making. These two sections provided that:

1. "The Secretary . . . shall allocate . . . a proper portion of the capital investment of the railroad . . . to the national public purposes for which it had originally been built." (This part of the railroad's valuation was to be excluded from the costs on which rates were based.)
2. " . . . Rates and charges shall not be deemed to be unjust or unreasonable by reason of failure to yield sufficient revenues to cover any amounts for taxes not actually required by law to be paid or provide a return on capital investment."

Effectively these two provisions allowed the railroad to retain most of its rate-making freedom. This situation remained basically unchanged until 1980 when passage of the Staggers Rail Act (and the subsequent appropriation bill) mandated an investi-

<sup>15</sup>It should also be noted that the ICC investigation has, for the first time, included a cost of capital for the federal investment in the railroad as a part of the basis for determining the legality of rates.

Alaska West Express, Inc.
Big State Motor Freight, Inc.
Drilling Mud Haulers
Four Star Terminals, Inc.
Frontier Transportation Company
K & W Trucking Company, Inc.
Kosice Oilfield Haulers, Inc.
Muskeg Freight Line, Inc.
Sourdough Express, Inc.
Weaver Brothers, Inc.

Source: Alaska Railroad Tariffs 3089-A and 3018-J.

gation of the Alaska Railroad's rail-water rates (the competitive interline movements) to determine whether they were in conformance with the provisions of the act. This represented a substantial change in policy, since the Staggers Act contains very specific provisions regarding the allowable cost basis for rates. The statutory language of the Act makes it clear that the railroad is expected to meet these cost-based tariff requirements, which now form much of the basis for the interline rate making.<sup>16</sup>

Provisions of the Staggers Rail Act provide the basis for marketing and management of rail service delivery. They provide for a good deal of latitude in implementation; however, they do require that economic efficiency be a basic consideration in developing any service and pricing package. They also place a number of restrictions on the relationships between carriers.

Establishing a clear set of pricing rules for the Alaska Railroad is probably the most important function of the new regulatory legislation and the subsequent ICC investigation. These rules define an area of marketing flexibility not previously available. These statutory bounds for pricing also allow the railroad to compete more freely, and they protect its competitors from predatory pricing. However, it is important that they be applied as outlined in the statute if they are to be effectively implemented. Artificial restrictions on the ARR do not appear to be in the best interests of either the state, the ARR's competitors, or the railroad. If Alaska is to develop a financially viable transport system, all participants must become active competitors rather than relying on artificial constraints.

<sup>16</sup>The Staggers Rail Act of 1980 was enacted following a long period of dissatisfaction with results of ICC regulatory activity and its effect on the financial viability of the rail industry. It had been preceded 3 months earlier by the Motor Carrier Act of 1980 which withdrew most of the economic regulations applicable to the trucking industry. The goals of the rail act were:

1. "To assist the railroads of the nation in rehabilitating the rail system in order to meet the demands of interstate commerce and the national defense.
2. To reform federal regulatory policy in as to preserve a safe, adequate, economical, efficient, and financially stable rail system.
3. To assist the rail system to remain viable in the private section of the economy.
4. To provide a regulatory process that balances the needs of carriers, shippers, and the public.
5. To assist in the rehabilitation and financing of the rail system."

The regulatory environment of the Staggers Act provides a setting for both the competitive and cooperative arrangements between the Alaska Railroad and other carriers. The whole regulatory structure is still in the implementation stage, and the precise application procedure for the new system is not yet known with any degree of certainty. However, it is certain that the new regulations, if unambiguously applied by management, will provide the railroad with considerable opportunity to improve its profitability while simultaneously forcing improvement in the quality of management data and its use. They provide a basic framework for establishing the Alaska Railroad as an integral competitive segment of the state's transport system.

#### Passenger Service

The Alaska Railroad provides regular scheduled passenger service and special passenger trains. There are two distinct parts of the scheduled passenger service: the long-distance service between Anchorage and Fairbanks and the specialized shuttle service between Portage and Whittier.

The Anchorage-Fairbanks service includes express trains daily in each direction with stops only at Talkeetna and Denali Park during the summer tourist months (May-September). In addition, there are three local mixed trains (passenger and freight cars) per week during the summer. The local trains stop as necessary for passengers along the route and permit hunters, fishermen, and hikers to reach parts of Alaska inaccessible by road. The mixed trains are limited by union agreements to a maximum of twenty-five freight cars per train unless granted a special exemption. The express trains operate with coaches, a dining car, a lounge car, a dome car, and a baggage car for checked luggage. In the winter, there is mixed train passenger service once per week. Mixed trains in both summer and winter have coaches and a diner for passenger service. The summer trains represent one of the most salable tourist attractions in Southcentral and Interior Alaska.

