

HOUSE BILL NO. 123

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE PEGGY WILSON

Introduced: 2/15/13

Referred: Transportation, Finance

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, to the
3 motor vehicle registration fee, to driver's license fees, to identification card fees, to the
4 studded tire tax, to the vehicle rental tax, and to other fees and taxes related to motor
5 vehicles; creating the Alaska Transportation Panel; and providing for an effective date."

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

7 * **Section 1.** AS 18.65.310 is amended by adding a new subsection to read:

8 (m) The fees collected by the department under this section shall be deposited
9 into the transportation infrastructure fund established in art. IX, sec. 18, Constitution
10 of the State of Alaska.

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

12 (g) The fees collected by the department under (b), (c), (e), (h), and (i) of this
13 section shall be deposited in the transportation infrastructure fund established in

1 **art. IX, sec. 18, Constitution of the State of Alaska. The fees collected by the**
 2 **department under (d) and (f) of this section shall be deposited into the** general
 3 fund. The Department of Administration shall separately account for three percent of
 4 the fees collected under **(d) and (f) of** this section and deposited in the general fund.
 5 The annual estimated balance in the account may be used by the legislature to make
 6 appropriations for administration of AS 28.10.021(a) and AS 28.22 (Alaska
 7 Mandatory Automobile Insurance Act).

8 * **Sec. 3.** AS 28.90 is amended by adding a new section to article 1 to read:

9 **Sec. 28.90.050. Fees collected by the department.** Unless otherwise provided
 10 by law, state fees or taxes collected under this title, less refunds, shall be deposited in
 11 the transportation infrastructure fund established under art. IX, sec. 18, Constitution of
 12 the State of Alaska. Any tax or fee related to snowmobiles collected under this title
 13 may not be deposited into the transportation infrastructure fund established under art.
 14 IX, sec. 18, Constitution of the State of Alaska.

15 * **Sec. 4.** AS 29.60.800(a) is amended to read:

16 (a) There is established the harbor facility grant fund consisting of money
 17 appropriated to the fund. Each fiscal year, the legislature may appropriate money to
 18 the fund [FROM THE WATERCRAFT FUEL TAX ACCOUNT (AS 43.40.010(f))
 19 AND FROM THE FISHERIES BUSINESS TAX COLLECTED UNDER
 20 AS 43.75.015 AFTER PAYMENTS TO MUNICIPALITIES ARE MADE UNDER
 21 AS 43.75.130. THE LEGISLATURE MAY MAKE OTHER APPROPRIATIONS TO
 22 THE FUND]. The legislature may appropriate to the fund income earned on money in
 23 the fund.

24 * **Sec. 5.** AS 37.05.146(c)(72) is amended to read:

25 (72) vehicle registration fees collected under **AS 28.10.421(d) and (f)**
 26 [AS 28.10.421] and other fees and charges collected under AS 28.10.441;

27 * **Sec. 6.** AS 37.14 is amended by adding new sections to read:

28 **Article 10. Transportation Infrastructure Fund.**

29 **Sec. 37.14.850. Transportation infrastructure fund.** (a) Under art. IX, sec.
 30 18, Constitution of the State of Alaska, the transportation infrastructure fund is
 31 established. The fund consists of

- 1 (1) appropriations to the fund;
- 2 (2) revenue received from any state tax on fuel used for the propulsion
- 3 of motor vehicles, aircraft, and watercraft, less refunds, credits, and collection costs as
- 4 provided by law;
- 5 (3) revenue received from a registration fee levied for a motor vehicle
- 6 that is not a special registration fee and from any driver's license fee;
- 7 (4) revenue received from the tire fee and studded tire tax under
- 8 AS 43.98.025;
- 9 (5) revenue received from the vehicle rental tax under AS 43.52.010
- 10 and 43.52.030;
- 11 (6) other revenue received as designated by the legislature.

12 (b) The commissioner of revenue shall manage the fund as an endowment,

13 with the goal that the purchasing power of the fund will not diminish over time

14 without regard to additional contributions that may be made to the fund. The

15 commissioner shall invest the assets of the fund in a manner likely to yield at least a

16 six percent real rate of return over time.

