

CHAPTER 278

TRANSPORTATION

SENATE BILL 97-037

BY SENATORS Mutzebaugh, Bishop, Chlouber, Perlmutter, and Rizzuto;
also REPRESENTATIVES Taylor, Mace, Miller, Reeser, Schwarz, Smith, Sullivant, Swenson, Veiga, Young, and Zimmerman.

AN ACT

CONCERNING THE DISPOSITION OF ABANDONED RAILROAD RIGHTS-OF-WAY IN COLORADO, AND, IN CONNECTION THEREWITH, ESTABLISHING TAX CREDITS FOR RAILROAD COMPANIES THAT DONATE ABANDONED RAILROAD RIGHTS-OF-WAY TO THE STATE, AUTHORIZING THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION TO ACCEPT, USE, AND CONVEY DONATED RAILROAD RIGHTS-OF-WAY, REQUIRING THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION TO MAKE RECOMMENDATIONS TO THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE REGARDING STATE ACQUISITION OF ABANDONED RAILROAD RIGHTS-OF-WAY, AND REQUIRING THE LEGISLATIVE MEMBERS OF THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE TO MAKE A REPORT TO THE GENERAL ASSEMBLY RECOMMENDING ACQUISITION OF ABANDONED RAILROAD RIGHTS-OF-WAY, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 8 of article 1 of title 43, Colorado Revised Statutes, 1993 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

43-1-803. Authority of executive director of the department of transportation - acceptance and conveyance of donated railroad right-of-way - definition. (1) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION, OR HIS OR HER DESIGNEE, IS AUTHORIZED TO:

(a) ACCEPT THE DONATION OF AN ABANDONED RAILROAD RIGHT-OF-WAY FROM A RAILROAD COMPANY TO THE STATE;

(b) DETERMINE IF THE ABANDONED RAILROAD RIGHTS-OF-WAY TO BE DONATED BY RAILROAD COMPANIES SHOULD BE ACCEPTED AND THE METHOD OF THE CONVEYANCE;

(c) ALLOW THE USE OF THE RAILROAD RIGHT-OF-WAY FOR ANY PUBLIC PURPOSE; EXCEPT THAT, IF SUCH USE IS INCOMPATIBLE WITH THE OPERATION OF A FREIGHT OR

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

PASSENGER RAIL SERVICE AS DETERMINED BY THE DIRECTOR, THE USE INCOMPATIBLE WITH RAIL SERVICE SHALL CEASE WHEN RAIL SERVICE COMMENCES.

(2) THE EXECUTIVE DIRECTOR SHALL, AS SOON AS IS PRACTICABLE, SELL, TRADE, OR OTHERWISE CONVEY RAILROAD RIGHTS-OF-WAYS OBTAINED PURSUANT TO SUBSECTION (1) OF THIS SECTION TO AN INDIVIDUAL, FIRM, CORPORATION, PARTNERSHIP, ASSOCIATION, OR OTHER LEGAL ENTITY THAT HAS BEEN FOUND BY THE EXECUTIVE DIRECTOR TO BE CAPABLE OF OPERATING A FREIGHT OR PASSENGER RAIL SERVICE.

(3) UPON THE SALE OF THE RAILROAD RIGHT-OF-WAY TO AN INDIVIDUAL, FIRM, CORPORATION, PARTNERSHIP, ASSOCIATION, OR OTHER LEGAL ENTITY THAT HAS BEEN FOUND BY THE EXECUTIVE DIRECTOR TO BE CAPABLE OF OPERATING A FREIGHT OR PASSENGER RAIL SERVICE, THE EXECUTIVE DIRECTOR SHALL DEPOSIT THE PROCEEDS OF THE SALE IN THE STATE RAIL BANK FUND, CREATED IN SECTION 43-1-1309.

