

LEG. FINANCE - BILLS 1983 - 1984 - 1930

HB 512 cont. - CSHB 512 1930

1           Sec. 42.40.370. CONVEYANCE OF LAND. (a) Within 90 days after  
2 receiving a request under AS 42.40.350(b) the commissioner of natural  
3 resource: shall by written decision

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

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

9           (3) approve in part and deny in part the request for desig-  
10 nation of the identified land and convey as appropriate.

11           (b) In the absence of a reservation to the contrary, a convey-  
12 ance of land under this section vests in the corporation ownership,  
13 control of the surface and subsurface, and the exclusive right to  
14 extract or use timber and other construction materials, sand, gravel,  
15 rock, and the right to tunnel, ditch, recontour, excavate, or other-  
16 wise use the land for railroad, transportation, transmission, or  
17 communication services without regard to the classification of the  
18 resources as part of the surface or subsurface estate.

19           (c) The corporation may reconvey to the state land received  
20 under this section or under 49 U.S.C. 1201 - 1214 (Alaska Railroad  
21 Transfer Act of 1982) that the corporation and the commissioner of  
22 natural resources jointly identify as unnecessary or unsuitable for  
23 the corporation's purposes.

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

1 relocation with the concurrence of the Department of Natural Re-  
2 sources. The relocation must affect only the amount of state land  
3 necessary to adequately restore or continue safe rail operations at a  
4 normal level.

5 Sec. 42.40.397. EMINENT DOMAIN. (a) The corporation may exer-  
6 cise the power of eminent domain under AS 09.55.240 - 09.55.460 to  
7 acquire land for railroad purposes consistent with this chapter. The  
8 corporation may acquire a fee simple title whenever, in the judgment  
9 of the board, ownership of a fee simple title is necessary to carry  
10 out the purposes of this chapter.

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

13 (c) The power of eminent domain conferred under this section  
14 includes the power to obtain clay, gravel, sand, timber, rock, or  
15 other material for railroad use, the land necessary to obtain the  
16 material, and access to the land and material.

17 Sec. 42.40.400. VACATION OF LAND. The corporation may vacate  
18 land acquired for railroad purposes by executing and filing a deed in  
19 the appropriate recording district. Upon filing the deed the state  
20 shall acquire title to the land.

21 Sec. 42.40.410. FEDERAL LAND. The corporation may submit appli-  
22 cations on its own behalf as an instrumentality of the state for  
23 acquisition of federal land available under federal law that will  
24 enhance the operations of the corporation. The corporation may re-  
25 ceive in its own name conveyances of all interests in federal land.

26 Sec. 42.40.420. MUNICIPAL RIGHTS-OF-WAY. Upon request of a  
27 municipality the corporation may grant to the municipality a right-  
28 of-way in a railroad utility corridor or in rail land to be used for a  
29 pedestrian walkway or trail. Before granting a right-of-way unde

1 this section the board shall require the municipality to execute an  
2 agreement in a form approved by the board to

3 (1) hold the corporation harmless and indemnify the corpo-  
4 ration for any use made of the right-of-way includi:

5 (A) defending the corporation in a cause of action  
6 brought against the corporation as a result of the use, and

7 (B) indemnifying the corporation for the amount of a  
8 judgment rendered against the corporation including prejudgment  
9 interest, costs, and attorney's fees; and

10 (2) vacate the right-of-way upon request of the corporation  
11 if the right-of-way interferes with expansion or replacement of rail-  
12 road facilities.

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

22 Sec. 42.40.440. USE OF PESTICIDES AND HERBICIDES. Vegetation  
23 control involving the use of pesticides or herbicides on land owned or  
24 managed by the corporation may be conducted only in compliance with  
25 state requirements applicable to other state pesticide or herbicide  
26 use.

27 ARTICLE 6. FINANCIAL PROVISIONS.

28 Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred  
29 by the corporation shall be satisfied exclusively from the assets or

1 revenue of the corporation and no creditor or other person has a right  
2 of action against the state because of a debt, obligation, or liability  
3 of the corporation.

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

9 Sec. 42.40.520. INSURANCE. The corporation shall keep in force  
10 public liability insurance in an amount reasonably calculated to cover  
11 potential claims against the corporation or state for bodily injury,  
12 death or disability and property damage that may arise from or be  
13 related to corporation operations and activities.

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

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

## 22 ARTICLE 7. BONDS AND NOTES.

23 Sec. 42.40.600. GENERAL PROVISIONS. (a) The corporation by  
24 resolution may issue bonds and notes to provide money to carry out its  
25 purposes.

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

28 (1) be dated;

29 (2) bear interest at a required rate or rates per year or

1 within a maximum rate;

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

13 (c) Bonds and notes may be sold in the manner, on the terms, and

14 at the price the board determines. Notes shall mature at the time or

15 times determined by the board. Bonds shall mature at the time, not

16 exceeding 50 years from their date, determined by the board.

17 Sec. 42.40.610. NEGOTIABLE INSTRUMENTS. Bonds and notes issued

18 under this chapter and interest coupons attached to them are nego-

19 tiable instruments under the laws of this state, subject only to

20 applicable provisions for registration.

21 Sec. 42.40.620. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds

22 and notes issued under this chapter are securities in which all public

23 officers and public bodies of the state and its political subdivi-

24 sions, all insurance companies, trust companies, banking associations,

25 investment companies, executors, administrators, trustees and other

26 fiduciaries may properly and legally invest funds, including capital

27 in their control or belonging to them. These bonds and notes may be

28 deposited with a state or municipal officer of an agency or political

29 subdivision of the state for any purpose for which the deposit of

1 bonds or notes of the state is authorized by law.

2 Sec. 42.40.630. PAYMENT OF BONDS AND NOTES. The principal and  
3 interest on bonds or notes of the corporation is payable from corpo-  
4 ration money or assets. Bonds or notes may be additionally secured by  
5 a pledge of a grant or contribution from the federal, state, or munic-  
6 ipal government or a corporation, association, institution or person,  
7 or a pledge of money, income, or revenue of the corporation from any  
8 source.

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

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

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

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

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

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

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

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

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

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

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

24 Sec. 42.40.670. VALIDITY OF PLEDGE. (a) The pledge of assets  
25 or revenue of the corporation to the payment of the principal or  
26 interest on bonds or notes of the corporation is valid and binding  
27 from the time the pledge is made and the assets or revenue are immedi-  
28 ately subject to the lien of the pledge without physical delivery or  
29 further act. The lien of a pledge is valid and binding against all

1 parties having claims of any kind against the corporation, irrespec-  
2 tive of whether those parties have notice of the lien of the pledge.

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

7 Sec. 42.40.680. REMEDIES. A holder of bonds or notes issued  
8 under this chapter or of coupons attached to them, and a trustee under  
9 a trust agreement or resolution authorizing the issuance of the bonds  
10 or notes, except as restricted by a trust agreement or resolution,  
11 either at law or in equity, may

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

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

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

21 (1) debt, liability, or obligation of the state or of a  
22 political subdivision of the state; or

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

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

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

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

4           Sec. 42.40.700. LIMITATION ON PERSONAL LIABILITY. A board  
5 member or employee of the corporation is not subject to personal  
6 liability or accountability because of the execution or issuance of  
7 bonds or notes.

8           ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

9           Sec. 42.40.710 CORPORATION EMPLOYEES. (a) Employees of the  
10 Alaska Railroad are employees of the corporation and not of the state.  
11 The provisions of AS 39 do not apply to employees of the corporation.

12           Sec. 42.40.720. COLLECTIVE BARGAINING RIGHTS. The provisions of  
13 AS 23.40.070 - 23.40.260 do not apply to the corporation or to its  
14 employees. However, employees who are not executive officers may  
15 organize and form, join, or assist an organization to engage in  
16 collective bargaining through representatives of their own choosing  
17 and engage in concerted activities for the purpose of collective  
18 bargaining or other mutual aid or protection.

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

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

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

29           Sec. 42.40.740. COLLECTIVE BARGAINING UNIT. The railroad labor

1 relations agency shall decide in each case, in order to ensure employ-  
2 ees the fullest freedom in exercising the rights guaranteed by AS 42.-  
3 40.710 - 42.40.890 the unit appropriate for the purposes of collective  
4 bargaining, based on such factors as community of interest, wages,  
5 hours and other working conditions of the employees involved, the  
6 history of collective bargaining, and the desires of the employees.  
7 Bargaining units shall be as large as is reasonable, and unnecessary  
8 fragmenting shall be avoided.

