

**SENATE BILL NO. 208**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

**BY SENATOR WARD**

**Introduced: 1/21/00**

**Referred: Transportation, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

**1 "An Act establishing the Alaska Marine and Rail Transportation Authority;  
2 relating to ferries and ferry terminals; relating to the Alaska Railroad  
3 Corporation; and providing for an effective date."**

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

**5 \* Section 1.** The uncodified law of the State of Alaska is amended by adding a new  
**6 section to read:**

**7 PURPOSE.** The purpose of this Act is to establish an authority for the operation,  
**8 management, planning, construction, and maintenance of the marine highway system and the  
9 state-owned Alaska Railroad. The authority shall be the exclusive state entity directly  
10 associated with the operation, management, planning, construction, and maintenance for the  
11 marine highway system and the state-owned Alaska Railroad.**

**12 \* Sec. 2.** AS 44 is amended by adding a new chapter to read:

**13 Chapter 90. Alaska Marine and Rail Transportation Authority.**

**14 Article 1. Creation and Organization.**

1                   **Sec. 44.90.010. Alaska Marine and Rail Transportation Authority.** (a)  
 2                   The Alaska Marine and Rail Transportation Authority is established. The authority is  
 3                   a public corporation of the state. The authority is an instrumentality of the state in the  
 4                   Department of Transportation and Public Facilities but has a legal existence  
 5                   independent of and separate from the state and has continuing succession until its  
 6                   existence is terminated by law.

7                   (b) The authority shall operate the Alaska marine highway system under this  
 8                   chapter and the state-owned Alaska Railroad under AS 42.40 as separate divisions of  
 9                   the authority.

10                  (c) The powers of the authority are vested in the board of directors of the  
 11                  authority.

12                  (d) The continued operation of the marine highway system as provided in this  
 13                  chapter is an essential government function of the state.

14                  **Sec. 44.90.020. Directors.** (a) The board of directors of the authority consists  
 15                  of seven voting directors appointed by the governor and two ex officio, nonvoting  
 16                  directors. The ex officio directors are the commissioner of transportation and public  
 17                  facilities and the commissioner of community and economic development. Appointed  
 18                  directors must include

19                         (1) two residents who have a significant high level of experience in  
 20                         maritime matters in the state;

21                         (2) one member who has at least 10 years of experience in railroad  
 22                         management; a person who is not a resident may be appointed under this paragraph;

23                         (3) one member who is or has been an executive official of a United  
 24                         States railroad and who is selected in accordance with applicable provisions of 49  
 25                         U.S.C. (Interstate Commerce Act); a person who is not a resident may be appointed  
 26                         under this paragraph;

27                         (4) one resident who is a member of a union that represents employees  
 28                         of the Alaska marine highway system;

29                         (5) one resident who is a member of a union that represents employees  
 30                         of the Alaska Railroad Corporation; and

31                         (6) one public member who is a resident.

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

7 (c) The appointed directors shall comply with AS 39.50 (conflict of interest).  
8 Each director before entering upon the director's duties shall subscribe to an oath to  
9 perform the duties of office faithfully, impartially, and justly to the best of the direc-  
10 tor's ability. A record of the oath shall be filed with the Office of the Governor.

11 (d) An appointed director is entitled to compensation at a rate of \$350 for each  
12 day the director is engaged in actual performance of duties under this chapter. The  
13 board of directors of the authority may provide by regulation for compensation for  
14 partial days for an appointed director. In addition, an appointed director is entitled to  
15 per diem and travel expenses authorized for boards and commissions under  
16 AS 39.20.180.

17 **Sec. 44.90.030. Officers and quorum.** The directors shall elect one of the  
18 appointed directors as chair of the board of directors. The directors shall elect a  
19 secretary and a treasurer who need not be directors, and the same person may be  
20 elected to serve both as secretary and treasurer. Four voting directors constitute a  
21 quorum of the board of directors. The board of directors may take action and adopt  
22 motions and resolutions at a meeting by the affirmative vote of at least four voting  
23 directors. A vacancy in the board of directors of the authority does not impair the  
24 right of a quorum to exercise all the powers and perform all the duties of the board.

25 **Sec. 44.90.040. Staff.** (a) The board of directors shall employ a chief  
26 executive officer who serves at the pleasure of the board. The chief executive officer  
27 may, with the approval of the board, select and employ additional administrative staff  
28 and officers as necessary to administer the operations of the authority under this  
29 chapter.

30 (b) The board of directors shall employ a chief operating officer of the Alaska  
31 marine highway system who serves at the pleasure of the board. The chief operating

1 officer of the Alaska marine highway system shall supervise the operation, employees,  
2 and facilities of the system.

3 (c) All officers and employees of the authority are in the exempt service under  
4 AS 39.25.110. This subsection does not apply to officers and employees of the Alaska  
5 Railroad Corporation under AS 42.40.

6 (d) In addition to its staff and employees under this chapter, the board of  
7 directors may contract for and engage the services of consultants and professional,  
8 technical, and financial advisors the authority considers necessary for the purpose of  
9 developing information, conducting hearings, studies, investigations, or other  
10 proceedings, or otherwise exercising its powers.

11 **Sec. 44.90.050. Audit.** (a) The board of directors shall have the financial  
12 records of the authority audited annually by an independent certified public accountant.  
13 The audit must include the review of the financial records of the Alaska Railroad  
14 under AS 42.40.270 and of the Alaska marine highway system.

15 (b) The authority shall make all of its financial records available for  
16 examination by the legislative auditor or by an auditor appointed by the governor.

