

CS FOR HOUSE BILL NO. 329(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Offered: 3/10/10

Referred: Finance

Sponsor(s): HOUSE TRANSPORTATION COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the transportation infrastructure fund, to local public
2 transportation, to the municipal harbor facility grant fund, to motor fuel taxes, and to
3 the motor vehicle registration fee; and providing for an effective date."

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

5 * **Section 1.** AS 28.10.421(g) is amended to read:

6 (g) The fees collected by the department under **(b), (c), (e), (h), and (i)** of this
7 section shall be deposited in the **transportation infrastructure fund established in**
8 **art. IX, sec. 18, Constitution of the State of Alaska. The fees collected by the**
9 **department under (d) and (f) of this section shall be deposited into the** general
10 fund. The Department of Administration shall separately account for three percent of
11 the fees collected under **(d) and (f)** of this section and deposited in the general fund.
12 The annual estimated balance in the account may be used by the legislature to make
13 appropriations for administration of AS 28.10.021(a) and AS 28.22 (Alaska
14 Mandatory Automobile Insurance Act).

1 * **Sec. 2.** AS 29.60.800(a) is amended to read:

2 (a) There is established the municipal harbor facility grant fund consisting of
3 money appropriated to the fund. Each fiscal year, the legislature may appropriate
4 money to the fund [FROM THE WATERCRAFT FUEL TAX ACCOUNT
5 (AS 43.40.010(f)) AND FROM THE FISHERIES BUSINESS TAX COLLECTED
6 UNDER AS 43.75.015 AFTER PAYMENTS TO MUNICIPALITIES ARE MADE
7 UNDER AS 43.75.130. THE LEGISLATURE MAY MAKE OTHER
8 APPROPRIATIONS TO THE FUND]. The legislature may appropriate to the fund
9 income earned on money in the fund.

10 * **Sec. 3.** AS 37.05.146(c)(72) is amended to read:

11 (72) vehicle registration fees collected under AS 28.10.421(d) and (f)
12 [AS 28.10.421] and other fees and charges collected under AS 28.10.441;

13 * **Sec. 4.** AS 37.14 is amended by adding new sections to read:

14 **Article 10. Transportation Infrastructure Fund.**

15 **Sec. 37.14.850. Transportation infrastructure fund.** (a) Under art. IX, sec.
16 18, Constitution of the State of Alaska, there is established the transportation
17 infrastructure fund. The fund consists of

- 18 (1) appropriations to the fund;
19 (2) revenue received after July 1, 2011, from any state tax on fuel used
20 for the propulsion of motor vehicles, aircraft, and watercraft, less refunds, credits, and
21 collection costs as provided by law; and
22 (3) revenue received after July 1, 2011, from a registration fee levied
23 for a motor vehicle that is not a special registration fee.

24 (b) The commissioner of revenue shall manage the fund as an endowment,
25 with the goal that the purchasing power of the fund will not diminish over time
26 without regard to additional contributions that may be made to the fund. The
27 commissioner shall invest the assets of the fund in a manner likely to yield at least a
28 six percent real rate of return over time.

29 (c) Money from an appropriation made to the fund remaining in the fund at the
30 end of a fiscal year does not lapse and remains available for investment and
31 appropriation in successive fiscal years.

1 **Sec. 37.14.860. Use of the fund.** (a) On or before October 1 of each year, the
2 commissioner of revenue shall prepare a report for the legislature that identifies

3 (1) that amount defined as six percent of the average of the market
4 values of the assets of the fund, excluding the money deposited into the fund in the
5 previous year from motor fuel taxes and vehicle registration fees, on June 30 for the
6 five fiscal years immediately preceding the fiscal year in which the report is prepared;
7 and

8 (2) that amount defined as 50 percent of the motor fuel taxes and
9 registration fees deposited into the fund in the previous fiscal year.

10 (b) The amount identified in (a) of this section is available for appropriation
11 for capital projects for transportation and related facilities. An appropriation from the
12 fund shall not be made to a project for which federal money has been allocated unless
13 the appropriation is for matching money for the project and the amount of all
14 appropriations from the fund to match federal money does not exceed 10 percent of
15 the total amount available for appropriation from the fund.

