

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE

February 17, 2022

1:49 p.m.

MEMBERS PRESENT

Senator Robert Myers, Chair
Senator Mike Shower, Vice Chair
Senator Peter Micciche
Senator Jesse Kiehl

MEMBERS ABSENT

Senator Click Bishop

COMMITTEE CALENDAR

SENATE BILL NO. 170

"An Act relating to the Alaska marine highway system; establishing the Alaska Marine Highway Corporation; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 170

SHORT TITLE: MARINE HIGHWAY CORPORATION

SPONSOR(S): TRANSPORTATION

01/21/22	(S)	READ THE FIRST TIME - REFERRALS
01/21/22	(S)	TRA, L&C, FIN
02/17/22	(S)	TRA AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

THERESA WOLSTAD, Staff
Senator Robert Myers
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of the committee, paraphrased the sponsor statement, provided a sectional analysis, and presented a PowerPoint on the Alaska Marine Highway Corporation established in SB 170.

KATE SHEEHAN, Director
Personnel and Labor Relations
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Answered questions related to the State Personnel Act during the hearing on SB 170.

WILLIAM MILKS, Chief Assistant Attorney General
Statewide Section Supervisor
Public Corporations & Governmental Services
Civil Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered legal questions during the discussion of SB 170.

ACTION NARRATIVE

[1:49:32 PM](#)

CHAIR ROBERT MYERS called the Senate Transportation Standing Committee meeting to order at 1:49 p.m. Present at the call to order were Senators Kiehl, Micciche, Shower, and Chair Myers.

SB 170-MARINE HIGHWAY CORPORATION

[1:50:10 PM](#)

CHAIR MYERS announced the consideration of SENATE BILL NO. 170 "An Act relating to the Alaska marine highway system; establishing the Alaska Marine Highway Corporation; and providing for an effective date."

[1:50:25 PM](#)

THERESA WOLSTAD, Staff, Senator Robert Myers, Alaska State Legislature, Juneau, Alaska, paraphrased the sponsor statement for SB 170 on behalf of the committee.

[Original punctuation provided.]

The past few decades have highlighted systemic issues that pose sustainability risks to the Alaska Marine Highway System (AMHS), including funding uncertainty, schedule instability, indirect labor negotiations, equipment breakdowns, and periodic political changes. The AMHS is a complex system in crisis that has had multiple taskforces and workgroups from 1984 to 2020 evaluate management structure and business directives.

The 2020 Alaska Marine Highway Reshaping Workgroup determined that management structure change was needed and recommended strengthening AMHS governance, renegotiation of marine union labor agreements, and stabilizing budget planning. The 2017 AMHS Reform Strategic Business and Operational Plan determined that AMHS management needed to invest in long-term planning and strategy and recommended transitioning to a state public corporation.

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Without significant changes to the AMHS, coastal communities may be left without essential marine transportation services that connect Alaskans with economic and service hubs and supporting the overall transportation needs of the state. Senate Bill 170 would transition the AMHS into a public corporation for the purposes of stabilizing the management structure, foster greater alignment between management and labor, and limit exposure to political influence. While each public corporation is unique in its purpose and powers as defined in statutes. As a public corporation, AMHS could develop long-term vision, foster stability and accountability, and develop fleet and business operations in a strategic and efficient manner.

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MS. WOLSTAD paraphrased the sectional analysis for SB 170 on behalf of the committee.

[Original punctuation provided.]

Section 1: Establishes legislative findings and purposes of the Alaska Marine Highway System Corporation.

Section 2: Amends AS 12.05.020
Conforming language adding the corporation to state jurisdiction for prosecution of offenses committed on aircraft or ferries and other watercraft owned or operated by the state.

Section 3: Amends AS 19.10.399(8)
Clarifying language regarding the definition of a highway. Conforming language that removes "state" from the Alaska state marine highway system.

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MS. WOLSTAD continued to paraphrase the sectional analysis for SB 170 on behalf of the committee.

[Original punctuation provided.]

Section 4: Amends AS 23.05.360(f)

Adds the Alaska Marine Highway System Corporation Act for administration of the Public Employment Relations Act by the Alaska labor relations agency.

Section 5: Amends AS 23.05.370(a)

Establishes that the Alaska labor relations agency shall serve at the request of the corporation as the labor relations agency for the Alaska marine highway system.

Section 6: Amends AS 23.40.040

Conforming language that authorizes the corporation rather than the Department of Transportation to negotiate and enter into collective bargaining agreements with employees operating the state ferry system as masters or members of the crews of vessels, or with employee bargaining agents.

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Section 7: Amends AS 28.90.990(a)(15)

Clarifying language for the definition of a highway. Conforming language that removes "state" from the Alaska state marine highway system.

Section 8: Amends AS 29.35.722

Removes the Alaska marine highway system from the prohibition of conveyance or transfer of ownership or operation of certain state facilities without approval of the state legislature.

Section 9: Amends AS 35.27.030(1)

Excludes vessels and boats of the Alaska marine highway system in terms of art requirements for public buildings and facilities.

Section 10: Amends AS 35.27.030

Clarifies the definitions of the Alaska marine highway system and Alaska Marine Highway Corporation in terms

of art requirements for public buildings and facilities.

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MS. WOLSTAD continued to paraphrase the sectional analysis for SB 170 on behalf of the committee.

[Original punctuation provided.]