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

18 **Sec. 44.90.110. Powers of authority.** (a) In addition to other powers granted  
19 in this chapter, the authority may

- 20 (1) sue and be sued;
- 21 (2) adopt and alter an official seal;
- 22 (3) adopt and enforce policies for the conduct of its business and for  
23 the use of its services and facilities;
- 24 (4) maintain offices at a place in the state and at places out of the state  
25 that are served by the marine highway system;
- 26 (5) establish terms and conditions of employment by the authority and  
27 conduct or designate a representative to conduct labor negotiations with employees;
- 28 (6) subject to appropriation by the legislature, acquire, hold, use, and  
29 dispose of its income, revenues, funds, and money;
- 30 (7) acquire, hold, use, lease, rent, construct, and dispose of personal  
31 property for its purposes, except that the authority may dispose of a ferry only on

1 approval by the legislature by law;

2 (8) acquire, hold, use, lease, or rent real property and dispose of real  
3 property under AS 44.90.210 - 44.90.240;

4 (9) modify scheduled routes after public hearings;

5 (10) do all acts and things necessary, convenient, or desirable to carry  
6 out the powers expressly granted or necessarily implied in this chapter.

7 (b) The authority may participate at any stage in any transportation planning  
8 process undertaken by the Department of Transportation and Public Facilities that  
9 relates to marine or rail transportation. The authority may designate representatives  
10 to participate as full members of any transportation planning committee, working  
11 group, planning team, rating panel, or similar organization established by the  
12 department or required for state participation in federal transportation programs. The  
13 department shall include the authority as a full participant in the departmental  
14 transportation planning process, including the statewide transportation plan and the  
15 statewide transportation improvement program.

16 **Sec. 44.90.120. Duties of authority.** The authority shall

17 (1) operate, maintain, improve, and extend a system of ferries  
18 connecting with the public roads and highways of the state and including the boats,  
19 vessels, wharves, docks, approaches, landings, and appurtenances the authority  
20 determines necessary or desirable for safe and efficient operation of the ferry system  
21 to best serve the public;

22 (2) operate, maintain, improve, and extend the Alaska Railroad under  
23 AS 42.40;

24 (3) assist the residents, businesses, and communities of the state in  
25 obtaining optimal marine and rail passenger and freight service;

26 (4) schedule vessel sailings to optimize the frequency of service to all  
27 ports;

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

31 (6) provide reservation access and marketing information throughout

1 the state;

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

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

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

7 **Sec. 44.90.130. Use of name authorized.** The authority is authorized to  
8 operate a ferry system under the name "Alaska Marine Highway System."

9 **Sec. 44.90.140. Comprehensive long-range plan.** The authority, with the  
10 cooperation of the Department of Transportation and Public Facilities, shall prepare a  
11 comprehensive long-range plan for the development and improvement of the Alaska  
12 marine highway system and the Alaska Railroad. The authority shall revise and update  
13 the comprehensive plan at least every five years. The authority shall submit the  
14 comprehensive plan and revisions and updates of the plan to the legislature.

15 **Article 3. Acquisition and Management of Property.**

16 **Sec. 44.90.210. Acquisition of land and easements.** The authority, as part  
17 of the cost of constructing, maintaining, or improving the marine highway system and  
18 other facilities of the authority, may acquire by purchase, gift, or exchange land in fee  
19 simple or easements that it considers necessary and reasonable for either temporary or  
20 permanent public use. By the same means, the authority may obtain material,  
21 including clay, gravel, sand, or rock, or the land necessary to obtain the material,  
22 including access to it. The authority may acquire the land or materials notwithstanding  
23 the fact that title to the land or materials is vested in the state or a department, agency,  
24 commission, or institution of the state.

25 **Sec. 44.90.220. Authority to purchase property for the purpose of**  
26 **exchange.** When the directors of the authority declare that it is in the interest of the  
27 state, the authority may acquire by purchase, gift, or exchange privately or publicly  
28 owned land or an interest in land for the purpose of exchanging the land for privately  
29 or publicly owned land that the authority is authorized by law to acquire for use by the  
30 marine highway system or by the authority.

31 **Sec. 44.90.230. Disposal of land or rights in land.** (a) The authority may

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

5 (b) The authority may transfer land, other than rail land under AS 44.90.240,  
 6 not considered necessary for use by the marine highway system, by the authority, or  
 7 by the Alaska Railroad under AS 42.40 to the Department of Natural Resources for  
 8 disposal. The proceeds of disposal by the Department of Natural Resources shall be  
 9 credited to the funds from which the purchase of the land was originally made.

10 **Sec. 44.90.240. Management and use of rail land.** (a) Notwithstanding  
 11 AS 44.90.210 - 44.90.230, the authority may lease, subject to (b) of this section, grant  
 12 easements in or permits for, or otherwise authorize use of portions of rail land acquired  
 13 by the authority under AS 42.40.350(e). However, the authority may not convey its  
 14 entire interest in rail land except as provided in (b) of this section.

15 (b) Unless the legislature approves the action by law, the authority may not  
 16 (1) exchange, donate, sell, or otherwise convey its entire interest in rail  
 17 land; or

18 (2) lease rail land for a period in excess of 35 years unless the authority  
 19 reserves the right to terminate the lease if the land is needed for authority purposes.

20 (c) A lease or disposal of rail land approved by the legislature under (b) of this  
 21 section by the authority to a party other than the state shall be made at fair market  
 22 value as determined by a qualified appraiser or by competitive bid.

23 (d) The authority may adopt regulations governing land use by parties having  
 24 interests in or permits for rail land owned by the authority. The power conferred by  
 25 this section is exercised for the common health, safety, and welfare of the public and  
 26 may not be limited by the terms and conditions of leases, contracts, or other  
 27 transactions.

28 (e) Upon request of a municipality or the state, the authority may authorize use  
 29 of rail land for public purposes. Before authorizing a use under this subsection, the  
 30 authority shall require the municipality or state to execute an agreement in a form  
 31 approved by the board to

1 (1) agree to restrictions, limitations, and conditions on the proposed use  
2 required by the authority;

3 (2) hold the authority harmless from and indemnify the authority for  
4 liability and claims arising from a use authorized under this section, including

5 (A) defending the authority in a cause of action brought against  
6 the authority as a result of the use; and

7 (B) indemnifying the authority for the amount of a judgment,  
8 including prejudgment and postjudgment interest, rendered against the  
9 authority, and for all costs and attorney fees incurred by the authority in  
10 settling or defending the claim; and

11 (3) stop the use upon order of the authority if the use interferes with  
12 expansion or replacement of authority facilities, creates a safety hazard, or interferes  
13 with authority operations.