Additional passenger service is offered by the Alaska Railroad in the form of a shuttle train between Portage and Whittier, a distance of 12.4 miles. The train moves autos, trucks, buses, (with passengers allowed to remain in their vehicles) on special quick-loading flat cars and also carries passengers in coaches for the 35-minute trip, which includes three-and-one-half miles of tunnels.

This shuttle train provides access to the state ferry service between Whittier and Valdez and access for the private and commercial boat owners who moor their craft at Whittier. The railroad is the only

means of overland transportation to and from Whittier. The equipment originates out of Anchorage and returns to Anchorage each night. The shuttle train from Portage to Whittier provides a summer schedule of three round trips three days per week, four round trips two days per week, and two round trips on the remaining two days of the week. In the winter, the shuttle makes two round trips between Portage and Whittier on Sunday, Wednesday, and Friday, returning to Anchorage each night.

Table 22 indicates the total numbers of passengers carried by the Alaska Railroad during the ten fiscal years from 1971 to 1980. Passenger traffic has been increasing annually since 1975. There were about 154,000 passengers carried in 1979, making it the highest year in passenger service on the railroad. The passengers carried in 1979 reached the second highest level (151,045) followed in 1980 by almost as many (150,678).

Fiscal Year	Passengers
1971	84,000
1972	102,000
1973	74,000
1974	84,000
1975	81,000
1976	84,500
1977	103,632
1978	126,277
1979	151,045
1980	150,678

Source: Alaska Railroad records.

Table 23 shows the passenger service in the last 2 years. While the Anchorage-Fairbanks run suffered a traffic loss, there was a substantial gain on both the Portage-Whittier shuttle and special trains. The railroad operates excursion train services for special events such as the Alaska State Fair in Palmer and scenic trips to Seward.

It is important for the State of Alaska and the railroad to focus on the purpose and function of the passenger service. The State has already provided financial subsidy to assist in meeting some of its operational deficit and in providing improved shuttle service. The passenger equipment now in service is old and will soon have to be substantially rehabilitated to compete in the marketplace. The passenger cars are, in general, well-maintained, but are now in

Service	FY 1980	FY 1979	Percent Change
Anchorage-Denali Park-Fairbanks	84,186	81,207	-11.5%
Anchorage-Portage-Whittier (Shuttle)	87,357	84,730	+ 3.1
Specials	9,134	5,108	+79.2
Total	180,678	181,045	- 0.2%

Source: Alaska Railroad Annual Reports.

need of modernization, including installation of all-electric heating and air conditioning. The interiors have not been refurbished except for upholstery. According to a memorandum by AMTRAK evaluating the Alaska Railroad passenger service, dated November 21, 1979, the estimated cost to rehabilitate passenger equipment would be about \$6 million. The railroad, in the next few years, can keep sufficient equipment in service, particularly with the recent acquisition of eight long-distance coaches from the Southern Railway. In the long term, however, the form, style, and mechanical aspects of passenger train service in Alaska must be re-evaluated.

It should be clear from previous portions of this report that if the State of Alaska is to have passenger train service on the Alaska Railroad, it will require a substantial public operational and capital subsidy. The freight and other revenues of the railroad have, in the past, been used as a subsidy supplement to the passenger revenue. This is known as "cross-subsidy"—taking freight income to pay for passenger operating expenses. However, the authors feel that such cross subsidization is not in the best interest of the ARR, if the railroad is to function efficiently as a business enterprise within the state's total transportation system.

In the "Finances" section of this report, we attempted to ascertain more accurately the revenue and expenses of freight and passenger service (page 20). Our analysis indicated that the cost of passenger service is reasonable when comparing the number of passenger trains operated to the total number of trains. Therefore, the operational costs for passenger service appear to be appropriate. The problem is that there are simply an insufficient number of passengers to pay operational costs. Raising fares to provide revenue equal to such operational costs would reduce the number of passengers served, leading to a continu-

tion of the deficit.

