

SENATE BILL NO. 271

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY SENATORS WARD, Austerman, Cowdery, Taylor

Introduced: 2/1/02

Referred: Transportation, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

2 **Sec. 44.90.010. Alaska Marine and Rail Transportation Authority.** (a)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (b) The board of directors shall employ a chief operating officer of the Alaska

1 marine highway system who serves at the pleasure of the board. The chief operating
 2 officer of the Alaska marine highway system shall supervise the operation, employees,
 3 and facilities of the system.

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

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

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

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

18 **Article 2. Powers and Duties.**

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

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

1 property for its purposes, except that the authority may dispose of a ferry only on
2 approval by the legislature by law;

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

5 (9) modify scheduled routes after public hearings;

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

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

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

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

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

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

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

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

1 (6) provide reservation access and marketing information throughout
2 the state;

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

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

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

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

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

16 **Sec. 44.90.150. Transportation of members of the Alaska organized**
17 **militia.** To the extent that space is available, the authority shall provide free
18 transportation on vessels of the Alaska marine highway system for a member of the
19 Alaska National Guard, the Alaska Naval Militia, or the Alaska State Defense Force
20 who is en route to or from drill, training, or other official militia activities.

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

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

31 **Sec. 44.90.220. Authority to purchase property for the purpose of**

1 **exchange.** When the directors of the authority declare that it is in the interest of the
 2 state, the authority may acquire by purchase, gift, or exchange privately or publicly
 3 owned land or an interest in land for the purpose of exchanging the land for privately
 4 or publicly owned land that the authority is authorized by law to acquire for use by the
 5 marine highway system or by the authority.

6 **Sec. 44.90.230. Disposal of land or rights in land.** (a) The authority may
 7 vacate land or rights in land acquired for use by the marine highway system or by the
 8 authority by executing and filing a deed in the appropriate recording district. Upon
 9 vacating, title reverts to the persons, heirs, successors, or assigns in whom it was
 10 vested at the time of the taking.

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

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

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

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

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

29 (d) The authority may adopt regulations governing land use by parties having
 30 interests in or permits for rail land owned by the authority. The power conferred by
 31 this section is exercised for the common health, safety, and welfare of the public and

1 may not be limited by the terms and conditions of leases, contracts, or other
2 transactions.

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

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

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

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

13 (B) indemnifying the authority for the amount of a judgment,
14 including prejudgment and postjudgment interest, rendered against the
15 authority, and for all costs and attorney fees incurred by the authority in
16 settling or defending the claim; and

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

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

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

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

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

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

8 (b) The authority may connect ferry terminal facilities with local highway
9 systems.

10 (c) The authority may adopt regulations governing the use of ferry terminal
11 facilities by the public that the authority considers necessary and proper in the public
12 interest. The authority may charge a fee for the use of ferry terminal facilities,
13 whether the use is under a permit or otherwise, and whether the use is by one or more
14 individuals.

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

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

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

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

24 **Article 5. General Provisions.**

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

31 **Sec. 44.90.990. Definitions.** In this chapter, unless the context requires

1 otherwise,

2 (1) "authority" means the Alaska Marine and Rail Transportation
3 Authority;

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (2) increase revenue from the operation of the system consistent with
 5 the public interest, increase service consistent with sound fiscal policy, and assist the
 6 prudent management and operation of the system; and

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

9 * **Sec. 6.** AS 19.65.060 is amended to read:

10 **Sec. 19.65.060. Alaska marine highway system fund.** (a) There is created,
 11 as a special account in the general fund, the Alaska marine highway system fund, into
 12 which shall be deposited

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

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

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

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

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

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

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

7 (b) The **authority** [ALASKA MARINE HIGHWAY SYSTEM] shall prepare
 8 a written report, **not** [NO] later than the 10th day of each regular legislative session,
 9 regarding the **revenues of the Alaska marine highway system** [PREVIOUS
 10 ANNUAL OPERATING CYCLE] and notify the legislature that the report is
 11 available. The report must identify

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

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

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

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

21 * **Sec. 9.** AS 19.65.080 is amended to read:

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

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

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

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

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

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

11 * **Sec. 10.** 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 and Rail Transportation**
14 **Authority** ["ANNUAL OPERATING CYCLE" MEANS THE ANNUAL STATE
15 FISCAL YEAR BEGINNING ON JULY 1 AND ENDING AT MIDNIGHT ON THE
16 FOLLOWING JUNE 30];

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

18 (3) **"fund" means the Alaska marine highway system 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 Alaska marine highway system, including that derived from vessel operations and uses
22 of Alaska marine highway system facilities.

23 * **Sec. 11.** AS 23.40.040 is amended to read:

24 **Sec. 23.40.040. Collective bargaining agreement.** The **Alaska Marine and**
25 **Rail Transportation Authority** [COMMISSIONER OF TRANSPORTATION AND
26 PUBLIC FACILITIES] or an authorized representative, in accordance with
27 AS 23.40.020 - 23.40.030, may negotiate and enter into collective bargaining
28 agreements concerning wages, hours, working conditions, and other employment
29 benefits with the employees of the **authority** [DIVISION OF MARINE
30 TRANSPORTATION] engaged in operating the **Alaska marine highway** [STATE
31 FERRY] system as masters or members of the crews of vessels or their bargaining

1 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
 5 make provision in the collective bargaining agreement for the settlement of labor
 6 disputes by arbitration.

