

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5168 HTRA HB 479 - HB 485

740

limited in some small communities, making travel to larger communities a necessity. Thirteen of the nineteen SE communities we surveyed have no resident doctor; fourteen have no hospital. Travel by ferry to the larger communities is often the preferred mode of transportation, due to its safety, dependability, and people's fear of flying. The senior citizens of Southeast rely on the ferry system to a great degree, perhaps more than others. For them the ferries are safer, more accessible, and more dependable; as well as providing a far less costly means of transportation.

It is safe to say that almost all Southeast communities served by the AMHS are positively affected by the ferry transport of tourists into their community. Communities as small as Pelican notice an increase in business brought about by the arrival of a ferry. The Southeast communities, through the Southeast Alaska Marketing Council (SAMC), have been doing a great deal to encourage use of the AMHS. They have invested \$400,000. in advertising to encourage the 'independent traveler' to visit SE Alaska. To date they have received 12,000 responses to their ads; 57% of these were interested in ferry travel as their means of transport. The SAMC supplies travel information to the respondents based on their interest.

The degree of general dependence on the ferry system by the various communities appears to rise in inverse proportion to the size of the community. The smaller the community, the more dependent it is likely to be on the ferry system for its

transportation needs. However, a reduction in service would adversely impact elements of all local economies.

In addition to the individual and general ways in which the various Southeast communities are dependent on the ferries, the system is an important source of jobs. The system employs approximately 900 people and there are more than 5,000 other people that depend on the system for their jobs. Table 5 which is appended to this report details the number of people directly employed by the AMHS in each community. Ketchikan is home for the largest number of employees of the ferry system: 294 employees.

It is also important to note that the system is not only important to the economy of Southeast, but to the state's overall economy - more important than is generally thought. In all, the Southeast system carried 313,071 passengers during 1985, the latest year for which figures are available. That same year the system transported 79,780 vehicles. The "Alaska Tourism Handbook," published by the Division of Tourism reveals that 60% of the summer travelers on the ferry system visit Anchorage and 59% visit Fairbanks. In addition, 40% of all winter traffic on the Southeast ferries is headed for the interior. Each year the AMHS carries thousands of tons of freight and millions of dollars of visitor revenues to the northern regions of the state. Each week semi-vans loaded with goods and supplies head for interior Alaska. Even more vans flow from the rest of the state, especially Anchorage to

CITY OF HAINES

RESOLUTION 87/88-10

A RESOLUTION OF THE CITY OF HAINES, ALASKA, IN SUPPORT OF FRIDAY FERRY SERVICE TO HAINES AND SKAGWAY.

WHEREAS, the City of Haines is seeking to promote winter visitation to our community, and the Chilkat Bald Eagle Preserve for the benefit of the economy of the area; and,

WHEREAS, the State of Alaska, Marine Highway system is not planning to operate a ferry on Fridays to the upper Lynn Canal this winter; and,

WHEREAS, the communities of Haines and Skagway both provide highway access to the interior for all residents of Southeast Alaska, allowing them access to Anchorage, Fairbanks and Whitehorse for the purpose of trade and travel; and

WHEREAS, the Alaska Marine Highway has in serve the M/V Chilkat, which could be used for this Friday ferry service;

NOW THEREFORE BE IT RESOLVED by the Council of the City of Haines, Alaska, that the City of Haines supports the use of the M/V Chilkat on a special Friday trip from Juneau to Haines and Skagway for the mutual benefit of both communities as they seek to promote winter visitors to the Upper Lynn Canal.

PASSED AND APPROVED THIS 21ST DAY OF OCTOBER, 1987.

Frank L. Wallace
Frank L. Wallace, Mayor

ATTEST:

Susan V. Johnston
Susan V. Johnston, City Clerk

S E A L:

CITY OF SKAGWAY, ALASKA

RESOLUTION 87-26R

A RESOLUTION OF THE CITY OF SKAGWAY, ALASKA, IN SUPPORT OF FRIDAY FERRY SERVICE BETWEEN SKAGWAY, HAINES, AND JUNEAU

WHEREAS, the Alaska Marine Highway is the only surface transportation link between communities in southeast Alaska, and

WHEREAS, Skagway is the northern terminus of the Marine Highway, and

WHEREAS, the Klondike Highway, linking Skagway to Whitehorse, Y. T., and interior Alaska is now open year-round, and

WHEREAS, continued economic viability for the northern panhandle communities is based on a year-round transportation link, and

WHEREAS, the primary travel days between communities for the purpose of recreation and visitation are Fridays and Sundays, and

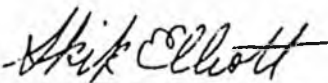
WHEREAS, new recreation facilities for winter sports are attracting more and more potential visitors, and

WHEREAS, the State of Alaska, Division of Tourism has committed more funding for Fall/Winter/Spring promotion, and

WHEREAS, the State of Alaska Marine Highway service to Skagway and Haines this Winter has ferry dockings two days in a row on Sundays and Mondays, another ferry on Wednesday, and then no ferry until the next Sunday.

NOW THEREFORE BE IT RESOLVED that the Skagway City Council urges the Marine Highway System to restore Friday ferry service between Juneau, Haines and Skagway by March 1, 1988 at the latest.

PASSED AND APPROVED BY THE SKAGWAY CITY COUNCIL ON THE 19TH DAY OF NOVEMBER, 1987.



Skip Elliott, Mayor

ATTEST:



Lorene S. Gordon, City Clerk



**PRINCE OF WALES COMMITTEE
FOR IMPROVED SERVICE
TO THE ISLAND**

Senator Richard Eliason
Box v
Room 417
Juneau, Alaska 99811

Dear Senator Eliason,

We would like to thank you in advance for the work that you are doing for the people of Southeast.

We have formed a committee for improved service to the people of Prince of Wales via the Alaska Marine Highway. We have a definite need here for improved service.

We are enclosing a packet of information concerning the efforts that are being made to further this project. We will have an open meeting February 14, 1988 at that time petitions will be generated and taken in a door to door Island wide campaign. The petitions will be forthcoming.

Please take the time to review our concerns and offer what help you are able to afford to us.

Thank you again for your consideration of our concerns.

Sincerely,
Waunita Pannell
Charlie Calton

pc: Gov. Cowper
Peter Goll
Bette Cato
Lloyd Jones
Robin Taylor

WAUNITA PANNELL - BOX 157 - KLAWOCK, AK.

755-2296

CHARLIE CALTON - BOX 49 - CRAIG, AK.

826-3756

The people of the Prince of Wales Island are generating the introduction of a petition to the Alaska Marine Highway System for the purpose of requesting:

- 1) A regular daily schedule for the service to the Prince of Wales Island, directed at the present winter scheduling.
- 2) A look at a proposal for the early haul-out of the M V Aurora (during the winter months) for the proposed improvement of the winter scheduling.
- 3) Installing an elevator (or incorporating a chair-lift in the existing stairwell) for all handicapped persons traveling the Alaska Marine Highway System.

This letter is a request to your organization for a letter of endorsement of this petition.

We firmly believe the more endorsements we have to this petition, the better the chances for the improvement of the services to the Prince of Wales Island will be.

This petition will be formalized and approved by an Island Committee on February 14th, and the following Monday, February 15th, will be sent to you for your perusal and, very hopefully, your organizations endorsement.

If you have any questions on this matter, or any other suggestions that will enhance or substantiate this petition, please feel free to contact us with your suggestions and/or recommendations.

Waunita Pannell 755-2296 P. O. Box 157 Klawock
Charlie Calton 826-3756 P. O. Box 49 Craig

Thank you for your considerations toward this effort.

The POW Committee for Improved
Service to the Island VIA
The Alaska Marine Highway

PROPOSAL

WHEREAS, The Prince of Wales Committee for Improved service to the Island via Alaska Marine Highway System.

WHEREAS, The Island population is approximately 4700 to 5200 persons and the embarking - dis-embarking statistics of the Alaska Marine Highway usage for 1986 was above and comparable to larger ports.

WHEREAS, Our present schedule (especially during winter months) does not meet the direct needs of the people of Prince of Wales Island.

WHEREAS, The lack of daily schedules hinder the people from using the services of Physicians, Medical facilities, Attorneys and other professionals without the additional expense of having to make use of the airline services rather than the ferry system.

WHEREAS, The ferry does not allow for travelers who would like to utilize the weekend in Ketchikan to do so without loss of time from work.

WHEREAS, Ketchikan City and Borough and the State of Alaska are losing daily revenue, as money is being spent on mail order services, that would otherwise be directed to the city.

WHEREAS, With a regular daily schedule there would be more participation on the Marine Highway between families of Prince of Wales and Ketchikan. also, the possibility of added tourism to the island.

WHEREAS, With the daily schedule the school systems of Prince of Wales would be able to participate in more activities to benefit the students and also increase ridership rather than being forced to utilize the airline system, which is sometimes cost prohibitive and impossible due to weather conditions.

WHEREAS, An early haul-out of the M.V. Aurora (during the winter months) causes an extra burden on those leaving for the winter, or taking vacations during the holidays.

WHEREAS, The handicapped do not have access to special care and handling such elevators for the ill, aged or wheel chair confined.

THEREFORE, Be it resolved that the Prince of Wales Committee for Improved Service to the Island via Alaska Marine Highway system urges the Department of Transportation and the Legislature to upgrade and improve the present service to the island in accordance with the above mentioned items to ensure regular guaranteed daily scheduling that the people of Prince of Wales can rely upon.

Family Practice Physicians

10301 GLACIER HIGHWAY • JUNEAU, ALASKA 99801
(907) 789-2910

MIKE FRANKLIN, M.D.
KIM C. SMITH, M.D.
WILLIAM M. COLE, M.D.
ERIC OLSEN, M.D.

LARRY DEPUTE, P.A.-C

December 2, 1987

File No. 140-3704-A

Mr. George Davidson, System Director
Alaska Marine Highway
Pouch R
Juneau, Alaska 99811

Dear Mr. Davidson:

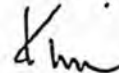
Thank you for your letter of November 16. There are some other points that should be brought up, however.

The Aurora makes 3 trips per week from Metlakatla to Hollis and back. All these are within a 38 hour period. Perhaps one of these trips could be removed in favor of Juneau to Skagway.

Secondly, the new road being opened from Skagway to Whitehorse has opened up new opportunities for recreation and commerce that were just beginning last year. The Skagway Inn for example became very popular with Juneau people, and it made people aware of quality skiing that was thought to be available only out of state or in the Interior. I'm sure the number of users this year would have been much higher if the ferries would have made it possible. With the warmer winter weather we have been experiencing, there is very little available to Juneau residents in the form of winter activities.

Thank you for your cooperation.

Yours truly,



Kim C. Smith, M.D.

cc: ~~Senator Duncan~~
Rep. Ulmer
Rep. Hudson

NOV 18 1987

CITY OF SKAGWAY
GATEWAY TO THE GOLD RUSH OF '98"
P.O. BOX 415, SKAGWAY, ALASKA 99840
907-983-2297

November 16, 1987

Commissioner Mark Hickey, DOTPF
Representative Peter Goll
Senator Dick Eliason

We are writing to ask for your help in restoring the Friday ferry service between Juneau / Haines and Skagway.

We understand the budgetary constraints facing the Alaska Marine Highway, however, both Skagway and Haines are connected to the Marine Highway by year-round highways. In Skagway's case, the Klondike Highway is the only surface connection between the capital of the Yukon Territory, Whitehorse, and the capital of the State of Alaska, Juneau (via ferry from Skagway). As we as a state develop more and more economic ties with the Yukon, it becomes imperative that we have the necessary transportation links in place.

