

CS FOR SENATE BILL NO. 271(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/9/02

Referred: Finance

Sponsor(s): SENATORS WARD, Austerman, Cowdery, Taylor

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing the Alaska Marine Highway Authority; establishing the marine**
2 **highway transportation fund; relating to ferries and ferry terminals; and providing for**
3 **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 section
6 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 Alaska marine highway system.
9 The authority shall be the exclusive state entity directly associated with the operation,
10 management, planning, construction, and maintenance for the Alaska marine highway system.

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

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

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

14 **Sec. 19.55.010. Alaska Marine Highway Authority.** (a) The Alaska Marine

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

5 (b) The authority shall operate the Alaska marine highway system.

6 (c) The powers of the authority are vested in the board of directors of the
 7 authority.

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

10 **Sec. 19.55.020. Directors.** (a) The board of directors of the authority consists
 11 of seven voting directors appointed by the governor. The commissioner of
 12 transportation and public facilities is an ex officio, nonvoting member of the board.
 13 Appointed directors must include

14 (1) four residents who have a significant high level of experience in
 15 maritime matters in the state;

16 (2) one resident who is a member of a union that represents employees
 17 of the Alaska marine highway system; and

18 (3) two public members who are residents.

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

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

29 (d) An appointed director is entitled to compensation at a rate of \$350 for each
 30 day the director is engaged in actual performance of duties under this chapter. The
 31 board of directors of the authority may provide by regulation for compensation for

1 partial days for an appointed director. In addition, an appointed director is entitled to
2 per diem and travel expenses authorized for boards and commissions under
3 AS 39.20.180.

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

12 **Sec. 19.55.040. Staff.** (a) The board of directors shall employ a chief
13 executive officer who serves at the pleasure of the board. The chief executive officer
14 may, with the approval of the board, select and employ additional administrative staff
15 and officers as necessary to administer the operations of the authority under this
16 chapter.

17 (b) All officers and employees of the authority are in the exempt service under
18 AS 39.25.110.

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

24 **Sec. 19.55.050. Audit.** (a) The board of directors shall have the financial
25 records of the authority audited annually by an independent certified public
26 accountant.

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

29 **Article 2. Powers and Duties.**

30 **Sec. 19.55.110. Powers of authority.** (a) In addition to other powers granted
31 in this chapter, the authority may

- 1 (1) sue and be sued;
- 2 (2) adopt and alter an official seal;
- 3 (3) adopt and enforce policies for the conduct of its business and for
- 4 the use of its services and facilities;
- 5 (4) maintain offices at a place in the state and at places out of the state
- 6 that are served by the Alaska marine highway system;
- 7 (5) establish terms and conditions of employment by the authority and
- 8 conduct or designate a representative to conduct labor negotiations with employees;
- 9 (6) subject to appropriation by the legislature, acquire, hold, use, and
- 10 dispose of its income, revenues, funds, and money;
- 11 (7) acquire, hold, use, lease, rent, construct, and dispose of personal
- 12 property for its purposes, except that the authority may dispose of a ferry only on
- 13 approval by the legislature by law;
- 14 (8) acquire, hold, use, lease, or rent real property and dispose of real
- 15 property under AS 19.55.210 - 19.55.230;
- 16 (9) modify scheduled routes after public hearings;
- 17 (10) do all acts and things necessary, convenient, or desirable to carry
- 18 out the powers expressly granted or necessarily implied in this chapter.

19 (b) The authority may participate at any stage in any transportation planning
 20 process undertaken by the Department of Transportation and Public Facilities that
 21 relates to marine transportation. The authority may designate representatives to
 22 participate as full members of any transportation planning committee, working group,
 23 planning team, rating panel, or similar organization established by the department or
 24 required for state participation in federal transportation programs. The department
 25 shall include the authority as a full participant in the departmental transportation
 26 planning process, including the statewide transportation plan and the statewide
 27 transportation improvement program.

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

- 29 (1) operate, maintain, improve, and extend a system of ferries
- 30 connecting with the public roads and highways of the state and including the boats,
- 31 vessels, wharves, docks, approaches, landings, and appurtenances the authority

1 determines necessary or desirable for safe and efficient operation of the ferry system
2 to best serve the public;

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

5 (3) schedule vessel sailings to optimize the frequency of service to all
6 ports;

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

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

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

14 (7) employ residents of the state to the greatest extent legally possible;

15 (8) recognize Alaska unions and employee associations to the greatest
16 extent legally possible.

