

HOUSE BILL NO. 562

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Introduced: 5/1/04

Referred: Community and Regional Affairs

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the establishment of the Interior Rivers Port Authority; and**
2 **providing for an effective date."**

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

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

6 FINDINGS AND PURPOSE. (a) The Alaska State Legislature finds that

7 (1) certain communities and residents on the Yukon River, Kuskokwim River,
8 and Tanana River desire the establishment of a port authority to provide an organization for
9 economic development, transportation system infrastructure development, natural resource
10 marketing, and promotion of efficient energy development and distribution;

11 (2) since many of the communities in the region are not organized
12 municipalities, those communities cannot form a port authority under the Municipal Port
13 Authority Act (AS 29.35.600 - 29.35.730);

14 (3) it is in the best interest of the state to establish a state port authority for the

1 Interior Rivers region of the state to promote economic self-sufficiency in the region.

2 (b) The purpose of this Act is to establish the Interior Rivers Port Authority to provide
3 an organization that residents and communities in the region encompassing portions of the
4 Yukon, Kuskokwim, and Tanana Rivers may use to finance and manage transportation,
5 energy, and economic development infrastructure projects that will improve economic
6 conditions in the region and promote resource development and visitor industry opportunities
7 in the region.

8 * **Sec. 2.** AS 30 is amended by adding a new chapter to read:

9 **Chapter 21. Interior Rivers Port Authority.**

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

11 **Sec. 30.21.010. Interior Rivers Port Authority.** (a) The Interior Rivers Port
12 Authority is established as a public corporation of the state. The corporation is an
13 instrumentality of the state in the Department of Community and Economic
14 Development but has a legal existence independent of and separate from the state and
15 has continuing succession until its existence is terminated by law.

16 (b) The powers of the authority are vested in the board of directors of the
17 authority.

18 (c) The purpose of the authority is to improve, establish, and develop facilities
19 and operations to provide transportation, energy, regional waste disposal, and other
20 infrastructure services and economic development in the operating area of the
21 authority.

22 **Sec. 30.21.020. Board of directors.** (a) The board of directors of the
23 authority consists of nine voting members appointed by the governor.

24 (b) The governor shall appoint seven persons to serve on the board from
25 among the persons nominated by each of the following entities: The Kuskokwim
26 Corporation, Calista Corporation, Kuskokwim Native Association, Tanana Chiefs
27 Conference, MTNT Limited, Doyon, Limited, and Gana-A'Yoo, Limited. The
28 governor shall appoint one person to serve on the board from the list of persons
29 provided by each entity. The governor may request that an entity submit additional
30 names of persons nominated to serve on the board if the governor chooses not to
31 appoint a person from the list of persons previously provided by the entity.

1 (c) The governor shall appoint one person to serve on the board who is
 2 employed by a private company that has a physical presence within the area of
 3 operation of the authority and one public member to serve on the board.

4 (d) The commissioner of community and economic development and the
 5 commissioner of transportation and public facilities are nonvoting, ex officio members
 6 of the board. Each commissioner may designate a person to serve on the board in the
 7 commissioner's absence.

8 (e) The appointed members of the board serve for staggered terms of three
 9 years. The terms of the appointed members begin on January 1.

10 **Sec. 30.21.030. Removal and replacement of members.** The members of
 11 the board serve at the pleasure of the governor. A person appointed to fill a vacancy
 12 on the board shall serve for the balance of the unexpired term.

13 **Sec. 30.21.040. Compensation and expenses.** A member of the board may
 14 receive, as authorized by the board, compensation for participation in the meetings of
 15 the board and per diem and travel expenses.

16 **Sec. 30.21.050. Meetings.** (a) The board shall hold at least four regular
 17 meetings each year. The board shall set the schedule and locations for meetings of the
 18 board.

19 (b) The board may hold special meetings at the call of the chair or at the
 20 request of three members of the board.

21 **Sec. 30.21.060. Officers and quorum.** (a) The board shall elect a chair and a
 22 vice-chair from among its members. A member of the board may not serve as chair
 23 for two consecutive terms. The position of the chair of the board shall rotate among
 24 the appointed members of the board. The chair and vice-chair serve for terms of two
 25 years.

26 (b) The board shall elect a secretary, who need not be a member of the board.
 27 The secretary serves at the pleasure of the board.

28 (c) Five appointed members of the board constitute a quorum. Action may be
 29 taken and motions and resolutions adopted by the board at a meeting by the
 30 affirmative vote of at least five appointed members. Members may not vote by proxy.
 31 A vacancy in the membership of the board does not impair the right of a quorum to

1 exercise all the powers and perform all the duties of the board.

2 (d) Members may participate in meetings of the board by electronic means.

3 **Sec. 30.21.070. Staff.** (a) The board shall employ officers and employees as
4 necessary for the efficient operation of the authority.

5 (b) The board may employ executive, administrative, fiscal, and legal officers
6 and employees as the board considers necessary for the efficient management of the
7 authority.

