

**ALASKA STATE LEGISLATURE**  
**HOUSE TRANSPORTATION STANDING COMMITTEE**

February 9, 2010

1:06 p.m.

**MEMBERS PRESENT**

Representative Peggy Wilson, Chair  
Representative Craig Johnson, Vice Chair  
Representative Kyle Johansen  
Representative Cathy Engstrom Munoz  
Representative Tammie Wilson  
Representative Max Gruenberg  
Representative Pete Petersen

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE JOINT RESOLUTION NO. 42

Proposing amendments to the Constitution of the State of Alaska creating a transportation infrastructure fund.

- MOVED HJR 42 OUT OF COMMITTEE

HOUSE BILL NO. 329

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

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HJR 42

SHORT TITLE: CONST. AM: TRANSPORTATION FUND

SPONSOR(s): TRANSPORTATION

|          |     |                                 |
|----------|-----|---------------------------------|
| 02/05/10 | (H) | READ THE FIRST TIME - REFERRALS |
| 02/05/10 | (H) | TRA, JUD, FIN                   |
| 02/09/10 | (H) | TRA AT 1:00 PM CAPITOL 17       |

BILL: HB 329

SHORT TITLE: DEDICATED TRANSPORT FUND/PUB TRANSPORT

SPONSOR(s): TRANSPORTATION

02/05/10 (H) READ THE FIRST TIME - REFERRALS  
02/05/10 (H) TRA, FIN  
02/09/10 (H) TRA AT 1:00 PM CAPITOL 17

**WITNESS REGISTER**

REBECCA ROONEY, Staff  
Representative Peggy Wilson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HJR 42, on behalf of the prime sponsor, Representative Peggy Wilson.

BRIAN KANE, Attorney  
Legislative Legal Counsel  
Legislative Legal and Research Services  
Legislative Affairs Agency  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the discussion of HJR 42.

BRIAN HORSCHER  
Associated General Contractors (AGC);  
Acme Fence Company  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the discussion on HJR 42.

KEVIN WELKER, Alaska Manager  
Key Corporation;  
Executive Board Member, Associated General Contractors (AGC)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HJR 42.

JOHN MCKINNON, Executive Director  
Associated General Contractors (AGC)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the discussion of HJR 42 and HB 329.

JEFF OTTESEN, Director  
Division of Program Development  
Department of Transportation & Public Facilities (DOT&PF)  
Juneau, Alaska

**POSITION STATEMENT:** Testified and answered questions during the discussion of the Federal Stimulus Package.

FRANK RICHARDS, Deputy Commissioner  
Office of the Commissioner  
Department of Transportation & Public Facilities (DOT&PF)  
Juneau, Alaska

**POSITION STATEMENT:** Testified and answered questions during the discussion of HJR 42.

REBECCA ROONEY, Staff  
Representative Peggy Wilson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 329 on behalf of the prime sponsor, Representative Peggy Wilson.

LOIS EPSTEIN, Professional Engineer; Director  
Alaska Transportation Priority Project (ATPP)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 329.

KATHIE WASSERMAN, Executive Director  
Alaska Municipal League (AML)  
Juneau, Alaska

**POSITION STATEMENT:** Testified and answered questions during the discussion of HB 329.

#### **ACTION NARRATIVE**

[1:06:31 PM](#)

**CHAIR PEGGY WILSON** called the House Transportation Standing Committee meeting to order at 1:06 p.m.

Representatives Petersen, T. Wilson, Johnson, Munoz, Gruenberg, and P. Wilson were present at the call to order. Representative Johansen arrived as the meeting was in progress.

#### **HJR 42-CONST. AM: TRANSPORTATION FUND**

[1:07:12 PM](#)

CHAIR P. WILSON announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 42, Proposing amendments to the

Constitution of the State of Alaska creating a transportation infrastructure fund.

[1:08:12 PM](#)

REBECCA ROONEY, Staff, Representative Peggy Wilson, Alaska State Legislature, on behalf of the sponsor, Representative Peggy Wilson, stated that HJR 42 would propose an amendment to Alaska's constitution to create a transportation infrastructure fund. This resolution would place before the voters whether to change the Alaska Constitution to allow a dedicated fund for capital transportation projects.

MS. ROONEY explained that last session and through the interim, the committee has had many presentations from DOT&PF and other organizations identifying challenges of transportation in our geographically challenged and diverse state. The committee held hearings throughout the state, including flying to villages to view rural airports, which provide the basic transportation into and out of the communities. The committee traveled on the urban highways to view the challenges on Alaska's highways, including safety, congestion, and deferred maintenance. The committee heard testimony from the Alaska Municipal League (AML) and the Matanuska-Susitna Borough, who teamed together to contract an independent study on the fiscal challenges of transportation in Alaska. The National Conference of State Legislatures (NCSL) provided information on what other states are doing to address transportation needs, and Larry Persily, staff, Representative Hawker, compiled funding options to address the fiscal shortfalls of Alaska's transportation needs. This resolution is the culmination of all of the work performed by the DOT&PF, the committee, and research. Alaska needs to shoulder some of the responsibility for its transportation costs. Last year, the state received 87 percent of its transportation funding from the federal government, more than any other state, per capita. The new pending federal reauthorization bill for transportation points to less funding for states with low populations, like Alaska. State-funded projects can be performed more quickly as they do not have the same constraints and stringent requirements that the federal government imposes. Thus, more state projects could be built if the state had access to a transportation fund.