Revenue and expenses have been allocated between passenger and other categories. The results of these allocations may be found in Table 24. In each of the past 3 years, passenger service has shown a substantial loss while freight and other railroad services have shown a gain. This is true even in the light of unfavorable economic conditions and low traffic volumes during these years. The financial losses in passenger service have been sufficient to cause the Alaska Railroad to have an overall loss. Thus, cross-subsidization of passenger service by freight service clearly is detrimental to the railroad. The subsidy required for each passenger carried was as follows: 1978—\$38.41; 1979—\$27.87, 1980—\$38.57.

It should also be noted that in this analysis the passenger service received credit for revenue from the vehicles as well as the passengers hauled on the Portage-Whittier shuttle service and for mail and baggage revenues.

**Table 24**  
**Alaska Railroad Revenue and Expenses**  
**FY 1978-1980**  
**(\$ in millions)**

	FY 1978	FY 1979	FY 1980
<b>Passengers</b>			
Revenue	\$1.50	\$1.96	\$2.09
Cash Expenses	6.35	6.17	7.60
Gain (Loss)	(4.85)	(4.21)	(5.51)
<b>Freight and Other</b>			
Revenue	27.48	23.19	28.80
Cash Expenses	23.97	22.10	23.59
Gain (Loss)	2.48	1.09	3.21

Note: Depreciation is not included but may be found elsewhere in the report.

Sources: Alaska Railroad reports; Interstate Commerce Commission investigation; computed by Institute of Social and Economic Research, University of Alaska, and Sivens and Associates, Inc.

Passenger service is important to Alaska, it is a service that can and should be provided by the ARR. However, the interests of the railroad and the state would best be served if passenger and freight service were separated both operationally and by cost accounting. In that way, passenger service would still be provided as required and requested, but with the understanding that the service requires public subsidy.

## RESTRUCTURING ALTERNATIVES

Congress may soon pass legislation for the transfer of the Alaska Railroad from the Federal Railroad Administration, U.S. Department of Transportation, to the State of Alaska. Before such a transfer can take place, the State of Alaska must determine the organizational structure it will use to own and operate the railroad. This organizational structure will most probably become the basis for state legislation.

A potential approach to the state's ownership and operation of the ARR in the period of transition is discussed on pages 34 and 35 of this report ("Alaska Railroad Transition"). The purpose of this section is to describe various organizational alternatives for the state to consider before it selects the most appropriate organization for the Alaska Railroad.

### Existing Organizational Limitations

In selecting an appropriate organization for a state-owned and/or state-operated Alaska Railroad, policymakers must understand the limitations of the existing organizational structure in order to perpetuating them. These limitations are described below:

- **Inability to Obtain Adequate Capital Investment Funds.** Although the Alaska Railroad, like any rail property, is capital intensive, the ARR has no continuing means for obtaining adequate funds for essential capital investments. All capital needs for the Alaska Railroad have been obtained out of the revenue generated by the railroad or from Congressional appropriations. The railroad is debt free, which is advantageous. However, the funds available from the two current capital sources, revenue and appropriations, have been insufficient to modernize much of the car fleet and other equipment including passenger cars. The process for obtaining the needed capital appropriations is difficult and usually political, providing the railroad with little assurance that the required funds will be available when necessary. The funding mechanisms presently available also make it impossible for the ARR to realistically plan and budget more than a year in advance. There is a need for the Alaska Railroad to be able to borrow capital investment funds and/or to raise such funds from a variety of public and private sources.
- **Marketing is Difficult Because of Competitive Issues.** As a federal agency, the Alaska Railroad faces difficult marketing conditions. If the railroad markets aggressively, other transportation firms allege that the reason for the railroad's traffic

success is public financial support. On the other hand, the lack of adequate marketing may result in the need for public subsidy. The Interstate Commerce Commission (ICC) was mandated by the Staggers Rail Act of 1980 to investigate such allegations. The ICC study has been completed and found that the questioned rates charged by the Alaska Railroad are compensatory and do not constitute predatory pricing, as was alleged by some of its marine and highway competitors. The Alaska Railroad needs the freedom to aggressively market its transportation services.

