

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

April 3, 2018  
11:31 a.m.

**MEMBERS PRESENT**

Representative John Lincoln, Chair  
Representative Bryce Edgmon  
Representative Andy Josephson  
Representative Chris Tuck  
Representative Gary Knopp  
Representative Mark Neuman  
Representative David Talerico

**MEMBERS ABSENT**

All members present

**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."

- MOVED CSHB 383 (AET) OUT OF COMMITTEE

**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
03/06/18	(H)	Heard & Held
03/06/18	(H)	MINUTE (AET)
03/15/18	(H)	AET AT 11:30 AM BARNES 124
03/15/18	(H)	-- MEETING CANCELED --
03/20/18	(H)	AET AT 11:30 AM BARNES 124

03/20/18 (H) -- Meeting Postponed to 3/22/18 at  
11:35 am --  
03/22/18 (H) AET AT 11:35 AM BARNES 124  
03/22/18 (H) -- MEETING CANCELED --  
03/29/18 (H) AET AT 11:35 AM BARNES 124  
03/29/18 (H) -- Meeting Rescheduled from 03/27/18 --  
04/03/18 (H) AET AT 11:30 AM BARNES 124

**WITNESS REGISTER**

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

**POSITION STATEMENT:** Answered questions during the hearing on HB 383, on behalf of Representative Grenn, prime sponsor.

REPRESENTATIVE JASON GRENN  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor, answered questions on the proposed committee substitute (CS) for HB 383, Version 30-LS1214\R, Nauman, 3/21/18.

JUDITH WHITE  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 383.

DAN OBERLATZ, Owner  
Alaska Alpine Adventures  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 383.

JOHN WHITE, President  
Nenana Raft Adventures  
Denali Borough, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 383.

MATTHEW ATKINSON  
Northern Alaska Tour Company  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 383.

ROARK BROWN  
Homer Ocean Charters  
Homer, Alaska

**POSITION STATEMENT:** Testified in support of HB 383.

SARA LEONARD, President and Chief Executive Officer  
Alaska Travel Industry Association (ATIA)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 383.

ERIC FULLERTON, VP and Director of Marketing  
Alyeska Resort  
Girdwood, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 383.

JOHN LAMBETH, Industry Consultant  
Alaska Travel Industry Association (ATIA)  
Sacramento, California

**POSITION STATEMENT:** Testified during the discussion of HB 383.

BRETT CARLSON  
Coldfoot, Alaska

**POSITION STATEMENT:** Testified in support of HB 383.

EMILY NAUMAN, Deputy Director  
Office of the Director  
Legislative Legal Services  
Legislative Affairs Agency (LAA)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the discussion of  
HB 383, Version R.

KEN ALPER, Director  
Tax Division  
Department of Revenue (DOR)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the discussion of  
HB 383, Version R.

#### **ACTION NARRATIVE**

[11:31:47 AM](#)

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

#### **HB 383 - TOURISM MARKETING; BOARD; ASSESSMENT; FUND**

[11:32:37 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." [Before the committee, adopted as a working document on 3/29/18, was the proposed committee substitute (CS) for HB 383, Version 30-LS1214\R, Nauman, 3/21/18.]

[11:33:30 AM](#)

REPRESENTATIVE TUCK directed attention to language on page 10, of Version R, lines 18-21, regarding weighted votes, which read as follows:

Votes shall be weighted in proportion to the assessment that each voting tourism business is estimated to pay for the calendar year immediately following the election, as determined under AS 44.25.260.

REPRESENTATIVE TUCK then referred to subsection (b), lines 25-28, which read as follows:

(b) The department shall adopt regulations to establish the method for determining weighted vote of a tourism business for which the department has insufficient information to determine the assessment that business is estimated to pay for the calendar year immediately following the election.

REPRESENTATIVE TUCK said it looks like there would be some conditions in which the weighted vote would be determined by looking forward while other times it would be determined by looking backward. He asked, "When do we use one versus the other?"

[11:35:06 AM](#)

BROOKE IVY, Staff, Representative Jason Grenn, Alaska State Legislature, on behalf of Representative Grenn, prime sponsor of HB 383, explained that those [tourism businesses] new to the weighted vote process would be weighted on the estimation of what they would pay in the calendar year immediately following the initial election. She continued, "After the first year, ... if there was an amendment vote or something along those lines

where they would need to make sure the votes were weighted properly, they could look back to previously assessed ... revenues and assessment payments to weight that vote accordingly." She said under subsection (b), the Department of Revenue (DOR) would be given authority to determine how to weight a vote without sufficient information or for a business that has yet to pay into an assessment, thus DOR would ensure that the business gets to participate.

[11:36:23 AM](#)

REPRESENTATIVE TUCK summarized that the two circumstances under which the weighted vote would be done by "looking forward" is "initially" and "any time a new business comes into the market."

REPRESENTATIVE NEUMAN said Version R would create different tax levels against different tourism marketing industries. He asked the bill sponsor if he could remark upon the amount of taxes and the structures.