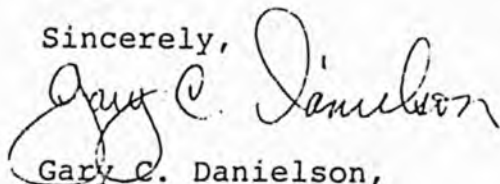
The weekend traffic between Skagway / Haines / Juneau and Whitehorse provides economic benefit to all the communities, as residents make the trips not only for recreation, skiing, downhill in Juneau, cross-country between Skagway and Whitehorse, but for shopping trips, visits to doctors and dentists, and to see friends and relatives.

We believe that by reinstating the Friday ferry service in mid-February or early March at the latest, it will provide residents of the Northern Panhandle with economic benefits needed for our communities to remain healthy and strong and to continue to be viable participants in the overall growth our state so dearly needs.

The Skagway Convention & Visitors Bureau urges you to reconsider the Marine Highway's winter ferry schedule and appropriate the necessary funding to continue our transportation corridor between interior Alaska, the Yukon and Southeast Alaska, on the days when traffic has the greatest potential.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Gary C. Danielson". The signature is written in dark ink and is positioned above the typed name.

Gary C. Danielson,
Executive Director
Skagway Convention & Visitors Bureau

cc: Representative Bill Hudson
Senator Jim Duncan
George Davidson, Director, Marine Highway System
Juneau Convention & Visitors Bureau

Box 317
Skagway, Alaska
Nov 7, 1987

Mark Hickey, Director
Dept of Marine Transportation
Juneau, Alaska

Dear Mr. Hickey,

I am writing to add my voice to those urging you to make a stronger effort to provide weekend ferry service to Skagway and Haines during the winter months. The present scheduling, with a three-day gap in service between Wed. and Sunday, hampers traffic in our area all winter long, when winter weather makes air travel much more uncertain, and the ferry alternate more needful.

By spring, by which I mean February, when days are getting longer, many people not only in Skagway and Haines, but in Juneau and Whitehorse also, are feeling ready for a weekend jaunt up or down the channel for a day or two in another town, Ski weekends, winter Carnivals, musical events and other attractions are among the enticements for such traffic. For us in Skagway especially, every little bit of winter traffic is a measurable contribution to the survival of our town. High school sports and music events need this weekend service also.

The Friday ferry, which we have had in the past, and during summer months, gets cut down to a shorter and shorter schedule every year, and is now slated to stay off until April 1 of 1988. We have been told that the ferry system gets more traffic on the southern end, between Ketchikan and Hollis which is why they get the Le Conte now. We can accept this, but it is our understanding that you do have vessels idling during the winter, and we'd surely like to see one of them, even if only in Feb. and March. As you well know, this is our Highway. Please give us more service, and more traffic will come to use it.

It would be nice to see the long-range plan for ferry service completed, and to see that it included fuller winter scheduling for Lynn Canal. We'd like to see a smaller high-speed vessel available to add extra service available to add extra service to supplement mail-line ferry service, which we certainly wish to keep up here in Lynn Canal. With the Klondike Highway

now open for the winter, Skagway is getting a share to the very substantial auto traffic to and from the Alaska Highway.

Sincerely,



Barbara D. Kalen

cc: Governor Steve Cowper
Rep. Peter Goll

February 8, 1988

Mr. Robert Hale
1683 North 14th Street
Coos Bay, Oregon 97420

Dear Mr. Hale:

Your letter has been received and reviewed. You did, apparently write to us in November, seeking reservations which included 2-berth rooms.

We had received some 300 requests for reservations by November and when your reservation request was processed, in the order which it was received, there were no 2-berth rooms available.

A four berth room was substituted in one case and a three berth in the other. These were the only choices available!

If the substitution does not meet with your approval, we will cancel them. We will not, however, provide three or four berth rooms at the two berth rate. If you wish, we can place you on the waitlist for a 2-berth cabin, but there are few 2-berth cabins on these vessels and the odds on having one cancelled are poor.

Your request for a price adjustment is denied.

Sincerely,

Sherman D. Burton
Customer Services Manager

STATE OF ALASKA
DEPT OF TRANSP AND PUBLIC FACILITIES
ALASKA MARINE HIGHWAY SYSTEM - RESERVATIONS
BOX R, JUNEAU, ALASKA 99811

Re: Itinerary Number #0310271
Mr. & Mrs. Hale

Since November 2, 1987 arrangements for our transportation schedule to and from Alaska have been negotiated with you. Our agent, Mrs. Arthur May, phoned you on November 2, 1987 asking how and when to request ferry reservations. As per your instructions Mrs. May mailed in our request soon after November 2, 1987.

On December 7, 1987 you acknowledged our request for reservations and indicated that the schedule would be mailed to us as soon as possible, indicating that reservations are available generally in January. Our agent was told to check with you by January 4, 1988.

On January 4, 1988 our agent attempted to phone you all day and received no response. Also on January 5, 1988 our agent phoned you all day and received no response. On January 6, 1988 our agent completed a phone call to you. You indicated that reservations would be arranged in a couple of days. Reservations were received that week. They were dated January 5 and January 6, 1988.

Departing Malaspina May 20, 1988 SEA-HNS we request

a 2 berth facility for \$184.00

Our reservation now shows billing for a 4-berth facility for \$271.00

184.00

Overcharge \$ 87.00

Columbia

Departing July 5, 1988 JNU-SEA we request

a 2 berth facility for \$175

Our reservation now shows billing for a 3-berth facility for \$205.00

175.00

Overcharge \$30.00

TOTAL OVERCHARGE 117.00

We confirm our request for 2-berth cabin at the 2-berth price or a price adjustment on the more expensive facilities you have reserved for us.

Please advise.



Robert Hale
1683 N. 14th St.
Coos Bay, Oregon 97420

January 26, 1987

7.4
July 8, 1987

Ms. Cheryl Erickson
Sales Manager
Pioneer Inn
9830 100th Avenue
Fort St. John, British Columbia
CANADA V1J 1Y5

Dear Ms. Erickson:

In response to your thoughtful letter concerning the Circle Tours cancellations with your lodging establishment, I wish to offer the following.

The Alaska Marine Highway System (AMHS) provides transportation for passengers and vehicles. One connection to the continental land highway system is at Prince Rupert. Some of the vessels calling at Prince Rupert have berths in limited numbers.

During the summer months, requests for berths, from individuals as well as tours, exceed the number available. Many individuals travel without berths, as do some tours. Many tours choose not to travel without berths. The AMHS has a limited number of ships, thus the AMHS cannot provide berths to all who desire them in the peak summer period and the tours seldom wish to travel except in the peak summer period.

We wish to accommodate everyone, unfortunately we can't. We will keep trying.

Sincerely,

Sherman D. Burton
Traffic Manager

VW

cc: Donna Spear, Fort St. John Chamber of Commerce,
9323-100th St, Fort St. John, B.C., Canada V1J 4N4

pioneer inn



FORT ST. JOHN

June 10, 1987

Alaska Marine Highways Ferries
Box R
Juno, Alaska
99811

Dear Sirs:

We are writing with regards to Circle Tours 5 bus tour cancellations with our hotel. These were for: June 10, July 01, 05, 19 and August 02.

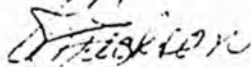
These 5 tours were cancelled due to the Alaska Marine Ferries inability to provide space. No alternate dates to the ones requested were offered to Circle Tours office, according to our contact there.

We are very disappointed with your handling of this tour company. It represents 200 tourists lost to our City and frankly we are very upset. You obviously do not give buses, with 45 passengers per bus, much priority. Why not? They have the ability to put through a thriving tourist trade, if treated appropriately.

Alaska has become a very popular destination. If your services are not at present able to keep up with the tourist demands, perhaps a revamping is in order, however this lost business cannot continue.

We sincerely hope that the 1988 tourist season is not marred with a repeat of the above situation.

Yours truly,


Cheryl Erickson
Sales Manager

cc: Circle Tours
Ft. St. John Chamber of Commerce
Peace River Alaska Highway Tourist Assoc.
B.C. Ministry of Tourism



FORT ST. JOHN & DISTRICT CHAMBER OF COMMERCE

9323 - 100th Street, Fort St. John, B.C. V1J 4N4
(604) 785-6037

June 11, 1987

Alaska Marine Highway
Box "R"
Juno, Alaska 99811
U.S.A.

Ladies & Gentlemen:

It has been brought to the attention of the Fort St. John & District Chamber of Commerce that your Company is apparently no longer allowing space for buses on your Ferries. This has resulted in the loss of a great deal of Tourist Trade not only to our Community, and all the lodges and Communities located along the Alaska Highway, but also to yourselves. We have been advised of a large number of bus tours that have been forced to cancel their tours to Alaska after advice from your Company that there was no space available on the Ferries and no alternate dates to accommodate them were offered.

Alaska is becoming a very popular destination point and from all indications to date through our office, your state will see almost double the visitors over last year and at least half that number want to take the Ferry trip down the coast. The majority of those who visit Alaska and take the Marine Highway originate from the United States.

A great deal of promotion for the State of Alaska and your Company is done by our office to visitors all over the world. The trip up the Alcan Highway and the Ferry trip down the coast are, for many, a very exciting prospect.

Perhaps our efforts should instead be concentrated on the alternate route up the Alaska Highway to the B. C./Yukon border, down the Stewart/Cassiar Highway to Prince Rupert and then aboard a B. C. Ferry for a gorgeous trip down the coast of B. C. to Vancouver. There is no problem obtaining space on the B. C. Ferries as more Ferries and frequencies are added during the peak Tourist season.

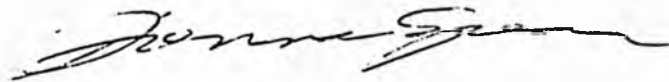
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Is it possible for your Company to consider the same increases? These Visitors mean dollars spent at each and every stop along the way including those in your State. They are of an Economic Benefit to all of us.

Kindly advise our office if you foresee a solution to this problem of non-availability of space on your Ferries in the near future.

Thank You for your time and consideration and we look forward to your early response.

Yours truly

A handwritten signature in cursive script, appearing to read "Donna Spear".

Ms. Donna Spear, Vice-President
Transportation & Communications Director

DS/tk



FEDERAL MARITIME COMMISSION
WASHINGTON, D.C. 20573

March 11, 1987

Ref: 26:D-1-679

Mr. Douglas Barton
Alaska Marine Highway
Box R
Juneau, Alaska 99811

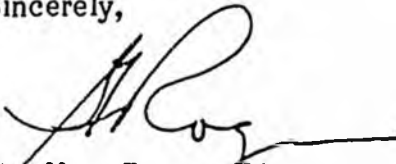
Dear Mr. Barton:

The enclosed letter, dated February 27, 1987, from Senator William Proxmire, requests information to respond to the complaint of his constituent, Mr. Philip T. Jones.

A copy of Mr. Jones' letter, dated February 16, 1987, is also enclosed outlining difficulties in securing berth reservations on the ferry between Skagway and Prince Rupert, B.C.

Would you please review this situation and let us have a reply for Senator Proxmire as soon as possible. Your cooperation will be appreciated, thank you.

Sincerely,



Geoffrey Rogers, Director
Office of Informal Inquiries
and Complaints

Enclosures

cc: David Miles, Esq., Legislative Counsel, FMC

United States Senate

2/27/87

To ensure proper handling, please return
all correspondence TO THE ATTENTION OF:

Pat Tidwell

Respectfully referred to:

Congressional Liaison
Federal Maritime Commission
1100 L St. N.W.
Washington, D.C. 20573

Please respond to the attached inquiry in
duplicate and return the enclosure. Thank
you for your cooperation.

Bill Proxmire

William Proxmire, U.S.S.

83 FEB 18

fat



Phone 414/723-4309

Jones

ELKHORN BUS SERVICE, INC.