16 (c) Appropriations made from the fund for capital projects for transportation
17 and related facilities shall be distributed based on amounts not to exceed the following
18 percentages:

19 (1) 80 percent of the appropriations from the fund may be used for
20 projects related to roads and surface transportation, to include development of, major
21 maintenance of, and improvements to the road system in the state, all related
22 appurtenances within the rights-of-way, and walkways;

23 (2) 25 percent of the appropriations from the fund may be used for
24 projects related to aviation, to include development of, major maintenance of, and
25 improvements to the state's rural airport system and airports owned by the state or a
26 municipality;

27 (3) 25 percent of the appropriations from the fund may be used for
28 projects related to the Alaska marine highway system, to include the lease, purchase,
29 rehabilitation, major maintenance, or modification of existing or new vessels;

30 (4) 20 percent of the appropriations from the fund may be used for
31 projects related to harbor facilities and for deposit into the municipal harbor facility

1 grant fund (AS 29.60.800), to include the development of, major maintenance of, and
2 improvements to harbor and marine facilities;

3 (5) 20 percent of the appropriations from the fund may be used for
4 projects related to community transportation and public transit with priority given to
5 projects in which community matching funds are available, to include development of
6 and improvements to public transit conveyances and facilities, including land-based
7 and water-based vehicles and specialized local transportation for the elderly and
8 persons with disabilities; and

9 (6) 15 percent of the appropriations from the fund may be used for
10 projects related to pedestrian facilities, trails, and bike paths, to include development
11 of and improvements to sidewalks, bike paths, or pedestrian facilities that are located
12 in the rights-of-way maintained by the department and are adjacent to a road.

13 (d) Not more than three percent of the amount available for appropriation from
14 the fund in a year may be appropriated for operating costs related to motor vehicle
15 licensing and registration.

16 **Sec. 37.14.870. Market value of the fund.** The Department of Revenue shall
17 determine the market value of the fund on the close of business on June 30 of each
18 year in accordance with generally accepted accounting principles for the determination
19 of fair value.

20 **Sec. 37.14.880. Powers and duties of the commissioner of revenue.** In
21 carrying out the investment duties under AS 37.14.850 - 37.14.899, the commissioner
22 of revenue has the powers and duties set out in AS 37.10.071. Not later than the 10th
23 day following the convening of each regular session of the legislature, the
24 commissioner of revenue shall make available a report to the legislature on the
25 condition and investment performance of the fund.

26 **Sec. 37.14.890. Transportation Infrastructure Fund Advisory Council.** (a)
27 The Transportation Infrastructure Fund Advisory Council is established and consists
28 of 12 members as follows:

- 29 (1) the chair of the House Transportation Committee;
30 (2) the chair of the Senate Transportation Committee;
31 (3) three deputy commissioners of transportation and public facilities

1 appointed by the commissioner of transportation and public facilities, or, if three
2 deputy commissioners are not available, the commissioner's designees;

3 (4) three regional directors of the Department of Transportation and
4 Public Facilities authorized under AS 44.42.040, appointed by the commissioner of
5 transportation and public facilities; and

6 (5) four members of the public, appointed by the governor to staggered
7 four-year terms, who represent various modes of transportation, including land, air,
8 and water.

9 (b) Each of the four public members appointed under (a)(5) of this section
10 shall

11 (1) be from a different judicial district as described in AS 22.10.010;
12 and

13 (2) have extensive experience and knowledge in the field of
14 transportation of people and goods.

15 (c) The governor shall designate a chair of the council from among the public
16 members appointed under (a)(5) of this section. If a vacancy occurs among the
17 members appointed under (a)(5) of this section, the governor shall immediately
18 appoint a member for the unexpired portion of the term.

19 (d) A member of the council appointed under (a) of this section serves without
20 compensation but is entitled to travel and per diem expenses as provided in
21 AS 39.20.180.

22 (e) Using the criteria developed by the Department of Transportation and
23 Public Facilities under AS 44.42.020(a)(17), the advisory council shall submit a report
24 to the governor and the legislature not later than October 15 of each year making
25 recommendations regarding what capital projects for transportation and related
26 facilities should be funded from the fund.

27 **Sec. 37.14.899. Definition.** In AS 37.14.850 - 37.14.899, "fund" means the
28 transportation infrastructure fund established in art. IX, sec. 18, Constitution of the
29 State of Alaska.