(4) FOR PURPOSES OF THIS SECTION, "ABANDONED RAILROAD RIGHT-OF-WAY" MEANS ANY REAL PROPERTY OR INTEREST IN REAL PROPERTY THAT IS OR HAS BEEN OWNED AND OPERATED BY A RAILROAD COMPANY FOR RAIL SERVICE UPON WHICH THE SURFACE TRANSPORTATION BOARD OR OTHER RESPONSIBLE FEDERAL AGENCY HAS PERMITTED DISCONTINUANCE OF SERVICE AND DISPOSAL OF THE REAL PROPERTY OR INTEREST IN THE REAL PROPERTY. "ABANDONED RAILROAD RIGHT-OF-WAY" INCLUDES ANY FIXTURES TO THE REAL PROPERTY, INCLUDING RAILROAD TRACKS, THAT ARE USED OR USEABLE IN RAIL SERVICE.

SECTION 2. Article 1 of title 43, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PART to read:

PART 13
ACQUISITION OF ABANDONED
RAILROAD RIGHTS-OF-WAY

43-1-1301. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE ABANDONMENT OF RAILROAD RIGHTS-OF-WAY AND THE RESULTING LOSS OF RAILROAD SERVICE AND ESTABLISHED RAILROAD CORRIDORS WILL HAVE AN ADVERSE IMPACT ON THE CITIZENS OF THE STATE OF COLORADO. THE GENERAL ASSEMBLY FURTHER DECLARES THAT THE PRESERVATION OF THESE ABANDONED RAILROAD CORRIDORS, BEFORE THE LINES ARE DISMANTLED AND SALVAGED, IS NECESSARY TO ENSURE THE CONTINUED AVAILABILITY OF THESE CORRIDORS FOR FREIGHT OR PASSENGER RAIL SERVICE OR OTHER PUBLIC USES SHOULD NO RAIL SERVICE OPERATOR BE IMMEDIATELY AVAILABLE.

(2) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE PRESERVATION OF RAILROAD SERVICE AND RAILROAD RIGHTS-OF-WAY BENEFITS THE TRANSPORTATION SYSTEM AND THE ECONOMY OF THE STATE. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THE LOSS OF RAILROAD SERVICE AND OF RAILROAD RIGHTS-OF-WAY THREATEN THE POTENTIAL FUTURE USE OF ESTABLISHED RAILROAD CORRIDORS FOR TRANSPORTATION PURPOSES IF THE RAIL LINES OR RIGHTS-OF-WAY ARE ALLOWED TO BE ABANDONED OR SOLD FOR PURPOSES OTHER THAN TRANSPORTATION.

(3) IT IS THE INTENT OF THE GENERAL ASSEMBLY BY ENACTING THIS PART 13 TO ESTABLISH AND ENDORSE POLICIES TO ENCOURAGE THE CONTINUED USE OF EXISTING RAIL LINES, PRESERVE LINES AND RIGHTS-OF-WAY, AND PROMOTE THE FUTURE USE OF RAILROAD RIGHTS-OF-WAY FOR TRANSPORTATION AND INTERIM RECREATIONAL PURPOSES.

(4) IF A RAIL LINE OR RIGHT-OF-WAY PROPOSED FOR ABANDONMENT IS BEING CONSIDERED FOR ACQUISITION BY THE STATE FOR TRANSPORTATION PURPOSES, WHICH MAY INCLUDE INTERIM RECREATIONAL PURPOSES, THE REGIONAL PLANNING COMMISSIONS, ACTING ON BEHALF OF THE TRANSPORTATION PLANNING REGIONS, SHALL ASSIST THE STATE IN DETERMINING APPROPRIATE USES OF SUCH RAIL LINE OR RIGHT-OF-WAY. THE DEPARTMENT AND THE REGIONAL PLANNING COMMISSIONS SHALL INCLUDE IN THEIR DELIBERATIONS REPRESENTATIVES FROM EACH OF THE FOLLOWING INTERESTS, IF SUCH INTERESTS ARE NOT ALREADY REPRESENTED: PRIVATE PROPERTY OWNERS, RECREATION AND ENVIRONMENTAL INTERESTS, THE DEPARTMENT OF LOCAL AFFAIRS, AND THE DEPARTMENT OF NATURAL RESOURCES.

