

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

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In another effort to cut costs and remove the Railroad from activities that are not vital federal interests, a decision has been made to terminate the present contract for providing freight barge service on the Tanana and Yukon Rivers. The ARR plans to sell its river equipment, including a tugboat and several barges, and is willing to lease its dock facilities and other land holdings that may be needed for the State or a private business to continue operating the barge service.

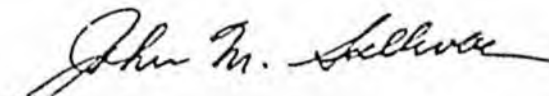
Proposed Transfer of the Alaska Railroad to State
Ownership

It has been the policy of the past three Administrations to cease federal operation of the Railroad by transferring it to the State or a private buyer. Private companies have expressed an interest in the Railroad in the past and several concerns have recently contacted the General Manager. We suggest that this is a good time to begin serious discussion of State take-over because (1) the Railroad is essentially an intrastate railroad primarily serving the freight and tourist needs of the State, (2) the State is in a strong fiscal condition and would be able to support the Railroad's capital and operating needs, and (3) the transfer process, which will probably take two to three years to implement, should begin now while the Railroad is in a slump before the natural gas pipeline construction activity begins in a few years.

Commissioner Ward indicated that there has been some discussion within the State about eventual State acquisition of the Railroad. I would hope that these discussions can now lead to a decision to assume State responsibility for the Railroad so that we can begin the complex process of transferring ownership. I firmly believe it is in the State's interest to actively press for State ownership at this time for both the transportation needs of the State and to preserve the public services that the Railroad provides in Alaska.

We look forward to continuing this important discussion and are hopeful it will lead to increased State support for the passenger service in the coming year as well as ultimate transfer of the Railroad to State ownership. If I can be of further assistance to you or provide additional information, please let me know. Both the Alaska Railroad and Federal Railroad Administration staffs are available to meet with and assist State officials in this regard.

Sincerely,


JOHN M. SULLIVAN
Administrator



ISSUE: ALASKA RAILROAD OWNERSHIP AND OPERATIONS

The 63rd Congress passed an Act on March 12, 1914 which authorized the President to locate, construct, and operate a railroad in the Territory of Alaska. This was the beginning of the Alaska Railroad, an experiment by the federal government in railroad ownership and operations that has been carried out over more than six decades. The federal government continues to own and operate the Alaska Railroad.

The 1914 Act instructed the President that the railroad was:

"... not to exceed in the aggregate one thousand miles, to be so located as to connect one or more of the open Pacific Ocean harbors on the southern coast of Alaska with the navigable waters in the interior of Alaska, and with a coal field or fields as best to aid in the development of the agricultural and mineral or other resources of Alaska, and the settlement of the public lands therein ..." (emphasis added)

In large measure the Alaska Railroad has carried out the Congressional mandate given in its organic act. The Alaska Railroad operates 478 miles of single main line track from the deep-water ports of Seward and Whittier through Anchorage to Fairbanks, with branch lines to Eielson Air Force Base, Fairbanks International Airport, Palmer, and the Suntrana coal fields near Healy. The Railroad serves the agricultural communities in the Matanuska Valley. The settlements along the Alaska Railroad encompass the vast majority of the urban development of Alaska and have come to be known as "The Railbelt".

At the time in history when the White Pass and Yukon Railway was constructed, around the turn of the century, and a few years later when the Alaska Railroad was built, the situation in Alaska was vastly different from current conditions. Alaska was almost totally undeveloped. There were virtually no roads -- only trails -- and no automobiles or trucks, no Marine Highway System, and the railroads were the only reasonable transportation alternative to reach the interior of the territory. In short, the railroads were a transportation monopoly with essentially no competing transportation modes.

In addition, Anchorage did not exist until it was built to house the railroad construction crews on public railroad property which was sold to private interests. World-wide transportation and communication were very slow and this fact minimized the need for large military defense installations in Alaska. The principal economic activities in



Alaska were fishing, hunting, trapping, and prospecting. Industrialization was unknown and the economy was very basic, with commerce related to the major economic activities. Only the most hearty and fittest survived the harsh climatic existence.

Alaska today is a startling contrast to the conditions and situations in which the railroads were first constructed. Early railroad decisions had a driving force because railroads were the only reasonable land transportation alternatives at that time. Now, that force has been reduced and changed to defining the role that railroads play in Alaska in the context of a total transportation system. Railroads in Alaska today must meet present market demand for transportation services and define more clearly the services they can provide better or at less cost than other modes in the context of Alaskan and Northwest Canadian development.

The role, market, and service definitions of railroads in Alaska at this time must be applied and evaluated in the examination of the ownership and operational considerations. This is true, not only for the existing railroad system, but also for any railroad expansion including the frequently discussed link to Canadian railroads and through them to the continental United States.

In examining the Alaska Railroad ownership and operations alternatives, it is essential that consideration be given to the other major components of the State's transportation system. Ports, barges, ships, the Marine Highway, pipelines and the State Highway System are of prime importance. Of lesser importance relative to railroad use, development, and operations are the airports and air service (freight and passengers). This latter transportation component is extremely important in Alaska. Its primary relationship to railroads, however, is more indirect, frequently involving only fuel supplies.

Railroad investment decisions, by the federal and state governments, must be made within the framework of other transportation investment decisions. This is especially acute relative to ports and highways, both of which have historically been public investment responsibilities. Governmental decisions regarding port development, for example, will significantly impact upon rail traffic since all freight inbound to Alaska or outbound from the State use port facilities. Thus, public port investment decisions can either enhance or discourage rail traffic depending upon the nature, extent, type, and scheduling of port facilities and services.

By the same token, highway development investment decisions also have important implications on railroad investments and operations.



For example, the George Parks Highway from Fairbanks to Anchorage, completed in 1971, closely parallels the Alaska Railroad between Alaska's two major cities. The opening of this highway substantially reduced the land transportation mileages thereby enabling trucks to pick up cargo at the Port of Anchorage and deliver it more economically to Fairbanks. Therefore, the general public investment in a highway diverted traffic from the Alaska Railroad public investment. The extent of traffic diversion and an analysis of its economic impact including the resulting increase of public investment required on the Alaska Railroad is certainly beyond the scope of services of this project. However, it is clear that substantial diversion did occur and has had longterm implications on the changing role, function, and financial aspects of the Railroad.

A similar example may be found on the White Pass and Yukon Route between Skagway, Alaska and Whitehorse, Yukon. Funded by the Alaskan government and the federal government of Canada, the Skagway to Whitehorse Highway (known as the Klondike or Carcross Highway) was completed in the late summer of 1978. According to the Canadian Transport Commission "Report of Inquiry into the White Pass and Yukon Railway and Other Surface Transportation Services into and out of the Yukon", in its first complete summer of operation, this highway resulted in the erosion of twenty-eight thousand passengers from the White Pass and Yukon Route. Passenger revenues amount to 19% of the railway's total revenues. The White Pass generally carries about 60-70 thousand passengers per year. Traffic diversion due to public investment in alternative transportation modes is obviously one important factor in railroad finances.

It is within this context that the Alaska Railroad ownership and operation alternatives must be examined.

At the time the Department of Transportation and Public Facilities developed the Request for Proposals for this project, the issue of the ownership and operation of the Alaska Railroad was less important than it has become during the project development period. The attention given to this issue by the consultants has been substantially changed during the project by mutual agreement between the consultants and the Department. This change in emphasis has been necessitated by an inquiry by the Federal Railroad Administration, owners and operators of The Alaska Railroad, of the State's interest in the possible acquisition of the Railroad.



Additionally, the Alaska Legislature's interest in the feasibility of establishing a rail link between the Alaska Railroad and Canadian railroads and the continental railroads in the Lower 48 states raises other significant ownership and operational issues. These latter issues include such questions as: Who would own such a link? Who would have operational responsibilities? Is there adequate traffic to cover operational costs? Will there be a return on the capital investment? If operational costs are not covered by revenue, who will assume the responsibility for the required subsidy? If an operational subsidy is required, how long will it be before a subsidy is no longer necessary? What are the implications of such a trans-Alaska/Canada rail link on the present shipping patterns related to the ports of Seattle, Vancouver and others?

Clearly these are important questions. It is also clear that the scope, schedule, and financial resources of this project are inadequate to seek the essential answers to these questions.

It is now the intent of this project to raise key railroad, public investment, and related issues within the framework of the project research and definitional analysis that has been completed. The continuous rail planning process outlined in this project report provides an approach which will enable the decision-makers in Alaska and in the federal government, in cooperation with private interests and supported by an informed public, to have useful information on which to base vital railroad decisions.

In order to better understand the issue of ownership and operation of the Alaska Railroad, it is necessary to make some observations based upon work on this project. These observations may be summarized as follows:

1. There is a strong dedication on the part of officials and employees to the Alaska Railroad and to an effective and efficient operation.
2. The existing traffic base for the Railroad is quite small because of the sparse Alaskan population and limited manufacturing and industrial development.
3. Natural resource development in Alaskan offers opportunities for significantly expanded rail traffic.



4. The Alaska Railroad has not in the past had an effective marketing program in Alaska and in the "lower 48". Recent steps have been taken, however, to strengthen the marketing program. Governmental ownership of the Alaska Railroad makes marketing difficult. Some private transportation companies perceive the Railroad as being unfair competition because of public support for the Railroad.
5. The Alaska Railroad has been largely limited to the use of public funds for capital investments.
6. Alaska Railroad officials must function within governmental constraints such as personnel procedures, procurement practices, and public funding, leading to time delays and frustration.
7. Most employees of the Alaska Railroad are unionized public employees.
8. Much of the traffic on the Alaska Railroad has historically been for the military. Although the Railroad continues to have the capacity for military transport, the traffic in the last decade or so has shifted significantly toward private freight movement.
9. There are major questions regarding the land under the control of the Railroad. The land status is uncertain if the Railroad were to be sold.
10. The institutional, accounting, and other arrangements between the Railroad and Alaska Hydro-Train, Yutana Barge Lines and others require further examination and clarification.
11. The Alaska Railroad is taking the necessary steps to improve its management of real property, partially in response to a General Accounting Office report. These management improvements should increase the income from non-operating property and provide more uniform rental agreements.
12. Rail passenger service on the Alaska Railroad needs careful evaluation relative to the nature of the market and the determination of subsidy sources. Service improvements are planned, but the need for subsidy even with the improvements is apparent.



Further explanation and observations may be found elsewhere in this report.

There are at least four major alternatives for ownership and operation of the Alaska Railroad: (1) federal, (2) state, (3) private, and (4) combination of public and private. Obviously, there are numerous variations or combinations which could be explored. A comprehensive investigation and analysis of each of these alternatives and the longterm implications are essential, but beyond the scope of this project.

Federal Ownership and Operation Alternative

This alternative of a continuation of federal ownership and operation is the maintenance of the status quo. Although this alternative is clearly the easiest to implement since it requires no action by anyone, it appears to be unsatisfactory. The recent inquiry by the Federal Railroad Administration of the interest of the State in acquiring the Railroad is evidence of the federal government's dissatisfaction with the present situation. In some ways it is unfortunate that such an inquiry was made while this project was being undertaken. If the information resulting from the completion of this project had been available to the State before the federal disposition inquiry was made, Alaska decision-makers would have been better prepared to cope with the issue.

Under the present situation, the Alaska Railroad cannot be operated as one would operate a private railroad for six basic reasons: (1) there is no way to seek and be sure of obtaining the much needed capital investment funds, (2) marketing efforts are difficult because of the competition issue, (3) railroad management does not have the required flexibility to make and be accountable for major decisions, (4) railroad employees are unsure whether they work for a railroad or the federal government, (5) the parameters of rail service in Alaska have substantially changed from early conditions under which the Railroad was constructed (previously discussed), and there has not been a recent evaluation of the current applicability of the basic organic act, and (6) the Railroad is unable to be as responsive as it might be in meeting the rail service needs of Alaska in such a dynamic environment.

It is possible to continue to have the federal government own and operate The Alaska Railroad. Some improvements can be made under such circumstances, but the improvements will only be minor and will not include major shifts in the responsiveness and operations of the Railroad.