9 Sec. 42.40.750. REPRESENTATIVES AND ELECTIONS. (a) The rail-  
10 road labor relations agency shall investigate a petition if it is  
11 submitted in a manner prescribed by the labor relations agency by

12 (1) an employee or group of employees or an organization  
13 acting in their behalf alleging that 30 percent of the employees of a  
14 proposed bargaining unit

15 (A) want to be represented for collective bargaining  
16 by a labor or employee organization as exclusive representative;  
17 or

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

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

25 (b) If the railroad labor relations agency has reasonable cause  
26 to believe that a question of representation exists, it shall provide  
27 for a hearing upon due notice. If the railroad labor relations agency  
28 finds that there is a question of representation, it shall direct an  
29 election by secret ballot to determine whether or by which

1 organization the employees desire to be represented and shall certify  
2 the results of the election. Nothing in this subsection prohibits the  
3 waiving of hearings by stipulation for the purpose of a consent elec-  
4 tion in conformity with the regulations of the railroad labor rela-  
5 tions agency or an election in a bargaining unit agreed upon by the  
6 parties.

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

19 (d) Nothing in this chapter prohibits recognition of an  
20 organization as the exclusive representative by the corporation by  
21 mutual consent.

22 (e) An election may not be directed by the railroad labor  
23 relations agency in a bargaining unit in which there is in force a  
24 valid collective bargaining agreement, except during a 90-day period  
25 preceding the expiration date. However, no collective bargaining  
26 agreement may bar an election upon petition of employees in the  
27 bargaining unit but not parties to the agreement if more than three  
28 years have elapsed since the execution of the agreement or the last  
29 timely renewal, whichever was later.

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

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

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

7           (3) discriminate in regard to hire or tenure of employment  
8 or a term or condition of employment to encourage or discourage  
9 membership in an organization;

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

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

17          (b) Nothing in AS 42.40.710 - 42.40.890 prohibits the  
18 corporation from making an agreement with an organization to require  
19 as a condition of employment

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

23          (2) payment by the employee to the exclusive bargaining  
24 agent of a service fee to reimburse the exclusive bargaining agency  
25 for the expense of representing the members of the bargaining unit.

26          (c) An organization or its agents may not

27          (1) restrain or coerce

28                 (A) an employee in the exercise of the rights  
29 guaranteed in AS 42.40.720; or

1 (B) the corporation in the selection of a representa-  
2 tive for the purposes of collective bargaining or the adjustment  
3 of grievances;

4 (2) refuse to bargain collectively in good faith with the  
5 corporation, if it has been designated in accordance with AS 42.40.-  
6 710 - 42.40.890 as the exclusive representative of employees in an  
7 appropriate unit.

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

19 Sec. 42.40.780. COMPLAINT AND ACCUSATION. If the railroad labor  
20 relations agency fails to eliminate the prohibited practice by  
21 conciliation and to obtain voluntary compliance with AS 42.40.710 -  
22 42.40.890 or before it attempts conciliation, it may serve a copy of  
23 the complaint or accusation upon the respondent. The complaint or  
24 accusation and the subsequent procedures shall be handled in accor-  
25 dance with the administrative adjudication portion of the  
26 Administrative Procedure Act (AS 44.62).

27 Sec. 42.40.790. ORDERS AND DECISIONS. If the railroad labor  
28 relations agency finds that a person named in the written complaint or  
29 accusation has engaged in a prohibited practice, the railroad labor

1 relations agency shall issue and serve on the person an order or  
2 decision requiring the person to cease and desist from the prohibited  
3 practice and to take affirmative action that will carry out the  
4 provisions of AS 42.40.710 - 42.40.890. If the railroad labor rela-  
5 tions agency finds that a person named in the complaint or accusation  
6 has not engaged or is not engaging in a prohibited practice, the  
7 railroad labor relations agency shall state its findings of fact and  
8 issue an order dismissing the complaint or accusation.

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

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

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

26 (c) The attendance of witnesses and the production of evidence  
27 may be required from any place in the state at any designated place of  
28 hearing.

29 (d) If a person refuses to obey a subpoena issued under

1 AS 42.40.710 - 42.40.890, the superior court in the district in which  
2 the person resides or is found may, upon application by the railroad  
3 labor relations agency, issue an order requiring the person to comply  
4 with the subpoena.

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

8 Sec. 42.40.830. PENALTY FOR VIOLATION OF ORDER OR DECISION. A  
9 person who violates a provision of an order or decision of the  
10 railroad labor relations agency is guilty of a misdemeanor and is  
11 punishable by a fine of not more than \$500.

12 Sec. 42.40.840. MEDIATION. (a) If, after a reasonable period  
13 of negotiation over the terms of a collective bargaining agreement, an  
14 impasse as determined by the railroad labor relations agency exists  
15 between the corporation and an organization, the railroad labor  
16 relations agency shall appoint a person mutually agreeable to the  
17 parties from a list of seven qualified mediators/arbitrators  
18 knowledgeable in railway labor agreements to act as mediator in the  
19 dispute.

20 (b) Before the determination of an impasse under this section,  
21 the parties may also select a mediator by agreement or mutual consent.

22 (c) It shall be the function of the mediator to bring the  
23 parties together to effectuate a settlement of the dispute, but  
24 neither the mediator nor the railroad labor relations agency has any  
25 power of compulsion in mediation proceedings.

26 Sec. 42.40.850. STRIKES. (a) Following a decision by the  
27 mediator to end the mediation proceedings, employees of a collective  
28 bargaining unit may engage in a strike for a limited time if a  
29 majority of the employees in that collective bargaining unit vote by

1 secret ballot to do so. The limit of the strike is determined by the  
2 interest of the health, safety, or welfare of the public.

3 (b) The corporation may apply to the superior court in the  
4 judicial district in which the strike is occurring for an order  
5 enjoining the strike. A strike may not be enjoined unless it can be  
6 shown that it has begun to threaten, or is about to threaten, the  
7 health, safety, or welfare of the public. A court, in deciding  
8 whether to enjoin the strike, shall consider the total equities in the  
9 particular case, including the impact of a strike on the public and  
10 the extent to which an employee organization and the corporation have  
11 met their statutory obligations.

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

16 (d) Notwithstanding the provisions of (a) - (c) of this section,  
17 the parties to the dispute may mutually agree to submit the dispute to  
18 binding arbitration at any time.

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

26 (b) Upon the completion of negotiations between an organization  
27 and the corporation, if a settlement is reached, the corporation shall  
28 reduce it to writing in the form of an agreement. The agreement shall  
29 include a grievance procedure that shall have binding arbitration as

1 its final step. Either party to the agreement has a right of action  
2 to enforce the agreement by petition to the railroad labor relations  
3 agency.

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

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

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

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

2           (1) "collective bargaining" means the performance of the  
3 mutual obligation of the corporation or its designated representatives  
4 and the representatives of the employees to meet at reasonable times,  
5 including meetings in advance of the budget making process, and  
6 negotiating in good faith with respect to wages, hours, and other  
7 terms and conditions of employment, or the negotiation of an agree-  
8 ment, or negotiation of a question arising under an agreement and the  
9 execution of a written contract incorporating an agreement reached if  
10 requested by either party, but these obligations do not compel either  
11 party to agree to a proposal or require the making of a concession;

12           (2) "election" means a proceeding conducted by the labor  
13 relations agency in which the employees in a collective bargaining  
14 unit cast a secret ballot for collective bargaining representatives,  
15 or for any other purpose specified in AS 42.40.710 - 42.40.890;

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

21           ARTICLE 9. GENERAL PROVISIONS.

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

26           (b) For the purposes of actionable claims, undertakings, pay-  
27 ments of judgments, execution, interest, punitive damages, statutes of  
28 limitations, bonds, costs, and similar matters related to the pres-  
29 entation and prosecution of claims by and against the corporation, the

1 corporation and its board members and employees enjoy the same rights,  
2 privileges, and immunities as the state and state officers under  
3 AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

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

6 (d) The corporation is not subject to the provisions of AS 44.-  
7 80.010, regarding the state as a party to an action.

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

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

23 (c) This section does not affect or limit an exemption from  
24 license fees, property taxes, excise taxes, income taxes, or other  
25 taxes, provided under any other law, nor does it create a tax  
26 exemption with respect to the interest of any business enterprise or  
27 other person, other than the corporation.