- **Management Does Not Have Required Flexibility.** Alaska's economic activity is dynamic, which means that rail service needs also change frequently. Under its federal agency status, the Alaska Railroad management does not have the flexibility required to be responsive to changing rail service needs. Even though the railroad has enjoyed a certain autonomy through the years, there are endless federal regulations which must be followed in the transactions of daily business. The ARR management needs flexibility in operating the railroad if they are to make it a self-sufficient component of Alaska's economy and if the ARR is to contribute its full capability to Alaska's overall development.
- **Employees are Unsure of Their Status.** Most of the employees of the Alaska Railroad belong to unions in addition to being federal agency personnel. Therefore, the employees are uncertain whether they work for a railroad or for a federal agency. In effect, the railroad personnel have two sets of rules by which personnel matters are settled, and often these regulations conflict, causing confusion and sometimes hampering performance. They certainly make administration of the property difficult.
- **Needs for Rail Services Have Changed.** The Enabling Act for the Alaska Railroad established as primary purposes for the railroad the connection of Interior Alaska with open Pacific Ocean harbors and the stimulation of development. These purposes have either been fulfilled or are no longer applicable. There has not been a recent policy evaluation or a determination for various aspects of rail service in Alaska based on the changes which have occurred. These include such changes as:

1. Statehood.
2. Energy development in Alaska.
3. Changes in Alaska ports and port development.

4. Marine transportation interface changes.
5. Railroad deregulation and availability of contract rates.
6. Less reliance on rail transport for defense installations.
7. Improvements in nonrailroad transportation in Alaska.

Due to these circumstances, the state must clearly determine the role that the Alaska Railroad should now play as part of the Alaska transportation system.

- **Alaska Railroad is Burdened with Federal Agency Requirements.** The Alaska Railroad, in addition to the requirements placed on other common carriers by federal regulations, must also meet various federal agency requirements. Because it is a federal agency, numerous reports are required of the railroad that do not conform to railroad practices or procedures. The railroad must, therefore, spend time trying to force its operation into a format which was designed for other federal agencies. This results in nonproductive time and increased documentation either in preparing reports of no significant management value, explaining why the Alaska Railroad cannot comply with federal requirements, or explaining what was reported in an attempt to comply with external demands.
- **Procurement is Cumbersome and Slow.** The Alaska Railroad must follow federal procurement regulations. Since the Alaska Railroad is the only railroad owned and operated by the federal government, the equipment, materials, and supplies for the railroad are not common federal agency purchases. There are unnecessary delays in obtaining essential supplies and equipment which often limit the railroad's ability to either anticipate or react to market opportunities. The procurement process is also a public process which tends to preclude negotiated purchases and requires direct cash outlays, thereby increasing the costs.
- **Passenger Service is Subsidized by Freight.** Railroad passenger service is more of a social service than a business. Fares (which could be higher than they currently are) cannot be raised sufficiently to cover the true cost of the service. However, rail passenger service is publicly subsidized throughout the United States and the rest of the world. Since the rail freight service is used to subsidize passenger service in Alaska, the public has had to provide the Alaska Railroad with tax revenues for its operation, maintenance, and rehabilitation from

time to time. The accounting system on the Alaska Railroad does not adequately separate the freight and passenger costs for railroad expenses. There is a need to separate the freight and passenger costs and to allocate the passenger cost to the public as a social service.

- **Alaska Railroad Cannot Negotiate Solutions to its Problems.** As a federal agency, the Alaska Railroad has a high degree of public visibility. This tends to preclude the ARR's negotiating solutions to its problems or taking advantage of business opportunities. In the past, the railroad has been able to make certain business decisions without the necessity of Washington approval. Recently, however, there appears to be a shift toward centralization of decision making which prevents negotiations for business within Alaska.

#### Railroad Perspective: Public Service or Business?

The history of the Alaska Railroad bears out this split perspective of the railroad, is it public service or business? Viewed historically from a public service perspective, the Alaska Railroad has been a success. It has generally accomplished its public service mission by connecting Interior Alaska with open Pacific Ocean ports. The railroad has assisted in developing the urban communities in what has been called the "Railbelt" of Alaska. The ARR serves Alaska's coal fields; it has opened up the Matanuska Valley agricultural areas; it has fostered settlement of public lands. In addition, the ARR has moved large volumes of commodities to and from Alaskan communities and between them at a reasonable cost. Products have been made available at affordable transportation costs. The movement of military personnel and material by rail has aided the national defense structure. The railroad has also provided passenger trains as a public service function.

However, the view of the Alaska Railroad from the business perspective has been less clear and more intermittent. The business perspective involves railroad economics—meeting fully allocated costs plus a return on the investment. The Alaska Railroad has generally not been a profitable business enterprise, except for a few years of substantial traffic resulting from the war or pipeline construction.

This dichotomy between public service and business railroad operation has been reflected in the management and personnel of the Alaska Railroad. Marketing of the railroad's services, as previously mentioned, has also reflected this conflict of perspective. The management decisions which have been made on the railroad have, on occasion, reflected

both the public service and the business perspectives.

