

CS FOR HOUSE BILL NO. 562(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/9/04

Referred: Rules

Sponsor(s): HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

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 eleven voting members.

24 (b) The governor shall appoint nine persons to serve on the board. The
25 governor shall solicit nominations for persons to be appointed to the board from
26 private persons and public and private entities, including: the Kuskokwim
27 Corporation, Calista Corporation, Kuskokwim Native Association, Tanana Chiefs
28 Conference, MTNT Limited, Doyon, Limited, and Gana-A'Yoo, Limited. Six of the
29 appointed members of the board shall be officers, directors, or employees of private
30 entities that have a physical presence within the area of operation of the authority.

31 (c) The commissioner of community and economic development and the

1 commissioner of transportation and public facilities are voting members of the board.
2 Each commissioner may designate a person to serve on the board in the
3 commissioner's absence.

4 (d) The appointed members of the board serve for staggered terms of three
5 years. The terms of the appointed members begin on January 1.

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

9 **Sec. 30.21.040. Per diem and travel expenses.** A member of the board may
10 receive per diem and travel expenses authorized for boards and commissions under
11 AS 39.20.180.

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

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

17 **Sec. 30.21.060. Officers and quorum.** (a) The board shall elect a chair and a
18 vice-chair from among its members.

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

21 (c) Six members of the board constitute a quorum. Action may be taken and
22 motions and resolutions adopted by the board at a meeting by the affirmative vote of at
23 least six members. Members may not vote by proxy. A vacancy in the membership of
24 the board does not impair the right of a quorum to exercise all the powers and perform
25 all the duties of the board.

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

27 **Sec. 30.21.070. Staff; legal advisor.** (a) The board shall employ officers and
28 employees as necessary for the efficient operation of the authority.

29 (b) The board may employ executive, administrative, and fiscal officers and
30 employees as the board considers necessary for the efficient management of the
31 authority.

1 (c) The attorney general is the legal counsel for the authority. The attorney
2 general shall advise the authority in legal matters and represent the authority in suits.

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

1 of the shore that is generally the northern bank of the main channel of the Yukon
2 River between the municipality of Marshall and the municipality of Russian Mission.

3 **Sec. 30.21.090. Regulations.** The board may adopt regulations under
4 AS 44.62 to carry out its functions and the purposes of this chapter, including rules to
5 safeguard property owned by the authority and to protect employees and persons using
6 the authority's property or services.

7 **Article 2. Powers and Duties.**

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

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

1 authority in connection with the facilities and operations of the authority;

2 (11) accept money, gifts, loans, or grants from any federal, state,
3 municipal, or other agency or instrumentality, private organization, or other person;
4 and

5 (12) do all acts necessary to carry out this chapter that are not
6 expressly prohibited by law.

7 (b) The authority shall

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

10 (2) adopt and enforce

11 (A) bylaws of the authority;

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

14 (C) personnel rules necessary to establish a system of personnel
15 administration.

16 (c) The resources of the authority may not be used to finance or influence
17 political activities.

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. Acquisition of land and easements.** Within the operating
27 area of the authority, the authority may acquire by purchase, gift, grant, or exchange
28 land in fee simple or easements, either temporary or permanent, that the authority
29 considers necessary for present or future public use authorized under this chapter. By
30 the same means, the authority may obtain material, including clay, gravel, sand,
31 timber, rock, or other material, and the land necessary to obtain the material. When

1 the authority declares that it is in the best public interest of the state to do so, the
 2 authority may acquire by purchase, gift, grant, or exchange land or an interest in land
 3 for the purpose of exchanging the land or interest in land for land or an interest in land
 4 that the authority is authorized by law to acquire.

5 **Sec. 30.21.130. Eminent domain.** (a) The authority may exercise the power
 6 of eminent domain under AS 09.55.240 - 09.55.460 to acquire private or public land
 7 or an interest in private or public land within the operating area of the authority for
 8 facilities or operations consistent with this chapter. Notwithstanding AS 09.55.250,
 9 the authority may acquire a fee simple title whenever, in the judgment of the authority,
 10 ownership of a fee simple title is necessary to carry out the purposes of this chapter.

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

13 (c) The power of eminent domain conferred under this section includes the
 14 power to obtain clay, gravel, sand, timber, rock, or other material for the projects of
 15 the authority, the land necessary to obtain the material, and access to the land and
 16 material.