Section 11: Amends AS 36.30.990(1)
Conforming language of the state procurement code definitions that adds the Alaska Marine Highway Corporation and removes the Department of Transportation in regards to the vessels, docking facilities, passenger and vehicle transfer facilities of the Alaska marine highway system.

Section 12: Amends AS 39.20.310
Conforming language that removes the Division of Marine Transportation and state ferry and adds the Alaska marine highway system and Alaska Marine Highway Corporation regarding exceptions from provisions in AS 39.20.275, AS 39.20.200 - 39.20.330.

Section 13: Amends AS 39.25.110(16)
Conforming language that removes the Division of Marine Transportation and adds the Alaska Marine Highway Corporation regarding exempt service from provisions of the State Personnel Act.

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Section 14: Amends AS 39.35.680(22)
Conforming language that removes the Division of Marine Transportation, state ferry, and state; adds the Alaska Marine Highway Corporation and Alaska marine highway system to definitions of public employees' retirement systems of Alaska.

Section 15: Amends AS 39.35.680
Conforming language that adds the definition of Alaska Marine Highway Corporation as defined under its establishing statute for public employees' retirement systems of Alaska.

Section 16: Amends AS 39.50.200(b)

Adds the Alaska Marine Highway Corporation boards of directors to the definition of state commissions or boards for compliance with public official financial disclosure requirements.

Section 17: Amends AS 42.

Adds a new chapter to AS 42. "Public Utilities and Carriers and Energy Programs" titled Chapter 50. Alaska Marine Highway System Corporation.

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MS. WOLSTAD continued to paraphrase the sectional analysis for SB 170 on behalf of the committee.

[Original punctuation provided.]

- Article 1. Establishment and Organization (Sec. 42.50.010 - 42.50.060)
 - Establishment of Alaska Marine Highway System Corporation as a public corporation within the Department of Commerce, Community, and Economic Development.
 - Establishes the board of directors, and defines membership, terms of office, vacancies, compensation and expenses, and board officers.
 - Membership of the board of directors shall include the commissioner of the Department of Transportation and Public Facilities, commissioner of Department of Commerce, and five members appointed by the governor and confirmed by the legislature.
 - Public members of the board shall represent three geographical regions and collectively possess specified experience.
- Article 2. Management. (Sec. 42.50.100 - 42.50.120)
 - Establishes the responsibilities of the board, including management of financial and legal obligations, adherence to accounting standards, and development of comprehensive longterm plans and corrective action reports.
 - Establishes board authority to appoint executive officers.
 - Establishes board authority to delegate powers and duties necessary for management of daily

affairs and operation of the corporation to chief executive officer.

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- Article 3. Administrative Provisions. (Sec. 42.50.140 - 42.50.240)
 - Establishes minimum schedule of once every three months for board meetings, minimum of four members for quorum, procedures for adopting regulations, and clarifies the manner of voting.
 - Grants board authority to adopt, amend, supplement, revise, or repeal regulations to carry out its functions; and establish bylaws for adoption of emergency regulations.
 - Clarifies that corporation information is public and establishes authority to designate and withhold public disclosure of privileged or proprietary information.
 - Establishes that the corporation shall establish a website that is accessible at lowest internet website access speed used in the state.
 - Establishes that the corporation shall publish notice of service schedules and changes for at least 30 days on corporation website and allow for public commentary.

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Article 4. Powers and Duties (Sec. 42.50.250 - 42.50.320)

- Defines the general powers of the Alaska Marine Highway System Corporation.
- Establishes that the board shall have its financial records audited annually.
- Requires the corporation to develop a comprehensive long-range plan for the Alaska marine highway system covering 30 years and revised every five years.
- Requires the board to submit an annual operations and performance report to the governor, senate secretary, and chief clerk of the house of representatives.

- Requires the board to submit travel and compensation reports with the Department of Administration annually.
- Clarifies use of assets by the Alaska Marine Highway System Corporation.
- Establishes that the corporation may contract with the Department of Transportation to maintain and service motor vehicles.
- Clarifies and defines indemnity authority of the corporation for current or former members of the board, employees, and corporation agents.

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MS. WOLSTAD continued to paraphrase the sectional analysis for SB 170 on behalf of the committee.

[Original punctuation provided.]

- Article 5. Corporation Property. (Sec. 42.50.350 - 42.50.410)
 - Authorizes corporation to lease, grant easements or permits for corporation property use.
 - Establishes that the corporation may sell or acquire property in its own name, and exchange lands; subject to terms and conditions.
 - Confirms that the corporation may vacate an easement by executing and filing a deed. Senate.Transportation@akleg.gov
 - Permits public use of corporation land upon request of a municipality or the state as authorized by corporation.
 - Clarifies adverse possession and prescriptive easements of corporation land.

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- Article 6. Financial Provisions. (Sec. 42.50.500 - 42.50.580)
 - Clarifies the limitation of liability for the corporation and allows the corporation to purchase liability and casualty insurance.
 - Establishes that the corporation may obtain fidelity bonds.