MS. ROONEY stated that the time is right to put this in place to plan a smart, long-range solution to our transportation problems. Alaska will know the level of funds available from year-to-year to provide for a long-term plan that can be implemented. The proposed Alaska Transportation Infrastructure

Fund (ATIF) will grow as the investment returns compound. Additionally, the motor fuel tax and the vehicle registration fees will generate funds. The ATIF could generate an anticipated \$65 million the first year, which would increase by approximately \$6 to \$7 million per year.

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MS. ROONEY referred to a colored graph in the committee packets detailing the funding that would be available for appropriation each year. One of the reasons that the constitutional drafters gave for disallowing dedicated funds was to avoid losing the ability to respond to public need. An excerpt in members' green packets contains an excerpt from Governor Hickel's State of the State address in the early 1990s, relating to a dedicated transportation fund. She read:

This is not as radical a proposal as it might sound. Over half the states already have the same type of financing arrangement. In fact, Alaska's founding fathers supported this exact mechanism and provided for it at statehood. With a dedicated fund Alaskans will receive more stable service levels. And if new revenues are needed to preserve or improve service, Alaskans will be assured that any new fee will go directly to their transportation system.

MS. ROONEY remarked that Governor Hickel's comments are as relevant now as they were nearly 20 years ago. The state needs to take action now as the future and well-being of Alaska's citizens is critically dependent upon a reliable transportation system. The change to Alaska's constitution proposed in HJR 42, which allows for a dedicated transportation fund, is needed to create and maintain a modern and reliable transportation system for Alaska.

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REPRESENTATIVE GRUENBERG referred to the term "special registration fee" and asked whether it was a term of art.

BRIAN KANE, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, identified two subsections in the vehicle registration fee section identify certain license plates special fees that are accounted for separately. The special registration fees

collected in those subsections would still be accounted for separately, while the generic fee would be deposited in the dedicated transportation fund.

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CHAIR P. WILSON recalled her prior discussions with legal counsel, identifying one of the special plates as the veterans' license plates. She further recalled that she did not want to change the way those fees were handled, or interfere with the special designation in any way. She understood that the standard vehicle registration fees would be directed to the dedicated transportation fund.

MR. KANE agreed. He related that the specific military plate fee accounting structure and purpose would still be in place.

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REPRESENTATIVE GRUENBERG asked for the amount of the fees.

MR. KANE referred to AS 28.10.421 (d) and (f). He explained that those subsections would be exempted from the proposed dedicated transportation fund. He explained that the subsection relates to fees for vehicles, including vehicles whose primary purpose is for historical exhibition, Alaska National Guard personnel, Iditarod, recipients of the purple heart, Iditarod race finishers, and other similar categories. Typically, these funds are deposited to a special account to support a certain goal or purpose.

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CHAIR P. WILSON asked for clarification that these groups would be exempted under the resolution.

MR. KANE answered yes.

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REPRESENTATIVE GRUENBERG referred to page 1, line 14 of HJR 42, which identifies the revenue source as any state tax on fuel. He asked whether the tire tax is exempted from the resolution.

MR. KANE responded that it is not explicitly exempted. He explained that the taxes identified are taxes on fuel used for the propulsion of motor vehicles, so fuel is limited to fuel

used for motor vehicles. He said he does not believe the tax on tires is involved.

REPRESENTATIVE GRUENBERG wondered whether it was the intent of the sponsor to exclude taxes on tires or if the sponsor wanted to include other taxes.

CHAIR P. WILSON answered that it was her intent to limit the revenue to the state tax on fuel as identified in HJR 42.

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MS. ROONEY, in response to Representative Munoz, answered that she does not have the specific figure for the 87 percent of the state's transportation budget funded by the Federal Highway Administration (FHWA).

REPRESENTATIVE MUNOZ asked for examples of other states that have implemented dedicated transportation funds, and the ratio of state to federal funding.

CHAIR P. WILSON related that Alaska receives more federal funding than any other state. The Alaska delegation has advised legislators that other states are upset since Alaska does not pay in as much as it receives in transportation funding. Under the new federal transportation reauthorization bill under consideration, as currently crafted, states with lower populations will not fare as well as more densely populated states. She affirmed the state's need to plan and take action to assure the state's transportation needs can be met. This resolution will help with this process.

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REPRESENTATIVE MUNOZ said she thought this resolution is a great direction to take. She expressed interest in knowing how other states are leveraging their state support with federal support to better assess the anticipated return and whether the fund will meet the transportation needs.

MS. ROONEY offered to provide some information from the National Conference of State Legislatures on other states.

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REPRESENTATIVE JOHNSON remarked that this resolution is a great start. The state could put tons of money in the proposed

dedicated transportation fund and it would still not be enough. He said that the legislature needs to start somewhere and that is the reason that he is supportive of this resolution.

CHAIR P. WILSON commented that that most of the states with dedicated transportation fund have taxes as revenue sources for the fund. Additionally, almost all other states have implemented a state sales tax or state income tax, or both.

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BRIAN HORSCHER, Member, Associated General Contractors (AGC); and Acme Fence Company, stated he has been interested in a dedicated transportation fund for over five years. He recalled advertising that depicted potholes. The Lower 48 roads are better roads and he is willing to pay for transportation that provides a safer experience for his family. He applauded the committee's efforts to create the dedicated transportation fund. He stated that AGC is behind this resolution and he is also.

MR. HORSCHER, in response to Representative Johnson, stated that he is speaking on behalf of the AGC and that the AGC's official position is in support of HJR 42.

KEVIN WELKER, Alaska Manager, Key Corporation, stated that his company works throughout the U.S. He stated that many other states have a dedicated transportation fund in place and this approach works well. He stated that a dedicated transportation fund will provide the opportunity for Alaska to plan projects for five to ten years out. This will also bridge the gap from one administration to the next and give Alaska the ability to direct funding for specific purposes. He stated that when he is fueling his vehicle he will know that a certain amount of the motor fuel tax will help fix the roads. He said he was raised in Alaska and would like to see roads maintained and new ones built.