State Ownership Alternative

Ownership of the Alaska Railroad by the State of Alaska is the second major alternative. It would be possible for the State to own and operate the Railroad. However, several factors seem to favor only State ownership and not State operation, if this alternative is selected. Currently, there is no interest in state railroad operations. The State does not presently have the experience, knowledge, or personnel required to operate the Railroad. In addition, most of the basic reasons why the Railroad cannot be operated under federal jurisdiction as one would operate a private railroad apply equally to State operations. There would also be a tendency for political involvement in operational decisions. For these reasons, the consultants for this project do not consider operation by the State to be a viable or reasonable alternative. The discussion of this alternative is, therefore, confined to State ownership.

The State of Alaska could take title to the Alaska Railroad. Before making such a commitment, however, it will be essential that legal counsel for the State carefully examine the matter and determine the necessary procedures, conditions, and process for acquisition. Undoubtedly there will be many legal questions. One such question is the land issue, specifically related to the quality of the title in light of the Alaska Native Claims Settlement Act of 1971. For example, the Eklutna land decision clearly reserve the right-of-way and all areas used for railroad operations. This decision transferred some \$40 million or more in potential profits from land to Eklutna from the Railroad, thereby affecting the desirability of the property.

An alternative to direct purchase by the State could be the selection of the Railroad's land as a part of the withdrawal by the State of federal land under the Alaska Statehood Act of 1958. It appears that acquisition through selection by the State is a viable alternative if the State determines that acquiring the Alaska Railroad is in its best interest.

State ownership of railroad rights-of-way has become much more common in the last few years, particularly by states which have faced the loss of rail service due to railroad bankruptcy. While state ownership interest started in the Northeastern United States because of massive bankruptcies and abandonments, states in the Midwest and other regions have more recently been faced with similar problems due primarily to the Milwaukee and Rock Island problems.



The chief advantage to Alaska of state ownership is the control of the Railroad and the more effective integration of railroads as a significant component of the State's total transportation system. With state ownership, Alaska could not only plan for the integration of its transportation system among the port, highway, barge and Marine Highway system, but more importantly, the State could more easily implement its transportation plans. As previously pointed out, public responsibilities and state interest already extends to the other transportation modes so essential to the future of the Alaska Railroad. State ownership would provide the Governor, the Legislature, the Department of Transportation and Public Facilities, and other state agency decision-makers with the opportunity to actually make and carry out major significant capital investment decisions between transportation modes. This decision-making and full implementation responsibility relative to transportation could be effectively used to reinforce state policies on land and natural resource protection and development. In this manner the State could assure local rail service to those areas where it is useful to stimulate agricultural, commercial, industrial, and resource development.

An operational agreement could be negotiated with a suitable railroad operator with the necessary conditions thereby assuring rail users with the level and quality of service the State wants and is willing to finance.

It is clear from examination of the financial records of the Railroad that capital and operating losses have occurred from time to time in the past. The data also reveals the likelihood of additional losses. There is evidence that revenue from the freight operations have been necessarily used to subsidized the passenger operations. If the State assumes the ownership and operational responsibility for the Alaska Railroad, Alaska must be prepared to cover any future capital and operating losses.

This approach would also simplify the relationship between the State and the federal government. The State is qualified to receive federal financial assistance under the 803 program of the Railroad Revitalization and Regulatory Reform Act (4R Act) of 1976 as amended unless the Railroad has increased traffic of a magnitude that prevents it from being considered a low density line. The State retains the option of participation in the 803 program as long as it is eligible. Alaska should carefully evaluate the difficulties, time, cost, and federal involvement in considering participation in this Federal Railroad Administration program. State participation in the 803 program requires



following FRA guidelines and obtaining plan and project approvals. It should be noted that this FRA program was designed to assist railroads, through the states, which were facing line abandonments of uneconomic and marginal branch lines and not to accommodate system growth. If full advantage is to be taken by Alaska of its opportunities for economic, agricultural, and resource development, rail service to areas not presently served remains an important consideration by the State.

It should be noted that there are federal funds available for branch line funding, redeemable preference shares, loans and other programs. A transfer of ownership from the federal government to the State does not impair funding eligibility. Arrangements would also be necessary for federal assistance through legislation relative to employee benefits for the current federal employees of the Railroad.

Private Ownership and Operation Alternative

Several years ago, the Federal Railroad Administration expressed some interest in the transfer of the Alaska Railroad from federal ownership and operation to the private sector. At that time the State did not have a Department of Transportation and Public Facilities, the financial resources, or serious interest in State ownership. Expression of interest by railroads in the continental states were sought. Some private companies did express an interest in the possible acquisition of the Railroad.

Those private companies that were most serious carefully evaluated the traffic (existing and potential), the cost of acquisition and operation, and the return on investment. Based upon their analyses, they decided that the return on their investment was insufficient to warrant the financial commitment.

Changes in the traffic base of the Alaska Railroad such as major coal export or mineral extraction and shipment could significantly change the economics of the Railroad. Such changes would make the Railroad more attractive to private investors.

This alternative must be viewed, however, from the State's perspective and not necessarily from the private enterprise view. There



are sound arguments as to why the private sector should be encouraged to own and operate the Railroad. Obviously, the private sector is much more experienced and knowledgeable in railroad ownership and operations. This private approach could potentially expand the public tax base while minimizing the necessity for governmental employment increases. Private companies have more flexibility than public agencies in the management of a business enterprise. In addition, decisions can be made more rapidly in the private sector than in government.

If the Railroad were privately owned and operated, the role of the State of Alaska changes. The State could become the regulator and not the implementor. It will be more difficult to assure the integration of the railroad with other transportation modes. Railroad expansion will be based upon a more strict test of return on investment, profit, and economic considerations.

The trade-off associated with this alternative seems to be private investment capital, know-how, experience, and ability to rapidly respond to changing markets and development in exchange for State or federal control, implementation, public rail service, policy reinforcement, public funds, and transportation system integration.

Public and Private Combination Alternative

The fourth alternative for the ownership and operation of the Alaska Railroad involves a combination of public and private interests. Many possible variations of this alternative appear viable depending upon the relative roles, negotiations, compromises, and decisions. Since the alternative variations are almost endless, it seems appropriate to outline one approach that illustrates the possibilities and serves as a point of departure for discussion purposes.

For purposes of discussion, it is assumed that the public would own the land and facilities. The motive power, rolling stock, and equipment could be owned either privately or by the public. Operational responsibilities are assumed to be by the private sector.

One approach within these parameters would be to have a Board of Directors appointed by the Governor (perhaps for staggered terms and confirmed by the Senate or not). The Board would be made up of



businessmen and people knowledgeable about railroads. They could be paid a reasonable stipend for serving and would be given this total responsibility for oversight of the property and the administration of the contract with the private operator. An example of this type of approach is the USRA Board created by federal legislation.

Consideration would have to be given to the total number of Board members. The responsibilities, authority, power and duties of the Board would have to be carefully determined and articulated. If such a Board is created, it seems appropriate to delineate its access to both public and private funds. Creativity and innovation will be required in the establishment of such an entity. Among the issues requiring attention are the following: (1) operator incentives, (2) source of funds if subsidy is required, (3) freight and passenger service levels and responsibilities, (4) labor provisions, (5) maintenance responsibilities and funding, (6) responsibility for liability, (7) natural disaster recovery, (8) equipment and facility acquisition and disposition, (9) industrial development and property management responsibilities, (10) accountability (to whom and when) and (11) institutional relationships with marine owners and operators. This list is illustrative and not exclusive.

The advantages of public ownership of the land and improvements are numerous. The problem of land ownership disputes would be minimized. There would be no problem of recovery of federal or state funds expended on lines which were discontinued before the expiration of their useful life. Public powers could be used, if necessary, for expansion of the railroad system. The Railroad could more effectively be integrated into the State's total transportation system.

Private operations with incentives for excellence also has advantages. It enables the railroad operations to be carried out by people with relevant experience, training, and capability. Marketing could be conducted in the way it is carried out within the private sector. Rail service requirements could be incorporated into the operational agreement and the users and public could be assured that service is at a proper level by enforcement of the requirements. A reasonable profit level needs to be achievable by the operator.

The public and private combination appears to be one viable alternative for the Alaska Railroad.



ISSUE: RAILROAD EXPANSION IN ALASKA

For at least the last twenty years, there has been serious discussion about the possible expansion of railroads in Alaska. Many studies have been conducted, presented, and discussed. And yet both the Alaska Railroad and the White Pass and Yukon Railway are essentially the same system as they were when constructed. Railroad expansion in Alaska continues to be a significant issue.

This project, as a part of Alaska Rail Planning Program, was never intended to include another analysis of railroad expansion in Alaska. Rather, the report describes the background and major issues and policies, so essential to decision-making by the State of Alaska, the federal government, and private railroad and transportation interests.

The issue of Alaskan railroad expansion has four principal inter-related and inseparable elements. These elements must be carefully considered prior to an expansion decision. Failure to make a clear determination and statement relative to each element will likely result in short-term and long-term implications for all the people of Alaska. The four major elements related to the Alaskan railroad expansion issues are: (1) purpose of the expansion, (2) timing of the expansion, (3) cost, and (4) responsibility of the expansion and the continuing responsibility of railroad operation after construction is completed.

Purpose

The purpose of any railroad expansion needs to be logically thought out and then articulated as an affirmative policy statement of the State of Alaska. If there were large markets for products that were manufactured or produced in Alaska, or if there were markets within Alaska for products, from other areas and these products were suitable for shipment by rail (i.e. large volumes, heavy, substantial distance, continuous flow), the purpose of railroad expansion to meet the market demand would be clear. It is obvious that these conditions do not exist in Alaska at this time.

Coal and minerals appear to be the most logical potential Alaska products for rail shipments. The discussion relative to these natural resources products and their development may be found in a previous section of this report.



A second line of reasoning indicates that if railroad lines are extended, development to support them will follow. In reality the inter-relationship between railroad expansion and supporting development is more complex than the above statement indicates.

In examining this issue it is important to acknowledge that railroad construction is very expensive, especially in Alaska. High capital construction cost requires a high volume of revenue traffic if there is to be a reasonable return on the construction investment.

Railroads are absolutely dependent upon high traffic volumes and have the capacity to carry these high volumes. For example, a single train can carry cargo in the range of 4,000-8,000 tons. If one train runs each day of the year, the volume carried would be on the order of 1.5 to 3.0 million tons annually -- one way. Obviously, several trains in each direction can be physically moved over the tracks each day. Unit coal trains from Wyoming through Colorado to Texas, for example, number more than 20 trains per day and may soon run as high as 56 trains per day.

The Alaska Railroad is classified by the Federal Railroad Administration as a "low density" railroad since it carries less than 3 million gross tons per year. In 1978 The Alaska Railroad carried 2.2 million freight revenue tons and in 1979 the tonnage carried was down to 1.8 million tons.

It seems clear that the construction of the Alaska Railroad, while providing a very important service, has not resulted in stimulating tremendous economic development commensurate with its traffic transporting capacity.

Another example of high expectations, that building a railroad will automatically stimulate needed economic development but with disappointing results, is the experience with the British Columbia Railway. In a report by the Royal Commission on the British Columbia Railway, "An Interim Report on the Future of the Fort Nelson Extension", dated December 1977, the following statement is made:

"... The Fort Nelson Extension should never have been built; it was built however, and this is the reality with which we must now deal.

The question which faces the Province, and on which the Commission must advise, is whether to roll it up, and write it off, or spend massive sums over the next three years to make the line serviceable. In



between lies the possibility of first aid treatment -- the application of bandaids, with the ultimate disposition postponed. If the line is kept in service, there is no expectation it can cover even its operating costs in the foreseeable future, leave alone pay any part even of the interest on money borrowed for its reconstruction or temporary repair ..."

Evidently not enough development followed the railroad extension, completed in 1971, to make the railroad economically viable. The line cost about \$70 million originally and needs another \$36 million for reconstruction. As of 1977, they were losing \$33 million a year just in operating cost. This is substantially more than (almost twice) the total revenue from freight on the Alaska Railroad in 1979. As a result of this situation on the British Columbia Railway, the board of directors has requested an open ended subsidy for the railroad to cover all future annual expenditures and operating losses.