- Establishes the Alaska marine highway system operating fund, which consisting of money appropriated by the legislature and gross revenue generated from corporation operations.
- Corporation shall account for gross revenue from operations each fiscal year.
- Establishes a revenue accounting fund that the corporation shall account for gross revenue; legislature may appropriate gross revenue deposited in the fund to the Alaska marine highway system operating fund.
- Establishes a separate account for vessel maintenance and replacement within the Alaska marine highway system operating fund.
- Corporation may request a direct appropriation or grant from the legislature.
- State shall enter into a minimum service assurance agreement that is subject to appropriation each year.
- Corporation shall pay dividends to the state general fund any amount by which the Alaska marine highway system operating fund exceeds projected costs of operation through the next fiscal year.

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MS. WOLSTAD continued to paraphrase the sectional analysis for SB 170 on behalf of the committee.

[Original punctuation provided.]

- Article 7. Bonds (Sec. 42.50.600 - 42.50.710)
 - Establishes practices in which the corporation may issue bonds by board resolution.
 - Clarifies that issued bonds are available for investment and that the principal of and interest on bonds of the corporation are payable from corporation money or assets.
 - Bonds may be secured by a trust indentured at the discretion of the board.
 - Clarifies the security for bonds, validity of the pledge of assets or revue, and remedies.
 - State of Alaska and its political subdivisions are not liable for the debts of the corporation.

- Bonds issued by the corporation are payable solely from revenue or corporation assets.
- Establishes the validity of signatures appearing on bonds and the pledges of assets or revenue of the corporation.
- Clarifies corporation bond financing and state pledges for securing bonds. Authorizes the corporation to include the pledge and agreement of the state insofar as it refers to holders of bonds of the corporation.
- Establishes that the state are not liable for the debts of the corporation; and clarifies the personal liability or accountability due to execution or issuance of bonds.

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MS. WOLSTAD continued to paraphrase the sectional analysis for SB 170 on behalf of the committee.

[Original punctuation provided.]

- Article 8. Personnel and Labor Relations. (Sec. 42.50.720 - 42.50.740)
 - Establishes restrictions on political activities utilizing corporation money or property.
 - Clarifies that employees are employees of the corporation and not of the state. However, employees shall be treated as state employees for purposes of AS 23.40 and AS 39.
 - Corporation may negotiate and enter into collective bargaining agreements with employees engaged in operating the Alaska marine highway system as masters or vessel crew members or other employees of the corporation.

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- Article 9. Miscellaneous Provisions. (Sec. 42.50.800 - 42.50.850)
 - Establishes that claims or lawsuits involving activities of the corporation may not be brought against the state, rather they shall be brought against the corporation.

- Board shall name vessels or facilities and vessels must bear the name of an Alaska glacier.
- Assets, income, receipts, and other property of the corporation are exempt from all taxes and special assessments of the state or political subdivisions of the state.
- Corporation shall provide free transportation on vessels for members of the Alaska National Guard, Alaska Naval Militia, or the Alaska State Defense Force who is enroute to official activities to the extent that space is available.
- Vessels owned by the corporation shall be maintained and repaired at a shipyard facility located in the state.
- Exceptions include if the board determines in writing that no shipyard facilities located in the state are equipped or qualified to perform maintenance or repair; or after taking into consideration the five percent preference under AS 36.30.321(a) and the interport differential, that the proposed cost is unreasonable.

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- Clarifies that competitive bid provisions of AS 36.30 does not apply to a contract for maintenance or repair of marine vessels owned by the corporation if the contract is awarded to a shipyard facility in the state.
- Board shall adopt regulations to establish criteria to determine whether cost of maintenance or repair work is reasonable, and criteria used in calculating interport differential.
- Designated base port for marine vessels primarily serving east of Icy Cape is Ketchikan and Seward for vessels primarily serving the remainder of the state.
- Establishes following laws do not apply to corporation unless otherwise specified.
- AS 30.15, AS 35, AS 37.10.085, AS 38, AS 44.62.010-44.62.160, AS 44.62.180- 44.62.305, and AS 44.62.320.

- Article 10. General Provisions. (Sec. 42.50.990 - 42.50.995)
 - Provides clarifying language and definitions for the act.
 - Establishes the short title for AS 42. 50 as Alaska Marine Highway Corporation Act

Section 18. Amends AS 43.40.010.

Adds a new subsection establishing that the legislature may appropriate funds from the special highway fuel tax account to the Alaska marine highway system operating fund for expenditure by the Alaska Marine Highway Corporation.

Section 19. Amends AS 44.19.027

Conforming language that changes the Alaska Marine Highway System to Alaska Marine Highway System Corporation regarding emergency assistance transportation.

Section 20. Amends AS 44.29.300(a)

Conforming language regarding Statewide Suicide Prevention Council membership in terms of rural community connectivity to the main road system or the Alaska marine highway system.

Section 21. Amends AS 44.33.010

Adds membership on the board of directors

[2:06:38 PM](#)

Section 22. Amends AS 44.42.020(a)

Clarifies that the Department of Transportation has authority over state modes of transportation and transportation facilities except for the Alaska marine highway system. Establishes that the department shall incorporate the corporation's comprehensive long-term plan under AS 42.50.270 into the department's comprehensive, long-range, intermodal transportation plan.

Section 23. Amends AS 44.42.020

Defines marine highway system in terms of Department of Transportation powers and duties.

Section 24. Amends AS 44.99.030(a)

Adds the Alaska Marine Highway Corporation to the list of state government agencies and public corporations

prohibited from forming contracts to lobby the state, municipality of the state, or agency of the state or municipality.

[2:07:18 PM](#)

MS. WOLSTAD said she would not go into the details of the repealed statutes in Section 25, but noted the specific statutes being repealed are listed.