43-1-1302. Definitions. AS USED IN THIS PART 13, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "INTERIM RECREATIONAL PURPOSES" MEANS A USE FOR HIKING, BIKING, EQUESTRIAN, OR SIMILAR RECREATIONAL USE WHICH DOES NOT PREVENT THE RESTORATION AND RECONSTRUCTION OF THE RIGHT-OF-WAY FOR RAILROAD OR OTHER TRANSPORTATION PURPOSES.

(2) "RAILROAD RIGHT-OF-WAY" MEANS ANY REAL PROPERTY OR INTEREST IN REAL PROPERTY THAT IS OR HAS BEEN OWNED BY A RAILROAD COMPANY AS THE SITE, OR IS ADJACENT TO THE SITE, OF AN EXISTING OR FORMER RAIL LINE, INCLUDING FIXTURES SUCH AS RAILROAD TRACKS, THAT MAY BE USED OR ARE USABLE TO CONTINUE RAIL SERVICE.

(3) "TLRC" MEANS THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE, CREATED IN SECTION 43-2-145.

43-1-1303. Duties of the executive director - TLRC approval - property eligible for acquisition. (1) AN EXISTING RAIL LINE OR RAILROAD RIGHT-OF-WAY OR AN ABANDONED RAILROAD RIGHT-OF-WAY IS ELIGIBLE FOR ACQUISITION BY THE DEPARTMENT IF THE EXECUTIVE DIRECTOR DETERMINES THAT IT SERVES OR MAY SERVE ANY ONE OR MORE OF THE FOLLOWING PURPOSES:

(a) PRESERVATION OF THE RAIL LINE FOR FREIGHT OR PASSENGER SERVICE;

(b) MAINTENANCE OF A RAIL CORRIDOR OR RAILROAD RIGHT-OF-WAY FOR FUTURE TRANSPORTATION PURPOSES OR INTERIM RECREATIONAL PURPOSES;

(c) ACCESS TO SURROUNDING STATE MANUFACTURING FACILITIES, AGRICULTURAL AREAS, OR OTHER LOCALES THAT MAY BE ADVERSELY AFFECTED BY THE LOSS OF RAIL SERVICE OR LOSS OF THE RAILROAD CORRIDOR; OR

(d) ANY PUBLIC USE OF THE RAIL LINE OR RAILROAD RIGHT-OF-WAY THAT IS COMPATIBLE WITH THE FUTURE USE AS A RAILROAD OR OTHER TRANSPORTATION

SYSTEM AS TRANSPORTATION IS DEFINED IN SECTION 43-1-102.

(2) THE COMMISSION SHALL REVIEW ANY PROPERTY DETERMINED TO BE ELIGIBLE FOR ACQUISITION AND APPROVE THE ACQUISITION BEFORE THE EXECUTIVE DIRECTOR SUBMITS THE PRIORITIZED LIST OF RAIL LINES OR RIGHTS-OF-WAY TO BE ACQUIRED TO THE TLRC PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(3) THE EXECUTIVE DIRECTOR SHALL SUBMIT A PRIORITIZED LIST WITH RECOMMENDATIONS TO THE TLRC CONCERNING THE RAILROAD RIGHTS-OF-WAY OR RAIL LINES PROPOSED TO BE ACQUIRED BY THE STATE AND THEIR PROPOSED USES.

(4) THE EXECUTIVE DIRECTOR MAY ACCEPT GIFTS, GRANTS, AND DONATIONS FOR PURPOSES OF THIS PART 13, AND ANY MONEYS SO RECEIVED SHALL BE DEPOSITED WITH THE STATE TREASURER TO BE CREDITED TO THE STATE RAIL BANK FUND, CREATED IN SECTION 43-1-1309.