17 (c) Money from an appropriation made to the fund remaining in the fund at the

18 end of a fiscal year does not lapse and remains available for investment and

19 appropriation in successive fiscal years.

20 **Sec. 37.14.860. Use of the fund.** (a) On or before September 1 of each year,

21 the commissioner of revenue shall prepare a report for the legislature that identifies

22 (1) that amount defined as five percent of the average of the market

23 values of the assets of the fund, excluding the money deposited into the fund in the

24 previous year under AS 37.14.850(a)(2) - (6), on June 30 for the five fiscal years

25 immediately preceding the fiscal year in which the report is prepared; and

26 (2) that amount defined as 50 percent of the revenue deposited into the

27 fund under AS 37.14.850(a)(2) - (6) in the previous fiscal year.

28 (b) The amount identified in (a) of this section is available for appropriation

29 for capital projects and major maintenance for transportation and related facilities and

30 for costs related to motor vehicle licensing and registration. An appropriation from the

31 fund may be made to a project for which federal money has been allocated if the

1 appropriation accelerates project completion or is used for specific items of work that
2 are not eligible for federal aid project match funding. The amount of all appropriations
3 from the fund to match federal money may not exceed 20 percent of the total amount
4 available for appropriation from the fund.

5 (c) Except as provided in (d) of this section, appropriations made from the
6 fund for capital projects for transportation and related facilities may be distributed for
7 the following projects:

8 (1) projects related to roads and surface transportation, including
9 development of, major maintenance of, and improvements to the road system in the
10 state, all related appurtenances within the rights-of-way, and walkways;

11 (2) projects related to aviation, including development of, major
12 maintenance of, and improvements to the state's rural airport system and airports
13 owned by the state or a municipality;

14 (3) projects related to the Alaska marine highway system, including
15 the lease, purchase, rehabilitation, major maintenance, or modification of existing or
16 new vessels;

17 (4) projects related to harbor facilities and for deposit into the
18 municipal harbor facility grant fund (AS 29.60.800), including the development of,
19 major maintenance of, and improvements to harbor and marine facilities;

20 (5) projects related to community transportation and public transit with
21 priority given to projects in which community matching funds are available, including
22 development of and improvements to public transit conveyances and facilities,
23 including land-based and water-based vehicles and specialized local transportation for
24 the elderly and persons with disabilities; and

25 (6) projects related to pedestrian facilities, trails, and bike paths,
26 including development of and improvements to sidewalks, bike paths, or pedestrian
27 facilities that are located in the rights-of-way maintained by the department and that
28 are adjacent to a road;

29 (7) projects related to railroads.

30 (d) An appropriation from the fund may not be used to provide matching
31 funds for a federal aid project under (c)(1) - (3) of this section.

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

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

11 **Sec. 37.14.890. Alaska Infrastructure Commission.** (a) The Alaska
 12 Infrastructure Commission is established as an independent body in the Department of
 13 Transportation and Public Facilities to prioritize a list of eligible transportation
 14 projects referred from the Alaska Transportation Panel established under
 15 AS 44.42.100 solely on the factors of nonbiased information and need. The
 16 commission consists of nine members as follows:

17 (1) the chair of the House Transportation Committee as a nonvoting
 18 member;

19 (2) the chair of the Senate Transportation Committee as a nonvoting
 20 member;

21 (3) the commissioner of transportation and public facilities or the
 22 commissioner's designee;

23 (4) six members of the public, including at least one member from
 24 each judicial district described in AS 22.10.010, appointed by the governor, who have
 25 experience with one or more modes of transportation, including land, air, and water.

26 (b) The six public members appointed under (a)(4) of this section shall each
 27 have extensive experience and knowledge in the field of transportation of people and
 28 goods.

29 (c) The members of the commission listed in (a)(4) of this section shall serve
 30 staggered four-year terms.

31 (d) From the members listed in (a)(4) of this section, the commission shall

1 elect a chair of the commission. If a vacancy occurs among the members appointed
 2 under (a)(4) of this section, the governor shall immediately appoint a member for the
 3 unexpired portion of the term.

