

**ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON ARCTIC POLICY,
ECONOMIC DEVELOPMENT, AND TOURISM**

March 6, 2018

11:31 a.m.

MEMBERS PRESENT

Representative John Lincoln, Chair
Representative Bryce Edgmon
Representative Andy Josephson
Representative Chris Tuck
Representative Mark Neuman

MEMBERS ABSENT

Representative Gary Knopp
Representative David Talerico

COMMITTEE CALENDAR

HOUSE BILL NO. 383

"An Act establishing the Travel Alaska Board; relating to a tourism marketing assessment; and establishing a tourism marketing fund."

- HEARD & HELD

HOUSE JOINT RESOLUTION NO. 33

Urging the Alaska delegation in Congress to pursue the establishment of an Arctic naval station; supporting the increase in defensive capabilities in the Arctic region; and encouraging the development of critical Arctic infrastructure.

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 383

SHORT TITLE: TOURISM MARKETING:BOARD;ASSESSMENT;FUND

SPONSOR(S): REPRESENTATIVE(S) GRENN

02/21/18	(H)	READ THE FIRST TIME - REFERRALS
02/21/18	(H)	AET, FIN
02/27/18	(H)	AET AT 11:30 AM BARNES 124
02/27/18	(H)	Heard & Held
02/27/18	(H)	MINUTE(AET)

03/06/18

(H)

AET AT 11:30 AM BARNES 124

WITNESS REGISTER

BROOK IVY, Staff
Representative Jason Grenn
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Jason Grenn, sponsor of HB 383, answered questions.

JILL MCLEOD, Attorney
Anchorage, Alaska

POSITION STATEMENT: Representing Alyeska Resort Management Company, testified in opposition during the hearing of HB 383.

STEPHEN MAHAY, Spokesperson
Mahay's Jet Boat Adventures
Talkeetna, Alaska

POSITION STATEMENT: Testified in support during the hearing of HB 383.

BRETT CARLSON
Coldfoot, Alaska

POSITION STATEMENT: Testified during the hearing of HB 383.

KIRK HOESSLE, President
Alaska Wildland Adventures
Girdwood, Alaska

POSITION STATEMENT: Testified in support during the hearing of HB 383.

DAVID STORY, Employee
Alaska Wildland Adventures
Cooper Landing, Alaska

POSITION STATEMENT: Testified in support during the hearing of HB 383.

KELLY BENDER, Co-owner
Lazy Otter Charters
Whittier, Alaska

POSITION STATEMENT: Testified in support during the hearing of HB 383.

KAREN HARRIS, Owner
Alaska Garden Gate B&B and Cottages
Palmer, Alaska

POSITION STATEMENT: Testified in support during the hearing of HB 383.

DEBORAH HANSON, Spokesperson
Pike's Waterfront Lodge
Fairbanks, Alaska

POSITION STATEMENT: Testified in support during the hearing of HB 383.

JOHN LAMBETH, Industry Consultant
Alaska Travel Industry Association
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing of HB 383.

MARK WEAKLAND, General Manager
Hotel Alyeska;
Spokesperson, Alyeska Resort
Girdwood, Alaska

POSITION STATEMENT: Testified in opposition during the hearing of HB 383.

DONALD BULLOCK
Juneau, Alaska

POSITION STATEMENT: Testified in opposition during the hearing of HB 383.

ACTION NARRATIVE

[11:315 AM](#)

CHAIR JOHN LINCOLN called the House Special Committee on Arctic Policy, Economic Development, and Tourism meeting to order at 11:31 a.m. Representatives Josephson, Tuck, Edgmon, and Lincoln were present at the call to order. Representative Neuman arrived as the meeting was in progress.

HB 383 - TOURISM MARKETING: BOARD; ASSESSMENT; FUND

[11:33:05 AM](#)

CHAIR LINCOLN announced that the first order of business would be HOUSE BILL No. 383, "An Act establishing the Travel Alaska Board; relating to a tourism marketing assessment; and establishing a tourism marketing fund."