43-1-1304. Notice of rail line or right-of-way availability. WHENEVER AN OWNER OF A RAIL LINE OR RAILROAD RIGHT-OF-WAY INTENDS TO DISPOSE OF SUCH PROPERTY, THE OWNER SHALL NOTIFY THE EXECUTIVE DIRECTOR OF SUCH INTENTION IN WRITING. THE EXECUTIVE DIRECTOR SHALL, WITHIN THIRTY DAYS AFTER THE RECEIPT OF SUCH NOTICE, INFORM ALL DEPARTMENTS OF THE STATE OF COLORADO, THE METROPOLITAN OR REGIONAL TRANSPORTATION AUTHORITIES, AND CITIES, COUNTIES, AND TOWNS WHERE THE PROPERTY OR A PORTION THEREOF IS LOCATED OF THE OWNER'S INTENTION TO DISPOSE OF THE RAIL LINE OR RIGHT-OF-WAY. THE STATE AND ANY METROPOLITAN OR REGIONAL TRANSPORTATION AUTHORITY, CITIES, COUNTIES, AND TOWNS AFFECTED BY THE INTENDED DISPOSAL SHALL HAVE NINETY DAYS AFTER THE ANNOUNCEMENT OF THE INTENDED DISPOSAL IN WHICH TO CONTACT THE OWNER IN WRITING TO EXPRESS AN INTEREST IN ACQUIRING THE PROPERTY OR PRESERVING RAIL SERVICE. IF THE OWNER RECEIVES WRITTEN NOTICE WITHIN THE NINETY-DAY PERIOD AFTER THE ANNOUNCEMENT OF THE INTENDED DISPOSAL, THE OWNER SHALL PROVIDE SUCH PUBLIC ENTITIES THE OPPORTUNITY TO PURCHASE THE RAIL LINE OR RIGHT-OF-WAY.

43-1-1305. Acquisition for state rail bank. (1) THE DEPARTMENT, SUBJECT TO SECTION 43-1-1303, MAY ACQUIRE BY PURCHASE ALL OR PART OF ANY ELIGIBLE RAIL LINE OR RIGHT-OF-WAY MADE AVAILABLE AS PROVIDED IN THIS PART 13. RAIL LINES AND RIGHTS-OF-WAY PURCHASED BY THE DEPARTMENT PURSUANT TO THIS PART 13 SHALL CONSTITUTE THE STATE RAIL BANK.

(2) PRIOR TO ANY ACQUISITION OF A RAIL LINE OR RIGHT-OF-WAY PURSUANT TO THIS PART 13 OR SECTION 43-1-803, THE DEPARTMENT SHALL PREPARE AN ENVIRONMENTAL AUDIT OF THE PROPERTY AND SHALL CONSIDER THE ENVIRONMENTAL CONDITION OF THE PROPERTY IN ITS ACQUISITION.

(3) THE COMMISSION SHALL REVIEW ANY PROPERTY DETERMINED TO BE ELIGIBLE FOR ACQUISITION AND APPROVE THE ACQUISITION BEFORE THE EXECUTIVE DIRECTOR SUBMITS THE PRIORITIZED LIST OF RAIL LINE OR RIGHT-OF-WAY TO BE ACQUIRED TO THE TLRC PURSUANT TO SECTION 43-1-1303 (3).

43-1-1306. Disposition of state rail bank property. (1) THE EXECUTIVE DIRECTOR SHALL MAINTAIN PROPERTY WITHIN THE STATE RAIL BANK, INCLUDING

WEED CONTROL, IN A MANNER THAT MINIMIZES MAINTENANCE COSTS AND PROVIDES A BENEFIT TO THE STATE. THE EXECUTIVE DIRECTOR SHALL ASSUME THE RESPONSIBILITIES OF THE ABANDONING RAILROAD COMPANY FOR THE CONSTRUCTION AND MAINTENANCE OF FENCING OF ABANDONED RAIL LINES OR RAILROAD RIGHTS-OF-WAY WITHIN THE STATE RAIL BANK; EXCEPT THAT, WHERE NO AGREEMENT EXISTS, THEN NO REQUIREMENT FOR FENCING SHALL BE IMPOSED.

