

SB

148

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/2/93

FURTHER:

DATE TURNED INTO OFFICE: _____

The Finance Committee considered SENATE BILL NO. 148

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

Died in SFC 1994

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ CS _____ ()
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS.

OTHER RECOMMENDATIONS:

1. _____
Co-Chair: Signature/Recommendation

2. _____
Co-Chair: Signature/Recommendation

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

Frank

DATE: 3/5/93

FURTHER: FINANCE

Date of 5-Day Notice: 3-5-93
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 4-1-93

TRANSPORTATION Committee considered SB 148

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

and recommends it be replaced with

and recommends:

replace with _____ CS SB 148 (TRA)

same title
 new title
 technical title change (HB only)

attaches amendment(s) and report it back as follows

adopts _____ Letter of Intent

further referral to the _

do pass

do not pass

no recommendation

individual recommendations

4/5/93

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
S. TRA. COMTE	4/1/93	✓	

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

6 Bill Kelly - Do Pass - if Amended Tom Kelly - No Pass
Georgiana - NR

1 Ben Sharp Do Pass - if Amended
Chair: Signature and Recommendation

ALASKA STATE LEGISLATURE
SENATE BILL NO. 148

HISTORY IN THE SENATE

1993

Read first time and referred to:

3/5

TRA, FIN

4/5

na RPT() CS 2 DP NR DNP 2 AM
 New Title Same Title Previous FN
 FN OFN To AM

RPT() CS DP NR DNP AM
 New Title Same Title Previous FN
 FN OFN To

RPT() CS DP NR DNP AM
 New Title Same Title Previous FN
 FN OFN To

Rules Calendar() CS AM Other
 New Title Same Title Previous FN
 FN OFN

Read second time

CS Adopted () New Title
 Amended Advanced

Read third time

Letter of Intent adopted
 Return to second for specific amendment

PASSED	EFD Same <input type="checkbox"/> or
Yeas	Yeas
Nays	Nays
Excused	Excused
Absent	Absent

Reconsideration

Reconsideration not taken up

PASSED	EFD Same <input type="checkbox"/> or
Yeas	Yeas
Nays	Nays
Excused	Excused
Absent	Absent

Reported correctly engrossed
Signed by President, to House

Secretary of the Senate

HISTORY IN THE HOUSE

19

Read first time and referred to:

RPT CS() New Title
 DP DNP NR AM
 FN OFN Previous FN

RPT CS() New Title
 DP DNP NR AM
 FN OFN Previous FN

RPT CS() New Title
 DP DNP NR AM
 FN OFN Previous FN

Read second time
CS() Adopted

Amended

Advanced

Read third time

Return to second for specific amendment

PASSED	EFD Same <input type="checkbox"/> or
Yeas	Yeas
Nays	Nays
Excused	Excused
Absent	Absent

Intent adopted

Reconsideration

Reconsideration not taken up

PASSED ON RECON.	EFD Same <input type="checkbox"/> or
Yeas	Yeas
Nays	Nays
Excused	Excused
Absent	Absent

Intent adopted

Reported correctly engrossed, signed by the Speaker
and returned to the Senate

Chief Clerk of the House

SENATE-HOUSE HISTORY Continued

19	<p>Received from the House Version: _____</p> <p>Concur in House amendment Y ___ N ___ E ___ A ___ _____ Efd name or Y ___ N ___ E ___ A ___</p> <p>Failed to concur in House amendment, ask House recede Y ___ N ___ E ___ A ___</p> <p>House failed to / recede / from amendment Y ___ N ___ E ___ A ___</p> <p>CC appointed by Senate _____ Chair</p> <hr/> <p>CC appointed by House _____ Chair</p> <hr/> <p>(S) Granted Limited Powers of Free Conference</p> <p>(H) Granted Limited Powers of Free Conference</p>
----	---

19	<p>(S) Adopted CC Rpt _____ Y ___ N ___ E ___ A ___ _____ Efd name or Y ___ N ___ E ___ A ___</p> <p>(H) Adopted CC Rpt _____ Y ___ N ___ E ___ A ___ _____ Efd name or Y ___ N ___ E ___ A ___</p> <p>To enrolling Received from enrolling Sent to Governor</p> <p>_____ By Governor</p> <p>Chapter Number _____</p> <p>Filed with Lieutenant Governor</p>
----	---

Alaska State Legislature

SENATOR
BERT SHARP
CHAIRMAN



Senate Transportation Committee

FAIRBANKS

DENALI BANK BUILDING
119 N. CUSHMAN, SUITE 201
FAIRBANKS, ALASKA 99701
(907) 452-7885/7886

SESSION ADDRESS

STATE CAPITOL, ROOM 514
JUNEAU, ALASKA 99801-1182
(907) 465-3004/4921

MEMORANDUM

DATE: 4/1/93

TO: SENATE FINANCE COMMITTEE
SENATOR STEVE FRANK, CO-CHAIR
SENATOR DRUE PEARCE, CO-CHAIR

FROM: SENATE TRANSPORTATION COMMITTEE
SENATOR BERT SHARP, CHAIRMAN

RE: **Hearing for SB 148 - "An Act Relating to the Alaska
Railroad Corporation"**

The Senate Transportation Committee requests that the Senate Finance Committee examine closely the tax issue raised in SB 148 "An Act relating to the Alaska Railroad." The Senate Transportation Committee did not address this issue as it felt the Senate Finance Committee was a more appropriate forum for its discussion.

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR FRANK

TO: CSSB 148(FIN) Version "I"

Page 1, after line 13:

Insert a new paragraph to read:

"(3) the Alaska Railroad Corporation is authorized to incur debt for the acquisition and construction of the Northern Crossroads Discovery Center for the Ship Creek Landings Project;"

Renumber the following paragraphs accordingly.

Page 5, line 12, after "APPROVAL":

Insert ": REGIONAL LANDFILL"

SENATE FINANCE
COMMITTEE
Amendment Number: 6
Bill Number: SB 148
Sponsor: FRANK Date: 3/18/94
Logged In By: [Signature]

Page 5, after line 14:

Insert a new bill section to read:

"* Sec. 11. LEGISLATIVE APPROVAL: NORTHERN CROSSROADS DISCOVERY CENTER. (a) Contingent upon enactment of a law passed by the Eighteenth Alaska State Legislature approving the issuance of bonds by the Alaska Railroad Corporation for the acquisition and construction of the Northern Crossroads Discovery Center for the Ship Creek Landings Project, the Alaska Railroad Corporation, in accordance with AS 42.40.285, as amended by sec. 8 of this Act, is authorized to incur debt through the issuance of bonds in the amount approved by the legislature for the acquisition and construction of the Northern Crossroads Discovery Center.

(b) The amount of debt authorized under this section is in addition to the debt that the Alaska Railroad Corporation may incur without legislative approval under AS 42.40.285, as amended by sec. 8 of this Act."

Renumber the following bill section accordingly.

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 148(FIN); Version "I"

Page 1, line 10:

Delete "or"

Page 1, line 11, after "activities;":

Insert "or

(C) issuing bonds other than nonrecourse bonds;"

Page 4, line 7, after "bonds":

Insert "other than nonrecourse bonds; in this paragraph, "nonrecourse bond" means a bond, under which, in the event of default, the holder of the bond has no recourse to the revenue or assets of the corporation beyond those corporation assets in the venture for which the bonds are issued"

Page 4, line 10, after "to":

Insert "(A)"

Page 4, line 12, after "plant":

Insert "(B) nonrecourse bonds issued by the corporation:"

SENATE FINANCE
COMMITTEE
Amendment Number: 5
Bill Number: SB 148
Sponsor: PERM Date: 3/12/94
Logged In By: (Signature)

3-16-94
SFZ

8-LS0583X.4
Utermohle
4/14/93

Conceptually
Adopted
to "I"
version

A M E N D M E N T

OFFERED IN THE SENATE

TO: DRAFT CSSB 148(FIN) (Version X, dated 4/12/93)

Page 1, line 4, after "Corporation":

Insert "; and providing for an effective date"

Page 2, line 7, after "directors":

Insert "under certain circumstances"

SENATE FINANCE
COMMITTEE
Amendment Number: 4
Bill Number: SB 148
Sponsor: Franz Date: 4/15/93
Logged In By: Bon

Page 2, line 11, after "vacancy":

Insert "in certain positions"

Page 3, lines 18 - 26:

Delete all material and insert:

* Sec. 6. AS 42.40.110(a) is amended to read:

(a) The board shall appoint the chief executive officer of the corporation who serves at the pleasure of the board. The chief executive officer of the corporation may not serve as chair or vice-chair of the board. The chief executive officer of the corporation is subject to AS 39.50. The board shall fix compensation for the chief executive officer.

* Sec. 7. AS 42.40.110(a) is repealed and reenacted to read:

(a) The board shall appoint the chief executive officer of the corporation who serves at the pleasure of the board. A person appointed to the board under AS 42.40.020(a)(1) may not be appointed chief executive officer of the corporation. The chief executive officer of the corporation may not be appointed to the board under AS 42.40.020(a)(1). The chief executive officer of the corporation may not serve as chair or vice-chair of the board. The chief executive officer of the corporation is subject to AS 39.50. The board shall fix compensation for the chief

compensation for the chief executive officer."