17 **Sec. 19.55.130. Use of name authorized.** The authority is authorized to
18 operate a ferry system under the name "Alaska Marine Highway System."

19 **Sec. 19.55.140. Comprehensive long-range plan.** The authority, with the
20 cooperation of the Department of Transportation and Public Facilities, shall prepare a
21 comprehensive long-range plan for the development and improvement of the Alaska
22 marine highway system. The authority shall revise and update the comprehensive plan
23 at least every five years. The authority shall submit the comprehensive plan and
24 revisions and updates of the plan to the legislature.

25 **Sec. 19.55.150. Transportation of members of the Alaska organized**
26 **militia.** To the extent that space is available, the authority shall provide free
27 transportation on vessels of the Alaska marine highway system for a member of the
28 Alaska National Guard, the Alaska Naval Militia, or the Alaska State Defense Force
29 who is en route to or from drill, training, or other official militia activities.

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

31 **Sec. 19.55.210. Acquisition of land and easements.** The authority, as part of

1 the cost of constructing, maintaining, or improving the Alaska marine highway system
 2 may acquire by purchase, gift, or exchange land in fee simple or easements that it
 3 considers necessary and reasonable for either temporary or permanent public use. By
 4 the same means, the authority may obtain material, including clay, gravel, sand, or
 5 rock, or the land necessary to obtain the material, including access to it. The authority
 6 may acquire the land or materials notwithstanding the fact that title to the land or
 7 materials is vested in the state or a department, agency, commission, or institution of
 8 the state.

9 **Sec. 19.55.220. Authority to purchase property for the purpose of**
 10 **exchange.** When the directors of the authority declare that it is in the interest of the
 11 state, the authority may acquire by purchase, gift, or exchange privately or publicly
 12 owned land or an interest in land for the purpose of exchanging the land for privately
 13 or publicly owned land that the authority is authorized by law to acquire for use by the
 14 Alaska marine highway system or by the authority.

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

20 (b) The authority may transfer land, not considered necessary for use by the
 21 Alaska marine highway system to the Department of Natural Resources for disposal.
 22 The proceeds of disposal by the Department of Natural Resources shall be credited to
 23 the funds from which the purchase of the land was originally made.

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

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

31 (b) The authority may connect ferry terminal facilities with local highway

1 systems.

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

7 **Sec. 29.55.320. Naming of vessel or facility.** (a) A vessel or facility
8 constructed or acquired by the authority under this chapter must be named by law.

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

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

12 **Sec. 19.55.330. Annual report.** By the 10th day of each regular legislative
13 session, the board of directors of the authority shall submit to the governor and the
14 legislature a comprehensive report describing the operations, income, and
15 expenditures for the Alaska marine highway system for the preceding fiscal year.

16 **Article 5. General Provisions.**

17 **Sec. 19.55.910. Budget and appropriations.** The authority shall submit an
18 annual budget for the authority to the legislature through the governor as provided for
19 state agencies by AS 37.07 (Executive Budget Act). The authority shall expend
20 money appropriated by the legislature as authorized by the legislature.

21 **Sec. 19.55.990. Definitions.** In this chapter, unless the context requires
22 otherwise,

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

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

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

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

29 (a) An animal may not be transported into the state aboard a ferry operated by
30 the Alaska Marine Highway Authority [DIVISION OF MARINE
31 TRANSPORTATION OF THE DEPARTMENT OF TRANSPORTATION AND

1 PUBLIC FACILITIES] unless the animal's owner, custodian, or attendant possesses a
 2 valid health certificate for the animal. This certificate shall accompany the animal or
 3 be in the possession of the animal's owner, custodian, or attendant aboard the ferry and
 4 shall be presented when requested by an employee of the state ferry system at the time
 5 the owner, custodian, or attendant makes arrangements to transport the animal, boards
 6 the ferry with the animal, or at any other time.

