

**CS FOR HOUSE BILL NO. 88(TRA)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE TRANSPORTATION COMMITTEE**

**Offered: 4/10/97**  
**Referred: Finance**

**Sponsor(s): REPRESENTATIVE WILLIAMS**

**A BILL**

**FOR AN ACT ENTITLED**

**1 "An Act relating to ferries and ferry terminals, establishing the Alaska Marine**  
**2 Highway Authority, and relating to maintenance of state marine vessels; and**  
**3 providing for an effective date."**

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

**5 \* Section 1. PURPOSE.** The purpose of this Act is to establish an authority for the  
**6 operation, management, planning, construction, and maintenance of facilities for the marine**  
**7 highway system. The authority shall be the exclusive state agency directly associated with**  
**8 the operation, management, planning, construction, and maintenance of facilities for the marine**  
**9 highway system.**

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

**11 Chapter 55. Alaska Marine Highway Authority.**

**12 Article 1. Creation and Organization.**

**13 Sec. 19.55.010. Alaska Marine Highway Authority.** (a) The Alaska Marine  
**14 Highway Authority is established. The authority is a public corporation of the state.**

1 The authority is an instrumentality of the state in the Department of Transportation and  
2 Public Facilities but has a legal existence independent of and separate from the state  
3 and has continuing succession until its existence is terminated by law.

4 (b) The powers of the authority are vested in the board of directors of the  
5 authority.

6 **Sec. 19.55.020. Directors.** (a) The board of directors of the authority consists  
7 of seven directors. One director is the commissioner of transportation and public  
8 facilities, and six directors are appointed by the governor. The six appointed directors  
9 must be state residents who have experience with maritime affairs. The appointed  
10 directors are subject to confirmation by a majority of the members of the legislature  
11 in joint session. Appointed directors must include

12 (1) two persons who are members of a union that represents employees  
13 of the authority; at least one person appointed under this paragraph shall be a member  
14 of the maritime union representing the largest number of onboard employees of the  
15 authority;

16 (2) two persons who are residents of Southeast Alaska;

17 (3) a person who is a resident of the Gulf of Alaska area west of Icy  
18 Cape; and

19 (4) a person who represents the interests of the public.

20 (b) The appointed directors serve staggered five-year terms and may be  
21 removed by the governor only for cause. Each director shall hold office for the term  
22 of the director's appointment and until a successor is appointed and qualified. A  
23 director is qualified for reappointment. A vacancy in a directorship occurring other  
24 than by expiration of term shall be filled in the same manner as the original  
25 appointment but only for the unexpired term.

26 (c) The directors shall comply with AS 39.50 (Conflict of Interest). Each  
27 director before entering upon the director's duties shall subscribe to an oath to perform  
28 the duties of office faithfully, impartially, and justly to the best of the director's ability.  
29 A record of the oath shall be filed with the Office of the Governor.

30 (d) An appointed director is entitled to compensation at a rate of \$300 for each  
31 day the director is engaged in actual performance of duties under this chapter. The

1 board of directors of the authority may provide by regulation for compensation for  
 2 partial days for an appointed director. In addition, an appointed director is entitled to  
 3 per diem and travel expenses authorized for boards and commissions under  
 4 AS 39.20.180.

5 **Sec. 19.55.030. Officers and quorum.** The directors shall elect one of the  
 6 appointed directors as chair of the board of directors. The directors shall elect a  
 7 secretary and a treasurer who need not be directors, and the same person may be  
 8 elected to serve both as secretary and treasurer. Four directors constitute a quorum of  
 9 the board of directors. Except as provided in AS 19.55.110(7), action may be taken  
 10 and motions and resolutions adopted by the board of directors at a meeting by the  
 11 affirmative vote of at least four directors. A vacancy in the board of directors of the  
 12 authority does not impair the right of a quorum to exercise all the powers and perform  
 13 all the duties of the board.

14 **Sec. 19.55.040. Staff.** (a) The board of directors shall employ a chief  
 15 executive officer who serves at the pleasure of the board.

16 (b) The chief executive officer may, with the approval of the board, select and  
 17 employ additional staff as necessary, including additional administrative officers. All  
 18 officers and employees of the authority are in the exempt service under AS 39.25.110.

19 (c) In addition to its staff of employees, the board of directors may contract  
 20 for and engage the services of consultants and professional, technical, and financial  
 21 advisors the authority considers necessary for the purpose of developing information,  
 22 conducting hearings, studies, investigations, or other proceedings, or otherwise  
 23 exercising its powers.

## 24 **Article 2. Powers and Duties.**

25 **Sec. 19.55.110. Powers of authority.** In addition to other powers granted in  
 26 this chapter, the authority may

- 27 (1) sue and be sued;
- 28 (2) adopt and alter an official seal;
- 29 (3) adopt and enforce regulations for the conduct of its business and  
 30 for the use of its services and facilities;
- 31 (4) maintain offices at a place in the state and at places out of the state

1 that are served by the marine highway system;

2 (5) establish terms and conditions of employment by the authority and  
3 conduct or designate a representative to conduct labor negotiations with employees;

4 (6) subject to appropriation by the legislature, acquire, hold, use, and  
5 dispose of its income, revenues, funds, and money;

6 (7) acquire, hold, use, lease, rent, construct, and dispose of personal  
7 property for its purposes, except that the authority may dispose of a ferry only on  
8 approval of at least five of its directors;

9 (8) acquire, hold, use, lease, or rent real property and dispose of real  
10 property under AS 19.55.230;