Renumber the following bill sections accordingly.

Page 5, lines 13 - 16:

Delete all material and insert:

**** Sec. 12. APPOINTMENT TO FILL VACANCY.** Notwithstanding other provisions of law, the governor shall appoint a person who satisfies AS 42.40.020(a)(1)(A) or (B), as amended by sec. 3 of this Act, to fill the next vacancy that occurs on the board of directors of the Alaska Railroad Corporation that results from

(1) the governor not reappointing one of the members of the board who is serving, on the effective date of this section, as either the member from the third judicial district or the member with at least five years experience as an owner or manager of a business in the state, at the time that the term of either of these members expires; or

(2) one of the members of the board who is serving, on the effective date of this section, as either the member from the third judicial district or the member with at least five years experience as an owner or manager of a business in the state, resigning from the board, being removed from the board, or otherwise declining to continue to serve on the board.

*** Sec. 13.** Section 7 of this Act takes effect upon the appointment of a person to the board of directors of the Alaska Railroad Corporation under sec. 12 of this Act who satisfies AS 42.40.020(a)(1)(A) or (B), as amended by sec. 3 of this Act. The governor shall certify to the revisor of statutes the date the appointment is made."

adopted
4-13-93

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 148(FIN) (Version X dated 4/12/93)

Page 5, lines 1 - 9:

Delete all material and insert:

"(11) "nontransportation activity" means

(A) a hotel or other lodging facilities;

(B) an activity not directly related to the movement, handling, or distribution of people or personal property; or

(C) an activity occurring before, or subsequent to, the movement, handling, or distribution of people or personal property by the railroad, unless the activity

(i) was conducted by the railroad on the date of transfer to the state; or

(ii) is directly related to the movement, handling, or distribution of people or personal property."

SENATE FINANCE
COMMITTEE

Amendment Number: 3
Bill Number: SB 148
Sponsor: _____ Date: 4/13/93
Logged In By: RW

4-8-93

SFC

Adopted

8-LS0583R.2

Utermohle

4/6/93

Incorp. with it

CS(Fin) X version

4-12-93

See Sec. 10

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 148(TRA)

Page 5, after line 30:

Insert a new bill section to read:

"* Sec. 12. LEGISLATIVE APPROVAL. In accordance with AS 42.40.285(6), the Alaska Railroad Corporation is authorized to acquire an equity position in a regional ~~sanitary~~ ^{TK} land fill at mile 388 of the Alaska Railroad or at Totchaket Road west of Nenana."

Renumber the following bill section accordingly.

SENATE FINANCE
COMMITTEE

Amendment Number: 2
Bill Number: CSSB 148(TRA)
Sponsor: FRANIC Date: 4/7/93
Logged In By: BM

AMENDMENT

OFFERED IN THE SENATE
TO: CSSB 148(TRA)

Page 5, after line 30:

Insert a new bill section to read:

"* Sec. 12. LEGISLATIVE APPROVAL. In accordance with AS 42.40.285(6), the Alaska Railroad Corporation is authorized to ^{incur debt and (TR) Amend. #2} acquire an equity position in a regional sanitary land fill at mile 388 of the Alaska Railroad or at Totchaket Road west of Nenana."

Renumber the following bill section accordingly.

*Amend. to amendment
Adopted 4-8-93
Action later rescinded.
See Amendment #2*

SENATE FINANCE
COMMITTEE
Amendment Number: ①
Bill Number: CSSB 148(TRA)
Sponsor: FRANIC Date: 4/7/93
Logged In By: FR

1 agency or a person for fair value is subject to real property taxes imposed by municipalities;
2 the real property of the corporation that is subject to municipal property taxes is excepted from
3 the exemption from taxation granted to property of the state by art. IX, sec. 4, Constitution
4 of the State of Alaska;

5 (3) members of the board of directors and chief executive officer of the Alaska
6 Railroad Corporation are subject to AS 39.50 (Conflict of Interest);

7 (4) the chair or vice-chair of the board of directors may not serve as chief
8 executive officer of the Alaska Railroad Corporation;

9 (5) the board of directors of the Alaska Railroad Corporation shall provide for
10 meetings of the board by teleconference during legislative sessions.

11 * Sec. 2. AS 29.45.030(a) is amended to read:

12 (a) The following property is exempt from general taxation:

13 (1) municipal property, including property held by a public corporation
14 of a municipality, or state property, except that

15 (A) a private leasehold, contract, or other interest in the
16 property is taxable to the extent of the interest;

17 (B) notwithstanding any other provision of law, property
18 acquired by an agency, corporation, or other entity of the state through
19 foreclosure or deed in lieu of foreclosure and retained as an investment of a
20 state entity is taxable; this subparagraph does not apply to federal land granted
21 to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land
22 granted to the university by the state to replace land that had been granted
23 under AS 14.40.380 or 14.40.390;

24 (C) an ownership interest of a municipality in real property
25 located outside the municipality acquired after December 31, 1990, is taxable
26 by another municipality; however, a borough may not tax an interest in real
27 property located in the borough and owned by a city in that borough;

28 (D) the real property of the Alaska Railroad Corporation
29 that is leased for fair value to a municipal, state, or federal agency or a
30 person is taxable;
31

*4-12-93 See AS (Fix) X version
this date. All language
relating to tax to be removed from
draft. Amend #1 no longer
applicable.*

*market
TK
#1*

Fin
CS FOR SENATE BILL NO. 148(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered: 4/2/93
Referred: FINANCE

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to legislative approval of certain acts of the Alaska Railroad
2 Corporation; taxation of certain property of the Alaska Railroad Corporation;
3 members of the board and chief executive officer of the Alaska Railroad
4 Corporation; meetings of the board of directors of the Alaska Railroad
5 Corporation; and providing for an effective date."

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

7 * Section 1. PURPOSE. This Act provides that

8 (1) the Alaska Railroad Corporation shall obtain approval of the legislature
9 before

10 (A) incurring debt, except in certain circumstances, in excess of
11 \$10,000,000 in a year or in excess of a total of \$50,000,000; or

12 (B) obtaining an equity position in certain nontransportation activities;

13 (2) the real property of the Alaska Railroad Corporation that is leased to an

4-12-93
Sen. Frank
Distributed

Old —
see Amend
3
adopted
4-13-94

AMENDMENT

OFFERED IN THE SENATE

TO: CSSB 148(FIN) version X (dated 4/12/93)

Page 5, LINES 1-9:

Delete all material.

Insert

"(11) "nontransportation activity means
(A) a hotel or other lodging facilities;
(B) an activity not directly related to the movement
handling, or distribution of people or personal property; or
(C) an activity occurring before, or subsequent to the
transportation of people or personal property by the railroad;
this subsection does not apply to an activity conducted by the
railroad on the date of transfer to the state.

SENATE FINANCE
COMMITTEE
Amendment Number: 2
Bill Number: CSSB 148(FIN)
Sponsor: _____ Date: 4/12/93
Logged In By: FR

4-12-93
SF moved
as working
document
Adopted

8-LS0583X
Utermohle
4/12/93

CS FOR SENATE BILL NO. 148(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to legislative approval of certain acts of the Alaska Railroad
2 Corporation; relating to members of the board and chief executive officer of the
3 Alaska Railroad Corporation; and relating to meetings of the board of directors
4 of the Alaska Railroad Corporation."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * Section 1. PURPOSE. This Act provides that

7 (1) the Alaska Railroad Corporation shall obtain approval of the legislature
8 before

9 (A) incurring debt, except in certain circumstances, in excess of
10 \$10,000,000 in a year or in excess of a total of \$50,000,000; or

11 (B) obtaining an equity position in certain nontransportation activities;

12 (2) the Alaska Railroad Corporation is authorized to acquire an equity position
13 in a proposed regional land fill;

14 (3) qualifications for appointed members of the board of directors of the

1 Alaska Railroad Corporation are amended;

2 (4) members of the board of directors and chief executive officer of the Alaska
3 Railroad Corporation are subject to AS 39.50 (Conflict of Interest);

4 (5) certain members of the board of directors may not serve as chief executive
5 officer of the Alaska Railroad Corporation;

6 (6) the chief executive officer of the Alaska Railroad Corporation may not be
7 appointed to certain memberships on the board of directors and may not serve as chair or vice-
8 chair of the board of directors;

9 (7) the board of directors of the Alaska Railroad Corporation shall provide for
10 meetings of the board by teleconference;

11 (8) the next vacancy on the board of directors of the Alaska Railroad
12 Corporation shall be filled by a person who has experience with railroad matters.

13 * Sec. 2. AS 39.50.200(b) is amended by adding a new paragraph to read:

14 (55) the board of directors and the chief executive officer of the Alaska
15 Railroad Corporation (AS 42.40.010).