28 Sec. 42.40.920. APPLICATION OF EXISTING LAWS. (a) The corpo-  
29 ration is not subject to the jurisdiction of the Alaska Transportation

1 Commission.

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

- 4 (1) AS 19;
- 5 (2) AS 30.15;
- 6 (3) AS 35;
- 7 (4) AS 37.05;
- 8 (5) AS 37.07;
- 9 (6) AS 37 10.010 - 37.10.060;
- 10 (7) AS 37.10.085;
- 11 (8) AS 37.20;
- 12 (9) AS 37.25;
- 13 (10) AS 38;
- 14 (11) AS 44.62.040 - 44.62.320.

15 Sec. 42.40.930. CONFLICTING LAWS INAPPLICABLE. If provisions of  
16 this chapter conflict with the provisions of other state law, the pro-  
17 visions of this chapter prevail. Provisions of this chapter shall be  
18 construed so that they do not conflict with 45 U.S.C. 1201 - 1214  
19 (Alaska Railroad Transfer Act of 1982).

20 Sec. 42.40.940. REVERSION OF ASSETS. If the corporation ceases  
21 to exist, for whatever reason, its assets revert to the state.

22 Sec. 42.40.980. DEFINITIONS. In this chapter, unless the  
23 context otherwise requires,

24 (1) "board" means the board of directors of the Alaska  
25 Railroad Corporation;

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

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

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

3           (5) "executive officer" means the corporation's chief  
4 executive officer, an employee who fulfills management functions and  
5 is so designated by the board, and employees occupying the following  
6 positions on the date of transfer: general manager, assistant general  
7 manager, assistant to the general manager, chief of administration,  
8 and general counsel;

9           (6) "land" means any interest in real property, including  
10 tide and submerged land.

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

13 \* Sec. 3. AS 42.40.010 is amended to read:

14           Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is  
15 established the Alaska Railroad Corporation. The corporation is a  
16 public corporation and is an instrumentality of the state [WITHIN THE  
17 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT]. The corporation has  
18 a legal existence independent of and separate from the state. The  
19 exercise by the corporation of the powers provided in this chapter is  
20 considered an essential government function of the state.

21 \* Sec. 4. AS 42.40.020(a) is amended to read:

22           (a) The powers of the corporation are vested in the board of  
23 directors. The board consists of [THE COMMISSIONER OF COMMERCE AND  
24 ECONOMIC DEVELOPMENT,] the chief executive officer of the corporation,  
25 and eight [SEVEN] members appointed by the governor. At least six  
26 [FIVE] of the eight [SEVEN] appointed members must be registered  
27 voters in the state. No more than two appointed members may be from  
28 any one of the four judicial districts in the state. The appointed  
29 members must have substantial experience or professional training and

1 expertise in fields relevant to the purposes of this chapter, in-  
2 cluding transportation, business, and finance. Except for [THE COM-  
3 MISSIONER,] the chief executive officer [,] and the member appointed  
4 under (d) of this section, a member may not be a state officer or  
5 employee.

6 \* Sec. 5. AS 42.40.020(e) is amended to read:

7 (e) Except for [THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVEL-  
8 OPMENT AND] the chief executive officer of the corporation, the mem-  
9 bers of the board shall be confirmed by a majority of the members of  
10 each house of the legislature in joint session. A member appointed by  
11 the governor has the full powers and responsibilities of a confirmed  
12 board member until the member is rejected by the legislature.

13 \* Sec. 6. AS 42.40.030 is amended to read:

14 Sec. 42.40.030. TERM OF OFFICE; REMOVAL. (a) Except for [THE  
15 COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief  
16 executive officer of the corporation, members of the board serve for  
17 staggered terms of five years each [AT THE PLEASURE OF THE GOVERNOR].

18 \* Sec. 7. AS 42.40.030 is amended by adding a new subsection to read:

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

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

23 (2) continued refusal or inability to attend meetings of  
24 the board;

25 (3) conviction of a felony; or

26 (4) any conduct that was intended to harm the corporation,  
27 even if it does not constitute a crime.

28 \* Sec. 8. AS 42.40.040(a) is amended to read:

29 (a) Except for the [COMMISSIONER OF COMMERCE AND ECONOMIC

1 DEVELOPMENT AND THE] chief executive officer, a vacancy on the board  
2 is filled by appointment by the governor, and the appointment must be  
3 confirmed by the members of each house of the legislature in joint  
4 session. A member appointed to fill a vacancy holds office for the  
5 balance of the term for which the member's predecessor was appointed.

6 \* Sec. 9. SPECIAL REPORT. The corporation shall prepare a report for  
7 the governor and the legislature on the long-term operations of the Alaska  
8 Railroad that are in the best interest of the state. The report shall be  
9 submitted by January 1, 1988. It shall contain specific recommendations on  
10 operational alternatives and the transfer of all or part of the railroad's  
11 operation's is to the private sector.

12 \* Sec. 10. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD  
13 CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act,  
14 the terms of the appointed members of the first board of directors of the  
15 Alaska Railroad Corporation are as follows:

- 16 (1) one shall serve a term of two years;
- 17 (2) two shall serve a term of three years;
- 18 (3) two shall serve a term of four years; and
- 19 (4) two shall serve a term of five years.

20 \* Sec. 11. COLLECTIVE BARGAINING AGREEMENTS. (a) As soon as practi-  
21 cable after establishment of the Alaska Railroad Corporation and before  
22 transfer of the Alaska Railroad to the state, the Alaska Railroad Corpora-  
23 tion and its employees shall adopt collective bargaining agreements that  
24 continue the provisions of the agreements in effect between the Alaska  
25 Railroad and its employees on the date of transfer of the railroad. The  
26 collective bargaining agreements adopted under this section between the  
27 corporation and its employees shall remain in effect to the extent required  
28 under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

29 (b) The board of directors of the Alaska Railroad Corporation shall

1 on or before the date of transfer of the Alaska Railroad to the state adopt  
2 personnel rules necessary to prevent an interruption of services of the  
3 railroad.

4 (c) Subject to 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of  
5 1982), within 180 days after the first meeting of the board of directors of  
6 the Alaska Railroad Corporation, the board and representatives of employee  
7 bargaining units shall establish procedures for the renegotiation of  
8 collective bargaining agreements adopted under (a) of this section. The  
9 board shall renegotiate all agreements adopted under (a) of this section  
10 within two years after the date of transfer of the Alaska Railroad to the  
11 state unless the parties agree to the contrary.

12 \* Sec. 12. Sections 3 - 8 of this Act take effect on the effective date  
13 of an amendment to the Constitution of the State of Alaska relating to the  
14 Alaska Railroad.

15 \* Sec. 13. Sections 1, 2, and 9 - 11 of this Act take effect imme-  
16 diately in accordance with AS 01.10.070(c).

Introduced: 1/13/84  
Referred: Transportation and  
Finance

BY HAYES, RINGSTAD, SHULTZ, ABOOD,  
FRITZ, FURNACE, CATO, FULLER,  
UEHLING, BETTISWORTH AND TISCHER

1 IN THE HOUSE

2 HOUSE BILL NO. 512

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

12 (1) The Alaska Railroad is an essential part of the state trans-  
13 portation network that without state action will cease to be a transporta-  
14 tion option available within Alaska. The federal government has offered to  
15 the state the option of taking over the Alaska Railroad to ensure its  
16 continued existence. It is in the state's best interest to accept the  
17 railroad under the terms and conditions offered by the United States gov-  
18 ernment.

19 (2) There is great potential in Alaska's natural resource areas  
20 and that extension of the Alaska Railroad into natural resource areas is  
21 necessary for the achievement of the goals of lower freight cost and long-  
22 term economic growth.

23 (b) It is the purpose of this Act to create an entity and to provide  
24 that entity with the powers and duties necessary to operate and manage the  
25 Alaska Railroad as a viable independent entity pending the eventual trans-  
26 fer of the railroad to the private sector for its ownership or operation or  
27 both consistent with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of  
28 1982).

29 (c) The legislature declares that

1           (1) the exercise of the powers of the state in the interest of  
2 the people of the state is necessary to accomplish the policy set out in  
3 (a) of this section by authorizing the creation of a public corporation  
4 with the powers, duties, and functions as provided in this Act to operate  
5 the Alaska Railroad and to manage its rail, industrial, port and other  
6 properties;

7           (2) it is in the best interests of the people of the state for  
8 the public corporation that will operate and manage the Alaska Railroad to  
9 be created in such a way that

10           (A) the corporation will be exclusively responsible for the  
11 management of the financial and legal obligations of the Alaska Rail-  
12 road;

13           (B) the corporation, and not the state, will constitute a  
14 common carrier subject to the jurisdiction of the United States Inter-  
15 state Commerce Commission;

16           (C) the corporation will have the ability to raise capital  
17 by issuing obligations exempt from federal and state taxation;

18           (D) the corporation may carry out its responsibilities on a  
19 self-sustaining basis;

20           (E) the best possible combination of types and levels of  
21 safe, efficient, and economical transportation can be provided that is  
22 necessary to meet the overall needs of the state, supported when  
23 necessary by state investment;

24           (F) the railroad may be operated prudently and according to  
25 sound business management practices; and

26           (G) borrowing by the corporation does not directly or  
27 indirectly endanger the state's own borrowing capacity.