11 (9) operate, maintain, improve, and extend a system of ferries  
12 connecting with the public roads and highways of the state and including the boats,  
13 vessels, wharves, docks, approaches, landings, and appurtenances the authority  
14 determines necessary or desirable for safe and efficient operation of the ferry system  
15 to best serve the public;

16 (10) adopt regulations under AS 44.62 (Administrative Procedure Act)  
17 governing

18 (A) access to and use of services and facilities of the authority;

19 (B) the authority of the officers and crew of vessels of the  
20 authority to maintain peace and order as necessary to protect the health, safety,  
21 and public welfare of the patrons and employees of the authority;

22 (C) rates, tariffs, and other charges for transportation and other  
23 services provided by the authority;

24 (11) do all acts and things necessary, convenient, or desirable to carry  
25 out the powers expressly granted or necessarily implied in this chapter;

26 (12) modify scheduled routes after public hearings.

27 **Sec. 19.55.120. Duties of authority.** The authority shall

28 (1) assist the residents, businesses, and communities of the state in  
29 obtaining optimal marine passenger and freight service;

30 (2) schedule vessel sailings to optimize the frequency of service to all  
31 ports;

1 (3) encourage and integrate with other public and private carriers to the  
 2 greatest extent possible to provide ferry service within the state and between Alaska  
 3 ports and ports outside the state in order to provide optimum service within the state;

4 (4) provide reservation access and marketing information throughout  
 5 the state;

6 (5) encourage vessel construction, maintenance, and service in the state  
 7 to the greatest extent possible;

8 (6) employ residents of the state to the greatest extent legally possible;

9 (7) recognize Alaska unions and employee associations to the greatest  
 10 extent legally possible.

11 **Sec. 19.55.130. Use of name authorized.** The authority is authorized to  
 12 operate its ferry system under the name "Alaska Marine Highway System."

13 **Sec. 19.55.140. Comprehensive long-range plan.** The authority, with the  
 14 cooperation of the Department of Transportation and Public Facilities, shall prepare a  
 15 comprehensive long-range plan for the development and improvement of the Alaska  
 16 marine highway system and shall revise and update the plan at least every five years.  
 17 The authority shall submit the plan and revisions and updates of the plan to the  
 18 legislature.

### 19 **Article 3. Acquisition of Property.**

20 **Sec. 19.55.210. Acquisition of land and easements.** The authority, as part  
 21 of the cost of constructing, maintaining, or improving the marine highway system, may  
 22 acquire by purchase, gift, or exchange land in fee simple or easements that it considers  
 23 necessary and reasonable for either temporary or permanent public use. By the same  
 24 means, the authority may obtain material, including clay, gravel, sand, or rock, or the  
 25 land necessary to obtain the material, including access to it. The authority may acquire  
 26 the land or materials notwithstanding the fact that title to it is vested in the state or a  
 27 department, agency, commission, or institution of the state.

28 **Sec. 19.55.220. Authority to purchase property for the purpose of**  
 29 **exchange.** When a majority of the directors of the authority declares that it is in the  
 30 interest of the state, the authority may acquire by purchase, gift, or exchange privately  
 31 or publicly owned land or an interest in land for the purpose of exchanging the land

1 for privately or publicly owned land that the authority is authorized by law to acquire.

2 **Sec. 19.55.230. Disposal of land or rights in land.** (a) The authority may  
3 vacate land or rights in land acquired for use in the marine highway system by  
4 executing and filing a deed in the appropriate recording district. Upon vacating, title  
5 reverts to the persons, heirs, successors, or assigns in whom it was vested at the time  
6 of the taking.

7 (b) The authority may transfer land not considered necessary for use in the  
8 marine highway system to the Department of Natural Resources for disposal. The  
9 proceeds of disposal by the Department of Natural Resources shall be credited to the  
10 funds from which the purchase was originally made.

#### 11 **Article 4. Vessels and Ferry Terminal Facilities.**

12 **Sec. 19.55.310. Ferry terminal facilities.** (a) The authority may construct,  
13 purchase, or lease ferry terminal facilities at locations it selects for the loading and  
14 unloading of passengers and vehicles under their own power, on and off ferries. The  
15 authority shall repair and maintain those facilities that it owns. Construction and  
16 purchasing under this section are governed by AS 36.30 (State Procurement Code),  
17 except as otherwise provided by law.

18 (b) The authority may connect ferry terminal facilities with local highway  
19 systems.

20 (c) The authority may adopt regulations governing the use of ferry terminal  
21 facilities by the public that it considers necessary and proper in the public interest.  
22 The authority may charge a fee for the use of ferry terminal facilities, whether the use  
23 is under a permit or otherwise, and whether the use is by one or more individuals.

24 (d) A ferry terminal facility in existence and serving the public on January 1,  
25 1959, is not subject to (a) - (c) of this section.

26 **Sec. 19.55.320. Naming of vessel or facility.** (a) A vessel or facility  
27 constructed or acquired by the authority must be named by law.

28 (b) A maritime vessel must bear the name of an Alaska glacier.

29 (c) A vessel used principally on the inland waterways of the state must bear  
30 the name of an historical vessel that used the rivers of the state.

#### 31 **Article 5. Budget and Revenue.**

1           **Sec. 19.55.410. Budget and appropriations.** The authority shall submit its  
 2 annual budget to the legislature through the governor as provided for state agencies by  
 3 AS 37.07 (Executive Budget Act). The authority shall expend money appropriated by  
 4 the legislature as authorized by the legislature.

