

**HB**

**136**

9-LS0438\O  
Utermohle  
4/24/96

CS FOR HOUSE BILL NO. 136( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE MARTIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the establishment and operation of the Alaska Railroad  
2 Commission to evaluate the sale of the Alaska Railroad; and providing for an  
3 effective date."

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

5 \* Section 1. ALASKA RAILROAD COMMISSION. (a) The Alaska Railroad  
6 Commission is established as an entity within the Legislative Budget and Audit Committee  
7 of the legislature. The commission consists of five members who represent the legislature,  
8 the governor, the labor unions who represent persons employed by the Alaska Railroad  
9 Corporation, and the private sector that uses the Alaska Railroad. One member shall be  
10 appointed by the governor, one member shall be appointed by the president of the senate, one  
11 member shall be appointed by the speaker of the house of representatives, one member shall  
12 be appointed jointly by the governor, president of the senate, and speaker of the house of  
13 representatives to represent labor unions that represent the employees of the Alaska Railroad  
14 Corporation, and one member shall be appointed jointly by the governor, president of the

1 senate, and speaker of the house of representatives who is a representative of the private sector  
2 that uses the Alaska Railroad. A vacant seat on the commission shall be filled in the manner  
3 that the seat was originally filled.

4 (b) A member of the Alaska Railroad Commission is entitled to compensation at a rate  
5 of \$250 for each day the member is engaged in the actual performance of duties as a  
6 commission member. The commission may provide for compensation for partial days during  
7 which a member is engaged in actual performance of duties as a commission member. In  
8 addition, a member is entitled to per diem and travel expenses authorized for boards and  
9 commissions under AS 39.20.180.

10 (c) Subject to appropriations for the purpose, the Alaska Railroad Commission may  
11 contract for professional services as the commission considers necessary. Contracts for  
12 professional services under this subsection are exempt from AS 36.30.

13 (d) The Alaska Railroad Commission shall contract for preparation of an appraisal by  
14 a qualified railroad appraiser of the fair market value of the Alaska Railroad and all other  
15 assets of the Alaska Railroad Corporation. The commission shall give a preference to a  
16 private entity based in the state for the contract to perform the appraisal. The appraisal shall  
17 be submitted to the governor and the Legislative Budget and Audit Committee before  
18 November 1, 1996. The Alaska Railroad Corporation shall pay for the appraisal from the  
19 Alaska Railroad working fund. The contract for the appraisal under this subsection is exempt  
20 from AS 36.30.

21 (e) By January 13, 1997, the Alaska Railroad Commission shall determine whether  
22 or not it is in the best interests of the state to sell the Alaska Railroad and all other assets of  
23 the Alaska Railroad Corporation classified as necessary or convenient for the operation of the  
24 railroad. In reaching its determination under this subsection, the commission shall

25 (1) identify all assets, real and personal and tangible and intangible, of the  
26 Alaska Railroad Corporation and classify those assets as necessary or convenient for the  
27 operation of the railroad or as other assets of the corporation;

28 (2) consider the effect of the sale of the Alaska Railroad on the state, on  
29 customers, lessees, and employees of the railroad, and on municipalities served or affected by  
30 the railroad;

31 (3) consider the effect of privatization of the Alaska Railroad and the

1 conditions of the sale upon the long-term profitability of the railroad;

2 (4) consider the ability of the state to obtain enforceable assurances of  
3 continued operation of the railroad at necessary levels of service;

4 (5) consider foreseeable economic effects of the sale of the railroad; and

5 (6) consider the value to the state of direct oversight of operations of the  
6 Alaska Railroad Corporation as currently provided under law.

