

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE

May 5, 2022

1:35 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."

- MOVED CSSB 170 (TRA) OUT OF COMMITTEE

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)
02/17/22	(S)	Heard & Held
02/17/22	(S)	MINUTE(TRA)
02/22/22	(S)	TRA AT 1:30 PM BELTZ 105 (TSBldg)
02/22/22	(S)	Heard & Held
02/22/22	(S)	MINUTE(TRA)
03/17/22	(S)	TRA AT 1:30 PM BELTZ 105 (TSBldg)
03/17/22	(S)	Heard & Held
03/17/22	(S)	MINUTE(TRA)
03/22/22	(S)	TRA AT 1:30 PM BELTZ 105 (TSBldg)
03/22/22	(S)	Heard & Held

03/22/22 (S) MINUTE(TRA)
03/24/22 (S) TRA AT 1:30 PM BELTZ 105 (TSBldg)
03/24/22 (S) Heard & Held
03/24/22 (S) MINUTE(TRA)
03/29/22 (S) TRA AT 1:30 PM BELTZ 105 (TSBldg)
03/29/22 (S) -- MEETING CANCELED --
03/31/22 (S) TRA AT 1:30 PM BELTZ 105 (TSBldg)
03/31/22 (S) -- MEETING CANCELED --
04/05/22 (S) TRA AT 1:30 PM BELTZ 105 (TSBldg)
04/05/22 (S) Heard & Held
04/05/22 (S) MINUTE(TRA)
04/12/22 (S) TRA AT 1:30 PM BELTZ 105 (TSBldg)
04/12/22 (S) -- MEETING CANCELED --
05/03/22 (S) TRA AT 1:30 PM BELTZ 105 (TSBldg)
05/03/22 (S) Heard & Held
05/03/22 (S) MINUTE(TRA)
05/05/22 (S) TRA AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

CATHY SCHLINGHEYDE, Staff
Senator Jesse Kiehl
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions on Amendment 16 to SB 170 on behalf of the sponsor.

ANDY MILLS, Special Assistant to the Commissioner
Department of Transportation and Public Facilities (DOTPF)
Juneau, Alaska

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

ACTION NARRATIVE

1:35:43 PM

CHAIR ROBERT MYERS called the Senate Transportation Standing Committee meeting to order at 1:35 p.m. Present at the call to order were Senators Kiehl, Shower, Micciche and Chair Myers.

SB 170-MARINE HIGHWAY CORPORATION

1:36:13 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."

[The committee previously heard SB 170 on 2/17/2022, 2/22/2022, 3/17/2022, 3/24/2022, 4/5/2022, and 5/3/2022.]

[1:36:29 PM](#)

SENATOR KIEHL moved to adopt Amendment 16, work order 32-LS0528\W.31.

32-LS0528\W.31
Bannister
4/4/22

AMENDMENT 16

OFFERED IN THE SENATE BY SENATOR KIEHL
TO: SB 170

Page 24, lines 7 - 17:

Delete all material and insert:

"Sec. 42.50.530. Alaska marine highway system fund. (a) The Alaska marine highway system fund is created in the corporation as a special account outside and separate from the general fund. The board shall administer the Alaska marine highway system fund consistent with (b) of this section and may expend money from the fund without further appropriation. The Alaska marine highway system fund consists of money appropriated to the fund by the legislature from the following sources:

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

(2) the general fund; and

(3) designated federal receipts.

(b) The board may use money from the Alaska marine highway system fund in a manner that is consistent with the program and financial plan prepared under AS 37.07.050 to

(1) carry out the intents and purposes of the legislature found in this chapter;

(2) fund and support the operation of Alaska marine highway system;

(3) pay costs incurred through the operation of the Alaska marine highway system, excluding capital improvements; however, the corporation may use money from the vessel maintenance and replacement account created under AS 42.50.550 for capital improvements;

(4) acquire, hold, lease, sell, or dispose of property that is necessary to the administrative functioning of the Alaska marine highway system;

(5) fund contracts or agreements relating to the Alaska Marine highway system with

(A) the federal government, a municipality, or a political subdivision; or

(B) a foreign government, if the contract is approved by the federal government; and

(6) award and administer grants authorized by the legislature.

(c) Notwithstanding any other provision in this chapter, the operating budget of the corporation is subject to the provisions of AS 37.07 (Executive Budget Act)."

Page 24, line 23:
Delete "operating"

Page 24, line 27:
Delete "operating"

Page 25, line 4:
Delete "operating"

Page 26, line 17:
Delete "operating"

Page 35, line 5:
Delete "operating"

[1:36:32 PM](#)

CHAIR MYERS objected for discussion purposes.

[1:36:35 PM](#)

SENATOR KIEHL explained Amendment 16 would insert the language from the governor's bill [SB 226] on the non-sweepable Alaska Marine Highway System Fund into SB 170. It would clarify that the fund is housed in the corporation, and AMHC can use money

from the Vessel Maintenance and Replacement Account [created under AS 42.50.550] for capital improvements.

[1:37:18 PM](#)

CHAIR MYERS pointed out that the original language of the SB 170 places the Alaska Marine Highway System Fund inside the corporation. He asked whether Amendment 16 would change that structure.

SENATOR KIEHL directed attention to page 1, line 4 of Amendment 16, which indicates the fund is created in the corporation as a special account, outside and separate from the general fund.

[1:38:15 PM](#)

CHAIR MYERS asked for the substantive reason for the change.

SENATOR KIEHL responded that the intent was to match the governor's bill as closely as possible. He deferred to his staff for the specific details.

[1:39:13 PM](#)

CATHY SCHLINGHEYDE, Staff, Senator Jesse Kiehl, Alaska State Legislature, Juneau, Alaska, on behalf of the sponsor of Amendment 16, stated that relatively similar to the language in the bill, it uses different language to clarify that the fund can't be swept. The administration previously testified that this language would prevent the fund from being a sweepable fund. Amendment 16 also clarified on page 1, lines 20-22, that the Vessel Maintenance and Replacement Account can be used for capital improvements because the governor's bill established two separate accounts rather than creating a subaccount.