14 (f) The authority may exchange rail land subject to (b) of this section. The  
15 authority is an instrumentality and agency of the state for purposes of exchanging rail  
16 land with the United States, municipalities, corporations including corporations formed  
17 under 43 U.S.C. 1601 - 1628 (Alaska Native Claims Settlement Act), and individuals.

18 (g) No prescription or statute of limitations runs against the title or interest of  
19 the authority to or in rail land directly owned by the authority or under its jurisdiction.  
20 Title to or interest in rail land directly owned by the authority or under its jurisdiction  
21 may not be acquired by adverse possession or prescription or in any other manner  
22 except by conveyance from or formal vacation by the authority.

23 (h) In this section, "rail land" means land conveyed to the authority under  
24 AS 42.40.350(e).

25 **Article 4. Vessels and Ferry Terminal Facilities.**

26 **Sec. 44.90.310. Ferry terminal facilities.** (a) The authority may construct,  
27 purchase, or lease ferry terminal facilities at locations the authority selects for the  
28 loading and unloading of passengers and vehicles under their own power, on and off  
29 ferries. The authority shall repair and maintain those facilities that it owns.  
30 Construction and purchasing under this section are governed by AS 36.30 (State  
31 Procurement Code), except as otherwise provided by law.

1 (b) The authority may connect ferry terminal facilities with local highway  
2 systems.

3 (c) The authority may adopt regulations governing the use of ferry terminal  
4 facilities by the public that the authority considers necessary and proper in the public  
5 interest. The authority may charge a fee for the use of ferry terminal facilities,  
6 whether the use is under a permit or otherwise, and whether the use is by one or more  
7 individuals.

8 **Sec. 44.90.320. Naming of vessel or facility.** (a) A vessel or facility  
9 constructed or acquired by the authority under this chapter must be named by law.

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

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

13 **Sec. 44.90.330. Annual report.** By the 10th day of each regular legislative  
14 session, the board of directors of the authority shall submit to the governor and the  
15 legislature a comprehensive report describing the operations, income, and expenditures  
16 for the Alaska marine highway system for the preceding fiscal year.

#### 17 **Article 5. General Provisions.**

18 **Sec. 44.90.910. Budget and appropriations.** The authority shall submit an  
19 annual budget for the Alaska marine highway system, the Alaska Railroad Corporation,  
20 and the administrative functions of the authority to the legislature through the governor  
21 as provided for state agencies by AS 37.07 (Executive Budget Act). The authority  
22 shall expend money appropriated by the legislature as authorized by the legislature.

23 **Sec. 44.90.990. Definitions.** In this chapter, unless the context requires  
24 otherwise,

25 (1) "authority" means the Alaska Marine and Rail Transportation  
26 Authority;

27 (2) "ferry" means a vessel used in the common carriage of passengers  
28 and vehicles in intrastate, interstate, or international commerce.

29 **Sec. 44.90.995. Short title.** This chapter may be cited as the Alaska Marine  
30 and Rail Transportation Authority Act.

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

1 (a) An animal may not be transported into the state aboard a ferry operated by  
 2 the **Alaska Marine and Rail Transportation Authority** [DIVISION OF MARINE  
 3 TRANSPORTATION OF THE DEPARTMENT OF TRANSPORTATION AND  
 4 PUBLIC FACILITIES] unless the animal's owner, custodian, or attendant possesses  
 5 a valid health certificate for the animal. This certificate shall accompany the animal  
 6 or be in the possession of the animal's owner, custodian, or attendant aboard the ferry  
 7 and shall be presented when requested by an employee of the state ferry system at the  
 8 time the owner, custodian, or attendant makes arrangements to transport the animal,  
 9 boards the ferry with the animal, or at any other time.

10 \* **Sec. 4.** AS 19.65.050(b) is amended to read:

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

12 (1) enable the **Alaska Marine and Rail Transportation Authority**  
 13 [ALASKA MARINE HIGHWAY SYSTEM] to manage and operate **the Alaska**  
 14 **marine highway system** in a manner that will enhance performance and accountability  
 15 by allowing the system to account for and spend its generated revenue;

16 (2) provide the management tools necessary to efficiently operate the  
 17 Alaska marine highway system;

18 (3) within constitutional constraints, provide for a predictable funding  
 19 base for system operations; and

20 (4) provide for predictability and stability in the service level furnished  
 21 to communities served by the system.

22 \* **Sec. 5.** AS 19.65.050(c) is amended to read:

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 system consistent with  
 28 the public interest, increase service consistent with sound fiscal policy, and assist the  
 29 prudent management and operation of the 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 system fund.** (a) There is created,  
3 as a special account in the general fund, the Alaska marine highway system fund, into  
4 which shall be deposited

5 (1) the gross revenue of the Alaska marine highway system;

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

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

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

22 \* **Sec. 7.** AS 19.65.070(a) is amended to read:

23 (a) The **authority** [ALASKA MARINE HIGHWAY SYSTEM] shall account  
24 for and remit to the Department of Revenue in accordance with AS 37.10.050 all gross  
25 revenue generated from the operation of the Alaska marine highway system during  
26 each **fiscal year** [ANNUAL OPERATING CYCLE]. The money shall then be  
27 deposited in the Alaska marine highway system fund.