The purpose of reporting these facts is not to indicate that railroads are unimportant in Alaska, but rather to show the importance of clearly determining the purpose of any proposed railroad expansion and to evaluate realistically the implications of such expansion, prior to major project commitments.

Timing

The timing of railroad expansion is also critical. If the State of Alaska were to expand the Alaska Railroad, laying aside all related issues, the expansion should be timed in such a way that full advantage would be taken of development which would generate rail traffic. The timing element is extremely critical and yet very complex and difficult. The scheduling of new railroad construction frequently requires several years of preliminary work including the design, location, financing, and then actual construction. The lead time necessary for railroad construction may be several years.

Since the development of natural resources offers the greatest potential for rail traffic, railroad expansion should coincide with such resource development. Private enterprise will be the most likely resource developers. This poses an interesting challenge -- finding out when and where such development will occur in time to permit the proper schedul-



ing of railroad construction. The rail planning process should include a mechanism for letting potential resource development management know of the State's interest in providing rail transportation and other needed transportation facilities and services.

In summary, the State of Alaska should carefully consider the timing element within the railroad expansion issues.

Cost

Cost considerations are another of the vital elements related to railroad expansion. The costs have two facets: construction of the railroad expansion and the cost of operations after completion of construction. The former, although not easy to estimate, is usually easier to obtain than the latter estimates. Alaska has construction experience, but no railroad operational experience. It is also a reality that governments generally are more familiar with large public works projects which are highly visible and easily recognized. The more difficult are the operational costs since they frequently involve intangibles such as labor, rates, fuel costs, pension programs, marketing effort, and the like.

Operational costs are also difficult to estimate because they are affected by decisions beyond the control of the governmental construction agency. For example, private shippers make the decision on how and when to use rail services or perhaps, to ship by truck if that alternative is available.

A railroad, relying on a natural resource shipper, is largely dependent upon that shipper locating a suitable market for his products. This is certainly beyond the control of the railroad. And yet, if resource products make up a substantial part of the revenue traffic base, the loss of that shipper's market can have a noticeable adverse impact upon the operating cost of the railroad. Such a loss of revenue may result in governmental subsidy if the public investment in the railroad is to be protected. An example is the loss of the asbestos traffic by the White Pass and Yukon Railway.

The railroad situation for the State is somewhat analogous to the urban community experience in public transit whereby the capital improvement funds for buses or other equipment from the federal government is



relatively easy to obtain, but the subsidy requirement including the operation and maintenance of that equipment increases geometrically. Subsidy funding is also more difficult to obtain, locally or from the federal or state government.

A careful assessment should be made by the State of Alaska of any railroad expansion capital improvement costs and of the long term operational costs which may be incurred if the expansion is made. State decision-making officials will want to evaluate both capital and operational costs before making a railroad expansion decision.

Responsibility

The final major element in the consideration of the railroad expansion issue is the assignment of responsibility for construction, ownership and operations.

It appears important for a decision on railroad expansion to be made after the decision on the ownership and operations of the Alaska Railroad. If the ownership and operations of The Alaska Railroad remains the responsibility of the Federal Railroad Administration, then it would be logical for the expansion to also be a federal responsibility. On the other hand, if the State or a private enterprise were to assume the responsibility for the Alaska Railroad, then the expansion responsibility might well be given to the new owners.

It is possible for the federal government to retain ownership and operational responsibility for the Alaska Railroad and for the State of Alaska to assume the expansion responsibility. Under these circumstances the State will want to seek and obtain an agreement for the operations, maintenance, and marketing of rail service and facilities on the railroad expansion lines including possible federal responsibility. Failure to obtain such agreement in advance of construction could potentially result in a railroad line without an operator.

This element of the railroad expansion issue requires the compilation and analysis of substantial data on which to make an intelligent and logical decision on the assignment of the construction and operational responsibility for railroad expansion lines.



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The issue of railroad expansion in Alaska is not new nor is it devoid of previous study. The research on this project has located at least thirteen studies or surveys related to this issue. In addition the Alaska Legislature in its 1980 session passed a resolution requesting the Legislative Council to conduct: "(1) a cost benefit analysis of a proposal to construction a rail line from Fairbanks to the Canadian border; and (2) a cost benefit analysis of any other Alaska rail line construction which may be proposed by the Legislative Council ..." (emphasis added). The Legislative Council report is to be presented to the First Session of the Twelfth Legislature within 10 days of the date it convenes (January 1981).

A list of previous railroad expansion and related reports follows in Exhibit V-1, "Railroad Expansion Studies and Reports". A review of these documents indicates that insufficient attention has been given to date to the operational and potential traffic aspects, as well as the purposes, timing, and assignment of responsibilities. The costs included in a number of these reports will require updating to accurately reflect the changes that have occurred and current inflation, energy, and related factors.

Overview

THE ECONOMY

The Alaskan economy, at a low level following completion of the trans-Alaska oil pipeline, contracted still further during 1979. Construction was down, vacancy rates for single family rental units reached 25 percent in Anchorage, and the State population dropped by several thousand persons. Uncertainty over the Alaska lands issue has caused corporations to defer capital investments in the State. Alaska, as it enters the 1980's, remains an underdeveloped area.

The construction of a 4,800-mile natural gas pipeline from Alaska's North Slope is an increasingly likely prospect and would be the principal stimulant of the economy in the 1980's. Because Alaska is rich in natural resources other than petroleum, there are other possibilities for expanding Alaska's economic base. These include copper and coal mining, fishing and seafood processing, forestry products, and hydropower. In the near term, the State, using its surplus oil revenues, is expected to increase the funding of capital improvement projects in 1980. Tourism, up 10 percent in 1979, continues to grow; and commercial fishing, up 20 percent over 1978, also promises to grow rapidly as the offshore-bottom fishing industry develops.

In years past, traffic and revenues on The Alaska Railroad have risen and fallen with the Alaskan economy, and this pattern will continue. Because there is no manufacturing activity in Alaska, and no immediate prospects for its development, the Alaskan economy will continue to fluctuate throughout the 1980's. Alaska Railroad financial results during the decade will reflect these fluctuations.

THE RAILROAD

Fiscal year 1979 saw a continuation of the decline in freight traffic (Table I) that began in 1977 following the completion of the trans-Alaska oil pipeline. All major commodities hauled in FY 1979 dropped from FY 1978 (Table II); as in FY 1978, the largest decline was in petroleum products because the refinery located near Fairbanks increased its bulk petroleum market share and thereby lessened the surrounding area's dependence on shipments via the Railroad. If the anticipated construction activity increases and an export coal movement is started, FY 1980 should reflect a modest upturn in freight traffic. No substantial gains are expected in the long-haul traffic to Fairbanks, however, until the gas pipeline project begins.

Non-freight revenues increased, led by passenger revenues which were up 35 percent. Non-operating revenues were up 26 percent; and other

operating revenues increased 3 percent—from \$3.3 million to \$3.4 million. Total expenses were reduced almost \$2 million; but revenues primarily reflecting the drop in freight traffic declined by nearly \$4 million. These losses were incurred despite a 14-percent reduction in employment. Increased labor costs and material prices tended to offset the personnel reductions and the higher tariffs.

TABLE I: RAILROAD STATISTICAL HIGHLIGHTS

ITEM	1979 FY	1978 FY	% CHANGE
Total Revenues (million \$)	25.2	29.0	- 13.4
Total Expenses (million \$)	31.8	33.8	- 5.5
Gain (Loss) (million \$):			
Before Depreciation (gross)	(3.4)	(1.3)	-151.8
After Depreciation (net)	(6.6)	(4.5)	- 45.3
Capital and Major Maintenance Program (million \$)	9.4	3.6	+161.1
Average No. Employees	648	753	- 13.9
Freight:			
Revenue (million \$)	18.2	23	- 21
Revenue-Tons Carried (million)	1.8	2.2	- 16.9
Revenue Ton-Miles (million)	257	330	- 22.1
Revenue per Ton-Mile (cents)	7.1	7	+ 1.4
Average Distance Carried (miles)	142	152	- 6.6
Carloads Handled	36,499	40,557	- 10
Total Train-Miles (thousand)	370	375	- 1.4
Passengers:			
Revenue (million \$)	1.6	1.2	+ 35.3
Miles (million)	13.8	12	+ 15.5
Gross Ton-Miles (million)	878	915	- 4.8

TABLE II: FREIGHT TRAFFIC BY COMMODITY

COMMODITY	1979 FY	1978 FY	% CHANGE
Revenue Tons Carried (thousand):			
Sand & Gravel	637.5	727.2	-12.3
Coal	523.9	593.3	-11.7
Manufactures & Misc.	276.9	307.8	-10.0
Petroleum, Oil, Lubricants	219.6	373.9	-41.3
TOFC/COFC (Piggyback)	88.7	99.5	-10.9
Products of Forests	55.2	67.8	-18.6
Products of Agriculture	7.1	8.2	-13.4
Total Tonnage	1,808.9	2,177.7	-16.9
Revenue Dollars (thousands):			
Sand & Gravel	\$ 1,009	\$ 972	+ 3.8
Coal	3,207	3,507	- 8.6
Manufactures & Misc.	6,738	8,413	-19.9
Petroleum, Oil, Lubricants	3,877	6,362	-39.1
TOFC/COFC (Piggyback)	2,327	2,484	- 4.4
Products of Forests	886	1,231	-28.0
Products of Agriculture	114	72	+58.3
Total Revenue	\$18,158	\$22,991	-21.0

The Railroad's working ratio (expense/revenue, excluding depreciation) was 123 percent, up from 110 percent in FY 1978. Although expenses of all three operating departments—Transportation, Engineering, and Mechanical—were \$2 million less than expenses incurred in FY 1978, the 21-percent drop in freight revenues more than offset the economies.

The FY 1979 breakdown of revenues and expenses by percentages is shown in Figure 1. Freight revenues constituted 72 percent of total revenues, with the remaining 28 percent accruing from other than freight movements.

The capital and major maintenance program rose sharply because of the \$6.3 million appropriation by Congress for repairs to the Railroad's Seward and Whittier dock facilities.

Table III shows revenues, expenses, gains (losses), and cash flow for each quarter of fiscal years 1978-79. It reflects the declines in traffic which occur during the winter months, and the increases which occur during the summer months.

Although expenses are closely controlled and monitored, the Railroad will probably not show a profit until the construction equipment and material for the natural gas pipeline start to move into Alaska.

TABLE III: QUARTERLY FINANCIAL RESULTS
FISCAL YEARS 1978-79
(Million dollars)

QUARTER	REVENUE	EXPENSE	GAIN (LOSS)	CASH FLOW
FY 1978:				
1	\$ 7.1	\$ 8.9	\$(1.8)	\$(1.0)
2	5.7	8.3	(2.6)	(1.8)
3	7.1	8.4	(1.3)	(0.5)
4	9.2	8.0	1.2	2.0
Total Oct. 1977- Sept. 1978	\$29.1	\$33.6	\$(4.5)	\$(1.3)
FY 1979:				
1	\$ 5.4	\$ 7.9	\$(2.5)	\$(1.7)
2	5.7	7.7	(2.0)	(1.2)
3	6.7	8.2	(1.5)	(0.7)
4	7.4	8.0	(0.6)	0.2
Total Oct. 1978- Sept. 1979	\$25.2	\$31.8	\$(6.6)	\$(3.4)

The Railroad is taking active measures to reduce expenses further while continuing essential service to the public. Rising costs will continue to have a detrimental effect on the financial situation in FY 1980. The perennial deficits from passenger service will be offset in FY 1980 by an agreement recently signed by the Railroad and the State to cover losses associated with the Whittier shuttle service, and by a Federal appropriation which included \$1.5 million for the Anchorage-Fairbanks passenger service.

To build community and shipper awareness of the Railroad, the Railroad, with the support of the State and the numerous communities along the Railbelt, celebrated Alaska Railroad Week from September 10 through 16. The following noteworthy events took place: the Railroad ran special trains; a poster was produced; officials gave speeches; an Anchorage newspaper prepared a special section on the Railroad; the Anchorage museum presented an exhibit; and communities sponsored a variety of special events.