[1:40:06 PM](#)

SENATOR KIEHL referred to page 1, line 13 of Amendment 16 and said the language requires that the expenditure must be consistent with the program and financial plan prepared under AS 37.07.050.

[1:40:34 PM](#)

CHAIR MYERS suggested that more specificity is better than less as a general rule.

[1:40:47 PM](#)

CHAIR MYERS removed his objection; he heard no further objection, and Amendment 16 was adopted.

[1:41:06 PM](#)

SENATOR KIEHL moved to adopt Amendment 17, work order 32-LS0528\W.34.

32-LS0528\W.34

Bannister

4/5/22

AMENDMENT 17

OFFERED IN THE SENATE

BY SENATOR KIEHL

TO: SB 170

Page 24, following line 17:

Insert a new subsection to read:

"(d) On the last day of each fiscal year of the corporation, the corporation shall transfer to the general fund the amount by which the Alaska marine highway system operating fund exceeds 150 percent of the projected costs of operating the corporation during the following fiscal year. This subsection does not apply to money in the vessel maintenance and replacement account created under AS 42.50.550."

Page 26, lines 15 - 18:

Delete all material.

[1:41:11 PM](#)

CHAIR MYERS objected for discussion purposes.

[1:41:14 PM](#)

SENATOR KIEHL explained that Amendment 17 would replace the dividend section with language he developed after holding discussions with Senator Micciche. He stated that the corporation could keep one and one-half years or 150 percent of operating expenses. After retaining the operating fund, the rest of the funds would go back to the general fund at the end of the fiscal year, excluding funds in the Vessel Maintenance and Replacement Account to allow it to build sufficient funds.

[1:42:09 PM](#)

SENATOR MICCICHE stated the importance of having a self-sufficient AMHS. He offered his belief that Amendment 17 would allow that to occur. Often ridership or other costs create

financial obstacles for AMHS, so this change could help management control costs, given fluctuating fuel costs. He hoped the ferry system would become independent and successful so the corporation would not need legislative subsidies.

[1:42:55 PM](#)

CHAIR MYERS removed his objection; he found no further objection, and Amendment 17 was adopted.

[1:43:09 PM](#)

SENATOR KIEHL moved to adopt Amendment 18, work order 32-LS0528\W.32.

32-LS0528\W.32
Bannister
4/5/22

AMENDMENT 18

OFFERED IN THE SENATE
TO: SB 170

BY SENATOR KIEHL

Page 24, line 25, through page 25, line 13:

Delete all material and insert:

"Sec. 42.50.550. Vessel maintenance and replacement account. The Alaska marine highway system vessel maintenance and replacement account is created as a separate account in the Alaska marine highway system operating fund established under AS 42.50.530. The account consists of money appropriated to it by the legislature and money deposited in the account by the corporation from the Alaska marine highway system operating fund. Money appropriated to the account does not lapse. Interest received on money in the account shall be accounted for separately and may be appropriated into the account annually. The board shall administer the account and may expend money from the account without further appropriation for refurbishment of existing state ferry vessels, acquisition of additional state ferry vessels, or replacement of retired or outmoded state ferry vessels. The corporation shall deposit money from the Alaska marine highway system operating fund in the account each year to cover the state's share of

depreciation and shall adjust the deposit for inflation and the rising costs of construction."

[1:43:16 PM](#)

CHAIR MYERS objected for discussion purposes.

[1:43:20 PM](#)

SENATOR KIEHL explained that Amendment 18 was comparable to a previous amendment. It would apply the approach the governor's bill, SB 226, took regarding the non-sweepable account to the Vessel Maintenance and Replacement Account. It would create a subaccount within the Alaska Marine Highway System Operating Fund, which helps avoid the dedicated fund issue. Amendment 18 would also require the corporation to deposit funds each year to cover the state's share of depreciation, adjusted for inflation and rising construction costs. This language was designed to ensure that the corporation would save sufficient funds to maintain and repair vessels. It would also consider any federal funding when calculating the state share of depreciation.

[1:44:36 PM](#)

CHAIR MYERS offered his view that Amendment 18 was an improvement over the language in the original bill since it provides more flexibility. It would help the corporation to plan for future costs since vessels depreciate, must be maintained, and eventually replaced.

[1:45:15 PM](#)

CHAIR MYERS removed his objection; he found no further objection, and Amendment 18 was adopted

[1:45:28 PM](#)

SENATOR KIEHL moved to adopt Amendment 19, work order 32-LS0528\W.22.

32-LS0528\W.22
Ambrose/Bannister
3/30/22

AMENDMENT 19

OFFERED IN THE SENATE
TO: SB 170

BY SENATOR KIEHL

Page 25, line 18:
Delete "state"
Insert "legislature"

Page 25, line 19, following "for":
Insert "sailings in the following regions of the state:"

Page 25, line 20, through page 26, line 3:
Delete all material and insert:
 "(1) Southeast;
 (2) Southwest; and
 (3) Prince William Sound."

Page 26, line 6:
Delete "state"
Insert "legislature"

Page 26, line 10:
Delete "state"
Insert "legislature"

Page 26, line 12:
Delete "state"
Insert "legislature"

[1:45:34 PM](#)

CHAIR MYERS objected for discussion purposes.

[1:45:38 PM](#)

SENATOR KIEHL explained Amendment 19. It would clarify that the assurance agreements are between the legislature and the corporation. It would simplify how the assurance agreements work. Instead of using a prescriptive list of ports, it would require the assurance agreement to cover the state's three regions currently served by AMHS.

[1:47:01 PM](#)

SENATOR KIEHL moved to adopt Conceptual Amendment 1 to Amendment 19.

[1:46:55 PM](#)

At ease

[1:47:06 PM](#)

CHAIR MYERS reconvened the meeting.