Section 25. Repeals the following language regarding Alaska Marine Highway System.

- Chapter 65. Alaska Marine Highway System.
- Article 1. Comprehensive Plan, Vessels, and Facilities.
 - AS 19.65.011: Comprehensive long-range plan.
 - AS 19.65.020: Naming of vessel or facility.
 - AS 19.65.030: Acquisition and maintenance of ferry terminal facilities.
 - AS 19.65.035: Transportation of members of the Alaska organized militia.
- Article 2. Alaska Marine Highway System Fund and Budget.
 - AS 19.65.050: Legislative findings, purpose, and intent.
 - AS 19.65.060: Alaska marine highway system fund
 - AS 19.65.070: Revenue accounting.
 - AS 19.65.080: Annual appropriation.
 - AS 19.65.100: Definitions.
- Article 3. Alaska Marine Transportation Advisory Board.
 - AS 19.65.110: Alaska Marine Transportation Advisory Board.
 - AS 19.65.120: Board composition.
 - AS 19.65.130: Officers and quorum.
 - AS 19.65.140: Meetings.
 - AS 19.65.150: Per diem and expenses.
 - AS 19.65.160: Records.
 - AS 19.65.170: Legal assistance.
 - AS 19.65.180: Powers, duties, and functions.
 - AS 19.65.190: Staff.
 - AS 19.65.195: Definition.
- Title 35. Public Buildings, Works, and Improvements; Chapter 10. Public Works.

- AS 35.10.015 (c), (d), and (g). Accessibility of public buildings and facilities.
- Title 36. Public Contracts; Chapter 30. State Procurement Code.
 - AS 36.30.850 (b)(28): Application of this chapter.
- Title 36. Public Contracts; Chapter 36. Miscellaneous Provisions.
 - AS 36.90.049: Maintenance of state marine vessels
- Title 37. Public Finance; Chapter 5. Fiscal Procedures Act.
 - AS 37.05.550: Alaska marine highway system vessel replacement fund

[2:07:32 PM](#)

MS. WOLSTAD continued to paraphrase the sectional analysis for SB 170 on behalf of the committee.

[Original punctuation provided.]

Section 26. Transition language, initial board members.

Not later than 90 days after the effective date of AS 42.50; the governor shall appoint the initial board of directors members of the Alaska Marine Highway Corporation in staggered terms.

Section 27. Transition language, initial appointment and delegation of powers and duties.

Board of directors of the Alaska Marine Highway Corporation shall appoint and delegate the chief executive officer the powers and duties at the first board meeting.

Section 28. Transition language, initial regulations and orders and management employees.

Within the first 120 days, the board of directors shall adopt initial operational regulations of the Alaska Marine Highway Corporation and the Alaska marine highway system. Regulations and orders in effect at date of transfer may remain in effect until amended or repealed by the board as provided by a resolution. Authorizes corporation to hire employees for management of the corporation before its operation of the Alaska marine highway system begins.

Section 29. Transition language, department negotiation, nonrenewal, and termination of collective bargaining agreements. Establishes that the department shall enter negotiations with a union to assign the state's interest in the collective bargaining agreement with the union to the corporation.

- When the department and union reach an agreement, the state shall assign the state's interest in the collective bargaining agreement to the corporation.

- If by June 30th, 2023, the department and a union cannot reach an agreement on assignment, the department shall terminate the collective bargaining agreement at the time and in a manner provided under the collective bargaining agreement.
Union contracts between the department and a union that is assigned to the corporation shall expire not later than two years from the effective date of the act.

- Defines unions for this section as the following:
 - International Organization of Masters, Mates, and Pilots
 - Marine Engineers Beneficial Association
 - Inlandboatmen's Union representing the Unlicensed Marine Unit
 - Alaska State Employees Association
 - Alaska Public Employees Association

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Section 30. Transition language, corporation negotiation of collective bargaining agreements. Authorizes the corporation to negotiate and enter into a collective bargaining agreement with a union once the following has been met.

- Board of directors has been appointed.
- Chief executive officer has been appointed and powers delegated.
- Board of directors has adopted regulations.
- Department has been assigned an agreement with a union to the corporation, and the agreement has later been terminated or agreement with the union has been terminated. Ascertains that the

corporation may negotiate and enter into labor agreements with unions and individual employees before the corporation begins operation, if the agreements have an effective date that is not earlier than July 1st, 2023.

Section 31. Transition language, transfer of assets; assumption of rights, liabilities, and obligations. Department of Transportation shall transfer to the corporation the vessels, ferry port facilities, real property, vehicles, and other personal property used for the Alaska marine highway system. The corporation shall take title in its own name; and shall assume all rights, liabilities, and obligations of Alaska marine highway system.

Section 32. Transition language, operation of marine highway system by the corporation. Establishes that the Alaska Marine Highway Corporation shall begin operating the Alaska marine highway system on July 1st, 2023.

Section 33. Transition language, miscellaneous provisions. Clarifies and defines the transfer of all contracts, rights, liabilities, bonds, notes, or other obligations of the Alaska marine highway system as operated by the Department of Transportation to the Alaska Marine Highway Corporation Act.

[2:11:29 PM](#)

Section 34. Transition provision, report of transferred assets. Department of Transportation shall prepare or direct the preparation of all necessary financial reports of the assets to be transferred by the department as described under Section 31 of this Act.