28 \* **Sec. 8.** AS 19.65.070(b) is amended to read:

29 (b) The **authority** [ALASKA MARINE HIGHWAY SYSTEM] shall prepare  
30 a written report, **not** [NO] later than the 10th day of each regular legislative session,  
31 regarding the **revenues of the Alaska marine highway system** [PREVIOUS

1 ANNUAL OPERATING CYCLE] and notify the legislature that the report is available.

2 The report must identify

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

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

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

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

12 \* **Sec. 9.** AS 19.65.080 is amended to read:

13 **Sec. 19.65.080. Annual appropriation.** (a) Commencing with appropriations  
14 for the fiscal year that begins July 1, 1991, on an annual basis and under AS 37.07  
15 (Executive Budget Act), the legislature may appropriate amounts from the [ALASKA  
16 MARINE HIGHWAY SYSTEM] fund **for management and operation of** [TO] the  
17 Alaska marine highway system.

18 (b) The **authority** [DEPARTMENT OF TRANSPORTATION AND PUBLIC  
19 FACILITIES] may request the legislature to appropriate money from the [ALASKA  
20 MARINE HIGHWAY SYSTEM] fund to the **authority** [MARINE HIGHWAY  
21 SYSTEM] for capital improvements **to the Alaska marine highway system** [,] if

22 (1) the appropriation under (a) of this section has been made;

23 (2) the amount in the fund, without regard to the appropriation under  
24 (a) of this section, exceeds the total of gross revenue deposited in the fund and the  
25 general fund appropriations under AS 19.65.060(a)(2) by 10 percent; and

26 (3) the amount requested for appropriation under this subsection does  
27 not exceed 50 percent of the balance remaining after the appropriation for annual  
28 management and operations is made under (a) of this section.

29 (c) The unexpended and unobligated balance of money appropriated from the  
30 [ALASKA MARINE HIGHWAY SYSTEM] fund lapses into the [ALASKA MARINE  
31 HIGHWAY SYSTEM] fund at the end of the fiscal year for which it was appropriated.

1 \* **Sec. 10.** AS 19.65.100 is amended to read:

2 **Sec. 19.65.100. Definitions.** In AS 19.65.050 - 19.65.100,

3 (1) **"authority" means the Alaska Marine and Rail Transportation**  
 4 **Authority** ["ANNUAL OPERATING CYCLE" MEANS THE ANNUAL STATE  
 5 FISCAL YEAR BEGINNING ON JULY 1 AND ENDING AT MIDNIGHT ON THE  
 6 FOLLOWING JUNE 30];

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

8 (3) **"fund" means the Alaska marine highway system fund;**

9 (4) **"gross revenue" means all money, except money refunded to ticket**  
 10 holders and others for unused services, that is generated from the operation of the  
 11 Alaska marine highway system, including that derived from vessel operations and uses  
 12 of Alaska marine highway system facilities.

13 \* **Sec. 11.** AS 23.40.040 is amended to read:

14 **Sec. 23.40.040. Collective bargaining agreement.** The **Alaska Marine and**  
 15 **Rail Transportation Authority** [COMMISSIONER OF TRANSPORTATION AND  
 16 PUBLIC FACILITIES] or an authorized representative, in accordance with  
 17 AS 23.40.020 - 23.40.030, may negotiate and enter into collective bargaining  
 18 agreements concerning wages, hours, working conditions, and other employment  
 19 benefits with the employees of the **authority** [DIVISION OF MARINE  
 20 TRANSPORTATION] engaged in operating the **Alaska marine highway** [STATE  
 21 FERRY] system as masters or members of the crews of vessels or their bargaining  
 22 agent. [A COLLECTIVE BARGAINING AGREEMENT IS NOT FINAL WITHOUT  
 23 THE CONCURRENCE OF THE COMMISSIONER OF TRANSPORTATION AND  
 24 PUBLIC FACILITIES.] The **authority** [COMMISSIONER OF TRANSPORTATION  
 25 AND PUBLIC FACILITIES] may make provision in the collective bargaining  
 26 agreement for the settlement of labor disputes by arbitration.

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

28 (c) In this section, "public facilities" includes vessels owned by the state and  
 29 operated by the **Alaska Marine and Rail Transportation Authority** [DIVISION OF  
 30 MARINE TRANSPORTATION OF THE DEPARTMENT AS A PART OF THE  
 31 ALASKA MARINE HIGHWAY SYSTEM]. All ferries owned or operated by the

1 state shall be equipped with elevators or other passenger lifting equipment, ramps, or  
 2 other facilities and devices to ensure that these vessels are accessible to and usable by  
 3 physically handicapped, aged, or infirm passengers. In this subsection, "accessible to  
 4 and usable by" means that a physically handicapped, aged, or infirm passenger can  
 5 board, disembark, and move between decks and about the public areas aboard a state  
 6 ferry with personal comfort and safety, and with safety to, other passengers and  
 7 members of the crew.

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

9 (d) A [AFTER JUNE 25, 1976, A] ferry may not be constructed, lengthened,  
 10 completely renovated, or purchased for use or entered into service by the Alaska  
 11 Marine and Rail Transportation Authority [DIVISION OF MARINE  
 12 TRANSPORTATION OF THE DEPARTMENT AS A PART OF THE ALASKA  
 13 MARINE HIGHWAY SYSTEM] that does not include adequate facilities and devices  
 14 to ensure that the vessel is accessible to and usable by physically handicapped, aged,  
 15 or infirm passengers. Some staterooms and all restrooms, indoor passageways, outdoor  
 16 weather decks, and other public areas aboard the vessel shall be so designed and  
 17 constructed as to permit access and use by physically handicapped, aged, or infirm  
 18 passengers, including [BUT NOT LIMITED TO] those persons occupying a  
 19 wheelchair.

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

21 (c) At least one percent or, in the case of a rural school facility, at least one-  
 22 half of one percent of the construction cost of a building or facility approved for  
 23 construction by the legislature after September 1, 1977, will be reserved for the  
 24 following purposes: the design, construction, mounting, and administration of works  
 25 of art in a school, office building, court building, [VESSEL OF THE MARINE  
 26 HIGHWAY SYSTEM,] or other building or facility that [WHICH] is subject to  
 27 substantial public use.