7 * **Sec. 12.** AS 29.45.030(a) is amended to read:

8 (a) The following property is exempt from general taxation:

9 (1) municipal property, including property held by a public corporation
 10 of a municipality, state property, property of the University of Alaska, **property of the**
 11 **marine and rail transportation fund**, or land that is in the trust established by the
 12 Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, except that

13 (A) a private leasehold, contract, or other interest in the
 14 property is taxable to the extent of the interest; however, an interest created by
 15 a nonexclusive use agreement between the Alaska Industrial Development and
 16 Export Authority and a user of an integrated transportation and port facility
 17 owned by the authority and initially placed in service before January 1, 1999,
 18 is taxable only to the extent of, and for the value associated with, those specific
 19 improvements used for lodging purposes;

20 (B) notwithstanding any other provision of law, property
 21 acquired by an agency, corporation, or other entity of the state through
 22 foreclosure or deed in lieu of foreclosure and retained as an investment of a
 23 state entity is taxable; this subparagraph does not apply to federal land granted
 24 to the University of Alaska under AS 14.40.380 or 14.40.390, to other land
 25 granted to the university by the state to replace land that had been granted
 26 under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the
 27 university under AS 14.40.365, **or to land conveyed by the state to the**
 28 **marine and rail transportation fund under AS 37.14.570**;

29 (C) an ownership interest of a municipality in real property
 30 located outside the municipality acquired after December 31, 1990, is taxable
 31 by another municipality; however, a borough may not tax an interest in real

1 property located in the borough and owned by a city in that borough;

2 (2) household furniture and personal effects of members of a
3 household;

4 (3) property used exclusively for nonprofit religious, charitable,
5 cemetery, hospital, or educational purposes;

6 (4) property of a nonbusiness organization composed entirely of
7 persons with 90 days or more of active service in the armed forces of the United States
8 whose conditions of service and separation were other than dishonorable, or the
9 property of an auxiliary of that organization;

10 (5) money on deposit;

11 (6) the real property of certain residents of the state to the extent and
12 subject to the conditions provided in (e) of this section;

13 (7) real property or an interest in real property that is exempt from
14 taxation under 43 U.S.C. 1620(d), as amended;

15 (8) property of a political subdivision, agency, corporation, or other
16 entity of the United States to the extent required by federal law; except that a private
17 leasehold, contract, or other interest in the property is taxable to the extent of that
18 interest;

19 (9) natural resources in place including coal, ore bodies, mineral
20 deposits, and other proven and unproven deposits of valuable materials laid down by
21 natural processes, unharvested aquatic plants and animals, and timber.

22 * **Sec. 13.** AS 35.10.015(c) is amended to read:

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

1 ferry with personal comfort and safety, and with safety to, other passengers and
2 members of the crew.

3 * **Sec. 14.** AS 35.10.015(d) is amended to read:

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

15 * **Sec. 15.** AS 35.27.020(c) is amended to read:

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

23 * **Sec. 16.** AS 35.27 is amended by adding a new section to read:

24 **Sec. 35.27.025. Application to Alaska Marine and Rail Transportation**
25 **Authority.** This chapter applies to the Alaska Marine and Rail Transportation
26 Authority. Compliance with this chapter is the sole responsibility of the authority with
27 respect to the buildings and facilities of the authority, including the Alaska marine
28 highway system.

29 * **Sec. 17.** AS 35.27.030(1) is amended to read:

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

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

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

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

5 (iii) [BOATS AND VESSELS OF THE MARINE
6 HIGHWAY SYSTEM;

7 (iv)] transportation facilities **that** [WHICH]
8 accommodate traveling passengers;

9 (B) excludes

10 **(i) boats and vessels of the Alaska marine highway**
11 **system;**

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

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

14 * **Sec. 18.** AS 35.27.030 is amended by adding a new paragraph to read:

15 (4) "authority" means the Alaska Marine and Rail Transportation
16 Authority.

17 * **Sec. 19.** AS 36.30.015(g) is amended to read:

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

27 * **Sec. 20.** AS 36.30.850(b)(29) is amended to read:

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

31 * **Sec. 21.** AS 36.30.990(1) is amended to read:

1 (1) "agency"

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

5 (B) does not include

6 (i) the University of Alaska;

7 (ii) the Alaska Railroad Corporation;

8 (iii) the Alaska Housing Finance Corporation;

9 (iv) a regional Native housing authority created under
10 AS 18.55.996 or a regional electrical authority created under
11 AS 18.57.020;

12 (v) the Alaska Marine and Rail Transportation
13 Authority [DEPARTMENT OF TRANSPORTATION AND PUBLIC
14 FACILITIES], in regard to the repair, maintenance, and reconstruction
15 of vessels, docking facilities, and passenger and vehicle transfer
16 facilities of the Alaska marine highway system;

17 (vi) the Alaska Aerospace Development Corporation;

18 (vii) the Alaska State Pension Investment Board;

