

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4827 HLAB HB 476 - HB 485

399

HB

476

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: DEC  
 Title: An act establishing a revolving loan fund for hazardous waste reduction... BRU: Environmental Quality  
 Sponsor: Brown et al Components: Air and Solid Waste  
 Requestor: House Labor & Commerce

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	100	100	100	100	100	100
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND	100	100	100	100	100	100
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

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

**ANALYSIS :** (Attach a separate page if necessary)

The Department could administer the small grant program with resources in the proposed FY 89 budget. This fiscal note matches the level of funding proposed in appropriations bill HB 477.

Prepared by: Amy D. Kyle Phone: 465-2600  
 Division: Commissioner's Office Date: 14 April 1988

Approved by Commissioner: [Signature] Date: April 14, 1988  
 Agency: DEC

Distribution (by preparer) :  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

# STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

STEVE COWPER, GOVERNOR

## POSITION PAPER FOR HB 476

### Title

An Act establishing a revolving loan fund for hazardous waste reduction and a loan review committee to review and advise concerning these loans; authorizing a hazardous waste reduction technical assistance project for small businesses; and providing for an effective date.

### Effect of the Bill

The bill would establish a revolving loan fund in the Department of Commerce and Economic Development for waste reduction projects. It would also establish by statute the authority for the Department of Environmental Conservation to manage a technical assistance program to assist small businesses in finding ways to reduce their production of hazardous wastes.

### Department Position

The Department strongly supports the concept of waste reduction. Increasingly, states, industry, the Environmental Protection Agency, and the public are finding that reducing the amount of waste produced is the most cost effective management technique. This is especially true for hazardous wastes, where both the financial costs and the risks associated with handling and disposal of hazardous wastes are high.

There is a great need for technology transfer on this subject, to make information about appropriate waste reduction techniques available to industry and especially to small businesses that do not have independent capacity for research. This bill would provide a mechanism to begin to meet that need.

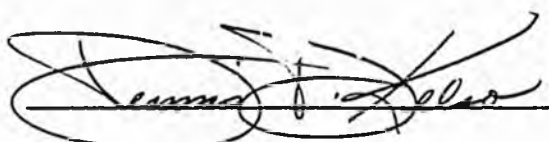
The bill proposes that this department would use contractual services to provide technical assistance. The department supports this approach, especially as an initial step. The amount of funding proposed is small. As an example, the State of Rhode Island started a technical assistance program with \$5,000,000. The level of funding proposed would likely provide for about 40 audits of small businesses to identify opportunities for waste reduction, assuming that audits cost \$5,000 each and that the contractor requires 20% overhead. In Alaska, there are between 300 and 400 regulated hazardous waste handlers and

probably several hundred more small businesses that could be eligible for these funds.

Other concepts that the Legislature may wish to consider include grants for waste reduction plant improvements and establishment of state priorities for handling of hazardous waste.

Fiscal Effect

The bill would require DEC to manage a contract for technical assistance. The department would be able to handle this within the proposed FY 89 budget. The fiscal note submitted includes the proposed \$100,000 in funding for the grant program. This corresponds to the funding proposed in HB 477.

A handwritten signature in black ink, appearing to read "Dennis D. Kelso", is written over a horizontal line. The signature is stylized and somewhat cursive.

Dennis D. Kelso, Commissioner



# Alaska Health Project

Providing information about hazardous materials on the job and in the community.  
431 West 7th Ave., Suite 101, Anchorage, AK 99501 (907) 276-2864

## LEGISLATIVE INFORMATION SHEET

### WASTE REDUCTION: The Solution to Alaska's Industrial Waste Problems

Pollution prevention through waste reduction is an economically sensible approach to solid and hazardous waste management. By reducing the generation of waste at the source before it becomes a pollutant and a "lost" resource, business' can use resources more efficiently, decrease regulatory compliance costs, reduce liabilities, and create additional revenues from the recovery of waste materials.

Waste reduction also benefits the State of Alaska by helping to:

- \* Reduce illegal disposal of industrial waste material.
- \* Reduce cleanup costs associated with abandoned waste sites.
- \* Support and enhance statewide environmental protection programs.
- \* Increase the capacity (life span) of state solid waste management facilities.
- \* Promote the state economy by helping businesses reduce losses (money) associated with the creation of industrial waste of all types.
- \* Increase awareness of state waste management issues among the business community to help foster meaningful state policy debate in this area.
- \* Protect public health through the elimination of harmful land, air, and water pollution.

To date, the State of Alaska is moving ahead with development of a statewide waste management program. A portion of the proposed 3 million dollar increase to the Department of Environmental Conservation budget will help the Agency continue efforts to develop a waste management system in Alaska. However, a major deficiency in Alaska's approach to waste management is the lack of attention to and funding for waste reduction, the ultimate solution to our waste problems.

LEGISLATIVE INFORMATION SHEET / WASTE REDUCTION / 18

Less than one (1) percent of the seventy (70) billion dollars spent nationally to control pollution is directed toward efforts to reduce the generation of waste (Office of Technology Assessment, "Serious Reduction of Hazardous Waste," 1986). While national efforts are growing in this area, the current trend is for states to assume ultimate responsibility for waste reduction services. The State of Alaska needs to address this issue.

#### **House Bill 476 and 477: A First Step**

Representative Kay Brown has taken an important first step to include waste reduction within the state's overall waste management system with the introduction of House Bill 476.

The bill will initiate a revolving loan program within the Department of Commerce and Economic Development to fund small business activities in the area of waste reduction. The legislation also establishes a waste reduction technical assistance project to be administered by the Department of Environmental Conservation. This bill will provide needed incentives to promote waste reduction in Alaska.

Representative Brown also introduced House Bill 477 which appropriates funds to support the revolving loan program and the technical assistance project.

Representatives Davis, Menard, Navarre, and Ulmer are co-sponsors of both HB 476 and HB 477.

#### **Additional Information**

The Legislature is encouraged to consider this legislation and to collect additional information on waste reduction. For more information please contact:

Eric Meyers, c/o Representative Kay Brown, P.O. Box V (MS 3100), Juneau, Alaska 99811. Tel.#: 907-465-3784

David Wigglesworth, Alaska Health Project, 431 West 7th Ave., Suite 101, Anchorage, Alaska 99501. Tel.#:907-276-2864.



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# Alaska Health Project

Providing information about hazardous materials on the job and in the community.  
417 West Eighth Avenue, Anchorage, Alaska 99501 (907) 276-2864

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## SUMMARY OF WASTE REDUCTION ACTIVITIES

The Alaska Health Project (AHP) currently operates a Waste Reduction Assistance Program (WRAP) which provides information and technical assistance and conducts on-site audits for the small business community. WRAP is a pilot project that was designed and implemented under an EPA Region 10 grant. AHP recently received additional federal assistance from Region 10 to continue the WRAP program during the 1988 federal fiscal year. AHP also operates the small business Hazardous Materials Management Project (HMMP) which provides education outreach and research on waste reduction and hazardous materials. A manual is being developed under HMMP to promote waste reduction in Alaskan small businesses. The Small Business Development Center is assisting AHP in disseminating various HMMP information materials to small businesses in Alaska. HMMP is a three-year project funded by a private foundation. AHP is a private non-profit organization located in Anchorage, Alaska.

Municipality  
of  
Anchorage



OFFICE OF THE MAYOR

P.O. BOX 6650  
ANCHORAGE, ALASKA 99502-0650  
(907) 264-4431

TONY KNOWLES  
MAYOR

December 16, 1987

Dr. Larry Weiss, Executive Director  
Alaska Health Project  
431 West 7th Avenue, Suite 101  
Anchorage, AK 99501

Dear Dr. <sup>Larry</sup>Weiss:

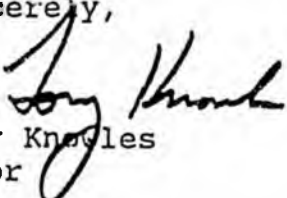
It is with a great deal of appreciation that I, on behalf of the citizens of the Municipality of Anchorage, bestow upon the Alaska Health Project the 1987 Mayor's Pollution Prevention Award. I would like to present the award to you and your staff personally on December 21, at noon in the Mayor's Conference Room (8th Floor, Hill Building, 632 West Sixth Avenue). The Hazardous Materials Advisory Commission and other award recipients will also be on hand to thank you for all your efforts.

The Waste Reduction Assistance Program conducted by the Alaska Health Project is a truly outstanding example of providing needed on-site advise and help to businesses on pollution prevention. The program has not only raised an awareness of the environmental and economic benefits of pollution prevention, but has provided practical technical assistance to many businesses that would otherwise not have the money or expertise for such programs. The on-site consultation audit reports prepared by the Alaska Health Project for dry cleaners, auto body shops, auto repair shops, photofinishers, printers, and aviation facilities provide valuable information on low-cost waste reduction techniques.

The leadership of the Alaska Health Project on pollution prevention is outstanding and provides an example for others to follow. Through efforts of the Alaska Health Project, our environment and quality of life will be preserved at an all-time high.

Thank you and congratulations! I hope you will display the award with pride.

Sincerely,

  
Tony Knowles  
Mayor

cc: Hazardous Materials Advisory Commission



## Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1334 PHONE (503) 220-5696

December 2, 1987

Mr. David Wigglesworth  
Alaska Health Project  
Waste Reduction Assistance Program  
417 West Eighth Avenue  
Anchorage, AK 99501

Dear David:

I have just received comments from two automotive repair shops in Portland that I asked to review the Audit Report that the Alaska Health Project produced as part of your contract with EPA.

The report tracks almost exactly with the experience and operations of medium to large size auto repair operations in Oregon, and will be a very useful tool for Oregon's waste reduction technical assistance program.

Because of this, we would like to include some of the information in this report as part of a waste reduction fact sheet that would be distributed by the Department to all auto repair facilities in the state. We will, of course, credit the Alaska Health Project in the publication.

