

ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE

February 15, 2011
1:06 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Lance Pruitt, Vice Chair
Representative Eric Feige
Representative Craig Johnson
Representative Cathy Engstrom Munoz
Representative Max Gruenberg
Representative Pete Petersen

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR SENATE JOINT RESOLUTION NO. 6(TRA)
Urging the United States Army and United States Air Force to extend the public comment period for the Joint Pacific Alaska Range Complex Modernization and Enhancement Environmental Impact Statement, which is set to end February 18, 2011, for a minimum of 30 days to allow for effective communication and full state and user involvement during the comment period.

- MOVED OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 4
Proposing amendments to the Constitution of the State of Alaska creating a transportation infrastructure fund.

- HEARD & HELD

HOUSE BILL NO. 30
"An Act relating to the transportation infrastructure fund, to local public transportation, to the municipal harbor facility grant fund, to motor fuel taxes, to the motor vehicle registration fee, to driver's license fees, to identification card fees, to the studded tire tax, and to the vehicle rental tax; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SJR 6

SHORT TITLE: JT. PACIFIC ALASKA RANGE COMPLEX CHANGES

SPONSOR(s): SENATOR(s) OLSON

02/04/11 (S) READ THE FIRST TIME - REFERRALS
02/04/11 (S) TRA
02/08/11 (S) TRA AT 2:30 PM BARNES 124
02/08/11 (S) Moved CSSJR 6(TRA) Out of Committee
02/08/11 (S) MINUTE(TRA)
02/09/11 (S) TRA RPT CS 3DP NEW TITLE
02/09/11 (S) DP: KOOKESH, THOMAS, HUGGINS
02/09/11 (S) TRANSMITTED TO (H)
02/09/11 (S) VERSION: CSSJR 6(TRA)
02/11/11 (H) READ THE FIRST TIME - REFERRALS
02/11/11 (H) TRA
02/15/11 (H) TRA AT 1:00 PM CAPITOL 17

BILL: HJR 4

SHORT TITLE: CONST. AM: TRANSPORTATION FUND

SPONSOR(s): REPRESENTATIVE(s) P.WILSON, THOMPSON

01/18/11 (H) PREFILE RELEASED 1/7/11
01/18/11 (H) READ THE FIRST TIME - REFERRALS
01/18/11 (H) TRA, JUD, FIN
02/15/11 (H) TRA AT 1:00 PM CAPITOL 17

BILL: HB 30

SHORT TITLE: DEDICATED TRANSPORT FUND/PUB TRANSPORT

SPONSOR(s): REPRESENTATIVE(s) P.WILSON, THOMPSON

01/18/11 (H) PREFILE RELEASED 1/7/11
01/18/11 (H) READ THE FIRST TIME - REFERRALS
01/18/11 (H) TRA, FIN
02/15/11 (H) TRA AT 1:00 PM CAPITOL 17

WITNESS REGISTER

DAVID SCOTT, Staff
Senator Donny Olson, Chair
Senate Transportation Committee
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SJR 6 on behalf of the Senate Transportation Committee, sponsor of SJR 6, chaired by Senator Olson.

MIKE MORGAN, Board Member
Alaska Air Carriers Association
Director of Operations; Warbelows Air Ventures
Fairbanks, Alaska

POSITION STATEMENT: Testified during the discussion of SJR 6.

REX GOOLSBY
Tok, Alaska

POSITION STATEMENT: Testified during the discussion of SJR 6.

REBECCA ROONEY, Staff
Representative Peggy Wilson
Juneau, Alaska

POSITION STATEMENT: Presented change to HJR 4, on behalf of the House Transportation Committee.

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

POSITION STATEMENT: Presented the sectional for HB 30 on behalf of one of the joint prime sponsors.

PAT KEMP, Deputy Commissioner
Department of Transportation & Public Facilities (DOT&PF)
Juneau, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 30.

WHITNEY BREWSTER, Director
Division of Motor Vehicles (DMV)
Department of Administration (DOA)
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions on HB 30.

JERRY BURNETT, Deputy Commissioner
Department of Revenue (DOR)
Juneau, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of HB 30.

ACTION NARRATIVE

[1:06:18 PM](#)

CHAIR PEGGY WILSON called the House Transportation Standing Committee meeting to order at 1:06 p.m. Representatives Wilson, Munoz, Feige, and Petersen were present at the call to order. Representatives Johnson, Pruitt, and Gruenberg arrived as the meeting was in progress.

SJR 6-JT. PACIFIC ALASKA RANGE COMPLEX CHANGES

[1:07:28 PM](#)

CHAIR P. WILSON announced that the first order of business would be SENATE JOINT RESOLUTION NO. 6, Urging the United States Army and United States Air Force to extend the public comment period for the Joint Pacific Alaska Range Complex Modernization and Enhancement Environmental Impact Statement that ends February 18, 2011, for a minimum of 90 days to allow for effective communication and full state and user involvement during the comment period.

[1:07:49 PM](#)

DAVID SCOTT, Staff, Senator Donny Olson, Chair, Senate Transportation Committee, Alaska State Legislature, on behalf of the Senate Transportation Committee, sponsor, chaired by Senator Olson, related that this resolution urges the U.S. Army and the U.S. Air Force (USAF) to extend the comment period for the Joint Pacific Alaska Range Complex (JPARC) modernization and enhancement environmental impact statement (EIS). He explained that JPARC reduces the standard flight "floor" of 5,000 to as low as 500 feet. Military training typically takes place above 5,000 feet but this training is for low flight training. The Air Carriers Association and the Alaska Aviation Advisory Board approached Senator Olson because of his long standing involvement in the aviation industry. Originally the resolution asked for a 90 day extension to the public comment period, but this resolution reduces that extension to 30 days. In response to Chair P. Wilson, he affirmed the two branches of service are the USAF and U.S. Army.