Faced with the prospect of state ownership and (or) operation of the Alaska Railroad, the decision-makers in the State of Alaska must decide whether the property is to be governed from a public service or a business orientation. The long-range implications of this decision for the people of Alaska are significant. Much debate, discussion, and careful consideration will be required to determine this policy, and the state must also consciously decide where to draw the line between the public service and business sectors of the enterprise.

One major implication of the state's railroad perspective is in the selection of the organizational alternative for the Alaska Railroad. The organizational structure chosen by the state will not assure that the railroad will be operated from the perspective selected, but the appropriate organization can help to facilitate its operation within the framework established by the State of Alaska.

Finally, the transfer of the ARR to the state will provide Alaska with an opportunity to benefit from the railroad's past experience under federal government operation and resolve the uncertainty and conflicts of running the railroad as a public service versus a business operation.

#### Assumptions and Criteria for a State Railroad Organization

The following assumptions concerning the railroad and its relationship to the state were used to develop the criteria and proposals for an organization to operate a state-owned railroad:

1. The Alaska Railroad is to be transferred to the State of Alaska without direct compensation of the federal government, but with indirect costs to the state for existing liabilities and any requirements for capital investments.
2. The State of Alaska wishes to operate the railroad in the most efficient manner, minimizing the cost to the taxpayers of the state.
3. The Alaska Railroad is an important element of the state's transportation system, and any state investments relating to transportation will be made with full recognition of the importance and intermodal nature of the railroad.
4. The Alaska Railroad can and will be responsive to changing needs and opportunities for transportation services.
5. The railroad revenues are to be used to provide essential rail service, maintain and

- improve railroad property, and meet operational expenses.
6. The public's capital investments are to be protected.
  7. The rail service rates are to remain competitive.
  8. Public railroad operational subsidies are to be minimized.
  9. Rail users are to receive good service, including adequate service frequency, an adequate number of cars, and appropriate car types.
  10. The Alaska Railroad is to cooperate with the state, local governments, ports, businesses, industries, and other transportation modes within established policies and legal constraints.

Establishing criteria designed to meet the rail service needs of Alaska will enable the state administration and legislature to evaluate the organizational alternatives subsequently described. Each organizational structure can be measured by the extent to which it satisfies the following criteria:

1. Ability to obtain access to public and private capital funds.
2. Freedom of management to make the railroad's operational decisions within established policies.
3. Clear-cut lines of management responsibility and accountability for decisions.
4. Marketing freedom within established policies and budgetary constraints.
5. Clear decision-making authority without a cumbersome and bureaucratic process.
6. Separation of freight and passenger service functions and accounting.
7. Ability to efficiently procure necessary supplies, equipment, services, and materials within appropriate policies and budgetary authority.
8. Management capability to make long-term commitments within established policies.
9. Management freedom to negotiate solutions to problems and to take advantage of service opportunities.
10. Industrial development capability on Alaska Railroad land.
11. Performance-based personnel management, including the direct ability to hire, fire, promote, train, supervise, and direct required railroad employees.
12. Ability to provide financial and other incentives for performance.

We recognize that it may not be possible or

acceptable to have a state organization which fully meets all of these criteria. However, these criteria are important in defining the long-term objectives for the Alaska Railroad. The State of Alaska should seek an acceptable organizational structure which will enable the railroad to operate as effectively as possible within these areas.

#### Organizational Alternatives Considered

When we began this study, various alternatives were considered possible. Among these were:

- Keeping the status quo—letting the ARR continue to operate as a federal agency.
- Allowing the ARR to operate as a federal agency corporation like the Consolidated Railroad Corporation (Conrail) or Amtrak.
- Selling the ARR to private investors.

However, during the early stages of this study the federal government made clear its intentions to divest itself not only of the ARR, but also of Conrail and Amtrak, which precluded the first two alternatives. Further, the difficulty a private investor would have in financing the marginally profitable ARR, in addition to the complex issue of unresolved land-transfer problems, effectively precluded the third alternative. Thus, there emerged but three remaining alternatives that seemed to offer workable opportunities for the ARR. These included the state (1) operating the ARR as a line agency of the state, (2) operating it as a state public corporation or authority, or (3) leasing it out for operation by a private party. We examine these three alternatives in the following paragraphs.

#### Three Possible Alternatives

##### The Railroad as a State Line Agency

Under this approach, the state would take title to the railroad in a manner similar to state ownership of such other transportation facilities as airports, the Marine Highway System, and state highways. However, we should note that the long-term availability of railroad assistance funding from the federal government, either for capital or operating purposes, is very uncertain. There currently exists no trust fund for railroads as there is for airports or highways.