5   **Article 6. General Provisions.**

6           **Sec. 19.55.910. Annual report.** By January 15 of each year, the board of  
 7 directors of the authority shall submit to the governor and the legislature a  
 8 comprehensive report describing the operations, income, and expenditures for the  
 9 preceding fiscal year.

10          **Sec. 19.55.920. Annual audit.** The authority shall have its financial records  
 11 audited annually by a certified public accountant. The legislative auditor may  
 12 prescribe the form and content of the financial records of the authority and shall have  
 13 access to those records at any time.

14          **Sec. 19.55.990. Definitions.** In this chapter, unless the context requires  
 15 otherwise,

16                                   (1) "authority" means the Alaska Marine Highway Authority;

17                                   (2) "ferry" means a vessel used in the common carriage of passengers  
 18 and vehicles in intrastate or interstate commerce.

19          **Sec. 19.55.995. Short title.** This chapter may be cited as the Alaska Marine  
 20 Highway Authority Act.

21   \* **Sec. 3.** AS 03.53.010(a) is amended to read:

22                                   (a) An animal may not be transported into the state aboard a ferry operated by  
 23 the Alaska Marine Highway Authority [DIVISION OF MARINE  
 24 TRANSPORTATION OF THE DEPARTMENT OF TRANSPORTATION AND  
 25 PUBLIC FACILITIES] unless the animal's owner, custodian, or attendant possesses  
 26 a valid health certificate for the animal. This certificate shall accompany the animal  
 27 or be in the possession of the animal's owner, custodian, or attendant aboard the ferry  
 28 and shall be presented when requested by an employee of the state ferry system at the  
 29 time the owner, custodian, or attendant makes arrangements to transport the animal,  
 30 boards the ferry with the animal, or at any other time.

31   \* **Sec. 4.** AS 18.65.755(a) is amended to read:

- 1 (a) A permittee may not carry a concealed handgun into
- 2 (1) a law enforcement or correctional facility;
- 3 (2) or on school grounds or a school bus; in this paragraph, "school
- 4 grounds" has the meaning given in AS 11.71.900;
- 5 (3) a courthouse or a courtroom of this state, unless the permittee
- 6 (A) is a judge; or
- 7 (B) has been authorized to possess a concealed handgun by a
- 8 judge presiding at that courthouse or courtroom;
- 9 (4) a building housing only state or federal offices or the offices of a
- 10 political subdivision of the state, except as authorized under (3) of this subsection;
- 11 (5) an office of the state, federal government, or of a political
- 12 subdivision of the state that is not located in a building described in (4) of this
- 13 subsection;
- 14 (6) a passenger loading or unloading area of an airline terminal;
- 15 (7) a vessel of the Alaska Marine Highway Authority [MARINE
- 16 HIGHWAY SYSTEM];
- 17 (8) a facility providing services to victims of domestic violence or
- 18 sexual assault;
- 19 (9) a residence where notice that carrying a concealed handgun is
- 20 prohibited has been given by the posting of a conspicuous notice or by oral statement
- 21 by the resident to the permittee;
- 22 (10) a meeting of a business, charitable, or other organization or entity
- 23 where notice that carrying a concealed handgun is prohibited has been given by the
- 24 posting of conspicuous notice;
- 25 (11) a financial institution; in this paragraph, "financial institution"
- 26 means a bank, savings bank, savings association, credit union, or other institution
- 27 regulated by the Department of Commerce and Economic Development under AS 06;
- 28 (12) another place where the possession of a deadly weapon or firearm
- 29 is prohibited by law; or
- 30 (13) a municipality or established village that has prohibited the
- 31 possession of concealed handguns by a permit under AS 18.65.780 - 18.65.785.

1 \* **Sec. 5.** AS 19.65.050 is amended to read:

2 **Sec. 19.65.050. Legislative findings, purpose, and intent.** (a) The  
3 legislature finds that

4 (1) the Alaska **Marine Highway Authority** [MARINE HIGHWAY  
5 SYSTEM] is an essential part of the state transportation system, and that it warrants  
6 continued and predictable state support;

7 (2) many communities' economies are dependent on a steady and stable  
8 marine highway system service level;

9 (3) the state's tourism industry is greatly enhanced by a dependable  
10 marine highway transportation network; and

11 (4) efficient and prudent management of the **authority** [SYSTEM] will  
12 benefit the state's economy and foster economic development.

13 (b) It is the purpose of AS 19.65.050 - 19.65.100 to

14 (1) enable the **authority** [ALASKA MARINE HIGHWAY SYSTEM]  
15 to manage and operate in a manner that will enhance performance and accountability  
16 by allowing the **authority** [SYSTEM] to account for and spend its generated revenue;

17 (2) provide the management tools necessary to efficiently operate the  
18 **authority** [ALASKA MARINE HIGHWAY SYSTEM];

19 (3) within constitutional constraints, provide for a predictable funding  
20 base for **authority** [SYSTEM] operations; and

21 (4) provide for predictability and stability in the service level furnished  
22 to communities served by the **authority** [SYSTEM].

23 (c) It is the intent of AS 19.65.050 - 19.65.100 to

24 (1) encourage prudent administration through cost management and  
25 accurate budgeting by **the board of directors** [MANAGERS] of the **authority**  
26 [ALASKA MARINE HIGHWAY SYSTEM];

27 (2) increase revenue from the operation of the **authority** [SYSTEM]  
28 consistent with the public interest, increase service consistent with sound fiscal policy,  
29 and assist the prudent management and operation of the **authority** [SYSTEM]; and

30 (3) achieve stability in the level of service communities can anticipate  
31 through accurate planning and scheduling.