8 **Sec. 30.21.080. Operating area of the authority.** The authority is authorized
9 to operate within the contiguous area enclosed by a line that is at all points 10 miles
10 inland of the mean high water line of the shore that is generally the northern bank of
11 the main channel of the Yukon River from the municipality of Russian Mission to a
12 point 10 miles north of the E. L. Patton Bridge; a line from a point 10 miles north of
13 the E. L. Patton Bridge to a point 10 miles south of the E. L. Patton Bridge; a line
14 from a point 10 miles south of the E. L. Patton Bridge to the easternmost point of the
15 boundary of the municipality of Nenana that crosses the Tanana River; a line from the
16 easternmost point of the boundary of the municipality of Nenana that crosses the
17 Tanana River to the nearest point of the drainage of the North Fork of the Kuskokwim
18 River and then southerly and westerly along the boundary of the drainage of the North
19 Fork of the Kuskokwim River to a point 10 miles south of the mean high water line of
20 the southern bank of the main channel of the North Fork of the Kuskokwim River at
21 the community of Medfra; a line that is at all points 10 miles south of the mean high
22 water line of the southern bank of the main channel of the North Fork of the
23 Kuskokwim River and the main channel of the Kuskokwim River between the
24 community of Medfra and the municipality of Lower Kalskag; a line between a point
25 10 miles south of the mean high water line of the southern bank of the main channel of
26 the Kuskokwim River at the municipality of Lower Kalskag and a point 10 miles
27 inland of the mean high water line of the shore that is generally the southern bank of
28 the main channel of the Yukon River at the municipality of Russian Mission; a line
29 that is at all points 10 miles inland from the mean high water line of the shore that is
30 generally the southern bank of the main channel of the Yukon River between the
31 municipality of Russian Mission and the municipality of Marshall; a line from a point

1 10 miles inland from the mean high water line of the shore that is generally the
 2 southern bank of the main channel of the Yukon River at the municipality of Marshall
 3 and a point 10 miles inland of the mean high water line of the shore that is generally
 4 the northern bank of the main channel of the Yukon River at the municipality of
 5 Marshall; and a line that is at all points 10 miles inland from the mean high water line
 6 of the shore that is generally the northern bank of the main channel of the Yukon
 7 River between the municipality of Marshall and the municipality of Russian Mission.

8 **Sec. 30.21.090. Regulations.** The board may adopt regulations to carry out its
 9 functions and the purposes of this chapter, including rules to safeguard property
 10 owned by the authority and to protect employees and persons using the authority's
 11 property or services.

12 **Article 2. Powers and Duties.**

13 **Sec. 30.21.100. Powers and duties of authority.** (a) In addition to other
 14 powers granted in this chapter, the authority may

- 15 (1) sue and be sued;
- 16 (2) adopt and alter an official seal;
- 17 (3) maintain an office in the state;
- 18 (4) acquire, hold, use, and dispose of its money, subject to
 19 appropriation by the legislature;
- 20 (5) acquire, hold, use, lease, rent, construct, and dispose of property for
 21 its purposes;
- 22 (6) issue revenue bonds under AS 30.21.200 - 30.21.320;
- 23 (7) enter into agreements to provide transportation, energy, regional
 24 waste disposal, marketing, facilities and services, and to provide coordinated training
 25 in association with authority facilities and operations;
- 26 (8) enter into contracts or other transactions with any federal, state,
 27 municipal, or other agency, or instrumentality, private organization, or person
 28 consistent with the exercise of any powers of the authority under this chapter;
- 29 (9) charge and collect those rents, rates, fees, or other charges that are
 30 necessary to pay for capital, maintenance, and operating costs of the services and
 31 facilities and operations of the authority, for the establishment of reserves to secure

1 payment of bonds or notes or interest on bonds or notes, and for repairs,
 2 improvements, storage, and care of personal property made or furnished by the
 3 authority in connection with the facilities and operations of the authority;

4 (10) accept money, gifts, loans, or grants from any federal, state,
 5 municipal, or other agency or instrumentality, private organization, or other person;
 6 and

7 (11) do all acts necessary to carry out this chapter that are not
 8 expressly prohibited by law.

9 (b) The authority shall

10 (1) operate, manage, plan, improve, market, construct, and maintain
 11 the facilities and operations of the authority; and

12 (2) adopt and enforce

13 (A) bylaws of the authority;

14 (B) regulations for the conduct of its business and for the use of
 15 its facilities, operations, and services;

16 (C) personnel rules necessary to establish a system of personnel
 17 administration.

18 **Sec. 30.21.110. Public nature of authority activities.** The planning,
 19 construction, improvement, maintenance, and operation of a facility or operation,
 20 whether by the authority separately or jointly with a federal, state, or municipal agency
 21 or a private entity, and the exercise of other powers granted to the authority are public
 22 and governmental functions exercised for a public purpose and matters of public
 23 necessity. Land and other property and privileges acquired and used by or on behalf
 24 of the authority for the purposes enumerated in this chapter are acquired and used for
 25 public and governmental purposes and as a matter of public necessity.

26 **Sec. 30.21.120. Property of the authority.** The authority may acquire, by
 27 purchase, lease, or gift, upon terms that the authority considers proper, land,
 28 structures, real or personal property rights, rights-of-way, franchises, easements, and
 29 other interests in land the authority considers necessary or convenient to carry out this
 30 chapter.

31 **Sec. 30.21.130. Acquisition of land and easements.** The authority, as part of

1 the cost of constructing, maintaining, or improving facilities or operations, may
 2 acquire by purchase, gift, grant, exchange, or eminent domain land in fee simple or
 3 easements, either temporary or permanent, that the authority considers necessary for
 4 present or future public use. By the same means, the authority may obtain material,
 5 including clay, gravel, sand, or rock, or the land necessary to obtain the material. The
 6 authority may acquire the land or material notwithstanding the fact that title to the land
 7 or material is vested in the state or a department, agency, commission, or institution of
 8 the state.