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

29           CHAPTER 40. ALASKA RAILROAD CORPORATION.

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ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is established the Alaska Railroad Corporation. The corporation is a public corporation for the purposes of art. III, sec. 22, Constitution of the State of Alaska. The corporation shall be considered a principal department only for the purposes of art. III, sec. 26, Constitution of the State of Alaska. The corporation has a legal existence independent of and separate from the state. The exercise by the corporation of the powers provided in this chapter is considered an essential government function of the state.

Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the corporation are vested in the board of directors. The board consists of five voting members appointed by the governor. These five members must be residents of and registered voters in the state except as provided in (b) of this section. No more than two of these members may be from any one of the four judicial districts in the state. Two of the voting members must have at least five years experience as owners or managers of a business in the state. A voting member may not be a state officer or employee.

(b) One person who is not a resident of or registered voter in the state may be appointed by the governor to be a voting member of the board, if, at the time of appointment, the person has at least 10 years of experience in management of railroads.

(c) In addition to the voting members, the following nonvoting members shall serve on the board:

(1) an employee of the corporation appointed by the governor to represent the employees;

(2) the chief executive officer of the corporation.

(d) The voting members of the board shall be confirmed by a

1 majority of the membership of the legislature in joint session. A  
2 member appointed by the governor has the full powers and responsibili-  
3 ties of a confirmed board member unless and until the member has been  
4 rejected by the legislature.

5 (e) The board shall elect from its membership a chairperson and  
6 vice-chairperson and prescribe their specific duties by rule.

7 (f) The board shall appoint a secretary and prescribe the spe-  
8 cific duties of the secretary.

9 (g) The chairperson shall call meetings of the board at least  
10 once every three months. The chairperson may call other meetings of  
11 the board as the chairperson considers necessary. The chairperson  
12 shall preside at meetings of the board.

13 (h) The governor may, by written notice to the member, remove a  
14 member from the board for

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

17 (2) continued refusal or inability to attend meetings of  
18 the board;

19 (3) conviction of a felony; or

20 (4) conviction of a misdemeanor involving moral turpitude.

21 Sec. 42.40.030. TERM OF OFFICE. The appointed members of the  
22 board serve for staggered terms of five years each.

23 Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is  
24 filled by appointment by the governor, and the appointment must be  
25 confirmed by the legislature in joint session. A member selected to  
26 fill a vacancy holds office for the balance of the term for which the  
27 member's predecessor is appointed.

28 (b) A vacancy on the board does not impair the authority of a  
29 quorum of members to exercise the powers and perform the duties of the

1 board.

2 (c) A member whose term has expired shall serve until a succes-  
3 sor has been appointed.

4 Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed  
5 member of the board is entitled to compensation at a rate of \$200 for  
6 each day the member is engaged in the actual performance of duties as  
7 a member of the board.

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

11 Sec. 42.40.060. QUORUM AND NOTICE OF MEETINGS. Three voting  
12 members of the board constitute a quorum for the transaction of busi-  
13 ness.

14 Sec. 42.40.070. VOTING. The board shall provide by rule for the  
15 manner of voting and representation of persons absent from meetings.  
16 The rules may provide for voting and conferring by means of telecommu-  
17 nication devices or by mail or for voting as directed in a written  
18 proxy taking a position on a particular issue.

19 ARTICLE 2. MANAGEMENT.

20 Sec. 42.40.100. EXECUTIVE OFFICERS. (a) The board shall ap-  
21 point and fix compensation for the chief executive officer of the  
22 corporation. The chief executive officer serves at the pleasure of  
23 the board.

24 (b) The chief executive officer of the corporation shall appoint  
25 and fix the compensation for other executive officers. The appoint-  
26 ment of other executive officers and their compensation are subject to  
27 board approval.

28 Sec. 42.40.110. DELEGATION. (a) The board shall by rule dele-  
29 gate powers and duties necessary and appropriate for the management of

1 the daily affairs and operations of the corporation to the chief  
2 executive officer, subject to a requirement of board concurrence or  
3 authorization imposed by the rules.

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

7 (1) leasing, granting easements in, issuing permits for the  
8 use of, or conveying other interests that do not constitute a transfer  
9 of the corporation's entire interest in real property of the corpora-  
10 tion;

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

13 (3) making routine changes in service levels; and

14 (4) performing procurement activities.

15 (c) General or particular board authorization or concurrence is  
16 required for the following:

17 (1) transferring the corporation's entire interest in real  
18 property;

19 (2) issuing notes, debentures, and bonds;

20 (3) mortgaging or pledging authority assets;

21 (4) donating property, or other assets belonging to the  
22 corporation;

23 (5) acting as a surety or guarantee;

24 (6) adopting a long-range expansion and capital improvement  
25 plan;

26 (7) certifying annual reports;

27 (8) effecting generally applicable increases and decreases  
28 in rates other than those periodically approved by the United States  
29 Interstate Commerce Commission;

1           (9) expanding or reducing services in a major way as pro-  
2 vided under this chapter;

3           (10) expanding the main or branch lines, other than perform-  
4 ing routine track alignment as necessary to maintain service levels in  
5 effect on the date of transfer; and

6           (11) selecting independent auditors and accountants.

7           ARTICLE 3. ADMINISTRATIVE PROVISIONS.

8           Sec. 42.40.200. PUBLIC BOARD MEETINGS. (a) The meetings of the  
9 board are public with the exception of an executive session conducted  
10 under AS 44.62.310 and (b) of this section.

11           (b) In addition to those subjects that may be discussed in  
12 executive session under AS 44.62.310, the board may consider in execu-  
13 tive session matters that pertain to personnel, the corporation's  
14 legal position, land acquisition or disposal, or proprietary informa-  
15 tion, as defined in a manner consistent with the standards and prac-  
16 tices of the United States Interstate Commerce Commission for protec-  
17 tion of information associated with specific shippers, divisions, and  
18 contract rate agreements.

19           Sec 42.40.220. MINUTES OF MEETINGS. The board shall keep  
20 minutes of each meeting.

21           Sec. 42.40.230. RULES. The board shall establish a procedure  
22 for adopting rules to carry out its functions and the purposes of this  
23 chapter. The rules shall include a procedure for the adoption of  
24 emergency rules when the adoption of an emergency rule is essential to  
25 continue or to reinstate the orderly operation of the corporation's  
26 facilities or program.

27           Sec. 42.40.240. PUBLIC DISCLOSURE OF INFORMATION. (a) Except  
28 as provided by rule of the corporation under (b) of this section,  
29 information in the possession of the corporation is public and is open

1 to public inspection at reasonable times.

2 (b) Except as provided in AS 42.40.270, the corporation may by  
3 rule designate and withhold disclosure of matters of a nonpublic,  
4 privileged, or proprietary nature. Those matters include personnel  
5 records, communications with and work product of counsel consistent  
6 with the standards and practices of the United States Interstate  
7 Commerce Commission, and information associated with specific ship-  
8 pers, divisions, and contract rate agreements.

9 Sec. 42.40.250. SPECIAL REPORT. The corporation shall investi-  
10 gate and prepare a report for the governor and the legislature on the  
11 long-term operations of the railroad that are in the best interest of  
12 the state. The report shall be due January 1, 1988. It shall make  
13 specific recommendations on operational alternatives and the transfer  
14 of all or part of the railroads operations to the private sector.

15 Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end  
16 of the fiscal year of the railroad the board shall direct preparation  
17 of, certify and distribute to the governor and to the legislature a  
18 report describing the operations and financial condition of the corpo-  
19 ration during the preceding fiscal year.

20 Sec. 42.40.270. ANNUAL AUDIT. The board shall have the finan-  
21 cial records of the corporation audited annually by an independent  
22 certified public accountant experienced in railroad accounting. The  
23 corporation shall make all of its financial records available to an  
24 auditor appointed by the governor or to the legislative audit division  
25 for examination. Disclosure to the public by the auditor or legisla-  
26 tive audit division of this information is subject to AS 42.40.240 and  
27 rules implementing that section.