30 * **Sec. 5.** AS 43.40.010(e) is amended to read:

31 (e) Sixty percent of the proceeds of the revenue from the taxes on aviation

1 fuel, excluding the amount determined to have been spent by the state in its collection,
 2 shall be refunded to a municipality owning and operating or leasing and operating an
 3 airport in the proportion that the revenue was collected at the municipal airport. All
 4 other proceeds of the taxes on aviation fuel shall be paid into **the transportation**
 5 **infrastructure fund established in art. IX, sec. 18, Constitution of the State of**
 6 **Alaska** [A SPECIAL AVIATION FUEL TAX ACCOUNT IN THE STATE
 7 GENERAL FUND. THE LEGISLATURE MAY APPROPRIATE FUNDS FROM
 8 THIS ACCOUNT FOR AVIATION FACILITIES].

9 * **Sec. 6.** AS 43.40.010(h) is amended to read:

10 (h) All motor fuel tax receipts shall be paid into the **transportation**
 11 **infrastructure fund established in art. IX, sec. 18, Constitution of the State of**
 12 **Alaska** [GENERAL FUND AND DISTRIBUTED TO THE PROPER ACCOUNTS
 13 IN THE GENERAL FUND]. Valid motor fuel tax refund claims shall be paid from the
 14 **transportation infrastructure fund established in art. IX, sec. 18, Constitution of**
 15 **the State of Alaska** [HIGHWAY FUEL TAX ACCOUNT IN THE GENERAL
 16 FUND].

17 * **Sec. 7.** AS 43.40.030(a) is amended to read:

18 (a) A [EXCEPT AS SPECIFIED IN AS 43.40.010(j), A] person who uses
 19 motor fuel to operate an internal combustion engine is entitled to a refund of six cents
 20 a gallon if

- 21 (1) the tax on the motor fuel has been paid;
- 22 (2) the motor fuel is not aviation fuel, or motor fuel used in or on
 23 watercraft; and
- 24 (3) the internal combustion engine is not used in or in conjunction with
 25 a motor vehicle licensed to be operated on public ways.

26 * **Sec. 8.** AS 43.40.070 is amended to read:

27 **Sec. 43.40.070. Refund warrants.** Upon approval of a refund claim by the
 28 department, a disbursement shall be made from the **transportation infrastructure**
 29 **fund established in art. IX, sec. 18, Constitution of the State of Alaska,**
 30 [HIGHWAY FUEL TAX ACCOUNT IN THE GENERAL FUND] in favor of the
 31 applicant in the amount of the claim.

1 * **Sec. 9.** AS 44.42.020(a) is amended to read:

2 (a) The department shall

3 (1) plan, design, construct, and maintain all state modes of
4 transportation and transportation facilities and all docks, floats, breakwaters, buildings,
5 and similar facilities;

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

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

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

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

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

19 (7) manage, operate, and maintain state transportation facilities and all
20 docks, floats, breakwaters, and buildings, including all state highways, vessels,
21 railroads, pipelines, airports, and aviation facilities;

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

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

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

30 (11) supervise and maintain all state automotive and mechanical
31 equipment, aircraft, and vessels, except vessels and aircraft used by the Department of

1 Fish and Game or the Department of Public Safety; for state vehicles maintained by
 2 the department, the department shall every five years evaluate the cost, efficiency, and
 3 commercial availability of alternative fuels for automotive purposes, and the purpose
 4 for which the vehicles are intended to be used, and convert or purchase vehicles to use
 5 alternative fuels whenever practicable; the department may participate in joint
 6 ventures with public or private partners that will foster the availability of alternative
 7 fuels for all automotive fuel consumers;

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

9 (13) implement the safety and financial responsibility requirements for
 10 air carriers under AS 02.40;

11 (14) inspect weights and measures;

12 (15) at least every four years, study alternatives available to finance
 13 transportation systems in order to provide an adequate level of funding to sustain and
 14 improve the state's transportation system;

15 **(16) promote and support methods or modes of local public**
 16 **transportation serving persons in various regions of the state;**

17 **(17) develop criteria for determining eligibility of projects for**
 18 **funding and for evaluating projects for funding from the transportation**
 19 **infrastructure fund that provide for a statewide balance of projects in both urban**
 20 **and rural areas.**

21 * **Sec. 10.** AS 44.62.175(a) is amended to read:

22 (a) The lieutenant governor shall develop and supervise the Alaska Online
 23 Public Notice System, to be maintained on the state's site on the Internet. The
 24 lieutenant governor shall prescribe the form of notices posted on the system by state
 25 agencies. The Alaska Online Public Notice System must include

26 (1) notices of proposed actions given under AS 44.62.190(a);

27 (2) notices of state agency meetings required under AS 44.62.310(e),
 28 even if the meeting has been held;

29 (3) notices of solicitations to bid issued under AS 36.30.130;