1 \* **Sec. 6.** AS 19.65.060 is amended to read:

2 **Sec. 19.65.060. Alaska Marine Highway Authority [MARINE HIGHWAY**  
 3 **SYSTEM] fund.** (a) There is created, as a special account in the general fund, the  
 4 Alaska Marine Highway Authority [MARINE HIGHWAY SYSTEM] fund, into  
 5 which shall be deposited

6 (1) the gross revenue of the authority [ALASKA MARINE  
 7 HIGHWAY SYSTEM];

8 (2) money that is appropriated to the [ALASKA MARINE HIGHWAY  
 9 SYSTEM] fund by the legislature in an amount that is consistent from year to year and  
 10 is the amount necessary, after consideration of gross revenue, to provide stable services  
 11 to the public consistent with the provisions of AS 19.65.050(b)(4); unless otherwise  
 12 provided by the legislature, appropriations to the fund under this paragraph [,  
 13 WHICH APPROPRIATIONS] are not one-year appropriations and [THE BALANCES  
 14 OF WHICH] do not lapse under AS 37.25.010; and

15 (3) any other money that is appropriated to the [ALASKA MARINE  
 16 HIGHWAY SYSTEM] fund by the legislature; unless otherwise provided by the  
 17 legislature, appropriations to the fund under this paragraph [, WHICH  
 18 APPROPRIATIONS] are not one-year appropriations and [THE BALANCES OF  
 19 WHICH] do not lapse under AS 37.25.010.

20 (b) Nothing in AS 19.65.050 - 19.65.100 [THIS CHAPTER] exempts money  
 21 deposited into the [ALASKA MARINE HIGHWAY SYSTEM] fund from the  
 22 requirements of AS 37.07 (Executive Budget Act) or dedicates that money for a  
 23 specific purpose.

24 \* **Sec. 7.** AS 19.65.070 is amended to read:

25 **Sec. 19.65.070. Revenue accounting.** (a) The authority [ALASKA  
 26 MARINE HIGHWAY SYSTEM] shall account for and remit to the Department of  
 27 Revenue in accordance with AS 37.10.050 all gross revenue generated from the  
 28 operation of the authority [ALASKA MARINE HIGHWAY SYSTEM] during each  
 29 fiscal year [ANNUAL OPERATING CYCLE]. The money shall then be deposited  
 30 in the Alaska Marine Highway Authority [MARINE HIGHWAY SYSTEM] fund.

31 (b) The authority [ALASKA MARINE HIGHWAY SYSTEM] shall prepare

1 a written report, **not** [NO] later than the 10th day of each regular legislative session,  
 2 regarding the previous **fiscal year** [ANNUAL OPERATING CYCLE] and notify the  
 3 legislature that the report is available. The report must identify

4 (1) gross revenue generated during the previous **fiscal year** [ANNUAL  
 5 OPERATING CYCLE];

6 (2) gross revenue generated during the current **fiscal year** [ANNUAL  
 7 OPERATING CYCLE] and an estimate of gross revenue for the remainder of the  
 8 current **fiscal year** [ANNUAL OPERATING CYCLE];

9 (3) projections of the gross revenue to be generated during the next  
 10 **fiscal year** [ANNUAL OPERATING CYCLE]; and

11 (4) the difference between previous gross revenue estimates prepared  
 12 under this section and the revenues actually generated.

13 (c) The Department of Revenue shall prepare a written report, no later than the  
 14 10th legislative day of each regular legislative session, regarding the earnings on gross  
 15 revenue of the **authority** [ALASKA MARINE HIGHWAY SYSTEM] that was  
 16 deposited into the Alaska **Marine Highway Authority** [MARINE HIGHWAY  
 17 SYSTEM] fund during the prior fiscal year and projected earnings on gross revenue  
 18 of the **authority** [ALASKA MARINE HIGHWAY SYSTEM] that is projected to be  
 19 deposited into the Alaska **Marine Highway Authority** [MARINE HIGHWAY  
 20 SYSTEM] fund for the current fiscal year and the next fiscal year. The Department  
 21 of Revenue shall notify the legislature that the report is available.

22 \* **Sec. 8.** AS 19.65.080 is amended to read:

23 **Sec. 19.65.080. Annual appropriation.** (a) Commencing with appropriations  
 24 for the fiscal year that begins July 1, 1991, on an annual basis and under AS 37.07  
 25 (Executive Budget Act), the legislature may appropriate amounts from the [ALASKA  
 26 MARINE HIGHWAY SYSTEM] fund **for management and operation of** [TO] the  
 27 **authority** [ALASKA MARINE HIGHWAY SYSTEM].

28 (b) The **authority** [DEPARTMENT OF TRANSPORTATION AND PUBLIC  
 29 FACILITIES] may request the legislature to appropriate money from the [ALASKA  
 30 MARINE HIGHWAY SYSTEM] fund to the **authority** [MARINE HIGHWAY  
 31 SYSTEM] for capital improvements [,] if

- 1 (1) the appropriation under (a) of this section has been made;
- 2 (2) the amount in the fund, without regard to the appropriation under
- 3 (a) of this section, exceeds the total of gross revenue deposited in the fund and the
- 4 general fund appropriations under AS 19.65.060(a)(2) by 10 percent; and
- 5 (3) the amount requested for appropriation under this subsection does
- 6 not exceed 50 percent of the balance remaining after the appropriation for annual
- 7 management and operations is made under (a) of this section.
- 8 (c) The unexpended and unobligated balance of money appropriated from the
- 9 [ALASKA MARINE HIGHWAY SYSTEM] fund lapses into the [ALASKA MARINE
- 10 HIGHWAY SYSTEM] fund at the end of the fiscal year for which it was appropriated.