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

29 **Sec. 35.27.025. Application to Alaska Marine and Rail Transportation**  
 30 **Authority.** This chapter applies to the Alaska Marine and Rail Transportation  
 31 Authority. Compliance with this chapter is the sole responsibility of the authority with

1 respect to the buildings and facilities of the authority, including the Alaska marine  
2 highway system.

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

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

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

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

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

10 (iii) [BOATS AND VESSELS OF THE MARINE  
11 HIGHWAY SYSTEM;

12 (iv)] transportation facilities **that** [WHICH]  
13 accommodate traveling passengers;

14 (B) excludes

15 **(i) boats and vessels of the Alaska marine highway**  
16 **system;**

17 **(ii) Alaska Railroad; and**

18 **(iii) other transportation facilities;**

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

20 (4) "authority" means the Alaska Marine and Rail Transportation  
21 Authority.

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

23 (g) The **Alaska Marine and Rail Transportation Authority** [DEPARTMENT  
24 OF TRANSPORTATION AND PUBLIC FACILITIES] shall adopt regulations to  
25 manage the procurement of supplies, services, professional services, and construction  
26 for the repair, maintenance, and reconstruction of vessels, docking facilities, and  
27 passenger and vehicle transfer facilities of the Alaska marine highway system. The  
28 regulations must be based on principles of competitive procurement consistent with this  
29 chapter to satisfy the special requirements of the Alaska marine highway system as  
30 determined by the **Alaska Marine and Rail Transportation Authority**  
31 [DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES].

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

2 (29) construction of new vessels by the Alaska Marine and Rail  
 3 Transportation Authority [DEPARTMENT OF TRANSPORTATION AND PUBLIC  
 4 FACILITIES] for the Alaska marine highway system;

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

6 (1) "agency"

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

10 (B) does not include

11 (i) the University of Alaska;

12 (ii) the Alaska Railroad Corporation;

13 (iii) the Alaska Housing Finance Corporation;

14 (iv) a regional Native housing authority created under  
 15 AS 18.55.996 or a regional electrical authority created under  
 16 AS 18.57.020;

17 (v) the Alaska Marine and Rail Transportation  
 18 Authority [DEPARTMENT OF TRANSPORTATION AND PUBLIC  
 19 FACILITIES], in regard to the repair, maintenance, and reconstruction  
 20 of vessels, docking facilities, and passenger and vehicle transfer  
 21 facilities of the Alaska marine highway system;

22 (vi) the Alaska Aerospace Development Corporation;

23 (vii) the Alaska State Pension Investment Board;

24 (viii) the Alaska Seafood Marketing Institute;

25 \* **Sec. 21.** AS 36.90.049(e)(1) is amended to read:

26 (1) "commissioner of the department that operates the marine vessel"  
 27 includes

28 (A) the president of the University of Alaska with regard to a  
 29 vessel operated by the university; **and**

30 (B) the chief operating officer of the Alaska marine highway  
 31 system with regard to a vessel operated by the Alaska marine highway

1 **system;**

2 \* **Sec. 22.** AS 37.05.550(a) is amended to read:

3 (a) There is in the general fund the Alaska marine highway system vessel  
4 replacement fund. The fund consists of money appropriated to it by the legislature.  
5 Money appropriated to the fund does not lapse. The Department of Revenue shall  
6 manage the fund. Interest received on money in the fund shall be accounted for  
7 separately and may be appropriated into the fund annually. The legislature may  
8 appropriate money from the fund **to the Alaska Marine and Rail Transportation**  
9 **Authority** for refurbishment of existing state ferry vessels, acquisition of additional  
10 state ferry vessels, or replacement of retired or outmoded state ferry vessels.

11 \* **Sec. 23.** AS 37.07.120(1) is amended to read:

12 (1) "agency" means a department, officer, institution, board,  
13 commission, bureau, division, or other administrative unit forming the state  
14 government and includes the **Alaska Marine and Rail Transportation Authority,**  
15 **Alaska Railroad Corporation,** Alaska Pioneers' Home, and the University of Alaska,  
16 but does not include the legislature or the judiciary;

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

18 (8) persons employed [BY THE DIVISION OF MARINE  
19 TRANSPORTATION] as masters and members of the crews operating the **vessels of**  
20 **the Alaska marine highway** [STATE FERRY] system who are covered by collective  
21 bargaining agreements as provided in AS 23.40.040, except as expressly provided by  
22 law;

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

24 (11) the officers and employees of the following boards, commissions,  
25 and authorities:

26 (A) [REPEALED

27 (B)] Alaska Permanent Fund Corporation;

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

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

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

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

1 **(F) Alaska Marine and Rail Transportation Authority,**  
 2 **except as provided under AS 42.40;**

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

4 (b) Employees of the **Alaska Marine and Rail Transportation Authority**  
 5 [DIVISION OF MARINE TRANSPORTATION] included in the public employees'  
 6 retirement system through the process of collective bargaining under  
 7 AS 39.35.680(21)(D) may, under the terms of a collective bargaining agreement, utilize  
 8 contributions made under (a) of this section on their behalf to offset the costs of  
 9 inclusion in the public employees' retirement system; however,

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

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

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

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

21 (21) "member" or "employee"

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

24 (B) includes

25 (i) an active member;

26 (ii) an inactive member;

27 (iii) a vested member;

28 (iv) a deferred vested member;

29 (v) a non-vested member;

30 (vi) a disabled member;

31 (vii) a retired member;

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

2 (C) does not include

3 (i) former members;

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

5 (iii) casual or emergency workers or nonpermanent  
6 employees as defined in AS 39.25.200;