7 (f) Notwithstanding the determination of the commission under (e) of this section,  
8 before January 13, 1997, the Alaska Railroad Commission shall also

9 (1) recommend specific conditions to be attached to a sale of the Alaska  
10 Railroad, including requirements that the purchaser of the railroad agree to

11 (A) continue operation of the railroad, as an active and functioning  
12 transportation system, for a minimum of 20 years following the date of sale of the  
13 railroad;

14 (B) accept assignment of all contracts, including agreements with  
15 connecting carriers, shippers, or other persons concerning services, operation, property,  
16 and facilities of the Alaska Railroad Corporation, entered into by the Alaska Railroad  
17 Corporation and in effect on the date of the sale of the Alaska Railroad, provided that  
18 the contracts are assignable under terms of the contract or that the other parties to the  
19 contract consent to the assignment; this subparagraph does not apply to executive  
20 employment contracts;

21 (C) accept assignment of collective bargaining agreements with labor  
22 organizations that represent employees of the Alaska Railroad that are in effect on the  
23 date of transfer of ownership of the Alaska Railroad until expiration of the agreements;

24 (D) as a condition of the sale and before the transfer of ownership of  
25 the Alaska Railroad, negotiate collective bargaining agreements, including provisions  
26 for future retirement benefits if appropriate, to take effect upon the expiration of the  
27 collective bargaining agreements that are in effect on the date of transfer of ownership  
28 of the Alaska Railroad;

29 (E) accept assignment of the retirement obligations owed to employees  
30 of the Alaska Railroad at the time of transfer of ownership of the Alaska Railroad;

31 (F) purchase the Alaska Railroad for an amount that is equal to or

1 exceeds the fair market value of the Alaska Railroad and the assets of the Alaska  
2 Railroad Corporation that are necessary or convenient for the operation of the railroad;  
3 and

4 (G) provide proof of financial ability to abide by the terms of sale and  
5 to operate the railroad as an active and functioning transportation system;

6 (2) recommend specific procedures and a schedule of events to be followed  
7 in selling the Alaska Railroad;

8 (3) evaluate the prospects for and effects of operation of the Alaska Railroad  
9 under private ownership;

10 (4) recommend procedures for the disposal of real property of the Alaska  
11 Railroad Corporation that is not necessary or convenient for operation of the Alaska Railroad  
12 to the state or to private persons;

13 (5) identify measures necessary to assure continued use of the railroad right-of-  
14 way corridor for transportation, communication, and transmission purposes and support  
15 functions associated with these purposes; and

16 (6) identify conditions or terms of the sale of the Alaska Railroad that may be  
17 necessary for consistency with the Alaska Railroad Transfer Act of 1982 (P.L. 97-468, Title  
18 IV) and AS 42.40 (Alaska Railroad Corporation Act).

19 (g) The Alaska Railroad Commission shall submit a comprehensive report of its  
20 determination, recommendations, identifications, and evaluations made under (e) and (f) of this  
21 section and of the appraisal of corporation assets under (d) of this section to the governor and  
22 the Legislative Budget and Audit Committee before January 13, 1997.

23 (h) Except as provided under this subsection, the meetings of the Alaska Railroad  
24 Commission shall be open to the public and shall provide an opportunity for public comment.  
25 A subject may not be considered at an executive session unless the subject is mentioned in  
26 the motion calling for the executive session or is auxiliary to a subject mentioned in the  
27 motion. An action may not be taken at an executive session. Only the following subjects  
28 may be discussed in an executive session:

29 (1) matters, the immediate knowledge of which would clearly have an adverse  
30 effect upon the finances of the Alaska Railroad Corporation;

31 (2) unless the person has requested to have the subjects discussed in public,

1 subjects that tend to prejudice the reputation and character of a person;

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

4 (4) matters pertaining to personnel;

5 (5) matters pertaining to the legal position of the Alaska Railroad Corporation;

6 (6) land acquisition or disposal; and

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

11 (i) Notwithstanding AS 42.40.220 and other provisions of AS 42.40, the Alaska  
12 Railroad Commission shall have access to financial records, contracts, legal documents, and  
13 other records and documents of the Alaska Railroad Corporation that the commission  
14 determines are necessary to perform the commission's functions under this section. The  
15 members and staff of the commission shall maintain the confidentiality of confidential records  
16 and documents provided by the corporation to the commission.

17 \* Sec. 2. This Act is repealed June 30, 1997.

18 \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).