19 (viii) the Alaska Seafood Marketing Institute;

20 * **Sec. 22.** AS 36.90.049(e)(1) is amended to read:

21 (1) "commissioner of the department that operates the marine vessel"

22 includes

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

25 (B) the chief operating officer of the Alaska marine
26 highway system with regard to a vessel operated by the Alaska marine
27 highway system;

28 * **Sec. 23.** AS 37.05.550(a) is amended to read:

29 (a) There is in the general fund the Alaska marine highway system vessel
30 replacement fund. The fund consists of money appropriated to it by the legislature.
31 Money appropriated to the fund does not lapse. The Department of Revenue shall

1 manage the fund. Interest received on money in the fund shall be accounted for
 2 separately and may be appropriated into the fund annually. The legislature may
 3 appropriate money from the fund **to the Alaska Marine and Rail Transportation**
 4 **Authority** for refurbishment of existing state ferry vessels, acquisition of additional
 5 state ferry vessels, or replacement of retired or outmoded state ferry vessels.

6 * **Sec. 24.** AS 37.07.120(1) is amended to read:

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

12 * **Sec. 25.** AS 37.14 is amended by adding new sections to read:

13 **Article 6A. Marine and Rail Transportation Fund.**

14 **Sec. 37.14.550. Marine and rail transportation fund established.** (a)

15 Under the authority of the Constitution of the State of Alaska, the marine and rail
 16 transportation fund is established as a separate and dedicated fund of the state.

17 (b) The principal of the fund consists of

18 (1) legislative appropriations to the fund;

19 (2) gifts, bequests, and contributions of cash or other assets from a
 20 person; and

21 (3) land conveyed to the fund under AS 37.14.570.

22 (c) The net income of the fund shall be determined by the commissioner of
 23 revenue in accordance with investment accounting principles and in a manner that
 24 preserves the distinction between principal and income.

25 **Sec. 37.14.555. Powers and duties of the commissioner of revenue.** The
 26 commissioner of revenue is the treasurer of the fund and has the power and duty to

27 (1) act as official custodian of the cash and investments belonging to
 28 the fund by securing adequate and safe custodial facilities;

29 (2) receive all items of cash and investments belonging to the fund;

30 (3) collect the principal and income from investments owned or
 31 acquired by the fund and deposit the amounts in separate principal and income

1 accounts for the fund;

2 (4) invest and reinvest the assets of the fund as provided in this section
3 and as provided for the investment of funds under AS 37.14.170;

4 (5) exercise the powers of an owner with respect to the assets of the
5 fund;

6 (6) maintain accounting records of the fund in accordance with
7 investment accounting principles and with distinction between the principal and
8 income accounts of the fund;

9 (7) engage an independent firm of certified public accountants to
10 annually audit the financial condition of the fund's investments and investment
11 transactions;

12 (8) enter into and enforce contracts or agreements considered
13 necessary for the investment purposes of the fund;

14 (9) report to the board the condition and investment performance of the
15 fund;

16 (10) do all acts, whether or not expressly authorized, that the
17 commissioner of revenue considers necessary or proper in administering the assets of
18 the fund.

19 **Sec. 37.14.560. Administration of the fund; fund board established.** (a)
20 The fund shall be administered by the Marine and Rail Transportation Fund Board.

21 (b) The Marine and Rail Transportation Fund Board is established in the
22 Department of Transportation and Public Facilities. The board is composed of

23 (1) the governor or a designee of the governor;

24 (2) a member of the board of directors of the Alaska Marine and Rail
25 Transportation Authority;

26 (3) the commissioner of natural resources or the commissioner's
27 designee;

28 (4) the commissioner of transportation and public facilities or the
29 commissioner's designee; and

30 (5) four public members appointed by the governor; in appointing the
31 public members, the governor shall give a preference to persons who have experience

1 and expertise in

2 (A) marine and rail transportation; or

3 (B) private sector resource development.

4 **Sec. 37.14.560. Powers and duties of the board.** When acting as
5 administrator of the fund, the board shall

6 (1) hold regular and special meetings it considers necessary; the board
7 may hold meetings by teleconference;

8 (2) have the care, control, and management of land selected by and
9 conveyed to the fund by the commissioner of natural resources under AS 37.14.570;

10 (3) keep audio tape recordings of each meeting of the board to be made
11 available on request; and

12 (4) submit to the governor and make available to the legislature by
13 February 1 each year a report describing

14 (A) expenditures made during the preceding fiscal year from
15 the fund that are derived from sales, leases, exchanges, or transfers of the land
16 of the fund or of interests in land of the fund that were selected by and
17 conveyed to the fund under AS 37.14.570; and

18 (B) the annual level of contributions to, income of, and
19 expenses of the fund.

20 **Sec. 37.14.565. Uses of fund principal and net income.** (a) The principal of
21 the fund shall be retained perpetually in the fund for investment as specified in
22 AS 37.14.555.

23 (b) The net income of the fund may be annually appropriated by the
24 legislature only for the support of marine and rail transportation systems and for
25 support of the Alaska Marine and Rail Transportation Authority.