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JOHN MCKINNON, Executive Director, Associated General Contractors (AGC), stated that the AGC is in Juneau for its annual fly-in so many contractors are in town. He stated that a dedicated transportation fund is long overdue and has been an AGC priority for years. He acknowledged the transportation needs in Alaska. This is a good time to start. This dedicated transportation fund would spin off state dollars for new construction projects. He recalled the majority of the

transportation projects are federally funded. Speaking from his prior experience as a Deputy Commissioner of the DOT&PF, he related that a federally-funded project is more difficult to build. The rule of thumb is that a federal dollar is worth about \$.75. A state dollar will stretch further and better meet Alaska's needs than federal funding.

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REPRESENTATIVE JOHNSON asked for examples of state-built roads that demonstrate efficiencies.

MR. MCKINNON recalled the Glenn/Bragaw Interchange in Anchorage. That project timeframe from the funding appropriation to contract spanned about 22 months. He speculated that it would probably have taken at least twice as long to go through the EIS phase using the federal process. He related that the environmental permits are still required at the state level but the National Energy Policy Act (NEPA) process is avoided, which results in considerable time savings.

MR. MCKINNON stated that the average time to conduct an Environmental Impact Statement (EIS) takes about 36 months, which takes the project into the design phase, not the construction phase.

REPRESENTATIVE JOHNSON recalled that the project was designed and built in about the same time as it would have taken to perform an EIS.

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JEFF OTTESEN, Director, Division of Program Development, Department of Transportation & Public Facilities (DOT&PF), in response to Representative Johnson, answered that the EIS process takes approximately 5 to 7 years to complete if the project has any complexity at all. However, he recalled that nationally it is approaching an average of 12 to 13 years to complete the process. He recalled that the Cooper Landing project was initiated in 1975 and is the oldest active EIS in the country, and the project is still several years away from construction. He stated that using state funds provides significant advantages. The Elmore Road Extension Project in Anchorage provides an example of a project that he was unsure would have ever been built due to the substantial environmental considerations.

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REPRESENTATIVE T. WILSON asked whether an EIS is required for all projects in Alaska.

MR. OTTESEN responded that some type of environmental document must be done if a federal permit is involved, which is typically the case. However, the EIS is processed through the agency issuing the permit, which is often issued by the U.S. Corps of Engineers. Although technically the environmental document is still considered a federal EIS document, the U.S. Corps of Engineers process is simpler and faster process. He speculated that since the FHWA deals with so many highway projects and has been subject to so much litigation, that the agency is very protective and wants to insure that it will not lose in court.

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REPRESENTATIVE MUNOZ asked for instances in which the project is already undergoing an EIS process and is under litigation, whether the state could take a larger role.

MR. OTTESEN surmised which project she might be referring to and offered to report back. He recalled a project under litigation, that the permits and right-of-way have been rescinded. He offered that the state would likely have to start over and none of the previous work would be valid. He further recalled the case he was referring to is currently under appeal so it is technically still active.

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REPRESENTATIVE JOHANSEN asked how many projects that are currently being worked on would qualify as state projects.

MR. OTTESEN answered that typically the decision on whether to fund a project with state or federal funds is made at the time of appropriation of the Capital Improvement Budget (CIB). He said that essentially determines the funding type in the CIB; and the decision is not as much a department decision as it is a budgetary decision made through the budget process, including that the CIB is submitted to the legislature for funding approval. In further response to Representative Johansen, he related that the DOT&PF's currently has a list of active projects by funding type for the CIB.

REPRESENTATIVE JOHANSEN understood him to say that the decision for funding projects strictly from general fund dollars is made entirely by the legislature and that the DOT&PF does not make any internal decisions. He related that he is frustrated by the perception that the DOT&PF has magical powers after legislative appropriation that differs from the legislature's decisions on projects. He asked whether it is the legislature's specific role to determine which projects that will qualify as general fund projects instead of using federal funding.

MR. OTTESEN related that some circumstances exist in which a community might be pursuing a project, but not enough general fund funding is available to complete the project so the DOT&PF cannot award the bid. The option is to wait for another budget cycle, but in those instances, the DOT&PF would use federal funds to fund the project. The decision would be made by the DOT&PF design team, within the three regions.

REPRESENTATIVE JOHANSEN asked whether, in fact, some of the decisions can be made by the DOT&PF to take the project out of the general fund category.

MR. OTTESEN answered yes. The DOT&PF could make the choice. However, while the DOT&PF can make the choice, the department cannot spend federal funds without the legislature's approval. He related a scenario in 2002 using GO bonds. Many of the projects were underfunded at the time of the appropriation request. Thus, a \$10 million project may have been budgeted as a \$5 million project, but due to inflation the project becomes a \$20 million project. In that scenario the department can either attempt to find a way to make up the difference using \$15 million in federal funds or let the funds lapse since not enough funds are available to complete the project. He agreed that the instance left complicated choices, and the department lost the flexibility offered when using general funds. He asked if the reverse could happen, if a federal funded project could be funded with general fund dollars. He answered no, that the DOT&PF does not have the ability to do so. In further response to Representative Johansen, he answered he did not recall the specific matching funds for this year, but that the general fund match is typically \$40 to \$45 million per year for the FHWA, and other funds are requested for aviation and transit.

CHAIR WILSON offered to have the DOT&PF come before the committee to provide the detailed process, if needed.