30 (4) notices of state agency requests for proposals issued under
 31 AS 18.55.255, 18.55.320; AS 36.30.210; AS 37.05.316; **and** AS 38.05.120 [; AND

1 AS 43.40.010];

2 (5) executive orders and administrative orders issued by the governor;

3 (6) written delegations of authority made by the governor or the head
4 of a principal department under AS 44.17.010;

5 (7) the text or a summary of the text of a regulation or order of repeal
6 of a regulation for which notice is given under AS 44.62.190(a), including an
7 emergency regulation or repeal regardless of whether it has taken effect;

8 (8) notices required by AS 44.62.245(b) regarding an amended version
9 of a document or other material incorporated by reference in a regulation;

10 (9) a summary of the text of recently issued formal opinions and
11 memoranda of advice of the attorney general;

12 (10) a list of vacancies on boards, commissions, and other bodies
13 whose members are appointed by the governor; and

14 (11) in accordance with AS 39.52.240(h), advisory opinions of the
15 attorney general.

16 * **Sec. 11.** AS 43.40.010(f), 43.40.010(g), and 43.40.010(j) are repealed.

17 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 TRANSITION. Notwithstanding AS 37.14.850 - 37.14.899, as enacted by sec. 4 of
20 this Act, the commissioner of revenue shall calculate average transportation infrastructure
21 fund values for purposes of AS 37.14.860(a)(1) in the years 2012 through 2016 as follows:

22 (1) the commissioner of revenue shall prepare a report to the legislature on or
23 before October 1, 2011, identifying that amount defined as six percent of the market value of
24 the transportation infrastructure fund, excluding the money deposited into the fund in the
25 previous fiscal year from motor fuel taxes and vehicle registration fees, on July 1, 2011; the
26 amount is available for appropriation during the First Regular Session of the Twenty-Seventh
27 Alaska State Legislature under AS 37.14.860(b), enacted by sec. 4 of this Act;

28 (2) for average transportation infrastructure fund value calculations for 2012
29 through 2015, on or before October 1, 2012, and on or before October 1 in subsequent years
30 through October 2015, the commissioner of revenue shall prepare a report to the legislature
31 that identifies that amount defined as six percent of the average of the market values of the

1 assets of the transportation infrastructure fund, excluding the money deposited into the fund in
2 the previous fiscal year from motor fuel taxes and vehicle registration fees, on July 1, 2011,
3 and on June 30 of each subsequent year, as identified in the reports required by this
4 paragraph; the amounts are available for appropriation during the respective regular sessions
5 of the Alaska State Legislature under AS 37.14.860(b), enacted by sec. 4 of this Act.

6 * **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 INITIAL APPOINTMENTS AND TERMS. Notwithstanding AS 37.14.890(a), as
9 enacted by sec. 4 of this Act, the terms of the first public members of the Transportation
10 Infrastructure Fund Advisory Council appointed by the governor under AS 37.14.890(a)(5),
11 as enacted by sec. 4 of this Act, are as follows: (1) one member shall be appointed for a four-
12 year term; (2) one member shall be appointed for a three-year term; (3) one member shall be
13 appointed for a two-year term; and (4) one member shall be appointed for a one-year term.
14 The governor shall specify the term of office of each member appointed subject to this
15 section.

16 * **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 SEVERABILITY. Under AS 01.10.030, if AS 37.14.890(a)(1) or 37.14.890(a)(2),
19 enacted by sec. 4 of this Act, or the application of them to any person or circumstance is held
20 invalid, the remainder of the provisions of that section and their application to other persons
21 or circumstance is not affected.

22 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 CONTINGENCY. Except as to AS 44.42.020(a)(16), enacted by sec. 9 of this Act, the
25 provisions of this Act take effect only if an amendment to the Constitution of the State of
26 Alaska establishing the transportation infrastructure fund as a dedicated fund is approved by
27 the voters before July 1, 2011.

28 * **Sec. 16.** AS 44.42.020(a)(16), enacted by sec. 9 of this Act, takes effect immediately
29 under AS 01.10.070(c).

30 * **Sec. 17.** If, under sec. 15 of this Act, AS 44.42.020(a)(17), enacted by sec. 9 of this Act,
31 takes effect, it takes effect on the day following the date of certification of the results of the

1 2010 general election.

2 * **Sec. 18.** Except as provided in secs. 16 and 17 of this Act, if this Act takes effect under
3 sec. 15 of this Act, it takes effect July 1, 2011.