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

10 (v) employees of the Alaska Marine and Rail  
11 Transportation Authority [DIVISION OF MARINE  
12 TRANSPORTATION] engaged in operating the Alaska marine  
13 highway [STATE FERRY] system who are covered by a union or  
14 group retirement system to which the state makes contributions;

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

17 (vii) the administrative director of courts appointed  
18 under art. IV, sec. 16 of the state constitution unless the director  
19 becomes a member under AS 39.35.158;

20 (viii) members of the elected public officers' retirement  
21 system (former AS 39.37); and

22 (ix) contractual employees of the legislative branch of  
23 state government under AS 24.10.060(f);

24 (D) may include employees of the Alaska Marine and Rail  
25 Transportation Authority [DIVISION OF MARINE TRANSPORTATION]  
26 excluded under (C)(v) of this paragraph provided that

27 (i) the State of Alaska formally agrees to their inclusion  
28 through the process of collective bargaining; [AND]

29 (ii) no collective bargaining agreement has the effect of  
30 obligating contributions made by the state under AS 39.30.150 in the  
31 event the state resumes participation in the federal social security

1 system;

2 **(iii) this subparagraph does not apply to employees**  
 3 **of the Alaska Railroad Corporation under AS 42.40;**

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

5 (56) Alaska Marine and Rail Transportation Authority (AS 44.90.010).

6 \* **Sec. 29.** AS 39.52.960(2) is amended to read:

7 (2) "agency" means a department, office of the governor, or entity in  
 8 the executive branch, including but not limited to the University of Alaska, public or  
 9 quasi-public corporations, boards or commissions, and **the Alaska Marine and Rail**  
 10 **Transportation Authority and its subsidiary**, the Alaska Railroad Corporation;

11 \* **Sec. 30.** AS 39.52.960(4) is amended to read:

12 (4) "board or commission" means a board, commission, authority, or  
 13 board of directors of a public or quasi-public corporation, established by statute in the  
 14 executive branch, including **the Alaska Marine and Rail Transportation Authority**  
 15 **and its subsidiary**, the Alaska Railroad, but excluding members of a negotiated  
 16 regulation making committee under AS 44.62.710 - 44.62.800;

17 \* **Sec. 31.** AS 42.40.010 is amended to read:

18 **Sec. 42.40.010. Establishment of the corporation.** There is established the  
 19 Alaska Railroad Corporation. The corporation is a public corporation and is an  
 20 instrumentality of the state within the **Alaska Marine and Rail Transportation**  
 21 **Authority** [DEPARTMENT OF COMMUNITY AND ECONOMIC  
 22 DEVELOPMENT]. The corporation has a legal existence independent of and separate  
 23 from the state **and from the Alaska Marine and Rail Transportation Authority**.  
 24 The continued operation of the Alaska Railroad by the corporation as provided in this  
 25 chapter is considered an essential government function of the state.

26 \* **Sec. 32.** AS 42.40.020 is repealed and reenacted to read:

27 **Sec. 42.40.020. Board of directors.** (a) The powers of the corporation are  
 28 vested in the board of directors.

29 (b) The board of directors of the Alaska Marine and Rail Transportation  
 30 Authority is the board of directors of the Alaska Railroad Corporation.

31 \* **Sec. 33.** AS 42.40.100 is amended to read:

1           **Sec. 42.40.100. Management by the board.** The board is responsible for the  
 2 management of the corporation but shall delegate certain powers and duties to the chief  
 3 **operating** [EXECUTIVE] officer in accordance with AS 42.40.120. In managing the  
 4 corporation, the board shall

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

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

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

11                      (4) **in accordance with AS 37.07,** apply to the legislature **through the**  
 12 **Alaska Marine and Rail Transportation Authority and the governor** for an  
 13 appropriation

14                                       **(A) to fund the operating and capital expenditures of the**  
 15 **corporation; and**

16                                       **(B) when necessary,** [WITH THE CONCURRENCE OF THE  
 17 GOVERNOR] to be used to provide a particular service that is not otherwise  
 18 self-sustaining if a subsidy is required to maintain that service;

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

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

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

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

28                      (9) ensure that the accounting procedures of the corporation meet  
 29 generally accepted accounting principles consistent with industry standards for  
 30 comparable railroads.

31       \* **Sec. 34.** AS 42.40.110 is amended to read:

1           **Sec. 42.40.110. Executive officers.** (a) The board shall appoint the chief  
 2           operating [EXECUTIVE] officer of the corporation who serves at the pleasure of the  
 3           board. The board shall fix compensation for the chief operating [EXECUTIVE]  
 4           officer.

5           (b) The chief operating [EXECUTIVE] officer of the corporation shall appoint  
 6           and fix the compensation for other executive officers of the corporation. The  
 7           compensation for an executive officer appointed under this subsection is subject to  
 8           board approval.

9           \* **Sec. 35.** AS 42.40.120(a) is amended to read:

10           (a) The board shall by rule delegate to the chief operating [EXECUTIVE]  
 11           officer powers and duties necessary or appropriate for the management of the daily  
 12           affairs and operations of the corporation. The board may by rule require the exercise  
 13           of a delegated power or duty to be subject to board approval.

14           \* **Sec. 36.** AS 42.40.120(b) is amended to read:

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

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

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

23                   (3) making routine changes in service levels;

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

26                   (5) performing procurement activities.

