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AK RAILROAD/ BILL DRAFTS (FILE 1)

1 bonds of the corporation is payable from corporation money or assets.
2 Bonds may be additionally secured by a pledge of a grant or contribu-
3 tion from the federal, state, or municipal government or a corpora-
4 tion, association, institution or person, or a pledge of money, in-
5 come, or revenue of the corporation from any source.

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

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

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

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

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

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

29 (E) the vesting in the trustee of rights and remedies

1 exercisable by the trustee for the protection of the holders of
2 bonds of the corporation and not otherwise in violation of law
3 and the restriction of the rights of an individual holder of
4 bonds of the corporation;

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

8 (3) provide for any other matters of like or different
9 character that in any way affect the security or protection of the
10 bonds.

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

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

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

27 (b) Nothing in this section prohibits the corporation from
28 selling assets subject to a pledge, except that a sale may be re-
29 stricted by the trust agreement or resolution providing for the

1 issuance of the bonds.

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

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

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

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

27 Sec. 42.40.690. CREDIT OF STATE NOT PLEDGED. (a) The state and
28 its political subdivisions are not liable for the debts of the corpo-
29 ration. Bonds issued under this chapter are payable solely from the

1 revenue or assets of the corporation and do not constitute a

2 (1) debt, liability, or obligation of the state or of a
3 political subdivision of the state; or

4 (2) pledge of the faith and credit of the state or of a
5 political subdivision of the state.

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

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

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

14 Sec. 42.40.700. LIMITATION ON PERSONAL LIABILITY. A board
15 member or employee of the corporation is not subject to personal
16 liability or accountability because of the execution or issuance of
17 bonds.

18 ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

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

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

29 Sec. 42.40.710. CORPORATION EMPLOYEES. Employees of the Alaska

1 Railroad are employees of the corporation and not of the state. The
2 provisions of AS 39 do not apply to employees of the corporation.

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

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

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

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

20 Sec. 42.40.740. COLLECTIVE BARGAINING UNIT. The railroad labor
21 relations agency shall decide in each case, in order to ensure employ-
22 ees the fullest freedom in exercising the rights guaranteed by AS 42.-
23 40.710 - 42.40.890 the unit appropriate for the purposes of collective
24 bargaining, based on such factors as community of interest, wages,
25 hours and other working conditions of the employees involved, the
26 history of collective bargaining, and the desires of the employees.
27 Bargaining units shall be as large as is reasonable, and unnecessary
28 fragmenting shall be avoided.

29 Sec. 42.40.750. REPRESENTATIVES AND ELECTIONS. (a) The

1 railroad labor relations agency shall investigate a petition if it is
2 submitted in a manner prescribed by the railroad labor relations
3 agency by

4 (1) an employee or group of employees or an organization
5 acting in their behalf alleging that 30 percent of the employees of a
6 proposed bargaining unit

7 (A) want to be represented for collective bargaining
8 by a labor or employee organization as exclusive representative;
9 or

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

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

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

28 (c) The railroad labor relations agency shall determine who is
29 eligible to vote in an election held under this section and shall

1 establish rules governing the election. In an election in which none
2 of the choices on the ballot receives a majority of the votes cast, a
3 runoff election shall be conducted, the ballot providing for selection
4 between the two choices receiving the largest number of valid votes
5 cast in the election. If an organization receives the majority of the
6 votes cast in the election it shall be certified by the railroad labor
7 relations agency as exclusive representative of all the employees in
8 the bargaining unit. An election may not be held in a bargaining unit
9 or in a subdivision of a bargaining unit if a valid election has been
10 held within the preceding 12 months.

11 (d) Nothing in this chapter prohibits recognition of an orga-
12 nization as the exclusive representative by the corporation by mutual
13 consent.

14 (e) An election may not be directed by the railroad labor rela-
15 tions agency in a bargaining unit in which there is in force a valid
16 collective bargaining agreement, except during a 90-day period preced-
17 ing the expiration date. However, no collective bargaining agreement
18 may bar an election upon petition of employees in the bargaining unit
19 but not parties to the agreement if more than three years have elapsed
20 since the execution of the agreement or the last timely renewal,
21 whichever was later.

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

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

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

28 (3) discriminate in regard to hire or tenure of employment
29 or a term or condition of employment to encourage or discourage

1 membership in an organization;

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

5 (5) refuse to bargain collectively in good faith with an
6 organization that is the exclusive representative of employees in an
7 appropriate unit, including the discussing of grievances with the
8 exclusive representative.

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

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

15 (2) payment by the employee to the exclusive bargaining
16 agent of a service fee to reimburse the exclusive bargaining agency
17 for the expense of representing the members of the bargaining unit.

18 (c) An organization or its agents may not

19 (1) restrain or coerce

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

22 (B) the corporation in the selection of a representa-
23 tive for the purposes of collective bargaining or the adjustment
24 of grievances;

25 (2) refuse to bargain collectively in good faith with the
26 corporation, if it has been designated in accordance with AS 42.40.
27 710 - 42.40.890 as the exclusive representative of employees in an
28 appropriate unit.

29 Sec. 42.40.770. INVESTIGATION AND CONCILIATION OF COMPLAINTS

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

11 Sec. 42.40.780. COMPLAINT AND ACCUSATION. If the railroad labor
12 relations agency fails to eliminate the prohibited practice by concil-
13 iation and to obtain voluntary compliance with AS 42.40.710 - 42.40.-
14 890 or before it attempts conciliation, it may serve a copy of the
15 complaint or accusation upon the respondent. The complaint or accusa-
16 tion and the subsequent procedures shall be handled in accordance with
17 the administrative adjudication portion of the Administrative Proce-
18 dure Act (AS 44.61).

19 Sec. 42.40.790. ORDERS AND DECISIONS. If the railroad labor
20 relations agency finds that a person named in the written complaint or
21 accusation has engaged in a prohibited practice, the railroad labor
22 relations agency shall issue and serve on the person an order or
23 decision requiring the person to cease and desist from the prohibited
24 practice and to take affirmative action that will carry out the pro-
25 visions of AS 42.40.710 - 42.40.890. If the railroad labor relations
26 agency finds that a person named in the complaint or accusation has
27 not engaged or is not engaging in a prohibited practice, the railroad
28 labor relations agency shall state its findings of fact and issue an
29 order dismissing the complaint or accusation.

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

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

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

17 (c) The attendance of witnesses and the production of evidence
18 may be required from any place in the state at any designated place of
19 hearing.

20 (d) If a person refuses to obey a subpoena issued under AS 42.
21 40.710 - 42.40.890, the superior court in the district in which the
22 person resides or is found may, upon application by the railroad labor
23 relations agency, issue an order requiring the person to comply with
24 the subpoena.

25 Sec. 42.40.820. REGULATIONS. The railroad labor relation
26 agency shall adopt regulations under the Administrative Procedure Act
27 (AS 44.62) to carry out AS 42.40.710 - 42.40.890.

28 Sec. 42.40.830. PENALTY FOR VIOLATION OF ORDER OR DECISION.
29 person who violates a provision of an order or decision of the

1 railroad labor relations agency is guilty of a misdemeanor and is
2 punishable by a fine of not more than \$500.

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

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

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

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

23 (b) The corporation may apply to the superior court in the
24 judicial district in which the strike is occurring for an order en-
25 joining the strike. A strike may not be enjoined unless it can be
26 shown that it has begun to threaten, or is about to threaten, the
27 health, safety, or welfare of the public. A court, in deciding wheth-
28 er to enjoin the strike, shall consider the total equities in the
29 particular case, including the impact of a strike on the public and

1 the extent to which an employee organization and the corporation have
2 met their statutory obligations.

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

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

11 Sec. 42.40.860. AGREEMENTS. (a) The Department of Administra-
12 tion may participate in labor negotiations between the corporation and
13 an organization. The corporation shall seek advice of the Department
14 of Administration before entering into a collective bargaining agree-
15 ment concerning wages hours, and other terms and conditions of em-
16 ployment. However, the final decision regarding collective bargaining
17 agreements, shall be made by the board.

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

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

27 Sec. 42.40.870. ORGANIZATION DUES AND EMPLOYEE BENEFITS, DEDUC-
28 TION AND AUTHORIZATION. Upon written authorization of an employee
29 within a bargaining unit, the corporation shall deduct from the

1 payroll of the employee the monthly amount of dues, fees, and other
2 employee benefits as certified by the secretary of the exclusive
3 bargaining representative and shall deliver it to the chief fiscal
4 officer of the exclusive bargaining representative.

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

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

24 (1) require or coerce an employee to participate in any way
25 in any activity or undertaking unless the activity or undertaking is
26 related to the performance of official duties;

27 (2) require or coerce an employee to make any report con-
28 cerning an activity or undertaking of the employee's activities or
29 undertakings unless the activity or undertaking is related to the

1 performance of official duties;

2 (3) except as directly related to the performance of official
3 duties, require or coerce an employee to submit to an interro-
4 gation, examination, or psychological test that is designed to elicit
5 information concerning

6 (A) a personal relationship with a person connected
7 with the employee by blood or marriage,

8 (B) the employee's religious beliefs or practices,

9 (C) sexual matters,

10 (D) the employee's political affiliation or philoso-
11 phy;

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

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

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

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

24 (1) "collective bargaining" means the performance of the
25 mutual obligation of the corporation or its designated representatives
26 and the representatives of the employees to meet at reasonable times,
27 including meetings in advance of the budget making process, and nego-
28 tiating in good faith with respect to wages, hours, and other terms
29 and conditions of employment, or the negotiation of an agreement, or

1 negotiation of a question arising under an agreement and the execution
2 of a written contract incorporating an agreement reached if requested
3 by either party, but these obligations do not compel either party to
4 agree to a proposal or require the making of a concession;

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

9 (3) "organization" means a labor or employee organization
10 of any kind in which employees participate and that exists for the
11 primary purpose of dealing with the corporation concerning grievances,
12 labor disputes, wages, rates of pay, hours of employment and condi-
13 tions of employment;

14 (4) "terms and conditions of employment" means the hours of
15 employment, the compensation and fringe benefits, and the employer's
16 personnel policies affecting the working conditions of the employees,
17 but does not mean the general policies describing the function and
18 purposes of an employer.

19 ARTICLE 9. GENERAL PROVISIONS.

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

24 (b) For the purposes of actionable claims, undertakings, pay-
25 ments of judgments, execution, interest, punitive damages, statutes of
26 limitations, bonds, costs, and similar matters related to the pres-
27 entation and prosecution of claims by and against the corporation, the
28 corporation and its board members and employees enjoy the same rights,
29 privileges, and immunities as the state and state officers under

1 AS 09.10.120, AS 09.50.250 - 09.50.290, and AS 09.65.040.

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

4 (d) The corporation is not subject to the provisions of AS 44.-
5 80.010, regarding the state as a party to an action.

6 Sec. 42.40.905. NOTICE OF LEGAL ACTIONS. (a) The corporation
7 shall notify the Department of Law within 30 days before initiating
8 legal action unless special circumstances exist that require immediate
9 legal action to protect the corporation assets or to continue existing
10 service.