Since the Government of the State of Alaska has substantial surplus funds because of the growth of oil revenues, the Federal Government believes that ownership of The Alaska Railroad should be with the State Government. The Federal Government believes that The Alaska Railroad exists primarily for the benefit of the residents and shippers in Alaska; they need and deserve a much larger voice in determining the role that they want the railroad to play.

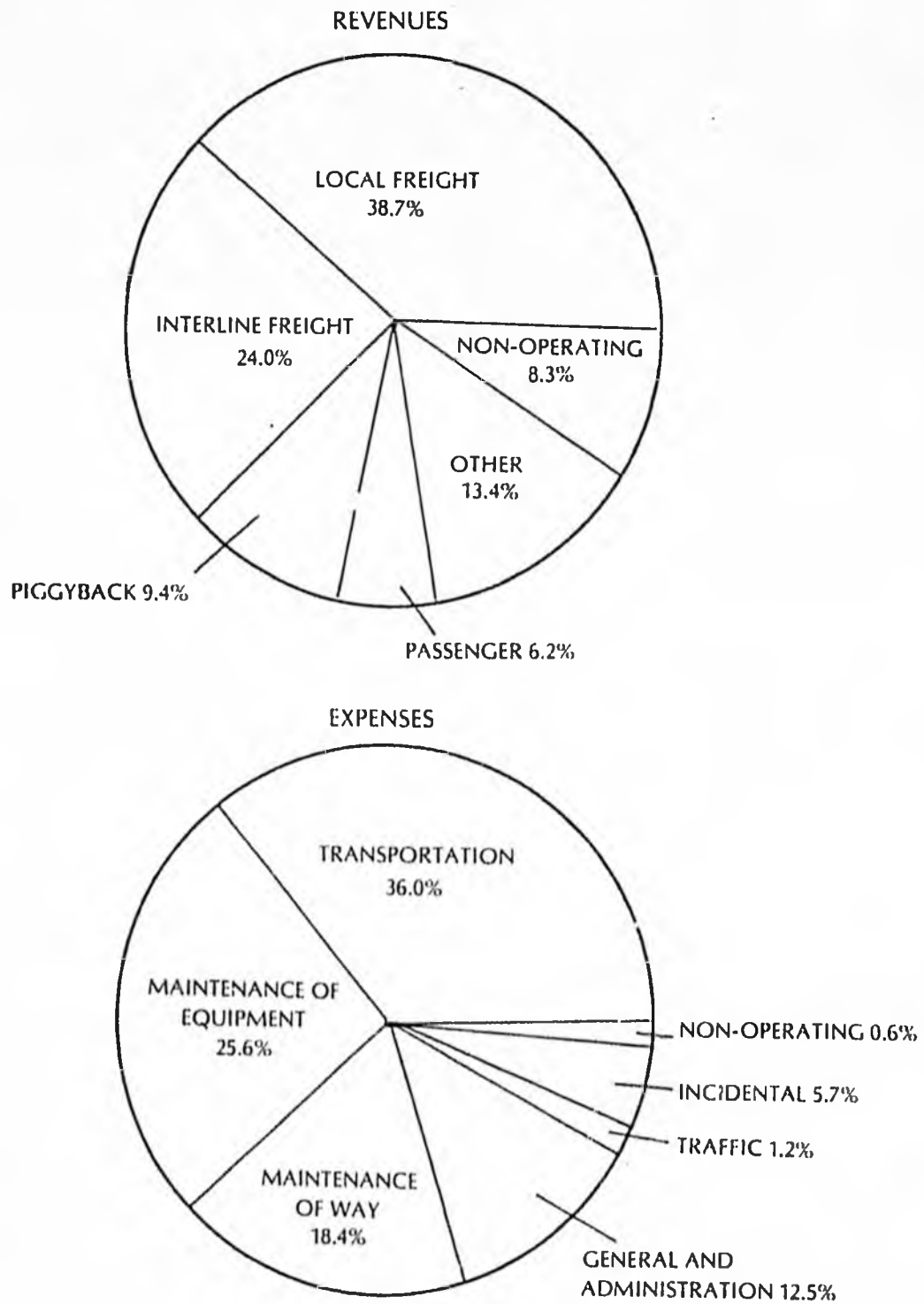


FIGURE 1: FY 1979 TOTAL REVENUES AND EXPENSES.

Financial

The following four financial statements (Tables V through VIII) describe the financial situation of The Alaska Railroad.

TABLE V: STATEMENT OF INCOME
FISCAL YEARS 1978-79
 (Thousand dollars)

CATEGORY	1979	1978
Operating Revenues (Note 3):		
Freight	\$18,158	\$22,991
Passenger	1,564	1,156
Other (Note 17)	3,378	3,293
	<u>\$23,100</u>	<u>\$27,440</u>
Operating Expenses (1) (Note 4):		
Maintenance of Way & Structures (Note 5)	\$ 5,235	\$ 6,154
Maintenance of Equipment	7,845	8,576
Transportation	11,821	12,123
Traffic Management	470	421
Incidental	1,937	1,889
General and Administration (Note 6)	4,256	4,249
	<u>\$31,564</u>	<u>\$33,412</u>
Income (Loss) from Operations	(8,464)	(5,972)
Non-operating Properties (Note 18):		
Income (2)	2,081	1,651
Less Expense (1)	204	213
Net	<u>1,877</u>	<u>1,438</u>
Net Gain (Loss):		
Less Extraordinary Item:	\$ (6,587)	\$ (4,534)
Deferred Outlays (Note 7)	40	543
Adjusted Net Gain (Loss)	<u>\$ (6,627)</u>	<u>\$ (5,077)</u>
(1) Depreciation included in Expenses (Note 8)	\$ 3,219	\$ 3,196
(2) Income foregone because of PL 95-611 delaying implementation of fair market value rents	\$ 300	

Notes follow Table VIII.

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Adjusted Net Gain (Loss)	<u>\$ (6,627)</u>	<u>\$ (5,077)</u>
(1) Depreciation included in Expenses (Note 8)	\$ 3,219	\$ 3,196
(2) Income foregone because of PL 95-611 delaying implementation of fair market value rents	\$ 300	

Notes follow Table VIII.

TABLE VI: BALANCE SHEET
SEPTEMBER 30, 1978-79
(Thousand dollars)

CATEGORY	1979	1978
Assets:		
Current Assets:		
Cash (Note 9)	\$ 5,225	\$ 5,714
Trust and Deposit Funds (Note 10)	63	87
Accounts Receivable	6,791	9,724
Materials and Supplies (Note 11)	6,339	6,578
Prepaid Expenses:	83	—
	<u>\$ 18,501</u>	<u>\$ 22,103</u>
Properties:		
Land (Note 12)	618	433
Buildings	12,389	12,151
Roadway Structures & Facilities	110,689	108,828
Equipment	41,330	40,926
Non-operating Property	3,932	3,542
Total Properties	<u>168,958</u>	<u>165,880</u>
Less Accumulated Depreciation:	49,587	46,766
Properties—Net	<u>119,371</u>	<u>119,114</u>
Additions and Betterments in Progress (Note 13)	11,759	7,305
	<u>131,130</u>	<u>126,419</u>
Other Assets and Deferred Charges	1,748	1,743
Total Assets	<u>\$151,379</u>	<u>\$150,265</u>
Liabilities & Proprietary Interest of the U.S. Government:		
Current Liabilities:		
Accounts Payable	\$ 1,615	\$ 1,607
Accrued Payrolls Payable	1,325	1,468
Trust and Deposit Funds (Note 10)	63	87
Provision for Employees Annual Leave (Note 14)	3,003	3,162
Other Liabilities and Unadjusted Credits	(2)	1,708
	<u>936</u>	<u>1,234</u>
Total Liabilities	<u>3,937</u>	<u>5,504</u>
Proprietary Interest (Note 15):		
Net Investment	167,603	158,294
Retained Earnings from July 1, 1954	(13,534)	(8,456)
Current Year Operating Results	(6,627)	(5,077)
Total Proprietary Interest (Note 15)	<u>147,442</u>	<u>144,761</u>
Total Liabilities and Proprietary Interest	<u>\$151,379</u>	<u>\$150,265</u>

Notes follow Table VIII.

TABLE VII: STATEMENT OF CHANGES IN FINANCIAL POSITION
FISCAL YEARS 1978-79
(Thousand dollars)

FUNDS	1979	1978
Funds Were Provided by:		
Revenues and Other Receipts	\$ 25,290	\$ 29,135
Appropriations from Congress (Note 16)	<u>9,300</u>	<u>3,000</u>
Total Funds Provided	34,590	32,135
Funds Were Used for:		
Labor	22,138	23,713
Other	5,445	4,356
Capital Improvements & Replacements	<u>8,181</u>	<u>5,823</u>
Total Funds Used	35,764	33,892
Increase (Decrease) in Government Equity	(1,173)	(1,757)
Other Increases (Decreases):		
Undelivered Orders	(705)	(2,176)
Supplies and Materials	(157)	210
Properties	4,711	2,066
Other	<u>5</u>	<u>(236)</u>
Total, Other	3,854	(136)
Total Increase (Decrease) in Government Equity	<u>\$ 2,681</u>	<u>\$ (1,893)</u>
Proprietary Interest:		
Beginning Balance	\$144,761	\$146,654
Increase (Decrease)	<u>2,681</u>	<u>(1,893)</u>
Ending Balance (Note 15)	<u>\$147,442</u>	<u>\$144,761</u>

Notes follow Table VIII.

TABLE VIII: FIVE-YEAR CONDENSED SUMMARY OF OPERATIONS
FISCAL YEARS 1975-79
(Thousand dollars)

CATEGORY	1979	1978	1977	1976		1975
				TQ (Note 2)	JUNE 30	
Operating Revenues	\$23,100	\$27,440	\$33,376	\$ 9,737	\$52,517	\$41,416
Operating Expenses	31,564	33,412	35,727	11,129	49,406	36,208
Income from Operations	(8,464)	(5,972)	(2,351)	(1,392)	3,111	5,208
Non-operating Properties (Note 18):						
Income	2,081	1,651	1,646	314	1,161	871
Expense	204	213	255	35	191	272
Non-operating Gain (Loss)	1,877	1,438	1,391	279	970	599
Net Gain or Loss	\$ (6,587)	\$ (4,534)	\$ (960)	\$ (1,113)	\$ 4,081	\$ 5,807
Less Extraordinary Item:						
Deferred Outlays (Note 7)	40	543	809	917	1,038	—
Adjusted Net Gain (Loss)	\$ (6,627)	\$ (5,077)	\$ (1,769)	\$ (2,030)	\$ 3,043	\$ 5,807
Operating Ratio	136.64%	121.76%	107.04%	114.30%	94.08%	87.43%
Working Ratio (Excludes Depreciation)	122.71%	110.12%	97.69%	107.02%	89.26%	81.66%

Notes follow Table VIII.

NOTES TO FINANCIAL STATEMENTS

1. Summary of Significant Accounting Policies

The Alaska Railroad utilizes generally accepted principles, standards, and related requirements of governmental accounting as approved by the Comptroller General of the United States. Operations are conducted in a manner consistent with related commercial enterprises and, at the same time, in conformance with the requirements incumbent upon a Government agency.

In accordance with the customary practice of the industry, the Railroad uses betterment and retirement accounting instead of depreciation accounting for roadbed and track. Under this concept, prescribed by the Interstate Commerce Commission, the cost of replacing track structure—less salvage recovered—is charged to the appropriate operating expense account and only the cost of betterments is capitalized. The amounts capitalized are not depreciated; but, upon retirement of track structure, the entire amounts capitalized—less salvage recovered—are charged to expense.

The accounting system and related procedures disclose financial condition and operating results to provide full accountability of the Government's investment in the Railroad and to afford management the necessary data to carry out its responsibility in the most efficient and economical manner.

The Railroad is financed from a revolving fund that bears the expenses of operating the Railroad, including incidental or collateral functions, and accrues revenues commensurate with such expenses by charging its customers for service performed.

2. Transition Quarter

In 1976, as the Federal Government changed to a new fiscal year, a transition quarter (TQ) was placed between fiscal year 1976 and fiscal year 1977. Commencing FY 1977, fiscal years end September 30 of the corresponding calendar year instead of June 30. The financial statements and text of this annual report are designed to clarify this change in fiscal years and avoid any misunderstanding. All financial statements show exact dates of the periods covered.