[1:47:07 PM](#)

SENATOR KIEHL restated his motion to adopt Conceptual Amendment 1 to Amendment 19, which read:

Conceptual Amendment 1 to Amendment W.22

Delete Amendment pg.1, ln. 1-3 and replace with:
Pg.25, ln. 18-19: Delete all material and insert "The legislature shall approve an assurance agreement with the corporation, as evidenced by the level of appropriation, to guarantee funding for:

Amendment pg. 1, 10: After 'Southeast' insert 'including terminals outside of the State'

[1:47:11 PM](#)

CHAIR MYERS objected for discussion purposes.

[1:47:15 PM](#)

SENATOR KIEHL explained that Conceptual Amendment 1 to Amendment 19 would clarify that the legislature must approve the agreement by funding the agreement in an appropriation bill. He stated the intention was not to require the legislature to pass a stand-alone bill each year or to empower the chair of the Senate Transportation Committee. It would clarify that the appropriation level would be done through an assurance agreement. It would also specify that the Southeast Region covers terminals outside the state, such as Bellingham or Prince Rupert.

[1:48:23 PM](#)

SENATOR SHOWER asked how it would work. He read, "...shall approve the assurance agreement with the corporation, as evidenced by the level of appropriation, to guarantee funding for:" He explained that the legislature could not guarantee funding because it cannot bind future legislatures.

[1:49:07 PM](#)

SENATOR KIEHL stated that Conceptual Amendment 1 to Amendment 19 uses language from the underlying bill. He indicated that if the level of funding was set by appropriation in a given year, this language would only guarantee funding for one year. He acknowledged that the governor could also act on appropriations. He stated that the term "guarantees" is used to describe what the legislature assures as the level of service for that budget

year. This is not an attempt to guarantee funding for the next five years but only to cover the term of the assurance agreement, which spans a calendar year. The corporation would rely on an annual appropriation for any general funds just as any other state entity relies on legislative appropriations.

[1:50:21 PM](#)

CHAIR MYERS expressed concern about the language "... as evidenced by the level of appropriation..." He offered that one thing that appealed to him about the annual assurance contract was that it would be a straight up or down vote. He highlighted that the legislature consistently reduces or increases the appropriation level for AMHS. The assurance agreement would provide consistent funding for AMHS.

CHAIR MYERS said he supports the second part of Conceptual Amendment 1 to Amendment 19, which identifies the terminals outside of Alaska.

[1:51:46 PM](#)

SENATOR SHOWER read, '... to guarantee funding for:' He pointed out that the governor could veto the funding. He asked whether that meant that the governor could not or if this would affect the separation of powers.

[1:52:29 PM](#)

SENATOR KIEHL responded that one of the fundamental premises of SB 170 is the agreement between the state and the corporation. This language defines the legislature as the body that would assure certain service levels in exchange for a certain level of funding authorization. He acknowledged that this does not provide greater protection than the Alaska Constitution allows since that is not permissible. However, the assurance agreement would create the structure to cover an investment of public dollars necessary to provide service. He acknowledged that the governor would still have the authority to veto funds.

[1:53:40 PM](#)

CHAIR MYERS agreed that the veto authority would still exist. He offered his belief that Conceptual Amendment 1 to Amendment 19 would not create constitutional issues because the legislature would limit the funding to one year at a time. He offered his view that this language would likely move in the right direction, but it was not perfect. He suggested that members may wish to contemplate this as the bill moves through the process next year.

[1:54:36 PM](#)

SENATOR MICCICHE suggested that if it appeared that Conceptual Amendment 1 to Amendment 19 might fail, the committee could consider deleting the first section of Conceptual Amendment 1 to Amendment 19.

[1:55:25 PM](#)

CHAIR MYERS offered his support for Conceptual Amendment 1 to Amendment 19. He acknowledged that the language was not perfect, but the underlying bill is not perfect either. He offered his view that this was a step in the right direction. He offered to work with Senator Kiehl during the legislative interim.

[1:56:13 PM](#)

SENATOR MICCICHE pointed out that the state does not guarantee a certain level of funding for any corporation. He said he has a problem with the guaranteed funding.

[1:56:42 PM](#)

SENATOR MICCICHE made a motion divide the question in Conceptual Amendment 1 to Amendment 19.

On page 1, lines 1-3 and part 2, the language related to page 1, line 10: "After 'Southeast' insert 'including terminals outside of the State.'"

CHAIR MYERS stated that the question was divided.

[1:57:12 PM](#)

CHAIR MYERS maintained his objection on the first half of Conceptual Amendment 1 to Amendment 19.

Delete Amendment pg.1, ln. 1-3 and replace with:
Pg.25, ln. 18-19: Delete all material and insert "The legislature shall approve an assurance agreement with the corporation, as evidenced by the level of appropriation, to guarantee funding for:'

[1:57:34 PM](#)

SENATOR SHOWER asked for clarification on the motion.

[1:57:40 PM](#)

CHAIR MYERS stated that the question was divided, and the roll call vote would pertain to the first half of Conceptual Amendment 1 to Amendment 19, which read:

Delete Amendment pg.1, ln. 1-3 and replace with:
Pg.25, ln. 18-19: Delete all material and insert "The legislature shall approve an assurance agreement with the corporation, as evidenced by the level of appropriation, to guarantee funding for:"

[1:57:48 PM](#)

A roll call vote was taken. Senator Kiehl voted in favor of adopting the first half of Conceptual Amendment 1 to Amendment 19 and Senators Shower, Micciche, Myers voted against it. Therefore, the motion to adopt the first half of Conceptual Amendment 1 to Amendment 19 failed by a 1:3 vote.

[1:58:10 PM](#)

CHAIR MEYER turned to Conceptual Amendment 1 to Amendment 19, part 2, which would allow for terminals outside of the state, which read

Amendment pg. 1, 10: After 'Southeast' insert
'including terminals outside of the State'

[1:58:20 PM](#)

CHAIR MYERS withdrew his objection; he found no further objection, and Conceptual Amendment 1 to Amendment 19, part 2 was adopted.