11 (b) If notice of legal action is not given under (a) of this
12 section, within seven days of taking action the board shall notify the
13 Department of Law of the action taken and of the special circumstances
14 that exempted the action from the requirements of (a) of this section.

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

23 (b) Bonds and notes issued under this chapter are issued by a
24 body corporate and public of the state and for an essential public and
25 governmental purpose. Therefore, the bonds and notes, the interest
26 and income from them, and all fees, charges, funds, revenue, income
27 and other money pledged or available to pay or secure the payment of
28 the bonds and notes or interest on them, are exempt from taxation
29 except for inheritance, transfer, and estate taxes.

1 (c) This section does not affect or limit an exemption from
2 license fees, property taxes, excise taxes, income taxes, or other
3 taxes provided under any other law, nor does it create a tax exemp-
4 tion with respect to the interest of any business enterprise or other
5 person, other than the corporation.

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

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

- 11 (1) AS 19;
- 12 (2) AS 30.15;
- 13 (3) AS 35;
- 14 (4) AS 37.05;
- 15 (5) AS 37.07;
- 16 (6) AS 37.10.010 - 37.10.060;
- 17 (7) AS 37.10.085;
- 18 (8) AS 37.20;
- 19 (9) AS 37.25;
- 20 (10) AS 38;
- 21 (11) AS 44.62.040 - 44.62.320.

22 (c) The corporation is subject to AS 45.50.562 - 45.50.596.

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

28 Sec. 42.40.935. RAILROAD FACILITIES CODE COMPLIANCE. (a) Not
29 later than two years after the date of transfer, the Department of

1 Labor in consultation with the corporation shall develop and the
2 corporation, shall adopt a plan to achieve compliance with AS 18.60.
3 The plan shall be implemented and compliance achieved within five
4 years after it is adopted.

5 (b) No later than two years after the date of transfer, the
6 corporation in consultation with the Department of Public Safety and
7 appropriate municipal officials, shall develop and adopt a plan to
8 achieve compliance with building and related safety codes applicable
9 to facilities of the corporation. The plan shall be implemented and
10 compliance achieved within five years after it is adopted. In the
11 sole determination of the commissioner of public safety, any existing
12 building owned or controlled by the corporation that does not present
13 a serious safety hazard and for which compliance would be uneconomical
14 in consideration of its remaining useful life shall be exempted from
15 compliance with state or municipal safety codes.

16 Sec. 42.40.940. NEGOTIATION FOR SALE OF THE RAILROAD. The
17 governor may require the board to negotiate in good faith the sale of
18 the Alaska Railroad.

19 Sec. 42.40.950. REVERSION OF ASSETS. If the corporation ceases
20 to exist, for reasons other than sale of the Alaska Railroad, its
21 assets revert to the state.

22 Sec. 42.40.980. DEFINITIONS. In this chapter, unless the con-
23 text otherwise requires,

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

26 (2) "bonds" means bonds, bond anticipation notes, notes,
27 refunding bonds, or other obligations;

28 (3) "corporation" means the Alaska Railroad Corporation;

29 (4) "date of transfer" means the date on which the United

1 States Secretary of Transportation delivers the transfer documents
2 under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

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

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

11 (7) "land" means any interest in real property, including
12 tide and submerged land and any right appurtenant to the interest;

13 (8) "rule" means a standard of general application or the
14 amendment, supplement, revision, or repeal of a standard adopted by
15 the corporation to implement, interpret, or make specific the law
16 enforced or administered by it to govern its procedure.

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

19 * Sec. 3. AS 42.40.010 is amended to read:

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

27 * Sec. 4. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD
28 CORPORATION. Notwithstanding AS 42.40.020 enacted in sec. 1 of this Act,
29 the terms of the appointed members of the first board of directors of the

1 Alaska Railroad Corporation are as follows:

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

6 * Sec. 5. COLLECTIVE BARGAINING AGREEMENTS. (a) As soon as practi-
7 cable after establishment of the Alaska Railroad Corporation and before
8 transfer of the Alaska Railroad to the state, the Alaska Railroad Corpora-
9 tion and its employees shall adopt collective bargaining agreements that
10 continue the provisions of the agreements in effect between the Alaska
11 Railroad and its employees on the date of transfer of the railroad. The
12 collective bargaining agreements adopted under this section between the
13 corporation and its employees shall remain in effect to the extent required
14 under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982).

15 (b) The board of directors of the Alaska Railroad Corporation shall
16 on or before the date of transfer of the Alaska Railroad to the state adopt
17 personnel rules necessary to prevent an interruption of services of the
18 railroad.

19 (c) Subject to 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of
20 1982), within 180 days after the first meeting of the board of directors of
21 the Alaska Railroad Corporation, the board and representatives of employee
22 bargaining units shall establish procedures for the renegotiation of col-
23 lective bargaining agreements adopted under (a) of this section. The board
24 shall renegotiate all agreements adopted under (a) of this section within
25 two years after the date of transfer of the Alaska Railroad to the state
26 unless the parties agree to the contrary.

27 * Sec. 6. SALE OF RAILROAD. (a) Not later than two years following
28 the date of the transfer of the Alaska Railroad to the state, the Board of
29 Directors of the Alaska Railroad Corporation, in consultation with the

1 state, shall request proposals from the private sector for the acquisition
2 or operation of the Alaska Railroad. The board may engage the services of
3 an investment banking firm or other professional expertise to assist in the
4 development of the request and evaluation of proposals received. The board
5 shall consider every proposal from the private sector for the acquisition
6 or operation of the Alaska Railroad, even if it is not made in response to
7 a request for proposals under this subsection.

8 (b) In order to be considered responsive, a proposal must

9 (1) ensure continued or improved rail service;

10 (2) return to the state its investment in the Alaska Railroad to
11 the extent possible;

12 (3) be consistent with the terms and conditions of 45 U.S.C.
13 1201 - 1214 (Alaska Railroad Transfer Act of 1982), and not activate the
14 reversion provisions of 45 U.S.C. 1209 (Alaska Railroad Transfer Act of
15 1982);

16 (4) demonstrate with reasonable certainty that the railroad
17 after acquisition by the private sector will be operated as a profitable
18 carrier; as used in this paragraph, "profitable carrier" means a carrier
19 that will be able to

20 (A) generate sufficient revenue to meet its expenses,
21 including reasonable maintenance of necessary equipment and facil-
22 ities; and

23 (B) finance its capital needs in the private market; and

24 (5) demonstrate how the railroad can continue operation of
25 services, including current levels of passenger service.

26 (c) The board may negotiate the details of any proposal found to be
27 responsive, including the execution of a letter of intent to conclude a
28 transfer upon approval of the governor and the legislature.

29 (d) Within one year after requesting proposals under (a) of this
CSHF 512(Fin)

1 section, the board shall submit a report on the results of the process to
2 the governor, including its specific findings on the responsiveness of any
3 proposal received and its recommendations for conclusion of a transfer of
4 the railroad or its management to the private sector.

5 (e) Within 120 days after receipt of the board's report, if the board
6 has recommended transfer of the Alaska Railroad or its management to the
7 private sector, the governor shall

8 (1) disapprove the proposed transfer; or

9 (2) submit the report and recommendations to the legislature.

10 (f) Failure by the governor to act within 120 days after receipt of
11 the board's report shall be considered approval.

12 (g) The legislature may disapprove a proposed transfer without modi-
13 fication by law enacted within 45 days after the proposal is submitted. If
14 a proposal is submitted while the legislature is not in session, the legis-
15 lature may disapprove the proposal with 45 days after the beginning of the
16 next regular session. Failure by the legislature to act within the period
17 required under this subsection shall be considered approval of the pro-
18 posal.

19 (h) Unless a proposal under (a) of this section is approved, the
20 process provided in this section shall be repeated every two years.

21 (i) The board shall, within five years after the date of transfer of
22 the Alaska Railroad to the state, prepare a report for the governor and the
23 legislature on the feasibility of other operational alternatives for trans-
24 fer consistent with the criteria under (b) of this section of all or part
25 of the railroad to the private sector, including allowing recipients of
26 permanent fund dividends to direct their dividends to a railroad purchase
27 fund.

28 * Sec. 7. SPECIAL REPORT. The corporation shall study any problems
29 created by vibrations due to operating the railroad from Ship Creek through

1 Inlet View to the Turnagain Area and extending to Potter's Marsh. The
2 study shall include consideration of any potential for problems that may be
3 created by hauling coal and larger quantities of gravel along that portion
4 of the rail line. By February 1, 1986, the corporation shall present a
5 report to the legislature on the study containing recommendations for
6 correcting any problems identified.

7 * Sec. 8. Section 3 of this Act takes effect on the effective date of
8 an amendment to the constitution of the State of Alaska relating to the
9 Alaska Railroad.

10 * Sec. 9. Sections 1, 2, and 4 - 7 of this Act take effect immediately
11 in accordance with AS 01.10.070(c).

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

MEMORANDUM

March 12, 1984

SUBJECT: Alaska Railroad
(CSSB 352 (Trsp))

TO: Senator Pappy Moss
Chairman, Senate Transportation
Committee

FROM: Tamara Brandt Cook *TBC*
Deputy Director
Division of Legal Services

Here is a draft of CSSB 352 (Trsp) that you requested. Due to the general complexity of the bill and the fact that provisions were submitted to the Senate Transportation Committee from many sources, I have found a great many redundancies, ambiguities, and conflicts in this bill. In resolving these problems I have tried to conform to the apparent intent of the committee, but may have misconstrued some provisions. For this reason it is critical that you carefully review this draft and let me know if there are changes that should be made to it.

In addition, be alerted that I have reorganized portions of the bill, primarily by dividing very long sections into several smaller sections or moving sections from inappropriate articles and placing them elsewhere. I have changed certain wording so that it is consistent. For example, since "land" is defined to be all real property including tide and submerged land, I have replaced references to "real property" with "land" and removed superfluous references to tide and submerged land. Likewise, since "executive officer" and "executive official" appear to be interchangeable, I have consistently used the term "executive officer".

Section 42.40.020(e) provides for confirmation of board members. It is my understanding that you wish to retain this provision and that you understand that it can only function as a request to the governor to submit the members for confirmation, as has been done with certain other boards and

Senator Pappy Moss
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commissions. It is not, however, constitutionally enforceable under Article III, sections 25 and 26 of the state constitution as construed in Bradner v. Hammond, 553 P.2d 1 (Alaska, 1976).

Section 42.40.390 appears to be an attempt to grant the power of land use regulation, such as platting and zoning, to the railroad corporation, which would contravene the requirement contained in Article X, section 2 that all local government powers shall be vested in boroughs and cities. If, on the other hand, the purpose of the section is to exclude rail property from municipal land use regulation, that should be done specifically. I would recommend that the section be clarified or eliminated.