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REPRESENTATIVE GRUENBERG related that HJR 42 requires the dedicated transportation fund to be managed as an endowment. He asked if he was correct that in order for an endowment to work that the state would provide funding and use the interest from the dedicated transportation fund for projects.

MR. OTTESEN advised that he was not involved in drafting the resolution, but agreed conceptually.

REPRESENTATIVE GRUENBERG surmised the state would initially need 15 to 20 times the annual budget amount of \$15 to \$20 million anticipated.

MR. OTTESEN related his understanding on a similar measure under consideration a few years ago that it was anticipated that on average the fund would receive an 8 percent return on the investment, would spend 5 percent and use the remaining 3 percent to inflation-proof the fund.

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CHAIR P. WILSON remarked that HJR 42 is limited to placing the matter on the ballot for voters to decide if they want a dedicated transportation fund. She stated that a separate bill would determine sources of revenue for the proposed dedicated transportation fund and questions concerning that could be addressed at the time the bill is being considered by the committee.

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REPRESENTATIVE GRUENBERG agreed. He referred to page 2, lines 4 5 of HJR 42, relating to capital projects for transportation and related facilities. He asked whether that would include rolling stock, such as buses.

CHAIR P. WILSON related that matter would better be addressed during the discussion of HB 329.

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REPRESENTATIVE GRUENBERG asked whether it would be possible for the legislature to fund the endowment and then reduce the transportation funding from the general fund.

MR. OTTESEN responded that the legislature is the appropriating body and could choose to make decisions about funds outside of the endowment for the proposed dedicated transportation fund.

CHAIR P. WILSON, after first determining no one else wished to testify, closed public testimony on HJR 42.

REPRESENTATIVE JOHANSEN stated that HJR 42 would establish a fund to accomplish a specific goal. He expressed interest in understanding the rules that would apply for DOT&PF's use of the proposed dedicated fund. He said that he supports the concept of the dedicated transportation fund, but at the same time he wants the legislature retains the decision-making authority for projects.

REPRESENTATIVE JOHNSON inquired as to whether DOT&PF has taken a position on HJR 42 and the concept of a dedicated transportation fund.

FRANK RICHARDS, Deputy Commissioner, Office of the Commissioner, Department of Transportation & Public Facilities (DOT&PF) responded that the DOT&PF supports the concept of a transportation fund, but does not have an opinion on the funding mechanism. He acknowledged that the state has many transportation needs across the modes and would appreciate and support the funds to address the needs.

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REPRESENTATIVE JOHNSON moved to report HJR 42 out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE GRUENBERG objected for the purposed of making a statement.

REPRESENTATIVE GRUENBERG asked whether the DOT&PF supports a constitutional amendment for dedicated transportation fund. He remarked that he is aware of only two exceptions, the Permanent Fund and the Constitutional Budget Reserve Fund. Otherwise, the legislature has not adopted a dedicated fund. He related that Mr. Richards will be speaking on behalf of the DOT&PF and administration, noting that this will set precedent to authorize other dedicated funds in the state's constitution. He clarified his query, asking whether the DOT&PF supports the proposed dedicated transportation fund rather placing it in statute.

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MR. RICHARDS answered that the concept of whether to create a dedicated fund is in the purview of the voters of the state.

REPRESENTATIVE GRUENBERG understood that to mean that the administration does not have a position.

MR. RICHARDS agreed. He stated that the DOT&PF and the administration would wait for the outcome of the resolution to create a dedicated transportation fund, as to whether it will be approved by the legislature and the general public vote.

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REPRESENTATIVE GRUENBERG said that he supports the concept of a dedicated transportation fund, but has grave problems with dedicating a transportation fund in the constitution. He remarked that he has not supported dedicated funds in the constitution in the past since it will open the door for other dedicated funds. The constitutional convention provided a specific provision that there shall be no dedicated funds unless established by a constitutional amendment. He said he does not want his position misinterpreted. He stated that the concept of prohibiting dedicated funds was good enough for the constitutional framers. He remarked that he was interested whether the administration had taken a position on that issue.

REPRESENTATIVE PETERSEN agreed that this would set a precedent. He agreed that the constitutional framers did not want dedicated funds, which has worked well so far. However, he thinks the people of Alaska should be allowed to express their opinion on this. Thus, he offered his support for HJR 42.

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REPRESENTATIVE T. WILSON asked for any other reliable mechanisms to obtain transportation funding.

MR. RICHARDS clarified that if she was asking for revenue streams specifically for capital investments used by other states that a variety of means exists, ranging from special tax, motor fuel tax, and bonding capacities. He related that most other states have specific responsibilities for highway systems. In Alaska, the state has the ability to spend the federal dollars on all road systems. The National Conference of State

Legislatures provided a range of funding options for states to consider.

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CHAIR P. WILSON remarked that during the interim the committee spent a full day discussed transportation funding options.

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MR. RICHARDS, in response to Representative T. Wilson, related that the current federal transportation reauthorization bill that has passed out the U.S. House of Representatives Infrastructure Committee does not provide a rosy future for Alaska since it favors high density urban areas with populations over 500,000. Over 20 percent of the funding would be prohibited from coming to Alaska since it does not have population centers over 500,000. Funding for other major modes, including high-speed rail, freight rail, or intercity transit reduces the amount of funding for highways from the motor fuel taxes.

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REPRESENTATIVE T. WILSON explained that Fairbanks was not eligible for the federal stimulus funding, since it was one of the communities disallowed by federal rules. She thanked the sponsor for bringing this issue forward. She characterized this resolution as a step in right direction.

REPRESENTATIVE JOHANSEN remarked that Fairbanks joined the rest of the state in having to compete for transportation dollars.