[1:10:44 PM](#)

CHAIR P. WILSON related her understanding the military needs additional air space, that Alaska's airspace is less occupied, plus the military is interested in low flying flights for training purposes.

MR. SCOTT related that the sponsor recognizes the military's needs, the training is vitally important, and the sponsor supports aviation. This resolution would allow citizens in the affected area to have an expanded comment period. The original comment period began on December 10, 2010 but the Air Carrier's Association representative indicated the first JPARC meeting was held on January 6, 2011, just prior to session.

[1:12:13 PM](#)

REPRESENTATIVE MUNOZ asked whether any alternate sites are under consideration.

MR. SCOTT answered several sites are under consideration, with most of the sites located south of Fairbanks and in the Matanuska-Susitna valley. He did not believe any training would occur in Southeast Alaska.

[1:12:50 PM](#)

REPRESENTATIVE GRUENBERG asked whether the military would be testifying.

MR. SCOTT indicated the military did not respond during the Senate Transportation hearings. He offered that he spoke with General Atkins and his subordinates, but they made a decision not to testify.

REPRESENTATIVE GRUENBERG asked if notified of this hearing.

MR. SCOTT answered no.

CHAIR P. WILSON related if the military is following the issue that staff would be aware of today's hearing.

[1:13:58 PM](#)

REPRESENTATIVE PETERSEN recalled hearing testimony on this issue in another hearing. He related his understanding that the military would like to be able to train some pilots to fly at lower level altitudes which is not feasible in the Lower 48 since the population density is much higher in the Lower 48. Thus, Alaska is considered a good location for the low altitude flight training due to its low density population.

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MIKE MORGAN, Board Member, Alaska Air Carriers Association, Director of Operations; Warbelows Air Ventures, stated that the main issue for the air carriers is a concern over access to several villages within the military operations area (MOA) and the effect of the proposed scoping changes on air transportation. Several significant safety issues have created conflicts with airline traffic. Therefore, the parties would like a 30-day extension to allow the Native community and others to comment on the planned scoping phase by the JPARC since the comment period ends on Friday, February 18, 2011. He stated that U.S. Senator Begich is meeting with the Alaska Air Carriers Association Board on this subject. He offered his belief it is possible to accommodate the military but that the parties simply need more time to discuss the issues. He attended the January 6, 2011 JPARC meeting at Eielson AFB, but he recalled the public was basically told, "This is the way it's going to be and comments are welcome but they're not going to change their mind." He reported he held conversations with the newly appointed Deputy Commissioner of Department of Transportation & Public Facilities (DOT&PF) and it seems that the air carriers and DOT&PF are "not on the same page." He stressed that the air carriers would like an additional 30 days in order to get the communities involved, including the hunters, and private pilots who fly in these areas. He expressed concern for their safety and economic impact as the pilots need to fly out of their way and use additional fuel to avoid the restricted area. He concluded by reiterating his belief that the military can be accommodated if the issue is discussed "with the right people in the room in the planning stages."

[1:17:43 PM](#)

REPRESENTATIVE FEIGE asked what kind of changes would be necessary on the north end of the Yukon MOA.

MR. MORGAN responded that three villages: Chalkyitsik, Circle, and Central have restricted access for air transportation when the MOAs are active. Currently, the air carriers can fly to anytime using visual flight rules (VFR) but during inclement weather instrument flight rules (IFR) rules are used and the carriers cannot obtain clearance through MOA. Technology now allows for global positioning system (GPS) approaches and GPS enroute for point-to-point flights. Several villages would have safer and more reliable transportation services if the MOA borders were rearranged 15 to 20 miles. He pointed out that once MOAs are in place they tend to stay in place forever so this is an ideal time to work with the military to accommodate

them and address the changing transportation infrastructure. He related his understanding that if the military needs to bring in pilots from the Lower 48, they will need additional training room. Currently, MOAs exist that encompass large areas of land suitable for low flights. He personally recalled that on one occasion about seven years ago an aircraft was in a flight pattern in Central when two jets came screaming in below the airliner at about 400 feet altitude.

MR. MORGAN said he would like to address incidents like this one, and still keep corridors for civil transportation open. He offered his belief that if he could discuss matters with the USAF planning staff "we could make this work." He reiterated that once rules are in place they seem to stay forever.

[1:20:16 PM](#)

REPRESENTATIVE FEIGE asked whether the three villages currently have GPS approaches.

MR. MORGAN answered that Chalkyitsik does have GPS approaches. He recalled that Chalkyitsik is located only two miles inside the MOA. He predicted that before long all villages with airports will have GPS approaches.

REPRESENTATIVE FEIGE wondered what altitude is necessary to raise the floor to allow for IFR traffic to pass below it.

MR. MORGAN answered in Chalkyitsik the ceiling could be lowered 3,000 to 4,000 feet, but that Circle and Central have mountains surrounding them so the minimum altitude would need to be about 8,000 to 9,000 feet. He also expressed concern for access to another village, the village of Eagle using IFR except by passing through the MOA. He proposed that an IFR corridor from 8,000 to 10,000 thousand feet be established, which would also solve Eagle's problem, he said.

[1:21:43 PM](#)

MR. MORGAN, in response to Chair Wilson, answered that one problem is airline schedules are posted in advance, but the military needs the flexibility to adjust its practice sessions and may not want to commit to certain times. He said he thought this point could be negotiated. He advised that this MOA plan is an entirely new proposal. He remarked he was unaware of any place in the country where an IFR corridor is approved for a

MOA. He also said that "we're kind of thinking outside of the box trying to solve both problems."