Under this alternative, the Alaska Railroad would logically be made a division or some other unit of the Alaska Department of Transportation and Public Facilities. The railroad personnel would therefore become employees of the state with all of the benefits available to other state employees.

Policy direction for the Alaska Railroad as a

state line agency would come from the governor, from the legislature through normal legislative processes, and from the commissioner of the department involved.

There are several advantages to establishing the Alaska Railroad as a state line agency. The management lines of authority and responsibility would be clear. The institutional structures and resources of the State of Alaska could be readily available for use on the railroad. Alaska Railroad employees would have the fringe benefits and other advantages of state employment, including reasonable job protection. Since the railroad already has a cadre of experienced and trained operational personnel, the transition from federal agency status to state agency status would be easier than other alternatives.

However, there are also significant disadvantages in organizing the railroad as a state line agency. The ARR would encounter most of the same limitations as a state agency as it now does as a federal agency. One of the most critical limitations would be the inability to obtain essential capital investment funds except by state appropriations. The competitive issues related to marketing, management flexibility, state agency regulations, procedures and requirements; the potential for even more direct political influence on operational decisions; and the public-service-versus-business-orientation questions are all disadvantages of this approach.

While the state agency alternative should be considered, it clearly does not meet most of the criteria established for a viable railroad organization. If the Alaska Railroad is to adequately fulfill its transportation role within its technological limitations, a state agency organizational structure is the least desirable of the three alternatives discussed in this report. It would be unfortunate if the State of Alaska were to place the Alaska Railroad in an organizational structure that perpetuated the limitations of federal agency status.

#### The Railroad as a State Public Corporation or Authority

There are precedents for this approach, both nationally and internationally. The West Virginia Railroad Maintenance Authority and the British Rail Corporation, with some variations, will serve as examples.

The West Virginia Railroad Maintenance Authority. The State of West Virginia has since 1975 owned and operated a railroad<sup>17</sup> similar in some ways to the ARR. The West Virginia Maintenance Authority (WVMA) consists of seven part-time

<sup>17</sup>The West Virginia Railroad carries no commercial passengers.

members, including the governor as an ex-officio member. The other six members are appointed by the governor, with the consent of the state senate, for staggered 6-year terms. The authority selects its own officers and appoints an executive director (the chief administrative officer). The employees of the authority in West Virginia work for the state and are non-union.

The WVMA has all the powers needed to own and operate a railroad. These powers include the ability to plan, carry out projects, acquire property, sell or transfer property, contracts, and sue or be sued. The WVMA may raise capital via railroad authority revenue bonds. It may also acquire railroad rights in other states. In addition, the authority has the power of eminent domain.

The railroad experience in West Virginia has been generally successful, and with some modification, lessons learned there may be applicable to Alaska.<sup>18</sup>

The British Rail Corporation. Since its inception in the late 1940s, British Rail has operated as a profit-oriented transportation company, providing both freight and passenger service. A government-appointed chairman and an autonomous board of directors provide general policy for running the corporation, with each director responsible for a particular facet of the operation (passenger, maintenance, capital investment, etc.).

British Rail's chief executive is responsible to the board and the chairman, at the same time serving as a member of the board. The principal officers of British Rail serve at the pleasure of the Chief Executive.

The levels and nature of British Rail's passenger service are negotiated between the government and the corporation, with the government paying for passenger service provided.

British Rail's capital investment package overseen by the Minister of Transport includes a 5-year plan, the first 3 years of which are fixed. This establishes the capital limits, within which investments must fall. British Rail can only borrow through the government, and major projects must be approved by the Minister of Transport.

The ministry of Transport, through its Railways Division, oversees the capital investment program of British Rail. It also has some safety responsibilities. Regulation is not institutionalized. The marketplace drives most policy decisions of British Rail.

<sup>18</sup>A copy of the West Virginia Maintenance Authority Act is on file at the Alaska Department of Transportation and Public Facilities.

Like the West Virginia Railroad Authority, the British Rail Corporation offers a potential organizational model for the Alaska Railroad. If the Alaska Railroad, under state jurisdiction, were organized as an authority or public corporation under carefully worded state legislation, most of the federal agency limitations could be removed. Properly established under this approach, the Alaska Railroad could meet all of the criteria previously outlined for a state railroad organization.