Section 35. Transition, initial reports. Corporation shall file its first operations and performance report within 90 days following the end of its second fiscal year. The corporation shall file its first travel and compensation report with Department of Administration by January 21st of the third calendar year after this Act takes effect.

Section 36. Transition, initial audit.

Board of directors of the corporation shall have the first audit performed after the second fiscal year of the corporation, covering the first and second fiscal years.

Section 37. Conditional effect, notification. Establishes that Section 14 of this Act, takes effect only if commissioner of Commerce notified the revisor of statutes in writing of the date in which the Department of Transportation has assigned the state's interest in the collective bargaining agreement to the Alaska Marine Highway Corporation under section 29 of this act. Unions defined in section 29 of the act include the following:

- International Organization of Masters, Mates, and Pilots
- Marine Engineers Beneficial Association
- Inlandboatmen's Union representing the Unlicensed Marine Unit
- Alaska State Employees Association
- Alaska Public Employees Association

[2:12:51 PM](#)

Section 38. Conditional effect.

Establishes that if section 13 of this Act takes effect under section 37 of this Act, it will take effect the day after the date the commissioner of Commerce notified the revisors of statutes.

Section 39. Effective date.

Except as provided in Section 38, this Act takes effect immediately.

[2:13:14 PM](#)

CHAIR MYERS asked if members had questions.

[2:13:34 PM](#)

SENATOR SHOWER related his understanding that this bill would essentially transfer the Alaska Marine Highway System (AMHS) from the Department of Transportation and Public Facilities (DOTPF) and create a corporation in the Department of Commerce, Community and Economic Development (DCCED). He asked whether the board or someone else would be responsible for collective bargaining with AMHS's employees.

[2:14:22 PM](#)

MS. WOLSTAD answered that collective bargaining would be under the Alaska Marine Highway Corporation's board, but the board could consult with the Department of Administration (DOA).

[2:14:35 PM](#)

SENATOR SHOWER asked if the last year's board would be absorbed in the process or if it would be separately maintained.

[2:14:50 PM](#)

CHAIR MYERS asked whether he was referring to the Alaska Marine Highway Operations Board (AMHOB).

SENATOR SHOWER answered yes.

CHAIR MYERS stated that SB 170 would repeal AMHOB.

[2:14:59 PM](#)

SENATOR SHOWER asked whether the department would be required to use the competitive bid process for in-state purchasing.

[2:15:24 PM](#)

MS. WOLSTAD responded that she believed so but offered to confirm the competitive bid processes and report back to the committee.

[2:15:37 PM](#)

MS. WOLSTAD presented a PowerPoint, SB 170 Alaska Marine Highway Corporation, on behalf of the sponsor.

[2:16:04 PM](#)

MS. WOLSTAD reviewed slide 2, Complex System in Crisis.

- Past few decades have highlighted systemic issues that pose sustainability risks.
 - Funding uncertainty and schedule instability.
 - Short-term operational and fiscal planning horizon.
 - Exposure to political influence over operational decisions and procurement.
 - Equipment breakdowns of an aging fleet.
 - Cumbersome procurement processes.
 - Lack of a unified management authority.
 - Frequent turnover in senior leadership positions.
 - Indirect labor negotiations.

MS. WOLSTAD emphasized this list of issues was identified as causing problems in the ferry system, having cropped up over and over again since the 1980s.

2:16:53 PM

MS. WOLSTAD reviewed slide 3, Multiple Studies Recommend Modifying System Governance.

- 1984 - Alaska Marine Highway System Taskforce.
 - Determination: Management structure change is needed to provide business directive and success.
- 2017 - Alaska Marine Highway System Reform Strategic Business and Operational Plan
 - Determination: Management needs to invest in long-term planning and strategy.
 - Recommended transitioning to a state public corporation.
- 2020 - Alaska Marine Highway Reshaping Workgroup.
 - Determination: Management structure change is needed.
 - Recommended establishment of a new AMHS operation and planning board.
 - If current challenges persist after recommended changes are implemented; a public corporation may be more desirable and feasible in the future.

MS. WOLSTAD stated this led the sponsor to consider a marine highway system corporation structure. The sponsor often reviewed the Alaska Railroad Corporation (ARRC) structure.

2:17:40 PM

MS. WOLSTAD reviewed slide 4, Powers and Authorities Granted in Alaska Statute to Public Corporations of the State of Alaska. This slide consisted of a chart showing the powers and authorities of the Alaska Aerospace Corporation (AAC), Alaska Housing Finance Corporation (AHFC), Alaska Railroad Corporation (ARRC), Alaska Industrial Development Corporation and Export Authority and the proposed Alaska Marine Highway Corporation.

MS. WOLSTAD stated that the proposed AMHC Housing Department would be under DCCED and have a structure similar to the Alaska Railroad. She briefly reviewed the power and authority of the proposed AMHC, including the authority to issue contracts, create its reserve fund, and establish bylaws and regulations.

She pointed out that Alaska has many corporations, and AMHC would mesh with some of them.

2:18:40 PM

MS. WOLSTAD reviewed slide 5, Benefits of State-Owned Public Corporation.