[11:33:59 AM](#)

BROOK IVY, Staff, Representative Jason Grenn, Alaska State Legislature, speaking on behalf of Representative Grenn, sponsor of HB 383, said she would address questions on the bill that were raised during the previous hearing [on 2/27/18]. In response to Representative Neuman's inquiry as to where vehicle rental tax (VRT), [collected by the Tax Division, Department of Revenue] funds are expended, Ms. Ivy said the Department of Transportation & Public Facilities (DOTPF) reported - in fiscal year 2018 (FY 18) - the department received approximately \$5,497,300 in VRT receipts, which were used for direct highway and airport runway maintenance activities, including labor, equipment, and materials. She directed attention to fiscal note [Identifier: HB383-DNR-PKS-02-27-18], provided in the committee packet, which indicated the Division of Parks and Outdoor Recreation, Department of Natural Resources (DNR) received [\$300,021,000] in FY 18 which was used for personal services or personnel. To the question of whether VRT funds were used to bond parking garages, she related that the Legislative Finance Division, Legislative Agencies and Offices, advised not to its knowledge, and clarified that debt service for the Linny Pacillo Parking Garage in Anchorage came from unrestricted general funds (UGF).

[11:36:18 AM](#)

MS. IVY, in response to a question raised by Chair Lincoln as to whether Alaska residents could be exempted from the assessment, stated that Legislative Legal Services, Legislative Affairs Agency, advised exempting Alaska residents is prevented by the privileges and immunities clause within the Fourteenth Amendment to the U.S. Constitution, which prevents states and local governments from discriminating against citizens of other states. In order to overcome the aforementioned provision, the bill must not burden a fundamental privilege protected by the clause, or if so, there must be a substantial reason for discriminating against non-residents, and she concluded an Alaska-preference option would violate the Constitution. Ms. Ivy continued by pointing out VRT revenue is collected mostly from visitor activities, which in other states is used to support statewide tourism marketing programs. In fact, the statute in Alaska related to VRT directs that receipts are to be used for tourism development and marketing; therefore, the legislature has the purview to appropriate VRT revenue to its original purpose. Reinvestment of VRT into tourism marketing is important to ensure the new plan for statewide destination marketing is successful. She noted the tourism industry contributes over \$100 million in various taxes and fees to the

state's general fund (GF), thus an appropriation of \$9 million to \$10 million in VRT to tourism marketing funds represents a 10 percent reinvestment to maintain Alaska's healthy visitor industry. Turning to the question of why the tourism industry can't achieve the goal of HB 383 "on their own," she said HB 383 would only involve state government as an official collecting agent of any potential assessment based on a tourism improvement district (TID) model. The TID structure is a voluntary assessment that intends to level the playing field, create transparency and reliability, and allow for businesses' confidentiality.

[11:40:19 AM](#)

MS. IVY pointed out that in a manner like the Alaska Seafood Marketing Institute (ASMI) legislation, HB 383 provides for an assessment, government oversight through a governor-appointed [board of directors], and regulations issued by the Department of Revenue (DOR). Further, HB 383 is not a tax bill, and the industry is lobbying to manage the tax process. She returned attention to additional information provided in the committee packet which indicated the tourism industry has felt the impacts of decreases in funding for Alaska's tourism marketing program. In fact, although the cruise [ship] industry continues to grow, growth in that industry does not benefit most tour operators in the state; however, statewide destination funding benefits smaller businesses. Ms. Ivy concluded that tourism is part of an [economic] solution, and she reviewed tourism's net positive return on investment (ROI) figures. She reminded the committee that HB 383 was proposed in response to FY 17 operating budget legislative intent language that tasked the tourism industry with developing a sustainable plan for funding. She inquired as to where a source of funding for a marketing plan would be found if not by collecting from visitors. Ms. Ivy acknowledged the bill is complicated legislation with issues to address such as the structure of the transition board and other issues that may be addressed by forthcoming amendments.

[11:44:45 AM](#)

REPRESENTATIVE NEUMAN pointed out that the legislature seeks a sustainable plan to fund state support for the tourism industry. Upon speaking with members of the tourism industry, he expressed his belief HB 383 would not pass as written because it diverts general funds currently needed by the Division of State Parks and Outdoor Recreation, DNR, and the Alaska Marine Highway System, DOTPF. Representative Neuman suggested modeling a

funding mechanism after the North American Model of Wildlife Conservation, which established a nationwide 10 percent excise tax on sporting goods that is distributed to states for wildlife management. With a target goal of \$10 million per year, a tax could be based on the estimated number of visitors each year; however, he cautioned that an excise tax may be perceived as a duplication of taxes on cruise ship visitors. The North American Model of Wildlife Conservation has proven to be successful in managing wildlife for 79 years and assesses only those who use related management services. He restated he would not support legislation that would take money away from other agencies for a program that is not mandated by the Alaska State Constitution.