The principal advantages of a public corporation or authority alternative are an ability to obtain access to required capital funds and freedom to manage and operate the railroad within policies established by a board. Management can be given flexibility and responsibility and can also be held accountable for its decisions. Passenger service can be accounted for separately and not subsidized by freight service. The state could determine the appropriate levels, locations, and other areas of passenger train service in accordance with their willingness to pay for the service selected. The freight rail service could be marketed and required to meet fully allocated costs. Thus, under this organizational scheme, it might be possible to reach a compromise between the public service and business purposes of the railroad.

#### A State Railroad with Private Operations

A third alternative would be for the State of Alaska to own the railroad and contract with private enterprise to provide for operations. The main difference between this and the other alternatives is the operation of the Alaska Railroad by a private organization.

Several states, such as South Dakota and Oklahoma, are using this approach. These states, among others, have experienced abandonment of significant rail lines that they considered essential to their economy and transportation systems. These are using state and federal funds to acquire and rehabilitate extensive rail lines. The Department of Transportation, as a representative of the state, takes title to the rail property (usually excluding rolling stock). The state then selects a private railroad with the required management experience, skills, and interest in operating its equipment over the line to furnish shippers and receivers with rail service. An operating agreement is negotiated with the private common carrier for rail service. The operational limitations of the railroad can be whatever the state and the railroad agree upon.

The negotiated operating agreement can include such provisions as the assignment of maintenance responsibilities; liabilities; frequency, level, and type

of rail service; car supply; revenues; and costs. Thus, all of the appropriate criteria for a state railroad organization can be reflected in the operational agreement. This can even extend to the provision of required capital.

A major advantage of this approach is that once the operating agreement has been negotiated, the state has only a supervisory or overseer responsibility, plus whatever financial requirements have been determined by the negotiations. The railroad operations can include public service rail requirements as well as being performance based.

A substantial difficulty with this alternative for the Alaska Railroad is that no private railroad carrier is operating within the state. Too, there is the problem of the existing Alaska Railroad personnel. While the present railroad employees have the necessary knowledge of railroad operational peculiarities in Alaska, these are federal agency employees, with long-term rights rather than private employees whose rights are subject to negotiation. This could present such a significant liability to prospective private operators that it might be difficult to find interested parties. This approach, therefore, may be impractical unless the responsibility for the current Alaska Railroad personnel is assumed by the Federal Railroad Administration, while a private carrier, with the necessary qualifications, can be attracted as the operator. However, no one knows at this time whether or not such a private operator exists.

One variation to the alternatives described above is a concept under consideration in Iowa. It is an old concept which has proved successful in other organizations but which is new in its application to railroading. It involves the use of a general partner and limited partnerships.

A limited partnership is a very flexible institutional arrangement which could potentially attract substantial private capital. A major consideration in developing this institutional approach is the designation of the general partner. In order to legally establish a limited partnership, at least one financially responsible general partner must be found or established. The State of Alaska could establish an organization which could become the general partner for this railroad venture. Although limited partners are not subject to liability beyond their investment in the partnership, there is usually no limit to the liability of the general partner.

A limited partnership is, by law, a nontaxable entity. All gains or losses from the venture flow directly back to the investors (partners) for tax purposes. Partnerships are thus attractive because (1) there is no double taxation of income as with

corporations and (2) partners can take full tax advantage of losses, depreciation allowances, and tax credits. The ability to take advantage of depreciation allowances will become more important if the Reagan Administration's accelerated depreciation proposal is enacted. It would be necessary, of course, to examine legal constraints in Alaska for public involvement in limited partnerships. In Iowa, there is no apparent constitutional prohibition against public involvement in such arrangements.

It may be possible in such a limited partnership to attract rail users, businessmen, private individuals, and Alaska Railroad employees, among others. Thus, it would be advantageous to those with direct rail interests to see the Alaska Railroad succeed as a business venture while offering only limited individual liability. The idea and concept may be worthy of further consideration.

#### Alaska Railroad Transition

##### Transition Legislation and Problems

As noted earlier, the Federal Railroad Administration (FRA) has determined that the original intent of the Enabling Act for establishing and operating the Alaska Railroad has been met and federal responsibilities discharged. Thus, for the past several years, several federal administrations and the Department of Transportation have discussed divestiture of the Alaska Railroad by the federal government. However, it has only been since January 1981 that the decision was made to prepare legislation for such a divestiture and implementation steps taken.