- Diverse Board of Director expertise.
- Infusion of private sector expertise.
- Provide consistent leadership and less exposure to political influence.
- Structure service levels and rates to reflect Alaska's transportation needs.
 - Strategically poised to capture opportunities resulting from public-private partnerships onboard and in the terminals.
- Develop fleet and business operations in a strategic and efficient manner.
 - Provide essential marine transportation services, connect coastal communities with economic and service hubs and supporting transportation needs of the state.
 - Provide for continuity of operations and public accountability.

MS. WOLSTAD highlighted that the emphasis was to support transportation needs for the entire state, not just Southeast Alaska but allowing the connection between the road system and many Southwest and Southcentral communities. In addition, the goal is also to provide more transparent procedures and management of the ferry systems.

2:20:01 PM

MS. WOLSTAD reviewed slide 6, Benefits of State-Owned Public Corporation.

- Provide greater latitude to control costs and enhance revenue
 - Operating as a public corporation preserves access to federal capital funds and other financial advantages of government ownership and operation.
 - Develop forward funding to take advantage of diverse revenue opportunities and establish scheduling certainty.

- Exemption from State Personnel Act
 - Allows corporation to negotiate directly with labor unions and provide opportunity to align labor and management interests and reduce labor costs strategically.
- Exemption from State Procurement Act
 - Allows expedited purchases of equipment and services that better fit the needs of the transportation system.

[2:21:09 PM](#)

MS. WOLSTAD reviewed slide 7, Minimum Service Assurance Agreement.

- State shall enter into an assurance agreement that is subject to appropriation each year with the corporation. (Sec. 42.50.570)
 - Nothing prevents the state and corporation from signing assurance agreements beyond the minimum level, as subject to appropriation.
- Agreement must assure that cost of each sailing is reimbursed if ticket sales are insufficient to generate adequate revenue.
 - Corporation and state shall agree to the assured amount for each sailing by determining the direct cost of fuel and labor, plus a prorated amount for overhead and maintenance.
 - Rates for tickets on guaranteed sailings must be set so that ticket revenues would cover the assured amount of each sailing if 80% of all tickets for that sailing are sold.

[2:22:08 PM](#)

SENATOR SHOWER recalled lengthy discussions about private-sector companies providing service based on operational costs and capacity. He emphasized that private airlines do not offer jet service to most small communities like Hoonah because it is cost prohibitive. However, the state provides ferry service without having sufficient passenger capacity. He asked whether the corporation would have more flexibility to use its assets efficiently and address union contracts for the ferry system.

[2:23:06 PM](#)

CHAIR MYERS acknowledged limiting factors for the AMHS, including union contracts and the current vessel fleet. Still, the goal of SB 170 would be to provide the Board of Directors

(Board) of the Alaska Marine Highway Corporation (AMHC) with as much flexibility as possible for scheduling and creating efficiencies, including determining the vessels for mainline and community runs. He recognized that specific routes might break even, and the system as a whole will need subsidies; hence, the need for assurance contracts.

[2:24:14 PM](#)

SENATOR SHOWER asked how SB 170 would affect contract negotiations. He acknowledged that personnel costs represent a substantial amount of the AMHS operating costs. He asked whether this bill would force a reset or if the prior contracts would apply until the next collective bargaining session. He wondered if the corporation would use the current model or develop a new one.

CHAIR MYERS answered that the current contracts would terminate upon passage of the bill. Based on discussions with union representatives, the unions would prefer to allow the current three-year contracts to remain in effect. He noted he could see benefits using either option, but he hoped the committee would have the opportunity to discuss union contracts.

[2:25:59 PM](#)

SENATOR KIEHL asked about the elements in the bill that would provide stability for management. He recalled the presentation highlighted that the system has suffered with changes in administration since their priorities changed. He further asked whether board members could be removed for cause.

[2:26:46 PM](#)

MS. WOLSTAD asked whether the question was related to the removal of board members for inappropriate actions.

SENATOR KIEHL clarified that his question was whether board members serve at the governor's pleasure or if board members are subject to removal for cause, more akin to the Alaska Oil and Gas Conservation Commission structure. He further asked for a broad sense of how the corporation would stabilize management across administrations.

[2:27:34 PM](#)

CHAIR MYERS referred to page 10, line 23, which states that board members can be removed for cause. He related that the governor would appoint board members to serve staggered five-year terms unless they resign or are removed for cause. However, board members do not serve at the governor's pleasure.

[2:28:07 PM](#)

MS. WOLSTAD said working group members highlighted some fiscal year issues that arose, including that the system's annual revenue for a fiscal year must be used or it will lapse. In addition, the fiscal year ends in the middle of the AMHS's busy season. One provision in SB 170 would allow the corporation to set the fiscal year. It would also establish that funds appropriated to the operations fund do not lapse, so revenue can rollover without being reappropriated. She stated this would help provide fiscal stability. Further, the unions appreciated one aspect of the corporation that allowed for more direct labor negotiations.

[2:29:31 PM](#)

CHAIR MYERS emphasized the goal was to provide the corporation as much control over the fund as possible to achieve stability for the system. He acknowledged that the Alaska Marine Highway Corporation would not have as much flexibility and control as the Alaska Railroad Corporation (ARRC), but that was because the railroad originated at the federal level before its ownership was transferred to the state.

[2:30:09 PM](#)

SENATOR SHOWER recalled previous discussions on the bifurcation of land and sea, such that DOTPF would continue to maintain the land assets, including docks and buildings. One problem AMHS currently encounters is the difficulty of managing its system operations at sea, but also its land assets. He asked if the functions could be divided between DOTPF and the corporation. He asked for clarity on the corporation's ability to use its proceeds and profits, including whether the board could invest in new vessels.