[11:49:30 AM](#)

REPRESENTATIVE JOSEPHSON asked Ms. Ivy to cite the statute directing that [VRT] revenue is to be appropriated for tourism and marketing.

MS. IVY said AS 43.52.080(c) reads:

(c) The legislature may appropriate the actual balance of the vehicle rental tax account for tourism development and marketing. This section is not intended to create a dedicated fund.

REPRESENTATIVE JOSEPHSON questioned whether [VRT] funds have been rerouted to other agencies for tourism-related functions.

MS. IVY said correct. She explained that the sponsor of the bill reviewed an overview of the governor's FY 19 budget from the Legislative Finance Division, Legislative Agencies and Offices, and found VRT tax receipts were identified as "non-designated use of designated funds"; however, the tourism marketing industry has not previously brought said issue forward. Ms. Ivy directed attention to a document provided in the committee packet entitled, "State Distribution of Vehicle Rental Tax Funds 1200 VehRntlTax (DGF)," which showed VRT funds were appropriated at less than the full amount from FY 06 through FY 11, and no VRT funds were appropriated to the Tourism Marketing Program from FY 12 through FY 17.

REPRESENTATIVE JOSEPHSON observed, relative to intent language, both positions [expressed by Ms. Ivy and Representative Neuman] are correct because VRT funds are not unrestricted general funds (UGF); on the other hand, [appropriating all VRT funds to the

Tourism Marketing Program] would create funding shortfalls for other departments.

MS. IVY acknowledged that the sponsor recognizes there would have to be a fund source change to UGF for DNR and DOTPF. Ultimately, even those from industry who oppose the legislation agree VRT receipts are a pass-through cost to visitors and similar to assessments in other sectors; therefore, a key piece of the legislation provides that VRT revenue would go to tourism marketing as originally intended.

[11:54:00 AM](#)

REPRESENTATIVE NEUMAN surmised the bill sponsor and industry feel VRT [should be directed to the tourism marketing program]; however, he opined the legislature feels differently because the program has not been [fully] funded through VRT. Further, the legislature has worked with industry for many years and legislators have urged industry to raise funds autonomously - independent from the state. He stressed that since FY 07, VRT revenue has been appropriated by the legislature to support infrastructure that is used by the tourism industry.

REPRESENTATIVE TUCK returned attention to the aforementioned document and noted that all funds are general funds. In addition, [AS 43.52.080(c)] advises that the legislature may appropriate VRT for tourism marketing. For several years the legislature did fund tourism marketing; during that period of time - from FY 06 through FY 11 - VRT funds were not appropriated to [the Division of Highway/Aviation & Facilities], DOTPF, but they resumed again in FY 12.

[11:56:07 AM](#)

CHAIR LINCOLN opened public testimony on HB 383.

[11:56:50 AM](#)

JILL MCLEOD, Attorney, informed the committee she provided Alyeska Resort Management Company with a legal analysis of the impact HB 383 would have on its business. She stated Alyeska Resort Management Company opposes HB 383 for a variety of reasons, particularly because the tax cannot be dedicated to statewide tourism marketing. Further, the bill lacks performance metrics - a mechanism to track the success of marketing efforts - and is unclear as to which tourism businesses would be assessed. From the business perspective of

Alyeska Resort Management Company, the tax would disproportionately affect its Alaska resident users. Ms. McLeod said the tax currently is not needed and returned to the issue of funds that cannot be dedicated to statewide tourism marketing; VRT, which is dedicated to tourism and marketing, has historically not been fully used for tourism and marketing. She opined that creating a new assessment for the same purpose is no guarantee of the use of funds, and she urged the committee to review the written comments submitted by Alyeska Resort Management Company.

[12:00:11 PM](#)

REPRESENTATIVE TUCK asked for clarification that funds remain unused.

MS. MCLEOD explained that only a very small portion of VRT revenue was appropriated to tourism marketing. For example, in 2017, approximately \$1.5 million, out of an estimated \$12 million collected, was appropriated towards tourism.

REPRESENTATIVE JOSEPHSON questioned whether Alyeska Resort Management Company would benefit by moving the funds created under HB 383, subsection (c), so that, albeit with discretion, there could be an appropriation [to tourism and marketing] of \$12 million from VRT, rather than \$1.5 million.