Dave, the Alaska Waste Reduction Assistance Program is doing a great job. Let me know if we can help and keep up the good work.

Sincerely,

David Rozell  
Hazardous Waste Reduction Specialist  
Hazardous and Solid Waste Division

DR:f  
ZF2704  
cc: Bill Steyer, EPA, Region X



U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 SIXTH AVENUE  
SEATTLE, WASHINGTON 98101

REPLY TO  
ATTN OF: HW-112

DEC 23 1977

*File*

David Wigglesworth  
Alaska Health Project  
417 West Eighth Avenue  
Anchorage, Alaska 99501

Dear Mr. Wigglesworth:

Thank you for submitting your First Quarter Report for the WRAP II Project to the Environmental Protection Agency (EPA). I was quite satisfied with both the format and content of the report. It certainly appears that the project is right on schedule in meeting its objectives. Indeed, you have made much progress to date.

Thank you for also providing us with copies of the publications which you recently prepared for small businesses on "Waste Reduction Tips". These fact sheets are an excellent tool for educating businesses about the various waste reduction opportunities available to them.

On behalf of EPA, I would like to commend you and your staff on the fine work you are doing.

Sincerely,

*Bill Steyer*  
Bill Steyer  
EPA Project Officer

HB

482



Official Business

**COMMITTEE:**

HOUSE LABOR & COMMERCE

**DATE:** March 15, 1988

**SIGN-IN**

**Subject of meeting:**

A presentation on the Alliance Bank and the proposed Hallwood Stabilization Trust.  
 HJR 64 "Relating to Alaska's participation in the bottomfish fisheries in the exclusive economic zone."  
 SB 15 "An Act relating to trade secrets."  
 HB 482 "Appropriation loan to the Alaska Power Authority."  
 HB 483 "An Act relating to loans from the Railbelt energy fund; and providing for an effective date."  
 SB 322 "An Act relating to workers' compensation and providing for an effective date."

PLEASE PRINT  
**NAME & TITLE**

**REPRESENTING**

**ADDRESS & ZIP**

**PHONE**

**DO YOU WANT  
 TO TESTIFY?  
 YES / NO**

**SUBJECT:  
 BILL #**

City Manager Nancy Gross	City of Unalaska	PO Box 89 Unalaska 99685	H W 581-1251	HJR64	
			H W		
TONY GUMBINER	CHAIRMAN OF THE BOARD THE HALLWOOD GROUP	767 Third Avenue NY NY 10017	H W		
JIM CAIRNS	CHAIRMAN OF THE BOARD ALLIANCE BANK	MINNESOTA / BENSON BLVD ANC AK	H W		
GARY DAILY	CITY OF UNALASKA	Box 89 Unalaska AK 99685	H 581-1682 W 581-1250	HJR64	HJR64
Barbara Shenberg	State Div. of Governmental Coordin.	PO Box AEW 99811	H W		
C.S. Christensen	Sen Fails	Capitol Bldg Rm 107	H W 3755	IF NEEDED	SB 15
			H W		
			H W		
			H W		



STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907.465.3800

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H L+C

3-15-88

2:30 p.m.

# HOUSE COMMITTEE REPORT

(7)

Date referred: 2/15/88

FURTHER REFERRALS:

Resources  
Finance

DATE: 3/15/88

The Labor & Commerce Committee has considered HB 482

"An Act making an appropriation from the Railbelt energy fund as a loan to the Alaska Power Authority for construction of the Bradley Lake power project; and providing for an effective date."

**RECOMMENDS:**

- replace with CS HB 482 (LTC)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

\_\_\_\_\_

*[Signature]*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SIGNING OTHER RECOMMENDATIONS:**

*[Signature]* (NO REC)

*[Signature]* (no rec)

*[Signature]* (not a good use of fund!)

*[Signature]*

*[Signature]* no rec.

*[Signature]*

Chairman's Signature

Original sponsors: Cotten, Sund, Navarre  
and Brown

Funding Information

General Fund	\$183,000,000
Other Funds	-0-
	<u>\$183,000,000</u>

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 482 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making appropriations from the Railbelt  
7 energy fund to the Railbelt energy account of the  
8 power development revolving loan fund for construc-  
9 tion of the Bradley Lake power project and the Fritz  
10 Creek transmission line; and providing for an  
11 effective date."

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

13 \* Section 1. The sum of \$165,000,000 is appropriated from the Railbelt  
14 energy fund (AS 37.05.153) to the Railbelt energy account of the power  
15 development revolving loan fund (AS 44.33.600) in the Department of Com-  
16 merce and Economic Development for the purpose of making a loan to the  
17 Alaska Power Authority for construction of the Bradley Lake power project.

18 \* Sec. 2. The sum of \$18,000,000 is appropriated from the Railbelt  
19 energy fund (AS 37.05.153) to the Railbelt energy account of the power  
20 development revolving loan fund (AS 44.33.600) in the Department of Com-  
21 merce and Economic Development for the purpose of making a loan to the  
22 Alaska Power Authority for the construction of the Fritz Creek transmission  
23 line from Bradley Lake Junction to Soldotna.

24 \* Sec. 3. The appropriations made by this Act are for capitalization of  
25 a loan fund and do not lapse under AS 37.25.010.

26 \* Sec. 4. This Act takes effect on the effective date of an Act enacted  
27 by the Fifteenth Alaska State Legislature that creates the Railbelt energy  
28 account in the power development revolving loan fund.

5-1872B  
Utermohle  
3/14/88

Original sponsors: Cotten, Sund, Navarre  
and Brown

Funding Information

General Fund	\$	-0-
Other Funds		165,000,000
		<u>\$165,000,000</u>

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 482 ( )

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making an appropriation from the Railbelt  
7 energy fund to the Railbelt energy account of the  
8 power development revolving loan fund for construc-  
9 tion of the Bradley Lake power project; and providing  
10 for an effective date."

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

12 \* Section 1. The sum of \$165,000,000 is appropriated from the Railbelt  
13 energy fund (AS 37.05.153) to the Railbelt energy account of the power  
14 development revolving loan fund (AS 44.33.600) in the Department of Com-  
15 merce and Economic Development for the purpose of making a loan to the  
16 Alaska Power Authority for construction of the Bradley Lake power project.

17 \* Sec. 2. The appropriation made by this Act is for a capital project  
18 and is subject to AS 37.25.020.

19 \* Sec. 3. This Act takes effect on the effective date of an Act enacted  
20 by the Fifteenth Alaska State Legislature that creates the Railbelt energy  
21 account in the power development revolving loan fund.

A M E N D M E N T

Offered in the HOUSE

TO: CSHB 482( )

Page 1, line 6:

Delete "an appropriation"

Insert "appropriations"

Page 1, line 9, after "project":

Insert "and the Fritz Creek transmission line"

Page 1, after line 16:

Insert the following new bill section to read:

"\* Sec. 2. The sum of \$18,000,000 is appropriated from the Railbelt energy fund (AS 37.05.153) to the Railbelt energy account of the power development revolving loan fund (AS 44.33.600) in the Department of Commerce and Economic Development for the purpose of making a loan to the Alaska Power Authority for the construction of the Fritz Creek transmission line from Bradley Lake Junction to Soldotna."

Renumber the following bill sections accordingly.

Page 1, lines 16 - 17:

Delete "appropriation made by this Act is for a capital project and is"

Insert "appropriations made by this Act are for capital projects and are"

FISCAL NOTE

REQUEST:

Revision Date: 3/14/88  
Title: \_\_\_\_\_

Agency Affected: AK Power Authority; Dept. of Revenue  
BRU: \_\_\_\_\_

Sponsor: Cotten, Sund, Navarre, Brown  
Requestor: House Labor and Commerce

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91(2)	FY 92	FY 93	FY94-FY22
PERSONAL SERVICES							
TRAVEL							
CONTRACTUAL							
SUPPLIES							
EQUIPMENT							
LAND & STRUCTURES							
GRANTS, CLAIMS							
MISCELLANEOUS							
TOTAL OPERATING							
CASE 1							
Net CAPITAL	0	0	0	172,220(1)	320	430	12,210
CASE 2							
NET CAPITAL	0	0	0	172,220(1)	1,230	1,740	201,600

SEE NOTE  
inc. Spent  
income  
invested  
after 1990

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER Railbelt energy						
TOTAL						

POSITIONS:

FULL-TIME	none					
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached. This analysis assumes 6% loan.

Prepared by: Robert E. LeResche *RLeresche* Phone: 465-3575  
Division: Alaska Power Authority Date: March 14, 1988

Approved by Commissioner: J. Anthony Smith *J. Anthony Smith* Date: 3/14/88  
Agency: Dept. of Commerce & Economic Development

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

Fiscal Years

<u>1991</u>	<u>1992</u> <sup>(2)</sup>	<u>1993</u>	<u>1994-2022</u>
172,220 (1)	320	430	12,210

(1) Loan amount of \$164.62 million (329.24 total cost X 50% utility share) for Bradley plus 18.0 million for Fritz Creek Line is offset by one-half the financing costs that would be incurred if revenue bonds were issued instead.

(2) Amounts shown for FY92 and thereafter reflect interest earnings that could occur (if the funds were invested at a rate of 8.5%) offset by loan repayments at an assumed interest rate of 6.0% (as in the Four Dam Pool). Interest rate on the loan under the bills could range from 0% to the alternative cost of financing (approximately 8.0% in today's market). Costs would be offset in part (up to the alternative cost of financing by bonds) by savings to power consumers from lower rates.

NOTE: Costs shown assume that reinvestment earnings and loan repayments are spent the following year. If these amount remained with the fund and accrued interest earnings, the costs would increase to \$1.23 million, \$1.74 million and \$201.6 million for FY 92, FY93, and FY94-FY2022 respectively.