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REPRESENTATIVE JOHNSON moved to report HJR42 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HJR 42 was reported from the House Transportation Standing Committee.

CHAIR P. WILSON stated that she was very proud of the committee for its work on this issue.

[1:57:47 PM](#)

**HB 329-DEDICATED TRANSPORT FUND/PUB TRANSPORT**

CHAIR P. WILSON announced that the final order of business would be HOUSE BILL NO. 329, "An Act relating to the transportation infrastructure fund, to local public transportation, to motor fuel taxes, and to the motor vehicle registration fee; and providing for an effective date."

REBECCA ROONEY, Staff, Representative Peggy Wilson, Alaska State Legislature, stated that she would not discuss reasons for the dedicated transportation fund since she previously outlined them. She offered to provide a section-by-section analysis, on behalf of the prime sponsor of HB 329, Representative Peggy Wilson. She stated that HB 329 would define the Alaska Transportation Infrastructure Fund (ATIF), including management of the fund and expenditures from the fund. Section 1 would provide legislative intent to appropriate \$1 billion in seed money. She referred to two graphs in members' packets that depict what the proposed Dedicated Transportation Fund would look like over time. The first graph shows the potential growth for the fund with a \$1 billion appropriation, the second graph also includes anticipated revenue from the state's motor fuel tax.

MS. ROONEY stated that Section 2 would amend AS 28.10.421 (g), and would deposit motor fuel fees collected by the department into the proposed dedicated transportation fund, the Alaska Transportation Infrastructure Fund (ATIF). Fees from the special license plates, as previously discussed, would continue to be deposited to the general fund. Three percent of the fees destined for the ATIF will be deposited to the general fund for administration of the Alaska Mandatory Insurance Act. The goal of this section is not to divert funding from programs currently funded by vehicle registration fees. Under Section 3, the Watercraft Fuel Tax Account reference was removed since this tax is being used to help fund the proposed ATIF. However, a mechanism that makes appropriations to the Municipal Harbor Grant Fund still exists, but the legislature may also appropriate money to the fund from the fisheries business tax. The ATIF can appropriate 8 percent of the ATIF to the Municipal Harbor Grant Fund, which is detailed in a provision contained in Section 4.

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MS. ROONEY stated that Section 4 would provide technical corrections to the statutes. Section 5 details the description of the proposed ATIF, which will consist of appropriations made to the fund. Secondly, any revenue derived from the motor fuel

tax after April 1, 2011, and from vehicle registration fees collected after April 1, 2011 will be deposited to the fund. The Alaska Department of Revenue (DOR) will manage the fund as an endowment, and will invest funds to yield at least a 6 percent return on investment over time. Funds remaining in the account at the end of the fiscal year will remain in the ATIF. The DOR will report on the health of the fund and the amount available for appropriation, which is 6 percent of the average of the percentage of market value over the previous five years. The appropriation will be used for capital projects for transportation. Appropriations will not be made for federal match unless the total match does not exceed 10 percent of the amount available for appropriation. This provision was inserted to help insure that the funds would not be used for projects using the arduous federal construction processes. The goal is to fund projects using state guidelines, which are faster and less costly to construct.

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MS. ROONEY outlined the guidance for appropriations from the fund detailed in Section 4, including that 60 percent of the appropriations from the fund are designated for highway projects, 13 percent for aviation projects, 12 percent for the Alaska Marine Highway System (AMHS), as previously mentioned 8 percent can be appropriated for harbor facilities and state-owned marine facilities, 5 percent for transit, and 2 percent for projects related to roads and trails.

MS. ROONEY explained that a Transportation Infrastructure Fund Advisory Council (TIFAC) is established and consists of 8 members: the chairs of the House and Senate Transportation Committee; one legislator appointed by the House Transportation Committee; one legislator appointed by the Senate Transportation Committee, the Commissioner of DOT&PF, and three regional directors of the DOT&PF. Of the legislators appointed to the TIFAC, two legislators must represent a rural area, and two must represent an urban area. The DOT&PF will develop criteria and report its recommendations to the legislature by December 31 of each year listing transportation projects that should be funded by the ATIF.

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MS. ROONEY explained that Section 6 refunds 60 percent of the aviation fuel back to municipalities owning and operating an airport in proportion to the revenue collected at the airport.

All other proceeds collected on aviation fuel will be deposited to the ATIF. Section 7 would provide that all motor fuel tax receipts shall be paid into the ATIF. Section 8 would remove the exception in AS 43.40.010 (j) since it is repealed in Section 12 of the bill. Section 9 refers to motor fuel refund checks, which will be made from the ATIF instead of the highway fuel tax account. Section 10 amends the list of DOT&PF responsibilities, including that the department will promote and support methods or modes of local public transportation and transit, and develop criteria to determine eligibility of projects for use by the advisory committee. Section 11 removes a reference to a deleted statute, and Section 12 is a technical amendment to repeal the Watercraft Fuel Tax Account, the Special Highway Fuel Tax Account and the Non-Public Highway Use Account since those accounts would not be necessary as the fuel taxes will be deposited to the ATIF.

MS. ROONEY stated that Section 13 would establish the transition language for calculating the amount of the ATIF values. During the first five years since the DOR will not have a five-year average to use for its calculations, the transition calculation will be to use five percent of the POMV in the first year, as of July 1, 2011. Subsequently, the appropriation will be five percent of the average market value of the ATIF fund as of each year through June 30, 2015. The DOR will file a report on October 1 of each of the first five years to provide the funds available for appropriation. Section 14 would provide a contingency, that the change to Alaska's constitution must be approved by the voters before April 1, 2011 before this bill can take effect. Section 15 would direct the DOT&PF to initiate its work to develop the criteria for prioritization of proposed DOT&PF projects. Section 16 would direct the motor fuel taxes into the ATIP commencing April 1, 2011.