Philip Y. Jones, President

D.B.A. JONES COACH TRAVEL

511 S. Lincoln St. • Elkhorn, Wisconsin 53121

February 16, 1987

Senator William Proxmire
244 Federal Court Building
517 E. Wisconsin Ave.
Milwaukee, WI. 53202

Dear Senator Proxmire:

I write this letter because I am frustrated. It is tough doing business out in this world, but when bureaucracy gets fouled up it makes things twice as hard.

My reason for writing: I own and run a charter, travel and tour business. A small company here in Wisconsin. I incorporated in 1969 as a bus company here in Wisconsin. I now have 10 over the road coaches with ICC authority in 49 states and Canada.

My problem? I cannot get to the Alaskan Marine Highway. I have "run" tours (one each summer) to Alaska via motorcoach the last 3 years. Each year I cannot get reservations on the ferry between Skagway and Prince Rupert, B.C.. Berths are required due to 36 hours on the ferry and all are senior citizens.

I fully understand the fact that they only have so many berths. My concern is how come I can buy a ready made tour from several Canada tour companies with guaranteed berths on the ferry? The point being, how can Canadian's get the berths and we can't when the U.S. are the people who own the boats and it is a U.S. state?

Is there any help you can give me in this matter? Your prompt attention would be appreciated.

Very truly yours,

Philip Y. Jones
Philip Y. Jones

March 18, 1987

Mr. Geoffrey Rogers, Director
Office of Informal Inquiries
and Complaints
Federal Maritime Commission
Washington, D.C. 20573

Dear Mr. Rogers:

In response to your letter of March 11, 1987, the following information is provided.

The Alaska Marine Highway provides transportation, food, beverage and sleeping accommodations. Requests for these services exceeds the supply in many instances, particularly during the busy summer months.

Many tour bus operators contact us to secure transportation during the summer. Virtually all desire cabins for their trip. The Alaska Marine Highway does not have enough cabins to meet this demand and therefore, some tour bus operators as well as some individual travelers are unable to travel with cabins. Many choose to travel without cabins, sleeping in the reclining chairs or in sleeping bags in the heated solarium. Some choose not to travel.

Being unable to provide cabins to all the tour bus operators that desire them, the Alaska Marine Highway is forced to select those to receive cabins. This is done based upon past performance with the Alaska Marine Highway. Many Canadian companies utilize the Marine Highway as do many Canadian citizens, as one might expect since we share a great deal of common border. If the past performance of a Canadian tour bus operator was adequate, the Alaska Marine Highway would consider that company eligible to receive space in the future. We have not established priorities based upon nationality.

I trust this answers the questions posed and I wish you a pleasant summer.

Sincerely,

Sherman D. Burton
Traffic Manager

SDB/wld



FEDERAL MARITIME COMMISSION
WASHINGTON, D.C. 20573

March 27, 1987

Ref: 26:D-1-679

Mr. Sherman D. Burton, Traffic Manager
Alaska Marine Highway System
Department of Transportation
& Public Facilities
Pouch R
Juneau, Alaska 99811

Dear Mr. Burton:

Thank you for responding so promptly about the inquiry we received from Senator Proxmire. Your letter, dated March 18, 1987, was helpful in clarifying the State's policy in respect to allocating sleeping accommodations.

Understandably this is not an easy task considering the short supply and strong demand. Since the problem experienced by the Senator's constituent stems from that task, we wonder how his bus tour can expect to receive space. Said in another way, without having the experience of their patronage, how can James Coach Travel provide you with a record of past performance.

Mr. Burton, we would appreciate your advices and your continued cooperation. Thank you.

Sincerely,

Geoffrey Rogers, Director
Office of Informal Inquiries
and Complaints

cc: Senator William Proxmire
David R. Miles, Legislative Counsel, FMC

April 8, 1987

Mr. Geoffrey Rogers
Director
Federal Maritime Commission
Washington, D.C. 20573

Dear Mr. Rogers:

There are a number of things that "James Coach Travel" could do, that would be of benefit, if they wish to make a trip to Alaska with large numbers of people desiring sleeping accommodations.

First, they could make the trip at a time when the demand is less. With respect to Marine Highway services, traveling southbound earlier in the year, or northbound later in the year would serve this purpose.

Another method would be to stop in one or more, communities along the way, utilizing their sleeping accommodations, thus lessening the need for sleeping accommodations on the vessels.

Traveling without cabins is something that many people do. This might be a possibility.

Since it is important, to the Alaska Marine Highway, that blocked space be allotted to bonafide enterprises that will fullfill their obligation to produce the agreed upon number of passengers and meet their financial obligations, it would be of assistance to accompany the request for space with promotional brochures, or any descriptive documents that might reflect the organizations background.

The Alaska Marine Highway encourages private enterprise to promote travel during non peak periods and any brochures or information indicating an effort in that direction would certainly be of interest.

Mr. Geoffrey Rogers

-2-

April 8, 1987

James Coach Travel can continue to request space in competition with others, during the very peak travel period and request berths for some forty travelers. Their continued requests will serve to lend credibility and sincerity to their status and when space becomes available they will receive every consideration.

We certainly want James Coach Travel to be able to visit Alaska as often as they desire and I hope the preceding discussion will allow them to do so.

Sincerely

Sherman D. Burton
Traffic Manager

SDB/wld

HOUSE COMMITTEE REPORT

(7)

Date referred: 2/15/88

FURTHER REFERRALS: Finance

DATE: 2/29/88

The Transportation Committee has considered HB 479

"An Act making appropriations to the Department of Transportation and Public Facilities for the Alaska marine highway system; and providing for an effective date."

RECOMMENDS:

- replace with _____ 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:

Bill Hand
Butte

SIGNING OTHER RECOMMENDATIONS: -

Do not pass - should be a part of budget process -
Heinrich Springer No. rec.

Butte

 Chairman's signature



Official Business

COMMITTEE:

House Transportation Committee

DATE: February 29, 1988

SIGN-IN

Subject of meeting:

*HB 479: "An Act making appropriations to the Department of Transportation and Public Facilities for the Alaska marine highway system; and providing for an effective date."

NAME Please include title **ADDRESS** Please use full address. Please include zip. **PHONE** **REPRESENTING** **DO YOU WANT TO TESTIFY?**

NAME Please include title	ADDRESS Please use full address. Please include zip.	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY?
KEITH GERKEN	Box 2	3900	DOT + PF	Yes
PASS Services N/ops Doug Burton	AK Mac Huryk	3946		

* indicates first public hearing

HB

481

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 CMFR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House Transportation:

2/24/88

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 1988 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST 2-18-88

Bill Version: HB 481
Publish Date: _____

Revision Date: _____
Title: Act act relating to naming the
Woodrow Johansen Expressway
Sponsor: Cato
Requestor: Cato

Agency Affected: DOT&PF
BRU: _____
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						
TOTAL OPERATING		0				
CAPITAL		0				
REVENUE		0				

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS		0				
OTHER						
TOTAL		0				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: See attached analysis

Prepared by: W. Keith Gerken Phone: 465-3900
Division: Deputy Commissioner, Operations Date: 2/23/88
Approved by Commissioner: Mark S. Hickey Date: 2-23-88
Agency: DOT&PF

Distribution (by preparer):

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

Fiscal Note (Attachment)
HB 481

The Geist Road Extension will be built under five projects between 1987 and 1995. The first project is now under contract and the second and third projects will be ready for construction in approximately one year. The first project (now under contract) does not include any "Geist Rd" signs.

All signs are eligible for federal highway funding, however, the department is concerned that road signs do not become too large. Letter sizes are set by standards for the type of facility and for this project 8 to 13 inch letters will be common. If all signs must read "Woodrow Johansen Expy," some signs will be very large, require special structures to support, and may be difficult to place at some locations. A compromise of "Johansen Expy" would be appreciated where sign sizes become a problem.

There may also be some community concerns with the discontinuity between the existing Geist Road west of University Avenue and the proposed renaming to the east.

SCHEMATIC :

PROPOSED ~~ROAD~~

'WOODROW JOHANSEN EXPRESS WAY'

approximate location ; final location to be determined





Alaska State Legislature

REPRESENTATIVE DISTRICT 23 HEINRICH "Henry" SPRINGER

HOME:
P.O. Box 352
Nome, AK 99762
(907) 413-2854

WHILE IN JUNEAU:
P.O. Box V
Juneau, AK 99801
(907) 465-3789/-4984

COMMITTEES:

CHAIR:
Community and
Regional Affairs

VICE-CHAIR:
Transportation

MEMBER:
Resources

TO: Transportation Committee

SUBJECT: House Bill 481

From 1963 to 1975 I have worked under Mr. Johansen's supervision in various functions with the Department of Highways and from 1975 to 1979 (the time of his retirement) as his colleague when he was District Engineer at Fairbanks and when I was District Engineer at Nome.

There is no other man in Alaska whom I admire more. He has dedicated his whole life to the transportation matters in Alaska. The attached biographical sketch and the data contained in the bill show this very clearly. I have no doubt that it is warranted to honor him in this way.

This bill differs in some aspects from other similar ones:

1. The highway has not been built yet and is in various stages of implementation: the western segment is ready for construction, the eastern end is still in the location - approval - and design stage.
2. The highway will connect with 2 major highways through an urban area and therefore there is no confusion or duplication of designation.
3. I do not know of any controversy over the name of "Woodrow Johansen".

The early designation has three advantages:

- a) the name can be incorporated early enough in planning, design and contract plans and documents and eliminate the possibility of duplication;
- b) the signs and markers can be purchased and installed in the usual process and extra cost is avoided; and

c) name usage is assured from the start, avoiding a problem often experienced with renaming facilities.

I have not encountered any opposition. The bill has the support of the Fairbanks legislators both in House and Senate, DOT/PF and the Governor's Office, City Mayor Bill Wally of Fairbanks, Borough Mayor Juanita Helms Fairbanks North Star Borough and numerous people.

I have also contacted Ms Nancy Lee Baker who expressed reservations on House Bill 437 (Mitchell Expressway; although she thought it may be too early to name the route she had no problem in principal.

It is appropriate to remember and honor Woodrow Johansen through future generations and I hope this bill moves from Committee and through the legislature this session.

WOODROW JOHANSEN

Biographical Sketch

Born November 24, 1913 in Eyak, Alaska (near Cordova)

Spent childhood years in the Cordova area. As a young man, worked on construction crew for the Copper River Northwestern Railway. Originally aspired to be an engineer for the railroad.

Graduated from Cordova High School in 1932.

Attended the University of Alaska in Fairbanks under then university president, Dr. Charles Bunnell.

Was listed in "Who's Who Among Students in American Universities and Colleges" in 1939.

Graduated with a B.S. degree in civil engineering in 1940. By this time the Kennicott Copper Mine had ceased operation and the Copper River Northwestern Railroad was shut down.

Went to work for the U.S. Army Corps of Engineers, then joined the University of Alaska engineering faculty in 1942.

Taught at the University of Alaska from 1942 to 1952 as an associate professor of civil engineering.

Earned an M.S. degree in Civil Engineering ^{from} ~~the~~ the University of Illinois in 1949.

Joined Alaska Road Commission in 1951 as assistant district engineer of the Fairbanks district.

Was district engineer with the Valdez district from 1952 to 1954.

Became professor of civil engineering and head of the civil engineering department at the University of Alaska in 1954.

Returned to the Alaska Road Commission as Fairbanks district engineer in 1955. Remained in that position when the A.R.C. became the U.S. Bureau of Public Roads.

Accepted post as Interior District Engineer for the State Department of Highways when that agency took over responsibility for Alaska's highway system in 1960. Remained in the position of Interior Regional Engineer when the Dept. of Highways was incorporated into the Department of Transportation & Public Facilities in 1977.

Retired from state service in 1979.