MS. MCLEOD agreed if the full amount of revenue generated from VRT was appropriated to tourism marketing, under the purview of the Alaska Travel Industry Association board (ATIA), there would be no need to propose a further assessment on industry. However, performance metrics would still be necessary to gauge the efficacy of marketing efforts.

REPRESENTATIVE JOSEPHSON understood that the tourism industry seeks to self-impose a tax in order to demonstrate its good faith to the legislature.

MS. MCLEOD restated the need for performance metrics "attached to the spending in order to ensure that the tourism marketing actually is effective."

[12:04:34 PM](#)

CHAIR LINCOLN surmised if HB 383 were to pass and industry self-imposed a tax, but the legislature failed to appropriate the funds to marketing, industry could "roll that assessment back."

MS. MCLEOD said yes, there is a provision to terminate any assessment through an election process; further, there are other issues related to who holds the authority to propose the initial assessment, the transition board, and the nominees to the ATIA board. In fact, HB 383 directs the election to be held in accordance with AS 44.25.270 and AS 44.25.275, which are related to tourism businesses; however, tourism businesses, tourism segments, and tourism industry are all undefined in the bill. She advised that the legislation is "premature" as other jurisdictions have spent years developing tourism improvement districts.

[12:08:38 PM](#)

STEPHEN MAHAY, Spokesperson, Mahay's Jet Boat Adventures, expressed his support for HB 383. He said he has been in the [tourism] industry for 42 years and recalls that state marketing funding for the industry has varied greatly over the years. In fact, in some years marketing has been on a national and international level, which was good for small businesses in Talkeetna. He opined the industry is not looking for a handout from the state, although state investment in the industry has generated growth in the marketplace and in the state's economy. He pointed out individual small businesses cannot access large marketplaces. The proposed legislation would allow the industry to work with a tax system involving businesses, guests, staff, and personnel, in order to generate revenue for an effective and consistent marketing program. Mr. Mahay restated support for the bill and self-imposed taxes on the tourism industry.

[12:12:31 PM](#)

CHAIR LINCOLN asked for more information on Mr. Mahay's business.

MR. MAHAY said his company operates a fleet of nine jet boats in Talkeetna; his company hosts approximately 22,000 guests per summer and employs 25 people.

REPRESENTATIVE NEUMAN asked Mr. Mahay for additional solutions related to funding for the tourism industry.

MR. MAHAY said the language in the bill "is heading in the right direction." He suggested tourist attractions could collect the tax to forward to the state and thereby create a pool of money for use by industry for marketing.

[12:14:21 PM](#)

BRETT CARLSON informed the committee he is a lifelong Alaskan working in the travel industry. Mr. Carlson observed the travel industry allows small businesses in rural Alaska to participate in the travel industry at the ownership level. In addition to operating a small hospitality center on the Dalton Highway, he said he works with a family of tour companies - Northern Alaska Tour Company, Wright Air Service, and Warbelow's Air - that are doing business throughout Interior and Arctic Alaska. Part of his business is renting vehicles to tourists traveling the Dalton Highway, and thus his company pays VRT. Mr. Carlson disagreed with others who have testified that in 2003, when VRT legislation first passed, the tax was to support highways and airports. Instead, he stressed the intent of the legislation was to use the funds for destination marketing to the extent allowed by the Alaska State Constitution; in fact, there was "implicit commitment from the legislature that, [revenue for VRT] would be used to market Alaska and grow Alaska's travel resource." Further, he also disagreed with those who believe "that the legislature hasn't followed through on that commitment," and he provided additional history on the legislation. Mr. Carlson concluded that only in the last two to three years has funding been insufficient, and [HB 383] provides an opportunity for the legislature to develop Alaska's travel resource.

[12:19:18 PM](#)

KIRK HOESSLE, President, Alaska Wildland Adventures, informed the committee Alaska Wildland Adventures operates three lodges on the Kenai River and offers multiday adventure programs from the Kenai River to Denali and beyond. The business began in 1977 and employs 12 year-round and over 100 seasonal employees. He expressed his strong support for a destination marketing program and HB 383; in fact, research throughout the U.S. has shown that a strong and well-funded destination marketing program is essential for a strong diversified travel tourism economy that reaches into rural areas. Mr. Hoessle pointed out his business benefitted from years of high levels of state spending in support of tourism programs that culminated in 2015 and 2016; however, in 2017, a decline in trip inquiries and revenue occurred. He expressed his belief the aforementioned decline is the result of severely reduced marketing programs, and he noted his concern for small businesses throughout the state, especially those operating in rural and remote areas. He

restated his support for the tourism improvement district concept within HB 383, which has been proven effective in other jurisdictions.