[2:31:03 PM](#)

MS. WOLSTAD responded that the legislature would appropriate AMHC gross proceeds into an operations' fund. The legislature could appropriate funds being generated to the operations' fund and avoid a sweep at the end of the fiscal year.

SENATOR SHOWER asked whether DOTPF would retain land and buildings and the new entity would manage the ferry system under the bill.

MS. WOLSTAD answered that the bill currently transfers all AMHS's assets from DOTPF to the corporation, including the ferry terminals, roadways, and trucks. Retaining land assets would

avoid the awkwardness of the corporation from needing to obtain permission to use the ferry terminal or other assets. She said it would remove some bureaucracy in managing the assets while streamlining the process.

[2:32:50 PM](#)

SENATOR MICCICHE related his understanding that SB 170 would transfer AMHS into a professionally-operated corporation. However, the bill micromanages the corporation. He referred to Sec. 42.50.570 related to minimum service assurance agreements from the state. He asked why SB 170 doesn't allow the corporate management the freedom to find better solutions for some of the ferry runs. He pointed out that the state doesn't dictate to the Alaska Railroad Corporation who it will serve or how often. He said he understood the goal was to reduce impact to communities served, but there may be better options for those communities going forward.

[2:34:25 PM](#)

CHAIR MYERS responded that as sponsor, he was trying to balance business questions, what might be most efficient with what is politically possible or necessary. He viewed Sec. 42.50.570 as constraining the state not the corporation. The contract does not tell the corporation it must make this sailing. Instead, it requires the state to contract with the corporation for ferry service. The minimum service assurance agreements provide a rough outline of what must be in the contract. He anticipated that larger communities would have more ferry service per week per month, and smaller ones would have fewer runs. For example, the communities might assess the service it received last year to decide whether that service was sufficient. Based on new circumstances, the communities might decide to add or reduce ferry service.

[2:36:19 PM](#)

SENATOR MICCICHE referred to the language on page 25, line 20 "sailings a year." He expressed concern over limiting a professionally-managed board instead of allowing it to find the best options. He read [lines 4-5 of subsection (b)] "...must assure that the cost of each sailing is reimbursed" He asked why it reads "each" because some sailings might be preparing for service to another section of the system, purposefully be set low to compensate for the offseason. He offered his view that would limit the corporation.

CHAIR MYERS said he held discussions with the department on tariffs. He acknowledged that this is the first draft of the

bill, meant to present a rough sketch of the corporation, so this language probably needs further massaging. He has been considering a number of ideas as he prepared for this initial hearing.

2:38:27 PM

SENATOR MICCICHE referred to page 26, lines 15-18, Sec. 42.50.580. Dividends to the state. He stated this might set up a situation where the corporation has two to three good years and then COVID-19 2028 or Northern Hemisphere Ebola comes along. He expressed concern that requiring a dividend when funds exceed the projected cost potentially would set up a roller coaster effect requiring additional appropriation in one year, then providing a dividend in the next. He envisioned that setting up a corporation with trusted appointees should establish an amount or percentage of annual operating costs, and anything above that would go to the state. He said he liked the concept but viewed this as too heavy-handed. He favored placing more trust in a professionally-managed corporation.

2:40:02 PM

CHAIR MYERS expressed his willingness to consider changes to the bill. He pointed out that the bill would set up separate funds to provide vessel maintenance and replacement funding. The corporation would not deposit all its funds to the state in good years since it would retain funds for long-term planning. He acknowledged the potential roller-coaster nature of the fund. He explained that the initial draft provides the framework to discuss dividends because many state corporations provide dividends back to the state, including the Alaska Housing Finance Corporation (AHFC) and Alaska Industrial Development Corporation (AIDEA).

2:41:04 PM

SENATOR KIEHL related that other public corporations have funding sources. He stated that the Alaska Railroad Corporation (ARRC) receives federal railroad funds, and AHFC receives special mortgage banking provisions to allow them to make money. One thing that the Alaska Marine Highway Corporation (AMHC) would need is federal transportation funding. He stated that the Infrastructure Investment and Jobs Act would provide five years of tremendous funding. Typically, the State Transportation Improvement Program (STIP) provides funding for routine vessel replacement, overhaul, and significant terminal repairs. He expressed concern that putting the corporation outside of DOTPF could add an extra challenge to get Alaska's needs included in the STIP.

[2:43:19 PM](#)

CHAIR MYERS answered that the decision to place the corporation in DCCED recognized that DOTPF has not been the best manager for AMHS. Other corporations are housed in DCCED, including the Alaska Railroad Corporation (ARRC) and Alaska Industrial Development Corporation. He stated that placing the corporation in DCCED recognizes the department understands the corporate culture and environment that fosters entrepreneurial and business-oriented decisions. He deferred the federal infrastructure question to Ms. Wolstad. He also said he held discussions with the US Department of Commerce and the Congressional Delegation on federal funding.

MS. WOLSTAD answered that AMHC would act similarly to ARRC, which is a designated recipient of the Federal Transit Administration Formula Funds, not a sub-recipient through the US Department of Transportation. ARRC receives its funding directly. She pointed out that ARRC is housed within DCCED, just as AMHC would be under SB 170. AMHC would apply directly for federal funds and would have access to the grant under the Bipartisan Infrastructure Law, also known as the Infrastructure Investment and Jobs Act (IIJA), through its designated-recipient status. In addition, AMHC would have the ability to apply for other competitive grant program funding as a designated recipient. The federal government would verify AMHC's ability to do revenue accounting.