11 \* **Sec. 9.** AS 19.65.100 is amended to read:

12 Sec. 19.65.100. DEFINITIONS. In AS 19.65.050 - 19.65.100,

13 (1) **"authority" means the Alaska Marine Highway Authority**

14 ["ANNUAL OPERATING CYCLE" MEANS THE ANNUAL STATE FISCAL YEAR

15 BEGINNING ON JULY 1 AND ENDING AT MIDNIGHT ON THE FOLLOWING

16 JUNE 30];

17 (2) **"fiscal year" has the meaning given in AS 37.07.120;**

18 (3) **"fund" means the Alaska Marine Highway Authority fund;**

19 (4) "gross revenue" means all money, except money refunded to ticket

20 holders and others for unused services, that is generated from the operation of the

21 **authority** [ALASKA MARINE HIGHWAY SYSTEM], including that derived from

22 vessel operations and uses of **authority** [ALASKA MARINE HIGHWAY SYSTEM]

23 facilities.

24 \* **Sec. 10.** AS 23.40.040 is amended to read:

25 **Sec. 23.40.040. Collective bargaining agreement.** The **Alaska Marine**

26 **Highway Authority** [COMMISSIONER OF TRANSPORTATION AND PUBLIC

27 FACILITIES] or an authorized representative, in accordance with AS 23.40.020 -

28 23.40.030, may negotiate and enter into collective bargaining agreements concerning

29 wages, hours, working conditions, and other employment benefits with the employees

30 of the **authority** [DIVISION OF MARINE TRANSPORTATION] engaged in

31 operating the state ferry system as masters or members of the crews of vessels or their

1 bargaining agent. [A COLLECTIVE BARGAINING AGREEMENT IS NOT FINAL  
 2 WITHOUT THE CONCURRENCE OF THE COMMISSIONER OF  
 3 TRANSPORTATION AND PUBLIC FACILITIES.] The **authority**  
 4 [COMMISSIONER OF TRANSPORTATION AND PUBLIC FACILITIES] may make  
 5 provision in the collective bargaining agreement for the settlement of labor disputes  
 6 by arbitration.

7 \* **Sec. 11.** AS 29.35.722 is amended to read:

8 **Sec. 29.35.722. Ownership or operation of certain state facilities**  
 9 **prohibited.** The state may not, without the approval of the legislature,

10 (1) convey or transfer the **assets of the Alaska Marine Highway**  
 11 **Authority** [MARINE HIGHWAY SYSTEM], the Anchorage or Fairbanks international  
 12 airports, or any other state asset, except undeveloped state land as provided in  
 13 AS 38.05.810 or surplused property, to an authority; or

14 (2) enter into an agreement with an authority under which the authority  
 15 would operate the Alaska marine highway system, the Anchorage or Fairbanks  
 16 international airports, or any other state facility, system, or function that employs one  
 17 or more employees.

18 \* **Sec. 12.** AS 35.10.015(c) is amended to read:

19 (c) In this section, "public facilities" includes vessels owned by the state and  
 20 operated by the **Alaska Marine Highway Authority** [DIVISION OF MARINE  
 21 TRANSPORTATION OF THE DEPARTMENT AS A PART OF THE ALASKA  
 22 MARINE HIGHWAY SYSTEM]. All ferries owned or operated by the state shall be  
 23 equipped with elevators or other passenger lifting equipment, ramps, or other facilities  
 24 and devices to ensure that these vessels are accessible to and usable by physically  
 25 handicapped, aged, or infirm passengers. In this subsection, "accessible to and usable  
 26 by" means that a physically handicapped, aged, or infirm passenger can board,  
 27 disembark, and move between decks and about the public areas aboard a state ferry  
 28 with personal comfort and safety, and with safety to, other passengers and members  
 29 of the crew.

30 \* **Sec. 13.** AS 35.10.015(d) is amended to read:

31 (d) A [AFTER JUNE 25, 1976, A] ferry may not be constructed, lengthened,

1 completely renovated, or purchased for use or entered into service by the **Alaska**  
 2 **Marine Highway Authority** [DIVISION OF MARINE TRANSPORTATION OF THE  
 3 DEPARTMENT AS A PART OF THE ALASKA MARINE HIGHWAY SYSTEM]  
 4 that does not include adequate facilities and devices to ensure that the vessel is  
 5 accessible to and usable by physically handicapped, aged, or infirm passengers. Some  
 6 staterooms and all restrooms, indoor passageways, outdoor weather decks, and other  
 7 public areas aboard the vessel shall be so designed and constructed as to permit access  
 8 and use by physically handicapped, aged, or infirm passengers, including [BUT NOT  
 9 LIMITED TO] those persons occupying a wheelchair.

10 \* **Sec. 14.** AS 35.27.020(c) is amended to read:

11 (c) At least one percent or, in the case of a rural school facility, at least one-  
 12 half of one percent of the construction cost of a building or facility approved for  
 13 construction by the legislature after September 1, 1977, will be reserved for the  
 14 following purposes: the design, construction, mounting, and administration of works  
 15 of art in a school, office building, court building, vessel of the **Alaska Marine**  
 16 **Highway Authority** [MARINE HIGHWAY SYSTEM], or other building or facility  
 17 **that** [WHICH] is subject to substantial public use.