CHAIR MYERS stated that Amendment 19, as amended, was before the committee.

[1:58:37 PM](#)

SENATOR MICCICHE moved to adopt Conceptual Amendment 2 to Amendment 19.

[1:58:41 PM](#)

CHAIR MYERS objected for discussion purposes.

[1:58:46 PM](#)

SENATOR MICCICHE stated Conceptual Amendment 2 to Amendment 19.

On page 1, line 6 of Amendment 19, after "sailings" to add, "or other service delivery option".

SENATOR MICCICHE restated the amended language:

Page, 25, line 19, following "for"

Insert "sailings or other service delivery option in the following regions of the state:"

SENATOR MICCICHE stated that this seemed to point to AMHS's service. He clarified that the state may be able to expand service with private sector options, particularly to serve smaller communities.

[1:59:55 PM](#)

SENATOR SHOWER agreed with Senator Micciche on potentially expanding AMHS's service by adding private sector service. He stated that the committee had discussions about cargo and the possible implications that the ferry system might divert some cargo from being shipped by private companies. He wanted to ensure this did not include other freight.

SENATOR MICCICHE stated that it would include cargo options.

SENATOR SHOWER offered his view that the question has not been answered as to whether it was problematic for AMHS to carry cargo because the state subsidizes the system. Although he doesn't have an issue with the ferry system carrying cargo, he suggested that AMHS would be competing with companies that do not receive a subsidy.

[2:01:23 PM](#)

ANDY MILLS, Special Assistant to the Commissioner, Department of Transportation and Public Facilities (DOTPF), Juneau, Alaska, responded that DOTPF considers that AMHS provides service, and part of that service could consist of large trucks, cargo, and light freight. He stated that Captain Falvey had indicated that carrying cargo was not the focus of AMHS. He recalled that AMHS substantially increases the shipping rates for vans over a certain length. This disincentivizes companies from shipping large cargo containers on the ferries at a reduced or subsidized rate. He related that the ferry system was built primarily to provide service for cars and individuals because it serves as a road. However, he said he did not envision AMHS competing with barge companies. He asked whether the three regions would restrict AMHS from expanding service to other parts of the state, such as the Kuskokwim region or the western or northern part of Alaska.

CHAIR MYERS stated he would like to hold the question on routes until the committee finished its action on Conceptual Amendment 2 to Amendment 19.

[2:03:07 PM](#)

SENATOR SHOWER asked whether the committee would hear from the Department of Law or Legislative Legal Services.

CHAIR MYERS agreed to do so at a subsequent meeting.

[2:03:32 PM](#)

SENATOR KIEHL referred to Conceptual Amendment 2 to Amendment 19. He said he did not think it was necessary to address this. He referred to the powers and duties of the corporation on page 17, lines 18 and 19, "(15) establish the routes, schedules, and types of service to be provided by the Alaska marine highway system ...". He offered his view that Conceptual Amendment 2 to Amendment 19 would not do any harm.

[2:04:45 PM](#)

CHAIR MYERS removed his objection; he found no further objection, and Conceptual Amendment 2 to Amendment 19 was adopted.

CHAIR MYERS stated that Amendment 19, as amended, was before the committee.

CHAIR MYERS directed attention to Mr. Mills' previous question about expanding routes. He referred to lines 8-12 of Amendment 19.

[2:05:19 PM](#)

SENATOR KIEHL offered his view that neither the underlying bill nor Amendment 19 contemplates expanding AMHS routes.

CHAIR MYERS agreed in theory that expanding the system would be fine. However, the goal of SB 170 was to stabilize the current AMHS. He suggested that the committee could discuss this issue much later. He envisioned that perhaps the state would be willing to expand the system in ten years.

[2:06:18 PM](#)

CHAIR MYERS stated that Amendment 19, as amended was before the committee.

[2:06:26 PM](#)

CHAIR MYERS removed his objection; he found no further objection, and Amendment 19, as amended, was adopted.

[2:06:39 PM](#)

SENATOR KIEHL moved to adopt Amendment 20, work order 32-LS0528\W.23.

32-LS0528\W.23
Ambrose/Bannister
3/29/22

AMENDMENT 20

OFFERED IN THE SENATE BY SENATOR KIEHL
TO: SB 170

Page 26, lines 4 - 11:

Delete all material and insert:

"(b) The agreement required by this section
(1) must establish an overall cost recovery rate that includes the anticipated costs of fuel, labor, overhead, and maintenance; and
(2) may provide different cost recovery rates for different routes or vessels."

Reletter the following subsection accordingly.

[2:06:43 PM](#)

CHAIR MYERS objected for discussion purposes.

[2:06:47 PM](#)

SENATOR KIEHL explained that Amendment 20 would replace how the corporation sets its rates and fees. It would remove the language that requires 80 percent minimum cost recovery on each sailing. It would require the corporation to establish an overall cost recovery rate that includes the anticipated costs of fuel, labor, overhead, and maintenance. It would also provide the assurance agreement with more flexibility by establishing different cost recovery rates for some routes or vessels. He noted that the current system allows the system to generate more revenue than the actual cost of some routes. He surmised that some routes would never generate sufficient revenue to cover vessel costs.

[2:07:59 PM](#)

CHAIR MYERS explained the concept behind the 80 percent cost recovery rate was to achieve a balance. He acknowledged that the

bill did not set the cost recovery at 100 percent to allow the corporation to earn a profit on some routes but did not give it free rein. He expressed concern that this might be too permissive and result in the legislature subsidizing more of the system's operational cost.