16 * Sec. 3. AS 42.40.020(a) is amended to read:

17 (a) The powers of the corporation are vested in the board of directors. The
18 board consists of the commissioner of commerce and economic development, the
19 commissioner of transportation and public facilities, and five members appointed by
20 the governor. The five appointed members must be registered voters in the state
21 except as provided in (1) [AND (2)] of this subsection. Except for the commissioners
22 and the members [MEMBER] appointed under (2) and (5) of this section, a member
23 may not be a state officer or employee. Appointed members shall have the following
24 qualifications:

25 (1) one member of the board shall be a person who

26 (A) has at least 10 years of experience in railroad management;
27 a person who is not a resident of the state may be appointed under this
28 subparagraph; or

29 (B) is or has [PARAGRAPH;

30 (2) ONE MEMBER OF THE BOARD SHALL BE OR HAVE] been
31 an executive official of a United States railroad and shall be selected in accordance

1 with any requirements imposed under 49 U.S.C. (Interstate Commerce Act); a person
2 who is not a resident of the state may be appointed under this subparagraph
3 [PARAGRAPH];

4 (2) one member shall be an executive officer of the corporation who
5 represents the executive management of the corporation;

6 (3) at least one member shall be from each judicial district directly
7 served by the Alaska Railroad;

8 (4) one member shall have at least five years experience as an owner
9 or manager of a business in the state;

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

12 * Sec. 4. AS 42.40.020 is amended by adding a new subsection to read:

13 (c) Members of the board are subject to AS 39.50.

14 * Sec. 5. AS 42.40.060(a) is amended to read:

15 (a) The board shall elect from its membership a chair [CHAIRMAN] and
16 vice-chair [VICE-CHAIRMAN] and prescribe their duties by rule. The chair or vice-
17 chair of the board may not serve as the chief executive officer of the corporation.

18 * Sec. 6. AS 42.40.110(a) is amended to read:

19 (a) The board shall appoint the chief executive officer of the corporation who
20 serves at the pleasure of the board. A person appointed to the board under
21 AS 42.40.020(a)(1) may not be appointed chief executive officer of the corporation.
22 The chief executive officer of the corporation may not be appointed to the board
23 under AS 42.40.020(a)(1). The chief executive officer of the corporation may not
24 serve as chair or vice-chair of the board. The chief executive officer of the
25 corporation is subject to AS 39.50. The board shall fix compensation for the chief
26 executive officer.

27 * Sec. 7. AS 42.40.150 is amended by adding a new subsection to read:

28 (d) The board shall provide for attendance and participation by members of the
29 board by teleconference at meetings where the board will or may possibly take official
30 action on behalf of the corporation. Materials that are to be considered at a meeting
31 must be available at teleconference locations. The vote at a meeting held by

1 teleconference shall be taken by roll call.

2 * Sec. 8. AS 42.40.285 is amended to read:

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

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

7 (2) issue bonds;

8 (3) incur debt in an amount exceeding \$10,000,000 in any fiscal
9 year or have at any time an outstanding aggregated debt exceeding \$50,000,000;
10 this paragraph does not apply to debt incurred for the acquisition and
11 maintenance of railroad rolling stock, locomotives, construction and maintenance
12 equipment, track structure, and other railroad related physical plant;

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

15 (5) [(4)] lease land for a period in excess of 35 years unless the
16 corporation reserves the right to terminate the lease if the land is needed for railroad
17 purposes;

18 (6) use assets of the corporation to obtain an equity position in a
19 nontransportation activity; this paragraph

20 (A) does not apply to

21 (i) the purchase of stocks or other forms of equity
22 participation by the pension funds of the corporation; or

23 (ii) specific activities in which the corporation is
24 engaged on the effective date of this section of this Act, or to
25 routine maintenance and upkeep for those activities or to routine
26 appreciation in value of those existing activities;

27 (B) applies to increases in the corporation's respective share
28 of equity in a specific activity in which the corporation is engaged on the
29 effective date of this section of this Act and to substantial physical
30 expansions of that activity.

31 * Sec. 9. AS 42.40.980 is amended by adding a new paragraph to read:

- 1 (11) "nontransportation activity" means
2 (A) a hotel or other lodging facilities;
3 (B) an activity occurring before, or subsequent to the
4 transportation of people or personal property by the railroad; or
5 (C) an activity not
6 (i) directly related to the movement, handling, or
7 distribution of people or personal property; or
8 (ii) conducted by the railroad on the date of transfer to
9 the state.

10 * Sec. 10. LEGISLATIVE APPROVAL. In accordance with AS 42.40.285(6), the Alaska
11 Railroad Corporation is authorized to acquire an equity position in a regional land fill at mile
12 388 of the Alaska Railroad or at Totchaket Road west of Nenana.

13 * Sec. 11. APPOINTMENT TO FILL VACANCY. Notwithstanding other provisions of
14 law, the governor shall appoint a person who satisfies AS 42.40.020(a)(1)(A) or (B), as
15 amended by sec. 3 of this Act, to fill the next vacancy on the board of directors of the Alaska
16 Railroad Corporation.

3-16-94
JF - 3

8-LS0583N ✓
Utermohle
3/11/94

Adopted

CS FOR SENATE BILL NO. 148(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to legislative approval of certain acts of the Alaska Railroad
2 Corporation; relating to members of the board and chief executive officer of the
3 Alaska Railroad Corporation; and relating to meetings of the board of directors
4 of the Alaska Railroad Corporation."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1. PURPOSE.** This Act provides that

7 (1) the Alaska Railroad Corporation shall obtain approval of the legislature
8 before

9 (A) incurring debt, except in certain circumstances, in excess of
10 \$10,000,000 in a year or in excess of a total of \$50,000,000; or

11 (B) obtaining an equity position in certain nontransportation activities;

12 (2) the Alaska Railroad Corporation is authorized to acquire an equity position
13 in a proposed regional land fill;

14 (3) qualifications for appointed members of the board of directors of the

1 Alaska Railroad Corporation are amended;

2 (4) members of the board of directors and chief executive officer of the Alaska
3 Railroad Corporation are subject to AS 39.50 (Conflict of Interest);

4 (5) certain members of the board of directors may not serve as chief executive
5 officer of the Alaska Railroad Corporation;

6 (6) the chief executive officer of the Alaska Railroad Corporation may not be
7 appointed to certain memberships on the board of directors and may not serve as chair or vice-
8 chair of the board of directors;

9 (7) the board of directors of the Alaska Railroad Corporation shall provide for
10 meetings of the board by teleconference;

11 (8) the next vacancy on the board of directors of the Alaska Railroad
12 Corporation shall be filled by a person who has experience with railroad matters.

13 * Sec. 2. AS 39.50.200(b) is amended by adding a new paragraph to read:

14 (55) the board of directors and the chief executive officer of the Alaska
15 Railroad Corporation (AS 42.40.010).

16 * Sec. 3. AS 42.40.020(a) is amended to read:

17 (a) The powers of the corporation are vested in the board of directors. The
18 board consists of the commissioner of commerce and economic development, the
19 commissioner of transportation and public facilities, and five members appointed by
20 the governor. The five appointed members must be registered voters in the state
21 except as provided in (1) [AND (2)] of this subsection. Except for the commissioners
22 and the members [MEMBER] appointed under (2) and (5) of this section, a member
23 may not be a state officer or employee. Appointed members shall have the following
24 qualifications:

25 (1) one member of the board shall be a person who

26 (A) has at least 10 years of experience in railroad management;
27 a person who is not a resident of the state may be appointed under this
28 subparagraph; or

29 (B) is or has [PARAGRAPH;

30 (2) ONE MEMBER OF THE BOARD [SHALL BE OR HAVE] been
31 an executive official of a United States railroad and shall be selected in accordance

1 with any requirements imposed under 49 U.S.C. (Interstate Commerce Act); a person
2 who is not a resident of the state may be appointed under this subparagraph
3 [PARAGRAPH];

4 (2) one member shall be an executive officer of the corporation who
5 represents the executive management of the corporation;

6 (3) at least one member shall be from each judicial district directly
7 served by the Alaska Railroad;

8 (4) one member shall have at least five years experience as an owner
9 or manager of a business in the state;

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

12 * Sec. 4. AS 42.40.020 is amended by adding a new subsection to read:

13 (c) Members of the board are subject to AS 39.50.

14 * Sec. 5. AS 42.40.060(a) is amended to read:

15 (a) The board shall elect from its membership a chair [CHAIRMAN] and
16 vice-chair [VICE-CHAIRMAN] and prescribe their duties by rule. The chair or vice-
17 chair of the board may not serve as the chief executive officer of the corporation.

18 * Sec. 6. AS 42.40.110(a) is amended to read:

19 (a) The board shall appoint the chief executive officer of the corporation who
20 serves at the pleasure of the board. A person appointed to the board under
21 AS 42.40.020(a)(1) may not be appointed chief executive officer of the corporation.
22 The chief executive officer of the corporation may not be appointed to the board
23 under AS 42.40.020(a)(1). The chief executive officer of the corporation may not
24 serve as chair or vice-chair of the board. The chief executive officer of the
25 corporation is subject to AS 39.50. The board shall fix compensation for the chief
26 executive officer.

27 * Sec. 7. AS 42.40.150 is amended by adding a new subsection to read:

28 (d) The board shall provide for attendance and participation by members of the
29 board by teleconference at meetings where the board will or may possibly take official
30 action on behalf of the corporation. Materials that are to be considered at a meeting
31 must be available at teleconference locations. The vote at a meeting held by

1 teleconference shall be taken by roll call.