9 **Sec. 30.21.140. Acquisition of property for the purpose of exchange.**

10 When the authority declares that it is in the best public interest of the state to do so, the
 11 authority may acquire by purchase, gift, grant, exchange, or eminent domain privately
 12 or publicly owned land or an interest in land for the purpose of exchanging the land or
 13 interest in land for privately or publicly owned land or an interest in land that the
 14 authority is authorized by law to acquire.

15 **Sec. 30.21.150. Eminent domain.** (a) The authority may exercise the power
 16 of eminent domain under AS 09.55.240 - 09.55.460 to acquire land for facilities or
 17 operations consistent with this chapter. Notwithstanding AS 09.55.250, the authority
 18 may acquire a fee simple title whenever, in the judgment of the authority, ownership
 19 of a fee simple title is necessary to carry out the purposes of this chapter.

20 (b) The authority may file a declaration of taking in the manner provided for
 21 the state under AS 09.55.420.

22 **Sec. 30.21.160. Indemnification.** (a) If the person acted in good faith on
 23 behalf of the authority and within the scope of the person's official duties or powers,
 24 the authority may defend and indemnify a current or former member of the board,
 25 employee, or agent of the authority against all costs, expenses, judgments, and
 26 liabilities, including attorney fees, incurred by or imposed upon that person in
 27 connection with a civil or criminal action in which the person is involved by affiliation
 28 with the authority.

29 (b) The authority may purchase insurance to protect and hold personally
 30 harmless its board members, employees, and agents from an action, claim, or
 31 proceeding arising out of the performance, purported performance, or failure of

1 performance, in good faith, of duties for, or employment with, the authority and to
 2 hold them harmless from expenses connected with the defense, settlement, or
 3 monetary judgments from that action, claim, or proceeding. The purchase of
 4 insurance is discretionary with the board, and insurance is not considered to be
 5 compensation to the insured person.

6 **Sec. 30.21.170. Insurance.** Except as provided in AS 30.21.160(b), the
 7 authority shall protect its assets, services, and employees by purchasing insurance or
 8 providing for certain self-insurance retentions. The authority shall also maintain
 9 casualty, property, and other insurance in amounts reasonably calculated to cover
 10 potential claims against the authority or state for bodily injury, death, or disability and
 11 property damage that may arise from or be related to authority operations and
 12 activities.

13 **Sec. 30.21.180. Fidelity bond.** The authority shall obtain a fidelity bond in an
 14 amount determined by the board for members of the board and for each executive
 15 officer responsible for accounts and finances. A bond must be in effect during the
 16 entire tenure in office of the bonded person.

17 **Article 3. Revenue Bonds and Notes.**

18 **Sec. 30.21.200. Bonds and notes of the authority.** (a) The authority, by
 19 resolution, may issue revenue bonds and bond anticipation notes in order to provide
 20 funds to carry out the purposes of this chapter. Before issuing bonds for a project
 21 under this chapter, the authority must find, on the basis of all information reasonably
 22 available to the authority, that

23 (1) the project and its development under this chapter will be
 24 economically advantageous to the state and the region and the general public welfare
 25 and will contribute to the economic growth of the state and the region within which
 26 the authority operates;

27 (2) the project is financially sound and can be expected to produce
 28 revenue adequate to repay the bonds with which it is financed; and

29 (3) the scope of the project is sufficient to provide a reasonable
 30 expectation of a benefit to the region and the economy of the state.

31 (b) The principal and interest on the revenue bonds or bond anticipation notes

1 authorized and issued under (a) of this section are payable from authority funds. Bond
2 anticipation notes may be payable from the proceeds of the sale of bonds or from the
3 proceeds of the sale of other bond anticipation notes or, in the event bond or bond
4 anticipation note proceeds are not available, the notes may be paid from other funds or
5 assets of the authority.

6 (c) Bonds or bond anticipation notes may be additionally secured by a pledge
7 of a grant or contribution from the federal government, or a corporation, association,
8 institution, or person, or a pledge of money, income, or revenue of the authority from
9 any source.

10 (d) Bonds or bond anticipation notes of the authority may be issued in one or
11 more series and shall be dated, bear interest at the rate or rates a year or within the
12 maximum rate, be in the denomination, be in the form, either coupon or registered,
13 carry the conversion or registration provisions, have the rank or priority, be executed
14 in the manner and form, be payable at the times, from the sources, and in the medium
15 of payment and place or places within or outside the state, be subject to authentication
16 by a trustee or fiscal agent, and be subject to the terms of redemption with or without
17 premium, as the resolution of the authority may provide. Bond anticipation notes shall
18 mature at the time or times that are determined by the authority. Bonds shall mature at
19 a time not exceeding a number of years from their date that is determined by the
20 authority. Before the preparation of definitive bonds or bond anticipation notes, the
21 authority may issue interim receipts or temporary bonds or bond anticipation notes,
22 with or without coupons, exchangeable for bonds or bond anticipation notes when
23 these definitive bonds or bond anticipation notes have been executed and are available
24 for delivery.

25 (e) Bonds or bond anticipation notes may be sold in the manner and on the
26 terms the authority determines.

27 (f) If an officer whose signature or a facsimile of whose signature appears on a
28 bond, note, or coupon attached to them ceases to be an officer before the delivery of
29 the bond, note, or coupon, the signature or facsimile is valid to the same extent as if
30 the officer had remained in office until delivery.