18 \* **Sec. 15.** AS 35.27 is amended by adding a new section to read:

19 **Sec. 35.27.025. Application to Alaska Marine Highway Authority.** This  
 20 chapter applies to the Alaska Marine Highway Authority. Compliance with this  
 21 chapter is the sole responsibility of the authority with respect to the vessels, public  
 22 buildings, and facilities of the authority.

23 \* **Sec. 16.** AS 35.27.030(1) is amended to read:

24 (1) "building" or "facility" means a permanent improvement constructed  
 25 by the department **or authority**; the term

26 (A) includes, but is not limited to,

27 (i) schools, office buildings, and court buildings;

28 (ii) other buildings **that** [WHICH] the commissioner  
 29 determines are designed for substantial public use;

30 (iii) boats and vessels of the **authority** [MARINE  
 31 HIGHWAY SYSTEM];

1 (iv) transportation facilities **that** [WHICH] accommodate  
 2 traveling passengers;

3 (B) excludes other transportation facilities;

4 \* **Sec. 17.** AS 35.27.030 is amended by adding a new paragraph to read:

5 (4) "authority" means the Alaska Marine Highway Authority.

6 \* **Sec. 18.** AS 36.30.015(g) is amended to read:

7 (g) The **Alaska Marine Highway Authority** [DEPARTMENT OF  
 8 TRANSPORTATION AND PUBLIC FACILITIES] shall adopt regulations to manage  
 9 the procurement of supplies, services, professional services, and construction for the  
 10 repair, maintenance, and reconstruction of vessels, docking facilities, and passenger and  
 11 vehicle transfer facilities of the Alaska marine highway system. The regulations must  
 12 be based on principles of competitive procurement consistent with this chapter to  
 13 satisfy the special requirements of the Alaska marine highway system as determined  
 14 by the **Alaska Marine Highway Authority** [DEPARTMENT OF  
 15 TRANSPORTATION AND PUBLIC FACILITIES].

16 \* **Sec. 19.** AS 36.30.850(b)(29) is amended to read:

17 (29) construction of new vessels by the **Alaska Marine Highway**  
 18 **Authority** [DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES]  
 19 for the Alaska marine highway system;

20 \* **Sec. 20.** AS 36.30.990(1) is amended to read:

21 (1) "agency"

22 (A) means a department, institution, board, commission,  
 23 division, authority, public corporation, the Alaska Pioneers' Home, or other  
 24 administrative unit of the executive branch of state government;

25 (B) does not include

26 (i) the University of Alaska;

27 (ii) the Alaska Railroad Corporation;

28 (iii) the Alaska Housing Finance Corporation;

29 (iv) a regional Native housing authority created under  
 30 AS 18.55.996 or a regional electrical authority created under  
 31 AS 18.57.020;

1 (v) the Alaska Marine Highway Authority  
 2 [DEPARTMENT OF TRANSPORTATION AND PUBLIC  
 3 FACILITIES], in regard to the repair, maintenance, and reconstruction  
 4 of vessels, docking facilities, and passenger and vehicle transfer  
 5 facilities of the Alaska marine highway system;

6 (vi) the Alaska Aerospace Development Corporation;

7 (vii) the Alaska State Pension Investment Board;

8 (viii) the Alaska Seafood Marketing Institute;

9 \* **Sec. 21.** AS 36.90.050(a) is amended to read:

10 (a) Marine vessels owned by the state shall be maintained and repaired at a  
 11 shipyard facility located in the state unless the commissioner of the department that  
 12 operates the marine vessel determines in writing that there is no shipyard facility  
 13 located in the state that is equipped or qualified to perform the particular maintenance  
 14 or repair required, or, after taking into consideration the Alaska bidder preference set  
 15 out in AS 36.30.170 and the interport differential, as determined by the Alaska Marine  
 16 Highway Authority under this section [MARINE HIGHWAY SYSTEM], that the  
 17 proposed cost of the maintenance or repair work is unreasonable. **In making the**  
 18 **determination, the commissioner shall consider, and document in writing, the**  
 19 **direct and indirect benefits to the economy and labor force in the state that would**  
 20 **be derived by performing the vessel maintenance and repair at a facility in the**  
 21 **state. A detailed list of the costs and factors considered in calculating the**  
 22 **interport differential must be provided to each person who expresses an interest**  
 23 **in submitting a bid to perform maintenance or repair work on a marine vessel**  
 24 **owned by the state.** [IN THIS SUBSECTION, "COMMISSIONER OF THE  
 25 DEPARTMENT THAT OPERATES THE MARINE VESSEL" INCLUDES THE  
 26 PRESIDENT OF THE UNIVERSITY OF ALASKA WITH REGARD TO A VESSEL  
 27 OPERATED BY THE UNIVERSITY.]

28 \* **Sec. 22.** AS 36.90.050 is amended by adding new subsections to read:

29 (c) The commissioner of a department that operates a marine vessel shall adopt  
 30 regulations establishing the criteria that the department shall use to determine whether  
 31 the cost of maintenance or repair work at a shipyard facility located in the state is

1 reasonable under (a) of this section. The commissioner shall designate by regulation  
 2 the designated base port for each vessel operated by the department. A vessel's  
 3 designated base port is the vessel's delivery and redelivery port. The Alaska Marine  
 4 Highway Authority shall adopt regulations establishing the criteria that the authority  
 5 shall use in calculating the interport differential under this section. The criteria for  
 6 calculating the interport differential must include costs incurred from the time that the  
 7 vessel leaves the vessel's designated base port to enter the shipyard facility until the  
 8 time that the vessel returns to the designated base port from the shipyard facility.