Section 42.40.720 grants protection from liability resulting from the execution or issuance of bonds or notes to employees and executive officers. Both these terms are defined and neither includes members of the board of directors. Should they be specifically included within this section?

Section 42.40.900(b) provides that in claims brought against the corporation in which it is the prevailing party, it is not an abuse of discretion for a court to award full costs and attorney's fees. I note that, for some reason, actions brought by the corporation are not included within this section. More importantly, this appears to be an attempt to overrule the line of cases that overturns awards of full attorney's fees by trial courts as abuses of discretion. Continental Ins. Co. v. U.S. Fid. & Guar. Co., 552 P.2d 964 (Alaska 1976); Davis v. Hallett, 587 P.2d 1170 (Alaska 1978). An award of attorney's fees is always subject to review for possible abuse of discretion. To the extent that this section treats the railroad corporation differently from other litigants similarly situated by shielding an award of full attorney's fees from review, it may constitute a denial of equal protection of the law under both the state and federal constitutions. To the extent that this section can be construed not to discriminate in favor of the corporation, it serves no purpose. I would recommend that it be eliminated.

Please let me know if I can be of further assistance with this draft.

TBC:ojb

J4/066

Original sponsors: Kerttula, Faiks,
Halford, et al

1 IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

2 CS FOR SENATE BILL NO. 352 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Railroad Corporation
7 to operate the Alaska Railroad with a board of nine
8 directors responsible for management of the corpo-
9 ration; requiring the board to appoint a chief
10 executive officer to manage the daily affairs and
11 operations of the corporation; authorizing the board
12 to adopt rules to carry out its functions; authoriz-
13 ing the corporation to issue bonds and notes; author-
14 izing the corporation to manage all property acquired
15 by the corporation or transferred to the state under
16 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act
17 of 1982); authorizing the corporation to exercise
18 eminent domain; exempting the corporation from cer-
19 tain laws; and providing for an effective date."

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

21 * Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature
22 finds that

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

24 (A) provide safe, economical, and efficient transportation
25 to residents, businesses, visitors, and military installations in the
26 state;

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

29 (C) develop and implement plans for a transportation

1 network;

2 (D) foster and promote the development of the state land
3 and natural resources;

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

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

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

11 (b) It is the purpose of this Act

12 (1) create a viable economic entity with the powers and duties
13 necessary to operate and manage the Alaska Railroad pending eventual trans-
14 fer of the railroad to the private sector for its ownership or operation or
15 both consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
16 1982);

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

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

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

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

29 (C) have the ability to raise capital by issuing

1 obligations exempt from federal and state taxation and applying for
2 federal money to which the state may be entitled or that may be avail-
3 able;

4 (D) carry out its responsibilities on a self-sustaining
5 basis;

6 (E) provide the best possible combination of types and
7 levels of safe, efficient, and economical transportation to meet the
8 overall needs of the state, supported when necessary by state invest-
9 ment;

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

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

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

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

17 CHAPTER 40. ALASKA RAILROAD CORPORATION.

18 ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

19 Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is
20 established the Alaska Railroad Corporation. The corporation is a
21 public corporation and is an instrumentality of the state within the
22 Department of Commerce and Economic Development. The corporation has
23 a legal existence independent of and separate from the state. The
24 exercise by the corporation of the powers provided in this chapter is
25 considered an essential government function of the state.

26 Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the
27 corporation are vested in the board of directors. The board consists
28 of the commissioner of commerce and economic development, the chief
29 executive officer of the corporation, and seven members appointed by

1 the governor. The seven appointed members must be registered voters
2 in the state except as provided in (b) and (c) of this section. No
3 more than two appointed members may be from any one of the four judi-
4 cial districts in the state. Two of the appointed members must have
5 at least five years experience as owners or managers of a business in
6 the state. Except for the commissioner, the chief executive officer,
7 and the member appointed under (d) of this section, a member may not
8 be a state officer or employee.

9 (b) One person who is not a resident of the state may be ap-
10 pointed by the governor to be a member of the board, if, at the time
11 of appointment, the person has at least 10 years of experience in
12 railroad management.

13 (c) One member of the board shall be or have been an executive
14 official of a United States railroad and shall be selected in accor-
15 dance with any requirements imposed under 49 U.S.C. (Interstate Com-
16 merce Act). A person who is not a resident of the state may be ap-
17 pointed under this subsection.

18 (d) One member shall be an employee who is a member of a bar-
19 gaining unit representing employees of the corporation.

20 (e) Except for the commissioner of commerce and economic devel-
21 opment and the chief executive officer of the corporation, the members
22 of the board shall be confirmed by a majority of the members of each
23 house of the legislature in joint session. A member appointed by the
24 governor has the full powers and responsibilities of a confirmed board
25 member until the member is rejected by the legislature.

26 Sec. 42.40.030. TERM OF OFFICE. Except for the commissioner of
27 commerce and economic development and the chief executive officer of
28 the corporation, members of the board serve for staggered terms of
29 five years each at the pleasure of the governor.

1 Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is
2 filled by appointment by the governor, and the appointment must be
3 confirmed by the members of each house of the legislature in joint
4 session. A member appointed to fill a vacancy holds office for the
5 balance of the term for which the member's predecessor was appointed.

6 (b) A vacancy on the board does not impair the authority of a
7 quorum of members to exercise the powers and perform the duties of the
8 board.

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

11 Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed
12 member of the board is entitled to compensation at a rate of \$250 for
13 each day the member is engaged in the actual performance of duties as
14 a member of the board.

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

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

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

23 ARTICLE 2. MANAGEMENT.

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

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

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

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

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

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

10 (6) raise needed capital by issuing obligations of the
11 corporation while ensuring that borrowing by the corporation does not
12 directly or indirectly endanger the state's own borrowing capacity;

13 (7) review all state land disposal proposals to aid in
14 planning for future development or expansion of transportation ser-
15 vices;

16 (8) ensure that the accounting and procurement procedures
17 of the corporation meet accepted railroad industry standards.

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

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

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

1 delegated power or duty to be subject to board approval.

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

5 (1) leasing, granting easements in, issuing permits for the
6 use of, or conveying other interests in property;

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

9 (3) making routine changes in service levels;

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

12 (5) performing procurement activities.

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

15 (1) conveying the corporation's entire interest in land;

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

17 (3) mortgaging or pledging corporation assets;

18 (4) donating property or other assets belonging to the
19 corporation;

20 (5) acting as a surety or guarantor;

21 (6) adopting a long-range capital improvement and program
22 plan;

23 (7) certifying annual reports;

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

27 (9) expanding or reducing services in a major way;

28 (10) expanding the main or branch rail lines, other than
29 performing routine track alignment as necessary to maintain service

1 levels in effect on the date of transfer;

2 (11) selecting independent auditors and accountants;

3 (12) exercising the power of eminent domain;

4 (13) entering into collective bargaining agreements; and

5 (14) adopting annual budgets.

6 ARTICLE 3. ADMINISTRATIVE PROVISIONS.

7 Sec. 42.40.150. MEETINGS OF THE BOARD. (a) The chairman of the
8 board shall call meetings of the board at least once every three
9 months and may call other meetings of the board as necessary. The
10 chairman shall preside at meetings.

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

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

15 Sec. 42.40.160. QUORUM AND VOTING. (a) Five voting members of
16 the board constitutes a quorum for the transaction of business.

17 (b) Five affirmative votes are required for board action. The
18 board shall provide by rule for the manner of voting, except that the
19 board may not provide for voting by proxy. The rules may provide for
20 voting and conferring by telecommunication devices.

21 Sec. 42.40.170. EXECUTIVE SESSIONS. (a) The question of hold-
22 ing an executive session shall be determined by a majority vote of the
23 board. A subject may not be considered at an executive session unless
24 it is mentioned in the motion calling for the executive session or is
25 auxiliary to a subject mentioned. An action may not be taken at an
26 executive session.

27 (b) The board may exclude from an executive session the chief
28 executive officer of the corporation and the member appointed under
29 AS 42.40.020(d) if the subject of the session is related to labor

1 relations or personnel contracts.

2 (c) Only the following subjects may be discussed in an executive
3 session:

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

6 (2) subjects that tend to prejudice the reputation and
7 character of a person and that the person has not requested to have
8 discussed in public;

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

11 (4) matters pertaining to personnel;

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

13 (6) land acquisition or disposal; and

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

19 Sec. 42.40.180. RULES. (a) The board shall adopt rules to
20 carry out its functions and the purposes of this chapter, including
21 rules to safeguard property owned, managed, or transported by the
22 corporation and to protect employees and persons using the
23 corporation's property or services. At least 15 days before the
24 adoption, amendment, or repeal of a rule, the board shall give public
25 notice of the proposed action by publishing a notice in at least three
26 newspapers of general circulation in the state and by mailing a copy
27 of the notice to each person who has requested notice of proposed
28 changes to rules. The notice must state the time, place, and nature
29 of the proceedings and must contain a summary of the subject of the

1 proposed change.

2 (b) On the date and at the time and place designated in the
3 notice required under (a) of this section the board shall provide each
4 interested person an opportunity to present statements in writing
5 concerning the proposed change and shall give members of the public an
6 opportunity to present oral statements for a total period of at least
7 one hour.

8 (c) The board shall consider all relevant matters presented to
9 it before adopting, amending, or repealing a rule. The board may take
10 action on a rule that varies in content from the summary provided with
11 the notice of the proposed change if the subject of the rule was
12 reflected in the summary and it provided reasonable notice to the
13 public as to whether their interests could be affected by the board's
14 action on that subject.

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

17 Sec. 42.40.190. EMERGENCY RULES. (a) The board shall establish
18 in the bylaws of the corporation a procedure for the adoption, amend-
19 ment, or repeal of a rule on an emergency basis. An emergency change
20 may be made only when necessary for the orderly operation of the
21 corporation's facilities or programs. The requirements of AS 42.-
22 40.180 do not apply to actions taken under this section. However,
23 within 10 days after the adoption, amendment, or repeal of a rule on
24 an emergency basis the board shall give notice of its action that
25 substantially complies with the notice requirements of AS 42.40.-
26 180(a).

27 (b) An action taken under this section remains in effect for not
28 more than 120 days. To prevent an emergency change from lapsing the
29 board may make the same change under AS 42.40.180 before the end of

1 the 120-day period.

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

5 (b) An interested person may challenge a rule adopted, amended,
6 or repealed by the board by bringing an action in the superior court.
7 In addition to other grounds, a court may declare a change invalid

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

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

13 Sec. 42.40.210. PREVIOUSLY ADOPTED RULES AND ORDERS. The board
14 may provide by resolution that rules and orders in effect on the date
15 of transfer remain in effect until amended or repealed by the board.

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

20 (b) The corporation may by rule designate and withhold public
21 disclosure of matters of a nonpublic, privileged, or proprietary
22 nature. Those matters include personnel records, communications with
23 and work product of legal counsel, and proprietary or other informa-
24 tion of a type treated as confidential under standards and practices
25 of the United States Interstate Commerce Commission, including prac-
26 tices that protect information associated with specific shippers,
27 divisions, and contract rate agreements.