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REPRESENTATIVE PETERSEN referred to Section 5 and to revenues received after April 1, 2011. He asked whether July 1 would be a better date to use.

MS. ROONEY offered that the end of the first quarter date was selected to allow the DOR to work out any issues before the end of the fiscal year.

REPRESENTATIVE PETERSEN asked whether this would create any problems to budget three-fourths of a year of revenue since the DOR would likely need to make adjustments.

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REPRESENTATIVE PETERSEN, in response to Representative Johansen, provided the reference as page 2, line 22 of HB 329.

CHAIR P. WILSON related that she would research the matter with DOR.

REPRESENTATIVE JOHANSEN asked for the effective date of the bill.

CHAIR P. WILSON related that HB 329 is contingent upon HJR42 passing, and the ballot proposition requiring a vote of the people for passage so she was unsure of the effective date.

2:09:29 PM

REPRESENTATIVE GRUENBERG related that he has held a long standing interest in the legal aspects of a cruise ship head tax, which is currently under litigation. He related a line of cases of constitutional issues help define what the cruise ship head tax can be used to fund. He said the funds can be used for projects directly related to cruise ships. He suggested that funding can be spent on piers, or dredging harbors, but probably not for projects in Interior Alaska. He suggested that since this bill considers transportation funding, that the committee might also consider the head tax itself, including specific permissible uses of the taxes in HB 329 that could help bolster it against future challenges. He offered that it would not need to amend the constitution but could provide a dedicated fund that is allowable under federal law. This approach would not require a constitutional amendment, but could provide a perpetual source of constitutionally permissible projects in the coastal communities. He envisioned such a fund could also be used by future coastal communities for projects as the Northwest Passage opens up, noting that coastal communities would also include the Aleutians and Anchorage.

2:11:50 PM

REPRESENTATIVE JOHNSON offered that funds need to be used for tourist-related activities. He said, "I think we're way down a rabbit hole on that one."

REPRESENTATIVE GRUENBERG understood. However, he said he thought the proposed dedicated transportation fund could be

sequestered until that happens. By that time the state would have time to build up a real endowment, he surmised.

REPRESENTATIVE JOHNSON remarked that would assume that members support the imposition of a head tax in the first place.

[2:12:45 PM](#)

REPRESENTATIVE MUNOZ referred to page 4, lines 12 - 28, to the composition of the Transportation Infrastructure Advisory Council. She asked whether it would be better to use the current team of DOT&PF members to determine which projects to fund to avoid political decisions.

MR. RICHARDS related that the composition of the proposed board closely mirrors the DOT&PF's internal team. He also mentioned that the ATIFAC would develop the criteria and the projects would be ranked in a consistent and fair manner.

[2:14:33 PM](#)

MR. RICHARDS, in response to Representative Munoz, responded that legislators do not serve on the current DOT&PF criteria team, just DOT&PF employees. He listed the group, including regional directors.

CHAIR P. WILSON stated that legislators were added to assist the perception of neutrality and to shift away from the sense that the DOT&PF makes the decisions to one that is more evenly balanced.

[2:15:39 PM](#)

REPRESENTATIVE MUNOZ expressed concern to politicize in the decision-making process for projects.

[2:15:58 PM](#)

REPRESENTATIVE GRUENBERG asked for the reason that the ATIFAC does not include a public member or industry to bring the consumer perspective.

CHAIR P. WILSON agreed. She stated it is similar to the State Transportation Improvement Plan (STIP) process.

REPRESENTATIVE GRUENBERG asked for the department's position on the ATIFAC composition.

MR. RICHARDS related his initial reaction would be that the legislator represents the public. The criteria will be set and the scoring will determine which projects will be selected, and the projects will be approved by the legislature for appropriation. He related this ad hoc council could be large and unwieldy to obtain transparency. He mentioned that the current DOT&PF's structure is open and in fact, Chair Wilson attended the scoring process last spring. He remarked that the DOT&PF provides the technical expertise and the legislative branch can provide the public process.

[2:17:59 PM](#)

MR. RICHARDS, in response to Representative Gruenberg, stated that he was not certain if the DOT&PF's meetings are subject to the Open Meetings Act. However, the DOT&PF does public notice their processes. He deferred to the Department of Law for a more definitive answer.

[2:18:19 PM](#)

MR. KANE, in response to Representative Gruenberg, answered that he was not certain if the ATIFAC would be subject to the Open Meetings Act. He offered to research and report back to the committee.

CHAIR P. WILSON asked Mr. Kane to provide the committee with the results.

[2:19:11 PM](#)

REPRESENTATIVE JOHANSEN asked whether the current DOT&PF's Project Evaluation Board (PEB) process is in Open Meetings Act.

MR. RICHARDS deferred to the Department of Law.

REPRESENTATIVE JOHANSEN asked if Mr. Kane could also report on whether the current PEB process falls under the Open Meetings Act.

[2:19:58 PM](#)

REPRESENTATIVE JOHANSEN asked about the current PEB board and whether the AMHS has been part of the process.

MR. RICHARDS explained that the AMHS projects are funded primarily from the FHWA funds, which would fall under the purview of the DOT&PF Commissioner. The needs of the AMHS are met through planning and are driven by the U.S. Coast Guard regulations. Thus, the DOT&PF has statutory or regulatory requirements that it must meet.

[2:21:26 PM](#)

REPRESENTATIVE JOHANSEN referred to page 4, line 25 of HB 329, and asked whether urban and rural terms are defined.