2 * Sec. 8. AS 42.40.285 is amended to read:

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

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

7 (2) issue bonds;

8 (3) incur debt in an amount exceeding \$10,000,000 in any fiscal
9 year or have at any time an outstanding aggregated debt exceeding \$50,000,000;
10 this paragraph does not apply to debt incurred for the acquisition and
11 maintenance of railroad rolling stock, locomotives, construction and maintenance
12 equipment, track structure, and other railroad related physical plant;

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

15 (5) [(4)] lease land for a period in excess of 35 years unless the
16 corporation reserves the right to terminate the lease if the land is needed for railroad
17 purposes;

18 (6) use assets of the corporation to obtain an equity position in a
19 nontransportation activity; this paragraph

20 (A) does not apply to

21 (i) the purchase of stocks or other forms of equity
22 participation by the pension funds of the corporation; or

23 (ii) specific activities in which the corporation is
24 engaged on the effective date of this section of this Act, or to
25 routine maintenance and upkeep for those activities or to routine
26 appreciation in value of those existing activities;

27 (B) applies to increases in the corporation's respective share
28 of equity in a specific activity in which the corporation is engaged on the
29 effective date of this section of this Act and to substantial physical
30 expansions of that activity.

31 * Sec. 9. AS 42.40.980 is amended by adding a new paragraph to read:

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(11) "nontransportation activity" means

(A) a hotel or other lodging facilities;

(B) an activity not directly related to the movement, handling, or distribution of people or personal property; or

(C) an activity occurring before, or subsequent to, the movement, handling, or distribution of people or personal property by the railroad, unless the activity

(i) was conducted by the railroad on the date of transfer to the state; or

(ii) is directly related to the movement, handling, or distribution of people or personal property.

* **Sec. 10. LEGISLATIVE APPROVAL.** In accordance with AS 42.40.285(6), the Alaska Railroad Corporation is authorized to acquire an equity position in a regional land fill at mile 388 of the Alaska Railroad or at Totchaket Road west of Nenana.

* **Sec. 11. APPOINTMENT TO FILL VACANCY.** Notwithstanding other provisions of law, the governor shall appoint a person who satisfies AS 42.40.020(a)(1)(A) or (B), as amended by sec. 3 of this Act, to fill the next vacancy on the board of directors of the Alaska Railroad Corporation.

FISCAL NOTE

No. 1

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill Version: SB 148

(S) Publish Date: 4-2-93

Revision Date: _____ Dept. Affected: None
 Title: SB 148:Relating to the BRU: _____
Alaska Railroad Corp. Component: _____
 Sponsor: Sen. Finance
 Requestor: Senate Transportation Comte. COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	*	*	*	*	*	*
CAPITAL	*	*	*	*	*	*
REVENUE FUND SOURCE:	*	*	*	*	*	*

FUNDING: (Thousands of Dollars)

1002 Federal Receipts	::					
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	*	*	*	*	*	*

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY	*	*	*	*	*	*

Estimate of current year (FY93) impact \$ _____

ANALYSIS: (Attach a separate page if necessary)

See attached analysis

Changes in CSSB 148 (TRA)
 have no fiscal impact. This
 fiscal note is appropriate.
4-1-93 date Camby Ford Comte Aide (initial)

Prepared by: Senate Transportation Comte Phone: X 3004
 Division: Alaska State Senate by CWT Date: 4/1/93
 Approved by Commissioner: Sen. Sharp Date: 4/1/93
 Agency: Senator Sharp Chair, Sen. Trans Comte

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FISCAL NOTE ANALYSIS SENATE BILL 148

The provisions of Senate Bill 148 will likely have a significant impact on the profitability of the Alaska Railroad Corporation (ARRC) because the bill will reduce the ARRC's revenue and increase its expenses. As a result, the ARRC will not continue to meet one of its intended purposes, that is, operate on a self-sustaining basis. In addition, state subsidies will be required to support the current level of capital programs and the employment provided by those programs.

The railroad has operated under state ownership for eight years. The average profit during this period is \$3.7 million annually. This profit is generated mainly from the railroad's real estate. For example, while the average net profit during the eight year period was \$3.7 million, the average real estate income during the period was \$4.4 million.

The ARRC uses this profit, its borrowing capability and other cash flow items to perform its capital programs. During the eight year period, the ARRC has invested nearly \$100 million, or slightly more than \$12 million annually, in the railroad. Railroad's are capital intensive industries. The State was able to purchase the railroad for a mere \$22 million because of the years of deferred maintenance and capital dollars needed to modernize the railroad. Without a profit these expenditures and the resulting jobs created by them would only be possible through a State subsidy.

Time did not permit the detailed analysis required to determine how much SB 148 would reduce the ARRC's net income and thus its capital programs. There is no question that the bill's passage would reduce the ARRC's net income. The ARRC's position paper on this bill cites the major areas of the bill that would affect the railroads net income.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 148

Revision Date: 3/10/94
 Title: "An Act relating to the Alaska Railroad Corporation"
 Sponsor: Senate Finance Committee
 Requestor: Senate Finance Committee

Department Affected: Commerce and Economic Development
 BRU: Alaska Railroad Corporation
 Component: Alaska Railroad Corporation

COMPONENT SERIAL NO. _____

Expenditures/Revenues:

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 94) cost: \$ 0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Robert S. Hatfield, Jr. President & CEO Phone: 265-2574
 Division: Alaska Railroad Corporation Date: _____

Approved by Commissioner: Paul Fuhs
 Agency: Commerce and Economic Development Date: 3/10/94

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 148

ANALYSIS: (continued)

The provisions of Senate Bill 148 will likely have a significant impact on the profitability of the Alaska Railroad Corporation (ARRC) because the bill will reduce the ARRC's revenue and increase its expenses. As a result, the ARRC will not continue to meet one of its intended purposes, that is, operate on a self-sustaining basis. In addition, state subsidies will be required to support the current level of capital programs and the employment provided by those programs.

The railroad has operated under state ownership for eight years. The average profit during this period is \$3.7 million annually. This profit is generated mainly from the railroad's real estate. For example, while the average net profit during the eight-year period was \$3.7 million, the average real estate income during the period was \$4.4 million.

The ARRC uses this profit, its borrowing capability and other cash flow items to perform its capital programs. During the eight-year period, the ARRC has invested nearly \$100 million, or slightly more than \$12 million annually, in the railroad. Railroads are capital intensive industries. The state was able to purchase the railroad for a mere \$22 million because of the years of deferred maintenance and capital dollars needed to modernize the railroad. Without a profit, these expenditures and the resulting jobs created by them would only be possible through a state subsidy.

Time did not permit the detailed analysis required to determine how much SB 148 would reduce the ARRC's net income and, thus, its capital programs. There is no question that the bill's passage would reduce the ARRC's net income. The ARRC's position paper on this bill cites the major areas of the bill that would affect the railroad's net income.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 16, 1994

SUBJECT: Interaction of SB 338 and SB 148 Regarding Legislative Approval of Bonds Issued by the Alaska Railroad Corporation

TO: Senator Steve Frank

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a discussion of the interaction between provisions of SB 338 and SB 148, regarding the legislative approval of bonds issued by the Alaska Railroad Corporation.

SB 338 (and CSSB 338(L&C)) authorizes the issuance of nonrecourse bonds by the Alaska Railroad Corporation for the acquisition and construction of the Northern Crossroads Discovery Center for the Ship Creek Landings Project. Sec. 1(a), SB 338. SB 338 satisfies the current requirement of AS 42.40.285 that the legislature approve by law the issuance of bonds by the Alaska Railroad Corporation. Id.

The draft CSSB 148(FIN), version I, amends AS 42.40.285 to require that the legislature must also approve the incursion of debt by the Alaska Railroad Corporation beyond certain annual and aggregate limits. Sec. 8, CSSB 148(FIN), version I. Specifically, the corporation must obtain legislative approval by law to incur debt of more than \$10,000,000 in any one year or more than a total debt of \$50,000,000. Debt incurred for the acquisition and maintenance of certain equipment and railroad related physical plant is exempt from the requirement for legislative approval.

If CSSB 148(FIN), version I, were enacted then the issuance of \$55,000,000 in bonds for the Northern Crossroads Discovery Center may be subject to two paragraphs of AS 42.40.285: first, paragraph (2) relating to issuance of bonds; and second, paragraph (3) relating to the incursion of debt in excess of \$10,000,000 in one year and in excess of a total of \$50,000,000. Sec. 8, CSSB 148(FIN), version I. SB 338, if enacted, probably would satisfy the requirement for legislative approval of the bonds for the Northern Crossroads Discovery Center under both requirements. Though SB 338 expressly states that it satisfies the requirement for legislative

Senator Steve Frank

March 16, 1994

Page 2

approval for the issuance of bonds but does not mention legislative approval for the corporation to exceed the limitations on debt imposed by SB 148, it is evident from SB 338 that the legislature approves the project and intends that the project go forward. The courts would probably find that legislative approval to exceed the debt limits established by SB 148 would be implied to the extent necessary to issue \$55,000,000 in bonds.