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

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

9 (1) enable the Alaska Marine Highway Authority [ALASKA
 10 MARINE HIGHWAY SYSTEM] to manage and operate the Alaska marine
 11 highway system in a manner that will enhance performance and accountability by
 12 allowing the system to account for and spend its generated revenue;

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

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

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

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

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

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

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

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

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

30 **Sec. 19.65.060. Alaska marine highway system fund.** (a) There is created,
 31 as a special account in the general fund, the Alaska marine highway system fund, into

1 which shall be deposited

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 * **Sec. 10.** AS 19.65.100 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

8 (B) notwithstanding any other provision of law, property
 9 acquired by an agency, corporation, or other entity of the state through
 10 foreclosure or deed in lieu of foreclosure and retained as an investment of a
 11 state entity is taxable; this subparagraph does not apply to federal land granted
 12 to the University of Alaska under AS 14.40.380 or 14.40.390, to other land
 13 granted to the university by the state to replace land that had been granted
 14 under AS 14.40.380 or 14.40.390, or to land conveyed by the state to the
 15 university under AS 14.40.365, **or to land conveyed by the state to the**
 16 **marine highway transportation fund under AS 37.14.575;**

17 (C) an ownership interest of a municipality in real property
 18 located outside the municipality acquired after December 31, 1990, is taxable
 19 by another municipality; however, a borough may not tax an interest in real
 20 property located in the borough and owned by a city in that borough;

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

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

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

29 (5) money on deposit;

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

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

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

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

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

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

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

23 (d) A [AFTER JUNE 25, 1976, A] ferry may not be constructed, lengthened,
24 completely renovated, or purchased for use or entered into service by the Alaska
25 Marine Highway Authority [DIVISION OF MARINE TRANSPORTATION OF
26 THE DEPARTMENT AS A PART OF THE ALASKA MARINE HIGHWAY
27 SYSTEM] that does not include adequate facilities and devices to ensure that the
28 vessel is accessible to and usable by physically handicapped, aged, or infirm
29 passengers. Some staterooms and all restrooms, indoor passageways, outdoor weather
30 decks, and other public areas aboard the vessel shall be so designed and constructed as
31 to permit access and use by physically handicapped, aged, or infirm passengers,

1 including [BUT NOT LIMITED TO] those persons occupying a wheelchair.

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

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

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

11 **Sec. 35.27.025. Application to Alaska Marine Highway Authority.** This
12 chapter applies to the Alaska Marine Highway Authority. Compliance with this
13 chapter is the sole responsibility of the authority with respect to the buildings and
14 facilities of the authority, including the Alaska marine highway system.

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

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

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

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

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

22 (iii) [BOATS AND VESSELS OF THE MARINE
23 HIGHWAY SYSTEM];

24 (iv)] transportation facilities **that** [WHICH]
25 accommodate traveling passengers;

26 (B) excludes

27 **(i) boats and vessels of the Alaska marine highway**
28 **system; and**

29 **(ii)** other transportation facilities;

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

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

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

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

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

12 (29) construction of new vessels by the Alaska Marine Highway
13 Authority [DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES]
14 for the Alaska marine highway system;

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

16 (1) "agency"

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

20 (B) does not include

21 (i) the University of Alaska;

22 (ii) the Alaska Railroad Corporation;

23 (iii) the Alaska Housing Finance Corporation;

24 (iv) a regional Native housing authority created under
25 AS 18.55.996 or a regional electrical authority created under
26 AS 18.57.020;

27 (v) the Alaska Marine Highway Authority
28 [DEPARTMENT OF TRANSPORTATION AND PUBLIC
29 FACILITIES], in regard to the repair, maintenance, and reconstruction
30 of vessels, docking facilities, and passenger and vehicle transfer
31 facilities of the Alaska marine highway system;

1 (vi) the Alaska Aerospace Development Corporation;

2 (vii) the Alaska State Pension Investment Board;

3 (viii) the Alaska Seafood Marketing Institute;

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

5 (1) "commissioner of the department that operates the marine vessel"
6 includes

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

9 **(B) the chief executive officer of the Alaska marine highway**
10 **system with regard to a vessel operated by the Alaska Marine Highway**
11 **Authority;**

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

13 (a) There is in the general fund the Alaska marine highway system vessel
14 replacement fund. The fund consists of money appropriated to it by the legislature.
15 Money appropriated to the fund does not lapse. The Department of Revenue shall
16 manage the fund. Interest received on money in the fund shall be accounted for
17 separately and may be appropriated into the fund annually. The legislature may
18 appropriate money from the fund **to the Alaska Marine Highway Authority** for
19 refurbishment of existing state ferry vessels, acquisition of additional state ferry
20 vessels, or replacement of retired or outmoded state ferry vessels.