1:22:28 PM

REPRESENTATIVE GRUENBERG related that both testifiers have helped put the issue in perspective for him. He recalled the Council of State Governments (CSG) has considered a new law in Kansas to encourage the military to work with local government and to have a continuing open line of communication. He expressed concern that Alaska does not have something similar in place. He summarized his understand is that the military hasn't engaged in any real dialogue or expressed a willingness to do so. Additionally, the military has not participated in today's hearing. He suggested that the sponsor consider adding an additional whereas and an additional resolved clause to address the legislature's concern about a need for improved dialogue. He said he hopes that something could be done.

CHAIR P. WILSON pointed out the time limit for public comment will close on Friday so the committee will not have time to address this issue in this body and also obtain concurrence.

1:24:53 PM

REX GOOLSBY related that he works for the University of Alaska but is testifying today as a private pilot. He agreed that the extension is necessary to allow for more time to consider the MOAs. He also echoed earlier testimony that once the MOAs are in place little can be done to change or modify them. He wanted to round up other people interested in this issue to attend this hearing, but many of the people who also wanted to weigh in on this issue are out flying today. He stressed that this issue is very important. He recollected five or six instances of near misses in air traffic with the military training. He related a scenario in which last August during red flag exercises several incidents occurred with tourism flights. Although complaints were lodged in those instances nothing seemed to change. He offered his belief that the issues need to be aired and the matter needs extra time to allow for open discussions. He liked the suggestion of "opening the channel of dialogue" along with obtaining responses to concerns to resolve the matter.

1:27:33 PM

CHAIR P. WILSON, after first determining no one else wished to testify, closed public testimony on SJR 6.

REPRESENTATIVE GRUENBERG suggested a separate measure be considered to address ongoing communications with the military.

REPRESENTATIVE MUNOZ moved to report SJR 6 out of committee with individual recommendations and the attached zero fiscal notes. There being no objection, SJR 6 was reported from the House Transportation Standing Committee.

[1:29:13 PM](#)

The committee took an at-ease from 1:29 p.m. to 1:31 p.m.

HJR 4-CONST. AM: TRANSPORTATION FUND

[1:31:01 PM](#)

CHAIR P. WILSON announced that the next order of business would be HOUSE JOINT RESOLUTION NO. 4, Proposing amendments to the Constitution of the State of Alaska creating a transportation infrastructure fund.

[1:32:36 PM](#)

CHAIR P. WILSON provided the background for the new committee members on previous work the House Transportation Standing Committee conducted last year that provided members with the breadth and depth of problems related to funding transportation projects in Alaska. She explained that this work resulted in the concept of reinstating the dedicated transportation infrastructure. When Alaska became a state, the state constitution specifically stated that dedicated funds are prohibited. However, at the time three dedicated funds were grandfathered in, two of which were dedicated transportation funds: one for land and one for water, she said. She stated and the committee considered suggestions and introduced three bills.

[1:34:02 PM](#)

CHAIR P. WILSON reported that reinstating a dedicated transportation fund has been attempted four times since the original dedicated transportation fund was eliminated. Currently, the state is significantly behind on its road, facility and harbor maintenance while each year Alaska's oil production is also diminishing. Last year oil production was reduced by seven percent which means less oil revenue to the state. Alaska's revenue sources are not diversified with over

90 percent of its revenue derived from oil, she stated. She explained that the bills currently before the committee represent an effort to plan for Alaska's future.

[1:35:31 PM](#)

REPRESENTATIVE PRUITT moved to adopt the proposed committee substitute (CS) for HJR 4, labeled 27-LS0197\I, Kane, 2/11/11, as the working document. There being no objection, Version I was before the committee.

REPRESENTATIVE GRUENBERG objected for the purpose of discussion. He then removed his objection.

[1:36:31 PM](#)

REBECCA ROONEY, Staff, Representative Peggy Wilson, on behalf of the sponsor of HJR 4, the House Transportation Committee, presented the changes to the original resolution. She first explained that HJR 4 would place a constitutional amendment before the voters to change Alaska's Constitution to allow for a dedicated fund for capital transportation projects. The proposed committee substitute (CS), Version I, would change the revenue stream to reflect that the federal transportation grant requires any revenue realized from airport leases to be directed to the respective airport in which fees were collected. In FY 10, 87 percent of the state's transportation budget was derived from the federal government. The federal reauthorization has since expired and is current being extended month by month until a new reauthorization is passed by the Congress. She predicted the Federal Highway Trust Fund will be depleted by March 1. She anticipated the new federal transportation funding will emphasize mass transit and "green" transportation. These changes would not favor small population states and overall funding is also likely to be reduced. Alaska will need to shoulder more of its transportation infrastructure, she said.

[1:38:09 PM](#)

MS. ROONEY explained that the proposed CS for HJR 4 is designed to meet ever growing transportation needs in Alaska. Transportation investment could create a competitive environment designed to attract additional economic development. Last legislature and during the legislative interim, the House Transportation Standing Committee listened to the Department of Transportation & Public Facilities (DOT&PF), grass roots organizations, and transportation companies identify challenges

to transportation in our geographically diverse state. The committee flew to villages to view airports, and rode on Alaska's urban highways to view needs for safety, congestion, and deferred maintenance. The committee heard from the Alaska Municipal League (AML), and the Matanuska-Susitna Borough (MSB) also provided an independent study to help identify the fiscal challenges to transportation in Alaska. She offered to provide a copy of the MSB study to members. The National Conference of State Legislatures (NCSL) reported measures other states are taking to address transportation infrastructure budget gaps. She referred to a report in members' packets by Larry Persily, former legislative aide to House Finance Committee Co-Chair Representative Mike Hawker, who prepared an analysis of funding options for the committee's consideration.