Married the former Carolyn Haggstrom, also Alaskan born, in 1942. Carolyn graduated from the University of Alaska with a bachelors degree in Business Administration. She also has a bachelors and a masters in Education and taught for many years in the Fairbanks school system. The Johansens have four children.

Throughout his career, Woody Johansen has distinguished himself as an outstanding engineer and administrator. As the Interior District Engineer he headed up the largest highway district in the state for over twenty years.

Under his stewardship, a number of noteworthy highway engineering projects were completed, including:

The northern half of the George Parks Highway, providing a new and shorter route between Anchorage and Fairbanks.

The Dalton Highway, the only overland access to the Prudhoe Bay oil fields.

The Yukon River Bridge, the first bridge to span the Yukon River in the state of Alaska.

The Moody Bridge, which carries the Parks Highway across the Nenana River gorge near Healy.

The Hurricane Gulch Bridge, which provided the final connection between the northern and southern portions of the Parks Highway.

Numerous projects to rebuild, widen, straighten and otherwise upgrade all of the major highways, both urban and rural, in the Interior district.

Took a strong interest in the encouragement and development of engineering students at the University of Alaska. Provided opportunities for summer employment for students to give them exposure to the practical applications of civil engineering knowledge and skills.

Was named the University of Alaska Distinguished Alumnus in 1976.

HOUSE COMMITTEE REPORT

(7)

Date referred: 2/15/88

FURTHER REFERRALS:

DATE: 2/24/88

The Transportation Committee has considered HB 481

"An Act relating to naming the Woodrow Johansen Expressway."

RECOMMENDS:

- replace with _____ 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:

Mike Hill

Heather Higgins

Bill Hanks

Wendy Keener

P.O. Parker

Bitte Cato

SIGNING OTHER RECOMMENDATIONS:

Bitte Cato

Chairman's signature



Official Business

COMMITTEE:

House Transportation Committee

DATE: February 24, 1988

SIGN-IN

Subject of meeting:

*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."

NAME Please include title **ADDRESS** Please use full address. Please include zip. **PHONE** **REPRESENTING** **DO YOU WANT TO TESTIFY?** which bill

NAME Please include title	ADDRESS Please use full address. Please include zip.	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY? which bill
BERNARD UPHINSKI DIRECTOR	6910 CHADSEY Anchorage 99518	349-7005	AK RAILROAD	HB 485
Rep. Henry Springer	The Alaska State Legislature Box E Juneau, AK 99801		self	HB 481

* indicates first public hearing

HB

485

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

House Transportation:

2/24/88

Original sponsor: Cato

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

CS FOR HOUSE BILL NO. 485 (Transportation)
IN THE LEGISLATURE OF THE STATE OF ALASKA
FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the annual report of the Alaska Railroad Corporation; and providing for an effective date."

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

* Section 1. AS 42.40.260(b) is amended to read:

(b) Every five years the 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.]

* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

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.

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.
 BRU: Alaska Railroad Corporation
 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-
---------	-----	-----	-----	-----	-----	-----

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)

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HB 485
PUBLISH DATE: _____

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.
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)

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 in 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

Representative Cato
January 16, 1987
Page 2

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

Chapter 40. Alaska Railroad Corporation.

Article

1. Establishment and Organization (§§ 42.40.010 — 42.40.060)
2. Management (§§ 42.40.100 — 42.40.120)
3. Administrative Provisions (§§ 42.40.150 — 42.40.230)
4. Powers and Duties (§§ 42.40.250 — 42.40.310)
5. Corporation Property (§§ 42.40.350 — 42.40.450)
6. Financial Provisions (§§ 42.40.500 — 42.40.540)
7. Bonds (§§ 42.40.600 — 42.40.700)
8. Personnel and Labor Relations (§§ 42.40.705 — 42.40.890)
9. General Provisions (§§ 42.40.900 — 42.40.990)

Cross references. — For legislative findings and purpose in enacting this chapter, see § 1, ch. 153, SLA 1984 in the Temporary and Special Acts; for special reports required, see § 3, ch. 153, SLA 1984 in the Temporary and Special Acts.

Legislative history reports. — For legislative letter of intent relating to ch. 153, SLA 1984 (SCS CSHB 512 (Fin) am S), see 1984 Senate Journal, p. 3221.

Article 1. Establishment and Organization.

Section

10. Establishment of the corporation
20. Board of directors
30. Term of office

Section

40. Vacancies
50. Compensation and expenses
60. Board officers

Sec. 42.40.010. Establishment of the corporation. There is established the Alaska Railroad 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 continued operation of the Alaska Railroad by the corporation as provided in this chapter is considered an essential government function of the state. (§ 2 ch 153 SLA 1984)

Sec. 42.40.020. Board of directors. (a) The powers of the corporation are vested in the board of directors. The board consists of the commissioner of commerce and economic development, the commissioner of transportation and public facilities, and five members appointed by the governor. The five appointed members must be registered voters in the state except as provided in (1) and (2) of this subsection. Except for the commissioners and the member appointed under (5) of this section, a member may not be a state officer or employee. Appointed members shall have the following qualifications:

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

(2) one member of the board shall be or have been an executive official of a United States railroad and shall be selected in accordance with any requirements imposed under 49 U.S.C. (Interstate Commerce Act); a person who is not a resident of the state may be appointed under this paragraph;

(3) at least one member shall be from each judicial district directly served by the Alaska Railroad;

(4) one member shall have at least five years experience as an owner or manager of a business in the state;

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

(b) Except for the commissioners, the members of the board shall be confirmed by a majority of the members of the legislature in joint session. A member appointed by the governor has the full powers and responsibilities of a confirmed board member until the member is rejected by the legislature or the legislature adjourns without confirming the member. (§ 2 ch 153 SLA 1984)

Cross references. — For terms of initial members of board, see § 4, ch. 153, SLA 1984 in the Temporary and Special Acts.

Sec. 42.40.030. Term of office. Except for the commissioner of commerce and economic development and the commissioner of transportation and public facilities, members of the board serve for staggered terms of five years each at the pleasure of the governor. (§ 2 ch 153 SLA 1984)

Sec. 42.40.040. Vacancies. (a) Except for the commissioner of commerce and economic development and the commissioner of transportation and public facilities, a vacancy on the board is filled by appointment by the governor, and the appointment must be confirmed by the members of the legislature in joint session. A member appointed to fill a vacancy holds office for the balance of the term for which the member's predecessor was appointed.

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

(c) A member of the board whose term has expired shall serve until a successor has been appointed. (§ 2 ch 153 SLA 1984)

Sec. 42.40.050. Compensation and expenses. (a) An appointed member of the board is entitled to compensation at a rate of \$400 for each day the member is engaged in the actual performance of duties as a member of the board. The board may provide by rule for compensation for partial days during which an appointed member is engaged in actual performance of duties as a member of the board.

(b) In addition to compensation under (a) of this section, an appointed member of the board is entitled to per diem and travel expenses authorized by law for state boards and commissions. (§ 2 ch 153 SLA 1984)

Sec. 42.40.060. Board officers. (a) The board shall elect from its membership a chairman and vice-chairman and prescribe their duties by rule.

(b) The board shall appoint a secretary and prescribe the duties of the secretary. (§ 2 ch 153 SLA 1984)

Article 2. Management.

Section

100. Management by the board
110. Executive officers

Section

120. Delegation

Sec. 42.40.100. Management by the board. The board is responsible for the management of the corporation but shall delegate certain powers and duties to the chief executive officer in accordance with AS 42.40.120. In managing the corporation the board shall

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

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

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

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

(5) provide for safe, efficient, and economical transportation to meet the overall needs of the state;

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

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

(8) ensure that the procurement procedures of the corporation meet accepted railroad industry standards;

(9) ensure that the accounting procedures of the corporation meet generally accepted accounting principles consistent with industry standards for comparable railroads. (§ 2 ch 153 SLA 1984)

Sec. 42.40.110. Executive officers. (a) The board shall appoint the chief executive officer of the corporation who serves at the pleasure of the board. The board shall fix compensation for the chief executive officer.

(b) The chief executive officer of the corporation shall appoint and fix the compensation for other executive officers. The compensation for an executive officer appointed under this subsection is subject to board approval. (§ 2 ch 153 SLA 1984)

Sec. 42.40.120. Delegation. (a) The board shall by rule delegate to the chief executive officer powers and duties necessary or appropriate for the management of the daily affairs and operations of the corporation. The board may by rule require the exercise of a delegated power or duty to be subject to board approval.

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

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

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

(3) making routine changes in service levels;

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

(5) performing procurement activities.

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

(1) issuing bonds upon approval by the legislature;

(2) mortgaging or pledging corporation assets;

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

(4) acting as a surety or guarantor;

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

(6) adopting annual reports;

(7) effecting general, comprehensive increases and decreases in rates;

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

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

(10) selecting independent auditors and accountants;

(11) entering into collective bargaining agreements;

(12) adopting annual budgets;

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

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

(15) exercising the power of eminent domain. (§ 2 ch 153 SLA 1984)

Article 3. Administrative Provisions.

Section

150. Meetings of the board

160. Quorum and voting

170. Executive sessions

180. Rules

190. Emergency rules

Section

200. Validity of rules

205. Application

210. Previously adopted rules and orders

220. Public disclosure of information

230. Conflicts of interest

Sec. 42.40.150. Meetings of the board. (a) The chairman of the board shall call meetings of the board at least once every three months. The chairman or a majority of the members of the board may call other meetings of the board as necessary. The chairman shall preside at meetings.

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

(c) The board shall keep minutes of each meeting. (§ 2 ch 153 SLA 1984)

Sec. 42.40.160. Quorum and voting. (a) Four voting members of the board constitute a quorum for the transaction of business.

(b) Four affirmative votes are required for board action. The board shall provide by rule for the manner of voting, except that the board may not provide for voting by proxy. The rules may provide for voting and conferring by telecommunication devices. (§ 2 ch 153 SLA 1984)

Sec. 42.40.170. Executive sessions. (a) The question of holding an executive session shall be determined in accordance with AS 42.40.160. A subject may not be considered at an executive session unless it is mentioned in the motion calling for the executive session or is auxiliary to a subject mentioned. An action may not be taken at an executive session.

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

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

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

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

(4) matters pertaining to personnel;

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

(6) land acquisition or disposal; and

(7) proprietary or other information of a type treated as confidential under the standards and practices of the United States Interstate Commerce Commission, including practices that protect information associated with specific shippers, divisions, and contract rate agreements. (§ 2 ch 153 SLA 1984)

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

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

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

(d) The board shall establish in the bylaws of the corporation additional procedures for adopting rules if necessary. (§ 2 ch 153 SLA 1984)

Sec. 42.40.190. Emergency rules. (a) The board shall establish in the bylaws of the corporation a procedure for the adoption of a rule on an emergency basis. An emergency rule may be adopted only when necessary for the orderly operation of the corporation's facilities or programs. The requirements of AS 42.40.180 do not apply to actions taken under this section. However, within 10 days after the adoption of a rule on an emergency basis the board shall give notice of its action that substantially complies with the notice requirements of AS 42.40.180(a).

(b) An action taken under this section remains in effect for not more than 120 days. To prevent an emergency rule from lapsing the board may adopt the same rule under AS 42.40.180 before the end of the 120-day period. (§ 2 ch 153 SLA 1984)

Sec. 42.40.200. Validity of rules. (a) Failure to mail notice to a person under AS 42.40.180(a) or 42.40.190(a) does not invalidate an action taken by the board.

