

SENATE BILL NO. 37

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY SENATOR THOMAS

Introduced: 1/19/11

Referred: Transportation, Finance

A BILL

FOR AN ACT ENTITLED

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

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

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

7 LEGISLATIVE INTENT. It is the intent of the legislature that \$1,000,000,000 be
8 appropriated to the transportation infrastructure fund on establishment of the fund.

9 * **Sec. 2.** AS 28.10.421(g) is amended to read:

10 (g) The fees collected by the department under this section shall be deposited
11 in the general fund. **The fees collected by the department under (b), (c), (e), (h),**
12 **and (i) of this section shall be deposited into the transportation infrastructure**
13 **fund established in AS 37.14.850.** The Department of Administration shall separately
14 account for three percent of the fees collected under **(d) and (f) of** this section and

1 deposited in the general fund. The annual estimated balance in the account may be
 2 used by the legislature to make appropriations for administration of AS 28.10.021(a)
 3 and AS 28.22 (Alaska Mandatory Automobile Insurance Act).

4 * **Sec. 3.** AS 37.14 is amended by adding new sections to read:

5 **Article 10. Transportation Infrastructure Fund.**

6 **Sec. 37.14.850. Transportation infrastructure fund.** (a) A transportation
 7 infrastructure fund is established as a special fund in the general fund. The fund
 8 consists of

9 (1) revenue received from any state tax on fuel used for the propulsion
 10 of motor vehicles and aircraft, less refunds, credits, and collection costs as provided by
 11 law;

12 (2) revenue received from a registration fee levied for a motor vehicle
 13 that is not a special registration fee; and

14 (3) other appropriations to the fund.

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

20 (c) Money remaining in the fund at the end of a fiscal year does not lapse and
 21 remains available for investment and appropriation in successive fiscal years.

22 (d) Nothing in this section creates a dedicated fund.

23 **Sec. 37.14.860. Use of the fund.** (a) On or before October 1 of each year, the
 24 commissioner of revenue shall prepare a report for the legislature that identifies that
 25 amount defined as six percent of the average of the market values of the assets of the
 26 fund on June 30 for the five fiscal years immediately preceding the fiscal year in
 27 which the report is prepared.

28 (b) The legislature may appropriate the amount identified in (a) of this section
 29 for capital projects for transportation and related facilities. An appropriation from the
 30 fund may not be made to a project for which federal money has been allocated unless
 31 the appropriation is for matching money for the project and the amount of all

1 appropriations from the fund to match federal money does not exceed 10 percent of
2 the total amount available for appropriation from the fund.

3 (c) Notwithstanding (b) of this section, the legislature may appropriate from
4 the fund for any public purpose.

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

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

15 **Sec. 37.14.890. Transportation Infrastructure Fund Advisory Council.** (a)
16 The Transportation Infrastructure Fund Advisory Council is established and consists
17 of eight members as follows:

- 18 (1) the chair of the House Transportation Committee;
19 (2) the chair of the Senate Transportation Committee;
20 (3) the commissioner of transportation and public facilities, or the
21 commissioner's designee;
22 (4) four members of the public, each from a different judicial district
23 as described in AS 22.10.010 and appointed by the governor to staggered four-year
24 terms; and
25 (5) one public member appointed by the governor to a four-year term.

26 (b) A member of the council appointed under (a) of this section serves without
27 compensation but is entitled to travel and per diem expenses as provided in
28 AS 39.20.180.

29 (c) Using the criteria developed by the Department of Transportation and
30 Public Facilities under AS 44.42.020(a)(17), the advisory council shall submit a report
31 to the legislature not later than December 31 of each year making recommendations

1 regarding which capital projects for transportation and related facilities should be
2 funded by the legislature from the fund.

3 **Sec. 37.14.899. Definition.** In AS 37.14.850 - 37.14.899, "fund" means the
4 transportation infrastructure fund established in AS 37.14.850.

5 * **Sec. 4.** AS 43.40.010(e) is amended to read:

6 (e) Sixty percent of the proceeds of the revenue from the taxes on aviation
7 fuel, excluding the amount determined to have been spent by the state in its collection,
8 shall be refunded to a municipality owning and operating or leasing and operating an
9 airport in the proportion that the revenue was collected at the municipal airport. All
10 other proceeds of the taxes on aviation fuel shall be **deposited into the**
11 **transportation infrastructure fund established in AS 37.14.850** [PAID INTO A
12 SPECIAL AVIATION FUEL TAX ACCOUNT IN THE STATE GENERAL FUND.
13 THE LEGISLATURE MAY APPROPRIATE FUNDS FROM THIS ACCOUNT
14 FOR AVIATION FACILITIES].