[1:39:21 PM](#)

MS. ROONEY concluded that the proposed CS is a culmination of the committee's work and research on transportation funding. She explained that the initiative would allow the state to enjoy cost savings and reduced project time frames by using a state funded mechanism for funding. The proposed fund would move projects from inception to completion more quickly since use of the federal highway fund imposes highly prescriptive and lengthy procedures that must be adhered to for projects. She offered an example, noting state funds were used in building the Elmore Road Extension in Anchorage. Using state funds allowed the project to be completed in less than three years while it would have taken seven to ten years to complete the project using the federal process, she said. She cautioned members that the proposed resolution is not intended to diminish the partnership with the federal government but is designed to complement it. The proposed resolution would provide a dedicated revenue stream to allow for completion of more projects in a shorter time frame. Under the resolution, the Alaska Transportation Infrastructure Fund (ATIF) would grow as the investment returns compounded. The endowment would initially be seeded with \$1 billion dollars. In addition to the investment returns of the endowment, taxes, including the motor fuel tax, vehicle regulation fees, studded tire tax, and vehicle rental tax would be deposited into the proposed ATIF. She predicted that the ATIF would initially generate approximately \$103 million in the first year and thereafter would increase by \$3 million to 3.5 million annually. She referred to a spreadsheet in members' packets, which was developed by the Department of Revenue (DOR) to estimate the potential fund balance that would be available each year for transportation infrastructure. She stated

historians previously reported Alaska's constitutional drafters were concerned that dedicated funds could impair future legislatures from responding to evolving public needs. The public need for dependable and efficient transportation hasn't changed since Alaska's Constitution was drafted but the need has grown, she said.

[1:41:54 PM](#)

MS. ROONEY read an excerpt from a speech Governor Wally Hickel gave nearly 20 years ago, in reference to a dedicated transportation fund:

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 into their transportation system.

MS. ROONEY remarked that this excerpt could be presented today just as it was 20 years ago. She read:

Alaska needs to take action now. The future of the economic and social well being of Alaska's citizens is critically dependent on a reliable transportation system. This change to the constitution, allowing a dedicated transportation fund is needed to create and maintain a modern reliable transportation system for Alaska.

[1:43:06 PM](#)

REPRESENTATIVE GRUENBERG, in response to Representative Johnson, indicated that he previously removed his objection to adopting the proposed committee substitute.

REPRESENTATIVE GRUENBERG referred to the legal question of whether a dedicated fund could be reinstated once repealed. He recalled an attorney general's opinion addressed that issue by stating it could not be resurrected. He asked whether the attorney general's opinion could be made available.

CHAIR P. WILSON agreed to provide the attorney general's opinion.

[1:45:29 PM](#)

CHAIR P. WILSON, in response to Representative Johnson, noted a disagreement at the time the state increased the motor fuel tax to \$.08. She related her understanding the issue at the time the motor fuel tax was increased, that the discussion surrounded whether the dedicated fund could stay in place if the motor fuel tax was increased and subsequently the state deleted the fund.

[1:46:22 PM](#)

REPRESENTATIVE MUNOZ asked for the proposed annual state contribution that could be used for state DOT&PF projects.

MS. ROONEY answered that while she did not have a specific figure the state contributed 13 percent in FY 10.

[1:47:00 PM](#)

REPRESENTATIVE MUNOZ asked for the rationale for the "up to 50 percent" of the state taxes that would supply the revenue stream.

MS. ROONEY responded that the sponsor wanted to grow the fund and allow for expending funds immediately on projects. This mechanism also allows the state to inflation proof the fund.

REPRESENTATIVE MUNOZ said it would be helpful to know if 50 percent is sufficient to reach the state's goal.

CHAIR P. WILSON commented that the proposed resolution is not designed to replace current transportation funding, but rather to put in place transportation infrastructure to use for deferred maintenance and other projects. She reiterated the proposed ATIF is not meant to replace the state's transportation funding but to recognize that the state is not currently doing enough.

[HJR 4 was held over.]

HB 30-DEDICATED TRANSPORT FUND/PUB TRANSPORT

[1:48:04 PM](#)

CHAIR P. WILSON announced that the next order of business would be HOUSE BILL NO. 30, "An Act relating to the transportation infrastructure fund, to local public transportation, to the municipal harbor facility grant fund, to motor fuel taxes, to the motor vehicle registration fee, to driver's license fees, to identification card fees, to the studded tire tax, and to the vehicle rental tax; and providing for an effective date."

[1:48:36 PM](#)

REPRESENTATIVE PRUITT moved to adopt a proposed committee substitute (CS) for HB 30, labeled 27-LS0193\D, Kane, 2/15/11, as the working document. There being no objection, Version D was before the committee.

[1:49:54 PM](#)

REBECCA ROONEY, Staff, Representative Peggy Wilson, Alaska State Legislature, on behalf of one of the joint prime sponsor's of HB 30, explained that the proposed committee substitute (CS) would remove all references to airport and space leases. She explained that several dates still will need to be corrected, but those dates will be addressed in subsequent versions of the bill. She offered to provide a section-by-section analysis of the bill. Section 1 would provide fees from identification cards would be deposited into the proposed transportation fund. The bill would add a new section to identify fees that would be deposited to the proposed Alaska Transportation Infrastructure Fund (ATIF), including certain motor vehicle registration fees, and motor fuel taxes. Special registration fees, including fees for license plates would be deposited into the general fund. She noted that three percent of the funds destined for the proposed ATIF would also be deposited into the general fund to administer the Alaska Mandatory Insurance Act, which provides the same requirement as current statute.