If both SB 338 and SB 148 are enacted, there is a potential for confusion and litigation over whether bonding for the Northern Crossroads Discovery Center would be subject to the new requirements for legislative approval for the incursion of debt under AS 42.40.285, as amended by SB 148. To minimize the potential for confusion and litigation, SB 148 should be amended to either (1) exempt projects approved by the legislature before the effective date of SB 148 from the debt limit provisions, (2) expressly approve the incursion of debt in the amount of \$55,000,000 for the Northern Crossroads Discovery Center, or (3) exempt projects such as the Northern Crossroads Discovery Center from the requirement that the legislature approve the incursion of debt for those projects. The appropriate language will resolve doubts as to whether the legislature approved the issuance of bonds and the incursion of debt by the Alaska Railroad Corporation for the Northern Crossroads Discovery Center in compliance with AS 42.40.285, as amended by SB 148.

If I may be of further assistance, please advise.

GU:mi

94-062.mai

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 16, 1994

SUBJECT: Legislative Approval of Alaska Railroad Corporation Bonds
(SB 338)

TO: Senator Steve Frank

FROM: George Utermohle *GU*
Legislative Counsel

You have asked whether the enactment of SB 338 would constitute legislative approval for the issuance of bonds by the Alaska Railroad Corporation for the Northern Crossroads Discovery Center at the Ship Creek Landings Project.

The answer is yes.

Under AS 42.40.285(2), the Alaska Railroad Corporation may not issue bonds unless the issuance of the bonds is approved by the legislature by law. The enactment of SB 338 would constitute legislative approval by law for the issuance of bonds by the corporation for the Northern Crossroads Discovery Center at the Ship Creek Landings Project. Section 1(a) of SB 338 (and CSSB 338(L&C)) states: "This section constitutes legislative approval of the issuance of bonds by the Alaska Railroad Corporation, as required by AS 42.40.285."

Upon passage of SB 338 or similar legislation containing an express approval for the issuance of bonds for the Northern Crossroads Discovery Center, no further approval or action by the legislature would be necessary before the Alaska Railroad Corporation could issue bonds for the project.

If I may be of further assistance, please advise.

GU:pl
94-212.plm

bill file

Alaska State Legislature

STEVE FRANK

While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3709
Capitol Rm. 417

119 N. Cushman, Rm. 213
Fairbanks, Alaska 99701
(907) 452-3421



Senate

MEMORANDUM

TO: Senator Steve Frank, Co-Chair
 Senator Drue Pearce, Co-Chair
 Senate Finance Committee

FROM: David Skidmore

RE: Amendment #4 to Senate Bill 148
 (Alaska Railroad Corporation Bill)

DATE: 11 March, 1994

Senate Bill 148 will be heard by the Senate Finance Committee on Tuesday, March 15. This memorandum is to remind you of the proposed amendment that was under consideration by the committee when last the bill was heard.

As you know, SB 148 would in part bar the chief executive officer of the Alaska Railroad Corporation from serving as the ARRC Board of Directors member who is required by statute to have ten years of railroad management experience. As Mr. Robert Hatfield currently does hold both of these positions, passage of SB 148 would have rendered this situation illegal and untenable. Amendment #4 was drafted in order to provide for a transition period before this prohibition takes effect.

The terms of two members of the ARRC Board of Directors are scheduled to expire on October 3, 1994; these members happen to be Mr. Frank Chapados (who holds the Third Judicial District seat) and Mr. Loren Lounsbury (who holds the business owner seat). The amendment under consideration would require the governor--given the failure of either of these two members to continue to serve on the board for any reason--to appoint a person who satisfies the newly-combined membership requirement of either having ten years of railroad management experience or having been an executive official of a U.S. railroad.

Upon the appointment of a person who satisfies the newly-combined membership requirement, Section 7 of the Act would take effect and prohibit the chief executive officer from jointly occupying the railroad management experience seat.

Alaska State Legislature

STEVE FRANK

119 N. Cushman, Rm. 213
Fairbanks, Alaska 99701
(907) 452-3421



White in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3709
Capitol Rm. 417

Senate

MAR 14 1994

MEMORANDUM

TO: Senator Steve Frank, Co-Chair
Senator Drue Pearce, Co-Chair
Senate Finance Committee

FROM: David Skidmore

RE: CS SB 148 (Finance) Work Draft:
Sectional Analysis

DATE: 14 March, 1994

Section 1. Sets forth the purposes of the Bill.

Section 2. Amends AS 39.50.200(b) by adding new paragraph (55) which provides that the board of directors and chief executive officer of the Alaska Railroad Corporation (ARRC) are subject to the statutory requirements regarding conflict of interest.

Section 3. Amends AS 42.40.020(a) which describes the membership requirements of the ARRC board of directors. The amendment combines former qualifications (1) and (2) into one qualification such that a member of the board must **either** have ten years of experience in railroad management or be--or have been--an executive official of a U.S. railroad. The amendment also adds a new qualification such that one member of the board must be an executive officer of the ARRC.

Section 4. Amends AS 42.40.020 to provide that members of the board of directors of the ARRC are subject to AS 39.50 (Conflict of Interest).

Section 5. Amends AS 42.40.060(a) to provide that the chair or vice-chair of the ARRC board of directors may not serve as the chief executive officer of the corporation.

Section 6. Amends AS 42.40.110(a) to provide that persons who are appointed to certain seats on the ARRC board of directors may not serve as chief executive officer of the corporation, and vice versa. The amendment

also provides that the chief executive officer of the corporation may not serve as chair or vice-chair of the board of directors, and that the chief executive officer is subject to AS 39.50 (Conflict of Interest).

Section 7. Amends AS 42.40.150 by adding new subsection (d) which provides that the ARRC board of directors shall make provision for attendance and participation by members of the board by teleconference at meetings where the board will or may possibly take official action on behalf of the corporation.

Section 8. Amends AS 42.40.285 to require that the ARRC receive legislative approval before either incurring debt exceeding \$10,000,000 in any fiscal year or having at any time an outstanding aggregated debt exceeding \$50,000,000. This restriction does not apply to debt incurred for the acquisition and maintenance of railroad rolling stock, locomotives, construction and maintenance equipment, track structure, and other railroad related physical plant. The ARRC is also required to seek legislative approval prior to using its assets to obtain an equity position in a nontransportation activity. Certain exemptions are defined with regard to this latter restriction.

Section 9. Amends AS 42.40.980 by adding new paragraph (11) which defines "nontransportation activity."

Section 10. Grants legislative authorization for the ARRC to acquire an equity position in a proposed regional landfill at either of two specific locations.

Section 11. Requires that the governor appoint a person who satisfies AS 42.40.020(a)(1)(A) or (B) to fill the next vacancy on the ARRC board of directors.

MEMORANDUM

TO: Senator Steve Frank
FROM: David Skidmore
RE: Comparison of SB 148 with CS SB 148 (Transportation)
DATE: 5 April, 1993

Section 1 of the bill sets out the purpose of the bill.
Section 1 of the CS sets out the purpose of the bill and reflects the changes that were made.

Section 2 of the bill amends AS 29.45.030(a) to provide that real property of the Alaska Railroad Corporation that is leased for fair value to a municipal, state, or federal agency or to a person is subject to municipal property taxes. "Person" is defined in AS 01.10.060 to include a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person.

Section 2 of the CS remains unchanged.

Section 3 of the bill amends AS 29.45.275 to conform to Section 2 of the bill. The amendment provides for the collection of delinquent taxes owed to a municipality by the Alaska Railroad Corporation.

Section 3 of the CS remains unchanged.

Section 4 of the bill amends AS 39.50.200(b) by adding the members of the board of directors, the chief executive officer, and vice-presidents of the Alaska Railroad Corporation to the list of persons subject to the conflict of interest law.

Section 4 of the CS applies only to the board of directors and the chief executive officer.

Section 5 of the bill amends AS 42.40.010 to state that the Alaska Railroad Corporation is established for the purpose of providing railroad and railroad related transportation services in the state.

This section was deleted in the CS.

Section 6 of the bill amends AS 42.40.020 to provide that the members of the board of directors of the Alaska Railroad Corporation are subject to AS 39.50 (Conflict of Interest).

Section 5 (renumbered) of the CS remains otherwise unchanged.

Section 7 of the bill amends AS 42.40.060(a) to prohibit persons who are appointed to certain seats on the board of directors of the Alaska Railroad Corporation from serving as chair or vice-chair of the board.

Section 6 (renumbered) of the CS provides that the chair or vice-chair of the board may not serve as the chief executive officer of the corporation.

Section 8 of the bill amends AS 42.40.110(a) to provide that persons who are appointed to certain seats on the board of directors of the Alaska Railroad Corporation may not serve as chief executive officer of the corporation. The amendment also provides that the chief executive officer of the corporation is subject to AS 39.50 (Conflict of Interest).

Section 7 (renumbered) of the CS provides that the chief executive officer of the corporation may not serve as chair or vice-chair of the board and also provides that the chief executive officer is subject to AS 39.50.

Section 9 of the bill amends AS 42.40.110 to provide that the persons appointed as vice-presidents of the Alaska Railroad Corporation are subject to AS 39.50 (Conflict of Interest).