(2) THE EXECUTIVE DIRECTOR MAY MAKE PROPERTY IN THE STATE RAIL BANK AVAILABLE FOR INTERIM RECREATIONAL PURPOSES, BUT SUCH INTERIM RECREATIONAL USE SHALL NOT LIMIT THE ABILITY TO RESTORE OR RECONSTRUCT THE PROPERTY FOR RAILROAD SERVICE OR OTHER TRANSPORTATION SERVICES.

(3) THE EXECUTIVE DIRECTOR SHALL PROVIDE A FIRST RIGHT OF REFUSAL TO PURCHASE OR LEASE ANY RAIL LINE OR RAILROAD RIGHT-OF-WAY HELD IN THE STATE RAIL BANK TO METROPOLITAN OR REGIONAL TRANSPORTATION AUTHORITIES, CITIES, TOWNS, COUNTIES, OR MASS TRANSIT AGENCIES IF THOSE ENTITIES HAVE FIRST UNDERTAKEN AND APPROVED A PLAN OR PROGRAM TO USE THE PROPERTY FOR TRANSPORTATION PURPOSES.

(4) THE EXECUTIVE DIRECTOR MAY SELL OR LEASE ANY RAIL LINE OR RAILROAD RIGHT-OF-WAY HELD IN THE STATE RAIL BANK TO A FINANCIALLY RESPONSIBLE RAILROAD OPERATOR WHO WILL USE THE PROPERTY TO PROVIDE RAIL SERVICE. IN ANY SALE OF A RAIL LINE OR RAILROAD RIGHT-OF-WAY HELD IN THE STATE RAIL BANK PURSUANT TO THIS SUBSECTION (4) OR SECTION 43-1-803 (2), THE EXECUTIVE DIRECTOR SHALL RETAIN A POSSIBILITY OF REVERTER TO THE STATE IN THE EVENT THAT THE RAILROAD OPERATOR ABANDONS THE RAIL LINE OR RAILROAD RIGHT-OF-WAY OR IF THE RAIL LINE OR RAILROAD RIGHT-OF-WAY IS USED OR CONVEYED FOR ANY PURPOSE OTHER THAN THE OPERATION OF RAILROAD SERVICES. ANY SUCH PROPERTY THAT REVERTS BACK TO THE STATE SHALL BE HELD IN THE STATE RAIL BANK.

(5) THE EXECUTIVE DIRECTOR MAY CONVERT PROPERTY IN THE STATE RAIL BANK TO OTHER TRANSPORTATION USES FOLLOWING APPROPRIATE STUDIES AND UPON APPROVAL BY THE COMMISSION AND THE TLRC.

(6) THE EXECUTIVE DIRECTOR SHALL ENSURE THAT, IN ANY SALE, LEASE, OR OTHER CONVEYANCE OF A RAIL LINE OR RAILROAD RIGHT-OF-WAY HELD IN THE STATE RAIL BANK, ANY AGREEMENT OF THE RAILROAD COMPANY THAT ABANDONED SUCH RAIL LINE OR RIGHT-OF-WAY TO CONSTRUCT OR MAINTAIN FENCING RELATIVE TO SUCH RAIL LINE OR RIGHT-OF-WAY SHALL BE TRANSFERRED TO THE PERSON TO WHOM THE RIGHT-OF-WAY IS CONVEYED.