17 (d) The exercise of the power of eminent domain requires the prior approval
 18 of the governor.

19 **Sec. 30.21.140. Indemnification.** (a) If the person acted in good faith on
 20 behalf of the authority and within the scope of the person's official duties or powers,
 21 the authority may defend and indemnify a current or former member of the board,
 22 employee, or agent of the authority against all costs, expenses, judgments, and
 23 liabilities, including attorney fees, incurred by or imposed upon that person in
 24 connection with a civil or criminal action in which the person is involved by affiliation
 25 with the authority.

26 (b) The authority may purchase insurance to protect and hold personally
 27 harmless its board members, employees, and agents from an action, claim, or
 28 proceeding arising out of the performance, purported performance, or failure of
 29 performance, in good faith, of duties for, or employment with, the authority and to
 30 hold them harmless from expenses connected with the defense, settlement, or
 31 monetary judgments from that action, claim, or proceeding. The purchase of

1 insurance is discretionary with the board, and insurance is not considered to be
2 compensation to the insured person.

3 **Sec. 30.21.150. Insurance.** Except as provided in AS 30.21.140(b), the
4 authority shall protect its assets, services, and employees by purchasing insurance or
5 providing for certain self-insurance retentions. The authority shall also maintain
6 casualty, property, and other insurance in amounts reasonably calculated to cover
7 potential claims against the authority or state for bodily injury, death, or disability and
8 property damage that may arise from or be related to authority operations and
9 activities.

10 **Sec. 30.21.160. Fidelity bond.** The authority shall obtain a fidelity bond in an
11 amount determined by the board for members of the board and for each executive
12 officer responsible for accounts and finances. A bond must be in effect during the
13 entire tenure in office of the bonded person.

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

15 **Sec. 30.21.200. Bonds and notes of the authority.** (a) The authority, by
16 resolution, may issue revenue bonds and bond anticipation notes in order to finance
17 projects under this chapter. Before issuing bonds for a project under this chapter, the
18 authority must find, on the basis of all information reasonably available to the
19 authority, that

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

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

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

28 (b) The principal and interest on the revenue bonds or bond anticipation notes
29 authorized and issued under (a) of this section are payable from authority funds. Bond
30 anticipation notes may be payable from the proceeds of the sale of bonds or from the
31 proceeds of the sale of other bond anticipation notes or, in the event bond or bond

1 anticipation note proceeds are not available, the notes may be paid from other funds or
2 assets of the authority.

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

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

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

23 (f) If an officer whose signature or a facsimile of whose signature appears on a
24 bond or note ceases to be an officer before the delivery of the bond or note, the
25 signature or facsimile is valid to the same extent as if the officer had remained in
26 office until delivery.

27 **Sec. 30.21.210. Covenants.** In a resolution of the authority authorizing or
28 relating to the issuance of bonds or bond anticipation notes, the authority has power by
29 provisions in the resolution that will constitute covenants of the authority and
30 contracts with the holders of the bonds or bond anticipation notes to

31 (1) pledge to a payment or purpose all or a part of its revenue to which

1 its right then exists or may thereafter come into existence, and the money derived from
2 the revenue, and the proceeds of bonds or notes;

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

5 (3) covenant as to establishment of reserves or sinking funds and the
6 making of provision for and the regulation and disposition of the reserves or sinking
7 funds;

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

10 (5) covenant as to bonds and notes to be issued, and their limitations,
11 terms, and conditions, and as to the custody, application, and disposition of the
12 proceeds of the bonds and notes;

13 (6) covenant as to the issuance of additional bonds or notes, or as to
14 limitations on the issuance of additional bonds or notes and the incurring of other
15 debts;

16 (7) covenant as to the payment of the principal of or interest on the
17 bonds or notes, as to the sources and methods of the payment, as to the rank or priority
18 of the bonds or notes with respect to a lien or security, or as to the acceleration of the
19 maturity of the bonds or notes;

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

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

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

27 (11) establish the procedure, if any, by which the terms of a contract or
28 covenant with or for the benefit of the holders of bonds or notes may be amended or
29 abrogated, the amount of bonds or notes the holders of which must consent to
30 amendment or abrogation, and the manner in which the consent may be given;

31 (12) covenant as to the custody of property or investments, their

1 safekeeping and insurance, and the use and disposition of insurance money;

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

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

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

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

21 **Sec. 30.21.220. Limitations of issuance of bonds.** (a) The authority may
22 issue bonds in an amount greater than \$10,000,000 to assist in the financing of a
23 capital improvement under this chapter only with the prior approval of the legislature
24 by law.