[1:51:12 PM](#)

MS. ROONEY stated that proposed Section 3 would provide that vehicle registration fees for licenses and permits, commercial fees and tests, and all other fees including revocation of license fees shall be deposited into the proposed ATIF. Proposed Section 4 would make a conforming amendment by removing a reference to the watercraft fuel tax, which is deleted in this bill. It also removes the references to the Fisheries Business Tax in relation to the Municipal Harbor Facility Grant Fund (MHFGF). She explained since the marine fuel tax revenue is

used for the dedicated fund, this language is being deleted since a mechanism will remain to address the MHFGF. Proposed Section 5 of HB 30 would amend the list of program receipts so that only special registration fees will be accounted for separately and deposited into the general fund.

[1:52:22 PM](#)

MS. ROONEY stated that proposed Section 6 describes the sources of appropriations to the fund. Revenue from motor fuel taxes, vehicle registration, driver's license fees, studded tire taxes and other revenue designated by the legislature would be deposited to the proposed ATIF, as well as future funds such as toll road fees. The DOR would manage the fund as an endowment. This proposed section would require the DOR's commissioner to manage the account to yield a six percent real rate of return over time. It provides that appropriations to the proposed ATIF do not lapse. She pointed out that the first five years the return rate is set at five percent. The DOR is required to report to the legislature on the condition and investment performance of the fund. She related that 50 percent of the revenue will be deposited into the ATIF to improve the fund and allow the fund to grow at a modest rate. The appropriation would be available for capital projects and major maintenance for transportation and related facilities. The legislature would also have flexibility to change the statute, and not be required to ask for voter approval to change the constitution, for catastrophic events in which the legislature needs to use the proposed ATIF for operations. She explained that appropriations cannot be used for federal matching funds unless the total matching funds do not exceed 20 percent for that year. She commented that this provision was added to avoid supplanting the funds already used for federal matching funds.

[1:54:58 PM](#)

MS. ROONEY explained that proposed Section 6 also would outline the maximum percentage of the proposed ATIF that can be appropriated to certain categories of projects, including up to 80 percent could be directed to roads and surface transportation, 25 percent could be used for aviation, and 25 percent could be used for the Alaska Marine Highway System (AMHS). She elaborated that the total adds up to more than 100 percent, but would also provide built-in flexibility for the legislature to fluctuate the amount appropriated for each category.

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REPRESENTATIVE PRUITT asked for an explanation on how the percentages were derived.

MS. ROONEY explained the original percentages added up to 100 percent, which were taken from the DOT&PF's long range transportation plan. Those percentages were "bumped up" and represent a "ball park" figure.

[1:56:35 PM](#)

MS. ROONEY continued. She explained that proposed AS 37.40.870 establishes June 30 of each year as the date the DOR will use to determine the market value of fund. The commissioner will report to the legislature 10 days after the start of the regular legislative session. This section would also create the ATIF Advisory Council to make recommendations to the legislature for projects to fund. She explained that the ATIF's Advisory Council was expanded to 24 members to allow stakeholders a voice. She detailed the ATIF's advisory council members. The advisory council will use criteria developed by the DOT&PF to make recommendations to the governor and the legislature not later than October 15 of each year on which capital projects for transportation and related facilities should be funded from the fund, she said. Proposed Section 6 also provides definitions, including "fund" to mean the ATIF's fund as it would be set out in the state's constitution.

[1:59:32 PM](#)

MS. ROONEY stated that proposed Section 7 outlines which proceeds from taxes on aviation fuel will be deposited and aviation taxes to be returned to municipalities that own or operate an airport.

MS. ROONEY explained that proposed Section 8 requires all revenue from the motor fuel tax to be deposited into ATIP and all refunds to be paid from the ATIP.

MS. ROONEY related that proposed Section 9 makes a conforming amendment due to the repeal of AS 43.40.010(j) since this subsection is repealed in proposed Section 12 of HB 30.

[2:00:14 PM](#)

MS. ROONEY stated that proposed Section 10 allows refund warrants to be made from the proposed ATIF instead of the highway fuel tax account. Proposed Section 11 provides for 50 percent of vehicle rental taxes to be deposited into the proposed ATIF. This tax was designed not only to help maintain roads but for tourism. This would leave the remaining 50 percent in the general fund for tourism purposes.

MS. ROONEY explained that proposed Section 12 provides the mechanism for studded tire taxes to be deposited into the ATIF. Proposed Section 13 would amend the list of responsibilities for DOT&PF by adding the requirement for promotion and support of local public transportation, and to develop criteria for the ATIF's advisory council. Proposed Section 14 HB 30 also makes a conforming amendment to remove AS 43.40.010 from the list of notices of state agency requests for proposals (RFPs). Proposed Section 15 would repeal the no longer needed general fund reference for the watercraft fuel tax account, the special highway fuel tax account, and the non-public highway use account.

[2:01:24 PM](#)

MS. ROONEY explained that proposed Section 16 describes the transition during the first five years, referring to her earlier comment on the use of the 5 percent instead of six percent return. Proposed Section 17 would stagger the terms of the proposed ATIF advisory council. Proposed Section 19 would provide a contingency requirement that the amendment to the state's constitution must be passed by voters before HB 30 will become effective. Proposed Section 20 would provide an immediate effective date for the DOT&PF's responsibility for promotion and indicates that the support of local public transportation will apply even if the initiative does not pass. In response to Representative Munoz, she reiterated that DOT&PF's responsibility to promote and support local public transportation will apply even if the initiative does not pass.