(7) (a) ANY TRANSFER OF TITLE OF THE RAILROAD RIGHTS-OF-WAY FROM A RAILROAD COMPANY AS PROVIDED IN THIS PART 13 OR IN SECTION 43-1-803 SHALL NOT IMPAIR OR DIMINISH THE RIGHT OF ANY DITCH OWNER TO CONSTRUCT, OPERATE, MAINTAIN, OR ENLARGE ANY IRRIGATION DITCH AS PROVIDED BY LAW. ANY DAMAGE TO AN IRRIGATION DITCH THAT IS LOCATED IN OR ADJACENT TO SUCH RAILROAD RIGHT-OF-WAY AND ANY INCREASES IN DITCH MAINTENANCE CAUSED BY THE USE OF THE RAILROAD RIGHT-OF-WAY FOR A PUBLIC PURPOSE SHALL BE THE RESPONSIBILITY OF THE PERSON TO WHOM THE TITLE OF THE RAILROAD RIGHT-OF-WAY WAS TRANSFERRED. ANY SUCH TRANSFER OF TITLE SHALL NOT IMPAIR OR DIMINISH

EXISTING CONTRACTS BETWEEN THE RAILROAD COMPANY AND ANY DITCH OWNER FOR THE USE, OPERATION, AND MAINTENANCE OF ANY DITCH. THE EXECUTIVE DIRECTOR SHALL ENSURE THAT THE NECESSARY CONTRACT PROVISIONS AND DEED RESTRICTIONS OR ANNOTATIONS, PURSUANT TO THIS SUBSECTION (7), ARE MADE TO THE DOCUMENTS REQUIRED TO TRANSFER THE TITLE OF SUCH RAILROAD RIGHT-OF-WAY.

(b) AN OWNER OF AN IRRIGATION DITCH LOCATED IN OR ADJACENT TO THE RAILROAD RIGHT-OF-WAY TO WHICH TITLE IS TRANSFERRED AS PROVIDED IN THIS PART 13 OR IN SECTION 43-1-803 IS IMMUNE FROM SUIT AND FROM ANY AND ALL LIABILITY ARISING OUT OF OR RELATED TO THE USE OF THE RAILROAD RIGHT-OF-WAY FOR A PUBLIC PURPOSE.

43-1-1307. Powers and duties of the transportation legislation review committee concerning state acquisition of abandoned railroad rights-of-way.

(1) THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE SHALL STUDY THE RECOMMENDATIONS OF THE EXECUTIVE DIRECTOR MADE PURSUANT TO SECTION 43-1-1303 (3) FOR ACQUISITION OF, AND USE OR USES FOR, ABANDONED OR PROPOSED TO BE ABANDONED RAILROAD RIGHTS-OF-WAY. ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE EXECUTIVE DIRECTOR SHALL SUBMIT A PRIORITIZED LIST THAT SHALL INCLUDE RECOMMENDATIONS FOR THE ACQUISITION AND PROPOSED USE OF ABANDONED OR PROPOSED TO BE ABANDONED RAILROAD RIGHTS-OF-WAY. THE MEMBERS OF THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE SHALL DETERMINE WHICH ABANDONED RAILROAD RIGHTS-OF-WAY MAY BE ACQUIRED BY THE DEPARTMENT AND FUNDED OUT OF THE STATE RAIL BANK FUND, CREATED IN SECTION 43-1-1309, BASED UPON THE GREATEST NEED AND ITS PROPOSED USE OR USES.

(2) THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE MAY HOLD SUCH HEARINGS AS IT DETERMINES NECESSARY TO CONSIDER REPORTS, STUDIES, AND OTHER PERTINENT INFORMATION FROM ANY SOURCE, INCLUDING AFFECTED INDIVIDUALS, POLITICAL SUBDIVISIONS, RAILROAD COMPANIES, OR OTHER ENTITIES, WITH RESPECT TO THE ACQUISITION OF ABANDONED RAILROAD RIGHTS-OF-WAY.

(3) THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE MAY DETERMINE THE PRIORITY OF ACQUISITION OF, AND USE OR USES FOR, ABANDONED RAILROAD RIGHTS-OF-WAY BY THE DEPARTMENT.

43-1-1308. Recommendations and findings of the transportation legislation review committee. THE MEMBERS OF THE TRANSPORTATION LEGISLATION REVIEW COMMITTEE SHALL MAKE A WRITTEN REPORT SETTING FORTH ITS RECOMMENDATIONS, FINDINGS, AND COMMENTS AS TO EACH RECOMMENDATION FOR THE ACQUISITION OF ABANDONED RAILROAD RIGHTS-OF-WAY AND THEIR USES AND SUBMIT THE REPORT TO THE GENERAL ASSEMBLY.