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

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

(2) if the rule was adopted under AS 42.40.190, upon the grounds that the emergency rule was not necessary for the orderly operation of the corporation's facilities or programs. (§ 2 ch 153 SLA 1984)

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

(1) relates only to the internal management of the corporation;

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

(3) relates to service schedules of the railroad;

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

(5) relates to the use of public works under the jurisdiction of the corporation if the effect of the order is indicated to the public by means of signs or signals. (§ 2 ch 153 SLA 1984)

Sec. 42.40.210. Previously adopted rules and orders. The board may provide by resolution that rules and orders in effect on the date of transfer remain in effect until amended or repealed by the board. AS 42.40.180 does not apply to actions taken under this section. (§ 2 ch 153 SLA 1984)

Sec. 42.40.220. Public disclosure of information. (a) Except as provided under (b) of this section, information in the possession of the corporation is public and is open to public inspection at reasonable times.

(b) The corporation may by rule designate and withhold public disclosure of matters of a privileged or proprietary nature. Those matters include personnel records, communications with and work product of legal counsel, and, consistent with the standards and practices of the United States Interstate Commerce Commission for the protection of these matters, other information including proprietary information

associated with specific shippers, divisions and contract rate agreements. (§ 2 ch 153 SLA 1984)

Sec. 42.40.230. Conflicts of interest. (a) Except as provided in this section, a board member or executive officer of the corporation may not participate in a decision of the corporation in which that person or a member of that person's immediate family has a direct or indirect financial interest unless the financial interest is a remote financial interest and participation is approved under (b) of this section.

(b) A board member or executive officer may participate in a decision if that person or a member of that person's immediate family has only a remote interest, the fact and extent of the interest is disclosed to the board in a public meeting and is noted in the minutes of the board before any participation by the member or in the decision, and thereafter in a public meeting the board by vote authorizes or approves the participation. If the person whose participation is under consideration is a board member, that person may not vote under this subsection. For purposes of this subsection, "remote interest" means an interest that in good faith is defined as remote by rules adopted by the corporation.

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

(d) Within 120 days of the first meeting of the board, the board shall adopt and may subsequently amend rules implementing this section, providing additional conflict of interest and ethical rules it considers appropriate.

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

(f) For purposes of this section

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

(2) "immediate family" means

(A) spouse;

(B) dependent, parent, parent-in-law, child, son-in-law, daughter-in-law, sibling, uncle, aunt, niece, or nephew. (§ 2 ch 153 SLA 1984)

Article 4. Powers and Duties.

Section

250. General powers
260. Annual report
270. Audits
280. State oversight reports
285. Legislative approval required

Section

290. Long-range capital improvement
and program plan
300. Use of corporation assets
310. Indemnification

Sec. 42.40.250. General powers. In addition to the exercise of other powers authorized by law, the corporation may

- (1) adopt a seal;
- (2) adopt bylaws governing the business of the corporation;
- (3) sue and be sued;
- (4) appoint trustees and agents of the corporation and prescribe their powers and duties;
- (5) hire legal counsel to represent the corporation;
- (6) make contracts and execute instruments necessary or convenient in the exercise of its powers and duties;
- (7) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, personal property, rights, rights-of-way, franchises, easements, and other interests in land, and acquire by appropriation water rights that are located in the state, taking title to the property in the name of the corporation;
- (8) hold, maintain, use, operate, improve, lease, exchange, donate, convey, alienate, encumber, or otherwise grant a security interest in, or authorize use or dispose of, land or personal property, subject to other provisions of this chapter;
- (9) contract with and accept transfers, gifts, grants or loans of funds or property from the United States and the state or its political subdivisions, subject to other provisions of federal or state law or municipal ordinances;
- (10) undertake and provide for the management, operation, maintenance, use, and control of all of the property of the corporation, including all land and personal property of the Alaska Railroad transferred under 45 U.S.C. 1203(a) and described in the report dated July 14, 1983, as amended, submitted to Congress and the legislature under 45 U.S.C. 1204(a);
- (11) recommend to the legislature and the governor any tax, financing, or financial arrangement the corporation considers appropriate for expansion or extension and operation of the Alaska Railroad;
- (12) maintain offices and facilities at places it designates;
- (13) apply to the state, the United States, and foreign countries or other proper agencies for the permits, licenses, rights-of-way, or approvals necessary to construct, maintain, and operate transportation and related services, and obtain, hold, and reuse the licenses and permits in the same manner as other railroad operators;
- (14) prescribe rates to be charged for services provided by the Alaska Railroad consistent with 45 U.S.C. 1201 — 1214 (Alaska Railroad Transfer Act of 1982);
- (15) determine the routes, schedules, and types of service to be provided by the Alaska Railroad;
- (16) enter into contracts, leases, and other agreements with connecting carriers, shippers, and other persons concerning the services,

designating an appropriate organization for State ownership, operation and management of the Railroad after the transfer.

SECTION 4 -- TRANSFER AUTHORIZATION

This section establishes the primary transfer components. Under subsection (a), the Secretary of Transportation is required to transfer the rail properties of the Alaska Railroad to the State as soon as possible after five specified certifications are made.

Subsection (b) requires the Secretary of Transportation after consultation with the Secretary of the Interior to simultaneously deliver to the State the following documents on the date of transfer; (1) a bill of sale conveying title to all personal rail properties of the Alaska Railroad; (2) an interim conveyance of the real properties of the Alaska Railroad which are not subject to unresolved claims of valid existing rights; (3) an exclusive license to use rail properties not conveyed above pending resolution of claims of valid existing rights in accordance with the review, settlement and final adjudication procedures established in section 6 (b); (4) an exclusive-use easement for Railroad purposes and other existing uses to right-of-way lands located with the Denali National Park and Preserve and title to the improvements within the right-of-way. All other rail properties located in the park are transferred to the Department of the Interior for administration as part of the park.

Lands subject to an interim conveyance (including lands to be conveyed following the review, settlement and adjudication process discussed above), must be surveyed by the Department of the Interior within five years after the date of enactment pursuant to section 606 (b)(2). Following completion of the survey, the Secretary is required to issue a patent to the State.

Subsection (c) provides that interim conveyances and patents issued to the State must transfer all U.S. reservations for the Alaska Railroad except unexercised reservations for future rights-of-way under the 1914 Alaska Railroad Act. In addition, there shall be reserved to the Secretaries of the Interior, Defense and Agriculture as appropriate existing easements for administration identified in the closing report. The appropriate secretary may also obtain future easements with State consent. Existing and future easements may not interfere with operations and support functions of the Alaska Railroad.

The Park Service will continue to use and occupy through the Secretary of the Interior a small tract at Talkeetna, Alaska, currently used for certain park activities so long as this use or occupation does not interfere with Railroad operations.

With respect to the required certifications, subsection (d) directs the Secretary of Transportation to find that the State will operate the

SECTION 5 -- TRANSITION PERIOD

This section sets forth the activities which are to occur, or are not to occur, during the period of enactment of the legislation and the date of transfer. Subsection (a) provides for joint submission by the Secretary of Transportation and the Governor of Alaska, no later than six months after enactment, of a report that describes in detail the rail properties of the Railroad, the liabilities and obligations to be assumed by the State, and the sum of money, if any, in the Alaska Railroad Revolving Fund to be used by the Federal Government in carrying out its remaining responsibilities.

Under subsection (b), the State shall have access to properties of, and records pertaining to the Railroad in order to evaluate and prepare for the transfer. Also the Secretary is directed not to take certain actions such as transfer, sale or lease of the Railroad properties or the obligation of Railroad monies, without the consent of the State.

Subsection (c) directs the Secretary prior to transfer to ensure that the Railroad's accounting practices and systems conform to reporting standards set by the ICC. This action will facilitate the transition of the Railroad to its status as a regulated carrier in intrastate and interstate commerce.

Finally, subsection (d) provides that within nine months after the date of enactment the United States Railway Association must determine the fair market value of the Railroad applying generally accepted procedures, methods and standards. This determination must include an appraisal of the real and personal property to be transferred to the State which considers the current fair market value and potential future value of this property if used in whole or in part for other purposes. The determination must also take into account all obligations imposed by this act and other applicable law upon operation and ownership of the Railroad.

SECTION 6 -- LANDS TO BE TRANSFERRED

This section sets forth the status of the rail properties to be transferred and provides for the orderly adjudication of claims of valid existing rights to those properties. Subsection (a) specifies that the property to be transferred is excluded from selection or conveyance provided under amendments to ANCSA relating to the Cook Inlet Region, Inc., the Chugach Natives, Inc. and certain future Eklutna Village Corporations selections provided for ANILCA.

Subsection (b) reinforces the Department of the Interior's existing responsibility to adjudicate third party claims and to issue written opinions and appropriate documents of title. Specifically, the Secretary of the Interior is directed to complete the determination of "smallest practicable tract" under section 3(e) of ANCSA within three years of the enactment of this legislation. Prior to initiating these adjudications, a ten month

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

ALASKA RAILROAD TRANSFER LEGISLATION
SECTION-BY-SECTION ANALYSIS

SECTION 1 -- TITLE

This section provides that the legislation may be cited as "Alaska Railroad Transfer Act of 1982."

SECTION 2 -- FINDINGS

This section states the reasons that the Alaska Railroad should be transferred to the State of Alaska. While the Railroad has served the interest of the Federal Government in the past, today it primarily serves residents and businesses of the State. Further, the transfer is consistent with the Federal Government's efforts today to transfer programs to the states whenever appropriate. Finally the transfer is necessary in order to insure that in the future the Railroad will be operated and its services expanded to meet the needs of the State and the Railroad users.

SECTION 3 -- DEFINITIONS

This section defines the major terms used in the legislation. Among those described is "rail properties of the Alaska Railroad." This definition is important because it describes the rail properties to be transferred. As defined in the legislation, rail properties means all right, title and interest to real and personal properties held by or for the Alaska Railroad as of the date of enactment with limited exceptions, as follows: (1) The unexercised reservation to the United States in all patents to lands as provided for the construction of future rights-of-way; (2) the right of the Secretary of Transportation to exercise the power of eminent domain; (3) any money in the Alaska Railroad Revolving Fund that the Secretary and the State agree is needed to pay certain Federal obligations arising from operation of the Railroad, which are not assumed by the State; (4) certain properties that the Secretary determines, with the consent of the State, to be necessary to carry out Federal functions after the transfer; and (5) certain properties in Denali National Park and Preserve.

This section defines "exclusive-use easement" as a surface easement for transportation, communication and transmission purposes and support functions together with the right to use the subsurface if necessary for such purposes. The definition further guarantees subjacent and lateral support and entitles the easement holder to fence, affix track fixtures and structures to and exclude persons from the land subject to the easement.

This section also defines the terms "State" and "State-owned Railroad." The definitions are broadly worded to give the State maximum flexibility in

designating an appropriate organization for State ownership, operation and management of the Railroad after the transfer.

SECTION 4 -- TRANSFER AUTHORIZATION

This section establishes the primary transfer components. Under subsection (a), the Secretary of Transportation is required to transfer the rail properties of the Alaska Railroad to the State as soon as possible after five specified certifications are made.

Subsection (b) requires the Secretary of Transportation after consultation with the Secretary of the Interior to simultaneously deliver to the State the following documents on the date of transfer; (1) a bill of sale conveying title to all personal rail properties of the Alaska Railroad; (2) an interim conveyance of the real properties of the Alaska Railroad which are not subject to unresolved claims of valid existing rights; (3) an exclusive license to use rail properties not conveyed above pending resolution of claims of valid existing rights in accordance with the review, settlement and final adjudication procedures established in section 6 (b); (4) an exclusive-use easement for Railroad purposes and other existing uses to right-of-way lands located with the Denali National Park and Preserve and title to the improvements within the right-of-way. All other rail properties located in the park are transferred to the Department of the Interior for administration as part of the park.

Lands subject to an interim conveyance (including lands to be conveyed following the review, settlement and adjudication process discussed above), must be surveyed by the Department of the Interior within five years after the date of enactment pursuant to section 606 (b)(2). Following completion of the survey, the Secretary is required to issue a patent to the State.