9 (d) In this section,

10 (1) "commissioner of the department that operates the marine vessel"  
 11 includes the president of the University of Alaska with regard to a vessel operated by  
 12 the university and the chief executive officer of the Alaska Marine Highway Authority  
 13 with regard to a vessel operated by the Alaska Marine Highway Authority;

14 (2) "interport differential" includes all costs related to the performance  
 15 of the maintenance or repair work of a marine vessel at a shipyard located outside of  
 16 the state, including travel costs incurred moving the vessel from its designated base  
 17 port to the shipyard outside of the state; additional fuel consumption; cost of  
 18 consumables including lubricants and other engine and deck stores; maintenance costs  
 19 incurred during running time; cost of crew transfers including airfare between Alaska  
 20 and the shipyard; wages in travel status; crew room and board; and other interport  
 21 costs identified by the Alaska Marine Highway Authority.

22 \* **Sec. 23.** AS 37.05.550 is amended to read:

23 **Sec. 37.05.550. Alaska Marine Highway Authority [MARINE HIGHWAY**  
 24 **SYSTEM] vessel replacement fund.** (a) There is in the general fund the Alaska  
 25 **Marine Highway Authority [MARINE HIGHWAY SYSTEM] vessel replacement**  
 26 **fund.** The fund consists of money appropriated to it by the legislature. Money  
 27 appropriated to the fund does not lapse. The Department of Revenue shall manage the  
 28 fund. Interest received on money in the fund shall be accounted for separately and may  
 29 be appropriated into the fund annually. The legislature may appropriate money from  
 30 the fund for refurbishment of existing state ferry vessels, acquisition of additional state  
 31 ferry vessels, or replacement of retired or outmoded state ferry vessels.

1 (b) The legislature may appropriate to the fund money received by the state  
 2 as Alaska **Marine Highway Authority** [MARINE HIGHWAY SYSTEM] program  
 3 receipts or from a settlement or final judicial determination of the Dinkum Sands case  
 4 (United States v. Alaska) [AND THE NORTH SLOPE ROYALTY CASE (STATE V.  
 5 AMERADA HESS, ET AL.)] and not deposited into the Alaska permanent fund under  
 6 AS 37.13.010(a)(1) or (2) or into the public school trust fund under AS 37.14.150.

7 (c) The Department of Revenue shall prepare a written report, no later than the  
 8 10th legislative day of each regular legislative session, regarding the earnings of the  
 9 Alaska **Marine Highway Authority** [MARINE HIGHWAY SYSTEM] vessel  
 10 replacement fund during the prior fiscal year and projected earnings of the Alaska  
 11 **Marine Highway Authority** [MARINE HIGHWAY SYSTEM] vessel replacement  
 12 fund for the current fiscal year and the next fiscal year. The Department of Revenue  
 13 shall notify the legislature that the report is available.

14 \* **Sec. 24.** AS 39.20.310(8) is amended to read:

15 (8) persons employed by the **Alaska Marine Highway Authority**  
 16 [DIVISION OF MARINE TRANSPORTATION] as masters and members of the crews  
 17 operating the state ferry system who are covered by collective bargaining agreements  
 18 as provided in AS 23.40.040, except as expressly provided by law;

19 \* **Sec. 25.** AS 39.25.110(11) is amended to read:

20 (11) the officers and employees of the following boards, commissions,  
 21 and authorities:

22 (A) [REPEALED

23 (B)] Alaska Permanent Fund Corporation;

24 **(B)** [(C)] Alaska Industrial Development and Export Authority;

25 **(C)** [(D)] Alaska Commercial Fisheries Entry Commission;

26 **(D)** [(E)] Alaska Commission on Postsecondary Education;

27 **(E)** [(F)] Alaska Aerospace Development Corporation;

28 **(F) Alaska Marine Highway Authority;**

29 \* **Sec. 26.** AS 39.30.150(b) is amended to read:

30 (b) Employees of the **Alaska Marine Highway Authority** [DIVISION OF  
 31 MARINE TRANSPORTATION] included in the public employees' retirement system

1 through the process of collective bargaining under AS 39.35.680(21)(D) may, under  
 2 the terms of a collective bargaining agreement, utilize contributions made under (a) of  
 3 this section on their behalf to offset the costs of inclusion in the public employees'  
 4 retirement system; however,

5 (1) the state is placed under no obligation to continue making  
 6 contributions under this section if the state resumes participation in the federal social  
 7 security system;

8 (2) the bargaining agreement must provide a mechanism for satisfying  
 9 any residual liabilities that might exist if the state resumes participation in the federal  
 10 social security system; and

11 (3) funds contributed under (a) of this section on behalf of employees  
 12 who are not covered by maritime union contracts may not be obligated or expended  
 13 to pay any costs associated with the inclusion of marine transportation employees in  
 14 the public employees' retirement system.