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

22 (1) "agency" means a department, officer, institution, board,
23 commission, bureau, division, or other administrative unit forming the state
24 government and includes the **Alaska Marine Highway Authority**, Alaska Pioneers'
25 Home, and the University of Alaska, but does not include the legislature or the
26 judiciary;

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

28 **Article 6A. Marine Highway Transportation Fund.**

29 **Sec. 37.14.550. Marine highway transportation fund established.** (a)

30 Under the authority of the Constitution of the State of Alaska, the marine highway
31 transportation fund is established as a separate and dedicated fund of the state.

1 (b) The principal of the fund consists of

2 (1) legislative appropriations to the fund;

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

5 (3) land conveyed to the fund under AS 37.14.575.

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

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

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

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

14 (3) collect the principal and income from investments owned or
15 acquired by the fund and deposit the amounts in separate principal and income
16 accounts for the fund;

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

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

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

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

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

29 (9) report to the board the condition and investment performance of the
30 fund;

31 (10) do all acts, whether or not expressly authorized, that the

1 commissioner of revenue considers necessary or proper in administering the assets of
2 the fund.

3 **Sec. 37.14.560. Administration of the fund; fund board established. (a)**

4 The fund shall be administered by the Marine Highway Transportation Fund Board.

5 (b) The Marine Highway Transportation Fund Board is established in the
6 Department of Transportation and Public Facilities. The board is composed of

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

8 (2) a member of the board of directors of the Alaska Marine Highway
9 Authority;

10 (3) the commissioner of natural resources or the commissioner's
11 designee;

12 (4) the commissioner of transportation and public facilities or the
13 commissioner's designee; and

14 (5) four public members appointed by the governor; in appointing the
15 public members, the governor shall give a preference to persons who have experience
16 and expertise in

17 (A) marine transportation; or

18 (B) private sector resource development.

19 **Sec. 37.14.565. Powers and duties of the board.** When acting as
20 administrator of the fund, the board shall

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

23 (2) have the care, control, and management of land selected by and
24 conveyed to the fund by the commissioner of natural resources under AS 37.14.575;

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

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

29 (A) expenditures made during the preceding fiscal year from
30 the fund that are derived from sales, leases, exchanges, or transfers of the land
31 of the fund or of interests in land of the fund that were selected by and

1 conveyed to the fund under AS 37.14.575; and

2 (B) the annual level of contributions to, income of, and
3 expenses of the fund.

4 **Sec. 37.14.570. Uses of fund principal and net income.** (a) The principal of
5 the fund shall be retained perpetually in the fund for investment as specified in
6 AS 37.14.555.

7 (b) The net income of the fund may be annually appropriated by the
8 legislature only for the support of marine highway transportation systems and for
9 support of the Alaska Marine Highway Authority.

10 **Sec. 37.14.575. Fund land from Statehood Act land selection conveyances.**

11 (a) The board may select and is entitled to receive the conveyance of 500,000 acres of
12 land conveyed to the state under Sec. 6(b) of the Alaska Statehood Act (P.L. 85-508,
13 72 Stat. 339). The board shall annually submit a list of selections to the commissioner
14 of natural resources. If there is disagreement between the board and the commissioner
15 of natural resources about the land selected, the disagreement must be submitted to the
16 governor, who shall make the final decision. The board and the governor shall
17 annually and jointly submit to the legislature, within 30 days of the beginning of a
18 regular legislative session, a list of the selections of land proposed to be conveyed to
19 the fund under this section. Each list must contain not more than 25 percent of the
20 total acres of land to which the fund is entitled after subtracting previous conveyances
21 under this section, but not less than 25,000 acres or the remaining entitlement under
22 this section, whichever is less. The legislature may by law approve or disapprove the
23 list of selections submitted to it. A list of selections submitted shall be considered
24 approved for conveyance to the fund if the legislature does not disapprove the list
25 during the legislative session during which the list was submitted. If the amount of
26 land to be conveyed exceeds the balance due the fund under this section, the fund shall
27 set out the land to be conveyed in priority order. Land may not be selected if, on the
28 date of its selection by the board, it

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

30 (2) is land

31 (A) included in a five-year proposed oil and gas leasing

1 program under AS 38.05.180(b); or

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

4 (3) is subject to

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

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

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

10 (5) is subject to conveyance under a land exchange or land settlement
11 agreement.