MS. ROONEY stated proposed Section 21 would direct that the fuel taxes and vehicle registration revenue will be deposited into ATIP once the election is certified. She elaborated the bill drafter brought this to the sponsor's attention since the constitutional amendment will take effect once the election is certified that the language in HB 30 must also conform.

[2:03:20 PM](#)

REPRESENTATIVE FEIGE referred to proposed Section 7 of HB 30. He stated that 60 percent of the proceeds of the revenue from taxes on aviation fuel would be returned to the respective municipality that owns the airport. He related his understanding that currently proceeds are deposited into the general fund. He asked if this bill would guarantee a minimum level of funding for those municipalities who own airports.

MS. ROONEY answered that the provision to return 60 percent of the proceeds of the revenue from taxes on aviation fuel is also in current statute.

[2:04:05 PM](#)

REPRESENTATIVE MUNOZ asked whether HB 30 limits the proposed ATIF for state-funded projects only.

MS. ROONEY responded the specific language states that not more than 20 percent of the proposed ATIF could be used for federal matching funds, which implies the projects would be state-funded projects.

[2:04:50 PM](#)

REPRESENTATIVE MUNOZ said she was under the impression that one of the benefits of the fund was to fund state-funded projects as a means to reduce red tape.

CHAIR P. WILSON explained that this language would help to address uncertainty since it is not possible to predict the future. At times, the state would appropriate matching funds and receive quite a bit more in federal funds. She clarified that she did not want to prohibit this practice so she limited federal funds to 20 percent in the bill.

MS. ROONEY clarified that the amount could also be zero as the language reads: "...and the amount of all appropriations from the fund to match federal money does not exceed 20 percent of the total amount available for appropriation from the fund."

CHAIR P. WILSON added that the proposed ATIF's advisory committee would work to stretch funds so unless it was absolutely necessary the committee would not otherwise do so.

[2:06:30 PM](#)

PAT KEMP, Deputy Commissioner, Department of Transportation & Public Facilities (DOT&PF), referred to page 4 of the original version of HB 30, which read, "An appropriation from the fund may not be made to a project for which federal money has been allocated..." He suggested this language may be a little too restrictive. He apologized to the committee for not having a copy of the committee substitute before him.

[2:08:24 PM](#)

CHAIR P. WILSON said that the issue may have been brought up and addressed.

MR. KEMP said he thought his comment may be moot.

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WHITNEY BREWSTER, Director, Division of Motor Vehicles (DMV), Department of Administration (DOA), stated that the DMV has not taken a position on the bill. She explained that the DMV has submitted a fiscal note which identifies a concern. She explained that if the ATIF was currently in effect, the DMV would have deposited all of its \$45 million in registration fees into the fund. She highlighted that these funds would have been deposited in FY 10 to the ATIF if it were in place.

CHAIR P. WILSON asked if the \$45 million is everything the DMV collects.

MS. BREWSTER answered no. She explained that the DMV also collects fees for titles and specialty license plates. The DMV would still use those funds to operate. She further explained that the DMV is funded via program receipts, meaning that it operates from the revenue it collects. The remaining fees that would be available to the DMV under HB 30 would not be sufficient enough to cover its operating or capital budget, she said.

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MS. BREWSTER explained that the DMV's revenue is deposited to the general fund but the DMV's current FY 12 operating budget request is for approximately \$15,473,700, or about \$15.5 million. The way the process is structured via program receipts is that the DMV operates from revenue it generates. She offered that for the DMV to continue to operate the structure would need to be changed to allow the DMV to be entirely funded from the

general fund. In further response to Chair P. Wilson, Ms. Brewster explained that the DMV spends a lot less than the revenue it generates. The DMV generated approximately \$54 million in FY 10 without the motor vehicle registration tax that is directed to local government. The DMV uses the regular appropriation process to obtain its funding, she said.

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MS. BREWSTER, in response to Chair Wilson, agreed that instead of being funded from its receipts, which would be directed to the ATIF under HB 30, the DMV would need to supplant those fees with something else. She referred to the roughly, \$6.467 million reflected in the fiscal note. Since the budget request is approximately \$15.5 million, the DMV would need an additional \$6.5 million in order to operate. In further response to Chair P. Wilson, Ms. Brewster answered that the DMV would be funded by the general fund if it is the will of the legislature for it to do so.

CHAIR P. WILSON asked if that is the current process.

MS. BREWSTER answered the DMV would use a slightly different process since the DMV is funded from program receipts and not directly from the general fund.

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CHAIR P. WILSON referred to the accompanying resolution, HJR 4, which allows the legislature to fund "...up to six percent of the average market value of the fund over the previous five fiscal years for transportation and related facilities that are designated by law, for costs related to motor vehicle licensing and registration that are designated by law, and for the costs to administer the fund as designated by law." She asked whether that would be sufficient for the DMV operations.

MS. BREWSTER answered that language might be sufficient funding for the DMV. In further response to Chair P. Wilson, she agreed to review the specific language and report back to the committee.

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MR. KEMP referred to page 3, lines 24-26, to Version D of HB 30. He expressed concern with the language which read: "An appropriation from the fund may not be made to a project for

which federal money has been allocated..." He explained that this language may be too restrictive and reviewed the federal funding process for roads. He further explained that federal projects are funded through a series of notices to proceed (NTP). He related that in a typical project the department obtains NTP approval through the environmental process, followed by NTP approval through the design phase, then NTP approval for the right-of-way acquisition, and finally NTP approval to construct the project. The project is considered "federalized" the minute the DOT&PF begins design work, he said. Thus, the DOT&PF would not be able to use the proposed ATIF funds, based on the current language in the bill, due to the federal allocation process, he said.