4 (e) A member of the commission appointed under (a) of this section serves
 5 without compensation but is entitled to travel and per diem expenses as provided in
 6 AS 39.20.180.

7 (f) Using the criteria developed by the Department of Transportation and
 8 Public Facilities under AS 44.42.020(a)(17), the commission shall submit a report to
 9 the governor and the legislature not later than October 15 of each year making
 10 recommendations regarding what capital projects for transportation and related
 11 facilities should be funded from the fund.

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

15 * **Sec. 7.** AS 43.40.010(e) is amended to read:

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

25 * **Sec. 8.** AS 43.40.010(h) is amended to read:

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

1 FUND].

2 * **Sec. 9.** AS 43.40.030(a) is amended to read:

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

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

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

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

11 * **Sec. 10.** AS 43.40.070 is amended to read:

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

17 * **Sec. 11.** AS 43.52.080(b) is amended to read:

18 (b) The proceeds of the vehicle rental taxes imposed by AS 43.52.010 -
19 43.52.099 shall be deposited into the transportation infrastructure fund
20 established in art. IX, sec. 18, Constitution of the State of Alaska [A SPECIAL
21 VEHICLE RENTAL TAX ACCOUNT IN THE GENERAL FUND].

22 * **Sec. 12.** AS 43.98.025 is amended by adding a new subsection to read:

23 (i) The fees remitted to the department under (a) and (b) of this section shall
24 be deposited in the transportation infrastructure fund established in art. IX, sec. 18,
25 Constitution of the State of Alaska.

26 * **Sec. 13.** AS 44.42.020(a) is amended to read:

27 (a) The department shall

28 (1) plan, design, construct, and maintain all state modes of
29 transportation and transportation facilities and all docks, floats, breakwaters, buildings,
30 and similar facilities;

31 (2) study existing transportation modes and facilities in the state to

1 determine how they might be improved or whether they should continue to be
2 maintained;

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

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

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

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

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

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

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

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

24 (11) supervise and maintain all state automotive and mechanical
25 equipment, aircraft, and vessels, except vessels and aircraft used by the Department of
26 Fish and Game or the Department of Public Safety; for state vehicles maintained by
27 the department, the department shall, every five years, evaluate the cost, efficiency,
28 and commercial availability of alternative fuels for automotive purposes, and the
29 purpose for which the vehicles are intended to be used, and convert vehicles to use
30 alternative fuels or purchase energy efficient vehicles whenever practicable; the
31 department may participate in joint ventures with public or private partners that will

1 foster the availability of alternative fuels for all automotive fuel consumers;

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

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

5 (14) inspect weights and measures;

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

9 (16) promote and support methods or modes of coordinated
10 transportation serving persons in various regions of the state;

11 (17) develop criteria for the Alaska Infrastructure Commission
12 established under AS 37.14.890 to use when prioritizing transportation projects
13 eligible for funding from the transportation infrastructure fund; the criteria
14 should provide for funds of projects in both urban and rural areas;

15 (18) develop guidelines for the Alaska Transportation Panel
16 established under AS 44.42.100 to use when determining whether projects should
17 be evaluated and funded through the department or through the transportation
18 infrastructure fund under AS 37.14.860.

19 * **Sec. 14.** AS 44.42 is amended by adding a new section to article 1 to read:

20 **Sec. 44.42.100. Alaska Transportation Panel.** (a) The Alaska Transportation
21 Panel is established to review proposed transportation projects and recommend
22 whether the projects should be evaluated and funded through the department or
23 through the transportation infrastructure fund under AS 37.14.860. The panel consists
24 of seven members as follows:

25 (1) one member of the public, appointed by the governor, who is from
26 the Anchorage area;

27 (2) one member of the public, appointed by the governor, who is from
28 the Fairbanks area;

29 (3) one member of the public, appointed by the governor, who is from
30 a coastal rural areas of the state;

31 (4) one member of the public, appointed by the governor, who is from

1 an interior rural areas of the state;

2 (5) the commissioner of transportation and public facilities or the
3 commissioner's designee;

4 (6) one member of the project evaluation board established by the
5 commissioner of transportation and public facilities; and

6 (7) one member of the Alaska Infrastructure Commission established
7 under AS 37.14.890.