[11:37:10 AM](#)

REPRESENTATIVE JASON GRENN, Alaska State Legislature, as prime sponsor of HB 383, answered that different segments would have different taxes; there would be varying tax levels and assessments voted on, which he opined is appropriate.

REPRESENTATIVE NEUMAN said he was trying to figure out "where we're going with this bill." He asked Representative Grenn whether he had, since the last hearing on HB 383, held any discussions with the industry about the amount of the tax rates and whether they would be based off of gross or net. He asked - since this has to do with credits against vehicle rental tax - what would happen "if they don't rent vehicles."

REPRESENTATIVE GRENN suggested that some of the information Representative Neuman was looking for could be found on page 6 of Version R, regarding "different levels of the percent of the gross revenue related to the assessed segment" and how those could be "the different percentages that they could vote on."

[11:38:25 AM](#)

REPRESENTATIVE JOSEPHSON, regarding Representative Neuman's question, offered his understanding that under Version R, the formula for paying the vehicle rental car tax would not be changed; Version D would simply offer a credit for those who

wish to "forward their revenue to the new tourism marketing ... board." There would be interfacing with DOR and the legislature "may" appropriate the funds. He added, "It's believed that the legislature would do that, because the intent of this is written over every document."

REPRESENTATIVE GRENN answered that is correct. He noted that Section 1 of Version R, [on page 1, beginning on line 10], offers more information regarding the unused credits, as follows:

An unused credit or portion of a credit not used under this section for a tax year may not be sold, traded, transferred, or applied in a subsequent tax year.

[11:39:52 AM](#)

REPRESENTATIVE NEUMAN stated:

Basically what we're doing is we have a vehicle rental tax now that already goes in; the legislature uses that against needs within the administration, ... because particularly this year, funds generated have been a determination [in] quite a few budgets, and if the funds were generated within that particular department, they have to go back to designated funds within that department. So, now we're taking what would be designated funds for this tourism credit tax ..., and then we're moving them, but ... they're still going to have to be supplemented or replaced with general fund dollars .... Why wouldn't you just give the tourism marketing board general fund dollars instead of replacing it from general fund dollars that are already there?

[11:40:48 AM](#)

REPRESENTATIVE GRENN told Representative Neuman, "Obviously you're well aware of ... the intent language a few years ago in Finance that asked ... the tourism industry to move away from using [general funds (GFs)] specifically towards, towards marketing efforts." He said there is a policy call to be made whether to put the vehicle rental tax (VRT) into the tourism fund "and those efforts." He said there could be a loss to the undesignated general fund (UGF) of the departments. He said Version R proposes "to fulfill the intent of the language of what the VRT should be used for," which he said he believes is

tourism marketing efforts. He indicated that those efforts benefit local economies, as well as the state economy. He asked, "As we've told the industry that they should stop relying on general funds, how do we show to be good partners to maximize dollars that are generated through tourists and continue to ... increase our economy ...?" He said Representative Neuman's question is legitimate, and the sponsor has considered that question and thinks the funds could be used "in a more aligned focus of what the intent language is regarding the VRT."

[11:42:33 AM](#)

REPRESENTATIVE NEUMAN explained the prior version of the proposal was going to take another tax on vehicle rentals to cover the costs of running parks and ferries. He said he thinks it's been determined it is not a good idea because the general fund (GF) dollars would have to be replaced anyway.

[11:43:15 AM](#)

REPRESENTATIVE TUCK directed attention to pages 4 through 6 of the bill and noted the board would be able to acquire property necessary to the administrative functioning of the board; however, board expenditures may not be spent on capital or infrastructure improvement projects. He asked whether any improvements to properties held by the board would "come out of the, just the regular membership fees that the board would get."

[11:44:37 AM](#)

REPRESENTATIVE GRENN answered the intent of the marketing fund is to narrow the efforts of marketing, such as advertising and promotion. He added he thinks it is appropriate to exclude capital projects.

MS. IVY answered that the language in Version R, page 4, lines 23-25, was taken directly from the Alaska Seafood Marketing Institute (ASMI) statute. She specified that Legislative Legal Services, Legislative Affairs Agency did not express concern with the language. She added that [the language in proposed AS 44.25.250, [paragraph] 2, would ensure the funds would be used strictly for tourism improvement and marketing.

REPRESENTATIVE TUCK said his interpretation is it would come out of membership fees.

[11:46:56 AM](#)

CHAIR LINCOLN opened public testimony on HB 383.

[11:47:18 AM](#)

JUDITH WHITE testified in opposition to HB 383. She suggested the bill would add duties to the Division of Elections, Office of Lieutenant Governor. She said that "it is not one vote equals one vote" as votes would have to be "weighted." She stated the bill would create expensive new bureaucracies in the Division of Elections and in the Department of Revenue. She highlighted "there would be thousands and thousands" [of quarterly reports] that would require the hiring of additional state workers.

REPRESENTATIVE JOSEPHSON said the legislature used to give [the tourism] industry a grant of \$16 million and in the previous year around \$1 million. He asked Ms. White how the bill would affect her directly.