REPRESENTATIVE TUCK has heard the amount of tourism dollars coming into Alaska is at record levels and asked whether this is not the situation for Mr. Hoessle's business since 2017.

MR. HOESSLE confirmed his business has had a decline; although Alaska has record numbers of visitors, they are not distributed equally throughout the state; however, marketing [rural areas] is effective after visitors are convinced to come to Alaska.

REPRESENTATIVE TUCK asked how much Mr. Hoessle spends annually on a marketing plan.

MR. HOESSLE said his business spends approximately 10 percent of its sales revenue - over \$300,000 to \$400,000 - on marketing initiatives through web site publications and promotions.

[12:23:45 PM](#)

DAVID STORY stated he is an employee of Alaska Wildland Adventures. Speaking for himself and others in his community, he said he supports a statewide tourism marketing program which is essential to the success of small businesses - such as Alaska Wildland Adventures - that make up the economic community of Cooper Landing, the Kenai Peninsula, and businesses throughout Alaska. Mr. Story cautioned small businesses cannot spend much for marketing their services to broad audiences and thus depend on the state to promote greater Alaska as a travel destination, in addition to a cruise destination. The tourism improvement district concept is attractive because it ensures participation by all the tourism industry while allowing specific funding from the industry. He urged the legislature to address prioritization of general funds, but not at the expense of the intended use of VRT or investment in tourism marketing. Mr. Story concluded [HB 383] would attract more visitors and glean additional money for the destination marketing program, and he urged for urgency to support the economic backbone of Cooper Landing. He described some of the provisions of the bill and pointed out that jobs in rural Alaska are difficult to find; programs similar to those in the bill can maintain a consistency of employment to avoid a "boom and bust" cycle. Mr. Story restated his support for HB 383.

CHAIR LINCOLN asked where Alaska Wildlife Adventures spends \$300,000 to \$400,000 in marketing programs.

MR. STORY said the marketing budget is spent on online marketing and direct consumer marketing.

[12:28:36 PM](#)

KELLY BENDER, Co-owner, Lazy Otter Charters, informed the committee she and her husband own Lazy Otter Charters in Whittier, which operates four boats in Prince William Sound, a fleet of rental kayaks, and a coffee and gift shop, and employs twenty Alaskans seasonally, and six part-time, year-round. She noted responsible owners continually invest in their businesses to be successful, and she and her husband invest in their business, the industry, and the state. Lazy Otter Charters operates year-round and works hard to participate in the local economy by promoting their business, advertising, and actively finding customers. Ms. Bender opined tourism is Alaska's business, providing thousands of year-round jobs and supporting many small businesses, and the legislature should support the industry. In fact, Alaska is out-marketed by nearly every other state in the nation; other states understand the importance of promotion and the economic value of the tourism industry; to be competitive, Alaska must have a strong tourism program. Lazy Otter Charters supports industry's effort to establish a long-range solution for sustainable tourism marketing, an assessment to establish a tourism marketing fund, the tourism improvement district model, and VRT revenue directed to the tourism industry. She closed, noting visitors to Alaska do not "magically appear" but come to the state due to years of a diligent and aggressive marketing program; she urged that the committee support HB 383.

[12:32:26 PM](#)

KAREN HARRIS, Owner, Alaska Garden Gate B&B and Cottages, stated her strong support for HB 383 and agreed with previous testimony provided by Steve Mahay, Brett Carlson, and Kirk Hoessle. As a small business owner since 2002, she has grown her business to employ three fulltime year-round positions and twelve part-time seasonal positions. Her business did well during the period that the state funded marketing, but business has fallen since then. She opined the residual effects from years of \$20 million [tourism marketing] budgets have come to a close. As an appointed board member of ATIA, she observed ATIA strongly supports the needs of small businesses. Ms. Harris said

legislators and industry, by establishing a tourism improvement district, seek to keep tourists coming to Alaska and to smaller businesses in rural areas of Alaska.