HB

483

# HOUSE COMMITTEE REPORT

(7)

Date referred: 2/15/88

FURTHER REFERRALS: Finance

DATE: 3/15/88

The Labor & Commerce Committee has considered HB 483

"An Act relating to loans from the Railbelt energy fund; and providing for an effective date."

**RECOMMENDS:**

- replace with CS HB 483 (L+C)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PARS:**

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
*Mike Kagan*  
 \_\_\_\_\_  
*Donna Brubaker*  
 \_\_\_\_\_  
*John Ellis*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
*Smith Memorial NO REC*  
 \_\_\_\_\_  
*Hurricane Honor (not a good use of fund)*  
 \_\_\_\_\_  
*David H. Douley (NO REC)*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
*David H. Douley*  
 \_\_\_\_\_  
 Chairman's signature

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HL+C

3-15-88

2:30 p.m.



Official Business

**COMMITTEE:**  
HOUSE LABOR & COMMERCE

**DATE:** March 15, 1988

# SIGN-IN

## Subject of meeting:

A presentation on the Alliance Bank and the proposed Hallwood Stabilization Trust.

HJR 64 "Relating to Alaska's participation in the bottomfish fisheries in the exclusive economic zone."

SB 15 "An Act relating to trade secrets."

HB 482 "Appropriation loan to the Alaska Power Authority."

HB 483 "An Act relating to loans from the Railbelt energy fund; and providing for an effective date."

SB 322 "An Act relating to workers' compensation and providing for an effective date."

PLEASE PRINT  
**NAME & TITLE**

**REPRESENTING**

**ADDRESS & ZIP**

**PHONE**

**DO YOU WANT  
TO TESTIFY?  
YES / NO**

**SUBJECT:  
BILL #**

<i>City Manager Nancy Gross</i>	<i>City of Unalaska</i>	<i>PO Box 89 Unalaska 99685</i>	H W 581-1251	<i>HJR64</i>	
			H W		
<i>TONY GUMBINER</i>	<i>CHAIRMAN OF THE BOARD THE HALLWOOD GROUP</i>	<i>767 Third Avenue NY NY 10017</i>	H W		
<i>JIM CAIRNS</i>	<i>CHAIRMAN OF THE BOARD ALLIANCE BANK</i>	<i>MINNESOTA / BENSON BLVD Anch Ak</i>	H W		
<i>GARY DAILY</i>	<i>CITY OF UNALASKA</i>	<i>Box 89 Unalaska AK 99685</i>	H 581-1682 W 581-1254	<i>HJR64</i>	<i>HJR64</i>
<i>Barbara Sheinberg</i>	<i>State Div. of Governmental Coordin.</i>	<i>PO Box A-11 99811</i>	H W		
<i>C.S. Christensen</i>	<i>Sen Fiala</i>	<i>Capitol Bldg Rm 107</i>	H W 3755	<i>IF NEEDED</i>	<i>SB 15</i>
			H W		
			H W		
			H W		



Original sponsors: Cotten, Sund,  
Navarre, et al.

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 483 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Railbelt energy account in  
7 the power development revolving loan fund; and pro-  
8 viding for an effective date."

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

10 \* Section 1. AS 44.33.600 is amended by adding a new subsection to  
11 read:

12 (c) There is established in the fund the Railbelt energy account  
13 for the purpose of funding loans for projects to meet Railbelt energy  
14 needs, including demand side energy conservation projects and energy  
15 use studies. The account consists of appropriations to the account,  
16 repayments of principal to the account, and subject to AS 37.07,  
17 income from investment of money in the account and from loans made  
18 from the account. The department may not make a loan from the account  
19 unless the loan has been authorized by the legislature. Loans made  
20 from the account must bear an interest rate of six percent.

21 \* Sec. 2. AS 44.33.610(a) is amended to read:

22 (a) The department may make a loan from the power development  
23 revolving loan fund to the Alaska Power Authority for the purpose of  
24 financing a power project acquired or constructed by the authority  
25 under the energy program for Alaska (AS 44.83.380 - 44.83.425). The  
26 department may make a loan from the Railbelt energy account in the  
27 fund for the additional purpose of financing demand side energy con-  
28 servation projects and energy use studies. Repayment of a loan from  
29 the fund must be made with the proceeds from the sale of power from

1 projects in the energy program for Alaska. Except as provided in  
2 AS 44.83.398(i), the payments required to be made by the authority on  
3 a loan from the fund constitute debt service for the purpose of  
4 calculating the wholesale power rate in AS 44.83.398(b)(1).

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

REQUEST:

Revision Date: 3/14/88  
Title: \_\_\_\_\_

Agency Affected: AK Power Authority; Dept. of Revenue  
BRU: \_\_\_\_\_

Sponsor: Cottell, Sund, Navarre, Brown  
Requestor: House Labor and Commerce

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91(2)	FY 92	FY 93	FY94-FY22
PERSONAL SERVICES							
TRAVEL							
CONTRACTUAL							
SUPPLIES							
EQUIPMENT							
LAND & STRUCTURES							
GRANTS, CLAIMS							
MISCELLANEOUS							
TOTAL OPERATING							

CASE 1

Net CAPITAL	0	0	0	172,220(1)	320	430	12,210
-------------	---	---	---	------------	-----	-----	--------

CASE 2

NET CAPITAL	0	0	0	172,220(1)	1,230	1,740	201,600
-------------	---	---	---	------------	-------	-------	---------

SEE NOTE  
Inc. Spen  
Income  
Invested  
After 1990

FUNDING: (Thousands of Dollars)

GENERAL FUND							
FEDERAL FUNDS							
OTHER <sup>Railbelt</sup> <sub>energy</sub>							
TOTAL							

POSITIONS:

FULL-TIME	none						
PART-TIME							
TEMPORARY							

ANALYSIS : (Attach a separate page if necessary)

See attached. This analysis assumes 6% loans.

Prepared by: Robert E. LeResche  Phone: 465-3575  
Division: Alaska Power Authority Date: March 14, 1988

Approved by Commissioner: J. Anthony Smith  Date: 3/14/88  
Agency: Dept. of Commerce & Economic Development

Distribution (by preparer):

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

Fiscal Years

<u>1991</u>	<u>1992</u> <sup>(2)</sup>	<u>1993</u>	<u>1994-2022</u>
172,220 (1)	320	430	12,210

(1) Loan amount of \$164.62 million (329.24 total cost X 50% utility share) for Bradley plus 18.0 million for Fritz Creek Line is offset by one-half the financing costs that would be incurred if revenue bonds were issued instead.

(2) Amounts shown for FY92 and thereafter reflect interest earnings that could occur (if the funds were invested at a rate of 8.5%) offset by loan repayments at an assumed interest rate of 6.0% (as in the Four Dam Pool). Interest rate on the loan under the bills could range from 0% to the alternative cost of financing (approximately 8.0% in today's market). Costs would be offset in part (up to the alternative cost of financing by bonds) by savings to power consumers from lower rates.

NOTE: Costs shown assume that reinvestment earnings and loan repayments are spent the following year. If these amount remained with the fund and accrued interest earnings, the costs would increase to \$1.23 million, \$1.74 million and \$201.6 million for FY 92, FY93, and FY94-FY2022 respectively.

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Department of Revenue  
 Title: Loans from the Railbelt Energy BRU: Treasury Management  
 Fund \_\_\_\_\_  
 Sponsor: Cotten Components: \_\_\_\_\_  
 Requestor: House Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 28	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker MB  
 Division: Treasury

Phone: 465-2350  
 Date: March 14, 1988

Approved by Commissioner: [Signature]  
 Agency: Department of Revenue

Date: 3/14/88

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

HB

484



March 2, 1988

Representative Adelheid Herrmann  
Alaska House of Representatives  
Box V  
Juneau, Alaska 99811

Re: HB 484 - An Act Relating to the Capital of  
Native Corporations

Dear Representative Herrmann:

Sealaska Corporation has noted with interest your introduction of HB 484, relating to the capital of Native corporations. As the largest of the 12 Alaska Native regional corporations, with nearly 16,000 shareholders, Sealaska believes that it will be the entity most impacted by this proposed legislation. Because of the large number of shareholders enrolled in Sealaska, Sealaska receives the largest portion of § 7(i) revenues shared by other regional corporations. Conversely, because Sealaska produces substantial resource-related revenues, each year it pays out substantial revenues to the other regional corporations.

In your memorandum of February 8, 1988, to all Bush Caucus members, you identified two effects of the proposed legislation. First, you indicated that revenues under § 7(i) of ANCSA "do not have to be considered income to the corporation receiving them, § 7(i) revenue can be considered capital." Second, you advised that the Native "corporations will have greater discretion in determining what will be paid out in dividends." You further stated that since § 7(i) revenue would be reported under "paid in capital" the use of these funds to pay dividends would be at the discretion of the corporation.

We have had the chance to evaluate HB 484, as finally proposed, and have concluded that the actual statutory language does not achieve its intended purposes. First, not only would the § 7(i) proceeds "not have to be considered income," such revenues could not be considered income under

the proposed new law. They must be booked as capital. Our reading of this provision is that it does not create greater discretion on the part of the corporations as to how to book these revenues. The provision simply requires that the revenue be booked as capital instead of income. This result may or may not be desirable, depending upon the circumstances of each corporation.

With respect to the exercise of discretion by the corporation in paying dividends, it would appear that the new provision would actually decrease the availability of funds from which the corporation could pay dividends, and really would increase the corporation's discretion to not pay dividends. Since § 7(i) revenues would be booked as capital, any distribution from that source would be subject to the statutory requirements for distributions in partial liquidation, which are more restrictive than those required for paying dividends from income, i.e., earned surplus or retained earnings. A distribution in partial liquidation of capital also requires a shareholder vote, while a dividend distribution is uniquely within the purview of the corporation's board of directors. (See, AS 10.05.207).