3. Revenues

By the assessment of the applicable tariff or contract rate for the service performed, revenues from rail operations are included in income on an accrual basis upon the completion of service.

4. Expenses

Expenses are accrued or applied or both on a basis consistent with generally accepted accounting principles.

5. Maintenance of Way and Structures

Maintenance of way and structures include expenses incurred by engineering (\$4,718,000) and communications (\$517,000).

6. General and Administration

General and administration include expenses under: general and administrative (\$3,681,000); operations division (\$296,000); loss on excess current inventories (\$8,000); and prior-year adjustments (\$271,000).

7. Deferred Outlays

Deferred outlays include projects for which appropriated funds are used, but are not capitalized as fixed assets until completion

8. Depreciation

Provisions for depreciation are computed principally on the straightline method based on estimated service lives of depreciated properties, except for the railway track structure, which is computed under the generally accepted industry betterment method. Depreciation charges are determined through use of composite, or group, rates applicable to various classes of property.

The following is a breakdown of depreciation by major property accounts in FY 1979:

	(Thousand dollars)
Buildings	\$ 322
Other structures & facilities	703
Equipment	1,957
Communications	142
Riverboats	94
Other	1
Total	\$3,219

9. Cash

Cash refers to the fund balance with the U.S. Treasury, which is the net amount of cash receipts, e.g., revenues, proceeds from sales and amounts of congressional appropriations, less disbursement.

10. Trust and Deposit Funds

Trust and deposit funds include special deposits and other collections that are not covered by the revolving fund and are cleared by disbursement or transfer, as appropriate. A contra account to this asset account is reflected in the liability section.

11. Materials and Supplies

Inventories, consisting primarily of replacement or repair parts for equipment and road property, construction materials, and fuel, are valued at average cost, including freight.

12. Land

Land includes only property purchased by the Railroad in fee simple from private owners and carried at acquisition cost. The Railroad owns over 38,000 acres that are withdrawn from the public domain at no cost, and this land is not included in the financial records.

13. Additions and Betterments in Progress

This is a control account for authorized capital projects during the period of construction or procurement. Upon completion of the capital project, the related costs are transferred into the appropriate fixed asset property account.

14. Provision for Employees' Annual Leave

Provision for employees' annual leave includes the estimated liability for annual leave accruals earned and the charges for annual leave taken.

15. Proprietary Interest of the U.S. Government

The proprietary interest is designed to show the Federal Government's net interest in The Alaska Railroad. At the end of FY 1979, it is summarized as follows:

	(Thousand dollars)
Appropriation by Congress	\$226,596
Allotments from other agencies, sale of lots, etc.	1,724
Property transferred or donated (not public domain)	19,785
Earthquake losses	(16,738)
Deficits from operations and capital losses to June 30, 1954	(63,764)
Retained earnings (July 1, 1954, to Sept. 30, 1978)	(13,534)
FY 1979 operating results	(6,627)
Total proprietary interest of the U.S. Government	\$147,442

16. Congressional Appropriations

Funds appropriated by Congress were obligated within the fiscal year, as shown below:

	FY 79	(Million dollars) FY 78
Congressional appropriations received	\$9.3	\$3.0
Obligated during fiscal year	<u>7.7</u>	<u>3.0</u>
Amount unobligated at end of fiscal year	1.6	0.0

17. Other Operating Revenues

Other operating revenues include operating revenues that were neither freight nor passenger. Individual accounts exceeding \$100,000 in FY 1979 were:

	(Thousand dollars)
Work performed for others—	
reimbursements	\$1,234
Equipment rentals	479
Switching	340
Whittier shuttle-vehicles only	258
Wearage and handling	150
Mail	107
Demurrage	104
All other	<u>676</u>
Total	\$3,378

18. Non-operating Properties

Non-operating properties include income and expense from other than railroad operating accounts. Non-operating incomes in FY 1979 were:

	(Thousand dollars)
Land	\$1,600
Riverboats	256
Buildings	186
All other	<u>39</u>
Total	\$2,081

Non-operating expenses in FY 1979 were:

	(Thousand dollars)
Buildings	\$106
Riverboats	97
All other	<u>1</u>
Total	\$204

Chairman
Row
Jan

AMENDMENT
MEMORANDUM

TO: Members, Senate Transportation Committee
FROM: Alaska Railroad Staff Work Group
RE: Additional Amendments to Committee Substitute
(new ** draft)
DATE: April 12, 1982

This new ** draft before you today reflects the changes adopted by the Committee on April 8, 1982. Additional changes have been incorporated following review of materials submitted by the management of the Alaska Railroad and of concerns raised by the House Committee. These additional changes (other than purely technical ones) are:

- 1) deleting the words "in . . . capital improvements" on page 3;
- 2) adding an ex officio, nonvoting board member who represents the labor organizations at the railroad on page 5;
- 3) clarifying conditions of the appointment of a rail executive to the board on page 5;
- 4) requiring that at least four members of the board reside in areas served by the railroad, also on page 5;
- 5) adding the words "or the state" on page 6 to be consistent with the federal transfer legislation;
- 6) changing the term for board members to five years and adjusting the staggering of initial board member terms

appropriately on page 7;

7) reducing board member compensation from \$400 to \$300 per day on page 7;

8) eliminating approval by the governor of appointment of the authority chief executive officer but retaining it, for competence, of the legal counsel on page 8;

9) eliminating the cross-reference to A.S. 44.62.312 on page 14 (Section 312 is a policy statement which is unnecessary and may be confusing);

10) adding the words "or to" on page 21 to ensure protection of authority property; and

11) reducing the time limits on gubernatorial (from 60 to 45 days) and legislative (from 90 to 60 days) review of proposed authority actions on page 42.

**PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT**

These are changes to clean
draft of bill.

Authority Operation of Federal Railroad

On page 6, line 2, following the word "legislation" and on
page 51, line 23, following the word "legislation" add:

or upon approval by the legislature of operation
of the Federal Alaska Railroad by the authority.

Coal Utilization

- 1) On page 25, line 18, delete the word "and" and insert a comma in its place.
- 2) On page 25, line 19, add the following after "materials" and before "on": ", and coal"
- 3) On page 27, line 19, add the following after "use" and before "sand": "for its purposes"
- 4) On page 27, line 20, delete the word "and" and insert a comma in its place; and add the following after "materials" and before "on": "and coal"
- 5) On page 28, line 23, add a new subsection 42.40.510(f) as follows:

(f). Before the authority extracts or utilizes coal on lands in which it owns an interest, as authorized by A.S.42.40.500(b) and (b) of this section, it will submit a request for authorization to do so to the department of natural resources. Within 45 days of receiving the request, the department of natural resources will approve the request if it determines that the coal described in the request is located on lands in which the authority owns an interest and is not subject to valid existing rights of a third party. The title to all coal on lands in which the authority owns an interest is in the State of Alaska until the coal is severed from the land and utilized by the authority under this subsection or otherwise disposed of in accordance with A.S. 38.05.150 and A.S. 42.40.515. The authority may use coal made available to it under this chapter for operational, non-income producing purposes only, including the generation of power to support operations and compensation in kind of a person with whom the authority contracts to extract coal.

Elimination of Conveyance of Subsurface to State

- 1) On page 25, lines 11-25, delete subsection 42.40.500(b) in its entirety and renumber subsections accordingly.
- 2) On page 29, line 21, add following the word "development" the words "and conveys to the state the necessary interest"
- 3) If the coal utilization amendment is adopted, delete from A.S. 42.40.510(f) the words "A.S. 42.40.500(b) and"

Elimination of Strike Prohibition

On page 45, line 15, delete the comma and insert in lieu thereof a period; delete the phrase

"and the authority's employees are classified as employees under A.S. 23.40.200(a)(1)."

Private Management

- 1) On page 8, line 28, add a new subsection 42.40.250(b) as follows:
 - (b) Notwithstanding subsection (a), the board may provide for, in a manner consistent with the purposes of this chapter and subject to the approval of the state as provided in A.S. 42.40.700, the management and operation of the railroad by a third-party contractor.
- 2) On page 18, line 25, add following the word "undertake," the words "or provide for"
- 3) On page 40, line 6, delete the word "or"
- 4) On page 40, line 9, following "(\$5,000,000);" add the word "or"
- 5) On page 40, line 10, add a new paragraph (4):
 - (4) provision for the management and operation of the railroad by a third-party contractor

**PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.**

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 7, 1981

SUBJECT: Alaska Railroad Authority
(Work Order No. 12-1364)

TO: Senator Bill Ray

FROM: Thomas A. Sofo *TAS*
Legislative Counsel

You have requested that this office undertake a section-by-section analysis of SB 212 and SB 221 with notations of any differences which exist between the two bills. Both bills create an Alaska Railroad Authority. SB 212 and SB 221 share more parallel provisions than they do differences. In the interest of economy of time and effort, I have attempted to summarize the main differences which exist between the two bills since this seems to be most salient feature of your request. I do not believe that one will encounter much difficulty in understanding what a given section of either bill says, but I am aware that there is some need to be able to compare differences between the two bills. I have undertaken that comparison in narrative form below. You may find that future reference would be facilitated if the format of this memo is changed into some sort of graphic presentation.

Both bills create the Alaska Railroad Authority as a public corporation of the state. However, the composition of the governing board varies. Under SB 212, the board consists of at least one banker, one attorney, one economist, one transportation person, and one business person [sec. 42.40.030.]. Under SB 221, the board consists of the commissioner of transportation and public facilities, two senators, two representatives and two members of the general public [sec. 44.87.015]. Only SB 212 specifically sets out a conflict of interest section [sec. 42.40.050]. SB 221 calls for the employment of an executive director to manage the authority [sec. 44.87.025], while SB 212 gives this job to

Senator Bill Ray
Page 2
April 7, 1981

the president [sec. 42.40.100]. The general powers of the authority under both bills are practically identical. One of the purposes of the authority under SB 221 is to enter into talks with the federal government and Canadian provinces regarding an international rail connection [sec. 44.-87.030]. Nowhere is this expressly mentioned in SB 212 although this purpose could be implied easily under sec. 42.40.120. Only SB 212 expressly calls for an annual report [sec. 42.40.120], and audit [sec. 42.40.150].

The financial provisions of both bills are similar. SB 212 differs as it provides for bond anticipation notes [sec. 42.-40.160(b)]. SB 221 provides for a maximum forty year maturity for authority bonds [sec. 44.87.040(b)], while SB 212 calls for a fifty-year maximum [sec. 42.40.150(c)]. SB 212 goes into much more detail when describing the resolution which authorizes the issuance of bonds [sec. 42.40.160(f)], than does SB 221 [sec. 44.87.040(b)]. Only SB 212 calls for an independent financial advisor [sec. 42.40.170]. SB 221 specifically refers to trust indentures and trust agreements and provides that an issue of bonds may be secured by such instruments while SB 212 is silent on this point [sec. 44.-87.045]. SB 212, unlike SB 221, provides for the issuance of refunding bonds [sec. 42.40.220]. Only SB 212 provides for the dissolution of the authority [sec. 42.40.270], and for the exemption of authority personnel from the State Personnel Act [sec. 42.40.280]. The last substantive difference in the financial provisions of these two bills is that only SB 221 expressly states that income from investments of the authority is limited to maintenance or improvement of railroad facilities [sec. 44.87.075].

Call me at your convenience if you have any problems with understanding the content of a specific section beyond the differences identified by this comparison.

TAS:ljb

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Juneau, Alaska 99811

MEMORANDUM

TO : COMMITTEE MEMBERS
SENATE TRANSPORTATION COMMITTEE

FROM : SENATOR JAY KERTTULA

DATE : APRIL 12, 1982

SUBJECT: REQUESTED AMENDMENTS TO SB 212
FROM FRANK JONES

The attached information which was provided by Frank Jones, Manager, Alaska Railroad, are the same recommendations that were made to staff over two weeks ago. Many of these suggestions have been incorporated in the most recent version of SB 212.

JK/gt/aj

Where the Railroad is described as a "public authority," lines 2 and 7 on page 3 and lines 10, 19 through 21 and line 24 on page 4, the word "public" should be deleted.