Subsection (c) provides that interim conveyances and patents issued to the State must transfer all U.S. reservations for the Alaska Railroad except unexercised reservations for future rights-of-way under the 1914 Alaska Railroad Act. In addition, there shall be reserved to the Secretaries of the Interior, Defense and Agriculture as appropriate existing easements for administration identified in the closing report. The appropriate secretary may also obtain future easements with State consent. Existing and future easements may not interfere with operations and support functions of the Alaska Railroad.

The Park Service will continue to use and occupy through the Secretary of the Interior a small tract at Talkeetna, Alaska, currently used for certain park activities so long as this use or occupation does not interfere with Railroad operations.

With respect to the required certifications, subsection (d) directs the Secretary of Transportation to find that the State will operate the

Railroad as a carrier in intrastate and interstate commerce. In addition, the Secretary is to certify that the State will assume the rights, liabilities and obligations of the Railroad. However, the State will not be responsible for claims or causes of action accruing on or before the date of transfer, or judgements rendered before the transfer, except those tort actions which result in claims of less than \$2,500.

The Secretary must also find the State has established specified employee protection arrangements to apply during the two year period after the date of transfer. For those employees who are not officers and who choose to transfer to the State-owned Railroad, the State must ensure that they are retained in their same position, and unless otherwise agreed to, at least at the same level of compensation in effect at the time of transfer. These provisions are not to apply to those employees who are reassigned, retired or separated for cause or lack of work.

Under this subsection, the State is to continue existing collective bargaining agreements during this two year period unless otherwise agreed to. This subsection further provides that these agreements are to be renegotiated during this period unless otherwise agreed to, and that they are to expire at the end of the two year period.

Finally, with respect to these employees, the State is to ensure that certain Federal benefits are retained. These include accrued leave, insurance, seniority rights and cost of living increases. Also those employees who are transferred to the State-owned Railroad but terminated or laid off, during the transition period, shall be entitled to priority of reemployment in the railroad and prior Federal service is to be counted in determining seniority for such purposes.

For officers of the Railroad including the General Manager, Assistant General Manager, Assistant to the General Manager, Chief of Administration and Chief Counsel, the Secretary must also certify that the State has agreed to retain those officers for at least one year from the date of transfer (except where separated for cause, resignation, retirement or lack of work), at or above their base salary in effect on the date of transfer in such positions as the State may determine. As an alternative, the State may remove these employees upon payment of lump sum severance pay equal to their base salary for one year diminished pro-rata for employment by the State-owned Railroad within one year of the date of transfer prior to separation. Benefit guarantees discussed above for officers are in effect for one year only.

The fifth certification requires the Secretary to find that the State has agreed to compensate the U.S. at the value, if any, determined under Section 605 (b) below.

SECTION 5 -- TRANSITION PERIOD

This section sets forth the activities which are to occur, or are not to occur, during the period of enactment of the legislation and the date of transfer. Subsection (a) provides for joint submission by the Secretary of Transportation and the Governor of Alaska, no later than six months after enactment, of a report that describes in detail the rail properties of the Railroad, the liabilities and obligations to be assumed by the State, and the sum of money, if any, in the Alaska Railroad Revolving Fund to be used by the Federal Government in carrying out its remaining responsibilities.

Under subsection (b), the State shall have access to properties of, and records pertaining to the Railroad in order to evaluate and prepare for the transfer. Also the Secretary is directed not to take certain actions such as transfer, sale or lease of the Railroad properties or the obligation of Railroad monies, without the consent of the State.

Subsection (c) directs the Secretary prior to transfer to ensure that the Railroad's accounting practices and systems conform to reporting standards set by the ICC. This action will facilitate the transition of the Railroad to its status as a regulated carrier in intrastate and interstate commerce.

Finally, subsection (d) provides that within nine months after the date of enactment the United States Railway Association must determine the fair market value of the Railroad applying generally accepted procedures, methods and standards. This determination must include an appraisal of the real and personal property to be transferred to the State which considers the current fair market value and potential future value of this property if used in whole or in part for other purposes. The determination must also take into account all obligations imposed by this act and other applicable law upon operation and ownership of the Railroad.

SECTION 6 -- LANDS TO BE TRANSFERRED

This section sets forth the status of the rail properties to be transferred and provides for the orderly adjudication of claims of valid existing rights to those properties. Subsection (a) specifies that the property to be transferred is excluded from selection or conveyance provided under amendments to ANCSA relating to the Cook Inlet Region, Inc., the Chugach Natives, Inc. and certain future Eklutna Village Corporations selections provided for ANILCA.

Subsection (b) reinforces the Department of the Interior's existing responsibility to adjudicate third party claims and to issue written opinions and appropriate documents of title. Specifically, the Secretary of the Interior is directed to complete the determination of "smallest practicable tract" under section 3(e) of ANCSA within three years of the enactment of this legislation. Prior to initiating these adjudications, a ten month

period is provided whereby all affected parties are directed to make a good faith effort to review and settle as many of these claims as possible. This subsection specifies that until settlement or final adjudication, interim management of the Railroad lands subject to claims of valid existing rights shall be in accordance with standards agreed to in the Memorandum of Understanding between the FRA, the State, Cook Inlet Region, Inc. and village corporations. In recognition of the importance of maintaining exclusive control over right-of-way lands to ensure sufficient protection for safe and economic operation of the Railroad, the final part of this subsection provides a process whereby village corporations are allowed to relinquish any claims to railroad lands within the right-of-way for subsequent transfer to the State. This provision further provides that failure to make such a relinquishment shall result in the conveyance to the State of all right, title and interest of the United States in the right-of-way free and clear of such claims.

Under subsection (c), any decision by the Secretary of the Interior pursuant to this section is open to review only by an action brought in Federal District Court of Alaska and is to be expedited. The State is allowed to participate in such an appeal as well as in any agency proceeding. To ensure that the goals of this legislation are not frustrated, this section further provides that no injunctive or other relief can delay the transfer of the Railroad or impede its operations.

Lands among the rail properties are expressly excluded by subsection (d) from selection by Cook Inlet Region, Inc. (CIRI) and Chugach Natives, Inc. under 43 U.S.C. 1611 and sections 1425 and 1430 of P.L. 96-487 (ANILCA); although CIRI claims can be revitalized with State consent if the Railroad is transferred to Alaska. If there is no transfer, the State may still exercise "a public purpose" veto over lands proposed to be included in the selection pool. Federal DOT also has veto power so long as the Railroad is not under State ownership. Since the passage of P.L. 94-204 (ANCSA) in 1976, incorporating the Cook Inlet Land Exchange Agreement (exchange agreement), the Secretary of the Interior and the State of Alaska have been attempting to ensure the land entitlement of CIRI under that complex provision is fulfilled in a manner consistent with the interests of the State, environmental concerns and concerns of other public and private entities.

In one of the integral parts of the exchange agreement, the "in-region pool" provision, the Secretary of the Interior in conjunction with the General Services Administrator, was charged with promptly identifying and creating a selection pool of Federal lands within the Cook Inlet Region. The transfer of the Alaska Railroad through this legislation would exclude rail properties from possible placement in the "in region" selection pool, unless the State or Secretary of Transportation consent to its inclusion.

ANILCA amended ANCSA to allow for "in-region pool" selections to occur out of State. Since the existing exchange agreement allows the Secretary of

the Interior discretion to enlarge the "in region pool" using out of region entitlement. The objective of this section is to reaffirm this secretarial discretion and to make clear that out-of-state properties can be placed into the "in region pool." This subsection also allows CIRI to negotiate with local governments to obtain the properties being selected.

Utilization of CIRI's current statutory rights to obtain Federal surplus property wherever located will be essential for fulfillment of its entitlement. Therefore, a more detailed provision is needed to insure the properties will be made available. This section adjusts CIRI's current statutory right by specifically requiring that both the Secretary of the Interior and CIRI obtain early notice of potentially available properties. The amendments also clarify the Secretary of the Interior's authority to offer properties under his jurisdiction to CIRI as partial fulfillment of CIRI's entitlements.

In addition, to increase to properties within Alaska that can be placed into the "in region pool," section 6 extends CIRI's "in-region" priority statewide.

The amount of property within the "in-region pool" has been for various reasons less than the minimum amount required. On three separate occasions the original deadline on January 15, 1978 has had to be extended to recognize this fact. To ensure fulfillment, section 6 lifts the deadline until the pool is complete but in no event later than July 15, 1987.

Subsection (e) expressly provides that the State shall be liable to a party receiving a conveyance of land among the rail properties for damage resulting in use by the State in a manner not authorized under the license provided in section 4.

SECTION 7 -- EMPLOYEES OF THE ALASKA RAILROAD

Subsection (a) of this section provides that those employees who transfer to the State-owned Railroad and who presently participate in the Federal Civil Service System, may continue to participate in this system for as long as they continue to work for the State-owned Railroad. However as an alternative, the State-owned Railroad may provide such employees either in or substantially equivalent to those benefits the State provides its employees under the State Retirement System. This section provides an exemption to the State alternative program for those transferred employees who are entitled to retire under the Federal retirement system within five years of the date of transfer. These employees may elect to remain participants in the Federal system even if the State chooses to provide other benefits.

Subsection (b) of this section provides that those Federal employees who choose not to transfer to the State-owned Railroad at the time the Railroad

is transferred to the State shall be entitled to all normal rights and benefits under Federal law for discontinued employees.

Subsection (c) provides for similar protections for transferred employees whose employment with the State-owned Railroad is involuntarily terminated during the two year period following the transfer.

SECTION 8 -- STATE OPERATION

Subsection (a) of this section provides that after the transfer, the State-owned Railroad shall be subject to the same Federal laws, with some limited sections, as are other railroads, including the Interstate Commerce Act, the Federal Antitrust Laws (unless the State acts otherwise to invoke an exemption), and the Railroad Safety Laws. The limited exemptions are the Railroad Retirement Act, the Railway Labor Act, the Federal Employer's Liability Act and the Railroad Unemployment Insurance Act. All FRA memoranda which sanction noncompliance with Federal railroad safety regulations ineffect on the date of transfer shall continue in effect according to their terms as "waivers of compliance."

In addition, subsection (a) exempts the State-owned Railroad from any state or local statute specifying a minimum number of crew members that must be employed in connection with the operation of its trains.

Subsection (a) specifies that the State-owned Railroad shall retain and manage its own revenues. The purpose of this provision is to avoid the need for annual appropriations by the State for the Railroad.

Subsection (b) of this section requires the ICC to promulgate an expedited, modified procedure for providing the State-owned Railroad a certificate of public need and necessity.

This subsection also exempts ICC actions under this subsection from the National Environmental Policy Act and the Energy Policy and Conservation Act in order to ensure an expeditious process.

Subsection (c) of this subsection provides that the State-owned Railroad shall be eligible to participate in Federal assistance programs on the same basis as other railroads, including that provided for by the Railroad Revitalization and Regulatory Reform Act.

Subsection (d) of this section provides that the railroad properties within the Denali National Park and Preserve and Chugach National Forest shall be subject to applicable Federal laws and regulations established for the protection of forest and park values. In making this determination, the appropriate secretary is to consult with the Governor of Alaska. Moreover, any determination by the Secretaries must be designed to avoid unreasonable interference with Railroad operations. This subsection also requires that

any decision to fence the right-of-way within Denali shall be subject to the concurrence of the Secretary of the Interior.

SECTION 9 -- FUTURE RIGHTS-OF-WAY

This section contemplates future rights-of-way for expansion of the Railroad. Subsection (a) provides that the State or State-owned Railroad may request the Secretary of the Interior, or the Secretary of Agriculture as appropriate, in consultation with the Secretary of Transportation to approve expeditiously pursuant to existing law, a right-of-way over Federal lands and applications for terminal and station grounds and material sites.

Subsection (b) specifies that any rights-of-ways and grounds and sites granted under this section must conform to the extent possible to the standards established in the Alaska Railroad Act of 1914.