26 **Sec. 37.14.570. Fund land from Statehood Act land selection conveyances.**
27 (a) The board may select and is entitled to receive the conveyance of 500,000 acres of
28 land conveyed to the state under Sec. 6(b) of the Alaska Statehood Act (P.L. 85-508,
29 72 Stat. 339). The board shall annually submit a list of selections to the commissioner
30 of natural resources. If there is disagreement between the board and the commissioner
31 of natural resources about the land selected, the disagreement must be submitted to the

1 governor, who shall make the final decision. The board and the governor shall
 2 annually and jointly submit to the legislature, within 30 days of the beginning of a
 3 regular legislative session, a list of the selections of land proposed to be conveyed to
 4 the fund under this section. Each list must contain not more than 25 percent of the
 5 total acres of land to which the fund is entitled after subtracting previous conveyances
 6 under this section, but not less than 25,000 acres or the remaining entitlement under
 7 this section, whichever is less. The legislature may by law approve or disapprove the
 8 list of selections submitted to it. A list of selections submitted shall be considered
 9 approved for conveyance to the fund if the legislature does not disapprove the list
 10 during the legislative session during which the list was submitted. If the amount of
 11 land to be conveyed exceeds the balance due the fund under this section, the fund shall
 12 set out the land to be conveyed in priority order. Land may not be selected if, on the
 13 date of its selection by the board, it

14 (1) has been reserved by law from the public domain;

15 (2) is land

16 (A) included in a five-year proposed oil and gas leasing
 17 program under AS 38.05.180(b); or

18 (B) leased under, or for which a lease application is pending
 19 under, AS 38.05.180(d) or 38.05.150;

20 (3) is subject to

21 (A) an oil, gas, or coal lease, or coal prospecting permit;

22 (B) a mining claim, offshore prospecting permit, a prospecting
 23 site, an upland mining lease, or a mining leasehold location;

24 (4) is necessary to carry out the purpose of an interagency land
 25 management agreement; or

26 (5) is subject to conveyance under a land exchange or land settlement
 27 agreement.

28 (b) Notwithstanding AS 38.05.125(a), the transfer of ownership and
 29 management of land from the Department of Natural Resources to the fund under this
 30 section includes the interest of the state in

31 (1) the coal, ores, minerals, fissionable materials, geothermal

1 resources, and fossils that may be in or on the land; and

2 (2) the oil and gas that may be in or on the land, but only as to land
3 that is selected by the board under this section on and after the date that is the fifth
4 anniversary of the effective date of this section.

5 (c) When the board selects the land to which it is entitled under this section,
6 selections must be made in parcels of 640 acres or larger unless the selection is an
7 isolated tract or the commissioner of natural resources finds it is in the best interest of
8 the state to convey less. When the fund becomes entitled to land under this section,
9 the commissioner of natural resources shall convey a document of interim conveyance
10 under (j) of this section or a patent to land.

11 (d) Notwithstanding any other provision of law, for land selected under (a) of
12 this section but not yet patented to the fund or for which a document of interim
13 conveyance has not been issued to the fund under this section,

14 (1) the commissioner of natural resources is authorized to enter into
15 contracts and grant leases, licenses, prospecting sites, claims, permits, rights-of-way,
16 or easements and any interim conveyance or patent shall be subject to the contract,
17 lease, license, prospecting site, claim, permit, right-of-way, or easement, except that
18 the authority granted the commissioner by this subsection

19 (A) is the authority that the commissioner otherwise would
20 have had under existing laws and regulations had the land not been selected by
21 the fund; and

22 (B) may be exercised only if the fund has concurred before the
23 action is taken by the commissioner;

24 (2) income from and management of the land is subject to
25 AS 37.14.585.

26 (e) Unless the governor provides otherwise under (a) of this section, the
27 governor may not include on a list of selections of land submitted to the legislature a
28 land selection made by the fund under this section if the commissioner of natural
29 resources determines that the proposed selection

30 (1) includes land for which, at the time of its selection under this
31 section,

1 (A) a municipality has made a selection under AS 29.65 unless
 2 the land selection is, at a later date, rejected by the commissioner of natural
 3 resources or relinquished by the municipality; or

4 (B) the commissioner reasonably believes the land may be
 5 selected by a municipality under AS 29.65, but the commissioner may not
 6 withhold under this subparagraph the conveyance of title to land selected by
 7 the fund longer than three years after the date of the municipality's
 8 incorporation; or

9 (2) includes land that, at the time of its selection under this section,

10 (A) is subject to an oil and gas exploration license; or

11 (B) the commissioner reasonably believes will be made part of
 12 an oil and gas exploration license issued under AS 38.05.131 - 38.05.134; the
 13 commissioner may not refuse to convey title to land to the fund under this
 14 subparagraph for more than three years after its first selection by the fund.

15 (f) When land is conveyed to the fund under this section, the fund takes the
 16 land subject to any possessory interest held by another person on the effective date of
 17 the conveyance.

18 (g) In conveying land to the fund under this section, the commissioner of
 19 natural resources shall give public notice that substantially complies with notice
 20 requirements under AS 38.05.945(b) and (c) and provide for access under
 21 AS 38.05.127, but other provisions of AS 38.04 and AS 38.05 do not apply.