28 ARTICLE 4. POWERS AND DUTIES.

29 Sec. 42.40.300. GENERAL POWERS. In addition to the exercise of

- 1 other powers authorized by law, the corporation may
- 2 (1) adopt a seal;
- 3 (2) adopt bylaws governing the business of the corporation;
- 4 (3) sue and be sued;
- 5 (4) appoint trustees and agents of the corporation and
- 6 prescribe their powers and duties;
- 7 (5) hire legal counsel to represent the corporation;
- 8 (6) make contracts and execute instruments necessary or
- 9 convenient in the exercise of its powers and duties;
- 10 (7) acquire by purchase, lease, bequest, devise, gift,
- 11 exchange, the satisfaction of debts, the foreclosure of mortgages, or
- 12 otherwise, real or personal property, rights, rights-of-way, fran-
- 13 chises, easements, and other interest in land, including land lying
- 14 under water and appropriation of water rights that are located in the
- 15 state, taking title to the property in the name of the corporation;
- 16 (8) acquire property by eminent domain in accordance with
- 17 AS 42.40.430;
- 18 (9) hold, maintain, use, operate, lease, exchange, donate,
- 19 improve, convey, alienate, dispose of, or transfer any real or person-
- 20 al property including facilities and equipment;
- 21 (10) contract with and accept transfers, gifts, grants or
- 22 loans of funds or property from the United States and the state or its
- 23 political subdivisions, subject to the provisions of federal, state,
- 24 or local programs;
- 25 (11) undertake and provide for the management, operation,
- 26 maintenance, use, and control of all of the properties of the corpo-
- 27 ration including, the tracks, equipment and other property transferred
- 28 to it by the federal government or by any person;
- 29 (12) recommend to the legislature and the governor any tax,

1 financing, or financial arrangement the corporation considers appro-  
2 priate for expansion or extension and operation of the Alaska Rail-  
3 road;

4 (13) maintain offices and facilities at places it desig-  
5 nates;

6 (14) apply to the appropriate agencies of the state, the  
7 United States, and a foreign country or other proper agencies for the  
8 permits, licenses, or approvals necessary to construct, maintain, and  
9 operate railroad transportation services, and to obtain, hold, and  
10 reuse the licenses and permits in the same manner as other operating  
11 units or persons;

12 (15) prescribe rates to be charged for services provided by  
13 the Alaska Railroad on a competitive basis;

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

16 (17) enter into contracts and leases with connecting carri-  
17 ers and shippers, that contain provisions to preserve and expand the  
18 railroad's traffic base;

19 (18) plan for and undertake expansion of the railroad and  
20 railroad activities, including extension of the Alaska Railroad's rail  
21 system, and contract with other modes of transportation service con-  
22 necting to the railroad's rail services;

23 (19) adopt rules that are designed to safeguard property  
24 owned, managed, or transported by the corporation and to protect  
25 employees and persons using the corporation's property or services;

26 (20) hire and discharge railroad personnel and determine  
27 benefits and other terms and conditions of employment established in  
28 accordance with obligations imposed by 45 U.S.C. 1201-1214 (Alaska  
29 Railroad Transfer Act of 1982);

1           (21) assume and satisfy liabilities of the United States or  
2 its agencies as provided by the federal transfer legislation and the  
3 closing report or its substantive equivalent as accepted by the legis-  
4 lature;

5           (22) maintain a security force to enforce state law and the  
6 corporations rules with respect to violations that occur on or to  
7 property owned, managed or transported by the corporation;

8           (23) borrow money and issue its bonds or notes and provide  
9 for and secure their payment, provide for the rights of their holders  
10 and purchase, hold, or dispose of its bonds or notes;

11           (24) secure the payment of its obligations by pledge or  
12 mortgage or other lien on its contracts, revenues, income, or proper-  
13 ty;

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

18           (26) include in any borrowing the amounts necessary to  
19 establish reasonable reserves and pay financing charges and interest  
20 on the obligations for a reasonable period after which the corporation  
21 estimates funds will be otherwise available to pay the interest,  
22 consultant, advisory, and legal fees, and other expenses necessary or  
23 incident to borrowing;

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

26           (28) cancel bonds purchased under (21) of this section.

27           Sec. 42.40.310. LONG-RANGE EXPANSION AND CAPITAL IMPROVEMENT  
28 PLANS. (a) The corporation shall prepare and the board shall adopt a  
29 long-range expansion plan and a capital improvement plan. The long-

1 range expansion plan shall delineate the manner in which the corpora-  
2 tion intends to accomplish the purposes of this chapter during each of  
3 the five years after the plan is adopted. The capital improvement  
4 plan shall present and explain the corporation's anticipated capital  
5 improvements for each of the five years after the plan is adopted.

6 (b) The board shall annually review and update the plans re-  
7 quired under (a) of this section. The board may not contract for the  
8 preparation or revision of either the long-range expansion plan or the  
9 capital improvement plan, but shall require their preparation and  
10 revision by employees of the corporation.

11 (c) The board shall provide copies of its updated plans to the  
12 governor and the legislature by December 1 of each year.

13 Sec. 42.40.320. USE OF CORPORATION ASSETS. (a) The corporation  
14 shall apply all money, property, other assets, and credit of the  
15 corporation toward activities authorized by this chapter. The corpo-  
16 ration may not issue shares of stock, pay dividends, make private  
17 distributions of assets, make loans to board members or employees, or  
18 engage in business for private benefit. The use of money, property,  
19 other assets, or credit of the corporation for purposes not authorized  
20 by law by persons having the possession or control of it is prohibi-  
21 ted.

22 (b) Notwithstanding the provisions of this section, the corpo-  
23 ration may

24 (1) defend and indemnify a current or former employee,  
25 agent, or board member of the corporation and their successors against  
26 all costs, expenses, judgments, and liabilities, including attorney  
27 fees, incurred by or imposed upon that person in connection with a  
28 civil or criminal action in which the person is involved by affilia-  
29 tion with the corporation, if the person acted in good faith on behalf

1 of the corporation and within the scope of official duties or powers;  
2 and

3 (2) purchase insurance to protect and hold personally  
4 harmless its employees, agents, and board members from an action,  
5 claim, or proceeding instituted against these individuals arising out  
6 of the performance, purported performance, or failure of performance,  
7 in good faith, of duties for, or employment with, the corporation and  
8 to hold these individuals harmless from expenses connected with the  
9 defense, settlement, or monetary judgments from that action, claim, or  
10 proceeding; the purchase of insurance and its policy limits are dis-  
11 cretionary with the board and insurance is not considered to be com-  
12 pensation to the insured individual.

13 ARTICLE 5. RAIL PROPERTIES.

14 Sec. 42.40.400. LAND. All land among the rail properties trans-  
15 ferred under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of  
16 1982) or otherwise acquired by the corporation is under the control of  
17 the corporation. As to all land that is transferred or acquired

18 (1) railroad rights-of-way or easements transferred under  
19 the federal act or otherwise acquired shall be classified as railroad  
20 utility corridors;

21 (2) future railroad utility corridors shall be of a width  
22 at least 100 feet on both sides of the centerline of the extended main  
23 or branch line, or may be of other width as designated by the corpo-  
24 ration, and may be surveyed by the metes and bounds method; and

25 (3) the corporation may lease or rent portions of the  
26 utility corridor for other transportation services.

27 Sec. 42.40.420. CLASSIFICATION, ACQUISITION, AND USE OF STATE  
28 LAND FOR RAILROAD PURPOSES. (a) The board by rule may identify and  
29 request conveyance of land owned by or subject to selection by the

1 state, including tide and submerged land and land not adjacent to a  
2 railroad corridor, as necessary or useful for present, future or  
3 intended railroad purposes. The request must include a statement of  
4 and justification for the present, future or intended railroad use.  
5 Upon submission of a request for classification and conveyance to the  
6 commissioner of natural resources, the commissioner shall temporarily  
7 classify and reserve the land identified in the request for railroad  
8 purposes and shall temporarily vacate a classification allowing dis-  
9 posal or lease of that land under laws or programs of the state. A  
10 temporary classification and vacation is subject to valid existing  
11 rights and remains in effect for 180 days.

12 (b) Within 90 days after receiving a request under (a) of this  
13 section, the commissioner of natural resources by departmental order  
14 shall;

15 (1) classify that land for railroad purposes and, subject  
16 to valid existing rights, convey the state's interests to the corpo-  
17 ration; or

18 (2) notify the corporation of reasons for refusal to clas-  
19 sify the land for railroad purposes.