27           \* **Sec. 37.** AS 42.40.350(a) is amended to read:

28           (a) Subject to (e) of this section, the [THE] corporation shall receive from  
 29           the United States and, in its own name, take title to all rail property transferred under  
 30           45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982). All land that is  
 31           transferred to or acquired by the corporation is designated as follows:

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

3 \* **Sec. 38.** AS 42.40.350(c) is amended to read:

4 (c) **Rail land necessary for the use, maintenance, or operation of the**  
 5 **railroad shall be identified by the corporation.** The corporation may lease, subject  
 6 to AS 42.40.285 and (d) of this section, grant easements in or permits for, or otherwise  
 7 authorize use of portions of rail land. However, the corporation may not convey its  
 8 entire interest in rail land except as provided in AS 42.40.285, 42.40.370(d), [AND]  
 9 42.40.400, **and under (e) of this section.**

10 \* **Sec. 39.** AS 42.40.350(d) is amended to read:

11 (d) A lease or disposal of land approved by the legislature under AS 42.40.285  
 12 by the corporation to a party other than the state **or the Alaska Marine and Rail**  
 13 **Transportation Authority** shall be made at fair market value as determined by a  
 14 qualified appraiser or by competitive bid. **However, a lease or disposal of land**  
 15 **within railroad rights-of-way received by the state under 45 U.S.C. 1201 - 1214**  
 16 **shall provide that the state may use the land for transportation, communication,**  
 17 **and transmission purposes in perpetuity, though other compatible purposes are**  
 18 **allowed.**

19 \* **Sec. 40.** AS 42.40.350 is amended by adding a new subsection to read:

20 (e) Notwithstanding (a) and (c) of this section, title to rail land not identified  
 21 as necessary for use, maintenance, or operation of the railroad under this section shall  
 22 be conveyed to the Alaska Marine and Rail Transportation Authority.

23 \* **Sec. 41.** AS 42.40.380 is amended to read:

24 **Sec. 42.40.380. Use of state land.** When emergency conditions require that  
 25 track or other right-of-way fixtures of the corporation be moved from the existing  
 26 location and relocated on state land adjacent to or in the vicinity of the existing right-  
 27 of-way and the chief **operating** [EXECUTIVE] officer determines that relocation is  
 28 necessary to maintain safe and adequate rail operations, the corporation may effect the  
 29 relocation and notify the Department of Natural Resources. The relocation must affect  
 30 only the amount of state land necessary to adequately restore or continue safe rail  
 31 operations at a normal level.

1 \* **Sec. 42.** AS 42.40.500 is amended to read:

2           **Sec. 42.40.500. Limitation of liability.** A liability incurred by the corporation  
3 shall be satisfied exclusively from the assets or revenue of the corporation and no  
4 creditor or other person has a right of action against the state **or the Alaska Marine**  
5 **and Rail Transportation Authority** because of a debt, obligation, or liability of the  
6 corporation.

7 \* **Sec. 43.** AS 42.40.540 is amended to read:

8           **Sec. 42.40.540. Appropriations.** The corporation **shall** [MAY] request, **in**  
9 **accordance** with **AS 37.07, appropriations** [THE CONCURRENCE OF THE  
10 GOVERNOR, A DIRECT APPROPRIATION OR GRANT] from the legislature to  
11 **carry** [ASSIST IN CARRYING] out the provisions of this chapter.

12 \* **Sec. 44.** AS 42.40.900(a) is amended to read:

13           (a) All claims and lawsuits involving activities of the railroad, including suits  
14 in contract, quasi-contract, or tort, shall be brought against the corporation and not  
15 against the state **or the Alaska Marine and Rail Transportation Authority.**

16 \* **Sec. 45.** AS 42.40.920(b) is amended to read:

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

- 19                   (1) AS 19;
- 20                   (2) AS 30.15;
- 21                   (3) AS 35;
- 22                   (4) AS 36.30, except as specifically provided in that chapter;
- 23                   (5) AS 37.05, except as specifically provided in AS 37.05.210;
- 24                   (6) AS 37.07, **but only for expenditures to satisfy debt service of the**  
25 **corporation;**
- 26                   (7) AS 37.10.010 - 37.10.060;
- 27                   (8) AS 37.10.085;
- 28                   (9) AS 37.20;
- 29                   (10) AS 37.25;
- 30                   (11) AS 38;
- 31                   (12) AS 44.62.010 - 44.62.320.

1 \* **Sec. 46.** AS 42.40.980(7) is amended to read:

2 (7) "executive officer" means the corporation's chief **operating**  
 3 [EXECUTIVE] officer, assistant chief **operating** [EXECUTIVE] officer, assistant to  
 4 the chief **operating** [EXECUTIVE] officer, chief of administration, superintendent of  
 5 transportation, manager of marketing and sales, chief engineer, chief mechanical  
 6 officer, manager of industrial development and real estate, manager of budget and  
 7 accounting, manager of planning, manager of personnel, manager of supply and  
 8 procurement, chief of security, manager of operating rules, manager of data processing,  
 9 manager of strategy, manager of operations planning, manager of supply, manager of  
 10 procurement, manager of safety, manager of administrative procedure, chief counsel,  
 11 or, if so designated by the board, any employee who fulfills these management  
 12 functions under a different title or who exercises a similar or comparable level of  
 13 responsibility or supervision;

14 \* **Sec. 47.** AS 44.42.020(a)(1) is amended to read:

15 (1) plan, design, construct, and maintain all state modes of  
 16 transportation and transportation facilities and all docks, floats, breakwaters, buildings,  
 17 and similar facilities, **except that departmental planning, design, construction, or**  
 18 **maintenance of transportation modes or facilities under the jurisdiction of the**  
 19 **Alaska Marine and Rail Transportation Authority is subject to direction by the**  
 20 **Alaska Marine and Rail Transportation Authority;**

21 \* **Sec. 48.** AS 44.42.020(a)(7) is amended to read:

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

29 \* **Sec. 49.** AS 44.99.030(a) is amended by adding a new paragraph to read:

30 (15) Alaska Marine and Rail Transportation Authority.