22 (h) Land transferred or conveyed to the fund under this section

23 (1) is subject to

24 (A) Sec. 6(i) of the Alaska Statehood Act (P.L. 85-508, 72 Stat.
 25 339);

26 (B) art. IX of the state constitution;

27 (C) AS 19.10.010;

28 (D) the payment requirements to the Alaska permanent fund
 29 under AS 37.13.010(a) and (b); and

30 (E) the rights of the state under former 43 U.S.C. 932 (sec. 8,
 31 Act of July 26, 1866, 14 Stat. 253);

1 (2) excludes any interest transferred to the state by quitclaim deed
 2 dated June 30, 1959, under authority of the Alaska Omnibus Act, P.L. 86-70, 73 Stat.
 3 141;

4 (3) based on a land selection filed by the fund on or after the effective
 5 date of this section and until the day before the day that is the fifth anniversary of the
 6 effective date of this section, is subject to reservation by the Department of Natural
 7 Resources in perpetuity of all oil and gas that may be in or on the land, together with
 8 the right to explore the land for oil and gas and to remove from the land all oil and gas
 9 located in and on it.

10 (i) The fund shall bear all costs of selection, platting, surveying, and, except as
 11 provided in (k) of this section, conveyance of the land that it selects under this section
 12 and, subject to appropriation, shall reimburse the Department of Natural Resources for
 13 the reasonable costs incurred by that department relating to that selection, platting,
 14 surveying, and conveyance. As to land due the fund under (c) of this section,

15 (1) if the land has been surveyed, the boundaries of the land conveyed
 16 must conform to the public land subdivisions established by the approved survey;

17 (2) if the land is unsurveyed, the commissioner shall survey the
 18 exterior boundaries of the land to be conveyed without interior subdivision and shall
 19 issue patent in terms of the exterior boundary survey within one year of the later of the
 20 effective date of the approval by the legislature of the list containing the land or the
 21 adjournment of the legislative session during which the list containing the land was
 22 not disapproved by the legislature.

23 (j) For land due the fund under (c) of this section that is unsurveyed, pending
 24 the survey of exterior boundaries and issuance of patent, the commissioner of natural
 25 resources shall, within one year of the later of the effective date of the approval by the
 26 legislature of the list containing the land or the adjournment of the legislative session
 27 during which the list containing the land was not disapproved by the legislature,
 28 prepare and provide to the fund a document of interim conveyance for the land to be
 29 conveyed.

30 (k) Except as provided in AS 37.14.585(2), management of land conveyed to
 31 the fund by patent or by a document of interim conveyance vests with the fund from

1 the date of recording of the patent or document of interim conveyance. The
 2 Department of Natural Resources shall pay the cost of recording all patents and
 3 documents of interim conveyance.

4 (l) The board may not make a land selection under this section after
 5 December 31, 2012.

6 **Sec. 37.14.575. Management and disposition of land.** (a) The board shall,
 7 by policy, establish procedures for mineral entry or location and mineral leasing on
 8 land selections made under AS 37.14.570 that are substantially similar to mineral
 9 entry, location, and leasing procedures for state land under AS 38.05.185 - 38.05.275.

10 (b) Notwithstanding other provisions of law, the board shall seek public
 11 comment on proposals for development, exchange, or sale of land selections made
 12 under AS 37.14.570. The board shall adopt policies that provide that the fund shall
 13 prepare an annual plan for management and disposition of fund land under this section
 14 and shall, not less than 60 days before scheduled approval by the board of the plan,

15 (1) make copies of the plan available at all legislative information
 16 offices and at other locations as the board may designate;

17 (2) publish a notice in newspapers of general circulation in the state
 18 that provides the public with information on the locations where the plan is available
 19 for public inspection;

20 (3) give notice to all legislators and to local governments with
 21 jurisdiction over the land affected by the proposal; and

22 (4) seek public comment on the annual plan before action by the board
 23 approving the plan.

24 **Sec. 37.14.580. Confidential records.** Notwithstanding AS 40.25.110 -
 25 40.25.125 and 40.25.220, on a determination that it is in the best interest of the fund or
 26 on the request of the person who has provided the information, the board may keep the
 27 following confidential:

28 (1) the name of a person applying for the sale, lease, or other disposal
 29 of land or an interest in land conveyed to the fund under AS 37.14.570;

30 (2) before the announced time of opening of an offer to purchase,
 31 lease, or obtain a disposal of land conveyed to the fund under AS 37.14.570, the

1 names of the participants and the terms of their offers;

2 (3) all geological, geophysical, engineering, architectural, sales,
3 appraisal, gross receipts, net receipts, or other financial information relating to land or
4 an interest in land conveyed to the fund under AS 37.14.570 and considered for or
5 offered for disposal or currently subject to a contract;

6 (4) cost data and financial information submitted by an applicant in
7 support of applications for bonds, leases, or other information in offerings and
8 ongoing operations relating to management of land conveyed to the fund under
9 AS 37.14.570;

10 (5) applications for rights-of-way or easements across land conveyed
11 to the fund under AS 37.14.570; and

12 (6) requests for information about or applications by public agencies
13 for land conveyed to the fund under AS 37.14.570 that is being considered for use for
14 a public purpose.