[2:09:06 PM](#)

SENATOR MICCICHE stated that he viewed Amendment 20 as having the opposite effect because it would apply to the overall cost recovery rate, not just to the 80 percent. He suggested that the impact of Amendment 20 was just the opposite because it would allow the corporation to set an overall cost recovery rate. He envisioned the corporation could easily adjust the rates as fuel costs fluctuated. He indicated that he does not support calculating the cost recovery rates based on each sailing because of the labor cost associated with the rate-setting. He offered his support for Amendment 20 because it would achieve a better result.

[2:10:27 PM](#)

CHAIR MYERS indicated that Senator Micciche influenced his view on Amendment 20.

[2:10:44 PM](#)

CHAIR MYERS removed his objection; he found no further objection, and Amendment 20 was adopted.

[2:10:57 PM](#)

CHAIR MYERS stated that he would not offer Amendment 21, work order 32-LS0528\W.2.

[2:11:23 PM](#)

CHAIR MYERS moved to adopt Amendment 22, work order 32-LS0528\W.1.

32-LS0528\W.1
Bannister
3/28/22

AMENDMENT 22

OFFERED IN THE SENATE
TO: SB 170

BY SENATOR MYERS

Page 26, following line 14:

Insert a new subsection to read:
"(f) An assurance agreement entered into under this section must be based on the fiscal year of the corporation."

[2:11:26 PM](#)

SENATOR SHOWER objected for discussion purposes.

[2:11:42 PM](#)

CHAIR MYERS explained that the goal of Amendment 22 was to provide specificity. He highlighted that multiple parties had suggested that it would be helpful for the corporation and AMHS to operate under a different fiscal year than the state. Amendment 22 would specify that the assurance agreement follows the corporation's fiscal year and not necessarily the state's fiscal year.

[2:12:22 PM](#)

SENATOR MICCICHE stated that it would technically operate on the calendar year so it does not matter if it was matching the fiscal year (FY) of the corporation, which could be the calendar year. He stated his support for Amendment 22.

CHAIR MYERS explained that he had mulled over several options, including potentially matching the federal fiscal year of October 1.

[2:13:17 PM](#)

SENATOR SHOWER removed his objection.

[2:13:20 PM](#)

CHAIR MYERS found no further objection, and Amendment 22 was adopted.

[2:13:26 PM](#)

SENATOR KIEHL moved to adopt Amendment 23, work order 32-LS0528\W.33.

32-LS0528\W.33
Bannister
4/4/22

AMENDMENT 23

OFFERED IN THE SENATE
TO: SB 170

BY SENATOR KIEHL

Page 26, line 22, following "issue.":

Insert "The corporation may not issue bonds in excess of \$5,000,000 unless the legislature approves the action by law."

[2:13:31 PM](#)

CHAIR MYERS objected for discussion purposes.

[2:13:35 PM](#)

SENATOR KIEHL explained that Amendment 23 would require legislative approval when the corporation wishes to issue bonds for more than \$5 million. He stated that ARRC needs approval for bonds of any amount per AS 42.40.285(2), which seemed overly prescriptive. This would give the corporation more flexibility, especially for opportunities that might involve a commercial partner, but sets some limits.

[2:14:33 PM](#)

SENATOR SHOWER stated that he was not necessarily opposed. He wondered whether this allows the corporation to be nimble since legislative approval can take time.

[2:15:37 PM](#)

SENATOR KIEHL acknowledged Senator Shower raised a legitimate concern. He offered his view that ARRC's bonding proposals were thorough, so the legislature generally approves them. He recalled that the Alaska Industrial Development and Export Authority (AIDEA) typically requires legislative approval for bonds over a certain amount, which generally are approved. He indicated that Amendment 23 would allow the corporation to bond up to \$5 million. He noted that the corporation could not buy a new ferry for that amount but would need legislative approval for significant funding decisions.

[2:16:56 PM](#)

SENATOR SHOWER wondered if \$5 million was the right amount or if it was too high or too low.

[2:17:43 PM](#)

MR. MILLS responded that the department had flagged Amendment 23 as potentially problematic for the proposed corporation. He deferred to Captain Falvey.

[2:18:17 PM](#)

CAPTAIN FALVEY responded that that the current Capital Improvement Project (CIP) for the Tustumena in Seward is for \$9.2 million. He stated that AMHS could spend \$5 million fairly easily. He acknowledged that awaiting legislative approval could delay a project.

[2:19:11 PM](#)

SENATOR SHOWER wondered if he could give the committee an average cost. He referred to the Tustumena CIP of \$9.2 million. He asked whether there was a better number.

CAPTAIN FALVEY responded it was hard to say. He recalled the Matanuska engine rebuild was \$40 million. He offered his belief that AMHS spends \$16-18 million in formula funds each year. He highlighted that the overhaul of the Lituya will cost \$2.5 million. He recommended that the committee not go below \$5 million, that \$10 million might be better.

CHAIR MYERS asked for the price range for terminal facility overhauls.

CAPTAIN FALVEY responded that terminal overhauls would range from \$10 to \$15 million.

[2:21:30 PM](#)

SENATOR KIEHL indicated that he was flexible on the bonding cap. He pointed out that the most significant projects, such as the Tustumena Vessel Replacement (TVR), repowering the Matanuska, or terminal overhauls, would be federally-qualified projects. He highlighted that the goal was to avoid borrowing for capital expenditures, which is consistent with currently practices. The notion is not that the bonding authority in the bill would be to borrow all the capital projects for all the vessels. He deferred to the bill's sponsor for the general needs for bonding authority for small projects or opportunities.

[2:23:08 PM](#)

SENATOR MICCICHE argued that the listed projects were not bonded. He highlighted that the only corporation in the state that can't hear issue bonds independently is the Alaska Housing Finance Corporation (AHFC). Alaska Aerospace Corporation and AIDEA issue bonds independently with limits, and the rest require legislative approval. He wondered what figure would work for a private partnership. For instance, if a private company was willing to build a dock, and the dock design was sufficient

to serve a new community, it might require a certain amount of bonding. He stated he was not stuck on requiring legislative approval for bonding above \$5 million.