28 ARTICLE 4. POWERS AND DUTIES.

29 Sec. 42.40.250. GENERAL POWERS. In addition to the exercise of

1 other powers authorized by law, the corporation may

2 (1) adopt a seal;

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

4 (3) sue and be sued;

5 (4) appoint trustees and agents of the corporation and
6 prescribe their powers and duties;

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

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

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

16 (8) hold, maintain, use, operate, lease, exchange, donate,
17 improve, convey, alienate, dispose of, or transfer land or personal
18 property, subject to other provisions of law;

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

23 (10) undertake and provide for the management, operation,
24 maintenance, use, and control of all of the property of the corpo-
25 ration, including rail properties transferred to it by the federal
26 government;

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

1 Railroad;

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

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

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

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

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

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

23 (18) hire and discharge railroad personnel and determine
24 benefits and other terms of employment, in accordance with 45 U.S.C.
25 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

26 (19) assume and satisfy liabilities of the United States in
27 accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
28 1982) and the closing report of July 14, 1983, as amended, prepared
29 and submitted to Congress and the Legislature under 45 U.S.C. 1204(a);

1 (20) maintain a security force to enforce state law and the
2 corporation's rules with respect to violations that occur on or to
3 property owned, managed or transported by the corporation;

4 (21) issue its bonds or notes and provide for and secure
5 their payment, provide for the rights of their holders and hold or
6 dispose of them;

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

9 (23) cancel bonds of the corporation purchased by the corpo-
10 ration;

11 (24) secure the payment of its obligations by pledge, mort-
12 gage, or other lien on its contracts, revenues, income, or property;

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

17 (26) borrow money, including the amounts necessary to estab-
18 lish reasonable reserves, and pay financing charges and interest on
19 the obligations for a reasonable period after which the corporation
20 estimates other money will be available to pay the interest, consul-
21 tant, advisory, and legal fees, and other expenses necessary or inci-
22 dent to borrowing; and

23 (27) do all things necessary or desirable to carry out the
24 powers and duties of the corporation granted or necessarily implied in
25 this chapter or other laws of the state or the laws or regulations of
26 the federal government.

27 Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end
28 of the fiscal year of the Alaska Railroad the board shall direct
29 preparation of, certify and distribute to the governor and to the

1 legislature a report describing the operations and financial condition
2 of the corporation during the preceding fiscal year. The report shall
3 itemize the cost of providing each category of service offered by the
4 railroad and the income generated by each category.

5 Sec. 42.40.270. ANNUAL AUDIT. The board shall have the finan-
6 cial records of the corporation audited annually by an independent
7 certified public accountant experienced in railroad accounting. The
8 corporation shall make all of its financial records available to an
9 auditor appointed by the governor and to the legislative audit divi-
10 sion for examination. Disclosure to the public by the auditor or
11 legislative audit division of this information is subject to AS 42.-
12 40.220 and rules implementing that section.

13 Sec. 42.40.280. LONG RANGE CAPITAL IMPROVEMENT AND PROGRAM PLAN.

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

19 (b) The board shall annually review and approve revisions to the
20 long range capital improvement and program plan. The board shall
21 provide copies of the updated plan to the governor and the legislature
22 by December 1 of each year.

23 (c) The employees of the corporation shall prepare and revise
24 the long range capital improvement and program plan. The board may
25 not contract for the preparation or revision of the plan.

26 Sec. 42.40.290. USE OF CORPORATION ASSETS. The corporation
27 shall apply all money, property, other assets, and credit of the
28 corporation toward activities authorized by this chapter. The corpo-
29 ration may not issue shares of stock, pay dividends, make private

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

6 Sec. 42.40.300. INDEMNIFICATION. (a) The corporation may
7 defend and indemnify a current or former member of the board, em-
8 ployee, or agent of the corporation against all costs, expenses, judg-
9 ments, and liabilities, including attorney's fees, incurred by or
10 imposed upon that person in connection with a civil or criminal action
11 in which the person is involved by affiliation with the corporation,
12 if the person acted in good faith on behalf of the corporation and
13 within the scope of official duties or powers.

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

23 ARTICLE 5. RAIL PROPERTIES.

24 Sec. 42.40.350. LAND. (a) All land transferred under 45 U.S.C.
25 1201 - 1214 (Alaska Railroad Transfer Act of 1982) or otherwise ac-
26 quired by the corporation is under the control of the corporation.
27 All land that is transferred or acquired by the corporation is des-
28 ignated as follows:

29 (1) railroad rights-of-way or easements are utility

1 corridors;

2 (2) land other than railroad rights-of-way or easements is
3 rail land.

4 (b) Utility corridors shall be of a width at least 100 feet on
5 both sides of the centerline of the extended main or branch line, or
6 may be of lesser width if the adjoining land is not rail land, and may
7 be surveyed by the metes and bounds method. The corporation may not
8 convey land within a utility corridor. However, the corporation may
9 lease, grant easements or permits, or otherwise authorize use of
10 portions of a utility corridor for transportation, communication, and
11 transmission purposes and for support functions associated with those
12 purposes, if the use does not restrict other parallel uses of the
13 utility corridor.

14 (c) The corporation may convey, lease, grant easements or per-
15 mits, or otherwise authorize use of portions of rail land for any
16 purpose that does not interfere with use of a utility corridor.

17 Sec. 42.40.360. REQUEST FOR LAND. (a) The board may identify
18 federal land necessary or useful for present, future or intended
19 railroad purposes and request the commissioner of natural resources to
20 nominate the land for state selection.

21 (b) The board by rule may identify and request the commissioner
22 of natural resources to convey land necessary or useful for present,
23 future, or intended railroad purposes owned by or tentatively approved
24 for transfer to the state, including land not adjacent to a utility
25 corridor. The request must include a statement of and justification
26 for the present, future or intended railroad use. Upon receipt of a
27 request, the commissioner shall temporarily reserve the land iden-
28 tified in the request for railroad purposes and delay disposal or
29 lease of that land under other laws to a party other than the

1 corporation. The temporary reservation of land is subject to valid
2 existing rights and remains in effect for 180 days.

3 Sec. 42.40.370. CONVEYANCE OF LAND. (a) Within 90 days after
4 receiving a request under AS 42.40.360(b) the commissioner of natural
5 resources shall

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

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

11 (3) approve in part and deny in part the request.

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

20 (c) The corporation may reconvey to the state land received
21 under this section that the corporation and the commissioner of natu-
22 ral resources jointly identify as unnecessary or unsuitable for the
23 corporation's purposes.

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

1 relocation and notify the the Department of Natural Resources. The
2 relocation must affect only the amount of state land necessary to
3 adequately restore or continue safe rail operations at a normal level.

4 Sec. 42.40.390. LAND USE RULES. The board may adopt exclusive
5 rules governing land use by parties having interests in or permits for
6 land owned or managed by the corporation. The power conferred by this
7 section is exercised for the common health, safety, and welfare of the
8 public and to the extent constitutionally permissible, may not be
9 limited by the terms and conditions of leases, contracts, or other
10 transactions.

11 Sec. 42.40.400. EMINENT DOMAIN. (a) The corporation may exer-
12 cise the power of eminent domain under AS 09.55.240 - 09.55.460 to
13 acquire land for lawful purposes consistent with this chapter. The
14 corporation may acquire a fee simple title whenever, in the judgment
15 of the board, ownership of a fee simple is title necessary to carry
16 out the lawful purposes in condemning property.

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

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

23 Sec. 42.40.410. VACATION OF LAND. The corporation may vacate
24 land acquired for railroad purposes by executing and filing a deed in
25 the appropriate recording district. Upon filing the deed the state
26 shall acquire title to the land.

27 Sec. 42.40.420. FEDERAL LAND. The corporation may submit appli-
28 cations on its own behalf as an instrumentality of the state for
29 acquisition of federal land available under federal law that will

1 enhance the operations of the corporation. The corporation may re-
2 ceive in its own name conveyances of all interests in federal land.

3 Sec. 42.40.430. MUNICIPAL EASEMENTS. Upon request the corpo-
4 ration may grant to a municipality a limited use easement in rail land
5 or, subject to AS 42.40.350(b), over a utility corridor to be used for
6 a pedestrian walkway or trail. Before granting a limited use easement
7 under this section the board shall require the municipality to execute
8 an agreement in a form approved by the board to

9 (1) hold the corporation harmless and indemnify the corpo-
10 ration for any use made of the easement including

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

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

16 (2) vacate the easement upon request of the corporation if,
17 as determined by the corporation, the easement interferes with expan-
18 sion or replacement of railroad facilities.

19 Sec. 42.40.440. ACQUISITION OF GOVERNMENT PROPERTY. The corpor-
20 ation, as an instrumentality of the state, may acquire in its own name
21 from the United States under 50 App U.S.C. 1622 et seq. (Surplus
22 Property Act of 1944), 40 U.S.C. 471 et seq. (Federal Property and
23 Administrative Services Act of 1949), or other law, property under the
24 control of a federal department or agency that is useful for the
25 corporation's purposes. The corporation may acquire from the Depart-
26 ment of Administration property of the state made available under
27 AS 44.71.010 - 44.71.040.

28 ARTICLE 6. FINANCIAL PROVISIONS.

29 Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred

1 by the corporation shall be satisfied exclusively from the assets or
2 revenue of the corporation and no creditor or other person has a right
3 of action against the state because of a debt, obligation, or liability
4 of the corporation.

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

10 Sec. 42.40.520. INSURANCE. Except as provided in AS 42.40.300-
11 (b), the corporation shall protect its assets, services, and personnel
12 by purchasing insurance or providing for certain self-insurance re-
13 tentions. The corporation shall also maintain casualty, property,
14 business interruption, marine, boiler and machinery, pollution liability,
15 and other insurance in amounts reasonably calculated to cover
16 potential claims against the corporation or state for bodily injury,
17 death or disability and property damage that may arise from or be
18 related to corporation operations and activities.

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

23 Sec. 42.40.540. APPROPRIATIONS. The corporation may request,
24 with the concurrence of the governor, a direct appropriation or grant
25 from the legislature to assist in carrying out the provisions of this
26 chapter.

27 ARTICLE 7. BONDS AND NOTES.

28 Sec. 42.40.600. GENERAL PROVISIONS. (a) The corporation by
29 resolution may issue bonds and bond anticipation notes to provide

1 money to carry out its purposes. However, the proceeds may not be
2 used for activities other than those specifically related to the
3 purposes for which the instruments are originally issued.

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

6 (1) be dated;

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

9 (3) be in a required denomination;

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

11 (5) carry conversion or registration provisions;

12 (6) have a required rank or priority;

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

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

16 (9) be subject to authentication by a trustee or fiscal
17 agent; and

18 (10) be subject to terms of redemption with or without
19 premium.

20 (c) Bonds or bond anticipation notes may be sold in the manner,
21 on the terms, and at the price the board determines. Bond anticipa-
22 tion notes shall mature at the time or times determined by the board.
23 Bonds shall mature at the time, not exceeding 50 years from their
24 date, determined by the board.