This section was deleted in the CS.

Section 10 of the bill amends AS 42.40.250 to state that the Alaska Railroad Corporation may exercise its statutory powers for the purpose of providing railroad and railroad related transportation services in the state. AS 42.40.250 is also amended to provide that the power of the corporation to acquire personal and real property is subject to other provisions of AS 42.40. This section was deleted in the CS.

Section 11 of the bill amends AS 42.40.285 to require that the Alaska Railroad Corporation receive legislative approval before either incurring debt, other than bonded debt approved by the legislature and debt for certain purposes, exceeding \$1,000,000 or acquiring real or personal property by lease, if the property is valued at more than \$1,000,000 or is to be leased for more than 10 years.

Section 9 (renumbered) of the CS amends AS 42.40.285 to require that the Alaska Railroad Corporation receive legislative approval before either incurring debt exceeding \$10,000,000 in any fiscal year or having at any time an outstanding aggregated debt exceeding \$50,000,000. This restriction does not apply to debt incurred for the acquisition and maintenance of railroad rolling stock, locomotives, construction and maintenance equipment, track structure, and other railroad related physical plant. The Alaska Railroad Corporation is also required to seek legislative approval prior to using its assets to obtain an equity position in a nontransportation activity. Certain exemptions are defined with regard to this latter restriction, and "nontransportation activity" is defined in Section 11 of the CS.

Section 12 of the bill amends AS 42.40.910(a) to provide that certain property of the Alaska Railroad Corporation is subject to taxation as provided in AS 29.45.030(a)(1). This amendment is necessary to conform with the changes made by Section 2 of the bill.

Section 10 (renumbered) of the CS remains otherwise unchanged.

Section 13 of the bill amends AS 42.40.920(b) to provide that the Alaska Railroad Corporation is subject to certain provisions of the "open meetings law."

This section was deleted in the CS.

Section 14 of the bill amends AS 42.40.935 to provide that the Alaska Railroad Corporation shall comply with local building codes, including the obtaining of required permits.

This section was deleted in the CS.

Section 15 of the bill amends AS 44.62.310(a) to include the Alaska Railroad Corporation among the entities that are subject to provisions of the "open meetings law."

This section was deleted in the CS.

Section 16 of the bill amends provisions of temporary law that set out the purposes for which AS 42.40 (Alaska Railroad Corporation Act) was enacted. The amendments to Sec. 1(b), ch. 153, SLA 1984 provide that the Alaska Railroad Corporation is established for the purpose of providing railroad and railroad related transportation services in the state.

This section was deleted in the CS.

Section 17 of the bill provides that those sections of the bill (Sections 2,3, and 12) relating to the taxation of certain real property of the Alaska Railroad Corporation take effect January 1, 1994. The remaining sections of the bill take effect 90 days after the bill becomes law.

Section 12 (renumbered) of the CS remains unchanged other than necessary renumbering of Section 12 as Section 10.

APR 02 1993

SB 148

Theresa Becker
P.O. Box 83269
Fairbanks, Alaska 99708

March 28, 1993

Senator Drue Pearce
Capitol Rm 423
Juneau, Alaska 99801

Senate Bill #148

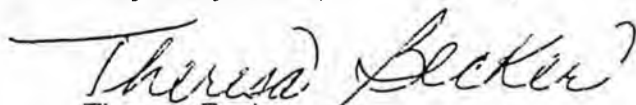
Dear Senator Drue Pearce,

As a Citizen of Alaska, concerned about the Alaska Railroad Corporation plan to diversify, I seek your support of Senate Bill #148.

A review of their recent history with the Ship Creek project, combined with an understanding of their plans to diversify in Fairbanks, Nenana, Denali, and Whittier, causes justifiable concern about the ability for ARRC to function without legislative action and still meet their responsibility to Alaskans. It seems ARRC acts without regard to the citizens of Alaska and the economic well being of privately owned business.

The actions put forth in Senate Bill #148 are past due and I strongly encourage your yes vote on this Bill.

Very Truly Yours,


Theresa Becker

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 1, 1993

SUBJECT: CSSB 148(TRA); Legislative approval of Alaska Railroad Corporation involvement in a proposed solid waste facility (Work Order No. 8-LS0583\R)

TO: Senator Bert Sharp
ATTN: Cam Toohey

FROM: George Utermohle *GU*
Legislative Counsel

You have asked whether the Alaska Railroad Corporation's involvement with a proposed solid waste facility near Nenana would be subject to legislative approval under AS 42.40.285, as amended by CSSB 148(TRA) (version R, dated March 31, 1993).

AS 42.40.285, as amended by CSSB 148(TRA), requires that the Alaska Railroad Corporation obtain legislative approval prior to acquiring an equity position in a nontransportation activity, except under certain circumstances.^{1/}

If the Alaska Railroad Corporation merely leases land to the developer/operator of the proposed solid waste facility at Nenana and transports waste to the facility, without obtaining an equity position in the facility, legislative approval of the corporation's involvement with the facility would not be required.

^{1/} For purposes of this memorandum it is assumed that the corporation's involvement in the proposed facility would not invoke legislative approval based on other provisions of AS 42.40.285. Thus, it is assumed that in connection with the proposed facility the corporation will not

- one, convey its entire interest in any land;
- two, issue bonds;
- three, incur any excessive debt, not related to acquisition and maintenance of railroad equipment and railroad related physical plant;
- four, extend railroad lines, other than spurs and other auxiliary track; or
- five, lease land for a period in excess of 35 years, without retaining a right to terminate the lease under certain conditions.

Senator Bert Sharp
April 1, 1993
Page 2

However, should the Alaska Railroad Corporation intend to acquire an equity position in the proposed facility, the corporation will probably have to obtain the appropriate legislative approval. Under AS 42.40.285(6), as amended by CSSB 148(TRA), the corporation may not acquire an equity position in a nontransportation activity, such as a solid waste facility without the approval of the legislature. The provisions exempting investments by the corporation's pension funds and grandfathering existing nontransportation activities of the corporation from the application of AS 42.40.285(6) would presumably be inapplicable, because the corporation's pension funds would not invest in the facility and because the corporation's involvement in the facility would not pre-date the effective date of AS 42.40.285(6)^{2/}.

If I may be of further assistance, please advise.

GU:gc
93-295.glc

^{2/} Whether a particular nontransportation activity is "grandfathered" under the proposed AS 42.40.285(6)(A)(ii) will ultimately depend on when the corporation became engaged in the activity and when AS 42.40.285(6)(A)(ii) takes effect.



SOPHIE STATION HOTEL

1717 University Avenue • Fairbanks, Alaska 99709

Phone: (907) 479-3650 • Fax: (907) 479-7951

April 1, 1993

Senator Drue Pearce
Capitol Rm 420
Juneau, Alaska 99801

Senate Bill #148

Dear Senator Drue Pearce,

This letter is to encourage your support of the aforementioned Bill.

As it is not possible for a corporation of the government to compete equally and fairly against free market, I support the effort to define activities of The Alaska Railroad Corporation. Further, as Alaska Railroad Corporation currently plans to construct a hotel in Fairbanks during the summer of 1993, I recommend swift action by our Legislators that this Bill may be passed this session.

I look forward to hearing of your yes vote on this Bill.

Thank you.

Sincerely,

Catherine Schultz
General Manager

4-8-93
3FC**ALASKA RAILROAD CORPORATION**

P.O. Box 107500 • Anchorage, Alaska 99510-7500

March 19, 1993

The Honorable Bert M. Sharp
Chairman, Senate Transportation Committee
Alaska State Senate
State Capitol, Room 514
Juneau, Alaska 99801

Dear Senator Sharp:

Senate Bill 148, which is presently pending in your committee, raises several concerns relating to the future viability of the Alaska Railroad Corporation (ARRC). This is also the case with the companion House Bill, HB-202. Based on several Juneau trips and in-depth discussions with the Bills' sponsors, concern about the ARRC's decision to assume a 40% equity position in the Comfort Inn Hotel in Anchorage is apparently a major reason underlying the legislation.

An additional factor lending some urgency to this proposal is a perception that ARRC is planning to participate in a similar hotel deal in Fairbanks. Although there are parties expressing interest in locating a hotel on railroad property in Fairbanks, ARRC has no plans to assume an equity position as occurred in Anchorage.

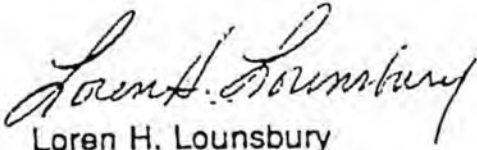
On the basis of my most recent Juneau visit, I have decided to propose a new policy at the next regular Board meeting on April 15, 1993 that would prevent ARRC from assuming an equity position in non-transportation activities in the future. Non-transportation activities will be defined to include hotel projects. While the ARRC Board believes that its action relative to the Comfort Inn was appropriate and consistent with ARRC's enabling legislation, we recognize and wish to be sensitive to the concerns about risk and the perception of unfair competition.

Based on initial discussions with other Board members, I believe there will be sufficient support to enact this policy. If there is interest, we would be happy to circulate the draft proposal for review and comment by interested legislators. It is my hope that the Bills' sponsors will agree that there will be no necessity for this Bill.