The word "public" implies a government function. It emphasizes the governmental characteristics of the Railroad to the detriment of the business aspects of the authority. However, the authority is not performing normal governmental functions, but it is instead performing transportation services ordinarily in the private sector of the economy. The authority should be more like a business than a governmental entity; should have flexibility to meet changing conditions; should be free of political interference where normal operations are concerned, and should have the assets that lower 48 railroads have. However, the word "public" connotes the opposite of the above. It connotes an inefficient government bureaucracy rather than a more efficient business. It connotes possible political interferences.

Line 16

The authority should be allowed the flexibility of either issuing tax free obligations or to be taxable obligations. The authority may be able to issue taxable bonds similar to those issued by transportation companies, such as airlines, railroads and trucking firms at better interest rates simply because the the financial markets are familiar with such bonds, whereas the financial markets may stay away from the tax free bonds of an unique quasi-governmental railroad authority not backed by the financial strength behind the State of Alaska.

Pages 3 & 4 - Continued

Lines 17 & 18 In order that the state's transportation industry remain competitive but healthy, the authority should be run as much as possible like any other private transportation business.

Line 22 The authority should be given the flexibility to be supported by means other than state investment.

Line 29 The authority should be given broad flexible powers to meet the changes that future decades are sure to produce. The authority should be allowed to invest its funds to maximize its income until the principal and interest are needed.

The Railroad, because of its emphasis on the business orientation of the new Railroad authority, suggests that the board appointed by the Governor should have a greater business, rather than governmental, flavor. Therefore it suggests that the only government person on the board be the highest official in the Executive Branch. This lends a greater credence to the stature of the Railroad as an entity of State government. The Railroad feels that it can function as a profit-making asset in the stable of assets serving under the seal of the State of Alaska. It will take in revenues in excess of \$50 million this year alone, and has over 500 employees. It is the transportation connecting link between ice-free tidewater and the interior of Alaska, and 70% of the population of the State lives in the railbelt. Therefore, the Governor of the State should serve on its board. Along with the Governor, the Chief Executive officer of the Railroad should serve on the board as do most CEO's in private firms serve on their boards of directors. Moreover, a labor representative should be on the board to represent the labor side of railroading. Progressive business organizations recognize the importance of labor to well run organizations.

Lines 4-16

The Railroad has certain reservations about the way the hiring and firing and compensation are structured. The Railroad feels that the board should appoint the Chief Executive Officer and the CEO should appoint all other employees and fix their compensation. If the Railroad is not successful, the board should get another CEO.

However, one important comment should be made regarding the limitation of executive salary to that salary established for departmental commissioners. Presently there are 11 executive officials of The Alaska Railroad who make in excess of \$50,000 base pay a year, plus 17-1/2%, soon to be raised to a 22-1/2% cost of living allowance. If it is assumed that all executive officials are within the federal tax bracket of 50%. It can be assumed that COLA, which is tax free, when equated to taxable income would then be doubled. Therefore, these 11 executive officials presently have a taxable income of \$70,000 to \$90,000, which is in excess of a commissioner's salary. All of these executives have expressed their concerns in accepting a 20% - 30% reduction and indicated they would circulate their resumes and seek other employment. This action would adversely affect the new authority. The loss of experienced executives could have a serious affect on the State.

Section 42.40.250 originally had subsection (b) which would allow the Railroad to be managed by a private contractor. This power has been deleted from the new SB 212. Even the Railroad's 1914 Enabling Act allowed for the operating of the Railroad by a private contractor. It is suggested that language be included that would permit private contractor operation if the Board so deemed.

Lines 9-30 on

It is believed unnecessary, as part of this statute, to laboriously reiterate detailed provisions for conflicts of interest, when there is presently a state statute on conflict of interests and the modification suggested by the railroad adequately covers this matter. If it is the opinion of the Legislature the State Conflict of Interest Act is not strong enough, that act, not the railroad act, should be amended. The railroad act should be as succinct as possible, not detailed and inflexible.

Lines 19-29

The railroad suggests a modification of the requirement for public board meetings. The railroad suggests that the executive sessions of the board should be allowed regarding all of the corporate powers given to the authority by this Act. All discussions by the board regarding all business decisions vis vis the corporate powers should be conductable by the board in executive session. This does not mean that they must discuss these powers within an executive session, but merely have the authority to do so when necessary.

Obviously any discussion of tariffs, divisions and contract rates should fall within the power of the board to discuss in executive sessions.

Because healthy competition brings down the cost of transportation services to the citizens of Alaska, the authority should be able to compete effectively against the rest of the transportation industry by holding its meetings in executive session. No board of any transportation company discusses strategy and assesses their own strength and weakness at meetings routinely open to their competitors.

Lines 3 - 15

There are presently existing 143 volumes with 469 supplemental orders of Railroad Rules and Regulations. This requirement of review is a monumental task which will require considerable unnecessary immediate expenses on behalf of the Railroad. This requirement of change in Rules does not aid the Railroads ability to function. The Railroad and the State would be best served by continuing the existing Rules and Regulations if they are not inconsistent with this chapter and State law until it becomes necessary through Railroad operations to change these Rules and Regulations.

Lines 23-30 -

The railroad, in its business function must be afforded specific protections from disclosure not required by other agencies. The reason for this is that the transportation industry, whether it be railroads or ships or planes or trucks, is both competitive and overwhelmingly private. Because the transportation industry is competitive, the authority should not have to disclose information helpful to competitors.

Our suggested language provides such protections, while still bringing the railroad within the requirements of A.S. 09.25.110-.120.

Therefore, to maintain a competitive and healthy Alaska transportation industry, the above changes should be made.

Line 9

Conforms with suggested (a) on Page 15.

Line 13

42.40.400 - GENERAL POWERS, should read the "Board of Directors, by its own undertaking, or by appropriate delegation to the Chief Executive Office, may" rather than "The Authority may." This change will make the line of power much clearer. The "Authority" is the ultimate entity but all powers and duties should be granted to either the Board of Directors of the "Authority" or the C.E.O. There should be a new paragraph placed in the Bill granting the power to the Board of Directors to assign to the C.E.O. such corporate powers as, in the Board of Directors' opinion, would best serve the business of The Alaska Railroad.

Lines 17 - 18

(4) This subsection is potentially in conflict with 42.40.250 as currently written. 42.40.250 as currently written gives the Board of Directors, with the approval of the Governor, the power to appoint the C.E.O. and the legal counsel, and all executive officers serve at the pleasure of the Board of Directors. The powers set forth in 42.40.400 as rewritten by the Railroad on line 13 are clearer and less cluttered, and can be assigned to the C.E.O.

Line 19

Subsection (5) runs contrary to 42.42.450 as rewritten by the Railroad or is redundant to 42.42.450, as currently written. To structure the authority like a business, the Chief Executive Officer should have the power to hire the legal counsel.

Line 6

The word "Authority" should be changed to "board."

Line 9-10

(17) It should read "lend the authority's funds, property, credit or services for authority purposes."

Line 25

Between the word "on" and the work "property" the phrase "or to" should be inserted. The change is requested to allow the security force to act as state law enforcement officers for violations that occur to property owned, managed or transported by the authority but that do not occur on property owned, managed or transported by the authority.

Line 29-30

Lines 29 - 30 of page 20 and lines 1 - 12 of page 21 should be stricken. Both the Governor and the Legislative Auditors are inexperienced in railroad accounting, in transportation law such as the Interstate Commerce Act, and in business practices as opposed to governmental practices. As a result, information of a confidential nature is subject to leakage without the safeguards of a fiduciary relationship between an accounting firm and the authority. The Railroad believes information in the hands of either the legislative or governor auditor would not remain confidential. Most business contracts are made in private rather than in the press. In fact, publication of business deals in the press often portend problems. If the Legislature and the Governor want access to audit information, they should either be given a voice along with the board in selecting the accounting firm or alternatively they should be allowed access through an independent certified accountant experienced in railroad accounting. Only the former alternative is presented in the suggested railroad changes to the bill.

The state would benefit by the above changes which structure the authority more like a business rather than a government bureaucracy. The structuring of the authority like a business helps maintain both an efficient competitive railroad authority and an efficient competitive transportation industry. Both are needed for a healthy Alaska economy. Moreover, the above changes would buffer the authority from political interference and influential constituents.

Line 22-28

42.40.425 (a) (1) should stop after the words "A.S. 37.07.050" on line 22. The Alaska Railroad should not be subject to legislative auditor and the division of budget and management unless the ARR is using State funds. An annual independent audit is recommended. 37.07.050 sets forth the requirements for "agency programs and financial plans." Nothing more need be said.

Therefore, the above deletion would help maintain a competitive efficient Alaskan transportation industry by structuring the authority more like a business and buffering it from political interference.

Lines 4 - 7

Subsection (2) should consist of the first sentence only. 47.07.060 requires the Governor to present long-range capital plans to the Legislature. The Railroad should be included in those plans that would aid the railroad in developing plans for long range capital improvements when any of those kinds of improvements must be financed by the Legislature and the Governors office.

Lines 11-25

Subsection (b) of 42.40.500 should be stricken. All of the Railroad land should be held intact until the reversionary period set forth in the Federal legislation is over. During this reversionary period, according to a draft of the Federal transfer legislation, land "converted to a use that would prevent the property from being used to operate or support the Railroad" would trigger either a reversion to the United States or a payment by the State of the value of the real property. If the Federals require a ten year period, then during that same period the legislators can determine whether they wish the Railroad to operate its own coal lands or the subsurface of all its lands or they wish the Commissioner of Natural Resources to do so. In the meantime, the State should take no action reducing the Railroad's interest in lands conveyed from the Federal Government.

The Railroad, during this debate, will argue for the control of the subsurface to its lands. The Alaska Railroad does have coal reserves the same as the Union Pacific Railroad, the Burlington Northern, Inc., and the Denver Rio Grande, etc. If the Alaska Railroad loses its mineral rights to the State, it would reduce the potential of the ARR to earn royalties to keep revenues above expenses and reduce the railroads potential of State subsidy funds. Also, the right to use the subsurface for rocks, sand and gravel and for tunnels, ditches, and other recontouring of land is important to the Railroad. Therefore, subsection (b) should be deleted to prevent any chance of essential railroad lands reverting to the Federal Government. Why expose crucial right of way land, gravel land, port land, and industrial land to any possibility of reversion? Moreover, subsurface gravel, rock and coal are needed to either produce income or lessen expenses (gravel for roadbeds) and thereby make the authority profitable so that it need not even ask for a

Lines 14-21

Subsection (f) of 42.40.500 should be deleted, because no interest in real property should be disposed of until after the termination of the Federal reversionary period during which time any land converted from possible railroad use either reverts to the United States or the State pays the United States the value of the real property.

Therefore, this subsection should be taken out, because the State should not place itself in the position of exposing itself to a high probability of the reversion of land to the United States if Railroad land is disposed of during the reversionary period.

Lines 20-30

All of subsection (c) of 42.40.510 should be stricken. There is no need for joint management of Railroad lands. Moreover, the joint use of Railroad lands could trigger either the reversion of land to the United States or the payment by the State of the value of the lands. During the reversionary period, the legislature should grant to the Railroad the right to control the land, whether it be the surface or subsurface.

Therefore, all of this subsection should be deleted so that the valuable land resources of The Alaska Railroad are not exposed to any possible danger, whether remote or imminent, of reversion back to the United States. These lands are crucial to rail transportation in Alaska. Moreover, joint management increases coordination expenses, to the authority and at the same time lessens the potential of the use of these lands to either produce income or lessen expenses, such as the gravel costs of roadbeds. If the Railroad is to be profit oriented then the Railroad should control its own lands.

Lines 10-11

The words "Chief Executive Officer" should replace the words "General Manager."

Lines 20-30

42.40.515 should be deleted until such time as the reversionary period set forth in the Federal statute is complete, because non-railroad uses of railroad lands could trigger the reversion of real property to the Federal government or the payment by the State of the value of the real property interest. During this same period, strenuous debate can be had with legislators, the Governor and the public as to the management and development of Railroad land. However, the authority should have the right to use or to develop natural resources on its lands so that its income will be greater than its expenses.