20 (c) A conveyance under (b)(1) of this section vests in the  
21 corporation the exclusive right to extract and use for its purposes  
22 sand, gravel, rock, timber and other construction materials the land  
23 conveyed without regard to the classification of the resources as part  
24 of the surface or subsurface estate.

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

29 (e) The corporation's ownership of state land entitles it to

1 exclusive use and control of the surface, subsurface, complete sub-  
2 jacent and lateral support of the surface, subsurface, and the right  
3 to tunnel, ditch, recontour, excavate or otherwise use the subsurface  
4 for railroad, transportation, transmission, and related purposes.

5 (f) When physical conditions require that track or other right-  
6 of-way fixtures of the corporation be moved from the existing location  
7 and relocated on state-owned land adjacent to or in the vicinity of  
8 the existing right-of-way, and the chief executive officer determines  
9 that relocation is necessary to maintain safe and adequate rail op-  
10 erations, the corporation may effect the relocation with concurrence  
11 of the Department of Natural Resources. The relocation must be limi-  
12 ted to land adequate to restore or continue safe rail operations at a  
13 normal level.

14 Sec. 42.40.430. EMINENT DOMAIN AND ACQUISITION OF PROPERTY AND  
15 MATERIALS. (a) The corporation may exercise the power of eminent  
16 domain under AS 09.55.240 - 09.55.460 to acquire land or an interest  
17 in land for lawful purposes consistent with this chapter.

18 (b) The corporation may acquire a fee simple title whenever, in  
19 the judgment of the board, ownership of a fee simple is necessary to  
20 carry out the state's lawful purposes in condemning property.

21 (c) The corporation may file a declaration of taking in the  
22 manner provided for the state under AS 09.55.420.

23 (d) The power of eminent domain conferred under this section  
24 includes the power to obtain material, including clay, gravel, sand,  
25 timber, or rock for railroad use, the land necessary to obtain the  
26 material, and access to the land and material.

27 Sec. 42.40.450. OTHER ASSETS. (a) The corporation may submit  
28 applications on its own behalf as an instrumentality of the state for  
29 acquisition of interests in federal land available under federal law

1 that will enhance the operations of the corporation and may receive  
2 conveyances of all interests in its own name.

3 (b) The corporation, as an agency of the state, may acquire in  
4 its own name from the United States under 50 App U.S.C. 1622 et seq  
5 (the Surplus Property Act of 1944), 40 U.S.C. 471 et seq as amended  
6 (the Federal Property and Administrative Services Act of 1949), or  
7 other law, property under the control of a federal department or  
8 agency that is useful for the corporation's purposes and may acquire  
9 from the Department of Administration property of the state made  
10 available under AS 44.71.010 - 44.71.040.

11 ARTICLE 6. FINANCIAL PROVISIONS.

12 Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred  
13 by the corporation shall be satisfied exclusively from the assets or  
14 revenue of the corporation and no creditor or other person has a right  
15 of action against the state because of a debt, obligation, or  
16 liability of the corporation.

17 Sec. 42.40.520. FIDELITY BOND. The corporation shall obtain a  
18 fidelity bond in an amount determined by the board for its members and  
19 any officer responsible for accounts and finances. A bond must be in  
20 effect during the entire tenure in office of the bonded person.

21 Sec. 42.40.530. INSURANCE. The corporation shall keep in force  
22 public liability insurance in an amount reasonably calculated to cover  
23 potential claims for bodily injury, death or disability and property  
24 damage that may arise from or be related to its operations and activi-  
25 ties, naming the state as an additional insured.

26 Sec. 42.40.540. CLAIMS. (a) All claims and lawsuits involving  
27 activities of the railroad, including suits in contract, quasi-con-  
28 tract, or tort, shall be brought against the corporation, and not  
29 against the state.

1           (b) In a claim or other legal action against the corporation  
2 involving its activities, including the expansion, extension and  
3 construction of the railroad, in which the corporation is the  
4 prevailing party, the party or parties that maintained the action  
5 shall be liable to the corporation for its full costs and legal fees  
6 in defending the action and for the financial losses to the  
7 corporation that are directly attributable to the maintenance of that  
8 action.

9           (c) For the purposes of actionable claims, undertakings, pay-  
10 ments of judgments, execution, interest, punitive damages, statutes of  
11 limitations, bonds, costs, and similar matters related to the pres-  
12 entation and prosecution of claims by and against the corporation, the  
13 corporation and its board members and employees enjoy the same rights,  
14 privileges, and immunities as the state and state officers as provided  
15 in AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

16           (d) Claims against the corporation are not subject to the  
17 provisions of AS 44.77.010 - 44.77.070 regarding claims against the  
18 state.

19           (e) The corporation is not subject to the provisions of AS 44.-  
20 80.010, regarding the state as a party to an action.

21           Sec. 42.40.550. REVENUE. Revenue generated by or appropriated  
22 to the corporation shall be retained and managed by the corporation  
23 for railroad and related purposes as required by 45 U.S.C. 1207(a)(5)  
24 (Alaska Railroad Transfer Act of 1982).

25           Sec. 42.40.560. APPROPRIATIONS. The corporation may request,  
26 with the concurrence of the governor, a direct appropriation or grant  
27 from the legislature to assist in carrying out the provisions of  
28 AS 42.40.300 and 42.40.310.

29           Sec. 42.40.570. BONDS AND NOTES. (a) The corporation by

1 resolution may issue bonds and bond anticipation notes to provide  
2 money to carry out its purposes.

3 (b) The principal and interest on bonds or notes of the corpo-  
4 ration is payable from corporation money or assets. Bonds or notes  
5 may be additionally secured by a pledge of a grant or contribution  
6 from the federal government or a corporation, association, institution  
7 or person, or a pledge of money, income, or revenue of the corporation  
8 from any source.

9 (c) Bond anticipation notes may be payable from the proceeds of  
10 the sale of bonds or other bond anticipation notes, or, if bond or  
11 bond anticipation note proceeds are not available, from other money or  
12 assets of the corporation.

13 (d) Bonds or bond anticipation notes may be issued in one or  
14 more series and shall, as provided by the resolution of the board,

15 (1) be dated;

16 (2) bear interest at a required rate or rates per year or  
17 within a maximum rate;

18 (3) be in a required denomination;

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

20 (5) carry conversion or registration provisions;

21 (6) have a required rank or priority;

22 (7) be executed in the required manner and form;

23 (8) be payable as required from the sources, in the medium  
24 of payment, and place or places inside or outside the state;

25 (9) be subject to authentication by a trustee or fiscal  
26 agent; and

27 (10) be subject to terms of redemption with or without  
28 premium.

29 (e) Bonds or bond anticipation notes may be sold in the manner,

1 on the terms, and at the price the board determines. Bond anticipa-  
2 tion notes shall mature at the time or times determined by the board.  
3 Bonds shall mature at the time, not exceeding 50 years from their  
4 date, determined by the board.

5 (f) The corporation may by provisions in a resolution authoriz-  
6 ing or relating to the issuance of bonds or bond anticipation notes  
7 enter into the following agreements with the holders of the bonds or  
8 bond anticipation notes:

9 (1) pledge all or part of its revenue to which its right  
10 then exists or may thereafter exist, the money derived from the reve-  
11 nue, and the proceeds of its bonds or notes;

12 (2) covenant against pledging all or part of its revenue,  
13 or against permitting or suffering a lien on its revenue or property;

14 (3) covenant as to establishment of reserves or sinking  
15 funds and provide for, regulate, and dispose of the reserves or sink-  
16 ing funds;

17 (4) covenant regarding limitations on a right to sell or  
18 otherwise dispose of property of any kind;

19 (5) covenant as to bonds and notes to be issued, their  
20 limitations, terms and conditions, the custody, application and dispo-  
21 sition of the proceeds of the bonds and notes;

22 (6) covenant as to the issuance of additional bonds or  
23 notes, or limitations on the issuance of additional bonds or notes,  
24 and the incurring of other debts;

25 (7) covenant as to the payment of the principal of or  
26 interest on the bonds or notes, the sources and methods of payment,  
27 the rank or priority of the bonds or notes with respect to a lien or  
28 security, or the acceleration of the maturity of the bonds or notes;

29 (8) provide for the replacement of lost, stolen, destroyed

1 or mutilated bonds or notes;

2 (9) covenant against extending the time for the payment of  
3 bonds or notes, or interest on the bonds or notes;