15 * **Sec. 5.** AS 43.40.010(h) is amended to read:

16 (h) **Except as provided in (f) of this section, all** [ALL] motor fuel tax
17 receipts shall be **deposited into** [PAID INTO] the **transportation infrastructure**
18 **fund established in AS 37.14.850** [GENERAL FUND AND DISTRIBUTED TO
19 THE PROPER ACCOUNTS IN THE GENERAL FUND]. Valid motor fuel tax
20 refund claims shall be paid from the **transportation infrastructure fund**
21 [HIGHWAY FUEL TAX ACCOUNT IN THE GENERAL FUND].

22 * **Sec. 6.** AS 43.40.030(a) is amended to read:

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

26 (1) the tax on the motor fuel has been paid;

27 (2) the motor fuel is not aviation fuel, or motor fuel used in or on
28 watercraft; and

29 (3) the internal combustion engine is not used in or in conjunction with
30 a motor vehicle licensed to be operated on public ways.

31 * **Sec. 7.** AS 43.40.070 is amended to read:

1 **Sec. 43.40.070. Refund warrants.** Upon approval of a refund claim by the
2 department, a disbursement shall be made from the **transportation infrastructure**
3 **fund** [HIGHWAY FUEL TAX ACCOUNT IN THE GENERAL FUND] in favor of
4 the applicant in the amount of the claim.

5 * **Sec. 8.** AS 44.42.020(a) is amended to read:

6 (a) The department shall

7 (1) plan, design, construct, and maintain all state modes of
8 transportation and transportation facilities and all docks, floats, breakwaters, buildings,
9 and similar facilities;

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

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

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

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

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

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

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

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

30 (10) develop facility program plans for transportation and state
31 buildings, docks, and breakwaters required to implement the duties set out in this

1 section, including but not limited to functional performance criteria and schedules for
2 completion;

3 (11) supervise and maintain all state automotive and mechanical
4 equipment, aircraft, and vessels, except vessels and aircraft used by the Department of
5 Fish and Game or the Department of Public Safety; for state vehicles maintained by
6 the department, the department shall, every five years, evaluate the cost, efficiency,
7 and commercial availability of alternative fuels for automotive purposes, and the
8 purpose for which the vehicles are intended to be used, and convert vehicles to use
9 alternative fuels or purchase energy efficient vehicles whenever practicable; the
10 department may participate in joint ventures with public or private partners that will
11 foster the availability of alternative fuels for all automotive fuel consumers;

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

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

15 (14) inspect weights and measures;

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

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

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

25 * **Sec. 9.** AS 44.62.175(a) is amended to read:

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

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

31 (2) notices of state agency meetings required under AS 44.62.310(e),

1 even if the meeting has been held;

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

3 (4) notices of state agency requests for proposals issued under
4 AS 18.55.255, 18.55.320; AS 36.30.210; AS 37.05.316; **and** AS 38.05.120 [; AND
5 AS 43.40.010];

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

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

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

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

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

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

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

20 * **Sec. 10.** AS 43.40.010(g) and 43.40.010(j) are repealed.

21 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

23 **TRANSITION.** Notwithstanding AS 37.14.850 - 37.14.899, as enacted by sec. 3 of
24 this Act, the commissioner of revenue shall calculate average transportation infrastructure
25 fund values in the years 2013 through 2017 as follows:

26 (1) the commissioner of revenue shall prepare a report to the legislature on or
27 before October 1, 2012, identifying that amount defined as five percent of the market value of
28 the transportation infrastructure fund on July 1, 2012; the amount is available for
29 appropriation during the First Regular Session of the Twenty-Eighth Alaska State Legislature
30 under AS 37.14.860(b), enacted by sec. 3 of this Act;

31 (2) for average transportation infrastructure fund value calculations for 2014

1 through 2017, on or before October 1, 2013, and on or before October 1 in subsequent years
2 through October 2016, the commissioner of revenue shall prepare a report to the legislature
3 that identifies that amount defined as five percent of the average of the market values of the
4 assets of the transportation infrastructure fund on July 1, 2013, and on June 30 of each
5 subsequent year, as identified in the reports required by this paragraph; the amounts are
6 available for appropriation during the respective regular sessions of the Alaska State
7 Legislature under AS 37.14.860(b), enacted by sec. 3 of this Act.

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

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

18 * **Sec. 13.** AS 44.42.020(a)(16), enacted by sec. 8 of this Act, takes effect immediately
19 under AS 01.10.070(c).

20 * **Sec. 14.** Except as provided in sec. 13 of this Act, this Act takes effect July 1, 2011.