SENATOR SHOWER wondered if \$5 million might hamper the corporation from being nimble.

[2:25:11 PM](#)

SENATOR MICCICHE asked if Senator Shower would like to offer a conceptual amendment to Amendment 23.

[2:25:35 PM](#)

MR. MILLS replied that the projects Captain Falvey listed represent the usual cost range.

[2:25:54 PM](#)

SENATOR SHOWER moved to adopt Conceptual Amendment 1 to Amendment 23 to increase the figure from \$5 million to \$10 million to give the corporation additional flexibility.

CHAIR MYERS found no objection, and Conceptual Amendment 1 to Amendment 23 was adopted.

[2:26:30 PM](#)

CHAIR MYERS stated that Amendment 23, as amended, was before the committee.

[2:26:44 PM](#)

CHAIR MYERS removed his objection; he found no further objection, and Amendment 23, as amended, was adopted.

[2:27:00 PM](#)

SENATOR KIEHL moved to adopt Amendment 24, work order 32-LS0528\W.28.

32-LS0528\W.28
Ambrose/Bannister
3/29/22

AMENDMENT 24

OFFERED IN THE SENATE
TO: SB 170

BY SENATOR KIEHL

Page 32, line 25, through page 33, line 28:

Delete all material and insert:

"**Sec. 42.50.840. Maintenance of vessels.** To the extent practicable, the corporation shall perform maintenance and ship construction activities in the state."

[2:27:05 PM](#)

CHAIR MYERS objected for discussion purposes.

[2:27:09 PM](#)

SENATOR KIEHL was unsure whether the language relating to where maintenance and ship construction occurs was based on existing statutes or regulations. He explained that Amendment 24 would simplify it by requiring the corporation to perform maintenance and vessel construction in Alaska to the greatest extent possible.

[2:28:24 PM](#)

CHAIR MYERS indicated he liked streamlining the process.

[2:38:44 PM](#)

SENATOR SHOWER expressed concern that union contracts can be touchy. He wondered if Amendment 24 would affect the federal government or unions. He stated his support for the concepts in Amendment 24.

[2:29:35 PM](#)

SENATOR KIEHL offered his belief that Amendment 24 does not implicate any existing laws. He offered his view that the language "To the extent practicable ..." would address any binding contracts.

[2:29:59 PM](#)

CHAIR MYERS removed his objection; he found no further objection, and Amendment 24 was adopted.

[2:30:14 PM](#)

SENATOR KIEHL moved to adopt Amendment 25, work order 32-LS0528\W.29.

32-LS0528\W.29
Ambrose/Bannister
3/29/22

AMENDMENT 25

OFFERED IN THE SENATE
TO: SB 170

BY SENATOR KIEHL

Page 34, line 1:
Delete all material.

Renumber the following paragraphs accordingly.

Page 34, line 2:
Delete "AS 35"
Insert "AS 35.05, AS 35.10.030 - 35.10.270, and
AS 35.20"

Page 34, line 5:
Delete ", 44.62.180 - 44.62.305, and 44.62.320"
Insert "and 44.62.180 - 44.62.305"

[2:30:18 PM](#)

CHAIR MYERS objected for discussion purposes.

[2:30:22 PM](#)

SENATOR KIEHL explained that Amendment 25 would clarify which sections of the law are applicable to the corporation. He characterized it as taking a fine-grained approach. The corporation would be allowed to participate in joint municipal or state port projects. It would exempt the corporation from some of the restrictive public facility construction administration rules and acquisition and disposition of property, as does the bill. It would still require the corporation to follow building and zoning codes. State entities allow municipalities to contract for projects and the legislature to name buildings. Amendment 25 would remove the exemption from the Administrative Regulation Review Committee for a statute that no longer exists.

[2:32:19 PM](#)

At ease

[2:34:54 PM](#)

CHAIR MYERS reconvened the meeting.

[2:35:00 PM](#)

SENATOR KIEHL explained that Amendment 25 would leave the corporation exempt from the existing statutes on the acquisition

and disposition of property because the bill speaks to it extensively. The corporation would be exempt from the statutes regarding utilities and encroachment in public facilities because the bill provides the corporation with significant authority to manage its lands and easements. The corporation would be exempt from statutes related to harbors, dikes, and jetties because they are in the maritime business and will work on those items. The corporation should not be subject to old rules related to the state's harbor program that does not functionally exist. The corporation would be exempt from some statutory language pertaining to finance and procurements because the legislature provides the board with financial authority. It would leave the corporation exempt from existing statutes on public building administration because the board will have significant financial and management experience to take responsibility for its assets.

[2:36:30 PM](#)

CHAIR MYERS removed his objection; he found no further objection, and Amendment 25 was adopted.

[2:36:44 PM](#)

CHAIR MYERS moved to adopt Amendment 26, work order 32-LS0528\W.4.

32-LS0528\W.4
Bannister
3/29/22

AMENDMENT 26

OFFERED IN THE SENATE
TO: SB 170

BY SENATOR MYERS

Page 40, line 31:
Delete "June 30"
Insert "December 31"

Page 42, line 3:
Delete "July 1, 2023"
Insert "January 1, 2024"

Page 42, line 21:
Delete "June 1"

Insert "December 1"

Page 43, line 6:

Delete "July 1, 2023"

Insert "January 1, 2024"

[2:36:48 PM](#)

SENATOR SHOWER objected for discussion purposes.

[2:36:52 PM](#)

CHAIR MYERS explained that Amendment 26 would adjust the effective dates in the bill to a calendar year.

[2:37:38 PM](#)

SENATOR SHOWER removed his objection; he found no further objection, and Amendment 26 was adopted.

[2:37:51 PM](#)

SENATOR KIEHL moved to adopt Amendment 27, work order 32-LS0528\W.30.