25 Sec. 42.40.610. NEGOTIABLE INSTRUMENTS. Bonds and notes issued
26 under this chapter and interest coupons attached to them are nego-
27 tiable instruments under the laws of this state, subject only to
28 applicable provisions for registration.

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

1 and notes issued under this chapter are securities in which all public
2 officers and public bodies of the state and its political subdivi-
3 sions, all insurance companies, trust companies, banking associations,
4 investment companies, executors, administrators, trustees and other
5 fiduciaries may properly and legally invest funds, including capital
6 in their control or belonging to them. These bonds and notes may be
7 deposited with a state or municipal officer of an agency or political
8 subdivision of the state for any purpose for which the deposit of
9 bonds or notes of the state is authorized by law.

10 Sec. 42.40.630. PAYMENT OF BONDS AND NOTES. (a) The principal
11 and interest on bonds or notes of the corporation is payable from
12 corporation money or assets. Bonds or notes may be additionally
13 secured by a pledge of a grant or contribution from the federal gov-
14 ernment or a corporation, association, institution or person, or a
15 pledge of money, income, or revenue of the corporation from any
16 source.

17 (b) Bond anticipation notes may be payable from the proceeds of
18 the sale of bonds or other bond anticipation notes, or, if bond or
19 bond anticipation note proceeds are not available, from other money or
20 assets of the corporation.

21 Sec. 42.40.640. AGREEMENTS WITH HOLDERS. The corporation may by
22 provisions in a resolution authorizing or relating to the issuance of
23 bonds or bond anticipation notes enter into the following agreements
24 with the holders of the instruments:

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

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

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

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

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

9 (6) covenant as to the issuance of additional bonds or
10 notes, or limitations on the issuance of additional bonds or notes,
11 and the incurring of other debts;

12 (7) covenant as to the payment of the principal of or
13 interest on the bonds or notes, the sources and methods of payment,
14 the rank or priority of the bonds or notes with respect to a lien or
15 security, or the acceleration of the maturity of the bonds or notes;

16 (8) provide for the replacement of lost, stolen, destroyed
17 or mutilated bonds or notes;

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

20 (10) covenant as to the redemption of bonds or notes and
21 privileges of their exchange for other bonds or notes of the corpo-
22 ration;

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

28 (12) establish the procedure by which the terms of a con-
29 tract or covenant with or for the benefit of the holders of bonds or

1 notes may be amended or abrogated, the amount of bonds or notes the
2 holders of which must consent to amendment or abrogation, and the
3 manner in which the consent may be given;

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

7 (14) to vest in a trustee or trustees inside or outside the
8 state property, rights, powers and duties in trust as the corporation
9 may determine that may include any or all of the rights, powers and
10 duties of a trustee appointed by the holders of bonds or notes of the
11 corporation, and to limit or abrogate the rights of the holders of the
12 bonds or notes of the corporation to appoint a trustee under this
13 chapter or limit the rights, powers and duties of the trustee;

14 (15) to pay the costs or expenses incident to the enforce-
15 ment of the bonds or notes, of the provisions of the resolution, or of
16 a covenant or agreement of the corporation with the holders of its
17 bonds or notes;

18 (16) agree with a corporation trustee, that may be a trust
19 company or bank having the powers of a trust company inside or outside
20 the state, as to the pledging or assigning of revenue or funds that or
21 in which the corporation has a right or interest; the agreement may
22 provide for other rights and remedies exercisable by the trustee for
23 the protection of the holders of bonds or notes of the corporation and
24 not otherwise in violation of law, and may provide for the restriction
25 of the rights of an individual holder of bonds or notes of the corpo-
26 ration;

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

29 (18) to limit the rights of the holders of bonds or notes of

1 the corporation to enforce a pledge or covenant securing the bonds or
2 notes; and

3 (19) covenants other than and in addition to the covenants
4 expressly authorized in this section, of like or different character,
5 and make covenants to do or refrain from doing acts in order to better
6 secure bonds or notes or that, in the absolute discretion of the
7 board, will tend to make bonds or notes more marketable.

8 Sec. 42.40.650. INTERIM RECEIPTS, TEMPORARY BONDS, AND TEMPORARY
9 BOND ANTICIPATION NOTES. Before the preparation of definitive bonds
10 or bond anticipation notes, the corporation may issue interim receipts
11 or temporary bonds or bond anticipation notes, with or without cou-
12 pons, exchangeable for bonds or bond anticipation notes when those
13 definitive bonds or bond anticipation notes have been executed and are
14 available for delivery.

15 Sec. 42.40.660. REFUNDING BONDS. (a) The corporation may
16 provide for the issuance of refunding bonds for the purpose of refund-
17 ing bonds then outstanding that have been issued under this chapter,
18 including the payment of a redemption premium on them and interest
19 that accrues to the date of redemption of the bonds. Refunding bonds
20 shall be issued in accordance with provisions of this chapter that
21 relate to the issuance of bonds to the extent those provisions are
22 appropriate.

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

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

9 Sec. 42.40.670. INDEPENDENT FINANCIAL ADVISOR. In negotiating
10 the private sale of bonds or bond anticipation notes to an under-
11 writer, the board shall retain a financial advisor who is independent
12 from the underwriter.

13 Sec. 42.40.680. VALIDITY OF SIGNATURES. If an officer of the
14 corporation whose signature or a facsimile of whose signature appears
15 on bonds, notes, or coupons attached to them ceases to be an officer
16 before the delivery of the bond, note, or coupon, the signature or
17 facsimile is valid the same as if the person had remained in office
18 until delivery.

19 Sec. 42.40.690. VALIDITY OF PLEDGE. (a) The pledge of assets
20 or revenue of the corporation to the payment of the principal or
21 interest on bonds or notes of the corporation is valid and binding
22 from the time the pledge is made and the assets or revenue are immedi-
23 ately subject to the lien of the pledge without physical delivery or
24 further act. The lien of a pledge is valid and binding against all
25 parties having claims of any kind against the corporation, irrespec-
26 tive of whether those parties have notice of the lien of the pledge.

27 (b) Nothing in this section prohibits the corporation from
28 selling assets subject to a pledge, except that a sale may be re-
29 stricted by the trust agreement or resolution providing for the

1 issuance of the bonds or notes.

2 Sec. 42.40.700. REMEDIES. A holder of bonds or notes issued
3 under this chapter or of coupons attached to them, and a trustee under
4 a trust agreement or resolution authorizing the issuance of the bonds
5 or notes, except as restricted by a trust agreement or resolution,
6 either at law or in equity, may

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

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

12 Sec. 42.40.710. CREDIT OF STATE NOT PLEDGED. (a) The state and
13 its political subdivisions are not liable for the debts of the corpo-
14 ration. Bonds and notes issued under this chapter are payable solely
15 from the revenue or assets of the corporation and do not constitute a

16 (1) debt, liability, or obligation of the state or of a
17 political subdivision of the state; or

18 (2) pledge of the faith and credit of the state or of a
19 political subdivision of the state.

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

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

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

28 Sec. 42.40.720. OFFICERS AND EMPLOYEES NOT LIABLE. An executive
29 officer or employee of the corporation is not subject to personal

1 liability or accountability because of the execution or issuance of
2 bonds or notes.

3 ARTICLE 8. PERSONNEL AND LABOR RELATIONS.

4 Sec. 42.40.750 CORPORATION EMPLOYEES. (a) Employees of the
5 Alaska Railroad are employees of the corporation and not of the state.
6 The provisions of AS 39 do not apply to employees of the corporation.

7 Sec. 42.40.760. COLLECTIVE BARGAINING RIGHTS. The provisions of
8 AS 23.40 (Public Employee Relations Act) do not apply to the corpo-
9 ration or to its employees. However, employees that are not executive
10 officers may organize and form, join, or assist an organization to
11 engage in collective bargaining with respect to wages, hours and other
12 terms and conditions of employment.

13 Sec. 42.40.770. AGREEMENT. (a) At the request of the board or
14 corporation employee organization, the Department of Administration
15 shall participate in negotiations between the corporation and the
16 employee organization.

17 *f add 1/4/5/2* (b) An agreement executed between the corporation and an em-
18 ployee organization shall provide for a grievance procedure in which
19 the final step in the procedure is binding arbitration. The agreement
20 shall define "grievance" for purposes of this section.

21 Sec. 42.40.780. RAILROAD EMPLOYEES LABOR RELATIONS AGENCY. (a)
22 There is established a railroad employees labor relations agency that
23 consists of three members appointed by the governor. One member shall
24 be a member of the state personnel board. Members serve at the plea-
25 sure of the governor.

26 (b) The railroad labor relations agency shall perform the func-
27 tions described in AS 23.40.090 - 23.40.190 and carry out the provi-
28 sions of AS 42.40.750 - 42.40.810.

29 (c) Members of the railroad employees labor relations agency

1 receive no compensation for their services, but are entitled to per
2 diem and travel expenses authorized for boards and commissions.

3 Sec. 42.40.790. STRIKES. (a) Employees may engage in a strike
4 if a majority of the employees in a collective bargaining unit vote by
5 secret ballot to do so.

6 (b) Notwithstanding the provisions of (a) of this section, the
7 employees and the corporation may agree in writing to submit a dispute
8 arising from interpretation or application of a collective bargaining
9 agreement to arbitration.

10 Sec. 42.40.800. POLITICAL ACTIVITIES. (a) Money, assets, or
11 property of the corporation may not be used for political activity.
12 However, board members and employees of the corporation may communi-
13 cate with and appear before committees of Congress, the state legisla-
14 ture, and municipal governing bodies in connection with matters di-
15 rectly affecting the corporation.

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

20 Sec. 42.40.810. PROHIBITED ACTS. (a) The corporation, an
21 executive officer, or employee may not directly or indirectly:

22 (1) require or coerce an employee to participate in any way
23 in any activity or undertaking unless the activity or undertaking is
24 related to the performance of official duties;

25 (2) require or coerce an employee to make any report con-
26 cerning an activity or undertaking of the employee's activities or
27 undertakings unless the activity or undertaking is related to the
28 performance of official duties;

29 (3) except as directly related to the performance of

1 official duties, require or coerce an employee to submit to an
2 interrogation, examination or psychological test that is designed to
3 elicit information concerning

4 (A) a personal relationship with a person connected
5 with the employee by blood or marriage,

6 (B) the employee's religious beliefs or practices,

7 (C) sexual matters,

8 (D) the employee's political affiliation or philoso-
9 phy;

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

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

16 (b) The provisions of (a) of this section do not diminish the
17 authority of an authorized law enforcement agency to conduct criminal
18 investigations of employees suspected of being involved in criminal
19 activity.