The FRA has shown some urgency in getting the transfer legislation introduced and passed. This urgency results from a reduction of employees in the Federal Railroad Administration, as well as desire to cut the capital fund request of the Alaska Railroad. FRA's schedule calls for passing the legislation this fiscal year. The legislation proposes that the State of Alaska meet the transfer conditions within one year of enactment of the legislation. The draft legislation also provides for transferring the Alaska Railroad to other interested parties should the State of Alaska not meet the conditions for transfer within this time period.

The proposed legislation further embodies a number of discretionary "strings" attached to the transfer which would enable the federal government to ensure that the State of Alaska own and operate the Alaska Railroad in a manner commensurate with FRA's preconceived ideas. Failure by the state to conform to the provisions of the Act would be grounds for the FRA to reclaim the railroad within a 10-year period. The rationale for the continuing

federal interest in the Alaska Railroad is predicated upon the offer of a no-cost transfer to the state.

In summary, there are numerous problems associated with the transfer of the Alaska Railroad from federal to state ownership. Federal transfer legislation will likely be passed by Congress before these problems have been resolved. The U.S. Department of Transportation has not determined the land, the structures, the right-of-way, nor equipment to be included in the transfer. Arrangements have not yet been made to provide for an orderly transfer of the employees from federal agency status. There is no organizational framework established within Alaska to accept the ownership, operation, or employees of the railroad. The FRA is anxious to relinquish ownership, operation, employee, and funding responsibilities of the Alaska Railroad. This could potentially result in postponement of major ARR operational decisions. Such postponement could jeopardize the smooth long-range operation of the railroad and perhaps result in lost traffic—an event not in the best interest of Alaska. In addition, the employees are left in a state of "limbo," not knowing for whom they will work, if they will have a job, how the transition will occur from federal employment, or what happens to the benefits received as a federal employee. The employees lack information, and many of their questions cannot be satisfactorily answered at this time.

State legislation will probably be required to accept the transfer of the Alaska Railroad. The state, however, has made no decision on the transfer question or on the organizational structure required to own and/or operate the railroad. The current railroad assets, obligations, and liabilities have not clearly been defined, which leaves the state with inadequate information on the short- and long-term financial and other requirements accompanying the proposed transfer.

The railroad needs to continue operation without disruption, since disruption would detrimentally affect the state's economy and economic development. And this would come when economic activity is quickly increasing.

These are some of the more important transitional problems. Unfortunately, these problems have not yet received the attention needed to determine their full implications. Time and additional efforts are required to provide the Alaska decision-makers with the information necessary to act in the best interest of the state. The complexities and extent of these transitional problems are likely to result in legal actions and court adjudication. A transitional bridge is needed to facilitate the smooth transfer of the Alaska Railroad from the federal government.

### An Orderly Transition

Even if we assume that satisfactory federal legislation can be drafted and passed by Congress for the transfer of the Alaska Railroad from federal to state ownership, there will remain a significant period for transition. Along with land, employee, competition, and various obligation problems, the smooth transition to state ownership and operation is a most perplexing problem. How the transition is handled will have either a positive or adverse impact—long term as well as short term—on the railroad and its operations as well as on the State of Alaska.

During this transitional period, certain needs must be met if the railroad is to fulfill its important and special transportation function in Alaska. These include the need to:

- Continue the freight and passenger operation of the Alaska Railroad.
- Preserve as many potential operational and organizational alternatives for the state as possible.
- Provide adequate legal protection for the Alaska Railroad throughout the transitional period.
- Provide interim protection and transitional assistance for the employees of the Alaska Railroad.
- Provide adequate time for adjudicating the legal issues which have been raised by the

transfer question, such as land title, equipment and railroad property, employee rights and benefits; existing or pending court cases, railroad agreements, contracts, and obligations.

- Establish an orderly process and procedure for solving problems which have been identified or which may arise during the transition.
- Provide the time required for the state administration and the legislature to consider the issues, to seek solutions to problems, and to deliberate carefully on the implications of each proposed state legislative bill without being faced with a stringent schedule and a crisis-type atmosphere.

Given the general mood of the Reagan Administration and the Congress to reduce federal expenditures and the federal perception of great Alaskan wealth, it is quite possible that Alaska Railroad transfer legislation will be passed this year. The State of Alaska will probably be faced with the need for a package of legislation which sets the tone and organizational framework for state ownership of the railroad if Congress passes transfer legislation. Under these circumstances, there is a genuine need to provide for an orderly transition from federal to state ownership. Sufficient time must be allowed to work out the myriad transitional problems.

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