The Honorable Bert M. Sharp
March 19, 1993
Page Two

If there are questions by any members, please do not hesitate to contact me at 277-4334, or Bob Hatfield, ARRC President and CEO, at 265-2403.

Sincerely,



Loren H. Lounsbury
Chairman of the Board
Alaska Railroad Corporation

cc: The Honorable Walter J. Hickel, Governor
The Honorable Drue Pearce, Alaska State Senate
The Honorable Steve Frank, Alaska State Senate
The Honorable Jeannette James, Alaska State House
ARRC Board Members

March 11, 1993

Drue Pearce, Co-Chairman
Finance Committee
Alaska State Legislature
Juneau, Alaska 99801

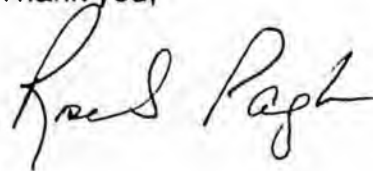
Honorable Co-Chairman Pearce:

Please support SB 148 which would make changes to more closely monitor the business actions of the Alaska Railroad Corporation.

The Fairbanks community depends greatly upon the influx of tourism during the summer months. The proposed development of the Chena River Project, with the addition of a hotel will do more harm than good for the promotion of local businesses. A state corporation should not involve itself in the management of a hotel in an already-glutted industry. There are plenty of lodging accommodations which are locally owned, and contribute to the Fairbanks economy.

I encourage you to do your best to see that Senate Bill 148 is passed so that the Alaska Railroad Corporation continues with its transportation mission, rather than expand to encompass other aspects of tourism which small business can support.

Thank you,

A handwritten signature in cursive script that reads "Fred Page".

640 Gradelle
Fbks, AK 99709

BOARD: RAILROAD CORPORATION, BOARD OF DIRECTORS OF THE ALASKA

BOARD IDENTIFICATION NUMBER: 88

TITLE: Board of Directors of the Alaska Railroad Corporation

DEPT: Department of Commerce and Economic Development

AUTHORITY: AS 42.40.010

STATUS: ACTIVE

REQUIREMENTS:

PROHIBITIONS: Conflict of Interest (see AS 42.40.230).
Members, except Commissioners and bargaining unit
representative, may not be state officers or employees.

TERM: 5 years

DESCRIPTION: 7 members - 5 appointed by the Governor with at least the following qualifications: 1 member with 10 years of experience in railroad management (who may be a non-resident); 1 member who is/was an executive official of a railroad as required under federal regulation (who may be a non-resident); 1 member with 5 years experience as owner/manager of a business in Alaska; 1 member from the bargaining unit representing employees of the corp.; plus the Commissioners of Department of Commerce and Economic Development & Department of Transportation. Judicial districts which are directly served by the Alaska Railroad must be represented; Board elects chairman and vice-chairman.

SPECIAL FACTS: Annual report to the Governor and the Legislature; Quorum - at least 4 voting members; fidelity bond required for all directors. Serve at pleasure of Governor.

FUNCTION: Advises the Governor and the Legislature on the management and operation of the Alaska Railroad. Manages the Alaska Railroad Corporation and its assets.

COMPENSATION: \$400/day plus standard travel and per diem.

MEETINGS: Required to meet at least once every three months.

*FOR FURTHER INFORMATION CONTACT: Commissioner, Dept. of
Commerce and Economic Development, Box 110800, Juneau, AK 99811
PHONE: 465-2500 or Board Secretary, Alaska Railroad Corporation,
P.O. Box 107500, Anchorage, AK 99510 PHONE: 265-2680

(Revised 12/15/92)

STATE OF ALASKA - OFFICE OF THE GOVERNOR
Boards and Commissions Office

Membership Roster

(088) RAILROAD CORPORATION

Member	Appointed	Reappointed	Term Exp.
VICE-CHAIR Frank X. Chapados Public/Restricted 42.40.c2c(a)(3) - Third Jud. Dist. (Anch.) P.O. Box 74825 Fairbanks, AK 99707	10/03/84	10/20/89	<u>10/03/94</u>
Paul Fuhs Commissioner/Commerce and Economic Development ✓ Act. Comm., DCED, Box 110800 Juneau, AK 99811-0800	07/01/92		
CEC Robert S. Hatfield, Jr. Railroad Executive (non-resident) 42.40.c2c(a)(1), (2) P.O. Box 112783 Anchorage, AK 99511-2783	01/07/91	10/14/91	10/03/96
Dale R. Lindsey Public/Restricted 42.40.c2c(a)(3) - Fourth Jud. Dist. (Fbks.) P.O. Box 389 Seward, AK 99664	12/19/88		10/03/93
CHAIR Loren H. Lounsbury Business Owner 42.40.c2c(a)(4) 1143 Anchorage, AK 99501	01/07/91		<u>10/03/94</u>
Michael W. Olson Bargaining Unit 42.40.c2c(a)(5) 1110 West 82nd Avenue Anchorage, AK 99518	01/07/91	12/08/92	10/03/97
Frank Turpin Commissioner/DOTPF ✓ Comm., DOT/PF, 3132 Channel Dr Juneau, AK 99801-7898	12/03/90		

Committee Substitute for Senate Bill 148 (Senate Transportation)

I. Introduction.

Committee Substitute for Senate Bill 148 ("CSSB 148") proposed by the Senate Transportation Committee, makes a number of changes to the bill as originally introduced by the Senate Finance Committee. The original bill proposed numerous and substantial changes to the Alaska Railroad Corporation Act, AS 42.40.010 et seq. ("ARCA"), that threatened to limit the corporation's ability to fulfill its original mission. That mission is to operate as a self-sustaining business, with substantial financial and operational independence tempered by public accountability. CSSB 148 mitigates the impact of the bill to a certain extent, and ARRC appreciated the opportunity to explain its concerns to the Senate Transportation Committee.

However, CSSB 148 will still significantly affect the ability of the Alaska Railroad Corporation ("ARRC") to respond quickly and flexibly to market opportunities. For example, the current regional landfill proposal at ARRC Milepost 388 may arguably fall within CSSB's definition of "nontransportation activity". The landfill's proponents, which include the City of Nenana, must have an answer that allows them to take alternative action before ice roads across a river are impossible. It would be impossible to obtain legislative approval quickly enough to meet need. The committee substitute also retains several provisions with significant and unwarranted economic consequences for ARRC and third parties such as lessees.

II. Impact of the Committee Substitute.

A. Municipal Taxation. CSSB 148 includes the same provisions regarding municipal taxation as did the original bill. This language eliminates the statutory exemption from municipal taxation that currently applies to ARRC real property leased to third parties for "fair value."¹ It also provides municipalities a mechanism to enforce taxation by authorizing suit in superior court for tax bills remaining unpaid for six months. As ARRC noted in its position paper on SB 148, these provisions empower

¹ Presumably, "fair value" is intended to have the same meaning as "fair market value" used elsewhere in ARCA. If the provision is retained, it should be changed to use the ARCA terminology and to apply prospectively only.

municipalities to tax the railroad's fee simple interest in land in the same manner as private property at the same time as the use of that land becomes seriously encumbered under other sections of the bill.

Authorizing municipalities to assess property taxes on ARRC property leased for fair value will impose a significant financial and administrative burden on the corporation. The burden is unfair from two perspectives. First, it is a burden that state property does not normally bear, except in the case of property acquired through foreclosure and retained as an investment. ARRC property is treated as state property for many purposes; for example, public notice of disposal is given as required by the state constitution. This is a process that wholly "private" property owners need not address.

On the other hand, while private landowners are subject to such taxes, most ground lessors pass taxes and other charges through to the ground lessees. Indeed, the ground lease form in use by ARRC since 1986 includes such "triple net" language, and lessees under that form will find themselves surcharged for any municipal levy. For some lessees, the amounts will be minimal; small lots in Anchorage may generate as little as a \$200 annual assessment. However, based on current appraised value and local mill rate, some twenty Anchorage lessees would be charged an additional annual amount of between \$5,000 and \$32,000 each as ARRC passes on the taxes imposed by this bill.

The foregoing figures illustrate the immediate impact on current ARRC lessees. However, ARRC has approximately 233 active leases, of which some 107 are governed by an old lease form inherited from the period of federal ownership of the railroad. Those leases do not commonly provide for recoupment of taxes from the lessee, and ARRC is bound by those provisions until each individual term expires. At current appraised value and applying the mill rate in effect for the Ship Creek area of Anchorage, approximately \$426,000 may be assessed Railbelt-wide in property taxes that ARRC cannot recoup from the lessees. This amounts to 18% of the corporation's net 1992 estimated income of approximately \$2.3 million.

The disparate application between lessees on the older lease forms and the newer one will gradually correct itself over time as those leases expire and the newer form is utilized for all lessees. However, in the interim ARRC will be at an unwarranted disadvantage vis-a-vis private land lessors who can pass such charges on to their lessees. Moreover, ARRC will face a significant administrative burden in manually reviewing each of the 233 leases to determine whether the taxes may be charged to the lessees.