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

15 (1) the coal, ores, minerals, fissionable materials, geothermal
16 resources, and fossils that may be in or on the land; and

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

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

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

29 (1) the commissioner of natural resources is authorized to enter into
30 contracts and grant leases, licenses, prospecting sites, claims, permits, rights-of-way,
31 or easements and any interim conveyance or patent shall be subject to the contract,

1 lease, license, prospecting site, claim, permit, right-of-way, or easement, except that
2 the authority granted the commissioner by this subsection

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

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

8 (2) income from and management of the land is subject to
9 AS 37.14.590.

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

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

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

19 (B) the commissioner reasonably believes the land may be
20 selected by a municipality under AS 29.65, but the commissioner may not
21 withhold under this subparagraph the conveyance of title to land selected by
22 the fund longer than three years after the date of the municipality's
23 incorporation; or

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

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

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

30 (f) When land is conveyed to the fund under this section, the fund takes the
31 land subject to any possessory interest held by another person on the effective date of

1 the conveyance.

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

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

7 (1) is subject to

8 (A) Sec. 6(i) of the Alaska Statehood Act (P.L. 85-508, 72 Stat.
9 339);

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

11 (C) AS 19.10.010;

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

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

16 (2) excludes any interest transferred to the state by quitclaim deed
17 dated June 30, 1959, under authority of the Alaska Omnibus Act, P.L. 86-70, 73 Stat.
18 141;

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

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

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

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

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

14 (k) Except as provided in AS 37.14.590(2), management of land conveyed to
15 the fund by patent or by a document of interim conveyance vests with the fund from
16 the date of recording of the patent or document of interim conveyance. The
17 Department of Natural Resources shall pay the cost of recording all patents and
18 documents of interim conveyance.

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

21 **Sec. 37.14.580. Management and disposition of land.** (a) The board shall,
22 by policy, establish procedures for mineral entry or location and mineral leasing on
23 land selections made under AS 37.14.575 that are substantially similar to mineral
24 entry, location, and leasing procedures for state land under AS 38.05.185 - 38.05.275.

25 (b) Notwithstanding other provisions of law, the board shall seek public
26 comment on proposals for development, exchange, or sale of land selections made
27 under AS 37.14.575. The board shall adopt policies that provide that the fund shall
28 prepare an annual plan for management and disposition of fund land under this section
29 and shall, not less than 60 days before scheduled approval by the board of the plan,

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

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

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

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

8 **Sec. 37.14.585. Confidential records.** Notwithstanding AS 40.25.110 -
9 40.25.125 and 40.25.220, on a determination that it is in the best interest of the fund or
10 on the request of the person who has provided the information, the board may keep the
11 following confidential:

12 (1) the name of a person applying for the sale, lease, or other disposal
13 of land or an interest in land conveyed to the fund under AS 37.14.575;

14 (2) before the announced time of opening of an offer to purchase,
15 lease, or obtain a disposal of land conveyed to the fund under AS 37.14.575, the
16 names of the participants and the terms of their offers;

17 (3) all geological, geophysical, engineering, architectural, sales,
18 appraisal, gross receipts, net receipts, or other financial information relating to land or
19 an interest in land conveyed to the fund under AS 37.14.575 and considered for or
20 offered for disposal or currently subject to a contract;

21 (4) cost data and financial information submitted by an applicant in
22 support of applications for bonds, leases, or other information in offerings and
23 ongoing operations relating to management of land conveyed to the fund under
24 AS 37.14.575;

25 (5) applications for rights-of-way or easements across land conveyed
26 to the fund under AS 37.14.575; and

27 (6) requests for information about or applications by public agencies
28 for land conveyed to the fund under AS 37.14.575 that is being considered for use for
29 a public purpose.