4 (10) covenant as to the redemption of bonds or notes and  
5 privileges of their exchange for other bonds or notes of the corpo-  
6 ration;

7 (11) covenant to create or authorize the creation of special  
8 funds of money to be held in pledge or otherwise for operating ex-  
9 penses, payment or redemption of bonds or notes, reserves or other  
10 purposes, and as to the use and disposition of the money held in the  
11 funds;

12 (12) establish the procedure by which the terms of a con-  
13 tract or covenant with or for the benefit of the holders of bonds or  
14 notes may be amended or abrogated, the amount of bonds or notes the  
15 holders of which must consent to amendment or abrogation, and the  
16 manner in which the consent may be given;

17 (13) covenant as to the custody of any of its properties or  
18 investments, their safekeeping and insurance, and the use and disposi-  
19 tion of insurance money;

20 (14) vest in a trustee or trustees inside or outside the  
21 state property, rights, powers and duties in trust as the corporation  
22 may determine that may include any or all of the rights, powers and  
23 duties of a trustee appointed by the holders of bonds or notes of the  
24 corporation, and to limit or abrogate the rights of the holders of the  
25 bonds or notes of the corporation to appoint a trustee under this  
26 chapter or limit the rights, powers and duties of the trustee;

27 (15) pay the costs or expenses incident to the enforcement  
28 of the bonds or notes, of the provisions of the resolution, or of a  
29 covenant or agreement of the corporation with the holders of its bonds

1 or notes;

2 (16) agree with a corporation trustee, that may be a trust  
3 company or bank having the powers of a trust company inside or outside  
4 the state, as to the pledging or assigning of revenue or funds that or  
5 in which the corporation has a right or interest; the agreement may  
6 provide for other rights and remedies exercisable by the trustee for  
7 the protection of the holders of bonds or notes of the corporation and  
8 not otherwise in violation of law, and may provide for the restriction  
9 of the rights of an individual holder of bonds or notes of the  
10 corporation;

11 (17) appoint and provide for the duties and obligations of a  
12 paying agent or other fiduciary inside or outside the state;

13 (18) limit the rights of the holders of bonds or notes of  
14 the corporation to enforce a pledge or covenant securing the bonds or  
15 notes; and

16 (19) make covenants other than and in addition to the cove-  
17 nants expressly authorized in this section, of like or different  
18 character, and make covenants to do or refrain from doing acts in  
19 order to better secure bonds or notes or that, in the absolute  
20 discretion of the board, will tend to make bonds or notes more  
21 marketable.

22 Sec. 42.40.580. INTERIM RECEIPTS, TEMPORARY BONDS, AND TEMPORARY  
23 BOND ANTICIPATION NOTES. Before the preparation of definitive bonds  
24 or bond anticipation notes, the corporation may issue interim receipts  
25 or temporary bonds or bond anticipation notes, with or without cou-  
26 pons, exchangeable for bonds or bond anticipation notes when these  
27 definitive bonds or bond anticipation notes have been executed and are  
28 available for delivery.

29 Sec. 42.40.590. VALIDITY OF SIGNATURES. If an officer whose

1 signature or a facsimile of whose signature appears on bonds, notes,  
2 or coupons attached to them ceases to be an officer before the de-  
3 livery of the bond, note, or coupon, the signature or facsimile is  
4 valid the same as if the person had remained in office until delivery.

5 Sec. 42.40.600. INDEPENDENT FINANCIAL ADVISOR. In negotiating  
6 the private sale of bonds or bond anticipation notes to an under-  
7 writer, the board shall retain a financial advisor who is independent  
8 from the underwriter.

9 Sec. 42.40.610. VALIDITY OF PLEDGE. (a) The pledge of assets  
10 or revenue of the corporation to the payment of the principal or  
11 interest on bonds or notes of the corporation is valid and binding  
12 from the time the pledge is made and the assets or revenue are immedi-  
13 ately subject to the lien of the pledge without physical delivery or  
14 further act. The lien of a pledge is valid and binding against all  
15 parties having claims of any kind against the corporation, irrespec-  
16 tive of whether those parties have notice of the lien of the pledge.

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

21 Sec. 42.40.620. REMEDIES. A holder of bonds or notes issued  
22 under this chapter or of coupons attached to them, and a trustee under  
23 a trust agreement or resolution authorizing the issuance of the bonds  
24 or notes, except as restricted by a trust agreement or resolution,  
25 either at law or in equity, may

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

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

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

2 Sec. 42.40.630. NEGOTIABLE INSTRUMENTS. Bonds and notes issued  
3 under this chapter and interest coupons attached to them are nego-  
4 tiable instruments under the laws of this state, subject only to  
5 applicable provisions for registration.

6 Sec. 42.40.640. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds  
7 and notes issued under this chapter are securities in which all public  
8 officers and public bodies of the state and its political subdivi-  
9 sions, all insurance companies, trust companies, banking associations,  
10 investment companies, executors, administrators, trustees and other  
11 fiduciaries may properly and legally invest funds, including capital  
12 in their control or belonging to them. These bonds and notes may be  
13 deposited with a state or municipal officer of an agency or political  
14 subdivision of the state for any purpose for which the deposit of  
15 bonds or notes of the state is authorized by law.

16 Sec. 42.40.650. REFUNDING BONDS. (a) The corporation may  
17 provide for the issuance of refunding bonds for the purpose of refund-  
18 ing bonds then outstanding that have been issued under this chapter,  
19 including the payment of a redemption premium on them and interest  
20 that accrues to the date of redemption of the bonds. Refunding bonds  
21 shall be issued in accordance with provisions of this chapter that  
22 relate to the issuance of bonds to the extent those provisions are  
23 appropriate.

24 (b) Refunding bonds may be sold or exchanged for outstanding  
25 bonds issued under this chapter and the proceeds may be applied to the  
26 purchase, redemption or payment of the outstanding bonds in addition  
27 to other authorized purposes. Pending the application of the proceeds  
28 of refunding bonds to the payment of the principal, accrued interest  
29 and redemption premium on the bonds being refunded, and, if permitted

1 in the resolution authorizing the issuance of the refunding bonds or  
2 in the trust agreement securing them, to the payment of interest on  
3 the refunding bonds and expenses in connection with the refunding, the  
4 proceeds may be invested in direct obligations of the United States or  
5 obligations the principal of and the interest on which are uncondi-  
6 tionally guaranteed by the United States that mature or may be re-  
7 deemed not later than the date the proceeds of the refunding bonds,  
8 together with the interest accruing on them, will be required for the  
9 purposes intended.

10 Sec. 42.40.660. CREDIT OF STATE NOT PLEDGED. (a) The state and  
11 its political subdivisions are not liable for the debts of the corpo-  
12 ration. Bonds and notes issued under this chapter are payable solely  
13 from the revenue or assets of the corporation and do not constitute a

14 (1) debt, liability, or obligation of the state or of a  
15 political subdivision of the state; or

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

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

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

23 (2) neither the faith and credit nor the taxing power of  
24 the state or of a political subdivision of the state is pledged to the  
25 payment of it.

26 Sec. 42.40.670. OFFICERS NOT LIABLE. An officer or employee of  
27 the corporation is not subject to personal liability or accountability  
28 because of the execution or issuance of bonds or notes.

29 Sec. 42.40.680. EXEMPTION FROM TAXATION. (a) The real and

1 personal property of the corporation and its assets, income, and  
2 receipts are exempt from all taxes and special assessments of the  
3 state or a political subdivision of the state.

4 (b) This section does not affect or limit an exemption from  
5 license fees, property taxes, or excise, income or other taxes,  
6 provided under any other law, nor does it create a tax exemption with  
7 respect to the interest of any business enterprise or other person,  
8 other than the corporation.

9 (c) The exercise of the powers granted by this chapter shall be  
10 in all respects for the benefit of the people of the state, for their  
11 well-being and prosperity, and for the improvement of their social and  
12 economic conditions. Therefore, the corporation is not required to  
13 pay a tax or assessment on property owned by the corporation under the  
14 provisions of this chapter or on the income from the property.

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

22 Sec. 42.40.690. REVERSION OF ASSETS. If the corporation ceases  
23 to exist, for whatever reason, its assets revert to the state.

24 ARTICLE 7. PERSONNEL AND LABOR RELATIONS.

25 Sec. 42.40.700 PERSONNEL. (a) Employees of the Alaska Railroad  
26 are employees of the corporation and not of the state. The provisions  
27 of AS 39 do not apply to employees of the corporation.