Subsection (c) provides that a right-of-way granted under this section is subject to reversion in accordance with section 10 below.

SECTION 10 -- REVERSION

This section provides for the reversion to the United States of the properties of the Alaska Railroad if within 10 years of the transfer such properties are converted to a use that would prevent the State-owned Railroad from continuing to operate. As an alternative to the actual reversion of the properties, the State at its option, may pay the United States an amount determined to be the value of the properties at the time they were converted to a use preventing the Railroad from operating.

Subsection (b) specifically provides that if the State discontinues use of any land within the right-of-way for a continuous period of 18 years, or upon a formal notification of discontinuance from the State, the State's interest in these lands will revert to the United States.

Subsection (c) further states that upon such reversion, these lands will be conveyed by patent to abutting land owners, except as specified in subsection (d). This latter subsection provides that the portion of the right-of-way within the Denali National Park and Preserve and the Chugach National Forest will revert to the Department of the Interior and the Department of Agriculture, as appropriate, for administration as part of these units.

Subsection (e) provides that if the State sells or transfers the Railroad within five years after the date of transfer, the proceeds from the sale or transfer that exceed the cost of any rehabilitation and improvements and any liabilities incurred by the State shall be paid to the United States.

SECTION 11 -- OTHER DISPOSITION

To ensure that the Railroad is transferred from Federal ownership, this section authorizes the Secretary of Transportation to otherwise dispose of the Railroad if satisfaction by the State of the five conditions under section 4 cannot be certified within a year of the delivery of the report mandated under section 5. Consistent with the concern for continued rail service, this section directs the Secretary to give preference to a prospective owner who will continue to operate rail service.

SECTION 12 -- DENALI NATIONAL PARK AND PRESERVE

All rail properties within the Denali National Park and Preserve are transferred to the Department of Interior for administration as part of the park subject to the exclusive-use easement discussed above.

SECTION 13 -- APPLICABILITY OF OTHER LAWS

This section exempts actions taken under the legislation from the requirements of a number of Federal statutes, including the National Environmental Policy Act and those provisions of the Administrative Procedures Act not pertaining to judicial review. The reasons for these exemptions is to ensure that the transfer process is not delayed.

This section also clarifies that actions taken under this legislation do not constitute a disposal of surplus Federal property or a revocation of withdrawals made from or confirmed for the Alaska Railroad under a number of specifically named and generally referenced land laws, including the Federal Land Policy and Management Act. These clarifications are necessary in order to ensure that the rail properties do not become available for entry or selection by third parties as a result of action taken under the legislation.

SECTION 14 -- CONFLICT WITH OTHER LAWS

This section provides that this legislation shall govern in the event in any conflict between this legislation and any other law.

SECTION 15 -- REPEAL AND AMENDMENT OF EXISTING LAWS

This section repeals the Alaska Railroad enabling act and other related laws, and makes conforming changes to other Federal laws that mention the Alaska Railroad. These changes would become effective at the times of transfer or other disposition or at the time of any other disposition of the Railroad pursuant to Section 11 of this legislation.

SECTION 16 -- SEPARABILITY

This section provides that if any section is held invalid, other sections shall not be affected.

Alaska Railroad Transfer Act of 1982

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(2) a person who is able to assure that adequate transportation will be provided over a substantial portion of the feeder line described in subsection (a) of this section for a period of not less than 3 years; or

(3) any combination of members of the classes of applicants described in paragraphs (1) and (2) of this subsection.

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1982.

TITLE VI—ALASKA RAILROAD TRANSFER

SHORT TITLE

45 USC 1201
note.

Sec. 601. This title may be cited as the "Alaska Railroad Transfer Act of 1982".

PURPOSE

45 USC 1201.

Sec. 602. The Congress finds that—

(1) the Alaska Railroad, which was built by the Federal Government to serve the transportation and development needs of the Territory of Alaska, presently is providing freight and passenger services that primarily benefit residents and businesses in the State of Alaska;

(2) many communities and individuals in Alaska are wholly or substantially dependent on the Alaska Railroad for freight and passenger service and provision of such service is an essential governmental function;

(3) continuation of services of the Alaska Railroad and the opportunity for future expansion of those services are necessary to achieve Federal, State, and private objectives; however, continued Federal control and financial support are no longer necessary to accomplish these objectives;

(4) the transfer of the Alaska Railroad and provision for its operation by the State in the manner contemplated by this title is made pursuant to the Federal goal and ongoing program of transferring appropriate activities to the States;

(5) the State's continued operation of the Alaska Railroad following the transfer contemplated by this title, together with such expansion of the railroad as may be necessary or convenient in the future, will constitute an appropriate public use of the rail system and associated properties, will provide an essential governmental service, and will promote the general welfare of Alaska's residents and visitors; and

(6) in order to give the State government the ability to determine the Alaska Railroad's role in serving the State's transportation needs in the future, including the opportunity to extend rail service, and to provide a savings to the Federal Government, the Federal Government should offer to transfer the railroad to the State, in accordance with the provisions of this title, in the same manner in which other Federal transportation functions (including highways and airports) have been transferred since Alaska became a State in 1959.

DEFINITIONS

45 USC 1202.

Sec. 603. As used in this title, the term—

(1) "Alaska Railroad" means the agency of the United States Government that is operated by the Department of Transportation as a rail carrier in Alaska under authority of the Act of

March 12, 1914 (43 U.S.C. 975 et seq.) (popularly referred to as the "Alaska Railroad Act") and section 6(i) of the Department of Transportation Act (49 U.S.C. 1655(i)), or, as the context requires, the railroad operated by that agency;

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

Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TRANSFER AUTHORIZATION

Sec. 604. (a) Subject to the provisions of this title, the United States, through the Secretary, shall transfer all rail properties of the Alaska Railroad to the State. Such transfer shall occur as soon as practicable after the Secretary has made the certifications required by subsection (d) of this section and shall be accomplished in the manner specified in subsection (b) of this section.

48 USC 1202.

(b)(1) On the date of transfer, the Secretary shall simultaneously:

(A) deliver to the State a bill of sale conveying title to all rail properties of the Alaska Railroad except any interest in real property;

(B) deliver to the State an interim conveyance of the rail properties of the Alaska Railroad that are not conveyed pursuant to subparagraph (A) of this paragraph and are not subject to unresolved claims of valid existing rights;

(C) deliver to the State an exclusive license granting the State the right to use all rail properties of the Alaska Railroad not conveyed pursuant to subparagraphs (A) or (B) of this paragraph pending conveyances in accordance with the review and settlement or final administrative adjudication of claims of valid existing rights;

(D) convey to the State a deed granting the State (i) an exclusive-use easement for that portion of the right-of-way of the Alaska Railroad within the Denali National Park and Preserve extending not less than one hundred feet on either side of the main or branch line tracks, and eight feet on either side of the centerline of the "Y" track connecting the main line of the railroad to the power station at McKinley Park Station and (ii) title to railroad-related improvements within such right-of-way.

Prior to taking the action specified in subparagraphs (A) through (D) of this paragraph, the Secretary shall consult with the Secretary of the Interior. The exclusive-use easement granted pursuant to subparagraph (D) of this paragraph and all rights afforded by such easement shall be exercised only for railroad purposes, and for such other transportation, transmission, or communication purposes for which lands subject to such easement were utilized as of the date of enactment of this Act. In the event of reversion to the United States, pursuant to section 610 of this title, of the State's interests in all or part of the lands subject to such easement, such easement shall terminate with respect to the lands subject to such reversion, and no new exclusive-use easement with respect to such reverted lands shall be granted except by Act of Congress.

(2) The Secretary shall deliver to the State an interim conveyance of rail properties of the Alaska Railroad described in paragraph (1)(C) of this subsection that become available for conveyance to the State after the date of transfer as a result of settlement, relinquishment, or final administrative adjudication pursuant to section 606 of this title. Where the rail properties to be conveyed pursuant to this paragraph are surveyed at the time they become available for conveyance to the State, the Secretary shall deliver a patent therefor in lieu of an interim conveyance.

(3) The force and effect of an interim conveyance made pursuant to paragraphs (1)(B) or (2) of this subsection shall be to convey to and vest in the State exactly the same right, title, and interest in and to the rail properties identified therein as the State would have received had it been issued a patent by the United States. The

Secretary of the Interior shall survey the land conveyed by an interim conveyance to the State pursuant to paragraphs (1)(B) or (2) of this subsection and, upon completion of the survey, the Secretary shall issue a patent therefor.

(4) The license granted pursuant to paragraph (1)(C) of this subsection shall authorize the State to use, occupy, and directly receive all benefits of the rail properties described in the license for the operation of the State-owned railroad in conformity with the Memorandum of Understanding referred to in section 606(b)(3) of this title. The license shall be exclusive, subject only to valid leases, permits, and other instruments issued before the date of transfer and easements reserved pursuant to subsection (c)(2) of this section. With respect to any parcel conveyed pursuant to this title, the license shall terminate upon conveyance of such parcel.

(c)(1) Interim conveyances and patents issued to the State pursuant to subsection (b) of this section shall confirm, convey and vest in the State all reservations to the United States (whether or not expressed in a particular patent or document of title), except the unexercised reservations to the United States for future rights-of-way made or required by the first section of the Act of March 12, 1914 (43 U.S.C. 975d). The conveyance to the State of such reservations shall not be affected by the repeal of such Act under section 615 of this title.

(2) In the license granted under subsection (b)(1)(C) of this section and in all conveyances made to the State under this title, there shall be reserved to the Secretary of the Interior, the Secretary of Defense and the Secretary of Agriculture, as appropriate, existing easements for administration (including agency transportation and utility purposes) that are identified in the report required by section 605(a) of this title. The appropriate Secretary may obtain, only after consent of the State, such future easements as are necessary for administration. Existing and future easements and use of such easements shall not interfere with operations and support functions of the State-owned railroad.

(3) There shall be reserved to the Secretary of the Interior the right to use and occupy, without compensation, five thousand square feet of land at Talkeetna, Alaska, as described in ARR lease numbered 69-25-0003-5165 for National Park Service administrative activities, so long as the use or occupation does not interfere with the operation of the State-owned railroad. This reservation shall be effective on the date of transfer under this section or the expiration date of such lease, whichever is later.

(d)(1) Prior to the date of transfer, the Secretary shall certify that the State has agreed to operate the railroad as a rail carrier in intrastate and interstate commerce.

(2)(A) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to assume all rights, liabilities, and obligations of the Alaska Railroad on the date of transfer, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, and accounts payable, except as otherwise provided by this title.

(B) Notwithstanding the provisions of subparagraph (A) of this paragraph, the United States shall be solely responsible for—

(i) all claims and causes of action against the Alaska Railroad that accrue on or before the date of transfer, regardless of the date on which legal proceedings asserting such claims were or may be filed, except that the United States shall, in the case of

any tort claim, only be responsible for any such claim against the United States that accrues before the date of transfer and results in an award, compromise, or settlement of more than \$2,500, and the United States shall not compromise or settle any claim resulting in State liability without the consent of the State, which consent shall not be unreasonably withheld; and

(ii) all claims that resulted in a judgment or award against the Alaska Railroad before the date of transfer.

(C) For purposes of subparagraph (B) of this paragraph, the term "accrue" shall have the meaning contained in section 2401 of title 28, United States Code.

"Accrue."