We have also consulted our accountants and tax advisers concerning the proposed bill to see what, if any, impact it would have on federal and state corporate income tax and financial statement reporting issues. We are advised, at least as the bill is presently constructed, that it would be unlikely to have any impact on either federal or state tax liabilities of the Native corporations. To the extent that § 7(i) revenues are presently considered income if they are retained by the corporation and not passed through pursuant to § 7(j), they would continue to be considered income for federal income tax purposes regardless of HB 484. It is a tenet of federal income tax law that state statutory classification of funds does not impact treatment of such funds for federal tax purposes.

In fact, it would also appear that this legislation might create something of an imbalance since the regional corporations must pay out 70% of their resource-derived revenues, which reduces their earnings, but under this proposal, would be required to book their share of other corporations' resource revenues as capital. In other words, the corporations would be paying out income and getting back capital, thereby creating a potentially negative impact on the "bottom line." This apparent result, combined with what we perceive to be reduced discretion to pay dividends to our shareholders, causes us to question this proposal. We note that, at least within Sealaska, we have had no particular difficulty in dealing with the present law.

Sealaska has not determined what position, if any, it will take with respect to HB 484. At this point, we are simply addressing our concerns to you as the prime sponsor in an effort to gain a more thorough understanding of the language and purpose of the bill. We hope that by expressing these concerns to you, we can assist in promoting a full discussion of the possible impacts of this legislation. We would appreciate the opportunity of participating in any such discussion and would request that you contact me either directly or through our counsel, Budd Simpson or Jon Tillinghast at the Birch, Horton law firm, so that we might participate in the hearing process on this matter.

Thank you very much for taking the time to review these issues, and for your continuing interest in and support of issues of importance to Native and rural Alaskans.

Sincerely,

SEALASKA CORPORATION

*Chris E. McNeil, JR. / EJA*  
Chris E. McNeil, Jr.  
Senior Vice President and  
General Counsel

CEM/amt

cc: Rep. F. Kay Wallis  
Rep. Albert F. Adams  
Rep. Bette Cato  
Rep. Max F. Gruenberg, Jr.  
House Labor & Commerce Committee  
Marlene A. Johnson, Chairman of the Board, Sealaska  
Corporation  
Byron I. Mallott, CEO, Sealaska Corporation  
William M. Howe, President and COO, Sealaska Corporation  
Division of Banking, Securities & Corporations  
Attn: Larry Carroll  
E. Budd Simpson, Birch, Horton, Bittner

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: An Act relating to the capital  
of Native corporations  
Sponsor: Herrmann, et al.  
Requester: \_\_\_\_\_

Agency Affected: Commerce & Econ. Dev.  
BRU: Banking, Securities & Corporations  
Components: \_\_\_\_\_

**EXPENDITURES / REVENUES : (Thousands of Dollars)**

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

<b>CAPITAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
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<b>REVENUE</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
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**FUNDING: (Thousands of dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS:**

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

**ANALYSIS:** (Attach a separate page if necessary.)

Prepared by: Willis F. Kirkpatrick, Director *WFK* Phone: 465-2521  
Division: Banking, Securities and Corporations Date: 2/26/88

Approved by Commissioner: J. Anthony Smith *JAS* Date: 2/26/88  
Agency: Department of Commerce and Economic Development

Distribution (by preparer):

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

H B

4 85

# HOUSE COMMITTEE REPORT

(7)

Date referred: 2/26/88

FURTHER REFERRALS:

DATE: 3-8-88

The Labor & Commerce Committee has considered HB 485

"An Act amending provisions relating to a solicitation for offers to purchase or operate the Alaska Railroad; and providing for an effective date."

**RECOMMENDS:**

- replace with CS HB 485 (LTC)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

\_\_\_\_\_  
*David Douley*  
 \_\_\_\_\_  
*Ellis*  
 \_\_\_\_\_  
*Cliff Davidson*  
 \_\_\_\_\_  
*John F. ...*  
 \_\_\_\_\_  
*Mike ...*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
*We ... no rec*  
 \_\_\_\_\_  
*... no REC*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
*David Douley*  
 \_\_\_\_\_  
 Chairman's signature

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB 485 (TRSP)  
PUBLISH DATE: HOUSE 2/26/88

## FISCAL NOTE

## REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Commerce & Econ. Dev.  
Title: An Act amending provisions relating to a solicitation for offers to purchase or operate the Alaska Railroad Corp.  
Sponsor: Cato Components: \_\_\_\_\_  
Requester: House Transportation Committee

## EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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## FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

## POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PARTTIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Jim Blasingame, Executive Vice President  
Division: Alaska Railroad Corporation

Phone: 265-2403  
Date: February 24, 1988

Approved by Commissioner: J. Anthony Smith, Commissioner  
Agency: Department of Commerce and Economic Development

Date: February 24, 1988

## Distribution (by preparer):

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

06910-4/022488a

# HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

Chairman - Representative Dave Donley

(907) 465-3892



March 4, 1988

To: House Labor and Commerce Committee members

Re: HB 485

There is available upon request from the committee secretary, a referral binder from House Transportation that includes:

\*HB 485 background information

\*research report - "Exemptions to and Sale Provision of the Alaska Railroad Act."

\*statutes

\*federal regulations

\*transfer overview

\*Alaska Railroad appraisal

\*assessment

\*misc.

# PROPOSAL TO SELL AK RAILROAD

## (A) ASSET APPRAISAL & INVENTORY

- 1-Land
- 2-Equipment
- 3-Facilities
- 4-Other Assets

## (B) COSTING ANALYSIS BY TYPE OF SERVICES

- 1-Freight
- 2-Coal (local & export)
- 3-Gravel
- 4-Petroleum
- 5-Pipe
- 6-TOFC-COFC
- 7-Interline
- 8-Passenger (Anch.-Fairbanks,Whittier,Seward & Charters)

## (C) DETAILED MARKETING PLAN

- 1-Freight
- 2-Passenger
- 3-Real Estate
- 4-Other

## (D) LONG-RANGE PROFITABILITY ANALYSIS

- 1-Pro-Forma Financials
- 2-Real Estate Potential

## (E) MODELS FOR FINANCING PURCHASE

- 1-Hiring of an Investment Banker

## (F) DETERMINATION OF LIQUIDATION VALUE

## (G) DEVELOP REPLACEMENT COST DATA

- 1-Land
- 2-Equipment
- 3-Facilities

## (H) RISK MANAGEMENT ANALYSIS

## (I) STATUS OF TITLE TRANSFER

- 1-Outstanding Issues ( Federal Transfer Act )
- 2-Native Claims

## (J) ANALYSIS OF LEGAL CLAIMS

(K) ANALYSIS OF LABOR CONTRACTS

- 1-Impact of Federal Transfer Act
- 2-Retirement Benefits (Federal & Corporation)
- 3-What kind of employee protection

(L) DETERMINE TYPE OF SALE (ANALYSIS)

- 1-Whole
- 2-Part
- 3-Combination

(M) DETERMINE STRUCTURE OF SALE (ANALYSIS)

- 1-Lease
- 2-Lease / Purchase
- 3-Outright Purchase
- 4-What Services To Be Retained

(N) IDENTIFICATION OF PROSPECTIVE BUYERS

PREPARED FOR HOUSE TRANSPORTATION COMMITTEE

H. B. 485

2-24-88 / G. D. VALINSKE

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Commerce & Econ. Dev.  
 Title: An Act amending provisions relating to a solicitation for offers to purchase or operate the Alaska Railroad Corp.  
 Sponsor: Cato Components: \_\_\_\_\_  
 Requester: House Transportation Committee

**EXPENDITURES / REVENUES : (Thousands of Dollars)**

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

**FUNDING: (Thousands of dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

**POSITIONS:**

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

**ANALYSIS:** (Attach a separate page if necessary.)

Prepared by: Jim Blasingame, Executive Vice President  
 Division: Alaska Railroad Corporation

Phone: 265-2403  
 Date: February 24, 1988

Approved by Commissioner: J. Anthony Smith, Commissioner  
 Agency: Department of Commerce and Economic Development

Date: February 24, 1988

Distribution (by preparer):

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

# HOUSE COMMITTEE REPORT

(7)

Date referred: 2/15/88

FURTHER REFERRALS: Labor & Commerce

DATE: 2/24/88

The Transportation Committee has considered HB 485

"An Act amending provisions relating to a solicitation for offers to purchase or operate the Alaska Railroad; and providing for an effective date."

**RECOMMENDS:**

- replace with CS HB 485 (TRSP)  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(s):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note
- zero with analysis  same as previous zero fiscal note published \_\_\_\_\_

**SIGNING DO PASS:**

Mike Hall

Herbert [unclear]

Paul [unclear]

[unclear]

[unclear]

[unclear]

[unclear]

[unclear]

[unclear]

[unclear]

[unclear]

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Bette Cato  
Chairman's signature

# Alaska State Legislature

## House of Representatives

### Committee on Transportation



Rep. Bette Cato, Chairman

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4858

February 24, 1988

\*\*\*\*\*

#### COMMITTEE CALENDAR:

HB 481: "An Act relating to naming the Woodrow Johansen Expressway."

HB 485: "An Act amending provisions relating to a solicitation for offers to purchase or operate the Alaska Railroad; and providing for an effective date."

FOR THIS MEETING, YOU HAVE BEEN GIVEN:

a folder on HB 481 that includes:

- item #1: HB 481
- #2: fiscal note - DOT/PF

a folder on HB 485 that includes:

- item #1: HB 485
- #2: CS HB 485
- #3: fiscal note - Depart. of Comm. & Economic Dev.
- #4: a green binder:
  - \* HB 485 & background info
  - \* legal services
  - \* statutes
  - \* federal regs
  - \* transfer overview
  - \* AK RR appraisal
  - \* assessment
  - \* misc.

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H TRAN

2-24-88

1:30 p.m.

THE FOLLOWING PAGES WERE TREATED AS  
A UNIT IN THE ORIGINAL FILE.