30 **Sec. 37.14.590. Land subject to encumbrances and trespasses.** Except as
31 provided in AS 37.14.575(b) and subject to art. IX, sec. 15, Constitution of the State

1 of Alaska, for the land selected by the board under AS 37.14.575 that is subject to a
 2 lease, license, contract, prospecting site, claim, sale, permit, right-of-way, or easement,
 3 or to trespass,

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

6 (A) existed before the selection of the land by the board, the
 7 state is entitled to receive the income obtained from the lease, license, contract,
 8 prospecting site, claim, sale, permit, right-of-way, easement, or trespass for the
 9 duration of the term of the lease, license, contract, prospecting site, claim, sale,
 10 permit, right-of-way, or easement, or of the trespass, and during any renewal
 11 of it that is authorized by the lease, license, contract, prospecting site, claim,
 12 sale permit, right-of-way, or easement, or by law;

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

14 (i) the state is entitled to receive the income obtained
 15 from the lease, license, contract, prospecting site, claim, sale, permit,
 16 right-of-way, or easement, or from trespass before the recording of the
 17 conveyance to the fund by the issuance of a document of interim
 18 conveyance or a patent;

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

24 (2) the responsibility for the management of the land vests with the
 25 fund only upon conclusion of the term of the lease, license, contract, prospecting site,
 26 claim, sale, permit, right-of-way, or easement, and any renewal authorized by the
 27 lease, license, contract, prospecting site, claim, sale, permit, right-of-way, or easement,
 28 or by law, if the lease, license, contract, prospecting site, claim, sale, permit, right-of-
 29 way, or easement existed before the land's being selected by the board; if the lease,
 30 license, contract, prospecting site, claim, sale, permit, right-of-way, or easement was
 31 entered into after selection, then the responsibility for management vests with the fund

1 on the date of recording of the conveyance of the land to the fund by a document of
2 interim conveyance or patent.

3 **Sec. 37.14.595. Customary and traditional uses to be continued.** When
4 land selected by the fund under AS 37.14.575 has been conveyed to it, before
5 conveying or disposing of an interest in land to a third party, the fund shall manage the
6 land in a manner that permits customary and traditional uses of the resources of that
7 land to the maximum extent practicable.

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

9 (1) "board" means the Marine Highway Transportation Fund Board;

10 (2) "fund" means the marine highway transportation fund established
11 in AS 37.14.550.

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

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

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

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

21 (A) [REPEALED

22 (B)] Alaska Permanent Fund Corporation;

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

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

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

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

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

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

29 (b) Employees of the **Alaska Marine Highway Authority** [DIVISION OF
30 MARINE TRANSPORTATION] included in the public employees' retirement system
31 through the process of collective bargaining under AS 39.35.680(21)(D) may, under

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

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

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

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

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

15 (21) "member" or "employee"

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

18 (B) includes

19 (i) an active member;

20 (ii) an inactive member;

21 (iii) a vested member;

22 (iv) a deferred vested member;

23 (v) a non-vested member;

24 (vi) a disabled member;

25 (vii) a retired member;

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

27 (C) does not include

28 (i) former members;

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

30 (iii) casual or emergency workers or nonpermanent

31 employees as defined in AS 39.25.200;

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

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

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

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

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

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

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

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

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

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

29 (57) Alaska Marine Highway Authority (AS 19.55.010).

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

31 (2) "agency" means a department, office of the governor, or entity in

1 the executive branch, including but not limited to the University of Alaska, public or
 2 quasi-public corporations, boards or commissions, **the Alaska Marine Highway**
 3 **Authority**, and the Alaska Railroad Corporation;

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

5 (4) "board or commission" means a board, commission, authority, or
 6 board of directors of a public or quasi-public corporation, established by statute in the
 7 executive branch, including **the Alaska Marine Highway Authority and** the Alaska
 8 Railroad, but excluding members of a negotiated regulation making committee under
 9 AS 44.62.710 - 44.62.800;

10 * **Sec. 33.** AS 44.42.020(a)(1) is amended to read:

11 (1) plan, design, construct, and maintain all state modes of
 12 transportation and transportation facilities and all docks, floats, breakwaters, buildings,
 13 and similar facilities, **except that departmental planning, design, construction, or**
 14 **maintenance of transportation modes or facilities under the jurisdiction of the**
 15 **Alaska Marine Highway Authority is subject to direction by the Alaska Marine**
 16 **Highway Authority**;

17 * **Sec. 34.** AS 44.42.020(a)(7) is amended to read:

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

25 * **Sec. 35.** AS 44.99.030(a) is amended by adding a new paragraph to read:

26 (15) Alaska Marine Highway Authority.