25 (b) This section does not apply to the issuance by the authority of refunding
26 bonds under AS 30.21.290.

27 **Sec. 30.21.230. Independent financial advisor.** In negotiating the sale of
28 bonds or bond anticipation notes to an underwriter, the authority may retain a financial
29 advisor. A financial advisor retained under this section must be independent from the
30 underwriter.

31 **Sec. 30.21.240. Validity of pledge.** (a) The pledge of assets or revenue of the

1 authority to the payment of the principal of or interest on an obligation of the authority
2 is valid and binding from the time the pledge is made, and the assets or revenue
3 become immediately subject to the lien of the pledge without physical delivery or
4 further act. The lien of a pledge is valid and binding against all parties having claims
5 in tort, contract, or otherwise against the authority, irrespective of whether those
6 parties have notice of the lien of the pledge.

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

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

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

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

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

20 (e) This section does not create a debt or liability of the state.

21 **Sec. 30.21.260. Remedies.** A holder of obligations issued under the
22 provisions of this chapter, and a trustee under a trust agreement or resolution
23 authorizing the issuance of the obligations, except as restricted by a trust agreement or
24 resolution, either at law or in equity, may enforce all rights granted hereunder or under
25 the trust agreement or resolution, or under another contract executed by the authority
26 under this chapter, and may enforce and compel the performance of all duties required
27 by this chapter or by the trust agreement or resolution to be performed by the authority
28 or by an officer of the authority.

29 **Sec. 30.21.270. Negotiable instruments.** All obligations are negotiable
30 instruments under the laws of this state, subject only to applicable provisions for
31 registration.

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

9 **Sec. 30.21.290. Refunding bonds.** (a) The authority may provide for the
10 issuance of refunding bonds for the purpose of refunding an obligation then
11 outstanding that has been issued under the provisions of this chapter, including the
12 payment of redemption premium on them and interest accrued or to accrue to the date
13 of redemption of the obligations. The issuance of the bonds, the maturities and other
14 details of them, the rights of the holders of them, and the rights, duties, and obligations
15 of the authority in respect of them are governed by the provisions of this chapter that
16 relate to the issuance of obligations insofar as those provisions may be appropriate.

17 (b) Refunding bonds may be sold or exchanged for outstanding bonds issued
18 under this chapter, and, if sold, the proceeds may be applied, subject to appropriation
19 and in addition to another authorized purpose, to the purchase, redemption, or payment
20 of the outstanding obligations. Pending the application of the proceeds of refunding
21 bonds, with any other available funds, to the payment of the principal of, accrued
22 interest on, and redemption premium on the obligations being refunded, and, if so
23 provided or permitted in the resolution authorizing the issuance of the refunding bonds
24 or in the trust agreement securing them, to the payment of any interest on the
25 refunding bonds and expenses in connection with the refunding, the proceeds may be
26 invested in direct obligations of, or obligations the principal of and the interest on
27 which are unconditionally guaranteed by, the United States that mature or that will be
28 subject to redemption, at the option of the holders of them, not later than the respective
29 dates when the proceeds, together with the interest accruing on them, will be required
30 for the purposes intended.

31 **Sec. 30.21.300. Credit of state not pledged.** (a) Obligations issued under

1 the provisions of this chapter do not constitute a debt, liability, or obligation of the
 2 state or of a political subdivision of the state or a pledge of the faith and credit of the
 3 state or of a political subdivision of the state but are payable solely from the revenue
 4 or assets of the authority. Each obligation issued under this chapter must contain on
 5 its face a statement that the authority is not obligated to pay the obligation or the
 6 interest on the obligation except from the revenue or assets of the authority and that
 7 neither the faith and credit nor the taxing power of the state or of a political
 8 subdivision of the state is pledged to the payment of the principal of or the interest on
 9 the obligation.