15 **Sec. 37.14.585. Land subject to encumbrances and trespasses.** Except as
16 provided in AS 37.14.570(b) and subject to art. IX, sec. 15, Constitution of the State
17 of Alaska, for the land selected by the board under AS 37.14.570 that is subject to a
18 lease, license, contract, prospecting site, claim, sale, permit, right-of-way, or easement,
19 or to trespass,

20 (1) if the lease, license, contract, prospecting site, claim, sale, permit,
21 right-of-way, easement, or trespass

22 (A) existed before the selection of the land by the board, the
23 state is entitled to receive the income obtained from the lease, license, contract,
24 prospecting site, claim, sale, permit, right-of-way, easement, or trespass for the
25 duration of the term of the lease, license, contract, prospecting site, claim, sale,
26 permit, right-of-way, or easement, or of the trespass, and during any renewal
27 of it that is authorized by the lease, license, contract, prospecting site, claim,
28 sale permit, right-of-way, or easement, or by law;

29 (B) did not exist before the selection of the land by the board,

30 (i) the state is entitled to receive the income obtained
31 from the lease, license, contract, prospecting site, claim, sale, permit,

1 right-of-way, or easement, or from trespass before the recording of the
 2 conveyance to the fund by the issuance of a document of interim
 3 conveyance or a patent;

4 (ii) the fund is entitled to receive the income obtained
 5 from the lease, license, contract, prospecting site, claim, sale, permit,
 6 right-of-way, or easement, or from trespass on the date of and after the
 7 recording of the conveyance to the fund by the issuance of a document
 8 of interim conveyance or a patent;

9 (2) the responsibility for the management of the land vests with the
 10 fund only upon conclusion of the term of the lease, license, contract, prospecting site,
 11 claim, sale, permit, right-of-way, or easement, and any renewal authorized by the
 12 lease, license, contract, prospecting site, claim, sale, permit, right-of-way, or easement,
 13 or by law, if the lease, license, contract, prospecting site, claim, sale, permit, right-of-
 14 way, or easement existed before the land's being selected by the board; if the lease,
 15 license, contract, prospecting site, claim, sale, permit, right-of-way, or easement was
 16 entered into after selection, then the responsibility for management vests with the fund
 17 on the date of recording of the conveyance of the land to the fund by a document of
 18 interim conveyance or patent.

19 **Sec. 37.14.590. Customary and traditional uses to be continued.** When
 20 land selected by the fund under AS 37.14.570 has been conveyed to it, before
 21 conveying or disposing of an interest in land to a third party, the fund shall manage the
 22 land in a manner that permits customary and traditional uses of the resources of that
 23 land to the maximum extent practicable.

24 **Sec. 37.14.599. Definitions.** In AS 37.14.550 - 37.14.599,

25 (1) "board" means the Marine and Rail Transportation Fund Board;

26 (2) "fund" means the marine and rail transportation fund established in
 27 AS 37.14.550.

28 * **Sec. 26.** AS 39.20.310(8) is amended to read:

29 (8) persons employed [BY THE DIVISION OF MARINE
 30 TRANSPORTATION] as masters and members of the crews operating the vessels of
 31 the Alaska marine highway [STATE FERRY] system who are covered by collective

1 bargaining agreements as provided in AS 23.40.040, except as expressly provided by
2 law;

3 * **Sec. 27.** AS 39.25.110(11) is amended to read:

4 (11) the officers and employees of the following boards, commissions,
5 and authorities:

6 (A) [REPEALED

7 (B)] Alaska Permanent Fund Corporation;

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

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

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

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

12 **(F) Alaska Marine and Rail Transportation Authority,**

13 **except as provided under AS 42.40;**

14 * **Sec. 28.** AS 39.30.150(b) is amended to read:

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

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

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

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

31 * **Sec. 29.** AS 39.35.680(21) is amended to read:

1 (21) "member" or "employee"

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

4 (B) includes

- 5 (i) an active member;
- 6 (ii) an inactive member;
- 7 (iii) a vested member;
- 8 (iv) a deferred vested member;
- 9 (v) a non-vested member;
- 10 (vi) a disabled member;
- 11 (vii) a retired member;
- 12 (viii) an elected public officer under AS 39.35.381;

13 (C) does not include

- 14 (i) former members;
- 15 (ii) persons compensated on a contractual or fee basis;
- 16 (iii) casual or emergency workers or nonpermanent
17 employees as defined in AS 39.25.200;
- 18 (iv) persons covered by the Alaska Teachers'
19 Retirement System except as provided under AS 39.35.131 and
20 39.35.381, or persons covered by the optional university retirement
21 program;
- 22 (v) employees of the Alaska Marine and Rail
23 Transportation Authority [DIVISION OF MARINE
24 TRANSPORTATION] engaged in operating the Alaska marine
25 highway [STATE FERRY] system who are covered by a union or
26 group retirement system to which the state makes contributions;
- 27 (vi) justices of the supreme court or judges of the court
28 of appeals or of the superior or district courts of Alaska;
- 29 (vii) the administrative director of courts appointed
30 under art. IV, sec. 16 of the state constitution unless the director
31 becomes a member under AS 39.35.158;

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

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

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

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

10 (ii) no collective bargaining agreement has the effect of
11 obligating contributions made by the state under AS 39.30.150 in the
12 event the state resumes participation in the federal social security
13 system;

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

16 * **Sec. 30.** AS 39.50.200(b) is amended by adding a new paragraph to read:

17 (57) Alaska Marine and Rail Transportation Authority (AS 44.90.010).