32-LS0528\W.30
Bannister
4/4/22

AMENDMENT 27

OFFERED IN THE SENATE

BY SENATOR KIEHL

TO: SB 170

Page 40, lines 23 - 24:

Delete "NEGOTIATION, NONRENEWAL, AND TERMINATION"

Insert "ASSIGNMENT"

Page 40, line 25:

Delete "the effective date of this section"

Insert "July 1, 2023"

Page 40, lines 25 - 26:

Delete "enter into negotiations with a union to"

Page 40, line 27:

Delete "agreement"

Insert "agreements"

Delete "union"
Insert "unions"

Page 40, line 28, through page 41, line 6:
Delete all material.

Reletter the following subsection accordingly.

Page 41, line 30:
Delete "sec. 29(b)"
Insert "sec. 29"

Page 41, lines 30 - 31:
Delete ", or the agreement with the union has
terminated under sec. 29(c) of this Act"

Page 44, line 19, through page 45, line 10:
Delete all material and insert:
"*** Sec. 37.** Section 13 of this Act takes effect
July 1, 2023."

Renumber the following bill section accordingly.

Page 45, line 11:
Delete "sec. 38"
Insert "sec. 37"

[2:37:57 PM](#)

CHAIR MYERS objected for discussion purposes.

[2:37:59 PM](#)

SENATOR KIEHL explained that Amendment 27 would allow the existing contracts between the state and the unions representing AMHS's employees to remain in effect until the end of the contract period. The corporation would negotiate new contracts. He explained that this would avoid constitutional issues regarding contracts.

[2:38:41 PM](#)

CHAIR MYERS explained that he had gone back and forth on this. He stated that the unions raised this issue because they wanted to keep their current contracts. He said that, on the one hand, he would like the state to negotiate in good faith with the unions. He offered his view that it appeared to provide a smoother transition to keep the existing contract in place. However, sometimes union contracts have been part of why AMHS

has experienced problems. He was unsure which approach was better.

[2:40:11 PM](#)

SENATOR MICCICHE asked when the current union contracts expire.

CAPTAIN FALVEY stated that AMHS is currently negotiating contracts expiring on July 1, 2022.

SENATOR MICCICHE asked for the expiration date of the next set of contracts.

CAPTAIN FALVEY responded that the union contracts are three-year contracts.

SENATOR MICCICHE estimated that if this bill does not pass the legislature in 2022, there would be approximately 1-2 years left on the existing contracts.

CAPTAIN FALVEY agreed that was correct. He stated that AMHS anticipated signing all three union contracts by July 1, 2022.

SENATOR MICCICHE related his understanding that there was always the ability to reopen negotiations.

[2:41:27 PM](#)

CAPTAIN FALVEY deferred to labor relations to respond.

[2:41:36 PM](#)

CHAIR MYERS offered his belief that typically the state tries to offset the expiration dates so that all the unions would not expire simultaneously.

CAPTAIN FALVEY pointed out that the three maritime unions were on the same schedule. He reported that the contract for the Inlandboatmen's Union (IBU) was signed three years ago. He was unsure about the shoreside unions.

CHAIR MYERS stated his focus was on the maritime unions.

CAPTAIN FALVEY confirmed that AMHS negotiates with all three maritime unions simultaneously.

[2:43:03 PM](#)

SENATOR MICCICHE offered his belief that negotiations could be reopened.

SENATOR KIEHL agreed that negotiations could be reopened if both parties agree, but Amendment 27 would not prevent that from happening. He stated the goal was to clarify the language to avoid the constitutional issue.

[2:44:01 PM](#)

CHAIR MYERS remarked that he hadn't thought of potential constitutional issues.

[2:44:09 PM](#)

CHAIR MYERS removed his objection; he found no further objection, and Amendment 27 was adopted.

[2:44:33 PM](#)

CHAIR MYERS moved to adopt Amendment 28, work order 32-LS0528\W.3.

32-LS0528\W.3
Bannister
3/29/22

AMENDMENT 28

OFFERED IN THE SENATE BY SENATOR MYERS
TO: SB 170

Page 43, line 1, following "Act":

Insert ";

(3) "real property" includes a lease and other interests in real property"

[2:44:36 PM](#)

SENATOR SHOWER objected for discussion purposes.

[2:44:41 PM](#)

CHAIR MYERS explained that Amendment 28 would clarify that when ownership of assets would be transferred from AMHS to the corporation, it would transfer the land and any leases.

[2:45:18 PM](#)

SENATOR SHOWER pointed out that the state has had some issues with ARRC. He stated the importance of the legislature to be cognizant of property agreements to avoid any issues.

[2:46:23 PM](#)

CHAIR MYERS stated that he agreed with Senator Shower's concern about ARRC and its property management. He highlighted a couple of differences between ARRC and the proposed Alaska Marine Highway Corporation. For instance, ARRC does not fall under the Executive Budget Act, but AMHC would fall under it. He offered his view that this would make AMHC more accountable to the legislature. Further, when the federal government transferred the railroad to the state, it also transferred land as a cash source. However, the legislature is not providing AMHC with land as a cash source. Instead, AMHC would receive property used for the Alaska Marine Highway System.

[2:47:29 PM](#)

SENATOR SHOWER acknowledged Chair Myers' points. He stated it was important that the record reflect the issue. He said he did not foresee any problems with AMHC's property management.

[2:47:53 PM](#)

SENATOR SHOWER removed his objection.

[2:47:57 PM](#)

CHAIR MYERS found no further objection, and Amendment 28 was adopted.

[2:47:59 PM](#)

CHAIR MYERS brought up Amendment 1, work order 32-LS0528\W.5, offered by Senator Kiehl, which the committee had previously considered on May 3, 2022. After discussion, the Chair had rolled Amendment 1 to the bottom of the amendments. He indicated that the committee would consider Amendment 1 at this time.