20 ARTICLE 9. GENERAL PROVISIONS.

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

25 (b) In a claim or other legal action against the corporation
26 including actions involving the expansion, extension and construction
27 of the railroad, in which the corporation is the prevailing party, it
28 is not an abuse of discretion for a court to award full costs and
29 attorney's fees, including compensation for the financial losses to

1 official duties, require or coerce an employee to submit to an
2 interrogation, examination or psychological test that is designed to
3 elicit information concerning

4 (A) a personal relationship with a person connected
5 with the employee by blood or marriage,

6 (B) the employee's religious beliefs or practices,

7 (C) sexual matters,

8 (D) the employee's political affiliation or philoso-
9 phy;

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

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

16 (b) The provisions of (a) of this section do not diminish the
17 authority of an authorized law enforcement agency to conduct criminal
18 investigations of employees suspected of being involved in criminal
19 activity.

20 ARTICLE 9. GENERAL PROVISIONS.

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

25 (b) In a claim or other legal action against the corporation
26 including actions involving the expansion, extension and construction
27 of the railroad, in which the corporation is the prevailing party, it
28 is not an abuse of discretion for a court to award full costs and
29 attorney's fees, including compensation for the financial losses to

1 the corporation that are directly attributable to the maintenance of
2 that action.

3 (c) For the purposes of actionable claims, undertakings, pay-
4 ments of judgments, execution, interest, punitive damages, statutes of
5 limitations, bonds, costs, and similar matters related to the pres-
6 entation and prosecution of claims by and against the corporation, the
7 corporation and its board members and employees enjoy the same rights,
8 privileges, and immunities as the state and state officers.

9 (d) Claims against the corporation are not subject to the pro-
10 visions of AS 44.77 regarding claims against the state.

11 (e) The corporation is not subject to the provisions of AS 44.-
12 80.010, regarding the state as a party to an action.

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

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

28 (c) This section does not affect or limit an exemption from
29 license fees, property taxes, or excise, income or other taxes,

1 provided under any other law, nor does it create a tax exemption with
2 respect to the interest of any business enterprise or other person,
3 other than the corporation.

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

7 (b) The following laws do not apply to the operations of the
8 corporation:

- 9 (1) AS 19;
10 (2) AS 30.15;
11 (3) AS 35;
12 (4) AS 37.05;
13 (5) AS 37.07;
14 (6) AS 37.10.010 - 37.10.060;
15 (7) AS 37.10.085;
16 (8) AS 37.20;
17 (9) AS 37.25;
18 (10) AS 44.62.040 - 44.62.320.

19 Sec. 42.40.930. CONFLICTING LAWS INAPPLICABLE. If provisions of
20 AS 42.40 conflict with the provisions of other law, the provisions of
21 AS 42.40 prevail. Provisions of AS 42.40 shall be construed so that
22 they do not conflict with 45 U.S.C. 1201-1214 (Alaska Railroad Trans-
23 fer Act of 1982).

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

26 Sec. 42.40.980. DEFINITIONS. In this chapter,

27 (1) "board" means the board of directors of the Alaska
28 Railroad Corporation;

29 (2) "collective bargaining" means negotiating with an

1 employees organization and representing employees on matters pertain-
2 ing to conditions of employment;

3 (3) "corporation" means the Alaska Railroad Corporation;

4 (4) "date of transfer" means the date on which the United
5 States Secretary of Transportation delivers the deed of conveyance for
6 the properties of the Alaska Railroad under 45 U.S.C. 1201 - 1214
7 (Alaska Railroad Transfer Act of 1982);

8 (5) "employees" means all persons employed by the corpo-
9 ration including executive officers;

10 (6) "executive officer" means the corporation's chief
11 executive officer, assistant chief executive officer, assistant to the
12 chief executive officer, chief of administration, superintendent of
13 transportation, manager of marketing and sales, chief engineer, chief
14 mechanical officer, manager of industrial development and real estate,
15 manager of budget and accounting, manager of planning, manager of
16 personnel, manager of supply and procurement, chief of security,
17 manager of operating rules, manager of data processing, manager of
18 strategy, manager of operations planning, manager of supply, manager
19 of procurement, manager of safety, manager of administrative proce-
20 dure, chief counsel, or, if so designated by the board, any employee
21 who fulfills these management functions under a different title or who
22 exercises a similar or comparable level of responsibility;

23 (7) "land" means all real property, including tide and
24 submerged land;

25 (8) "rail properties" means all real and personal property,
26 tangible and intangible, of the corporation.

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

29 * Sec. 3. AS 42.40.010 is amended to read:

1 Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is
2 established the Alaska Railroad Corporation. The corporation is a
3 public corporation and is an instrumentality of the state [WITHIN THE
4 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT]. The corporation has
5 a legal existence independent of and separate from the state. The
6 exercise by the corporation of the powers provided in this chapter is
7 considered an essential government function of the state.

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

9 (a) The powers of the corporation are vested in the board of
10 directors. The board consists of [THE COMMISSIONER OF COMMERCE AND
11 ECONOMIC DEVELOPMENT,] the chief executive officer of the corporation,
12 and eight [SEVEN] members appointed by the governor. The eight
13 [SEVEN] appointed members must be registered voters in the state
14 except as provided in (b) and (c) of this section. No more than two
15 appointed members may be from any one of the four judicial districts
16 in the state. Two of the appointed members must have at least five
17 years experience as owners or managers of a business in the state.
18 Except for [THE COMMISSIONER,] the chief executive officer [,] and the
19 member appointed under (d) of this section, a member may not be a
20 state officer or employee.

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

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

28 * Sec. 6. AS 42.40.030 is amended to read:

29 Sec. 42.40.030. TERM OF OFFICE; REMOVAL. (a) Except for [THE

1 COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT AND] the chief
2 executive officer of the corporation, members of the board serve for
3 staggered terms of five years each [AT THE PLEASURE OF THE GOVERNOR].

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

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

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

9 (2) continued refusal or inability to attend meetings of
0 the board; or

1 (3) conviction of a felony.

2 * Sec. 8. AS 42.40.180 is repealed and reenacted to read:

3 Sec. 42.40.180. RULES. (a) The board shall establish a procedure
4 for adopting, amending, and repealing rules to carry out its
5 functions and the purposes of this chapter, including a procedure for
6 the adoption or change of rules on an emergency basis when essential
7 to continue or to reinstate the orderly operation of the corporation's
8 facilities or programs.

9 (b) The board shall adopt rules to safeguard property owned,
0 managed, or transported by the corporation and to protect employees
1 and persons using the corporation's property or services.

2 * Sec. 9. SPECIAL REPORT. The governor shall contract with a private
3 consultant for the preparation of a report on the long-term operations of
4 the Alaska Railroad that are in the best interest of the state. The report
5 shall be submitted to the governor and the legislature by January 1, 1988.
6 It shall contain specific recommendations on operational alternatives and
7 the transfer of all or part of the railroad operation to the private sec-
8 tor.

9 * Sec. 10. APPOINTMENT OF FIRST BOARD OF DIRECTORS OF ALASKA RAILROAD

Original sponsors: Kerttula, Faiks,
Halford, et al

1 IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

2 CS FOR SENATE BILL NO. 352 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Railroad Corpora-
7 tion to operate the Alaska Railroad with a board of
8 nine directors responsible for management of the
9 corporation; requiring the board to appoint a chief
10 executive officer to manage the daily affairs and
11 operations of the corporation; authorizing the
12 board to adopt rules to carry out its functions;
13 authorizing the corporation to issue bonds and notes;
14 authorizing the corporation to own and manage all
15 property acquired by the corporation or transferred
16 to the state under 45 U.S.C. 1201 - 1214 (Alaska
17 Railroad Transfer Act of 1982); authorizing the
18 corporation to exercise eminent domain; exempting
19 the corporation from AS 19, AS 23.40, AS 30.15,
20 AS 35, AS 37.05, AS 37.07, AS 37.10.010 - 37.10.060,
21 37.10.085, AS 37.20, AS 37.25, AS 38, AS 39, and
22 AS 44.62.040 - 44.62.320; and providing for an
23 effective date."

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

25 * Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature
26 finds that

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

28 (A) provide safe, economical, and efficient transportation
29 to residents, businesses, visitors, and military installations in the

1 state;

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

4 (C) develop and implement plans for a transportation net-
5 work;

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

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

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

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

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

16 (1) create a viable economic entity with the powers and duties
17 necessary to operate and manage the Alaska Railroad pending eventual trans-
18 fer of the railroad to the private sector for its ownership or operation or
19 both consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
20 1982);

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

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

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

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

4 (C) have the ability to raise capital by issuing obliga-
5 tions exempt from federal and state taxation and applying for federal
6 money to which the state may be entitled or that may be available;

7 (D) carry out its responsibilities on a self-sustaining
8 basis;

9 (E) provide the best possible combination of types and
10 levels of safe, efficient, and economical transportation to meet the
11 overall needs of the state, supported when necessary by state invest-
12 ment;

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

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

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

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

20 CHAPTER 40. ALASKA RAILROAD CORPORATION.

21 ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

22 Sec. 42.40.010. ESTABLISHMENT OF THE CORPORATION. There is
23 established the Alaska Railroad Corporation. The corporation is a
24 public corporation and is an instrumentality of the state within the
25 Department of Commerce and Economic Development. The corporation has
26 a legal existence independent of and separate from the state. The
27 exercise by the corporation of the powers provided in this chapter is
28 considered an essential government function of the state.

29 Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the

1 corporation are vested in the board of directors. The board consists
2 of the commissioner of commerce and economic development, the chief
3 executive officer of the corporation, and seven members appointed by
4 the governor. The seven appointed members must be registered voters
5 in the state except as provided in (b) and (c) of this section. No
6 more than two appointed members may be from any one of the four judi-
7 cial districts in the state. Two of the appointed members must have
8 at least five years experience as owners or managers of a business in
9 the state. Except for the commissioner, the chief executive officer,
10 and the member appointed under (d) of this section, a member may not
11 be a state officer or employee.

12 (b) One member of the board shall be a person who has at least
13 10 years of experience in railroad management. A person who is not a
14 resident of the state may be appointed under this subsection.

15 (c) One member of the board shall be or have been an executive
16 official of a United States railroad and shall be selected in accor-
17 dance with any requirements imposed under 49 U.S.C. (Interstate Com-
18 merce Act). A person who is not a resident of the state may be ap-
19 pointed under this subsection.

20 (d) One member shall be an employee who is a member of a bar-
21 gaining unit representing employees of the corporation.

22 (e) Except for the commissioner of commerce and economic devel-
23 opment and the chief executive officer of the corporation, the members
24 of the board shall be confirmed by a majority of the members of each
25 house of the legislature in joint session. A member appointed by the
26 governor has the full powers and responsibilities of a confirmed board
27 member until the member is rejected by the legislature.

28 Sec. 42.40.030. TERM OF OFFICE. Except for the commissioner of
29

1 commerce and economic development and the chief executive officer of
2 the corporation, members of the board serve for staggered terms of
3 five years each at the pleasure of the governor.

4 Sec. 42.40.040. VACANCIES. (a) A vacancy on the board is
5 filled by appointment by the governor, and the appointment must be
6 confirmed by the members of each house of the legislature in joint
7 session. A member appointed to fill a vacancy holds office for the
8 balance of the term for which the member's predecessor was appointed.