[12:35:14 PM](#)

DEBORAH HANSON, Spokesperson, Pike's Waterfront Lodge (Pike's), stated her support for establishing a tourism improvement district (TID); as described by other testifiers, she said Pike's was growing until last year and is struggling with sales this year. One of her agents explained Alaska is competing with Europe for tourism bookings, and some East Coast clients prefer Europe. Further, the lack of television advertising and the failure to send vacation planners have had negative impacts. Ms. Hansen said Pike's advertising cannot entice an independent land-traveler to travel to Fairbanks, thus [Pike's] relies on the state to make "the State of Alaska look attractive out there in the marketplace." She restated her support for the bill and said she has been working for over one and one-half years to get a TID implemented. Ms. Hansen urged the committee's support.

[12:38:05 PM](#)

JOHN LAMBETH, Industry Consultant, ATIA, returned attention to the issue of VRT and explained tourism improvement districts in the U.S. and internationally commonly use VRT as a part of that mechanism. He said after lengthy discussion, Alaska's tourism industry seeks a partnership with the state by its willingness to accept a self-imposed tax. He acknowledged the state has limited funds; however, HB 383 does not dedicate funds, therefore, the legislature retains its power of appropriation. Continuing with comments on the bill, Mr. Lambeth first characterized the bill as a starting place. Second, in response to testimony related to the procedure of elections, he assured the committee the procedure makes sense and is internally consistent; in fact, as enabling legislation, HB 383 is a framework for industry, and the board created thereby would satisfy all outstanding specific questions prior to the election. Third, to the question of whether the ATIA board would be involved, he pointed out the bill would create a transition board and he outlined its functions. Fourth, in recognition of Alaska's constitutional limitation against dedicated funds, HB 383 allows industry to dissolve the assessment if the legislature does not appropriate funds in accordance with the intent of the bill. Finally, there are 167 TIDs in the U.S., some of which were established in less than

one year. Mr. Lambeth stressed HB 383 presents a proven mechanism and urged the committee's support.

[12:43:18 PM](#)

MARK WEAKLAND, General Manager, Hotel Alyeska and spokesperson, Alyeska Resort, expressed opposition to the bill, stating Hotel Alyeska and Alyeska Resort view HB 383 as a very narrow targeted year-round resort and statewide lodging tax. He explained that the proposed legislation is narrow in that the tax would be paid by businesses across the state on a year-round basis for the benefit of primarily summer visitation proprietors but exclude many principle payers within "the summer marketplace," such as large cruise lines, airlines, and others. He surmised there may be more exempted businesses than participatory businesses. On the other hand, the bill creates a tax with specificity, although other provisions of the legislation are vague. Mr. Weakland stated Hotel Alyeska and Alyeska Resort pay \$1 million at a 12 percent rate to the Municipality of Anchorage, and Anchorage "brought in" \$25 million last year. This amount of revenue indicates - even after a decline in commercial commerce such as state government and corporate travel - the travel industry "had a decent year as far as Anchorage ..." even following smaller legislative appropriations [to the tourism marketing budget]. Alyeska Resort operates year-round and employs 650 workers, thus year-round sustainability is its upmost interest; he pointed out there is a high cost to doing business in Alaska year-round and cautioned against increasing lodging taxes to businesses that are not on the Railbelt and that do not have an airport [nearby]. Mr. Weakland noted that each community has a destination marketing program; in Anchorage, the cost is 12 percent, and some municipalities the cost is less.

[12:46:56 PM](#)

DONALD BULLOCK stated he is a retired attorney speaking on his own behalf. He expressed opposition to the bill because it is a new tax placed on a targeted industry - the tourism industry - which would be enforced by the state; however, unlike other taxes, the bill puts the tourism industry in the position of deciding whether the tax would be applied, and if so, DOR could file levies against nonpayers for the assessment, penalties, and interest. Turning to the topic of dedicated and designated funds, he recalled the Alaska Supreme Court ruled assets in the Alaska Permanent Fund are not dedicated, but are subject to appropriation; similarly, the tax collected by HB 383 would go

into the general fund. Mr. Bullock advised that the best intention [by the legislature] would be to appropriate the money back to the tourism industry; however, he cautioned that the money collected from the tax could be used for any public purpose.

REPRESENTATIVE JOSEPHSON asked whether it is improper to authorize DOR, which is an agency of the sovereign, to collect a tax "that isn't really the sovereign's."