31 **Sec. 30.21.210. Covenants.** In a resolution of the authority authorizing or

1 relating to the issuance of bonds or bond anticipation notes, the authority has power by
2 provisions in the resolution that will constitute covenants of the authority and
3 contracts with the holders of the bonds or bond anticipation notes to

4 (1) pledge to a payment or purpose all or a part of its revenue to which
5 its right then exists or may thereafter come into existence, and the money derived from
6 the revenue, and the proceeds of bonds or notes;

7 (2) covenant as to the use and disposition of payments of principal or
8 interest received by the authority on loans or other investments held by the authority;

9 (3) covenant as to establishment of reserves or sinking funds and the
10 making of provision for and the regulation and disposition of the reserves or sinking
11 funds;

12 (4) covenant with respect to or against limitations on a right to sell or
13 otherwise dispose of property of any kind;

14 (5) covenant as to bonds and notes to be issued, and their limitations,
15 terms, and conditions, and as to the custody, application, and disposition of the
16 proceeds of the bonds and notes;

17 (6) covenant as to the issuance of additional bonds or notes, or as to
18 limitations on the issuance of additional bonds or notes and the incurring of other
19 debts;

20 (7) covenant as to the payment of the principal of or interest on the
21 bonds or notes, as to the sources and methods of the payment, as to the rank or priority
22 of the bonds or notes with respect to a lien or security, or as to the acceleration of the
23 maturity of the bonds or notes;

24 (8) provide for the replacement of lost, stolen, destroyed, or mutilated
25 bonds or notes;

26 (9) covenant as to the redemption of bonds or notes and privileges of
27 their exchange for other bonds or notes of the authority;

28 (10) covenant to create or authorize the creation of special funds of
29 money to be held in pledge or otherwise for operating expenses, payment or
30 redemption of bonds or notes, reserves, or other purposes;

31 (11) establish the procedure, if any, by which the terms of a contract or

1 covenant with or for the benefit of the holders of bonds or notes may be amended or
 2 abrogated, the amount of bonds or notes the holders of which must consent to
 3 amendment or abrogation, and the manner in which the consent may be given;

4 (12) covenant as to the custody of property or investments, their
 5 safekeeping and insurance, and the use and disposition of insurance money;

6 (13) agree with a corporate trustee that may be a trust company or
 7 bank having the powers of a trust company within or outside the state as to the
 8 pledging or assigning of revenue or funds to which or in which the authority has rights
 9 or an interest; the agreement may further provide for other rights and remedies
 10 exercisable by the trustee as may be proper for the protection of the holders of a bond
 11 or note of the authority and not otherwise in violation of law and may provide for the
 12 restriction of the rights of an individual holder of bonds or notes of the authority;

13 (14) appoint and provide for the duties and obligations of a paying
 14 agent or paying agents or other fiduciaries as the resolution may provide within or
 15 outside the state;

16 (15) limit the rights of the holders of a bond or note to enforce a pledge
 17 or covenant securing the bonds or notes;

18 (16) make covenants other than and in addition to the covenants
 19 expressly authorized in this section of like or different character, and to make
 20 covenants to do or refrain from doing acts and things as may be necessary or
 21 convenient and desirable in order to better secure bonds or notes or that, in the
 22 absolute discretion of the authority, will tend to make bonds or notes more marketable,
 23 notwithstanding that the covenants, acts, or things may not be enumerated in this
 24 section.

25 **Sec. 30.21.220. Limitations of issuance of bonds.** (a) The authority may not
 26 issue bonds in an amount that exceeds the amount of bonds authorized to be issued by
 27 the legislature.

28 (b) This section does not apply to the issuance by the authority of refunding
 29 bonds or to the issuance by the authority of bonds the proceeds of which are intended
 30 to be used to refinance the loans held by the authority.

31 **Sec. 30.21.230. Independent financial advisor.** In negotiating the private

1 sale of bonds or bond anticipation notes to an underwriter, the authority may retain a
 2 financial advisor. A financial advisor retained under this section must be independent
 3 from the underwriter.

4 **Sec. 30.21.240. Validity of pledge.** (a) The pledge of assets or revenue of the
 5 authority to the payment of the principal of or interest on an obligation of the authority
 6 is valid and binding from the time the pledge is made, and the assets or revenue
 7 become immediately subject to the lien of the pledge without physical delivery or
 8 further act. The lien of a pledge is valid and binding against all parties having claims
 9 in tort, contract, or otherwise against the authority, irrespective of whether those
 10 parties have notice of the lien of the pledge.

11 (b) This section does not prohibit the authority from selling assets subject to a
 12 pledge, except that a sale may be restricted by the trust agreement or resolution
 13 providing for the issuance of the obligations.