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

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

16 **Sec. 30.21.320. Tax exemption.** All obligations issued under this chapter are
 17 declared to be issued by a body corporate and public of the state and for an essential
 18 public and governmental purpose, and the obligations, and the interest and income on
 19 and from the obligations, and all fees, charges, funds, revenue, income, and other
 20 money pledged or available to pay or secure the payment of the obligations, or interest
 21 on the obligations, are exempt from state taxation except for transfer, inheritance, and
 22 estate taxes.

23 **Article 4. Fiscal Procedures.**

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

- 1 (1) identify the mission of the authority;
 - 2 (2) identify the goals and objectives the authority will use to achieve
3 the legislature's mission and desired results;
 - 4 (3) include written, defined methods of measuring results that apply to
5 the responsibilities, products, and services of the authority;
 - 6 (4) identify surveys or other methods of gathering user-group opinions
7 that have been used by the authority to identify ways to improve its programs;
 - 8 (5) identify methods of measuring performance when the mission
9 statement and desired results of the authority involve cooperation with other public or
10 private agencies and make recommendations to eliminate duplication of government
11 functions and waste;
 - 12 (6) include the budget requested to carry out the authority's proposed
13 plans in the succeeding fiscal year, including information reflecting the expenditures
14 during the last fiscal year, the expenditures authorized for the current fiscal year, the
15 expenditures proposed for the succeeding fiscal year, an explanation of the services to
16 be provided, the total number of positions for all persons employed or under contract
17 by the agency for personal services, including those rendered for capital improvement
18 projects, the need for the services, and the cost of the services;
 - 19 (7) include a report of receipts of the authority during the last fiscal
20 year, an estimate of receipts during the current fiscal year, and an estimate of receipts
21 for the succeeding fiscal year;
 - 22 (8) identify legislation required to implement the proposed programs
23 and financial plans;
 - 24 (9) include an evaluation of the advantages and disadvantages of
25 specific alternatives to existing or proposed activities or administrative methods of the
26 authority.
- 27 (b) The report prepared under (a) of this section must describe the relationship
28 of the services provided by the authority to those services provided by other
29 government agencies and nongovernmental organizations.
- 30 (c) All goals and objectives, plans, programs, estimates, budgets, and other
31 documents forwarded to the governor by the authority under this section are public

1 information on and after the date they are forwarded.

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

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

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

13 **Article 5. General Provisions.**

14 **Sec. 30.21.400. Authority employees.** Employees of the authority are not
15 employees of the state.

16 **Sec. 30.21.410. Application of existing laws.** (a) Except as provided under
17 this chapter, or unless those provisions of law conflict with the provisions of this
18 chapter, the authority is subject to those provisions of law generally applicable to
19 public corporations of the state and to

20 (1) AS 40.25;

21 (2) AS 44.62.310 and 44.62.312.

22 (b) The provisions of AS 37.07 (Executive Budget Act)

23 (1) apply to the operating and capital budgets of the authority;

24 (2) do not apply to activities of the authority under this chapter that
25 relate to the authority's borrowing of money as provided in this chapter, including the
26 issuing of its obligations or evidence of that borrowing and the repayment of the debt
27 obligation.

28 (c) Unless specifically provided otherwise in this chapter, the following laws
29 do not apply to the operations of the authority:

30 (1) AS 36.30, except as provided in that chapter;

31 (2) AS 39.

1 **Sec. 30.21.490. Definitions.** In this chapter, unless the context requires
2 otherwise,

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

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

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

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

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

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

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

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

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

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

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

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

31 (3) **the regional port authority or** the municipality can clearly

1 demonstrate its ability to finance the local share of project costs.

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

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

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

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

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

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

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

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

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

1 services, and construction services necessary for the work and, to ensure the state
2 obtains the lowest cost for the project, may submit a bid or proposal for the work.

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

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

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

9 (1) "agency"

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

13 (B) does not include

14 (i) the University of Alaska;

15 (ii) the Alaska Railroad Corporation;

16 (iii) the Alaska Housing Finance Corporation;

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

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

24 (vi) the Alaska Aerospace Development Corporation;

25 (vii) the Alaska State Pension Investment Board;

26 (viii) the Alaska Seafood Marketing Institute;

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

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

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

1 the criteria and guidelines that shall be followed.

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

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

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

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

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

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

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

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

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

23 (a) The department shall

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

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

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

1 effects;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (17) inspect weights and measures.

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

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

1 tourism marketing strategies for the region, and sources of funding for operations and projects
2 of the authority.

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

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

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

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