MR. BULLOCK said no. He explained HB 383 would collect a tax, under a statute, that would go into the general fund in the same manner as mining taxes and production taxes; the big difference would be the taxpayers would decide whether to apply the tax.

[12:51:09 PM](#)

REPRESENTATIVE JOSEPHSON observed that other designated funds in the budget could be repurposed, perhaps leading to protests and disgruntlement [by Alaskans].

MR. BULLOCK recalled Alaskans were upset because the full amount of [designated] permanent fund monies was not made available, and that led to a lawsuit confirming that the funds are subject to appropriation. For example, the proposed tourism fund may pay for a [marine] dock or other infrastructure that is related to tourism but is not marketing. He characterized designated funds as "often disappointed funds," because they can be used [by the legislature] for any public purpose.

REPRESENTATIVE JOSEPHSON suggested the tourism industry has decided to trust legislators.

MR. BULLOCK agreed there is trust, albeit a trust with no guarantee and a high risk.

REPRESENTATIVE EDGMON asked if Mr. Bullock's opposition to the bill is founded on principle and whether there are alternative mechanisms he would suggest.

MR. BULLOCK said the problem is that [HB 383] is an approach to fund tourism that is subject to tax law and appropriation from the general fund. A different example of how an industry raises funds would be the collection of dues members pay to the Alaska Bar Association or to service clubs for benefits such as advertising; an alternative would be a private organization that

assesses its members, rather than imposing a state tax that is subject to appropriation for other uses.

[12:55:09 PM](#)

REPRESENTATIVE EDGMON asked Mr. Bullock to clarify whether he is testifying on his own behalf and the basis for his opposition. He then restated the earlier question as to whether there are alternative mechanisms to achieve the purpose of the bill.

MR. BULLOCK clarified his opinion is his own legal opinion; he is not representing anyone, nor does he hold an adverse opinion of the tourism industry. He said his legal advice to the committee, based on his experience with tax law, is that [HB 383] is a new tax that does not result in a dedicated fund and is subject to appropriation.

REPRESENTATIVE TUCK asked whether Mr. Bullock has concerns about the bill because the tax is self-imposed.

MR. BULLOCK said no. He said the funding mechanism within HB 383 has been compared to funding for the Alaska Seafood Marketing Institute (ASMI); however, ASMI funding is subject to the Executive Budget Act, but "there's no mention of that in this bill." In further response to Representative Tuck, he explained the Executive Budget Act [AS 37.07.010] statement of policy grants the legislature the opportunity to review budget expenditures and decide how appropriations are made.

[12:58:34 PM](#)

REPRESENTATIVE TUCK restated his question pertaining to [possible problems caused by] an organization self-assessing a tax.

MR. BULLOCK explained that the legislation would authorize [the tourist] organization to decide whether it is going to be taxed, which he characterized as unique [legislation]. He directed attention to fiscal note Identifier: DOR TAX HB383 version 1. It indicates that HB 383 would require DOR to add three positions, and implementation of the program would require a capital expenditure of \$900,000; he questioned whether the legislature would choose to spend limited funds [to implement and administer HB 383]. Returning to ASMI funding, he noted ASMI marketing money is directly tied into [AS 43.75 Fisheries Business License and Taxes and AS 43.77 Fishery Resource Landing Tax], thus to the extent that ASMI marketing is successful,

there is a greater incentive for more fish processing and a direct link to more taxes to the state; however, the link in HB 383 is indirect. He restated his opposition to the tax aspect of the bill.

REPRESENTATIVE JOSEPHSON asked:

... because we're dissolving the existing board ... even though it's not state revenue in a traditional sense, ... it's still a tax, and there's no way for us to monitor the nature of the expenditures for their efficacy ...?

MR. BULLOCK advised the Executive Budget Act provides the legislature a mechanism for monitoring state appropriations, as does the Legislative Budget and Audit Committee.

REPRESENTATIVE JOSEPHSON opined the "trust element" is less of a concern - when related to HB 383 - because the taxpayers could choose to end self-imposition of the tax, if desired.

MR. BULLOCK said that's correct, "this is an industry that's going to decide when it'll be taxed and when it ... will no longer be taxed, [the bill is] unique."

[1:02:24 PM](#)

CHAIR LINCOLN closed public testimony on HB 383.

[1:03:19 PM](#)

HB 383 was held over.

[1:03:57 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Arctic Policy, Economic Development, and Tourism meeting was adjourned at 1:03 p.m.