31 \* **Sec. 50.** The uncodified law of the State of Alaska enacted in sec. 1(b), ch. 153, SLA

1 1984, is amended to read:

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

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

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

10 (3) create a public corporation with the powers, duties, and functions  
11 needed to operate the Alaska Railroad and manage its rail, industrial, port, and other  
12 properties in the best interest of the people of the state by ensuring that the corporation  
13 will

14 (A) be [EXCLUSIVELY] responsible for the management of  
15 the financial and legal obligations of the Alaska Railroad;

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

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

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

23 (E) provide the best possible combination of types and levels  
24 of safe, efficient, and economical transportation to meet the overall needs of  
25 the state, supported when necessary by state investment;

26 (F) provide for the prudent operation of the railroad according  
27 to sound business management practices; [AND]

28 (G) preserve the integrity of the railroad utility corridor for  
29 transportation, communication, and transmission purposes; **and**

30 **(H) be subject to AS 37.07 (Executive Budget Act) and be**  
31 **responsible for the operating and capital expenditures of the corporation**

1 **in accordance with appropriations made by the legislature;**

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

4 \* **Sec. 51.** The uncodified law of the State of Alaska is amended by adding a new section  
5 to read:

6 TRANSFER OF CERTAIN APPROPRIATIONS, EMPLOYEES, AND ASSETS TO  
7 ALASKA MARINE AND RAIL TRANSPORTATION AUTHORITY. (a) Employees of the  
8 Department of Transportation and Public Facilities assigned to the management, operation, and  
9 maintenance of the Alaska marine highway system on the effective date of this section are  
10 transferred to the Alaska Marine and Rail Transportation Authority as state employees of the  
11 authority. The commissioner of transportation and public facilities shall determine which  
12 employees are transferred to the authority. An employee who is transferred to the authority  
13 under this subsection shall continue to participate without interruption in the supplemental  
14 employee benefits program under AS 39.30.150 - 39.30.180 and in the public employees'  
15 retirement system under AS 39.35 if the employee was a participant in these programs on the  
16 day before the employee was transferred to the authority.

17 (b) During the term of a collective bargaining agreement that applies to employees  
18 who are transferred to the Alaska Marine and Rail Transportation Authority under this section  
19 and that is in effect on the effective date of this section, nothing in this Act terminates or  
20 modifies recognition of the exclusive bargaining representative for those employees or that  
21 collective bargaining agreement. The Alaska Marine and Rail Transportation Authority shall  
22 abide by the collective bargaining agreements that are in effect for employees transferred to  
23 the authority on the date of transfer. A collective bargaining agreement covering employees  
24 transferred under this Act shall remain in effect for the term of the agreement unless the  
25 agreement is renegotiated by the Alaska Marine and Rail Transportation Authority and the  
26 exclusive bargaining representative. The legislature finds that the community of interest of  
27 shore-based employees of the Alaska marine highway system who are transferred to the  
28 Alaska Marine and Rail Transportation Authority under this section is substantially different  
29 from the community of interest of the employees of the executive branch in the classified  
30 service. Accordingly, the shore-based employees of the Alaska marine highway system who  
31 are transferred to the Alaska Marine and Rail Transportation Authority are severed from their

1 recognized collective bargaining units in effect on the effective date of this section on  
 2 expiration of the collective bargaining agreement in effect on the effective date of this section  
 3 for their unit. The severed units shall continue as units of the Alaska Marine and Rail  
 4 Transportation Authority with the exclusive representative in place at the time of the severance  
 5 until actions under AS 23.40.070 - 23.40.260 (Public Employment Relations Act) change the  
 6 units or representatives.

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

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

14 \* **Sec. 52.** The uncodified law of the State of Alaska is amended by adding a new section  
 15 to read:

16 INITIAL APPOINTMENT OF MEMBERS OF THE BOARD OF DIRECTORS OF  
 17 THE ALASKA MARINE AND RAIL TRANSPORTATION AUTHORITY. (a)  
 18 Notwithstanding AS 44.90.020(b), added by sec. 2 of this Act, and AS 39.05.055, the initially  
 19 appointed members of the board of directors of the Alaska Marine and Rail Transportation  
 20 Authority shall be appointed by the governor to terms as follows: one member serves for one  
 21 year, two members serve for two years, one member serves for three years, one member  
 22 serves for four years, and two members serve for five years.

23 (b) The governor shall appoint the initial members of the board of directors of the  
 24 Alaska Marine and Rail Transportation Authority, as provided for under AS 44.90.020(a),  
 25 added by sec. 2 of this Act, before December 1, 2000.

26 \* **Sec. 53.** The uncodified law of the State of Alaska is amended by adding a new section  
 27 to read:

28 TITLE TO RAIL LAND. (a) Title to all rail land acquired by the Alaska Railroad  
 29 Corporation under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) or otherwise  
 30 acquired by the corporation before the effective date of this section that is subject to  
 31 AS 42.40.350(e), added by sec. 40 of this Act, is transferred to the Alaska Marine and Rail

1 Transportation Authority on July 1, 2001. The Alaska Marine and Rail Transportation  
2 Authority shall take the land subject to valid existing rights in third parties, including agencies  
3 of the State of Alaska.

4 (b) The Alaska Marine and Rail Transportation Authority shall provide for the  
5 recording of title to the land subject to this section in the name of the authority in the  
6 appropriate recording offices.

7 \* **Sec. 54.** The uncodified law of the State of Alaska is amended by adding a new section  
8 to read:

9 PREPARATION OF FIRST ANNUAL BUDGET UNDER AS 37.07. The Alaska  
10 Railroad Corporation shall prepare its first agency program and financial plan under AS 37.07  
11 for consideration by the governor in the development of the governor's recommended  
12 operating and capital improvements programs and financial plans that are submitted to the  
13 legislature at the next regular session of the legislature that convenes following the effective  
14 date of this section.

15 \* **Sec. 55.** AS 19.65.011, 19.65.020, 19.65.030; AS 39.25.110(16); AS 42.40.030,  
16 42.40.040, 42.40.050, and 42.40.060 are repealed.

17 \* **Sec. 56.** Sections 1, 23, 43, 45, 50, 52, and 54 of this Act take effect immediately under  
18 AS 01.10.070(c).

19 \* **Sec. 57.** Except as provided in sec. 56 of this Act, this Act takes effect January 1, 2001.