MS. ROONEY answered that the terms are not specifically defined, but surmised the bill drafters used standard definitions.

[2:22:33 PM](#)

REPRESENTATIVE GRUENBERG asked for time to ask questions at the next meeting.

CHAIR P. WILSON agreed.

[2:23:11 PM](#)

REPRESENTATIVE T. WILSON asked for the scoring process that DOT&PF uses in determining projects.

CHAIR WILSON offered to provide the information.

[2:23:25 PM](#)

REPRESENTATIVE JOHANSEN referred to page 5, line 20, of HB 329, and explained his understanding that an endowment would be created and would be managed by the Department of Revenue (DOR). He asked whether the fund will be structured to allow enough liquidity to refund claims. He recalled that funds are often invested and not available for use.

MS. ROONEY related that the bill addresses that since the DOR must manage the fund with the knowledge it must pay out 6 percent of the percentage of market value (POMV). She explained that she has not held a specific conversation, but will do so.

[2:25:20 PM](#)

CHAIR WILSON stated that she would leave the public testimony open on HB 329 to allow for further public comments.

2:25:28 PM

REPRESENTATIVE GRUENBERG referred to page 2, lines 22 - 26, which read, "...from any state tax on fuel used for the propulsion of motor vehicles, aircraft, and watercraft..." would be deposited to the fund, as well as registration fees. He asked whether any taxes relating to transportation would be excluded by the previously mentioned phrases.

2:26:31 PM

CHAIR P. WILSON commented that the goal is to use state funds, although some funds may be used on federal projects. She stated that she did not want to deplete the general funds since the DOT&PF will still want to fund some projects outside of the dedicated transportation fund.

MR. RICHARDS, in response to Representative Gruenberg, stated that the DOT&PF would like to review the various funds and will work with the DOR to provide a response.

CHAIR P. WILSON projected that revenues for the vehicle registration fees would generate about \$40 million, and the Motor Fuel Tax would raise about \$40 million annually. Thus, the ATIF would receive \$80 million each year. She suggested taking a cautious approach since it is important not to supplant federal funding.

2:28:20 PM

REPRESENTATIVE GRUENBERG referred to page 1, line 8, of HB 329, and read, "on establishment of the fund." He asked whether this sum would be a lump sum from the general fund or if a ceiling of \$80 million per year would fund the dedicated transportation fund.

CHAIR P. WILSON related that \$1 billion in seed money will be included in an appropriation bill as the mechanism to fund the endowment.

REPRESENTATIVE GRUENBERG asked whether the seed money was in addition to the \$80 million from taxes.

CHAIR P. WILSON answered yes. In further response to Representative Gruenberg, she answered that a provision was not made for any repayment plan.

2:29:38 PM

JOHN MCKINNON, Executive Director, Associated General Contractors (AGC), said he spoke previously on encouraging the use of state funds for construction projects. He remarked that it does not get any better than this. This proposed ATIF is multi-modal and while he was unsure about the percentage of allocation in the bill, he understood the methods used. This bill will create jobs, but more importantly, will also create transportation improvements. He reviewed bond issues approved by voters between 1960 - 1982 and as many as four or five bond issues, with at least one each year related to transportation issues, and they all passed. During 1982 - 2002, the state had ample general funds and did not need bonds. In 2002, GARVEE bonds and road improvement bonds passed with good solid support of the voters. In 2008, \$315 million transportation bond issue passed with 63 percent of the vote, without any organized group advertising its passage. He said that Alaska loves transportation projects. This bill can do a lot for citizens to reduce congestion. He recalled an informal calculation done during his time with the DOT&PF that congestion caused a daily sum total of \$60 million per year.

2:33:16 PM

MR. MCKINNON further recalled the calculation was based on the cost of people and businesses waiting due to traffic congestion. The rate used was an hourly rate of \$100 per hour for a commercial truck, and \$15 per hour for citizens, but the sum total added up to \$60 million. This can go a long way to improve the safety improvements. He recalled during a six year period, from 1996 - 2002, the highway authorization bill that the federal government required the DOT&PF to spend a certain amount for non-highway transportation projects like trails. Thus, the DOT&PF was required to spend \$40 million over 6 years. The politics at the time resulted in over \$160 million on those projects. He stated that the \$120 million diverted to those non-highway projects could have been spent on safety improvements and lives could have been saved. He stated the proposed ATIF could be used for safety improvements, new routes and connectivity, which could result in some spin off. Some rural villages could be connected to share airports and reduce the necessity of having to build airports and clinics to serve small communities. The proposed fund could add ferries, similar the M/V Lituya which serves Metlakatla. This could help improve access to transportation and could lower transportation costs.

2:35:35 PM

LOIS EPSTEIN, Professional Engineer; Director, Alaska Transportation Priority Project (ATPP), stated that the ATPP works with conservation organizations, transit advocates, community and governmental leaders, neighborhood organizations, engineers, and the public to promote sensible transportation systems and policies in Alaska. She stated that ATPP believes it is a good idea to address the upcoming decline in federal transportation funds. However, some problems exist and it is limited in overall effect. This bill does not include money for maintenance and preservation, which is roughly \$500 million per year for highways and bridges, and \$100 million for preserving and operating ferries. She cautioned the state should not build projects it cannot maintain and this dedicated transportation fund approach does not address maintenance issues.