9 (b) A vacancy on the board does not impair the authority of a
10 quorum of members to exercise the powers and perform the duties of the
11 board.

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

14 Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed
15 member of the board is entitled to compensation at a rate of \$250 for
16 each day the member is engaged in the actual performance of duties as
17 a member of the board. The board may provide by rule for compensation
18 for partial days during which an appointed member is engaged in actual
19 performance of duties as a member of the board.

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

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

26 (b) The board shall appoint a secretary and prescribe the duties
27 of the secretary.

28 ARTICLE 2. MANAGEMENT.

29 Sec. 42.40.100. MANAGEMENT BY THE BOARD. The board is

1 responsible for the management of the corporation but shall delegate
2 certain powers and duties to the chief executive officer in accordance
3 with AS 42.40.120. In managing the corporation the board shall

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

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

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

11 (4) apply to the legislature for an appropriation to be
12 used to provide a particular service that is not otherwise self-
13 sustaining if a subsidy is required to maintain that service;

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

16 (6) raise needed capital by issuing obligations of the
17 corporation while ensuring that borrowing by the corporation does not
18 directly or indirectly endanger the state's own borrowing capacity;

19 (7) review all private and state land disposal proposals to
20 aid in planning for future development or expansion of transportation
21 services;

22 (8) ensure that the accounting and procurement procedures
23 of the corporation meet accepted railroad industry standards.

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

28 (b) The chief executive officer of the corporation shall appoint
29 and fix the compensation for other executive officers. The

1 compensation for an executive officer appointed under this subsection
2 is subject to board approval.

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

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

11 (1) leasing, granting easements in, issuing permits for the
12 use of, or conveying other interests in property;

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

15 (3) making routine changes in service levels;

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

18 (5) performing procurement activities.

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

21 (1) conveying the corporation's entire interest in land;

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

23 (3) mortgaging or pledging corporation assets;

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

26 (5) acting as a surety or guarantor;

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

29 (7) certifying annual reports;

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

4 (9) expanding or reducing services in a major way;

5 (10) expanding the main or branch rail lines, other than
6 performing routine track alignment as necessary to maintain service
7 levels in effect on the date of transfer;

8 (11) selecting independent auditors and accountants;

9 (12) exercising the power of eminent domain;

10 (13) entering into collective bargaining agreements; and

11 (14) adopting annual budgets.

12 ARTICLE 3. ADMINISTRATIVE PROVISIONS.

13 Sec. 42.40.150. MEETINGS OF THE BOARD. (a) The chairman of the
14 board shall call meetings of the board at least once every three
15 months and may call other meetings of the board as necessary. The
16 chairman shall preside at meetings.

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

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

21 Sec. 42.40.160. QUORUM AND VOTING. (a) Five voting members of
22 the board constitutes a quorum for the transaction of business.

23 (b) Five affirmative votes are required for board action. The
24 board shall provide by rule for the manner of voting, except that the
25 board may not provide for voting by proxy. The rules may provide for
26 voting and conferring by telecommunication devices.

27 Sec. 42.40.170. EXECUTIVE SESSIONS. (a) The question of hold-
28 ing an executive session shall be determined by a majority vote of the
29 board. A subject may not be considered at an executive session unless

1 it is mentioned in the motion calling for the executive session or is
2 auxiliary to a subject mentioned. An action may not be taken at an
3 executive session.

4 (b) Only the following subjects may be discussed in an executive
5 session:

6 (1) matters, the immediate knowledge of which would clearly
7 have an adverse effect upon the finances of the corporation:

8 (2) unless the person has requested to have the subjects
9 discussed in public, subjects that tend to prejudice the reputation
10 and character of a person:

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

13 (4) matters pertaining to personnel;

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

15 (6) land acquisition or disposal; and

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

21 Sec. 42.40.180. RULES. (a) The board shall adopt rules to
22 carry out its functions and the purposes of this chapter, including
23 rules to safeguard property owned, managed, or transported by the
24 corporation and to protect employees and persons using the
25 corporation's property or services. At least 15 days before the
26 adoption, amendment, or repeal of a rule, the board shall give public
27 notice of the proposed action by publishing a notice in at least three
28 newspapers of general circulation in the state and by mailing a copy
29 of the notice to each person who has requested notice of proposed

1 changes to rules. The notice must state the time, place, and nature
2 of the proceedings and must contain a summary of the subject of the
3 proposed change.

4 (b) On the date and at the time and place designated in the
5 notice required under (a) of this section the board shall provide each
6 interested person an opportunity to present statements in writing
7 concerning the proposed change and shall give members of the public an
8 opportunity to present oral statements for a total period of at least
9 one hour.

10 (c) The board shall consider all relevant matters presented to
11 it before adopting, amending, or repealing a rule. The board may take
12 action on a rule that varies in content from the summary provided with
13 the notice of the proposed change if the subject of the rule was
14 reflected in the summary and it provided reasonable notice to the
15 public as to whether their interests could be affected by the board's
16 action on that subject.

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

19 Sec. 42.40.190. EMERGENCY RULES. (a) The board shall establish
20 in the bylaws of the corporation a procedure for the adoption, amend-
21 ment, or repeal of a rule on an emergency basis. An emergency change
22 may be made only when necessary for the orderly operation of the
23 corporation's facilities or programs. The requirements of AS 42.-
24 40.180 do not apply to actions taken under this section. However,
25 within 10 days after the adoption, amendment, or repeal of a rule on
26 an emergency basis the board shall give notice of its action that
27 substantially complies with the notice requirements of AS 42.40.-
28 180(a).

29 (b) An action taken under this section remains in effect for not

1 more than 120 days. To prevent an emergency change from lapsing the
2 board may make the same change under AS 42.40.180 before the end of
3 the 120-day period.

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

7 (b) An interested person may challenge a rule adopted, amended,
8 or repealed by the board by bringing an action in the superior court.
9 In addition to other grounds, a court may declare a change invalid

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

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

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

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

23 (b) The corporation may by rule designate and withhold public
24 disclosure of matters of a nonpublic, privileged, or proprietary
25 nature. Those matters include personnel records, communications with
26 and work product of legal counsel, and, consistent with the standards
27 and practices of the United States Interstate Commerce Commission for
28 the protection of these matters, other information including
29 proprietary information associated with specific shippers, divisions

1 .and contract rate agreements.

2 ARTICLE 4. POWERS AND DUTIES.

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

5 (1) adopt a seal;

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

7 (3) sue and be sued;

8 (4) appoint trustees and agents of the corporation and
9 prescribe their powers and duties;

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

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

13 (7) acquire by purchase, lease, bequest, devise, gift,
14 exchange, the satisfaction of debts, the foreclosure of mortgages, or
15 otherwise, personal property, rights, rights-of-way, franchises,
16 easements, and other interest in land, and acquire by appropriation
17 water rights that are located in the state, taking title to the prop-
18 erty in the name of the corporation;

19 (8) hold, maintain, use, operate, lease, exchange, donate,
20 improve, convey, alienate, dispose of, or transfer land or personal
21 property, subject to other provisions of this chapter;

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

26 (10) undertake and provide for the management, operation,
27 maintenance, use, and control of all of the property of the corpo-
28 ration, including all land and personal property of the Alaska
29 Railroad transferred under 45 U.S.C. 1203(a) and described in the

1 report dated July 14, 1983, as amended, submitted to Congress and the
2 legislature under 45 U.S.C. 1204(a);

3 (11) recommend to the legislature and the governor any tax,
4 financing, or financial arrangement the corporation considers appro-
5 priate for expansion or extension and operation of the Alaska Rail-
6 road;

7 (12) maintain offices and facilities at places it desig-
8 nates;

9 (13) apply to the state, the United States, and foreign
10 countries or other proper agencies for the permits, licenses, or
11 approvals necessary to construct, maintain, and operate railroad
12 transportation services, and obtain, hold, and reuse the licenses and
13 permits in the same manner as other railroad operators;

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

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

19 (16) enter into contracts, leases, and other agreements
20 with connecting carriers, shippers, and other persons concerning the
21 services, activities, operations, property, and facilities of the
22 railroad, including agreements that contain provisions to preserve and
23 expand the railroad's traffic base;

24 (17) plan for and undertake expansion of the railroad and
25 railroad activities, including extension of the rail system, and
26 contract with other modes of transportation service connecting to the
27 rail system;

28 (18) hire and discharge railroad personnel and determine
29 benefits and other terms of employment, in accordance with 45 U.S.C.

1 1201 - 1214 (Alaska Railroad Transfer Act of 1982);

2 (19) assume and satisfy liabilities of the United States in
3 accordance with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of
4 1982) and the closing report of July 14, 1983, as amended. prepared
5 and submitted to Congress and the Legislature under 45 U.S.C. 1204(a);

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

9 (21) issue its bonds or notes and provide for and secure
10 their payment, provide for the rights of their holders and hold or
11 dispose of them;

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

14 (23) cancel bonds of the corporation purchased by the corpo-
15 ration;

16 (24) secure the payment of its obligations by pledge, mort-
17 gage, or other lien on its contracts, revenues, income, or property;

18 (25) consent to the modification of the rate of interest,
19 time of payment of an installment of principal or interest, or other
20 term of a loan, contract, or agreement to which the corporation is a
21 party;

22 (26) borrow money, including the amounts necessary to estab-
23 lish reasonable reserves, and pay financing charges and interest on
24 the obligations for a reasonable period after which the corporation
25 estimates other money will be available to pay the interest, consul-
26 tant, advisory, and legal fees, and other expenses necessary or inci-
27 dent to borrowing; and

28 (27) do all things necessary or desirable to carry out the
29 powers and duties of the corporation granted or necessarily implied in

1 this chapter or other laws of the state or the laws or regulations of
2 the federal government.

3 Sec. 42.40.260. ANNUAL REPORT. Within 90 days following the end
4 of the fiscal year of the Alaska Railroad the board shall direct
5 preparation of, certify and distribute to the governor and to the
6 legislature a report describing the operations and financial condition
7 of the corporation during the preceding fiscal year. The report shall
8 itemize the cost of providing each category of service offered by the
9 railroad and the income generated by each category.

10 Sec. 42.40.270. AUDITS. (a) The board shall have the financial
11 records of the corporation audited annually by an independent
12 certified public accountant experienced in railroad accounting. The
13 board shall have an annual performance audit conducted by a recognized
14 railroad management expert to assure that the railroad is being
15 managed and operated effectively and efficiently in accordance with
16 the requirements of this chapter.

17 (b) The corporation shall make all of its financial records
18 available to an auditor appointed by the governor and to the
19 legislative audit division for examination. Disclosure to the public
20 by the auditor or legislative audit division of this information is
21 subject to AS 42.40.220 and rules implementing that section.