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Commerce & Econ. Dev.  
 Title: An Act amending provisions relating to a solicitation for offers to purchase or operate the Alaska Railroad Corp.  
 Sponsor: Cato Components: \_\_\_\_\_  
 Requester: House Transportation Committee

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Jim Blasingame, Executive Vice President  
 Division: Alaska Railroad Corporation

Phone: 265-2403  
 Date: February 24, 1988

Approved by Commissioner: J. Anthony Smith, Commissioner  
 Agency: Department of Commerce and Economic Development

Date: February 24, 1988

Distribution (by preparer):

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

THE ALASKA RAILROAD CORPORATION

The decision to purchase the Alaska Railroad from the federal government was made in 1984 however, discussions on this subject took place from 1980 onward. Numerous bills and resolutions were introduced regarding the railroad purchase.

- SCS CSHB 512 (fin) was signed into law by the Governor July 5, 1984. This act established the Alaska Railroad Corporation to manage and operate the Alaska Railroad and provided for an effective date of July 6, 1984.
- January 5, 1985, the Alaska Railroad was transferred from federal to state ownership.
- Purchase price \$22.3 million. This price did not include any receivables or cash, therefore the legislature appropriated an additional \$10.9 million (\$4.9 million for operating and \$6 million for capital)
- Effective January 6th, 1985 the Alaska Railroad Corporation became responsible for management and operation of the Alaska Railroad. A seven member Board of Directors appointed by the Governor are responsible for the overall management of the Corporation. The Corporation is a public corporation and is an instrumentality of the state within the Department of Commerce and Economic Development. The corporation has a legal existence independent of and separate from the state.
- The first year of operations, the ARRC posted a profit of \$7.133 million. In 1986, railroad revenues declined. This, coupled with several unexpected catastrophies caused the ARRC to record a \$985,000 loss. With 1987 year end recently completed, the ARRC has recorded a \$3.017 million profit for the year.
- Actual revenues for 1987 still show a significant reduction

1985	-	\$67.234 (million)
1986	-	\$58.133
1987		\$53.703

However, actual expenses have been reduced significantly

1985	-	\$58.085
1986	-	\$56.068
1987	-	\$45.604

- Several areas have changed substantially since the first year of operations of the ARRC. The major income producers have shifted:

<u>Decrease % 1987 vs 1985</u>	<u>Increase % 1987 vs 1987</u>
Pipe - 77.9%	Passenger + 25.1%
Gravel - 65.0%	Real Estate + 20.5%
Interline - 41.6%	Coal + 19.1%

- Over the past 3 years of state ownership the ARRC has to upgraded services. In 1985 the ARRC spent \$12.5 million on capital improvements and upgrades. In 1986 \$9.2 million was spent and in 1987 \$6.3 million in capital expenditures was incurred. These upgrades have included new locomotives, new intermodal cars, new bulletproof passenger service cars, additional bud cars, as well as many many capital dollars being spent to upgrade the exist track and rail bed.
- The Corporation has also capitalized on land leasing Total land holding of the Alaska Railroad is 39,292 acres. Of this 13,759 acres is used for right of way and, 8,124 is used for operating. The ARRC currently leases 2,077 acres of land throughout the state for a total income of \$5.206 million. This is a 20.5% increase over 1985.
- The Alaska Railroad transfer act provided specific language regarding the direction for the state owned railroad to follow.  
Sec. 3 Chapter 153 SLA 84 (SCS CSHB 512 Fin)  
Sec. 42.40.260 states. Every 5 years the annual from the ARRC to the Governor and legislature shall include potential sale arrangements whereby the corporation may be transfered to private ownership. The analysis shall include documentation of at least three offers to sell the corporation initiated by the corporation. This report would be be required in the ARRC annual report year end 1989 and would be presented to the legislature ir, January 1990.

To date no sale offers have been solicited and railroad management state the necessary sale package has not yet been prepared by the corporation.



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Box Y, State Capitol  
Juneau, Alaska 99811-3100  
Mail Stop 3100  
(907) 465-3991

January 16, 1987

MEMORANDUM

TO: Representative Bette Cato

ATTN: Wendy Chamberlain

FROM: Penelope Weyhrauch  
Legislative Analyst

RE: Exemptions to and Sale Provision of the Alaska Railroad Act  
Research Request 87.057

You asked for a discussion of the Alaska Railroad Act exemptions and what effect repealing the exemptions might have on the Alaska Railroad Corporation. You also asked for a discussion of the requirement relating to offering the railroad for sale, and whether or not the Alaska Railroad Corporation is complying with this requirement.

Alaska Railroad Act Exemptions

I contacted the Alaska Railroad Corporation (ARRC) and asked them to discuss how the corporation would be affected by repealing the exemptions listed in AS 42.40.920. I asked Tad Lewis, General Counsel for the ARRC, what specific effect on the corporation's revenue and operations the repeal of each of the statutory exemptions would have. Mr. Lewis' letter of response is attached. You will note that the response is very general.

Offering the Alaska Railroad for Sale

Alaska Statutes 42.40.260(b) states that "Every five years the [corporation's] annual report shall include an analysis of potential sale arrangements whereby the corporation may be transferred into private ownership. The analysis shall include documentation of at least three offers to sell the corporation initiated by the corporation during the last five years."

According to Jack McGee, Assistant Alaska Attorney General, AS 42.40.260(b) provides all the guidelines available for ARRC to follow to meet the offer-to-sell requirement. Mr. McGee said that the first five-year period began on January 5, 1985, at the time ownership for the railroad passed from the

federal government to the State. The ARRC is required to offer the railroad for sale three times before January 5, 1990.

Mr. McGee said that he interprets the statutory offer-to-sell requirement to mean that the ARRC must actively solicit offers and not just advertise that the railroad is for sale. Mr. McGee said that if the corporation does not comply with the statutory requirement, the legislature would probably take action, the severity of which would depend on how strongly they believed that the railroad should be transferred to private ownership.

I asked Mr. Lewis if the ARRC has taken any steps to begin complying with the statute. He said that at the last corporation board meeting, the board asked the ARRC's legal counsel to begin looking at different ways the corporation could approach complying with the requirement. Mr. Lewis mentioned that the board discussed the form in which offers should be conducted and how a sale will be most advantageous to the State. Mr. Lewis said that an offering to sell will probably be in the form of a solicitation of proposals to buy the railroad.

Mr. Lewis referenced federal restraints (included in the Alaska Railroad Transfer Act) in regard to selling the railroad. He said that one restraint is that if the railroad were sold within five years of the transfer of the railroad to State ownership, any profit from the sale reverts to the federal government. This restraint was included in the act because the federal government wanted the State to operate the railroad for at least five years. Mr. Lewis said that this restraint makes it more beneficial for the State to retain the railroad until after 1990.

\* \* \* \*

I have attached the Alaska Railroad Corporation Act (AS 42.40.010-980) for your information. If you would like the ARRC to provide more specific information on each of the exemptions, please let me know and I will write a second letter to the corporation.

PW

Attachments

STATE OF ALASKA  
THE LEGISLATURE

COPY

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 2, 1988

SUBJECT: Solicitation of offers to purchase  
the Alaska Railroad (W.O. 5-1769)

TO: Representative Bette Cato  
Chairperson  
House Transportation Committee

FROM: George Utermohle  
Legislative Counsel

Enclosed is the draft bill relating to solicitation of offers to purchase the Alaska Railroad requested by Wendy Chamberlain of your staff.

The bill establishes a schedule for the Governor to solicit offers for the purchase of the Alaska Railroad and then to report back to the legislature on the results of the solicitation. The bill achieves its purpose by imposing the duty upon the Governor under his authority under AS 42.40.940, rather than upon the Board of Directors of the Alaska Railroad under the provisions of AS 42.40.260(b).

The contents of the solicitation is left to the discretion of the Governor. The bill takes this approach rather than list all the things that must be included in the solicitation, because it would be difficult to anticipate all of the kinds of information that a prospective buyer may need in order to make a decision whether to pursue the issue further. Also a detailed listing of the contents of a solicitation for offers would require the assistance of experts familiar with privatization of government enterprises, and the sale of large corporations. In the absence of such expertise, the bill relies on the Governor to develop a meaningful solicitation for offers and gives the Governor ample time in which to develop and release the solicitation.

If I can provide further assistance, please advise.

Enclosure  
GU:bb  
wkb2/027

Offered: 5/23/84  
Referred: Rules

Original sponsors: Hayes, Ringstad,  
Shultz, et al

1 IN THE HOUSE BY THE FINANCE COMMITTEE  
2 SENATE CS FOR CS FOR HOUSE BILL NO. 512 (Finance) am S  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL  
6 For an Act entitled: "An Act establishing the Alaska Railroad Corporation  
7 to manage and operate the Alaska Railroad; and pro-  
8 viding for an effective date."  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
10 \* Section 1. LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature  
11 finds that  
12 (1) it is the policy of the state to  
13 (A) provide safe, economical, and efficient transportation  
14 to residents, businesses, visitors, and military installations in the  
15 state;  
16 (B) foster and promote the long-term economic growth and  
17 development of the state;  
18 (C) develop and implement plans for a transportation net-  
19 work;  
20 (D) foster and promote the development of the state's land  
21 and natural resources;  
22 (E) ensure that the Alaska Railroad does not use direct  
23 appropriations to fund a particular freight operation if it can be  
24 demonstrated that the appropriation has placed privately owned and  
25 operated carriers in an unfair competitive position. Nothing herein  
26 shall affect the provisions of AS 42.40.220(b);  
27 (2) the Alaska Railroad is an essential part of the state trans-  
28 portation network that may, unless preserved by state action, cease to be a  
29 transportation option in Alaska;

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

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

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

6           (1) create a viable economic entity with the powers and duties  
7 necessary to operate and manage the Alaska Railroad pending eventual trans-  
8 fer of the railroad to the private sector for its ownership or operation or  
9 both consistent with 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of  
10 1982);