8 (b) Each of the public members appointed under (a)(1) - (4) of this section
9 shall have experience with one or more modes of transportation, including land, air,
10 and water.

11 (c) The panel shall meet at least twice a year.

12 (d) A member of the panel appointed under (a) of this section serves without
13 compensation but is entitled to travel and per diem expenses as provided in
14 AS 39.20.180.

15 (e) In this section, "rural area" means a community that is not connected by
16 road or rail to Anchorage or Fairbanks.

17 * **Sec. 15.** AS 44.62.175(a) is amended to read:

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

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

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

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

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

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

30 (6) written delegations of authority made by the governor or the head
31 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;

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

(12) notices required by AS 26.30.010(d) and (e) regarding applications for military facility zones.

*** Sec. 16.** AS 28.10.152(e); AS 43.40.010(f), 43.40.010(g), and 43.40.010(j) are repealed.

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

APPLICABILITY. AS 37.14.850(a), added by sec. 6 of this Act, applies to revenue received by the state from the sources listed in that subsection on or after the effective date of this Act.

*** Sec. 18.** The uncodified 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. 6 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 2016 through 2020 as follows:

(1) the commissioner of revenue shall prepare a report to the legislature on or before September 1, 2015, identifying that amount defined as five percent of the market value of the transportation infrastructure fund, excluding the money deposited into the fund in the previous fiscal year under AS 37.14.850(a)(2) - (6), on July 1, 2015; the amount is available for appropriation during the First Regular Session of the Twenty-Ninth Alaska State Legislature under AS 37.14.860(b), enacted by sec. 6 of this Act;

(2) for average transportation infrastructure fund value calculations for 2016

1 through 2019, on or before September 1, 2016, and on or before September 1 in subsequent
 2 years through September 2019, the commissioner of revenue shall prepare a report to the
 3 legislature that identifies that amount defined as five percent of the average of the market
 4 values of the assets of the transportation infrastructure fund, excluding the money deposited
 5 into the fund in the previous fiscal year under AS 37.14.850(a)(2) - (6), on July 1, 2015, and
 6 on June 30 of each subsequent year, as identified in the reports required by this paragraph; the
 7 amounts are available for appropriation during the respective regular sessions of the Alaska
 8 State Legislature under AS 37.14.860(b), enacted by sec. 6 of this Act.

9 * **Sec. 19.** The uncoded law of the State of Alaska is amended by adding a new section to
 10 read:

11 INITIAL APPOINTMENTS AND TERMS. Notwithstanding AS 37.14.890(a), as
 12 enacted by sec. 6 of this Act, the terms of the first members of the Alaska Infrastructure
 13 Commission appointed by the governor under AS 37.14.890(a)(4), as enacted by sec. 6 of this
 14 Act, are as follows: (1) two members shall be appointed for four-year terms; (2) two members
 15 shall be appointed for three-year terms; (3) one member shall be appointed for a two-year
 16 term; and (4) one member shall be appointed for a one-year term. The governor shall specify
 17 the term of office of each member appointed subject to this section.

18 * **Sec. 20.** The uncoded law of the State of Alaska is amended by adding a new section to
 19 read:

20 SEVERABILITY. Under AS 01.10.030, if AS 37.14.890(a)(1) or (2), enacted by sec.
 21 6 of this Act, or the application of those paragraphs to any person or circumstance is held
 22 invalid, the remainder of the provisions of that section and their application to other persons
 23 or circumstance is not affected.

24 * **Sec. 21.** The uncoded law of the State of Alaska is amended by adding a new section to
 25 read:

26 CONTINGENCY. The provisions of this Act take effect only if an amendment to the
 27 Constitution of the State of Alaska establishing the transportation infrastructure fund as a
 28 dedicated fund is approved by the voters before January 1, 2015.

29 * **Sec. 22.** If, under sec. 21 of this Act, this Act takes effect, it takes effect on the effective
 30 date of the constitutional amendment described in sec. 21 of this Act.