22 Sec. 42.40.280. LONG RANGE CAPITAL IMPROVEMENT AND PROGRAM PLAN.
23 (a) The corporation shall prepare and the board shall adopt a long
24 range capital improvement and program plan. The plan shall explain
25 the manner in which the corporation intends to accomplish the purposes
26 of this chapter and the corporation's anticipated capital improvements
27 during each of the five years after the plan is adopted.

28 (b) The board shall annually review and approve revisions to the
29 long range capital improvement and program plan. The board shall

1 provide copies of the updated plan to the governor and the legislature
2 by December 1 of each year.

3 Sec. 42.40.290. USE OF CORPORATION ASSETS. The corporation
4 shall apply all money, property, other assets, and credit of the
5 corporation toward activities authorized by this chapter. The corpo-
6 ration may not issue shares of stock, pay dividends, make private
7 distributions of assets, make loans to board members or employees, or
8 engage in business for private benefit. The use of money, property,
9 other assets, or credit of the corporation for a purpose not author-
10 ized by law by a person having the possession or control of it is
11 prohibited.

12 Sec. 42.40.300. INDEMNIFICATION. (a) The corporation may
13 defend and indemnify a current or former member of the board, em-
14 ployee, or agent of the corporation against all costs, expenses, judg-
15 ments, and liabilities, including attorney's fees, incurred by or
16 imposed upon that person in connection with a civil or criminal action
17 in which the person is involved by affiliation with the corporation,
18 if the person acted in good faith on behalf of the corporation and
19 within the scope of official duties or powers.

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

29 ARTICLE 5. CORPORATION PROPERTY.

1 Sec. 42.40.350. LAND. (a) All land transferred under 45 U.S.C.
2 1201 - 1214 (Alaska Railroad Transfer Act of 1982) or otherwise ac-
3 quired by the corporation is under the control of the corporation.
4 All land that is transferred or acquired by the corporation is des-
5 ignated as follows:

6 (1) railroad rights-of-way or easements are railroad
7 utility corridors;

8 (2) land other than railroad rights-of-way or easements is
9 rail land.

10 (b) Railroad utility corridors shall be of a width at least 100
11 feet on both sides of the centerline of the extended main or branch
12 line, or may be of lesser width if the adjoining land is not rail
13 land, and may be surveyed by the metes and bounds method. The
14 corporation may not convey land within a utility corridor. However,
15 the corporation may lease, grant easements or permits, or otherwise
16 authorize use of portions of a utility corridor for transportation,
17 communication, and transmission purposes and support functions
18 associated with those purposes, and for other uses authorized under
19 this chapter if the use does not restrict other parallel uses of the
20 utility corridor.

21 (c) The corporation may convey, lease, grant easements or per-
22 mits, or otherwise authorize use of portions of rail land.

23 Sec. 42.40.360. REQUEST FOR LAND. (a) The board may nominate
24 federal land necessary or useful for present, future or intended
25 railroad purposes and request the commissioner of natural resources to
26 select the land for the state through the federal land selection
27 process.

28 (b) The board by rule may identify and request the commissioner
29 of natural resources to convey land necessary or useful for present,

1 future, or intended railroad purposes owned by or tentatively approved
2 for transfer to the state including land not adjacent to a railroad
3 utility corridor. The request must include a statement of and
4 justification for the present, future or intended railroad use. Upon
5 receipt of a request, the commissioner shall temporarily reserve the
6 land identified in the request for railroad purposes and delay dis-
7 posal or lease of that land under other laws to a party other than the
8 corporation. The temporary reservation of land is subject to valid
9 existing rights and remains in effect for 180 days.

10 Sec. 42 40.370. CONVEYANCE OF LAND. (a) Within 90 days after
11 receiving a request under AS 42.40.360(b) the commissioner of natural
12 resources shall by written decision

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

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

18 (3) approve in part and deny in part the request.

19 (b) A conveyance of land under this section may be for less than
20 its appraised value as determined by the commissioner of natural
21 resources.

22 (c) In the absence of a reservation to the contrary, a convey-
23 ance of land under this section vests in the corporation ownership,
24 control of the surface and subsurface, and the exclusive right to
25 extract or use timber and other construction materials, sand, gravel,
26 rock, and the right to tunnel, ditch, recontour, excavate, or other-
27 wise use the land for railroad, transportation, transmission, and
28 related purposes without regard to the classification of the resources
29 as part of the surface or subsurface estate.

1 'd) The corporation may reconvey to the state land received
2 under this section that the corporation and the commissioner of natu-
3 ral resources jointly identify as unnecessary or unsuitable for the
4 corporation's purposes.

5 Sec. 42.40.380. USE OF STATE LAND. When physical conditions
6 require that track or other right-of-way fixtures of the corporation
7 be moved from the existing location and relocated on state land adja-
8 cent to or in the vicinity of the existing right-of-way and the chief
9 executive officer determines that relocation is necessary to maintain
10 safe and adequate rail operations, the corporation may effect the
11 relocation and notify the the Department of Natural Resources. The
12 relocation must affect only the amount of state land necessary to
13 adequately restore or continue safe rail operations at a normal level.

14 Sec. 42.40.390. LAND USE RULES. The board may adopt exclusive
15 rules governing land use by parties having interests in or permits for
16 land owned or managed by the corporation. The power conferred by this
17 section is exercised for the common health, safety, and welfare of the
18 public and to the extent constitutionally permissible, may not be
19 limited by the terms and conditions of leases, contracts, or other
20 transactions.

21 Sec. 42.40.400. EMINENT DOMAIN. (a) The corporation may exer-
22 cise the power of eminent domain under AS 09.55.240 - 09.55.460 to
23 acquire land for lawful purposes consistent with this chapter. The
24 corporation may acquire a fee simple title whenever, in the judgment
25 of the board, ownership of a fee simple title is necessary to carry
26 out the lawful purposes in condemning the land.

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

29 (c) The power of eminent domain conferred under this section

1 includes the power to obtain clay, gravel, sand, timber, rock, or
2 other material for railroad use, the land necessary to obtain the
3 material, and access to the land and material.

4 Sec. 42.40.410. VACATION OF LAND. The corporation may vacate
5 land acquired for railroad purposes by executing and filing a deed in
6 the appropriate recording district. Upon filing the deed the state
7 shall acquire title to the land.

8 Sec. 42.40.420. FEDERAL LAND. The corporation may submit appli-
9 cations on its own behalf as an instrumentality of the state for
10 acquisition of federal land available under federal law that will
11 enhance the operations of the corporation. The corporation may re-
12 ceive in its own name conveyances of all interests in federal land.

13 Sec. 42.40.430. MUNICIPAL USE OF RAILROAD LAND. Upon request
14 the corporation may authorize use of railroad land for municipal
15 purposes. Subject to AS 42.40.350(b), the corporation may authorize a
16 municipality to establish a walkway or trail over a utility corridor.
17 Before authorizing a use under this section the board shall require
18 the municipality to execute an agreement in a form approved by the
19 board to

20 (1) hold the corporation harmless and indemnify the corpo-
21 ration for any use made of the railroad land including

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

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

27 (2) stop the use of railroad land upon request of the
28 corporation if, as determined by the corporation, the use interferes
29 with expansion or replacement of railroad facilities.

1 Sec. 42.40.440. ACQUISITION OF GOVERNMENT PROPERTY. The corpor-
2 ation, as an instrumentality of the state, may acquire in its own name
3 from the United States under 50 App U.S.C. 1622 et seq. (Surplus
4 Property Act of 1944), 40 U.S.C. 471 et seq. (Federal Property and
5 Administrative Services Act of 1949), or other law, property under the
6 control of a federal department or agency that is useful for the
7 corporation's purposes. The corporation may acquire from the Depart-
8 ment of Administration property of the state made available under
9 AS 44.71.010 - 44.71.040.

10 ARTICLE 6. FINANCIAL PROVISIONS.

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

16 Sec. 42.40.510. FIDELITY BOND. The corporation shall obtain a
17 fidelity bond in an amount determined by the board for board members
18 and each executive officer responsible for accounts and finances. A
19 bond must be in effect during the entire tenure in office of the
20 bonded person.

21 Sec. 42.40.520. INSURANCE. Except as provided in AS 42.40.300-
22 (b), the corporation shall protect its assets, services, and employees
23 by purchasing insurance or providing for certain self-insurance re-
24 tentions. The corporation shall also maintain casualty, property,
25 business interruption, marine, boiler and machinery, pollution liabil-
26 ity, and other insurance in amounts reasonably calculated to cover
27 potential claims against the corporation or state for bodily injury,
28 death or disability and property damage that may arise from or be
29 related to corporation operations and activities.

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

5 Sec. 42.40.540. APPROPRIATIONS. The corporation may request,
6 with the concurrence of the governor, a direct appropriation or grant
7 from the legislature to assist in carrying out the provisions of this
8 chapter.

9 ARTICLE 7. BONDS AND NOTES.

10 Sec. 42.40.600. GENERAL PROVISIONS. (a) The corporation by
11 resolution may issue bonds and bond anticipation notes to provide
12 money to carry out its purposes. However, the proceeds may not be
13 used for activities other than those specifically related to the
14 purposes for which the instruments are originally issued.

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

17 (1) be dated;

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

20 (3) be in a required denomination;

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

22 (5) carry conversion or registration provisions;

23 (6) have a required rank or priority;

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

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

27 (9) be subject to authentication by a trustee or fiscal
28 agent; and

29 (10) be subject to terms of redemption with or without

1 premium.

2 (c) Bonds or bond anticipation notes may be sold in the manner,
3 on the terms, and at the price the board determines. Bond anticipa-
4 tion notes shall mature at the time or times determined by the board.
5 Bonds shall mature at the time, not exceeding 50 years from their
6 date, determined by the board.

7 Sec. 42.40.610. NEGOTIABLE INSTRUMENTS. Bonds and notes issued
8 under this chapter and interest coupons attached to them are nego-
9 tiable instruments under the laws of this state, subject only to
10 applicable provisions for registration.

11 Sec. 42.40.620. BONDS AND NOTES ELIGIBLE FOR INVESTMENT. Bonds
12 and notes issued under this chapter are securities in which all public
13 officers and public bodies of the state and its political subdivi-
14 sions, all insurance companies, trust companies, banking associations,
15 investment companies, executors, administrators, trustees and other
16 fiduciaries may properly and legally invest funds, including capital
17 in their control or belonging to them. These bonds and notes may be
18 deposited with a state or municipal officer of an agency or political
19 subdivision of the state for any purpose for which the deposit of
20 bonds or notes of the state is authorized by law.

21 Sec. 42.40.630. PAYMENT OF BONDS AND NOTES. (a) The principal
22 and interest on bonds or notes of the corporation is payable from
23 corporation money or assets. Bonds or notes may be additionally
24 secured by a pledge of a grant or contribution from the federal gov-
25 ernment or a corporation, association, institution or person, or a
26 pledge of money, income, or revenue of the corporation from any
27 source.

28 (b) Bond anticipation notes may be payable from the proceeds of
29 the sale of bonds or other bond anticipation notes, or, if bond or