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

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

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

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

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

27           (D) carry out its responsibilities on a self-sustaining  
28 basis;

29           (E) provide the best possible combination of types and

1 levels of safe, efficient, and economical transportation to meet the  
2 overall needs of the state, supported when necessary by state invest-  
3 ment;

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

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

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

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

11 CHAPTER 40. ALASKA RAILROAD CORPORATION.

12 ARTICLE 1. ESTABLISHMENT AND ORGANIZATION.

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

21 Sec. 42.40.020. BOARD OF DIRECTORS. (a) The powers of the  
22 corporation are vested in the board of directors. The board consists  
23 of the commissioner of commerce and economic development, the commis-  
24 sioner of transportation and public facilities, and five members  
25 appointed by the governor. The five appointed members must be regis-  
26 tered voters in the state except as provided in (1) and (2) of this  
27 subsection. Except for the commissioners and the member appointed  
28 under (5) of this section, a member may not be a state officer or  
29 employee. Appointed members shall have the following qualifications:

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

4 (2) one member of the board shall be or have been an execu-  
5 tive official of a United States railroad and shall be selected in  
6 accordance with any requirements imposed under 49 U.S.C. (Interstate  
7 Commerce Act); a person who is not a resident of the state may be ap-  
8 pointed under this paragraph;

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

11 (4) one members shall have at least five years experience  
12 as owners or managers of a business in the state;

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

15 (b) Except for the commissioners, the members of the board shall  
16 be confirmed by a majority of the members of the legislature in joint  
17 session. A member appointed by the governor has the full powers and  
18 responsibilities of a confirmed board member until the member is  
19 rejected by the legislature or the legislature adjourns without con-  
20 firming the member.

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

25 Sec. 42.40.040. VACANCIES. (a) Except for the commissioner of  
26 commerce and economic development and the commissioner of transporta-  
27 tion and public facilities, a vacancy on the board is filled by ap-  
28 pointment by the governor, and the appointment must be confirmed by  
29 the members of the legislature in joint session. A member appointed

1 to fill a vacancy holds office for the balance of the term for which  
2 the member's predecessor was appointed.

3 (b) A vacancy on the board does not impair the authority of a  
4 quorum of members to exercise the powers and perform the duties of the  
5 board.

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

8 Sec. 42.40.050. COMPENSATION AND EXPENSES. (a) An appointed  
9 member of the board is entitled to compensation at a rate of \$400 for  
10 each day the member is engaged in the actual performance of duties as  
11 a member of the board. The board may provide by rule for compensation  
12 for partial days during which an appointed member is engaged in actual  
13 performance of duties as a member of the board.

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

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

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

22 ARTICLE 2. MANAGEMENT.

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

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

29 (2) operate the Alaska Railroad as a common carrier subject

1 to the jurisdiction of the United States Interstate Commerce Commis-  
2 sion consistent with 45 U.S.C. 1207;

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

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

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

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

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

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

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

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

27 (b) The chief executive officer of the corporation shall appoint  
28 and fix the compensation for other executive officers. The compen-  
29 sation for an executive officer appointed under this subsection is

1 subject to board approval.

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

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

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

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

16 (3) making routine changes in service levels;

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

19 (5) performing procurement activities.

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

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

23 (2) mortgaging or pledging corporation assets;

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

26 (4) acting as a surety or guarantor;

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

29 (6) adopting annual reports;

1 (7) effecting general, comprehensive increases and de-  
2 creases in rates;

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

4 (9) expanding the main or branch rail lines including spur,  
5 industrial, team, switching or side tracks, other than performing  
6 routine track alignment as necessary to maintain existing service  
7 levels;

8 (10) selecting independent auditors and accountants;

9 (11) entering into collective bargaining agreements;

10 (12) adopting annual budgets;

11 (13) beginning a capital project with an estimated comple-  
12 tion cost of more than \$500,000 or an estimated completion time of  
13 more than one year;

14 (14) exchanging, donating, selling, or otherwise conveying  
15 its entire interest in land subject to approval by the legislature;

16 (15) exercising the power of eminent domain.

17 ARTICLE 3. ADMINISTRATIVE PROVISIONS.

18 Sec. 42.40.150. MEETINGS OF THE BOARD. (a) The chairman of the  
19 board shall call meetings of the board at least once every three  
20 months. The chairman or a majority of the members of the board may  
21 call other meetings of the board as necessary. The chairman shall  
22 preside at meetings.

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

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

27 Sec. 42.40.160. QUORUM AND VOTING. (a) Four voting members of  
28 the board constitutes a quorum for the transaction of business.

29 (b) Four affirmative votes are required for board action. The

1 board shall provide by rule for the manner of voting, except that the  
2 board may not provide for voting by proxy. The rules may provide for  
3 voting and conferring by telecommunication devices.

4 Sec. 42.40.170. EXECUTIVE SESSIONS. (a) The question of hold-  
5 ing an executive session shall be determined in accordance with  
6 AS 42.40.160. A subject may not be considered at an executive session  
7 unless it is mentioned in the motion calling for the executive session  
8 or is auxiliary to a subject mentioned. An action may not be taken at  
9 an executive session.

10 (b) Only the following subjects may be discussed in an executive  
11 session:

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

14 (2) unless the person has requested to have the subjects  
15 discussed in public, subjects that tend to prejudice the reputation  
16 and character of a person;

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

19 (4) matters pertaining to personnel;

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

21 (6) land acquisition or disposal; and

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

27 Sec. 42.40.180. RULES. (a) The board shall adopt rules to  
28 carry out its functions and the purposes of this chapter, including  
29 rules to safeguard property owned, managed, or transported by the

1 corporation and to protect employees and persons using the corpora-  
2 tion's property or services. At least 15 days before the adoption of  
3 a rule, the board shall give public notice of the proposed action by  
4 publishing a notice in at least three newspapers of general circula-  
5 tion in the state and by mailing a copy of the notice to each person  
6 who has requested notice of proposed changes to rules. The notice  
7 must state the time, place, and nature of the proceedings and must  
8 contain a summary of the subject of the proposed rule.

9 (b) On the date and at the time and place designated in the  
10 notice required under (a) of this section the board shall provide each  
11 interested person an opportunity to present statements in writing  
12 concerning the proposed rule and shall give members of the public an  
13 opportunity to present oral statements for a total period of at least  
14 one hour.

15 (c) The board shall consider all relevant matters presented to  
16 it before adopting a rule. The board may take action on a rule that  
17 varies in content from the summary provided with the notice of the  
18 proposed rule if the subject of the rule was reflected in the summary  
19 and it provided reasonable notice to the public as to whether their  
20 interests could be affected by the board's action on that subject.

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

23 Sec. 42.40.190. EMERGENCY RULES. (a) The board shall establish  
24 in the bylaws of the corporation a procedure for the adoption of a  
25 rule on an emergency basis. An emergency rule may be adopted only  
26 when necessary for the orderly operation of the corporation's facili-  
27 ties or programs. The requirements of AS 42.40.180 do not apply to  
28 actions taken under this section. However, within 10 days after the  
29 adoption of a rule on an emergency basis the board shall give notice

1 of its action that substantially complies with the notice requirements  
2 of AS 42.40.180(a).

3 (b) An action taken under this section remains in effect for not  
4 more than 120 days. To prevent an emergency rule from lapsing the  
5 board may adopt the same rule under AS 42.40.180 before the end of the  
6 120-day period.

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

10 (b) An interested person may challenge a rule adopted by the  
11 board by bringing an action in the superior court. In addition to  
12 other grounds, a court may declare a change invalid

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

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

18 Sec. 42.40.205. APPLICATION. Adoption of a rule is not subject  
19 to AS 42.40.180 or 42.40.190 if it

20 (1) relates only to the internal management of the corpo-  
21 ration;

22 (2) relates to specific rates, tariffs, divisions, and  
23 contract rate agreements;

24 (3) relates to service schedules of the railroad;

25 (4) is directed to a specifically named person or to a  
26 group of persons and does not apply to the general public; or

27 (5) relates to the use of public works under the jurisdic-  
28 tion of the corporation if the effect of the order is indicated to the  
29 public by means of signs or signals.

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

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

9           (b) The corporation may by rule designate and withhold public  
10 disclosure of matters of a privileged or proprietary nature. Those  
11 matters include personnel records, communications with and work pro-  
12 duct of legal counsel, and, consistent with the standards and prac-  
13 tices of the United States Interstate Commerce Commission for the  
14 protection of these matters, other information including proprietary  
15 information associated with specific shippers, divisions and contract  
16 rate agreements.

17           Sec. 42.40.230. CONFLICTS OF INTEREST. (a) Except as provided  
18 in this section, a board member or executive officer of the corpora-  
19 tion may not participate in a decision of the corporation in which  
20 that person or a member of that person's immediate family has a direct  
21 or indirect financial interest unless the financial interest is a  
22 remote financial interest and participation is approved under (b) of  
23 this section.

24           (b) A board member or executive officer may participate in a  
25 decision if that person or a member of that person's immediate family  
26 has only a remote interest, the fact and extent of the interest is  
27 disclosed to the board in a public meeting and is noted in the minutes  
28 of the board before any participation by the member or in the deci-  
29 sion, and thereafter in a public meeting the board by vote authorizes

1 or approves the participation. If the person whose participation is  
2 under consideration is a board member, that person may not vote under  
3 this subsection. For purposes of this subsection, "remote interest"  
4 means an interest that in good faith is defined as remote by rules  
5 adopted by the corporation.

6 (c) A board member or executive officer is not considered to be  
7 financially interested in a decision when the decision could not  
8 affect that person in a manner different from its effect on the pub-  
9 lic.

10 (d) Within 120 days of the first meeting of the board, the board  
11 shall adopt and may subsequently amend rules implementing this sec-  
12 tion, providing additional conflict of interest and ethical rules it  
13 considers appropriate.