MS. EPSTEIN discussed the allocation between modes, including that 60 percent is designated to major roads and bridges, and only 5 percent for community roads and public transit. These allocations may not be the right allocations. She related that since HB 329 provides for an advisory council, that it does not need to bind the decision making process so tightly. She offered that she would not be opposed to a maximum amount to be spent on roads between 40 to 60 percent to ensure that other modes are appropriately funded. She related that she also serves on the Anchorage Metropolitan Area Transportation Solutions (AMATS) Advisory Committee, which uses ranges for funding. Today's approach does not address the high amounts on questionable projects like the road to Juneau or Nome road or Gravina Bridge. There is not enough money for these projects; but the state continues to fund studies on them at the level of millions of dollars each year, regardless of the overall cost. The FHWA and Federal Transit Administration recently sent a letter dated November 2009 to the DOT&PF, which read, "Alaska will be over-programmed in the long term and sufficient funds are not available from current recognizable sources to complete a number of large projects contemplated by the state's program." The projects she just identified cost between \$400 million to \$2.5 billion and would not be affected by HB 329 since the projects would require federal dollars. She urged the legislature and the Governor to show fiscal leadership and cancel one or more of the projects rather than spending millions of the state's transportation dollars each year pursuing them without any financial plan. None of those projects mentioned

have a financial plan in place. She suggested holding another hearing.

2:39:56 PM

CHAIR P. WILSON offered to contact her to obtain information on using ranges between modes. She expressed her willingness to work on establishing ranges rather than have specific percentages between modes. In response to Representative Gruenberg, she related that it may work out to hold a conference call.

2:40:51 PM

KATHIE WASSERMAN, Executive Director, Alaska Municipal League (AML), stated that she is very thankful to the sponsor for introducing the resolution and the bill. She stated that while she has not analyzed the specifics of the proposed dedicated transportation fund, she believed that conceptually the bill addresses the AML's questions on how the state will address decreasing federal funds. During the AML trips to Washington D.C., Alaska's Congressional delegation has often acknowledged the difficulties in obtaining federal highway funds. She explained that the AML prepared a report, the "Alaska Transportation Finance Study," which members have in their packets. She related that SAFETEA-LU has been extended month-by-month and is not any way to approach transportation funding planning. She attended a transportation discussion at the White House, and every time transportation was mentioned it was in conjunction with transit. She asked how this would affect Alaska, and the answer was that even small communities could benefit from mass transit. Thus, she surmised that the administration may not understand Alaska's transportation needs.

MS. WASSERMAN referred to a table that provides the per capita to transit, stating that Wyoming receives \$8.32 per capita for mass transit, while Alaska receives \$54.74 per person. Since Alaska receives so much and pays in so little, other states object. She stated that she serves on the National Association of Counties Transportation Committee, and other members complain that their potholes could be filled if Alaska did not receive so much money. Thus, AML supports the concept that Alaska must find ways to fill the funding gap due to reductions in federal transportation funding. She said the AML realizes that a billion dollars is a lot of money, but Alaska has many needs. Transportation is one of the basic tenets that government does and should provide.

2:45:51 PM

REPRESENTATIVE GRUENBERG asked what the committee can do to maximize the capture of federal funds for urban areas in Anchorage and Fairbanks.

MS. WASSERMAN said she did not know.

REPRESENTATIVE GRUENBERG acknowledged Ms. Wasserman's expertise and experience in Washington, D.C. and asked her consider how Alaska could obtain maximum federal dollars since Alaska is clearly eligible to receive, noting that it is also important to consider rural needs.

REPRESENTATIVE JOHNSON remarked that the purpose of HB 329 is to avoid using federal dollars. He thought it would be counterproductive to work to obtain federal dollars for mass transit in HB 329. This bill is intended to provide general fund dollars for transportation projects that can be completed much more quickly than using federal funding, he stated. He suggested that attempting to leverage federal funding in this bill would be ill advised.

CHAIR P. WILSON offered her goal is to maintain the current DOT&PF budget, including obtaining FHWA funding for projects, but to use the dedicated transportation fund to complete additional projects more quickly, to create jobs, and enhance access to Alaska's natural resources. It is not the intention of this bill to supplant transportation funding in the state. She recalled other states established specific funds for education, only to discover that their dedicated funds became the only source of funding for education. She maintained she did not want that to happen in Alaska, in terms of transportation funding.

2:48:40 PM

REPRESENTATIVE T. WILSON remarked that completing projects more timely will also save money in long run since the roads would not deteriorate as quickly.

MS. WASSERMAN agreed. However, she said she thought the DOT&PF and municipalities work as fast as possible to complete the permitting process, but money is the driving factor.

REPRESENTATIVE T. WILSON offered her belief that all communities in Alaska are affected by delays. She asked whether AML has obtained similar feedback from communities on problems. She stated that Alaska must collectively work to obtain and complete projects.

MS. WASSERMAN stated that the AML is comprised of members from every single community in Alaska. She suggested she is well aware of problems statewide, especially the importance of transportation to small communities.

[2:50:11 PM](#)

REPRESENTATIVE GRUENBERG conveyed that he also supports needs in rural areas. He acknowledged that members are also aware of transportation problems in his district in Mountain View. He stated that many of his constituents do not own cars, must push shopping carts on sidewalks, and cannot easily navigate Anchorage without buses. He expressed concern with language in HB 329. He referred to page 3, lines 10, which read: "...capital projects for transportation and related facilities." He noted that phrase also appears on page 3, lines 15 -16. He suggested that the phrase should be defined to include public transportation and facility maintenance, as well as general maintenance. He recalled the Governor stating that Alaska must maintain what it owns or the state will continually be replacing its infrastructure. He asked if Ms. Wasserman disagreed.

MS. WASSERMAN stated no, she did not disagree.

[HB 329 was held over.]

[2:53:40 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 2:53 p.m.