Therefore, this section should be deleted so that the valuable land resources of The Alaska Railroad are not exposed to any possible danger of reversion back to the Federal Government. These lands are irreplaceable to rail transportation in Alaska. Moreover, the management of the subsistence of authority lands by the department of natural resources adds another level of bureaucracy before development of the lands to take place. Thus, department of natural resource management of authority lands could interfere with normal railroad uses of authority lands or delay or prevent the use of lands to produce income for the authority or to reduce the expenses of the authority.

Lines 24-26

Because this subsection (b) of 42.40.530 requires the Railroad to convey the subsurface estate to the State, the Railroad is prevented from using eminent domain to acquire subsurface resources such as coal, gravel, sand and rock.

Therefore, to develop the mineral and agricultural potential of Alaska, these three lines need to be deleted, because gravel, rock and sand are needed to build the roadbeds of new rail extensions. This would stymie development of the Railroad lands and therefore the Railroad.

Lines 1-4

Subsection (b) of this section 42.40.530 requires the subsurface estate to be reconveyed to the State so this subsection (e) would have no effect unless the subsurface or the gravel, sand and rock part of the subsurface could remain with the Railroad.

Therefore, to allow the Authority to have Eminent Domain to acquire gravel lands needed for expansion of the Railroad, Subsection (b) should be eliminated.

Lines 24-30

42.40.655 - The Board of Directors "may" instead of "shall maintain in full force and effect public liability insurance." The reason for this change is that the authority may find that the authority may not be able to obtain insurance at either any cost or a reasonable cost and therefore, it is more efficient to be its own insurer and defend its own tort lawsuits. It is a business decision, not a political one, and so should remain with the Railroad. If the ARR maintains public liability insurance, any additional coverage required by the State naming the State as an additional insured should be funded by the State.

Therefore, the change here benefits the state by allowing the authority to operate like a business rather than imposing a burden on the authority that may eventually lead it to request subsidization from the state.

Lines 21-25

The phrases "expansion, reduction or diversification of services" and "significant and permanent change in the level and nature of services" need to be clarified. The above two phrases are far too broad and can be interpreted to apply to expansions, reductions or diversifications of service due to normal business changes.

The State would benefit by the clarification because State review is not needed of expansions, reductions or diversifications of service due to normal business charges.

This might apply to a reduction in the service of the Whittier Shuttle or the winter reduction of trains to Fairbanks. It is not clear as drafted.

Lines 13-30

42.40.700 - Subsection (c) and (d) should be stricken as unnecessary. The review of any proposed action of the Railroad is unnecessary because the legislature and/or the Governor can, through resolution or legislative act or Governor's edict suggest changes or stop any action of the Railroad.

The power of the governor to intervene would make the authority a part of the executive branch government. For the benefit of the citizens of the State of Alaska, the authority should be operated as a business in competition with the rest of the transportation industry, which is in the private sector of the economy. The power of the governor to intervene would allow the governor the opportunity to award his political friends and punish his political enemies.

Similarly, the power of the legislature to intervene with respect to any "expansion, reduction or diversification of services"(an over broad phrase), would allow intervention on the basis of political reasons when only business considerations should be used.

Therefore, the deletion of 42.40.700 (c) & (d) would benefit the State by insulating the authority from harmful political pressure and thereby maintaining a healthy private transportation industry capable of healthy competition with the Railroad as well as each other.

Line 5

Subsection (e) should be realphabetized to (c). The words "notwithstanding the foregoing" should be stricken because we have requested a deletion of the preceding paragraph.

Line 11

"(c)" should be substituted for "(e)".

Lines 13-14

These two lines should be deleted because we are asking that 42.40.710 be deleted.

Line 15

"(2)" should be deleted, housekeeping amendment.

Line 18 on

42.40.710 should be stricken. All the Railroad would need would be a resolution passed by either house of the Legislature or a Governor's edict. The action forcing mechanism would make the authority more a part of the government than a business enterprise and subject the authority to railroad decisions made on a political basis rather than a business basis. The rest of the transportation is in the private sector of the economy so the government would be competing with private transportation companies on political grounds but with the resources behind the state government. The action forcing mechanism could allow the State to force the authority to charge unreasonably low land rents or low tariffs in direct competition with private land owners and private transportation companies. Politics should be separated from the day to day operations of the railroad authority. The operations of the railroad should be run by business considerations.

Therefore, the deletion of section 42.40.710 would affect the State by preventing the State from unfairly interjecting itself into the free enterprise and free market system.

Lines 9-30 .
and following
page, lines
1-11

42.47.715 should be stricken under the same above reasoning. The operations of the railroad authority should be governed by business considerations rather than political ones so that it can compete fairly with private enterprise. On the other hand, the expansion of the railroad requiring state funds is a political decision.

Therefore, the striking out of Section 42.47.715 which set forth the Governors' intervention in control of the Railroad is really covered in Sec. 42.40.720 and is unnecessary. The power of the authority should be vested in the Board.

42.47.715 is really unnecessary if 720 remains in the Bill. 720 allows the government to get a court to impose a Trusteeship over the Railroad under circumstances similar to 715. Therefore, the State is amply protected and the deletion of 715 streamlines the Railroad operation and this Bill.

Lines 12-17

The Railroad requests that the word "Municipality" be deleted from any license or permit provision in this statute. The Railroad presently negotiates with a number of Municipalities regarding crossings, traffic signals, etc. If the Municipalities were granted authority to regulate the Railroads' passage through their boundaries, the Railroads' transportation of goods and services could be controlled and severely disrupted by Municipality control and Mayoral constituents.

Line 16

Chief Counsel has been incorrectly deleted from the
definition of "Executive Officials."

Line 16

Chief Counsel has been incorrectly deleted from the
definition of "Executive Officials."

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STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 26, 1981

SUBJECT: Sectional analysis of Alaska Railroad
Authority Bill (Work Order Number 12-0866)

TO: Senator M. E. Dankworth

FROM: Randolph G. Berry *RGB*
Legislative Counsel

In accordance with your request, the following is a section-by-section analysis of your bill establishing the Alaska Railroad Authority (Work Order No. 12-0093).

Sec. 1 of the bill:

Sec. 42.40.010 establishes the Alaska Railroad Authority as a public corporation within the Department of Transportation and Public Facilities.

Sec. 42.40.020 provides that the authority shall be governed by a board of directors.

Sec. 42.40.030 sets out the membership of the board of directors, the method of appointment, and qualifications of the members.

Sec. 42.40.040 provides for a four year term of office for directors and provisions for filling of vacancies.

Sec. 42.40.050 sets out procedures to be followed in the event of a conflict of interest by a member of the board of directors.

Sec. 42.40.050 provides for per diem and travel expenses for the directors.

Sec. 42.40.070 establishes the quorum for the board of directors.

FEB 26 1981

Sec. 42.40.080 provides that board meetings are public meetings.

Sec. 42.40.090 requires board to keep minutes of its meetings.

Sec. 42.40.100 allows the board to employ a president to manage the authority and sets out certain qualifications for the president.

Sec. 42.40.110 sets out the general powers of the authority, including operating authority and financial powers.

Sec. 42.40.120 provides that the authority shall provide for the operation of the Alaska Railroad, either operating the railroad itself or otherwise, and allows the authority to expand the operations of the railroad.

Sec. 42.40.130 provides that the board shall adopt and issue regulations pertaining to its operations and the operations of the railroad.

Sec. 42.40.140 requires the board to prepare and distribute an annual report.

Sec. 42.40.150 requires an annual audit of the authority by the legislative auditor or by an independent auditor acceptable to the legislative auditor.

Sec. 42.40.160 allows the authority to issue and sell bonds and notes to provide money for corporation purposes, including the operation, maintenance and expansion of the railroad; provides that these bonds and notes are payable from funds and assets of the corporation; allows the authority to determine the number, denomination and other matters relating to the issuance of bonds and notes; allows the authority to make pledges and guarantees with respect to the security for the bonds and notes; the payment of interest and principal, the redemption of the bonds, and the establishment of special funds for payment or redemption of the bonds or notes; and allows the

authority to make pledges with regard to the appointment and powers of a trustee or trustees to protect the interests of the holders of the bonds and notes issued by the authority.

Sec. 42.40.170 requires the authority to retain the services of an independent financial advisor when negotiating for the private sale of bonds or notes.

Sec. 42.40.180 provides that pledges of assets or revenue made by the authority as security for the payment of principal or interest on bonds or notes are binding on the authority.

Sec. 42.40.190 grants the holders of authority bonds or notes, or trustees appointed to protect the holder's interests, to enforce the rights granted under this chapter and pledges made under the trust agreement or resolution of the board.

Sec. 42.40.200 provides that bonds and notes of the corporation are negotiable instruments.

Sec. 42.40.210 provides that bonds and notes of the authority are securities which are eligible for investment of state funds and qualify for investment of reserves and other funds by insurance companies, banks and other companies maintaining reserve accounts.

Sec. 42.40.220 allows the authority to issue refunding bonds to replace previously issued and outstanding bonds and notes of the authority.

Sec. 42.40.230 provides that the authority is not allowed to pledge the taxing power of the state or assets of the state other than the assets of the authority.

Sec. 42.40.240 protects the officers and employees of the authority from personal liability for the issuance of bonds or notes by the corporation.

Sec. 42.40.250 grants tax exempt status to the authority and to bonds and notes issued by the authority.

Sec. 42.40.270 allows the board of directors to dissolve the authority after provision for repayment of all its bonds and notes, but requires legislative approval of the dissolution.

Sec. 42.40.280 provides that personnel of the authority are in the exempt state service.

Sec. 42.40.990 defines various terms used in the previous sections.

Sec. 2 establishes the terms for initial members of the board of directors appointed under sec. 42.40.030.

Sec. 3 provides for the board of directors of the Alaska Railroad Authority to enter into negotiations with representatives of the federal government for the transfer of the Alaska Railroad to the authority.

RGB:ljb

1 Senator Ray, Senator Kertulla, Senator Dankworth, Committee Mem-
2 bers: I am Leonard Black and am speaking for the coalition of
3 The Alaska Railroad labor unions. This coalition includes the
4 Brotherhood of Railroad Carmen, the International Association of
5 Machinists, the United Transportation Union, the American Feder-
6 ation of Government Employees, and the American Train Dispatchers
7 Association, all of whom represent employees of The Alaska Rail-
8 road, and also have representatives here today. The significance
9 of this Bill and State acquisition of The Alaska Railroad is
10 particularly important at this time when the State of Alaska is
11 entering into an exciting era; we are expanding the development
12 of our vast mineral deposits. The Alaska Railroad is vital to
13 the success of this effort. All of this is happening at a time
14 when the Federal Government is seeking to divest itself of the
15 Railroad which it considers to be within the proper domain of the
16 State. The employees of The Alaska Railroad appreciate the con-
17 siderations incorporated to date in SB212 and strongly endorse
18 and support the concept of transferring the Railroad to the State
19 of Alaska. We want the transfer to proceed smoothly and our
20 future relationship with the Authority to be successful for the
21 State, the employees of The Alaska Railroad, our customers, and
22 the taxpayers. We are all taxpayers and citizens of Alaska as
23 well as employees of the Railroad. As such, we are vitally
24 concerned about the financial viability and future success of the
25 Railroad. With this perception as our mandate, we have reviewed
26 the Bill and with the full concurrence of our coalition, we would
27 like to offer these proposed alterations.

28

29

30

31

32

RATIONALE FOR PROPOSED LANGUAGE

1 Page 1, line 3

2 (a) We believe that it is in the best interest of the Alaska
3 Railroad Authority and the State of Alaska that employees be
4 allowed to move between other State agencies and the Authority
5 without any loss of time and benefits. To limit the mobility of
6 other State employees as it would relate to employment with the
7 Authority appears to be shortsighted. We do not know what the
8 future holds for either the Authority or the State. We do be-
9 lieve that mobility between the Authority and other State em-
10 ployers is in the best interest of both the Authority and the
11 State.