14 (e) The board may recommend to the governor the removal of a  
15 board member or executive officer who intentionally violates this  
16 section or a rule adopted under this section.

17 (f) For purposes of this section

18 (1) "participate in a decision" includes all discussions,  
19 deliberations, preliminary negotiations, and votes;

20 (2) "immediate family" means

21 (A) spouse;

22 (B) dependent, parent, parent-in-law, child, son-in-  
23 law, daughter-in-law, sibling, uncle, aunt, niece, or nephew.

24 ARTICLE 4. POWERS AND DUTIES.

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

27 (1) adopt a seal;

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

29 (3) sue and be sued;

1           (4) appoint trustees and agents of the corporation and  
2 prescribe their powers and duties;

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

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

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

12           (8) hold, maintain, use operate, improve, lease, exchange,  
13 donate, convey, alienate, encumber, or otherwise grant a security  
14 interest in, or authorize use or dispose of, land or personal  
15 property, subject to other provisions of this chapter;

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

20           (10) undertake and provide for the management, operation,  
21 maintenance, use, and control of all of the property of the corpo-  
22 ration, including all land and personal property of the Alaska Rail-  
23 road transferred under 45 U.S.C. 1203(a) and described in the report  
24 dated July 14, 1983, as amended, submitted to Congress and the legis-  
25 lature under 45 U.S.C. 1204(a);

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

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

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

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

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

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

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

22           (18) hire and discharge railroad personnel and determine  
23 benefits and other terms and conditions of employment;

24           (19) assume all rights, liabilities, and obligations of the  
25 Alaska Railroad in accordance with 45 U.S.C. 1201 - 1214 (Alaska  
26 Railroad Transfer Act of 1982);

27           (20) maintain a security force to enforce municipal ordi-  
28 nances, state laws, and the corporation's rules with respect to viola-  
29 tions that occur on or to property owned, managed or transported by

1 the corporation;

2 (21) issue its bonds upon approval of the legislature and  
3 provide for and secure their payment, provide for the rights of their  
4 holders and hold or dispose of them;

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

7 (23) cancel bonds of the corporation purchased by the corpo-  
8 ration;

9 (24) secure the payment of its bonds by pledge, mortgage, or  
10 other lien on its contracts, revenues, income, or property;

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

15 (26) borrow money, including the amounts necessary to estab-  
16 lish reasonable reserves, and pay financing charges and interest on  
17 bonds for a reasonable period after which the corporation estimates  
18 other money will be available to pay the interest, consultant, advi-  
19 sory, and legal fees, and other expenses necessary or incident to  
20 borrowing;

21 (27) acquire, hold, and dispose of stocks, memberships,  
22 contracts, bonds, general or limited partnership interests or other  
23 interests in another corporation, association, partnership, joint  
24 venture, or other legal entity, and exercise the powers or rights in  
25 connection with these interests that are provided in contracts or  
26 agreements and that are allowed by law concerning the satisfaction of  
27 debts;

28 (28) undertake and provide for the acquisition, construc-  
29 tion, maintenance, equipping, and operation of connecting, switching,

1 terminal, or other railroads and railroad facilities;

2 (29) enter into agreements with a state agency or other  
3 instrumentality of the state; and

4 (30) do all things necessary or desirable to carry out the  
5 powers and duties of the corporation granted or necessarily implied in  
6 this chapter or other laws of the state or the laws or regulations of  
7 the federal government.

8 Sec. 42.40.260. ANNUAL REPORT. (a) Within 90 days following  
9 the end of the fiscal year of the Alaska Railroad the board shall  
10 distribute to the governor and to the legislature a report describing  
11 the operations and financial condition of the corporation during the  
12 preceding fiscal year. The report may include suggestions for legis-  
13 lation relating to the structure, powers or duties of the corporation  
14 or to the operation or facilities of the corporation. Subject to  
15 AS 42.40.220, the report shall itemize the cost of providing each  
16 category of service offered by the railroad and the income generated  
17 by each category.

18 (b) Every five years the annual report shall include an analysis  
19 of potential sale arrangements whereby the corporation may be trans-  
20 ferred into private ownership. The analysis shall include documenta-  
21 tion of at least three offers to sell the corporation initiated by the  
22 corporation during the last five years.

23 Sec. 42.40.270. AUDITS. (a) The board shall have the financial  
24 records of the corporation audited annually by an independent certi-  
25 fied public accountant experienced in railroad accounting. The board  
26 shall have an annual performance audit conducted by a recognized  
27 railroad management expert to assure that the railroad is being  
28 managed and operated effectively and efficiently in accordance with  
29 the requirements of this chapter and that each appropriation is used

1 to directly support those services for which the appropriation was  
2 requested. Auditors shall use the standards required under AS 42.-  
3 40.100(9) and determine whether appropriations received for a service  
4 that is not self-sustaining were calculated in accordance with United  
5 States Interstate Commerce Commission standards for determining rail  
6 service subsidies.

7 (b) The corporation shall make all of its financial records  
8 available to an auditor appointed by the governor and to the legisla-  
9 tive audit division for examination. Disclosure to the public by the  
10 auditor or legislative audit division of this information is subject  
11 to AS 42.40.220 and rules implementing that section.

12 Sec. 42.40.280. STATE OVERSIGHT REPORTS. (a) The board shall  
13 provide a state oversight report to the governor and the legislature  
14 before undertaking

15 (1) expansion, reduction, or diversification of services  
16 provided by the railroad upon the date of transfer or as provided  
17 under this chapter that the board determines would represent a signif-  
18 icant and permanent change in the level and nature of services pro-  
19 vided; or

20 (2) an application for an appropriation to be used for  
21 providing any service that is not self-sustaining.

22 (b) The report under (a) of this section shall be in writing,  
23 describe the proposed undertaking in detail, and specify

24 (1) its financial impact on the corporation;

25 (2) its impact on the level and nature of services provided  
26 by the corporation;

27 (3) the reasons the action is necessary or desirable to  
28 achieve the purposes of this chapter;

29 (4) whether and when the undertaking or service is expected

1 to be self-sustaining financially; and

2 (5) if the undertaking requires an appropriation to be used  
3 for providing a service that is not self-sustaining, that the amount  
4 of the appropriation has been strictly calculated in accordance with  
5 United States Interstate Commerce Commission standards for determining  
6 rail service subsidies.

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

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

11 (2) issue bonds;

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

14 (4) lease land for a period in excess of 35 years unless  
15 the corporation reserves the right to terminate the lease if the land  
16 is needed for railroad purposes.

17 Sec. 42.40.290. LONG-RANGE CAPITAL IMPROVEMENT AND PROGRAM PLAN.

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

23 (b) The board shall annually review and approve revisions to the  
24 long-range capital improvement and program plan. The board shall  
25 provide copies of the updated plan to the governor and the legislature  
26 by December 1 of each year.

27 Sec. 42.40.300. USE OF CORPORATION ASSETS. The corporation  
28 shall apply all money, property, other assets, and credit of the  
29 corporation toward activities authorized by this chapter. The

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

7 Sec. 42.40.310. INDEMNIFICATION. (a) The corporation may  
8 defend and indemnify a current or former member of the board, em-  
9 ployee, or agent of the corporation against all costs, expenses, judg-  
10 ments, and liabilities, including attorney's fees, incurred by or  
11 imposed upon that person in connection with a civil or criminal action  
12 in which the person is involved by affiliation with the corporation,  
13 if the person acted in good faith on behalf of the corporation and  
14 within the scope of official duties or powers.

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

#### 24 ARTICLE 5. CORPORATION PROPERTY.

25 Sec. 42.40.350. LAND. (a) The corporation shall receive from  
26 the United States and, in its own name, take title to all rail proper-  
27 ty transferred under 45 U.S.C. 1201 - 1214 (Alaska Transfer Act of  
28 1982). All land that is transferred or acquired by the corporation is  
29 designated as follows:

- 1 (1) railroad rights-of-way are railroad utility corridors;  
2 (2) land outside railroad utility corridors is rail land.

3 (b) Railroad utility corridors shall be of a width at least 100  
4 feet on both sides of the centerline of the extended main or branch  
5 line, unless the corporation does not own or control sufficient land  
6 to allow a corridor of that width. Railroad utility corridors may be  
7 surveyed by the metes and bounds method. The corporation may not  
8 convey its entire interest in land within a utility corridor except as  
9 provided in AS 42.40.285, 42.40.370(d) and 42.40.400. However, the  
10 corporation may lease, subject to AS 42.40.285 and (d) of this sec-  
11 tion, grant easements in or permits for, or otherwise authorize use of  
12 portions of a utility corridor for transportation, communication, and  
13 transmission purposes and support functions associated with those  
14 purposes, and for commercial and other uses authorized under this  
15 chapter if the use does not restrict other parallel uses of the util-  
16 ity corridor.

17 (c) The corporation may lease, subject to AS 42.40.285 and (d)  
18 of this section, grant easements in or permits for, or otherwise  
19 authorize use of portions of rail land. However, the corporation may  
20 not convey its entire interest in rail land except as provided in  
21 AS 42.40.285, 42.40.370(d) and 42.40.400.

22 (d) A lease or disposal of land approved by the legislature  
23 under AS 42.40.285 by the corporation to a party other than the state  
24 shall be made at fair market value as determined by a qualified ap-  
25 praiser or by competitive bid.

26 Sec. 42.40.355. PROHIBITION. Notwithstanding any other pro-  
27 vision in AS 42.40, the state-owned railroad as defined under  
28 45.U.S.C. 1202(14) may not apply for a right-of-way across, or exer-  
29 cise eminent domain in, the western (Kobuk River) unit of the Gates of

1 the Arctic National Preserve under 16 U.S.C. 410hh(4)(b)-(e).