32-LS0528\W.5
Bannister

3/29/22

AMENDMENT 1

OFFERED IN THE SENATE
TO: SB 170

BY SENATOR KIEHL

Page 5, lines 11 - 13:

Delete "[BOATS AND VESSELS OF THE MARINE HIGHWAY SYSTEM;

(iv)]"

Insert "boats and vessels of the Alaska marine highway system;

(iv)"

Page 5, lines 15 - 16:

Delete "and boats and vessels of the Alaska marine highway system"

[2:48:27 PM](#)

SENATOR KIEHL moved to adopt Conceptual Amendment 1 to Amendment 1.

Offered in the Senate

Senator Kiehl

To: SB 270

Add a new subsection to amendment 1"

Pg.5, following ln. 16 insert:

AS 35.27.030(2) is amended to read:

(2)"construction cost" is that cost expended for the actual construction of the facility, exclusive of the cost of land acquisition, site investigation, design services, administrative costs, equipment purchases, and any other costs not specifically incurred within the construction contract or contracts awarded for the construction of the facility. For vessels of the Alaska marine highway system, the construction cost includes the cost up to \$100 million and half of the cost in excess of \$100 million.

[2:48:34 PM](#)

CHAIR MYERS objected for discussion purposes.

[2:48:41 PM](#)

SENATOR KIEHL explained that Conceptual Amendment 1 to Amendment 1 would reduce the scope of the Percent of Art program for vessels. He stated that the first \$100 million would qualify for the Percent of Art program, but for any vessel cost above \$100 million, it would only apply to half of the value. The communities and riders would benefit from public art on the

vessels. He explained that the committee discussed reducing the Percent of Art on a \$270 million vessel because it would dramatically reduce the price tag of public art. He recalled members asked whether ARRC's engines and passenger cars are subject to the Percent for Art program. He responded that they are not subject to the program.

[2:50:29 PM](#)

CHAIR MYERS stated that the language states "For vessels of the Alaska marine highway system" He wondered if it should state "corporation."

CHAIR MYERS stated that his committee aide had indicated that Legislative Legal Services could make conforming changes to Conceptual Amendment 1 to Amendment 1.

[2:50:55 PM](#)

CHAIR MYERS stated that he goes back and forth on the public money for art. He acknowledged that the funds for public art could be used for other features within the vessel. He offered his view that, ultimately, this is an appropriate compromise.

[2:51:33 PM](#)

CHAIR MYERS removed his objection; he found no further objection, and Conceptual Amendment 1 to Amendment 1 was adopted.

CHAIR MYERS stated that Amendment 1, as amended, was before the committee.

[2:51:56 PM](#)

SENATOR MICCICHE said he understands the value of having public art in buildings, but vessels lack the space to display art which is probably one reason the program does not apply to ARRC. He highlighted that if a vessel costs \$200 million, the program would be \$1.5 million. He suggested that reducing the funding could make the vessel cost-efficient and make the system more survivable.

[2:53:34 PM](#)

SENATOR KIEHL agreed that things cost money. He stated that vessel construction costs exclude the design, administration, and equipment. Unfortunately, maritime infrastructure is costly. He highlighted that people come to Alaska on marine highway vessels, whether they are independent travelers or military families relocating to Alaska. These travelers embark at

Bellingham or Prince Rupert and spend significant time on the ships. He highlighted that Alaska's airports use the Percent for Art program, and the art enhances those spaces. He acknowledged that the reduction of art on AMHS vessels was a compromise.

[2:56:02 PM](#)

SENATOR MICCICHE wondered if there was a way of adjusting the figure for art on the ferry vessels to under the designated one percent figure but still supporting public art.

[2:56:58 PM](#)

SENATOR SHOWER suggested that Senator Micciche might wish to offer a conceptual amendment to Amendment 1.

[2:57:40 PM](#)

SENATOR MICCICHE moved to adopt Conceptual Amendment 2 to Amendment 1.

[2:57:47 PM](#)

CHAIR MYERS objected for discussion purposes.

[2:58:01 PM](#)

SENATOR MICCICHE stated Conceptual Amendment 2 to Amendment 1.

For vessels of the Alaska marine highway system, 10 percent of percent of the construction cost.

CHAIR MYERS related that instead of full funding for the Percent for Art program, the funding for art of AMHS vessels would be 1/10 of a percent.

SENATOR MICCICHE stated that \$100,000 would be designated for public art for a vessel costing \$100 million.

[2:58:42 PM](#)

SENATOR KIEHL objected.

[2:59:22 PM](#)

At ease

[3:01:02 PM](#)

CHAIR MYERS reconvened the meeting.

[3:01:06 PM](#)

SENATOR MICCICHE stated that he was willing to tie Conceptual Amendment 2 to the rural schools, which would be one-half of one percent for art.

[3:01:42 PM](#)

SENATOR KIEHL stated that he would not object to Conceptual Amendment 2.

[3:01:49 PM](#)

CHAIR MYERS removed his objection; he found no further objection, and Conceptual Amendment 2 to Amendment 1 was adopted.

[3:01:54 PM](#)

CHAIR MYERS stated that Amendment 1, as amended, was before the committee.

[3:01:59 PM](#)

CHAIR MYERS explained that Amendment 1, as amended, would reduce the Percent for Art program to one-half a percent for art on any AMHS vessels constructed.

[3:02:12 PM](#)

CHAIR MYERS removed his objection to Amendment 1; he found no further objection, and Amendment 1, as amended, was adopted

[3:02:37 PM](#)

CHAIR MYERS stated that SB 170, Version W, as amended, was before the committee. He thanked the committee members for their interest and hard work.

[3:03:18 PM](#)

SENATOR SHOWER moved to report SB 170, work order 32-LS0528\W, as amended, from committee with individual recommendations and attached fiscal note(s).

CHAIR MYERS found no further objection, and CSSB 170(TRA) was reported from the Senate Transportation Standing Committee.

[3:03:53 PM](#)

There being no further business to come before the committee, Chair Myers adjourned the Senate Transportation Standing Committee meeting at 3:03 p.m.