18 * **Sec. 31.** AS 39.52.960(2) is amended to read:

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

23 * **Sec. 32.** AS 39.52.960(4) is amended to read:

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

29 * **Sec. 33.** AS 42.40.010 is amended to read:

30 **Sec. 42.40.010. Establishment of the corporation.** There is established the
31 Alaska Railroad Corporation. The corporation is a public corporation and is an

1 instrumentality of the state within the Alaska Marine and Rail Transportation
 2 Authority [DEPARTMENT OF COMMUNITY AND ECONOMIC
 3 DEVELOPMENT]. The corporation has a legal existence independent of and separate
 4 from the state and from the Alaska Marine and Rail Transportation Authority.
 5 The continued operation of the Alaska Railroad by the corporation as provided in this
 6 chapter is considered an essential government function of the state.

7 * **Sec. 34.** AS 42.40.020 is repealed and reenacted to read:

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

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

12 * **Sec. 35.** AS 42.40.100 is amended to read:

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

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

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

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

23 (4) in accordance with AS 37.07, apply to the legislature through the
 24 Alaska Marine and Rail Transportation Authority and the governor for an
 25 appropriation

26 (A) to fund the operating and capital expenditures of the
 27 corporation; and

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

31 (5) provide for safe, efficient, and economical transportation to meet

1 the overall needs of the state;

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

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

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

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

12 * **Sec. 36.** AS 42.40.110 is amended to read:

13 **Sec. 42.40.110. Executive officers.** (a) The board shall appoint the chief
14 **operating** [EXECUTIVE] officer of the corporation who serves at the pleasure of the
15 board. The board shall fix compensation for the chief **operating** [EXECUTIVE]
16 officer.

17 (b) The chief **operating** [EXECUTIVE] officer of the corporation shall
18 appoint and fix the compensation for other executive officers **of the corporation**. The
19 compensation for an executive officer appointed under this subsection is subject to
20 board approval.

21 * **Sec. 37.** AS 42.40.120(a) is amended to read:

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

26 * **Sec. 38.** AS 42.40.120(b) is amended to read:

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

30 (1) leasing subject to AS 42.40.285 and 42.40.350(b) and (d), granting
31 easements in, issuing permits for the use of, or conveying other interests in property

1 that do not constitute a transfer of the corporation's entire interest in land;

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

4 (3) making routine changes in service levels;

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

7 (5) performing procurement activities.

8 * **Sec. 39.** AS 42.40.350(a) is amended to read:

9 (a) **Subject to (e) of this section, the** [THE] corporation shall receive from
10 the United States and, in its own name, take title to all rail property transferred under
11 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982). All land that is
12 transferred **to** or acquired by the corporation is designated as follows:

13 (1) railroad rights-of-way are railroad utility corridors;

14 (2) land outside railroad utility corridors is rail land.

15 * **Sec. 40.** AS 42.40.350(c) is amended to read:

16 (c) **Rail land necessary for the use, maintenance, or operation of the**
17 **railroad shall be identified by the corporation.** The corporation may lease, subject
18 to AS 42.40.285 and (d) of this section, grant easements in or permits for, or otherwise
19 authorize use of portions of rail land. However, the corporation may not convey its
20 entire interest in rail land except as provided in AS 42.40.285, 42.40.370(d), [AND]
21 42.40.400, **and under (e) of this section.**

22 * **Sec. 41.** AS 42.40.350(d) is amended to read:

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

31 * **Sec. 42.** AS 42.40.350 is amended by adding a new subsection to read:

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

4 * **Sec. 43.** AS 42.40.380 is amended to read:

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

13 * **Sec. 44.** AS 42.40.500 is amended to read:

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

19 * **Sec. 45.** AS 42.40.540 is amended to read:

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

24 * **Sec. 46.** AS 42.40.900(a) is amended to read:

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

28 * **Sec. 47.** AS 42.40.920(b) is amended to read:

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

31 (1) AS 19;

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

13 * **Sec. 48.** AS 42.40.980(7) is amended to read:

14 (7) "executive officer" means the corporation's chief **operating**

15 [EXECUTIVE] officer, assistant chief **operating** [EXECUTIVE] officer, assistant to

16 the chief **operating** [EXECUTIVE] officer, chief of administration, superintendent of

17 transportation, manager of marketing and sales, chief engineer, chief mechanical

18 officer, manager of industrial development and real estate, manager of budget and

19 accounting, manager of planning, manager of personnel, manager of supply and

20 procurement, chief of security, manager of operating rules, manager of data

21 processing, manager of strategy, manager of operations planning, manager of supply,

22 manager of procurement, manager of safety, manager of administrative procedure,