12

13 Page 1, line 8

14 Our support for a system of merit employment with the Authority
15 should not be construed as advocating a full scale bureaucratic
16 nightmare in hiring employees. We strongly solicit your support
17 in guaranteeing that the Authority is not subject to employment
18 by "pressure." We do not want the positions and jobs of the
19 Authority to be filled on the basis of political friends, nepo-
20 tism, or other factors not directly related to the qualifications
21 of the individual for the position to be filled. This issue is
22 vitally important to all people involved with the State acquisi-
23 tion of the Railroad. No one will benefit from employment on the
24 Railroad of those that are not highly qualified to fill the posi-
25 tions for which they are being considered. Employment on the
26 Railroad should be free of nepotism, cronyism, and must statutor-
27 ily require that the people hired are those that are eminently
28 qualified for the positions for which they are being hired.

29

30 Page 1, line 14

31 (b.) We strongly believe that under the Public Employment Rela-
32 tions Act, the Authority employees should be classified into

1 Category A-3 rather than the current classification of A-1. We
2 see no difference in the day-to-day operations of The Alaska
3 Railroad versus those of any other railroad operating in the
4 Lower 48. Employees of the Lower 48 carriers have the right to
5 take job action. We believe the day-to-day necessities of The
6 Alaska Railroad are no stronger nor any more vital to the economy
7 and the welfare of the State of Alaska than the Lower 48 rail-
8 roads are to the Lower 48.

9
10 Page 1, line 19

11 (c) This provision would absolutely guarantee that the accrued
12 leave balances of all employees will be transferred in tact and
13 available to employees of the Authority to take as needed.

14
15 Page 1, line 22

16 (d) We strongly believe that the current level of benefits
17 should not be reduced for any current employee of the Authority
18 after the transfer. To reduce benefits could have a severe ad-
19 verse impact on the morale and positive attitude that our employ-
20 ees currently have as we look forward to ownership of The Alaska
21 Railroad by the State of Alaska. To reduce any existing benefit
22 would be extremely shortsighted and the long-term negative impact
23 on the morale and productivity of the workforce would be far more
24 costly than any dollar savings that could be imagined.

25
26 Page 1, line 25

27 (e) We feel that this is self-explanatory.

28
29 Page 1, line 29 - page 4, line 16

30 (f), (g), (h), (i), (j), (k), (l), (m), (n), and (o) are guaran-
31 tees that are currently enjoyed by all State of Alaska employees.

1 In reviewing the governing Alaska Statutes, the coalition unani-
2 mously felt that these items were of paramount importance to the
3 employees of the Railroad. The guarantees contained in these
4 provisions of the Alaska Statutes are so fundamental, so abso-
5 lutely necessary, to protect the rights and privileges of all
6 employees of the Railroad that we strongly believe these guaran-
7 tees should be statutorily provided. This proposal merely
8 extends the same guarantees to all employees of the Authority as
9 are currently enjoyed by all other State employees covered under
10 this section of the statute. These safeguards protect the per-
11 sonal lives, family lives, and basic constitutional rights of
12 employees. We cannot conceive of any earthly reason that there
13 would be any objection to the coverage of all employees of the
14 Authority with these basic human rights.

15

16 Page 4, line 18

17 (p) This would provide an option for [REDACTED] employees of the
18 Authority currently covered by the Federal retirement system to
19 transfer the retirement benefits from the Federal system to the
20 Alaska Public Employment Retirement System so long as all funds
21 deposited with the Federal retirement system were transferred to
22 the State fund. Retirement coverage is a very, very vital issue
23 to those employees currently on the Railroad. The concern of the
24 employees for their safeguards that they have earned and worked
25 for for many, many years in the form of retirement benefits, is
26 one of the most serious items of concern to employees across the
27 board.

28

29 Page 4, line 25

30 We feel that labor's participation on the Board is important as
31 our knowledge of "grass roots" operation of railroading would be
32 invaluable in assuring that the policies set forth by the Board

1 would be workable and provide a minimum of organizational disruption.
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4 Page 5, line 3.

5 We believe this language should be added to Article 30. First of
6 all, it is consistent with the American system of jurisprudence
7 and a right to due process and, second, it is a continuance of a
8 right that all employees currently have against the arbitrary and
9 capricious removal from their position or employment. Many em-
10 ployees on the Railroad are not represented by bargaining unit
11 representatives. This is not of their own doing. Under the
12 Federal Labor Relations Program, management officials above the
13 first level of supervision are statutorily barred from organizing
14 into unions and collectively negotiating a labor agreement. Many
15 of the people in this category have expressed fears and apprehen-
16 sions about being arbitrarily or capriciously demoted or removed
17 for non-job-performance related reasons. Should this group of
18 employees choose to collectively organize and bargain the terms
19 and conditions of employment, then this provision would no longer
20 apply to that group and we strongly urge that they do so. How-
21 ever, we also recognize that there are managers on the property
22 who for one reason or another may not be protected by the terms
23 of a labor agreement. For those employees, we are urging that
24 you provide a due process review before any career or livelihood
25 or family life is destroyed for reasons not related to poor job
26 performance. The maxim I'm quoting is this: If the action will
27 not stand the test of a third party review, the action should not
28 be taken. This is a minimal protection to this group of people
29 who currently, as Federal employees, have a far greater protec-
30 tion than this proposal would provide.
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ARTICLE 8. PERSONNEL & GENERAL PROVISIONS

1 Sec. 42.40.800. Personnel.

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(a) All personnel employed by The Alaska Railroad are personnel of the Alaska Railroad Authority. Employment with the Authority is deemed to be employment with the State and all time and benefits are transferrable to other State agencies. A.S. 39.05 - .51 do not apply to employees of the Authority. A.S. 23.40.070(3) does not apply to the Authority. The Authority will develop a system of employment that provides for the hiring and promotion of applicants and employees on the basis of the knowledges, skills, and abilities required to perform the duties of the position for which they are being considered.

(b) For the purposes of the Public Employment Relations Act, A.S. 23.40.020 - .260, the Authority is considered a "public employer" within the meaning of that act. The Authority's employees are classified as employees under A.S. 23.40.200(a)(3).

(c) All accrued leave balance shall be fully transferred with the employees to the Authority.

(d) The level of current benefits for all employees shall not be diminished or reduced as a result of this transfer.

(e) Nothing in this statute shall be interpreted as to preclude the unions and the Authority from negotiating conditions of employment and benefits that are provided for by Alaska Statute.

(f) No department, agency, official, officer, or any person employed by the Authority may directly or indirectly:

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1. require or coerce any employee of the Authority to participate in any way in any activity or undertaking unless the activity or undertaking is related to the performance of official duties;

2. require or coerce any employee of the Authority to make any report concerning any of his activities or undertakings unless the activity or undertaking is related to the performance of his official duties;

3. except as directly related to the performance of his official duties, require or coerce any employee of the Authority to submit to any interrogation or examination or psychological test which is designed to elicit from him information concerning:

a. his personal relationship with any person connected with him by blood or marriage,

b. his religious beliefs or practices,

c. sexual matters,

d. his political affiliation or philosophy;

4. coerce any employee of the Authority to invest or contribute his earnings in any manner or for any purpose;

5. restrict or attempt to restrict after-working-hour statements, pronouncements or other activities, not otherwise prohibited by law or personnel rule, of any employee of the Authority, if the employee does not purport to speak or act

1 in an official capacity.

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3 (g) The provisions of (a) of this section do not diminish the
4 authority of an authorized law enforcement agency to conduct
5 criminal investigations of Authority employees suspected of being
6 involved in criminal activity.

7

8 (h) An Authority employee may be a member of a national, state,
9 or local political party, may take part in a political campaign,
10 and may exercise his right as a citizen to express his opinion,
11 register his party preference, if any, serve as a delegate to
12 party conventions, and cast his vote. This section also permits
13 appointment, nomination, or election to nonpartisan public office
14 in a local government unit. However, this section may not be
15 construed as permitting any employee to take an active part in
16 the management of a political party above the precinct level.

17

18 (i) No person may give, render, pay, offer, solicit, or accept
19 money, service, or other valuable thing in connection with an
20 appointment, promotion, or advantage in a position within the
21 Authority.

22

23 (j) No person may require an assessment, subscription, contribu-
24 tion, or service for a political party from an employee of the
25 Authority.

26

27 (k) No person may seek or attempt to use a political party en-
28 dorsement in connection with an appointment or promotion in the
29 Authority.

30

31 (l) An employee of the Authority who seeks nomination or becomes
32 a candidate for state or national elective political office shall

1 immediately resign his position.

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3 (m) No action affecting the employment status of an employee of
4 the Authority or applicant for a position in the Authority, in-
5 cluding appointment, promotion, demotion, suspension, or removal,
6 may be taken or withheld for racial, political, or religious
7 reasons.

8

9 (n) No person may make a false statement, certificate, mark,
10 rating, or report with regard to a test, certification, or ap-
11 pointment or in any manner commit a fraud preventing the impar-
12 tial execution of the personnel rules adopted by the Authority.

13

14 (o) No person may deceive or obstruct another person in his
15 right to examination, eligibility, certification, appointment, or
16 promotion.

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18 (p) [REDACTED] employees of the Authority will have the option of
19 transferring their accrued retirement benefits currently provided
20 for by the Federal Government, to the Alaska Public Employment
21 Retirement System, so long as all funds on deposit with the Fed-
22 eral retirement system are transferred to the State retirement
23 system.

24

25 (q) One labor representative shall be selected to serve as a
26 full voting member of the governing Board of Directors. This
27 selection will be made [REDACTED] from a list
28 submitted by the Unions representing the organized employees of
29 The Alaska Railroad. [REDACTED]

30 [REDACTED]

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1 Add to Article 4, #30 (page 18, line 24)

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3 A full-time permanent employee of the Authority who has completed
4 the probationary period and who is not covered by a collective
5 bargaining agreement and is dismissed, demoted, or suspended for
6 more than 30 calendar days shall be notified in writing by his
7 supervisor of the action and the reason for it and ~~shall~~^{may} be heard
8 publicly by the board of directors and may be represented by
9 counsel at the hearing. In order to be heard, the complainant
10 shall request a hearing within 15 days of dismissal, demotion, or
11 suspension.

12

13 If the board finds that the action complained of was taken for a
14 political, racial or religious reason or in violation of the
15 rules adopted by the Authority, the individual will be reinstated
16 to his position without loss of pay or leave benefit and made
17 totally whole, including the payment of all expenses incurred by
18 the employee in the defense of the action, for the period of his
19 dismissal, demotion, or suspension.

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Testimony of Totem Ocean Trailer Express, Inc.,
Before Alaska Senate Transportation Committee on
Senate Bill No. 212 April 6, 1982

Mr. Chairman, Members of the Transportation Committee:

I am Leonard Shapiro, Vice President of Pricing for Totem Ocean Trailer Express. Tote operates two new deep water Ro/Ro vessels between Tacoma, Washington, and Anchorage, Alaska, where we interline trailers to motor carriers and the Alaska Railroad for movement to the interior of Alaska.

We at Totem greatly appreciate this opportunity to express our views concerning the transfer of the Alaska Railroad to the State of Alaska. It should be noted that Totem is among the top five (5) customers of the Alaska Railroad and, therefore, we strongly support a financially strong railroad.

Totem has analyzed in great detail Senate Bill No. 212 and we wish to offer our support to most of the bill. We feel it enables the State of Alaska to smoothly handle the transfer of power from the federal to the State level. We specifically support the position which Senate Bill No. 212 takes on future expansion of the Alaska Railroad, inasmuch as the railroad would be the most economic means whereby the State can develop its extensive mineral resources.

Development of these resources will mean a significant increase in the economic activity of the State and, therefore an increase in the economic activity for all carriers.

Many of you have undoubtedly heard rumors concerning Totem's position on this takeover of the Alaska Railroad by the State of Alaska. I wish to assure all present today that rumors to the effect that "Totem opposes the takeover of the Alaska Railroad by the State and desires the railroad to remain under Federal control" are totally untrue. Further we have absolutely no desire to "tie the hands of the Alaska Railroad" for rate purposes. Totem's sole desire, insofar as Senate Bill 212 is concerned, is to ensure that all participants in Alaska's intergrated transportations system "play by the same rules". As I mentioned above Totem is one of the top five customers of the Alaska Railroad and as such depends on the Alaska Railroad for a significant portion of the transportation service we need in order to reach the interior of the State. For Totem to oppose in any way legislation which would ensure a financially sound railroad, would be sheer business folly.