15 \* **Sec. 27.** AS 39.35.680(21) is amended to read:

16 (21) "member" or "employee"

17 (A) means a person eligible to participate in the system and  
 18 who is covered by the system;

19 (B) includes

20 (i) active member;

21 (ii) inactive member;

22 (iii) vested member;

23 (iv) deferred vested member;

24 (v) non-vested member;

25 (vi) disabled member;

26 (vii) retired member;

27 (viii) an elected public officer under AS 39.35.381;

28 (C) does not include

29 (i) former members;

30 (ii) persons compensated on a contractual or fee basis;

31 (iii) casual or emergency workers or nonpermanent

1 employees as defined in AS 39.25.200;

2 (iv) persons covered by the Alaska Teachers' Retirement  
3 System except as provided under AS 39.35.131 and 39.35.381, or  
4 persons covered by the optional university retirement program;

5 (v) employees of the Alaska Marine Highway  
6 Authority [DIVISION OF MARINE TRANSPORTATION] engaged  
7 in operating the state ferry system who are covered by a union or group  
8 retirement system to which the state makes contributions;

9 (vi) justices of the supreme court or judges of the court  
10 of appeals or of the superior or district courts of Alaska;

11 (vii) the administrative director of courts appointed  
12 under art. IV, sec. 16 of the state constitution unless the director  
13 becomes a member under AS 39.35.158; and

14 (viii) members of the elected public officers' retirement  
15 system (former AS 39.37);

16 (D) may include employees of the Alaska Marine Highway  
17 Authority [DIVISION OF MARINE TRANSPORTATION] excluded under  
18 (C)(v) of this paragraph provided that

19 (i) the State of Alaska formally agrees to their inclusion  
20 through the process of collective bargaining; and

21 (ii) no collective bargaining agreement has the effect of  
22 obligating contributions made by the state under AS 39.30.150 in the  
23 event the state resumes participation in the federal social security  
24 system;

25 \* **Sec. 28.** AS 39.50.200(b) is amended by adding a new paragraph to read:

26 (56) Alaska Marine Highway Authority (AS 19.55.010).

27 \* **Sec. 29.** AS 44.42.020(a)(1) is amended to read:

28 (1) plan, design, construct, and maintain all state modes of  
29 transportation and transportation facilities and all docks, floats, breakwaters, buildings,  
30 and similar facilities, except that the department is not responsible for planning,  
31 design, construction, or maintenance of transportation modes or facilities under

**the jurisdiction of the Alaska Marine Highway Authority;**

\* **Sec. 30.** AS 44.42.020(a)(7) is amended to read:

(7) manage, operate, and maintain state transportation facilities and all docks, floats, breakwaters, and buildings, including all state highways, vessels, railroads, pipelines, airports, and aviation facilities, **except that the department is not responsible for management, operation, or maintenance of transportation facilities, vessels, or equipment under this jurisdiction of the Alaska Marine Highway Authority;**

\* **Sec. 31.** TRANSFER OF APPROPRIATIONS, EMPLOYEES, AND ASSETS TO ALASKA MARINE HIGHWAY AUTHORITY. (a) Employees of the Department of Transportation and Public Facilities assigned to the management, operation, and maintenance of the Alaska marine highway system on the effective date of this section are transferred to the Alaska Marine Highway Authority as state employees of the authority. The commissioner of transportation and public facilities shall determine which employees are transferred to the authority. An employee who is transferred to the authority under this subsection shall continue to participate without interruption in the supplemental employee benefits program under AS 39.30.150 - 39.30.180 and in the public employees' retirement system under AS 39.35 if the employee was a participant in these programs on the day before the employee was transferred to the authority.

(b) Nothing in this Act terminates or modifies recognition of an exclusive bargaining representative or a collective bargaining agreement that is in effect on the effective date of this Act. The Alaska Marine Highway Authority shall abide by the collective bargaining agreements that are in effect for employees transferred to the authority on the date of transfer. A collective bargaining agreement covering employees transferred under this Act shall remain in effect for the term of the agreement unless the agreement is renegotiated by the parties.

(c) The unexpended and unobligated balances of operating and capital appropriations for the Department of Transportation and Public Facilities, Alaska marine highway system, shall be transferred to the Alaska Marine Highway Authority.

(d) The personal property assets and real property assets, including ferries, equipment, buildings, and associated facilities, of the Department of Transportation and Public Facilities, Alaska marine highway system, shall be transferred to the Alaska Marine Highway Authority.

1     \* **Sec. 32.** INITIAL APPOINTMENT OF DIRECTORS OF THE ALASKA MARINE  
2 HIGHWAY AUTHORITY. (a) Notwithstanding AS 19.55.020(b), added by sec. 2 of this  
3 Act, and AS 39.05.055, the initially appointed directors of the board of directors of the Alaska  
4 Marine Highway Authority shall be appointed by the governor to terms as follows: one  
5 director serves for one year, one director serves for two years, one director serves for three  
6 years, one director serves for four years, and two directors serve for five years.

7           (b) The governor shall appoint the initial members of the board of directors of the  
8 Alaska Marine Highway Authority, as provided for under AS 19.55.020(a), added by sec. 2  
9 of this Act, before December 1, 1997.

10    \* **Sec. 33.** AS 19.65.011, 19.65.020, 19.65.030; and AS 39.25.110(16) are repealed.

11    \* **Sec. 34.** Section 5, ch. 94, SLA 1992, is repealed.

12    \* **Sec. 35.** Sections 1, 21, 22, 32, and 34 of this Act take effect immediately under  
13 AS 01.10.070(c).

14    \* **Sec. 36.** Except as provided in sec. 35 of this Act, this Act takes effect January 1, 1998.