14 **Sec. 30.21.250. Capital reserve funds.** (a) For the purpose of securing one
 15 or more issues of its obligations, the authority may establish one or more special
 16 funds, called "capital reserve funds," and shall pay into those capital reserve funds (1)
 17 money appropriated and made available by the state for the purpose of those funds, (2)
 18 proceeds of the sale of its obligations, to the extent provided in the resolution or
 19 resolutions of the authority authorizing their issuance, and (3) other money that may
 20 be made available to the authority for the purpose of those funds from another source.
 21 All money held in a capital reserve fund, except as provided in this section, shall,
 22 subject to appropriation, be used as required solely for the payment of the principal of
 23 obligations or of the sinking fund payments with respect to those obligations, the
 24 purchase or redemption of obligations, the payment of interest on obligations, or the
 25 payment of a redemption premium required to be paid when those obligations are
 26 redeemed before maturity. However, money in a fund may not be withdrawn from
 27 that fund at any time in an amount that would reduce the amount of that fund to less
 28 than the capital reserve requirement set out in (b) of this section, except for the
 29 purpose of making, with respect to those obligations, payment, when due, of principal,
 30 interest, redemption premiums, and the sinking fund payments for the payment of
 31 which other money of the authority is not available. Income or interest earned by, or

1 increment to, a capital reserve fund due to the investment of the fund or other amounts
 2 in it may be transferred by the authority to other funds or accounts of the authority to
 3 the extent that the transfer does not reduce the amount of the capital reserve fund
 4 below the capital reserve fund requirement.

5 (b) If the authority decides to issue obligations secured by a capital reserve
 6 fund, the obligations may not be issued if the amount in the capital reserve fund is less
 7 than a percent, not exceeding 10 percent, of the principal amount of all of those
 8 obligations secured by that capital reserve fund then to be issued and then outstanding
 9 in accordance with their terms, as may be established by resolution of the authority,
 10 called the "capital reserve fund requirement," unless the authority, at the time of
 11 issuance of the obligations, deposits in the capital reserve fund from the proceeds of
 12 the obligations to be issued or from other sources an amount that, together with the
 13 amount then in the fund, will not be less than the capital reserve fund requirement.

14 (c) In computing the amount of a capital reserve fund for the purpose of this
 15 section, securities in which all or a portion of the funds are invested shall be valued at
 16 par or, if purchased at less than par, at amortized costs as the term is defined by
 17 resolution of the authority authorizing the issue of the obligations or by some other
 18 reasonable method established by the authority by resolution. Valuation on a
 19 particular date must include the amount of interest earned or accrued to that date.

20 (d) To assure the continued operation and solvency of the authority for the
 21 carrying out of its corporate purposes, provision is made in (a) of this section for the
 22 accumulation in capital reserve funds of an amount equal to their capital reserve fund
 23 requirement.

24 (e) The chair of the authority shall annually, not later than January 2, make
 25 and deliver to the governor and chairs of the house and senate finance committees a
 26 certificate stating the sum, if any, required to restore a capital reserve fund to the
 27 capital reserve fund requirement. The legislature may appropriate that sum, and all
 28 sums appropriated during the current fiscal year by the legislature for the restoration
 29 shall be deposited by the authority in the appropriate capital reserve fund.

30 (f) This section does not create a debt or liability of the state.

31 **Sec. 30.21.260. Remedies.** A holder of obligations or coupons attached to

1 them issued under the provisions of this chapter, and a trustee under a trust agreement
 2 or resolution authorizing the issuance of the obligations, except as restricted by a trust
 3 agreement or resolution, either at law or in equity, may enforce all rights granted
 4 hereunder or under the trust agreement or resolution, or under another contract
 5 executed by the authority under this chapter, and may enforce and compel the
 6 performance of all duties required by this chapter or by the trust agreement or
 7 resolution to be performed by the authority or by an officer of the authority.

8 **Sec. 30.21.270. Negotiable instruments.** All obligations and interest
 9 coupons attached to them are negotiable instruments under the laws of this state,
 10 subject only to applicable provisions for registration.

11 **Sec. 30.21.280. Obligations eligible for investment.** Obligations issued
 12 under the provisions of this chapter are securities in which all public officers and
 13 public bodies of the state and its political subdivisions, all insurance companies, trust
 14 companies, banking associations, investment companies, executors, administrators,
 15 trustees, and other fiduciaries may properly and legally invest funds, including capital
 16 in their control or belonging to them. These obligations may be deposited with a state
 17 or municipal officer of an agency or political subdivision of the state for a purpose for
 18 which the deposit of bonds, notes, or obligations of the state is authorized by law.

19 **Sec. 30.21.290. Refunding bonds.** (a) The authority may provide for the
 20 issuance of refunding bonds for the purpose of refunding an obligation then
 21 outstanding that has been issued under the provisions of this chapter, including the
 22 payment of redemption premium on them and interest accrued or to accrue to the date
 23 of redemption of the obligations. The issuance of the bonds, the maturities and other
 24 details of them, the rights of the holders of them, and the rights, duties, and obligations
 25 of the authority in respect of them are governed by the provisions of this chapter that
 26 relate to the issuance of obligations insofar as those provisions may be appropriate.

27 (b) Refunding bonds may be sold or exchanged for outstanding bonds issued
 28 under this chapter, and, if sold, the proceeds may be applied, subject to appropriation
 29 and in addition to another authorized purpose, to the purchase, redemption, or payment
 30 of the outstanding obligations. Pending the application of the proceeds of refunding
 31 bonds, with any other available funds, to the payment of the principal of, accrued

1 interest on, and redemption premium on the obligations being refunded, and, if so
 2 provided or permitted in the resolution authorizing the issuance of the refunding bonds
 3 or in the trust agreement securing them, to the payment of any interest on the
 4 refunding bonds and expenses in connection with the refunding, the proceeds may be
 5 invested in direct obligations of, or obligations the principal of and the interest on
 6 which are unconditionally guaranteed by, the United States that mature or that will be
 7 subject to redemption, at the option of the holders of them, not later than the respective
 8 dates when the proceeds, together with the interest accruing on them, will be required
 9 for the purposes intended.