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CHAIR P. WILSON referred to environmental impact statement (EIS) and asked whether the DOT&PF would generally use federal funds for the EIS.

MR. KEMP answered yes and explained that the DOT&PF uses federal funds for highways, but not for aviation and harbors. In further response to Chair P. Wilson, Mr. Kemp answered that the DOT&PF currently has over 50 projects waiting for construction funding.

CHAIR P. WILSON offered to review the language. She asked for further clarification that the DOT&PF cannot use the proposed ATIF on projects in which federal funds were allocated.

MR. KEMP agreed that the DOT&PF cannot use the proposed ATIF, under the current restrictive language in HB 30 since some federal allocations have already been made.

CHAIR P. WILSON asked whether the federal government would prohibit the state from using state funds on the projects.

MR. KEMP answered that the state could finish the project with state funds.

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MR. KEMP offered some examples to illustrate his point. He related an instance in which an important project is included in the Surface Transportation Improvement Project (STIP). When the STIP is fiscally constrained the project could slip a few years, which might happen if the project experiences an overrun or a

claim is made. If that happened another project from the STIP would be substituted, but under HB 30 the DOT&PF could not fund the substitute project for construction due to the restrictive language in the bill. In further response to Chair P. Wilson, Mr. Kemp suggested if projects were reevaluated under another project evaluation board process that a project may fall in one fiscal year. A subsequent project could come in with a higher priority, such as the Knik-Goose Bay Road, which would displace the earlier project to the outer years. Under the restriction in HB 30, the DOT&PF would not be able to fund the displaced project until federal FY 14, he said. The proposed ATIP fund could not be used to fund the displaced project since the project had already been "federalized" by the federal allocation process. He reiterated that the DOT&PF would like more flexibility to access the proposed ATIF for its projects.

CHAIR P. WILSON recalled the DOT&PF's funding process for highway projects. She related her understanding that by starting the project with federal funds meant the DOT&PF would have to continue with federal funds.

MR. KEMP referred to the restrictive language. He read: "An appropriation from the fund may not be made to a project for which federal money has been allocated..." He reiterated that the federal money would already have been allocated through the design phase. He offered a scenario in which the design phase for a project had been completed, the right-of-way properties had been purchased, and a project was awaiting construction. In that scenario, federal funds would have been allocated to the project. With the current restrictive language in HB 30, the DOT&PF would not be able to use the proposed ATIF funds for the construction phase of this project.

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CHAIR P. WILSON referred to additional language on page 3, lines 26, of Version D of HB 30 that added an exception. She read, "...unless the appropriation is for matching money for the project and the amount of all appropriations from the fund to match federal money does not exceed 20 percent of the amount available for appropriation from the fund."

MR. KEMP responded that the exception she read pertains and is limited to matching funds. He related the DOT&PF already has a matching "pot" for federal matching funds.

CHAIR P. WILSON offered to work on the language.

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MR. KEMP provided another scenario in which early right-of-way acquisition is deemed necessary for a complex project that is underway and a house came up for sale. The DOT&PF would not be able to purchase the house under the federal process unless the DOT&PF had already received a NTP to appraise and acquire property. This would be a good use for the proposed ATIF, he stated.

REPRESENTATIVE MUNOZ asked whether the DOT&PF could purchase the house using the proposed ATIF even if federal funds had been spent on the project.

MR. KEMP answered yes. The federal process is done through a series of notices to proceed (NTP) and the DOT&PF cannot purchase right-of-way until the final design is complete, and the final design cannot proceed until the EIS is complete, he said.

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REBECCA ROONEY related her understanding that one of the designs of the proposed ATIF is to allow for state only developed projects. She recalled that once a project is federalized the DOT&PF must follow the federal rules.

MR. KEMP agreed. He stressed that the examples he gave were ones in which the DOT&PF would have already followed the federal process. Once the design, EIS, ROW processes are completed, these projects are ready for construction and essentially are "sitting on the shelf" awaiting funding. The Federal Highway Administration (FHWA) doesn't have an issue with states funding the construction phase of their projects with state funds for projects developed under the federal process.

MS. ROONEY confirmed the sponsor's goal for the proposed ATIF is to provide a means to provide transportation infrastructure to Alaskans without constraints imposed by the federal process.

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MS. ROONEY pointed out the previous draft of HB 30 limited the fund to capital projects and deferred maintenance. The ideal situation would be for the federal funding stream to continue and for the proposed ATIF to provide additional funds. She

predicted if that were to happen the state could actually achieve overall improvement in its transportation infrastructure.

MR. KEMP offered his belief that will happen with this bill, but he suggested the language is a little restrictive. He highlighted that some features within a project may not be eligible for federal funding, including an instance in which a highway contains a driveway structure which consists of a pad built on pilings and beams. The federal funds could not be used and the state would need to fund replacement. So the proposed ATIF would be a good source of funds to do so. He related another scenario in Valdez, in which a park road was paved with federal funds. However, the pullouts were not eligible for federal funds so the state funded the pullouts, he said. He asked the committee to consider building in more flexibility to allow the DOT&PF to better use its Capital Improvement Program (CIP).

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CHAIR P. WILSON related her understanding that Version D of HB 30 would not allow more than "80 percent of the appropriations from the fund may be used for projects related to roads and surface transportation" in proposed AS 37.14.860. She read an excerpt from proposed AS 37.14.860 (b): "...unless the appropriation is for matching money for the project and the amount of all appropriations from the fund to match federal money does not exceed 20 percent of the amount available for appropriation from the fund." She asked whether "matching" should be changed.