[2:46:03 PM](#)

SENATOR KIEHL acknowledged that IIJA funds would give the state a window to transform AMHS, but it will only last for five years. Once that passes, AMHS will not be a designated-direct beneficiary of federal STIP funds. He acknowledged that ferry funding and National Highway System (NHS) funds come through DOTPF. He assumed that was why the bill requires the department to work with the corporation on the STIP preparation. However, DOTPF also manages the Community Transportation Program (CTP) that falls under the STIP. This program allows communities to use federal funding on municipal roads.

[2:47:32 PM](#)

SENATOR MICCICHE pointed out that the legislature is the appropriating body, so it should share the responsibility for prioritizing funding for AMHS. He was unsure it was fair to say that DOTPF had neglected the system. He acknowledged that an independent corporation might be helpful. He related that

federal funding currently recognizes unpaved highways that could lead to an annual appropriation similar to STIP funding.

[2:49:12 PM](#)

MS. WOLSTAD reported that most of the IIJA funding for ferries is for a period to be determined. However, the American Marine Highway Program (AMHP) competitive grant under the US Department of Transportation Marine Administration will be available for 10 years. It would apply to designated marine highway projects to expand service options and facilitate integration with the current US infrastructure port systems. One grant, the Water-based Transportation for Sustainability to Highways grant, will assist in integrating the ferry system with the road system for ten years. This means everything doesn't need to be done immediately.

[2:50:28 PM](#)

SENATOR SHOWER stated that issues arise with the Department of Transportation and Public Facilities (DOTPF). He offered his view that members generally would like to try something different with AMHS. He pointed out that DOTPF is a large empire. One commissioner is responsible for a vast system, including airports in the Aleutian Chain and Southeast Alaska, a ferry system, and a road system. He suggested that breaking AMHS off and allowing a different group to focus on one aspect is not bad. He asked whether some funding could be reinvested in innovation. For example, the board could create a program to incentivize its employees to develop solutions and receive a bonus.

[2:53:41 PM](#)

CHAIR MYERS stated that the committee had questions on procurement.

[2:53:55 PM](#)

KATE SHEEHAN, Director, Personnel and Labor Relations, Department of Administration, Juneau, Alaska, stated she was available to answer questions on personnel. She deferred to Mr. Milks.

[2:54:10 PM](#)

CHAIR MYERS asked Mr. Milks to answer questions on no-bid contracts.

[2:54:43 PM](#)

WILLIAM MILKS, Chief Assistant Attorney General, Statewide Section Supervisor, Public Corporations & Governmental Services,

Civil Division, Department of Law, Juneau, Alaska, responded that some public corporations are exempt from the procurement code, so it would not be unusual. He explained that typically corporations have their own rules for procurement to ensure that public funds are spent for a public purpose.

[2:55:33 PM](#)

CHAIR MYERS recalled Senator Shower's question related to giving an in-state preference to shipyards in Alaska. He asked whether that was common among other Alaska corporations, such as ARRC or the Alaska Aerospace Corporation.

[2:55:58 PM](#)

SENATOR SHOWER asked if it would be legal for AMHC or any corporation to let a non-competitive bid process to award a contract for work in the state or outside Alaska.

MR. MILKS answered that Alaska bidder preferences are allowable in procurement codes. He offered to research this further with one of the procurement attorneys and report back to the committee.

[2:56:59 PM](#)

SENATOR MICCICHE asked for DOTPF to evaluate whether AMHC would be able to access STIP funding. He was unsure whether AMHC would have an independent path to federal funding or if the corporation would need to form a formal relationship with DOTPF.

CHAIR MYERS asked if he was asking whether any language would need to be added so AMHC could receive STIP or other federal funding or if AMHC would need to be housed in DOTPF.

SENATOR MICCICHE answered yes. He would like to know if a formal or contractual agreement would be necessary.

[2:58:11 PM](#)

SENATOR SHOWER asked if anything would limit AMHC from providing bonuses or incentives to employees suggesting innovative solutions to problems.

MR. MILKS replied that this bill was similar to many public corporations that place their employees in exempt status, which removes most of the pay restriction policy for classified public employees. He deferred to Ms. Sheehan to further respond.

[2:59:46 PM](#)

MS. SHEEHAN responded that employees in exempt service are no longer subject to the State Personnel Act or pay schedule. She pointed out that the bill also requires bargaining so it might be something that would need to be bargained in the new collective bargaining agreement.

[3:00:10 PM](#)

SENATOR KIEHL referred to the language on page 32, lines 5-7. He expressed concern that the state was repealing the essay contest that allows school children to name new Alaska ferries.

MS. WOLSTAD responded that nothing would prevent the board from holding contests or competitions to name new ferries, but it does limit them to naming the ferries after glaciers.

[3:01:08 PM](#)

CHAIR MYERS said his interest was duly noted.

[3:01:28 PM](#)

CHAIR MYERS held SB 170 in committee.

[3:01:36 PM](#)

There being no further business to come before the committee, Chair Myers adjourned the Senate Transportation Standing Committee meeting at 3:01 p.m.