27 * **Sec. 36.** The uncodified law of the State of Alaska is amended by adding a new section to
 28 read:

29 TRANSFER OF CERTAIN APPROPRIATIONS, EMPLOYEES, AND ASSETS TO
 30 ALASKA MARINE HIGHWAY AUTHORITY. (a) Employees of the Department of
 31 Transportation and Public Facilities assigned to the management, operation, and maintenance

1 of the Alaska marine highway system on the effective date of this section are transferred to
2 the Alaska Marine Highway Authority as state employees of the authority. The commissioner
3 of transportation and public facilities shall determine which employees are transferred to the
4 authority. An employee who is transferred to the authority under this subsection shall
5 continue to participate without interruption in the supplemental employee benefits program
6 under AS 39.30.150 - 39.30.180 and in the public employees' retirement system under
7 AS 39.35 if the employee was a participant in these programs on the day before the employee
8 was transferred to the authority.

9 (b) During the term of a collective bargaining agreement that applies to employees
10 who are transferred to the Alaska Marine Highway Authority under this section and that is in
11 effect on the effective date of this section, nothing in this Act terminates or modifies
12 recognition of the exclusive bargaining representative for those employees or that collective
13 bargaining agreement. The Alaska Marine Highway Authority shall abide by the collective
14 bargaining agreements that are in effect for employees transferred to the authority on the date
15 of transfer. A collective bargaining agreement covering employees transferred under this Act
16 shall remain in effect for the term of the agreement unless the agreement is renegotiated by
17 the Alaska Marine Highway Authority and the exclusive bargaining representative. The
18 legislature finds that the community of interest of shore-based employees of the Alaska
19 marine highway system who are transferred to the Alaska Marine Highway Authority under
20 this section is substantially different from the community of interest of the employees of the
21 executive branch in the classified service. Accordingly, the shore-based employees of the
22 Alaska marine highway system who are transferred to the Alaska Marine Highway Authority
23 are severed from their recognized collective bargaining units in effect on the effective date of
24 this section on expiration of the collective bargaining agreement in effect on the effective date
25 of this section for their unit. The severed units shall continue as units of the Alaska Marine
26 Highway Authority with the exclusive representative in place at the time of the severance
27 until actions under AS 23.40.070 - 23.40.260 (Public Employment Relations Act) change the
28 units or representatives.

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

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

4 * **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 INITIAL APPOINTMENT OF MEMBERS OF THE BOARD OF DIRECTORS OF
7 THE ALASKA MARINE HIGHWAY AUTHORITY. Notwithstanding AS 19.55.020(b),
8 added by sec. 2 of this Act, and AS 39.05.055, the initially appointed members of the board of
9 directors of the Alaska Marine Highway Authority shall be appointed by the governor to
10 terms as follows: one member serves for one year, two members serve for two years, one
11 member serves for three years, one member serves for four years, and two members serve for
12 five years. The governor shall appoint the initial members of the board of directors of the
13 Alaska Marine Highway Authority before December 1, 2002.

14 * **Sec. 38.** AS 19.65.011, 19.65.020, 19.65.030, 19.65.035; and AS 39.25.110(16) are
15 repealed.

16 * **Sec. 39.** Sections 1, 24, and 37 of this Act take effect immediately under
17 AS 01.10.070(c).

18 * **Sec. 40.** Sections 12 and 25 of this Act take effect on the effective date of an amendment
19 to the Constitution of the State of Alaska relating to establishing the marine transportation
20 fund proposed by the Twenty-Second Alaska State Legislature.

21 * **Sec. 41.** Except as provided in secs. 39 and 40 of this Act, this Act takes effect January 1,
22 2003.