23 chief counsel, or, if so designated by the board, any employee who fulfills these

24 management functions under a different title or who exercises a similar or comparable

25 level of responsibility or supervision;

26 * **Sec. 49.** AS 44.42.020(a)(1) is amended to read:

27 (1) plan, design, construct, and maintain all state modes of

28 transportation and transportation facilities and all docks, floats, breakwaters, buildings,

29 and similar facilities, **except that departmental planning, design, construction, or**

30 **maintenance of transportation modes or facilities under the jurisdiction of the**

31 **Alaska Marine and Rail Transportation Authority is subject to direction by the**

1 **Alaska Marine and Rail Transportation Authority;**

2 * **Sec. 50.** AS 44.42.020(a)(7) is amended to read:

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

10 * **Sec. 51.** AS 44.99.030(a) is amended by adding a new paragraph to read:

11 (15) Alaska Marine and Rail Transportation Authority.

12 * **Sec. 52.** The uncodified law of the State of Alaska enacted in sec. 1(b), ch. 153, SLA
13 1984, is amended to read:

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

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

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

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

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

26 (B) operate the railroad as a common carrier subject to the jurisdiction
27 of the United States Interstate Commerce Commission consistent with
28 45 U.S.C. 1207;

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

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

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

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

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

9 **(H) be subject to AS 37.07 (Executive Budget Act) and be**
10 **responsible for the operating and capital expenditures of the corporation in**
11 **accordance with appropriations made by the legislature;**

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

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

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

27 (b) During the term of a collective bargaining agreement that applies to employees
28 who are transferred to the Alaska Marine and Rail Transportation Authority under this section
29 and that is in effect on the effective date of this section, nothing in this Act terminates or
30 modifies recognition of the exclusive bargaining representative for those employees or that
31 collective bargaining agreement. The Alaska Marine and Rail Transportation Authority shall

1 abide by the collective bargaining agreements that are in effect for employees transferred to
 2 the authority on the date of transfer. A collective bargaining agreement covering employees
 3 transferred under this Act shall remain in effect for the term of the agreement unless the
 4 agreement is renegotiated by the Alaska Marine and Rail Transportation Authority and the
 5 exclusive bargaining representative. The legislature finds that the community of interest of
 6 shore-based employees of the Alaska marine highway system who are transferred to the
 7 Alaska Marine and Rail Transportation Authority under this section is substantially different
 8 from the community of interest of the employees of the executive branch in the classified
 9 service. Accordingly, the shore-based employees of the Alaska marine highway system who
 10 are transferred to the Alaska Marine and Rail Transportation Authority are severed from their
 11 recognized collective bargaining units in effect on the effective date of this section on
 12 expiration of the collective bargaining agreement in effect on the effective date of this section
 13 for their unit. The severed units shall continue as units of the Alaska Marine and Rail
 14 Transportation Authority with the exclusive representative in place at the time of the
 15 severance until actions under AS 23.40.070 - 23.40.260 (Public Employment Relations Act)
 16 change the units or representatives.

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

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

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

26 INITIAL APPOINTMENT OF MEMBERS OF THE BOARD OF DIRECTORS OF
 27 THE ALASKA MARINE AND RAIL TRANSPORTATION AUTHORITY.
 28 Notwithstanding AS 44.90.020(b), added by sec. 2 of this Act, and AS 39.05.055, the initially
 29 appointed members of the board of directors of the Alaska Marine and Rail Transportation
 30 Authority shall be appointed by the governor to terms as follows: one member serves for one
 31 year, two members serve for two years, one member serves for three years, one member

1 serves for four years, and two members serve for five years. The governor shall appoint the
2 initial members of the board of directors of the Alaska Marine and Rail Transportation
3 Authority before December 1, 2002.

4 * **Sec. 55.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 TITLE TO RAIL LAND. (a) Title to all rail land acquired by the Alaska Railroad
7 Corporation under 45 U.S.C. 1201 - 1214 (Alaska Railroad Transfer Act of 1982) or
8 otherwise acquired by the corporation before the effective date of this section that is subject to
9 AS 42.40.350(e), added by sec. 42 of this Act, is transferred to the Alaska Marine and Rail
10 Transportation Authority on July 1, 2003. The Alaska Marine and Rail Transportation
11 Authority shall take the land subject to valid existing rights in third parties, including agencies
12 of the State of Alaska.

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

16 * **Sec. 56.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

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

24 * **Sec. 57.** AS 19.65.011, 19.65.020, 19.65.030, 19.65.035; AS 39.25.110(16);
25 AS 42.40.030, 42.40.040, 42.40.050, and 42.40.060 are repealed.

26 * **Sec. 58.** Sections 1, 24, 45, 47, 52, 54, and 56 of this Act take effect immediately under
27 AS 01.10.070(c).

28 * **Sec. 59.** Sections 12 and 25 of this Act take effect on the effective date of an amendment
29 to the Constitution of the State of Alaska relating to establishing the marine and rail
30 transportation fund proposed by the Twenty-Second Alaska State Legislature.

31 * **Sec. 60.** Except as provided in secs. 58 and 59 of this Act, this Act takes effect January 1,

1 2003.