43-1-1309. State rail bank fund - creation. THERE IS HEREBY CREATED THE STATE RAIL BANK FUND TO WHICH SHALL BE ALLOCATED SUCH REVENUES AS THE GENERAL ASSEMBLY MAY FROM TIME TO TIME DETERMINE. MONEYS IN THE STATE RAIL BANK FUND MAY BE USED FOR THE ACQUISITION, MAINTENANCE, IMPROVEMENT, OR DISPOSAL OF RAIL LINES OR RAILROAD RIGHTS-OF-WAY OR ANY OTHER PURPOSE NECESSARY TO CARRY OUT THE IMPLEMENTATION OF THIS PART 13. ALL UNAPPROPRIATED BALANCES IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL

REMAIN THEREIN AND SHALL NOT REVERT TO THE GENERAL FUND.

43-1-1310. Effect of transfer of railroad rights-of-way. ANY TRANSFER OF TITLE OF THE RAILROAD RIGHTS-OF-WAY FROM A RAILROAD COMPANY AS PROVIDED IN SECTION 43-1-803 OR IN THIS PART 13 SHALL NOT AFFECT THE TITLE, EITHER POSSESSORY OR REVERSIONARY, OF AN OWNER OF REAL PROPERTY ALONG THE CURRENTLY EXISTING RAILROAD RIGHT-OF-WAY. NOTHING IN THIS PART 13 OR IN SECTION 43-1-803 SHALL BE CONSTRUED TO SUPERSEDE 16 U.S.C. 1241 ET SEQ.

43-1-1311. Survey required - railroad track removal. (1) BEFORE ANY RAILROAD TRACKS ARE REMOVED FROM ABANDONED RAILROAD RIGHTS-OF-WAY IN COLORADO, IF A PROPER LEGAL DESCRIPTION IS NOT AVAILABLE, THE PERSON OR ENTITY REMOVING THE RAILROAD TRACKS SHALL CAUSE A FIELD SURVEY OF THE CENTERLINE OF SUCH RAILROAD TRACKS TO BE MADE BY A PROFESSIONAL LAND SURVEYOR, IF TITLE TO ANY LAND REFERENCES SUCH RAILROAD TRACKS. THE PROFESSIONAL LAND SURVEYOR SHALL DEPOSIT A SURVEY PLAT IN ACCORDANCE WITH SECTION 38-50-101, C.R.S., SHOWING THE FOLLOWING:

(a) FIELD-MEASURED DIMENSIONS OF THE CENTERLINE OF THE RAILROAD TRACKS;
AND

(b) FIELD-MEASURED BEARING AND DISTANCE TIES TO PUBLIC LAND SURVEY MONUMENT CORNERS SO THAT NO POINT ON SAID ABANDONED RAILROAD RIGHTS-OF-WAY IS FURTHER THAN TWO MILES FROM A PUBLIC LAND SURVEY MONUMENT CORNER.

SECTION 3. Appropriation. (1) Notwithstanding any provision of section 24-21-104 (3) (b), Colorado Revised Statutes, to the contrary, on July 1, 1997, the state treasurer shall deduct one million dollars (\$1,000,000) from the department of state cash fund and transfer such sum to the state rail bank fund created in section 43-1-1309, Colorado Revised Statutes; except that this transfer shall not be made if the state treasurer transfers funds to the state rail bank fund pursuant to section 24-21-104 (3) (d) (III), Colorado Revised Statutes, as set forth in Senate Bill 97-228.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the state rail bank fund created pursuant to section 43-1-1309, Colorado Revised Statutes, not otherwise appropriated, to the department of transportation, for the fiscal year beginning July 1, 1997, the sum of one million dollars (\$1,000,000), or so much thereof as may be necessary, for the implementation of this act.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 4, 1997