10 **Sec. 30.21.300. Credit of state not pledged.** (a) Obligations issued under
 11 the provisions of this chapter do not constitute a debt, liability, or obligation of the
 12 state or of a political subdivision of the state or a pledge of the faith and credit of the
 13 state or of a political subdivision of the state but are payable solely from the revenue
 14 or assets of the authority. Each obligation issued under this chapter must contain on
 15 its face a statement that the authority is not obligated to pay the obligation or the
 16 interest on the obligation except from the revenue or assets of the authority and that
 17 neither the faith and credit nor the taxing power of the state or of a political
 18 subdivision of the state is pledged to the payment of the principal of or the interest on
 19 the obligation.

20 (b) Expenses incurred by the authority in carrying out the provisions of this
 21 chapter are payable from funds provided under this chapter, and liability may not be
 22 incurred by the authority in excess of these funds.

23 **Sec. 30.21.310. Officers not liable.** A member or other officer of the
 24 authority is not subject to personal liability or accountability by reason of having
 25 executed or issued an obligation.

26 **Sec. 30.21.320. Tax exemption.** All obligations issued under this chapter are
 27 declared to be issued by a body corporate and public of the state and for an essential
 28 public and governmental purpose, and the obligations, and the interest and income on
 29 and from the obligations, and all fees, charges, funds, revenue, income, and other
 30 money pledged or available to pay or secure the payment of the obligations, or interest
 31 on the obligations, are exempt from state taxation except for transfer, inheritance, and

1 estate taxes.

2 **Article 4. Fiscal Procedures.**

3 **Sec. 30.21.350. Authority program and financial plan.** (a) The authority
4 shall assure the development of a system of results-based operation designed to
5 increase efficiency and effectiveness of facilities, operations, programs, and services
6 of the authority. Toward that end, the authority shall, on an annual basis, identify
7 results-based measures that have been used to work toward achievement of the
8 mission statement and desired results issued by the legislature and of other goals of the
9 authority, and set out the results as measured. The authority shall also prepare a public
10 report that shall be published by January 2 of each year. The report must

11 (1) identify the mission of the authority;

12 (2) identify the goals and objectives the authority will use to achieve
13 the legislature's mission and desired results;

14 (3) include written, defined methods of measuring results that apply to
15 the responsibilities, products, and services of the authority;

16 (4) identify surveys or other methods of gathering user-group opinions
17 that have been used by the authority to identify ways to improve its programs;

18 (5) identify methods of measuring performance when the mission
19 statement and desired results of the authority involve cooperation with other public or
20 private agencies and make recommendations to eliminate duplication of government
21 functions and waste;

22 (6) include the budget requested to carry out the authority's proposed
23 plans in the succeeding fiscal year, including information reflecting the expenditures
24 during the last fiscal year, the expenditures authorized for the current fiscal year, the
25 expenditures proposed for the succeeding fiscal year, an explanation of the services to
26 be provided, the total number of positions for all persons employed or under contract
27 by the agency for personal services, including those rendered for capital improvement
28 projects, the need for the services, and the cost of the services;

29 (7) include a report of receipts of the authority during the last fiscal
30 year, an estimate of receipts during the current fiscal year, and an estimate of receipts
31 for the succeeding fiscal year;

1 (8) identify legislation required to implement the proposed programs
2 and financial plans;

3 (9) include an evaluation of the advantages and disadvantages of
4 specific alternatives to existing or proposed activities or administrative methods of the
5 authority.

6 (b) The report prepared under (a) of this section must describe the relationship
7 of the services provided by the authority to those services provided by other
8 government agencies and nongovernmental organizations.

9 (c) All goals and objectives, plans, programs, estimates, budgets, and other
10 documents forwarded to the governor by the authority under this section are public
11 information on and after the date they are forwarded.

12 **Sec. 30.21.360. Program execution.** The authority has power to administer
13 its programs and is responsible for the proper management of its facilities and
14 operations.

15 **Sec. 30.21.370. Annual report.** By January 2 of each year, the authority shall
16 prepare a concise report describing the operations, income, and expenditures for the
17 preceding fiscal year. The report must contain information substantially similar to that
18 required by the United States Securities and Exchange Commission Form 10-K. The
19 report must also include financial statements audited by an independent outside
20 auditor.

21 **Sec. 30.21.380. Annual audit.** The authority shall have a certified audit of its
22 financial records prepared annually by an independent certified public accountant.

23 **Article 5. General Provisions.**

24 **Sec. 30.21.400. Authority employees.** Employees of the authority are not
25 employees of the state.

26 **Sec. 30.21.410. Application of existing laws.** Unless specifically provided
27 otherwise in this chapter, the following laws do not apply to the operations of the
28 authority:

- 29 (1) AS 36.30, except as provided in that chapter;
30 (2) AS 39.

31 **Sec. 30.21.490. Definitions.** In this chapter, unless the context requires

1 otherwise,

2 (1) "authority" means the Interior Rivers Port Authority;

3 (2) "board" means the board of directors of the authority;

4 (3) "bonds" means the bonds issued by the authority under this
5 chapter;

6 (4) "capital improvement" means a project for the construction,
7 rehabilitation, rebuilding, enlarging, or improving of a facility or operation, as
8 determined by the authority to be necessary or desirable for efficient management of
9 the facility or operation by the authority and to best serve the public;

10 (5) "facility or operation" means a facility or operation necessary for
11 the authority to carry out its mission.