(3)(A) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has established arrangements pursuant to section 607 of this title to protect the employment interests of employees of the Alaska Railroad during the two-year period commencing on the date of transfer. These arrangements shall include provisions—

(i) which ensure that the State-owned railroad will adopt collective bargaining agreements in accordance with the provisions of subparagraph (B) of this paragraph;

(ii) for the retention of all employees, other than officers of the Alaska Railroad, who elect to transfer to the State-owned railroad in their same positions for the two-year period commencing on the date of transfer, except in cases of reassignment, separation for cause, resignation, retirement, or lack of work;

(iii) for the payment of compensation to transferred employees (other than employees provided for in subparagraph (E) of this paragraph), except in cases of separation for cause, resignation, retirement, or lack of work, for two years commencing on the date of transfer at or above the base salary levels in effect for such employees on the date of transfer, unless the parties otherwise agree during that two-year period;

(iv) for priority of reemployment at the State-owned railroad during the two-year period commencing on the date of transfer for transferred employees who are separated for lack of work, in accordance with subparagraph (C) of this paragraph (except for officers of the Alaska Railroad, who shall receive such priority for one year following the date of transfer);

(v) for credit during the two-year period commencing on the date of transfer for accrued annual and sick leave, seniority rights, and relocation and turnaround travel allowances which have been accrued during their period of Federal employment by transferred employees retained by the State-owned railroad (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer);

(vi) for payment to transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, including for one year officers retained or separated under subparagraph (E) of this paragraph, of an amount equivalent to the cost-of-living allowance to which they are entitled as Federal employees on the day before the date of transfer, in accordance with the provisions of subparagraph (D) of this paragraph; and

(vii) for health and life insurance programs for transferred employees retained by the State-owned railroad during the two-year period commencing on the date of transfer, substantially

equivalent to the Federal health and life insurance programs available to employees on the day before the date of transfer (except for officers of the Alaska Railroad, who shall receive such credit for one year following the date of transfer).

(B) The State-owned railroad shall adopt all collective bargaining agreements which are in effect on the date of transfer. Such agreements shall continue in effect for the two-year period commencing on the date of transfer, unless the parties agree to the contrary before the expiration of that two-year period. Such agreements shall be renegotiated during the two-year period, unless the parties agree to the contrary. Any labor-management negotiation impasse declared before the date of transfer shall be settled in accordance with chapter 71 of title 5, United States Code. Any impasse declared after the date of transfer shall be subject to applicable State law.

5 USC 7101 et
seq.

(C) Federal service shall be included in the computation of seniority for transferred employees with priority for reemployment, as provided in subparagraph (A)(iv) of this paragraph.

(D) Payment to transferred employees pursuant to subparagraph (A)(vi) of this paragraph shall not exceed the percentage of any transferred employee's base salary level provided by the United States as a cost-of-living allowance on the day before the date of transfer, unless the parties agree to the contrary.

(E) Prior to the date of transfer, the Secretary shall also certify that the State-owned railroad has agreed to the retention, for at least one year from the date of transfer, of the offices of the Alaska Railroad, except in cases of separation for cause, resignation, retirement, or lack of work, at or above their base salaries in effect on the date of transfer, in such positions as the State-owned railroad may determine; or to the payment of lump-sum severance pay in an amount equal to such base salary for one year to officers not retained by the State-owned railroad upon transfer or, for officers separated within one year on or after the date of transfer, of a portion of such lump-sum severance payment (diminished pro rata for employment by the State-owned railroad within one year of the date of transfer prior to separation).

(4) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to allow representatives of the Secretary adequate access to employees and records of the Alaska Railroad when needed for the performance of functions related to the period of Federal ownership.

(5) Prior to the date of transfer, the Secretary shall also certify that the State has agreed to compensate the United States at the value, if any, determined pursuant to section 605(d) of this title.

TRANSITION PERIOD

Report to
Congress
and State
legislature.
45 USC 1204.

SEC. 605. (a) Within 6 months after the date of enactment of this Act, the Secretary and the Governor of Alaska shall jointly prepare and deliver to the Congress of the United States and the legislature of the State a report that describes to the extent possible the rail properties of the Alaska Railroad, the liabilities and obligations to be assumed by the State, the sum of money, if any, in the Alaska Railroad Revolving Fund to be withheld from the State pursuant to section 603(8)(C) of this title, and any personal property to be withheld pursuant to section 603(8)(D) of this title. The report shall separately identify by the best available descriptions (1) the rail properties of the Alaska Railroad to be transferred pursuant to

section 604(b)(1) (A), (B), and (D) of this title; (3) the rail properties to be subject to the license granted pursuant to section 604(b)(1)(C) of this title; and (3) the easements to be reserved pursuant to section 604(c)(2) of this title. The Secretaries of Agriculture, Defense, and the Interior and the Administrator of the General Services Administration shall provide the Secretary with all information and assistance necessary to allow the Secretary to complete the report within the time required.

(b) During the period from the date of enactment of this Act until the date of transfer, the State shall have the right to inspect, analyze, photograph, photocopy and otherwise evaluate all of the rail properties of the Alaska Railroad and all records related to the rail properties of the Alaska Railroad maintained by any agency of the United States under conditions established by the Secretary to protect the confidentiality of proprietary business data, personnel records, and other information, the public disclosure of which is prohibited by law. During that period, the Secretary and the Alaska Railroad shall not, without the consent of the State and only in conformity with applicable law and the Memorandum of Understanding referred to in section 606(b)(3) of this title—

(1) make or incur any obligation to make any individual capital expenditure of money from the Alaska Railroad Revolving Fund in excess of \$300,000;

(2) (except as required by law) sell, exchange, give, or otherwise transfer any real property included in the rail properties of the Alaska Railroad; or

(3) lease any rail property of the Alaska Railroad for a term in excess of five years.

(c) Prior to transfer of the rail properties of the Alaska Railroad to the State, the Alaska Railroad's accounting practices and systems shall be capable of reporting data to the Interstate Commerce Commission in formats required of comparable rail carriers subject to the jurisdiction of the Interstate Commerce Commission.

(d)(1) Within nine months after the date of enactment of this Act, the United States Railway Association (hereinafter in this section referred to as the "Association") shall determine the fair market value of the Alaska Railroad under the terms and conditions of this title, applying such procedures, methods and standards as are generally accepted as normal and common practice. Such determination shall include an appraisal of the real and personal property to be transferred to the State pursuant to this title. Such appraisal by the Association shall be conducted in the usual manner in accordance with generally accepted industry standards, and shall consider the current fair market value and potential future value if used in whole or in part for other purposes. The Association shall take into account all obligations imposed by this title and other applicable law upon operation and ownership of the State-owned railroad. In making such determination, the Association shall use to the maximum extent practicable all relevant data and information, including, if relevant, that contained in the report prepared pursuant to subsection (a) of this section.

(2) The determination made pursuant to paragraph (1) of this subsection shall not be construed to affect, enlarge, modify, or diminish any inventory, valuation, or classification required by the Interstate Commerce Commission pursuant to subchapter V of chapter 107 of title 49, United States Code (49 U.S.C. 10781 et seq.).

48 USC 712.

(e) Section 202(a) of the Regional Rail Reorganization Act of 1973 is amended—

- (1) by striking "and" at the end of paragraph (9);
- (2) by striking the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and
- (3) by adding at the end thereof the following new paragraph:
 "(11) determine the value of the Alaska Railroad, as required by section 605 of the Alaska Railroad Transfer Act of 1982."

LANDS TO BE TRANSFERRED

45 USC 1205.

Sec. 606. (a) Lands among the rail properties of the Alaska Railroad shall not be—

Publ. p. 2568.

(1) available for selection under section 12 of the Act of January 2, 1976, as amended (43 U.S.C. 1611, note), subject to the exception contained in section 12(b)(8)(i)(D) of such Act, as amended by subsection (d)(5) of this section;

(2) available for conveyance under section 1425 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2515);

(3) available for conveyance to Chugach Natives, Inc., under sections 1429 or 1430 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2531) or under sections 12(c) or 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c) and 1613(h)(8), respectively); or

(4) available under any law or regulation for entry, location, or for exchange by the United States, or for the initiation of a claim or selection by any party other than the State or other transferee under this title, except that this paragraph shall not prevent a conveyance pursuant to section 12(b)(8)(i)(D) of the Act of January 2, 1976 (43 U.S.C. 1611, note), as amended by subsection (d)(5) of this section.

(b)(1)(A) During the ten months following the date of enactment of this Act, so far as practicable consistent with the priority of preparing the report required pursuant to section 605(a) of this title, the Secretary of the Interior, Village Corporations with claims of valid existing rights, and the State shall review and make a good faith effort to settle as many of the claims as possible. Any agreement to settle such claims shall take effect and bind the United States, the State, and the Village Corporation only as of the date of transfer of the railroad.

(B) At the conclusion of the review and settlement process provided in subparagraph (A) of this paragraph, the Secretary of the Interior shall prepare a report identifying lands to be conveyed in accordance with settlement agreements under this title or applicable law. Such settlement shall not give rise to a presumption as to whether a parcel of land subject to such agreement is or is not public land.

(2) The Secretary of the Interior shall have the continuing jurisdiction and duty to adjudicate unresolved claims of valid existing rights pursuant to applicable law and this title. The Secretary of the Interior shall complete the final administrative adjudication required under this subsection not later than three years after the date of enactment of this Act, and shall complete the survey of all lands to be conveyed under this title not later than five years after the date of enactment of this Act, and after consulting with the Governor of the State of Alaska to determine priority of survey with

regard to other lands being processed for patent to the State. The Secretary of the Interior shall give priority to the adjudication of Village Corporation claims as required in this section. Upon completion of the review and settlement process required by paragraph (1)(A) of this subsection, with respect to lands not subject to an agreement under such paragraph, the Secretary of the Interior shall adjudicate which lands subject to claims of valid existing rights filed by Village Corporations, if any, are public lands and shall complete such final administrative adjudication within two years after the date of enactment of this Act.

(3) Pending settlement or final administrative adjudication of claims of valid existing rights filed by Village Corporations prior to the date of transfer or while subject to the license granted to the State pursuant to section 604(b)(1)(C) of this title, lands subject to such claims shall be managed in accordance with the Memorandum of Understanding among the Federal Railroad Administration, the State, Eklutna, Incorporated, Cook Inlet Region, Incorporated (as that term is used in section 12 of the Act of January 2, 1976 (Public Law 94-204; 89 Stat. 1150)), and Toghotthele Corporation, executed by authorized officers or representatives of each of these entities. Duplicate originals of the Memorandum of Understanding shall be maintained and made available for public inspection and copying in the Office of the Secretary, at Washington, District of Columbia, and in the Office of the Governor of the State of Alaska, at Juneau, Alaska.

(4) The following procedures and requirements are established to promote finality of administrative adjudication of claims of valid existing rights filed by Village Corporations, to clarify and simplify the title status of lands subject to such claims, and to avoid potential impairment of railroad operations resulting from joint or divided ownership in substantial segments of right-of-way:

(A)(i) Prior to final administrative adjudication of Village Corporation claims of valid existing rights in land subject to the license granted under section 604(b)(1)(C) of this title, the Secretary of the Interior may, notwithstanding any other provision of law, accept relinquishment of so much of such claims as involved lands within the right-of-way through execution of an agreement with the appropriate Village Corporation effective on or after the date of transfer. Upon such relinquishment, the interest of the United States in the right-of-way shall be conveyed to the State pursuant to section 604(b)(1)(B) or (2) of this title.

(ii) With respect to a claim described in clause (i) of this subparagraph that is not settled or relinquished prior to final administrative adjudication, the Congress finds that exclusive control over the right-of-way by the Alaska Railroad has been and continues to be necessary to afford sufficient protection for safe and economic operation of the railroad. Upon failure of the interested Village Corporation to relinquish so much of its claims as involve lands within the right-of-way prior to final adjudication of valid existing rights, the Secretary shall convey to the State pursuant to section 604(b)(1)(B) or (2) of this title all right, title and interest of the United States in and to the right-of-way free and clear of such Village Corporation's claim to and interest in lands within such right-of-way.

(B) Where lands within the right-of-way, or any interest in such lands, have been conveyed from Federal ownership prior to