MR. KEMP offered one approach would be to set aside a percentage of the proposed ATIF fund to perform these types of projects. He anticipated that during the first few years of the proposed ATIF, a large number of federal projects would be available for construction. This bill could provide a means to access state funds on projects developed under the federal process, he said. He then acknowledged that the proposed ATIF Advisory Board would first need to develop the project list.

CHAIR P. WILSON, in response to Mr. Kemp, related the committee could consider the DOT&PF's request for more flexibility.

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REPRESENTATIVE JOHNSON asked whether any federal allocation was used in the Elmore Road Extension in Anchorage.

MR. KEMP said he thought so. He elaborated by saying that most of the recent state-funded projects have been developed using federal funds.

REPRESENTATIVE JOHNSON asked whether the DOT&PF could have used the proposed ATIF on the project.

MR. KEMP agreed it could have given his interpretation of the language in proposed AS 37.14.860 (b), which read, "...An appropriation from the fund may not be made to a project for which federal money has been allocated..." Not only has the money been allocated to a certain project but it's been spent, he said.

REPRESENTATIVE JOHNSON related his understanding of the argument, but he also indicated he also did not want to provide too much flexibility. He expressed interest in finding the balance.

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REPRESENTATIVE PRUITT asked whether federal funds could be used up to a certain stage of a project.

MR. KEMP responded that each project would be a little different. He stated that the DOT&PF would work to figure out how to accommodate the majority of projects.

CHAIR P. WILSON acknowledged that staging would move the project further along.

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REPRESENTATIVE MUNOZ related her understanding from the examples given that if federal funds were spent on a project the DOT&PF might find an opportunity to expedite a project by using the ATIP. She agreed it could be helpful to reduce the barriers and provide flexibility since the goal is to finish projects. She offered her belief that HB 30 could help accomplish the goal.

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CHAIR P. WILSON related a scenario in which federal funds were used on a project. She asked whether the DOT&PF must continue

to follow the more cumbersome federal process. She related that the state doesn't want to sacrifice any quality but would like to avoid any unnecessary steps, just as the DOT&PF did in the Dowling Extension project. She asked whether the state could expedite projects that were initially started with federal funds. She emphasized her goal, which is to construct projects faster for less cost with the same quality.

MR. KEMP answered absolutely. He related if a project was built using the proposed ATIF that it would be considerably faster to get a project finished. He said if the project was partially funded with federal funding, that it would depend on stage of the process as to whether the proposed ATIF could be used. Theoretically, if state funds became available during the time the DOT&PF had an NTP authorization through the design process, the state could start commence the right-of-way process immediately, instead of waiting for the design process completion date. It could potentially shave months or a year from a typical project, he said.

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CHAIR P. WILSON asked for a list of the various stages of the projects that would be ATIP eligible and indicate at which point the federal requirement would need to be followed.

MR. KEMP agreed to do so.

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JERRY BURNETT, Deputy Commissioner, Department of Revenue (DOR), explained the Department of Revenue (DOR's staff prepared a spread sheet that shows a straight line six percent return payout which would be deposited into the proposed ATIF. The DOR referred to the fiscal note. He said he thought a six percent payout seemed a bit aggressive and could result in a volatility that potentially might lose money in the fund for one out of four or five years depending on the timing. He suggested equity or some other types of investment have a more volatile payment stream than fixed income. Instead, he recommended the committee consider a payout in the 4.5 to 5 percent range to preserve the value of the fund and not risk "a serious blowup" in an early year. He pointed out that the DOR has experienced this over the past several years. Otherwise, the model works well and the percent of market value payout is the proper method payout, he stated. He also said it is just matter of growing the fund and the lower payout in first few years would help, but he was

unsure of the crossover point. He thought the expected returns may do better at a slightly lower payout. He suggested the committee may wish to consider that aspect and offered to provide a model using the lower rates if the committee would like him to do so.

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MR. BURNETT, in response to Chair Wilson, responded that the latest capital market assumptions indicate a real rate of return at five percent as pretty aggressive. He said in reviewing equities from 2000-2010, that "it wasn't pretty" since the return was not a good return. He suggested that somewhere between 4.5 to 5 percent rate is recommended. He recalled that the retirement board changed actuarial from 8.25 to 8 percent. He also suggested that the committee may wish to consider the rate periodically.

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MR. BURNETT explained the fiscal note is based on allocation of expenditures between funds and in particular, to this fund. He stated that the DOR manages about \$38 billion in the DOR's Treasury Division, including retirement funds, the general fund, and trust funds. The DOR must allocate cost. Depending on the source of the funds, it may not represent an incremental cost but may be a new allocation to this fund, he said. He anticipated that some cost would likely be incremental since it would require some outside management.

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CHAIR P. WILSON recalled hearing that the state may consolidate its funds under the same department.

MR. BURNETT stated that the Alaska Permanent Fund has its own board as does the retirement fund, but the rest of the funds are managed under the fiduciary responsibility of the DOR's commissioner. He remarked that the DOR manages everything except for the permanent fund. In response to Chair Wilson, he agreed to provide a spreadsheet using a percent of market value using 4.5 percent, 4.75 percent and 5 percent rates.

CHAIR P. WILSON recalled Sitka has a permanent fund using a percent of market value at 6 percent.

MR. BURNETT remarked that if the proposed ATIF had been started in 2008 it would look "pretty bad." If the fund was initiated in April 2009 it would look "really good." He was unsure of what the condition would look like today.

[HB 30 was held over.]

[2:44:54 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 2:44 p.m.