12 **Sec. 30.21.495. Short title.** This chapter may be cited as the Interior Rivers
13 Port Authority Act.

14 * **Sec. 3.** AS 30.15.010 is amended to read:

15 **Sec. 30.15.010. State grants for port facilities construction.** To the extent
16 funds are appropriated by the legislature, or from the proceeds from the sale of bonds,
17 the state may make grants to municipalities **and regional port authorities** to finance a
18 portion of the cost of constructing local, regional, or state port facilities. The state
19 shall participate only in those projects approved by the governor on recommendation
20 of the commissioner.

21 * **Sec. 4.** AS 30.15.020 is amended to read:

22 **Sec. 30.15.020. Criteria for establishing eligibility.** (a) Before a grant may
23 be awarded under this chapter, the commissioner shall determine that

24 (1) the grant is for a feasible project;

25 (2) the project is endorsed by resolution **of the board of directors of**
26 **the regional port authority or** of the governing body of the sponsoring municipality
27 on its own behalf, or on behalf of a service area in an organized borough if a service
28 area is established to finance and construct port facilities and operate and maintain
29 them once constructed; and

30 (3) **the regional port authority or** the municipality can clearly
31 demonstrate its ability to finance the local share of project costs.

1 (b) A grant may not be awarded under this chapter for a port facility
 2 development project until a study of its feasibility is conducted and submitted with the
 3 application for the grant. The project also must be justifiable on the basis of public
 4 convenience and necessity. The study shall be conducted by consultants, engineers, or
 5 other technical experts, who may be officers or employees of **the regional port**
 6 **authority or** the municipality [IN] making application for a grant.

7 * **Sec. 5.** AS 30.15.030 is amended to read:

8 **Sec. 30.15.030. Limitation on grants.** Grants **to municipalities** for the
 9 development of port facilities may not exceed

10 (1) 90 per cent of project costs for municipalities under 5,000
 11 population;

12 (2) 80 per cent of project costs for municipalities 5,000 population and
 13 over.

14 * **Sec. 6.** AS 30.15.070 is amended by adding a new paragraph to read:

15 (5) "regional port authority" includes the Interior Rivers Port Authority
 16 authorized under AS 30.21.

17 * **Sec. 7.** AS 36.30.015(e) is amended to read:

18 (e) The board of directors of the Alaska Railroad Corporation, **the board of**
 19 **directors of the Interior Rivers Port Authority,** and the board of directors of the
 20 Alaska Aerospace Development Corporation shall adopt procedures to govern the
 21 procurement of supplies, services, professional services, and construction. The
 22 procedures must be substantially equivalent to the procedures prescribed in this
 23 chapter and in regulations adopted under this chapter. Notwithstanding the other
 24 provisions of this subsection, the Alaska Railroad Corporation, **the Interior Rivers**
 25 **Port Authority,** and the Alaska Aerospace Development Corporation shall comply
 26 with AS 36.30.170(b), and, when the Department of Transportation and Public
 27 Facilities authorizes the Alaska Railroad Corporation to perform construction work
 28 instead of the Department of Transportation and Public Facilities, the Alaska Railroad
 29 Corporation shall use competitive sealed bidding or competitive sealed proposals
 30 under AS 36.30.100 - 36.30.270 to procure the supplies, services, professional
 31 services, and construction services necessary for the work and, to ensure the state

1 obtains the lowest cost for the project, may submit a bid or proposal for the work.

2 * **Sec. 8.** AS 36.30.050(c) is amended to read:

3 (c) The lists may be used by the chief procurement officer or an agency when
4 issuing invitations to bid or requests for proposals under this chapter. The lists may be
5 used by the legislative council, the court system, **the Interior Rivers Port Authority,**
6 and the Alaska Railroad Corporation.

7 * **Sec. 9.** AS 36.30.990(1) is amended to read:

8 (1) "agency"

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

12 (B) does not include

13 (i) the University of Alaska;

14 (ii) the Alaska Railroad Corporation;

15 (iii) the Alaska Housing Finance Corporation;

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

19 (v) the Department of Transportation and Public
20 Facilities, in regard to the repair, maintenance, and reconstruction of
21 vessels, docking facilities, and passenger and vehicle transfer facilities
22 of the Alaska marine highway system;

23 (vi) the Alaska Aerospace Development Corporation;

24 (vii) the Alaska State Pension Investment Board;

25 (viii) the Alaska Seafood Marketing Institute;

26 **(ix) the Interior Rivers Port Authority;**

27 * **Sec. 10.** AS 37.05 is amended by adding a new section to article 1 to read:

28 **Sec. 37.05.055. Delegation to the Interior Rivers Port Authority.** The
29 commissioner of administration may delegate the performance of the functions under
30 this chapter as they relate to the Interior Rivers Port Authority to the authority and set
31 the criteria and guidelines that shall be followed.

1 * **Sec. 11.** AS 39.50.200(b) is amended by adding a new paragraph to read:

2 (58) board of directors of the Interior Rivers Port Authority
3 (AS 30.21.020).

