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**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:

Referred:

Sponsor(s): HOUSE TRANSPORTATION COMMITTEE

**A BILL**

**FOR AN ACT ENTITLED**

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

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

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

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

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

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

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

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

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

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

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

- (1) the chair of the House Transportation Committee;
- (2) the chair of the Senate Transportation Committee;
- (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

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

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

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

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

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

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

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

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

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

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

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

(14) inspect weights and measures;

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

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

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

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

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

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

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

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

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



AS 43.40.010];

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

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

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

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

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

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

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

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

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

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

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

(2) for average transportation infrastructure fund value calculations for 2012 through 2015, on or before October 1, 2012, and on or before October 1 in subsequent years through October 2015, the commissioner of revenue shall prepare a report to the legislature 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 uncoded 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 uncoded law of the State of Alaska is amended by adding a new section to  
17 read:

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

22 \* **Sec. 15.** AS 44.42.020(a)(16), enacted by sec. 9 of this Act, takes effect immediately  
23 under AS 01.10.070(c).

24 \* **Sec. 16.** If, under sec. 14 of this Act, AS 44.42.020(a)(17), enacted by sec. 9 of this Act,  
25 takes effect, it takes effect on the day following the date of certification of the results of the  
26 2010 general election.

27 \* **Sec. 17.** Except as provided in secs. 15 and 16 of this Act, if this Act takes effect under  
28 sec. 14 of this Act, it takes effect July 1, 2011.