2 Sec. 42.40.360. REQUEST FOR LAND. (a) The board may nominate  
3 federal land it determines may be useful for present or future rail-  
4 road purposes for selection under the Alaska Statehood Act (P.L. 85 -  
5 508, 72 Stat. 339), as amended, and request the commissioner of natu-  
6 ral resources to select the land for the state through the federal  
7 land selection process.

8 (b) The board may identify and request the commissioner of  
9 natural resources to convey land necessary or useful for present or  
10 future railroad purposes owned by or tentatively approved for transfer  
11 to the state, including land not contiguous with a railroad utility  
12 corridor or rail land. The request must include a statement of and  
13 justification for the present or future railroad use. Upon receipt of  
14 a request, the commissioner shall temporarily reserve the land iden-  
15 tified in the request for railroad purposes and defer disposal or  
16 lease of that land under other laws to a party other than the corpo-  
17 ration. The temporary reservation of land is subject to valid exist-  
18 ing rights and remains in effect for 180 days.

19 Sec. 42.40.370. CONVEYANCE OF LAND. (a) Within 90 days after  
20 receiving a request under AS 42.40.360(b) the commissioner of natural  
21 resources shall by written decision

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

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

27 (3) approve the request in part and deny it in part and  
28 convey as appropriate.

29 (b) A conveyance of land under this section may be for less than

1 its appraised value as determined by the commissioner of natural  
2 resources.

3 (c) In the absence of a reservation to the contrary, a convey-  
4 ance of land under this section vests in the corporation ownership,  
5 control of the surface, material and mineral estate, including the  
6 right to extract or use timber and other construction materials, sand,  
7 gravel, rock, and the right to tunnel, ditch, recontour, excavate, or  
8 otherwise use the land for railroad, transportation, transmission,  
9 communication, and related purposes.

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

14 Sec. 42.40.380. USE OF STATE LAND. When emergency conditions  
15 require that track or other right-of-way fixtures of the corporation  
16 be moved from the existing location and relocated on state land adja-  
17 cent to or in the vicinity of the existing right-of-way and the chief  
18 executive officer determines that relocation is necessary to maintain  
19 safe and adequate rail operations, the corporation may effect the  
20 relocation and notify the the Department of Natural Resources. The  
21 relocation must affect only the amount of state land necessary to  
22 adequately restore or continue safe rail operations at a normal level.

23 Sec. 42.40.385. EMINENT DOMAIN. (a) The corporation may exer-  
24 cise the power of eminent domain under AS 09.55.240 - 09.55.460 to  
25 acquire land for railroad transportation purposes consistent with this  
26 chapter. Notwithstanding AS 09.55.250, the corporation may acquire a  
27 fee simple title whenever, in the judgment of the board, ownership of  
28 a fee simple title is necessary to carry out the purposes of this  
29 chapter.

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

3 (c) The power of eminent domain conferred under this section  
4 includes the power to obtain clay, gravel, sand, timber, rock or other  
5 material for the operation of the railroad, the land necessary to  
6 obtain the material, and access to the land and material.

7 (d) The exercise of the power of eminent domain requires the  
8 prior approval of the governor.

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

16 Sec. 42.40.400. VACATION OF EASEMENTS. The corporation may  
17 vacate an easement acquired under this chapter by executing and filing  
18 a deed in the appropriate recording district. If the easement was  
19 acquired by the corporation under 45 U.S.C. 1201 - 1214 (Alaska Rail-  
20 road Transfer Act of 1982), the state shall acquire the easement for  
21 use in conformity with those laws.

22 Sec. 42.40.410. FEDERAL LAND. The corporation may submit appli-  
23 cations on its own behalf as an instrumentality of the state for  
24 acquisition of federal land available under federal law that will  
25 enhance the operations of the corporation if it is available under a  
26 federal law other than the Alaska Statehood Act of 1958 (P.L. 85 -  
27 508, 72 Stat 339), as amended. The corporation may receive in its own  
28 name conveyances of all interests in federal land.

29 Sec. 42.40.420. PUBLIC USE OF RAILROAD LAND. Upon request of a

1 municipality or the state, the corporation may authorize use of rail-  
2 road land for public purposes. Subject to AS 42.40.350(b), the corpo-  
3 ration shall authorize a walkway or a trail if the board first finds  
4 in writing that the proposed walkway or trail will not create a safety  
5 hazard and will not unreasonably interfere with continued or expanded  
6 operations in the utility corridor. Before authorizing a use under  
7 this section, the board shall require the municipality or state to  
8 execute an agreement in a form approved by the board to

9 (1) agree to restrictions, limitations, and conditions on  
10 the proposed use required by the corporation and reasonably calculated  
11 to reduce the risk of a safety hazard or interference with authorized  
12 uses in the utility corridor;

13 (2) hold the corporation harmless from and indemnify the  
14 corporation for liability and claims arising from any use authorized  
15 under this section including

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

18 (B) indemnifying the corporation for the amount of a  
19 judgment, including prejudgment and postjudgment interest,  
20 rendered against the corporation, and for all costs and  
21 attorney's fees incurred by the corporation in settling or  
22 defending the claim; and

23 (3) stop the use upon request of the corporation if the use  
24 interferes with expansion or replacement of railroad facilities,  
25 creates a safety hazard, or interferes with railroad operations.

26 Sec. 42.40.430. ACQUISITION OF GOVERNMENT PROPERTY. The corpor-  
27 ation, as an instrumentality of the state, may acquire in its own name  
28 from the United States under 50 App U.S.C. 1622 - 1622c (Surplus  
29 Property Act of 1944), 40 U.S.C. 471 et seq. (Federal Property and

1 Administrative Services Act of 1949), or other law, property under the  
2 control of a federal department or agency that is useful for the  
3 corporation's purposes. The corporation may acquire from the Depart-  
4 ment of Administration property of the state made available under  
5 AS 44.71.010 - 44.71.040.

6 Sec. 42.40.435. EXCHANGE OF LAND. The corporation may exchange  
7 land subject to AS 42.40.285. The corporation is an instrumentality  
8 and agency of the state for purposes of exchanging land with the  
9 United States, municipalities, corporations including corporations  
10 formed under 43 U.S.C. 1601 - 1628 (Alaska Native Claims Settlement  
11 Act), and individuals.

12 Sec. 42.40.440. USE OF PESTICIDES AND HERBICIDES. Vegetation  
13 control involving the use of pesticides or herbicides on land owned or  
14 managed by the corporation may be conducted only in compliance with  
15 state requirements applicable to other state pesticide or herbicide  
16 use.

17 Sec. 42.40.450. ADVERSE POSSESSION. No prescription or statute  
18 of limitations runs against the title or interest of the corporation  
19 to or in land owned by the corporation or under its jurisdiction.  
20 Title to or interest in land owned by the corporation or under its  
21 jurisdiction may not be acquired by adverse possession or prescrip-  
22 tion, or in any other manner except by conveyance from or formal  
23 vacation by the corporation.

#### 24 ARTICLE 6. FINANCIAL PROVISIONS.

25 Sec. 42.40.500. LIMITATION OF LIABILITY. A liability incurred  
26 by the corporation shall be satisfied exclusively from the assets or  
27 revenue of the corporation and no creditor or other person has a right  
28 of action against the state because of a debt, obligation, or liabil-  
29 ity of the corporation.

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

6           Sec. 42.40.520. INSURANCE. Except as provided in AS 42.40.310-  
7 (b), the corporation shall protect its assets, services, and employees  
8 by purchasing insurance or providing for certain self-insurance re-  
9 tentions. The corporation shall also maintain casualty, property,  
10 business interruption, marine, boiler and machinery, pollution liabil-  
11 ity, and other insurance in amounts reasonably calculated to cover  
12 potential claims against the corporation or state for bodily injury,  
13 death or disability and property damage that may arise from or be  
14 related to corporation operations and activities.

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

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

23                           ARTICLE 7. BONDS.

24           Sec. 42.40.600. GENERAL PROVISIONS. (a) Upon receiving legis-  
25 lative approval under AS 42.40.285 the corporation may issue bonds by  
26 resolution to provide money to carry out its purposes.

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

29                           (1) be dated;

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

14 (c) Bonds may be sold in the manner, on the terms, and at the  
15 price the board determines. Notes shall mature at the time or times  
16 determined by the board. Except for bond anticipation notes, notes,  
17 or other obligations, bonds shall mature at the time, not exceeding 50  
18 years from their date, determined by the board.

19 Sec. 42.40.610. NEGOTIABLE INSTRUMENTS. Bonds issued under this  
20 chapter and interest coupons attached to them are negotiable instru-  
21 ments under the laws of this state, subject only to applicable pro-  
22 visions for registration.

23 Sec. 42.40.620. BONDS ELIGIBLE FOR INVESTMENT. Bonds issued  
24 under this chapter are securities in which all public officers and  
25 public bodies of the state and its political subdivisions, all insur-  
26 ance companies, trust companies, banking associations, investment  
27 companies, executors, administrators, trustees and other fiduciaries  
28 may properly and legally invest funds, including capital in their  
29 control or belonging to them. These bonds may be deposited with a

1 state or municipal officer of an agency or political subdivision of  
2 the state for any purpose for which the deposit of bonds of the state  
3 is authorized by law.

4 Sec. 42.40.630. PAYMENT OF BONDS. The principal and interest on  
5 bonds of the corporation is payable from corporation money or assets.  
6 Bonds may be additionally secured by a pledge of a grant or contribu-  
7 tion from the federal or state government, a municipality, a corpo-  
8 ration, an association, an institution or a person, or a pledge of  
9 money, income, or revenue of the corporation from any source.

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

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

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

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

28 (C) the fixing and collection of tariffs, fees,  
29 charges or other consideration for the use or service of the

1 Alaska Railroad by passengers, and other users and freight;

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

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

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

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

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

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

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

1 whether those parties have notice of the lien of the pledge.

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

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

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

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

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