28 (b) The collective bargaining agreements between the corporation  
29 and its employees shall remain in effect until they expire by their

1 terms or, as required under 45 U.S.C. 1206 (Alaska Railroad Transfer  
2 Act of 1982), they are renegotiated, subject to the approval of the  
3 board.

4 (c) The corporation may not enter into a collective bargaining  
5 agreement concerning wages, hours, working conditions or other  
6 employment terms, conditions and benefits with an organization  
7 representing the corporation's chief executive official or executive  
8 officials appointed by the chief executive official.

9 Sec. 42.40.710. POLITICAL ACTIVITIES. (a) Money, assets, or  
10 property of the corporation may not be used for political activity.  
11 However, board members and employees of the corporation may upon  
12 request communicate with and appear before committees of Congress, the  
13 state legislature, and municipal governing bodies in connection with  
14 matters directly affecting the corporation.

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

19 ARTICLE 8. GENERAL PROVISIONS.

20 Sec. 42.40.900. APPLICATION OF EXISTING STANDARDS. The Alaska  
21 Railroad Corporation is not subject to the jurisdiction of the Alaska  
22 Transportation Commission. The following laws do not apply to the  
23 operations of the Alaska Railroad Corporation:

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

- 1 (7) AS 37.10.085;  
2 (8) AS 37.20;  
3 (9) AS 37.25;  
4 (10) AS 44.62.040 - 44.62.320.

5 Sec. 42.40.950. DEFINITIONS. In this chapter,

- 6 (1) "board" means the board of directors of the Alaska  
7 Railroad Corporation;  
8 (2) "corporation" means the Alaska Railroad Corporation;  
9 (3) "date of transfer" means the date on which the United  
10 States Secretary of Transportation delivers the deed of conveyance for  
11 the properties of the Alaska Railroad under 45 U.S.C. 1201-1214  
12 (Alaska Railroad Transfer Act of 1982);  
13 (4) "employees" means all persons employed by the  
14 corporation including executive officials;  
15 (5) "railroad utility corridor" means a right-of-way for  
16 railroad and related purposes as defined in 45 U.S.C. 1202(11) (Alaska  
17 Railroad Transfer Act of 1982).  
18 (6) "land" means all real property, including tide and  
19 submerged land;  
20 (7) "rail properties" means all real and personal property,  
21 tangible and intangible, of the corporation.

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

24 \* Sec. 3. CONFLICTING LAWS INAPPLICABLE. If provisions of this Act are  
25 in conflict with the provisions of other law, the provisions of this Act  
26 prevail. Where possible, provisions of this Act shall be construed so that  
27 they do not conflict with 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act  
28 of 1982).

29 \* Sec. 4. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD

1 CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act,  
2 the governor shall designate the terms of the appointed members of the  
3 first board of directors of the Alaska Railroad Corporation as follows:

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

8 \* Sec. 5. EFFECTIVE DATE. This Act takes effect immediately in  
9 accordance with AS 01.10.070(c).

COMMITTEE REPORT  
SENATE

FURTHER:

5/11/84

Date: 5/23/84

Mr. President:

The Committee on FINANCE has had CSHB 512(FIN)

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

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

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

MEMBERS SIGNING  
DO PASS

[Signature]

[Signature]

Alfred Pickett

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_

Bob [Signature] N/R

V. [Signature] N/R

\_\_\_\_\_

\_\_\_\_\_

[Signature]

CHAIRMAN

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

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

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 5/22/84

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

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		14,250.0				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

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

ANALYSIS: Attach a separate page for analysis

Prepared By: *W. C. Schmitt* Phone: \_\_\_\_\_  
Division: Senate Finance Committee Date: 5/23/84

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

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

Alaska Railroad  
FY 85 Capital Budget Request

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

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

Senate CS CSHB 512 (Finance)

Explanation (continued)

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

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

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 5/22/84

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

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

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

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		7432.2				
FEDERAL FUNDS		0				
OTHER		*				
<b>TOTAL</b>		<b>7432.2</b>				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

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

2/ Contractual expenses are detailed in Attachment A.

ANALYSIS: Attach a separate page for analysis (continued)

Prepared By: John P. Schmitt  
Division: \_\_\_\_\_

Phone: \_\_\_\_\_  
Date: 5-23-84

Approved by Commissioner: \_\_\_\_\_  
Agency: \_\_\_\_\_

Date: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 5/22/84

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

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

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

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	7432.2				
FEDERAL FUNDS	0				
OTHER	*				
TOTAL	7432.2				

POSITIONS:

FULL-TIME					
PART-TIME					
TEMPORARY					

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

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

2/ Contractual expenses are detailed in Attachment A.

ANALYSIS: Attach a separate page for analysis (continued)

Prepared By: Alan P. Schutt  
Division: \_\_\_\_\_

Phone: \_\_\_\_\_  
Date: 5-23-84

Approved by Commissioner: \_\_\_\_\_  
Agency: \_\_\_\_\_

Date: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

12/1/83

## Explanation

SCS CSHB 512 (Finance)  
Fiscal NotePersonal Services 120.0

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

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

Travel 40.0

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

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

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

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

Travel	36.0
Commodities	8.0

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

RSA: Department of Labor 213.5

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

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

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

RSA: Department of Administration 182.4

1. Analysis of current collective bargaining agreements which will be made available for use by the corporation in the process of renegotiating these agreements as required by the federal transfer law.

2. Conduct an orderly transition from federal to state ownership for all personnel matters and ensure that all of the specified requirements from the federal transfer legislation are properly met;

3. Assistance with insurance and risk management needs.

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

RSA: Department of Natural Resources 170.1

1. Most of the funds will continue the Division of Technical Services work for the preparation of conveyance documents and related title work. Two positions are currently engaged in this activity (funded from the Transfer's FY 84 capital appropriation) and a third technical assistant will be added under this request.

2. Work with the Bureau of Land Management's cadastral survey work;

3. Assistance from the Division of Land and Water Management to implement the railroad transfer.

Four positions	148.0
Two existing technical assistants	

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

Travel	12.6
Contractual	6.5
Appraisals, printing	
Supplies	3.0

RSA: Department of Law 500.0

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

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

OTHER CONTRACTUAL EXPENSES

ICC Rate Valuation/Capital Plan Activity 255.0

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

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

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

Labor Relations Expertise 50.0

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

Personnel Records 30.0

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

Labor Relations Agency 35.0

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

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

OSHA Compliance 50.0

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

Building Code Activity 200.0

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

Transfer Financial Audit

200.0

Required by legislation.

Governor's Special Report

200.0

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

Attachment B

Back-up for FY85  
Funding Request for  
Working Capital Fund

United States Railway Association

**VALUATION**

**OF THE**

**ALASKA RAILROAD**

September 1983

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

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

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

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

Table 3

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

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

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

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



ARTA Provisions  
re: Transfer of  
Revolving Fund

14, 1983

PUBLIC LAW 97-468—JAN. 14, 1983

96 STAT. 2557

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**TRANSFER**

aska Railroad Transfer

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March 12, 1914 (43 U.S.C. 975 et seq. (popularly referred to as the "Alaska Railroad Act") and section 6(i) of the Department of Transportation Act (49 U.S.C. 1653)) or, as the context requires, the railroad operated by that agency;

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

Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 60.  
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# ALASKA RAILROAD TRANSFER REPORT

*more explanation of Revolving  
Fund treatment under ARTA*



**PREPARED BY:**

**THE STATE OF ALASKA**

**AND**

**THE UNITED STATES**

**DEPARTMENT OF TRANSPORTATION**

**JULY 14, 1983**

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

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

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

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

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

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

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

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

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

643-

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

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

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

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

STATE OPERATION

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

45 USC 1207.

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

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

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

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

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

Original sponsors: Hayes, Ringstad,  
Shultz, et al

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

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

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 CHAPTER 40. ALASKA RAILROAD CORPORATION.

7 ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13          (b) The board shall appoint a secretary and prescribe the duties  
14 of the secretary.

#### 15                                   ARTICLE 2. MANAGEMENT.

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

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

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

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

27           (4) apply to the legislature for an appropriation with the  
28 concurrence of the governor to be used to provide a particular service  
29 that is not otherwise self-sustaining if a subsidy is required to

1 maintain that service;

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

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

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

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

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

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

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

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

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

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

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

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

9 (3) making routine changes in service levels;

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

12 (5) performing procurement activities.

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

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

16 (2) mortgaging or pledging corporation assets;

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

19 (4) acting as a surety or guarantor;

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

22 (6) adopting annual reports;

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

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

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

29 (10) selecting independent auditors and accountants;