The proposed change is troubling from a philosophical standpoint as well as the more obvious financial one. As enacted in 1984, ARCA provided that railroad land was exempt from local property taxes just as other state land. As one balancing factor, the Legislature also authorized the corporation to lease its land to the state and its political subdivisions for less than fair market value. Acting as a good corporate citizen, the corporation has utilized this authority for local benefit by adopting (and applying) its Public Entity Lease Policy. This Board Rule specifies procedures to obtain such leases, and to issue nominal fee permits such as the Anchorage Coastal Trail. Indeed, ARRC has a considerable number of leases and permits to municipalities at little or no charge. Revoking the municipal tax exemption upsets this delicate balance and calls into question the railroad's financial ability to continue offering leases and permits to public entities at nominal cost.

Finally, it must be noted that municipalities already have the power to tax leasehold interests in ARRC property, as well as the buildings and other improvements owned by the lessees. Municipalities have a variety of techniques for assessing the value of such interests, some of which fail to recognize the full value of an exclusive right to possess ARRC property for up to 35 years. There is, therefore, an existing mechanism for increasing municipal revenues without making such a fundamental change to ARCA.

B. Restriction on Equity Participation in Non-transportation Activities. As originally enacted, ARCA envisioned a quasi-public corporation with broad powers to act in a manner similar to private business corporations and, equally important, to react quickly to market forces. Controls were built into the statutory scheme by requiring legislative approval for certain actions that were deemed to be of paramount public concern (AS 42.40.285) and by requiring an oversight report before the corporation could undertake significant expansion or reduction of services (AS 42.40.280). A further control mechanism was imposed by requiring Board of Directors' approval of certain actions (AS 42.40.120(c)), with the Board composed of political appointees and government officials presumably sensitive to public policy concerns.

CSSB 148 deleted the earlier bill's language which limited the exercise of all of ARRC's corporate powers to "the purpose of providing railroad and railroad related transportation services in the state." Instead, it requires the corporation to seek legislative approval before obtaining an equity position in a nontransportation activity. This is a more focused approach, and specifically targets the type of activity most recently found objectionable by some legislators and members of the public (i.e. hotel investment). While preferable to the earlier language, it will still raise interpretive difficulties. For example, some

legislators and legislative staff have already suggested contradictory applications of the bill's language to a current ARRC market opportunity, the potential landfill at Broad Pass, south of Nenana. Not only is this a good example of interpretive issues, but it also illustrates the necessity for prompt action in certain cases. It is unlikely that legislative approval could be obtained in the time frame dictated by "break-up" in Alaska. It is virtually impossible to foresee every possible market-driven opportunity that may be argued to fall within the restriction.

ARRC continues to believe that this limiting language is unnecessary. The corporation's Board of Directors will be considering very similar restrictions in a Board Rule proposed for its April 15, 1993 meeting. Under ARCA, Board Rules are analogous to state agency administrative regulations, and are adopted (and amended or revoked) with public notice and opportunity to comment. AS 42.40.180-.190. The Legislature should therefore feel assured that once adopted, such a Board Rule would not be changed without public scrutiny.

This section of CSSB 148 creates a cumbersome legislative approval process that will by definition inject political pressures and delay into the pursuit of a market opportunity. We believe this unduly hampers ARRC in pursuing its mission of self-sufficiency, as well as being unnecessary in light of the proposed Board Rule. ARRC recommends that this section be deleted from the bill.

C. \$10 Million Debt Limit. The bill requires legislative approval for the corporation to incur debt exceeding a total of \$10 million on an annual basis, or \$50 million cumulatively. Acquisition and maintenance of rolling stock, locomotives, construction and maintenance equipment, track structure and other railroad-related physical plant are excluded.

This section in CSSB 148 is much less onerous than the \$1 million debt limit that appeared in the original bill. A concern remains, however, as to the effect over time. Inflation and expanded operations could make the annual and cumulative limits unreasonable in light of cash flow and force ARRC continually to seek legislative approval or request an amendment to the statute.

Additionally, this provision could still impede ARRC's reaction in the event of an emergency, particularly if it should occur in a year with other substantial non-exempted debt incurred. ARRC is self-insured for up to \$10 million for property damage, and for \$5 million in general liability. A catastrophic event such as a fire or earthquake could create an immediate need to borrow in excess of the \$10 million limit. An environmental accident could have the same effect and ARRC's ability to mitigate the damage could be seriously delayed by the

necessity for legislative approval. For example, the Dunbar derailment near Fairbanks in May, 1990, cost ARRC approximately \$6 million. ARRC's lines of credit are available to be tapped in such events, but permanent arrangements must be made quickly to meet the corporation's ongoing risk management commitments and operational needs. As Dunbar illustrates, this scenario can easily arise outside the legislative session.

To the extent legislators are concerned that substantial corporate expenditures may be made without public oversight, it is important to note that ARRC's Board is accountable for such expenses in at least two very public processes. First, the corporate budget is considered and adopted at an annual public work session and Board meeting. Specific capital expenditures are discussed in detail at the work session, nevertheless, specific Board approval is required during the course of the year for such expenditures in excess of \$500,000. Approval can only occur at open Board meetings, notice of which is published in local newspapers.

Secondly, an unbudgeted capital expenditure of more than \$100,000 requires specific Board approval, which again can only occur at an open Board meeting. We therefore submit that adequate fiscal control exists under ARCA without the need for this legislation.

D. Conflict of Interest Law. CSSB 148 would subject ARRC's Board of Directors and chief executive officer ("CEO") to the state conflict of interest statute, AS 39.50, requiring them to file annual conflict of interest statements with the Alaska Public Offices Commission. These statements must include, among other things, all sources of income in excess of \$100, all business interests, and all creditors for over \$500. ARCA already requires a conflict of interest disclosure mechanism which has been created by adoption of Board Rule 14.² This disclosure requirement extends to individuals far beyond those required by AS 39.50, to directors and all non-union railroad employees. This is the case even though those same employees are not "state employees" (AS 42.40 710) and would not otherwise be subject to such a requirement. ARRC's disclosure statements for Board members, the CEO and vice presidents are public records and accessible to any legislator or member of the public.

We note that CSSB 148 removed the requirement that ARRC's vice presidents file APOC statements, and appreciate the committee's sensitivity to the concerns ARRC expressed. However,

²ARRC Board Rules that affect the public are analogous to state agency regulations and must, under AS 42.40.180-.205, be adopted with public notice and opportunity for public comment.

no compelling reason has been given for treating ARRC's CEO differently from the executive director of the Alaska Housing Finance Corporation or the president of the state university system, neither of whom appear to be required to file such disclosure statements. With the level and extent of disclosure already provided, ARRC believes that this section of CSSB 148 is unnecessary and redundant to provisions already contained in ARCA.

E. Exclusion of CEO from Serving as Board Chair or Vice-chair. ARRC does not oppose this provision of CSSB 148. For informational purposes, we have attached an outline of the composition of the current board of directors, describing the characteristics of the seat filled by each incumbent.

F. Open Meetings Act. CSSB 148 deletes the previous bill's language making ARRC subject to the state Open Meetings Act ("OMA"). It does, however, require the Board to provide for teleconferencing by members during legislative session. This appears to be a substantial departure from the OMA itself, which does not impose mandatory teleconferencing on other state entities. We must in good faith question the necessity of singling out a particular entity in this manner, and recommend that this section of CSSB 148 be deleted.

III. Summary.

This bill presents a radical departure from a legislative philosophy that has withstood the test of over eight years of operation without seeking a legislative subsidy. The state's own analysts projected a continuing deficit for the railroad for at least 4-5 years after transfer, and legislative appropriations were fully expected to be necessary. However, the 12th and 13th Legislatures took great care in drafting ARCA, working for four years in a very public forum to create a corporation with the latitude and flexibility to respond to market conditions, subject to certain public oversight. Their foresight has borne fruit over the years. ARRC has never sought a legislative appropriation. Indeed, it has produced a profit in every year but one since transfer. One can hardly find a better example of prudently directed state investment.

This track record makes CSSB 148 particularly troubling with its restrictions on ARRC's ability to respond to market opportunities. Several of its proposals create a potentially significant impediment to ARRC's continued operations, at least on the same self-sufficient level as before. If this bill is enacted as proposed, ARRC will be forced to reconsider certain aspects of its operations that are not currently profitable. This could lead to elimination or state subsidy of marginal local

passenger services (e.g., Hurricane Turn, Whittier Shuttle). Interpreted strictly, it is clear that this legislation could render the railroad unprofitable, and relegate ARRC to seeking appropriations on an annual basis. The corporation could also be forced to increase revenues, either by raising rates or lowering some to attract increased overall volume.

In addition to the financial implications for both ARRC and the state, this legislation raises future interpretive issues that no amount of current drafting skill can completely eliminate. It is simply impossible to foresee every avenue of business opportunity that might someday present itself to ARRC and be argued to fall within the restrictions imposed by this bill. The corporation has demonstrated its awareness of legislative and public concerns with its commitment to adopt a Board Rule on the subject of investment in nontransportation activities. Adoption of such a rule should render this bill unnecessary.

Dated: 4-7-93

Phillip C. Johnson
for Robert S. Hatfield, Jr.
President & CEO
Alaska Railroad Corporation