4 * **Sec. 12.** AS 39.52.960(2) is amended to read:

5 (2) "agency" means a department, **the** office of the governor, or **an**
6 entity in the executive branch, including but not limited to the University of Alaska,
7 public or quasi-public corporations, boards or commissions, [AND] the Alaska
8 Railroad Corporation, **and the Interior Rivers Port Authority**;

9 * **Sec. 13.** AS 39.52.960(4) is amended to read:

10 (4) "board or commission" means a board, commission, authority, or
11 board of directors of a public or quasi-public corporation, established by statute in the
12 executive branch, including the Alaska Railroad **Corporation and the Interior**
13 **Rivers Port Authority**, but excluding members of a negotiated regulation making
14 committee under AS 44.62.710 - 44.62.800;

15 * **Sec. 14.** AS 39.52.960(12) is amended to read:

16 (12) "instrumentality of the state" means a state agency or
17 administrative unit, whether in the legislative, judicial, or executive branch, including
18 such entities as the University of Alaska, the Alaska Railroad **Corporation, the**
19 **Interior Rivers Port Authority**, and any public or quasi-public corporations, boards,
20 or commissions; the term includes municipalities;

21 * **Sec. 15.** AS 44.42.020(a) is amended to read:

22 (a) The department shall

23 (1) plan, design, construct, and maintain all state modes of
24 transportation and transportation facilities and all docks, floats, breakwaters, buildings,
25 and similar facilities;

26 (2) study existing transportation modes and facilities in the state to
27 determine how they might be improved or whether they should continue to be
28 maintained;

29 (3) study alternative means of improving transportation in the state
30 with regard to the economic costs of each alternative and its environmental and social
31 effects;

1 (4) develop a comprehensive, long-range intermodal transportation
2 plan for the state;

3 (5) study alternatives to existing modes of transportation in urban areas
4 and develop plans to improve urban transportation;

5 (6) cooperate and coordinate with and enter into agreements with
6 federal, state, and local government agencies and private organizations and persons in
7 exercising its powers and duties;

8 (7) manage, operate, and maintain state transportation facilities and all
9 docks, floats, breakwaters, and buildings, including all state highways, vessels,
10 railroads, pipelines, **and** airports [,] and aviation facilities **other than ports and port**
11 **related transportation facilities and operations managed, operated, and**
12 **maintained by the Interior Rivers Port Authority under AS 30.21;**

13 (8) study alternative means of transportation in the state, considering
14 the economic, social, and environmental effects of each alternative;

15 (9) coordinate and develop state and regional transportation systems,
16 considering deletions, additions, and the absence of alterations;

17 (10) develop facility program plans for transportation and state
18 buildings, docks, and breakwaters required to implement the duties set out in this
19 section, including but not limited to functional performance criteria and schedules for
20 completion;

21 (11) supervise and maintain all state automotive and mechanical
22 equipment, aircraft, and vessels, except vessels and aircraft used by the Department of
23 Fish and Game or the Department of Public Safety; for state vehicles maintained by
24 the department, the department shall annually evaluate the cost, efficiency, and
25 commercial availability of natural gas for automotive purposes, and the purpose for
26 which the vehicles are intended to be used, and convert or purchase vehicles to utilize
27 natural gas whenever practicable; the department may participate in joint ventures
28 with public or private partners that will foster the availability of natural gas for all
29 automotive fuel consumers;

30 (12) supervise aeronautics inside the state, under AS 02.10;

31 (13) complete and maintain a current inventory of public facilities,

1 including a projection of the serviceability of the facilities and projections of
 2 replacements and additions to facilities needed to provide the level of services
 3 programmed by the various user agencies, for municipalities with populations of less
 4 than 12,000 and for unincorporated communities, and perform those duties on a
 5 cooperative basis with larger municipalities;

6 (14) adopt energy performance standards for public facilities of the
 7 state, the construction of which begins after July 1, 1980; the standards shall be based
 8 on thermal and lighting energy standards established by the American Society of
 9 Heating, Refrigeration and Air Conditioning Engineers as adapted for application in
 10 high latitude, cold climate environs;

11 (15) provide planning assistance, including but not limited to energy
 12 audits and related technical services, to school districts and regional educational
 13 attendance areas to develop and implement

14 (A) standards for the design, construction, and operation of
 15 rural educational facilities; and

16 (B) energy conservation measures for rural educational
 17 facilities;

18 (16) implement the safety and financial responsibility requirements for
 19 air carriers under AS 02.40;

20 (17) inspect weights and measures.

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

23 REGIONAL DEVELOPMENT PLAN. Within one year from the first meeting of the
 24 board of directors of the Interior Rivers Port Authority, the board shall prepare and publish a
 25 development plan for promoting economic self-sufficiency in the region in which the
 26 authority operates. The development plan must include a description of the transportation,
 27 energy, water and wastewater management, and tourism infrastructure needs of the region that
 28 are necessary to promote regional economic self-sufficiency. The plan must also identify
 29 opportunities for private resource development in the region, training programs that are
 30 necessary to take advantage of current and future economic opportunities in the region,
 31 tourism marketing strategies for the region, and sources of funding for operations and projects

1 of the authority.

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

4 INITIAL APPOINTMENTS. Notwithstanding AS 30.21.020, as added by sec. 2 of
5 this Act, and AS 39.05.055, the governor shall appoint the initial voting members of the board
6 of directors of the Interior Rivers Port Authority to terms as follows:

- 7 (1) three members to terms of one year;
8 (2) three members to terms of two years;
9 (3) three members to terms of three years.

10 * **Sec. 18.** This Act takes effect July 1, 2004.