MS. WHITE said that many people save for years to take "the trip of a lifetime" to Alaska. She indicated that money for the tax is money taken away from their trip. She restated her concern about unnecessary bureaucracy in state agencies.

REPRESENTATIVE NEUMAN asked Ms. White whether her business earns enough to get a corporate tax credit.

MS. WHITE answered no.

[11:53:28 AM](#)

DAN OBERLATZ, Owner, Alaska Alpine Adventures, testified in support of HB 383. He said Alaska can't compete with other destinations in terms of growing economic benefits. He suggested Alaska would lose market share to competitors from around the world. He spoke to advertisements in national magazines for other states. He suggested the proposed bill would create a funding plan for tourism based on a time-tested model. He reminded committee members that tourism returns \$100 million to Alaska's general fund and contributes to city and local budgets. He remarked the proposal would place the fate of the tourism industry in its own hands, as well as free the legislature from "having to consider yet another annual industry ask."

[11:55:56 AM](#)

JOHN WHITE, President, Nenana Raft Adventures, testified in opposition to HB 383. He shared he does not agree that Alaska cannot compete with other destinations. He suggested that tourism marketing being a function of government is "a bad idea." He opined the proposed bill is unconstitutional as it would create a dedicated fund. He remarked that taxing authority cannot be delegated to an executive agency. He said the Alaska Travel Industry Association (ATIA) is a "yellow pages organization in the age of Amazon and Google."

[11:58:55 AM](#)

MATTHEW ATKINSON, Northern Alaska Tour Company, testified in support of HB 383. He described his operation. He added that in order to "get the message out," it is important to have state backing. He mentioned other global competitors for his aurora borealis viewing operations.

REPRESENTATIVE KNOPP asked Mr. Atkinson whether his is a Part 135 [14 CFR Part 135 - Operating requirements: commuter and on demand operations and rules governing persons on board such aircraft] business. He suggested his business may be exempt from the tax.

MR. ATKINSON answered that it is a Part 135 operation but that he is unsure whether he would be exempt. He remarked that every Part 135 business is different and that there is a distinction between commuter and on-demand operations.

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ROARK BROWN, Homer Ocean Charters, testified in support of HB 383. He remarked that targeted marketing can increase the quality of visitors. He reviewed the history of state involvement in the tourism marketing budget. He underlined that "marketing works."

[12:04:59 PM](#)

SARA LEONARD, President and Chief Executive Officer, Alaska Travel Industry Association (ATIA), testified in support of HB 383. She said ATIA appreciates the conversation regarding a competitive [tourism] marketing budget.

[12:06:17 PM](#)

ERIC FULLERTON, VP and Director of Marketing, Alyeska Resort, testified in opposition to HB 383. He paraphrased from his written statement [included in the committee packet], which read as follows [original punctuation provided]:

Dear Representative Lincoln:

We are writing to express our strong opposition to HB 383 and SB 110. While we appreciate the efforts of the sponsors to support the tourism industry, as a member of the Alaska Tourism Industry Association (ATIA) and its pending Tourism Improvement District (TID) committee, we are writing to voice our opposition to this legislation. A review of the CS recently released in the House indicates the bill remains too deeply flawed to fix.

Given the state's budget situation, we believe the Legislature and Governor have acted prudently in recent years making reductions in state general funding for tourism marketing. State subsidies for tourism marketing were an amenity when the state had a budget surplus. As elected officials, you have all faced hard budget choices. In the current budget situation, state funding should be focused on essential services like public safety and education.

With regard to the HB 383 and SB 110, we are opposed to these tax increases for the following reasons:

1. These new taxes will overly burden the targeted, but undefined, estimated 2000 businesses large and small who will pay the new taxes. The vast majority of these businesses are unaware that these taxes are even being considered, and despite statements made in last week's House hearing, these nebulous and as yet undefined taxes will hit the gross revenues of these businesses and largely cannot just be "passed on to the customers" due to the complexities of previously committed future contracts, commissions charged by 3rd party package providers, and integrated product offerings for tourism experiences
2. The DOR considers this to be a tax, pure and simple, on those 2000 businesses. Hence their large fiscal note, which includes the following explanation:  
"If the bill becomes law, the tax division will need to build a substantial new module within the Tax

Revenue Management System (TRMS). The \$900,000 one-time capital appropriation is for this purpose. To implement and run the program, we envision three new staff: a senior auditor or audit supervisor, a tax technician to engage with registration of what could be up to 2,000 new taxpayers, and an economist to provide research support, pre-election levy estimates, and drafting assistance with the annual report."

12:08:09 PM

3. The tax assessment model in HB 383 and SB 110 is based on California's chaotic model, one that is a poor fit for Alaska. Alaska's economy as a whole, and our tourism industry, are vastly different. Alaska is not California. Unlike in Alaska, TID funds in California cannot be diverted by the government for other public purposes.
4. These bills would outsource the state's powers of taxation and appropriation. This is both poor policy, legally unsound, and unconstitutional.
5. Funds designated for tourism marketing have been collected from the Vehicle Rental Tax (VRT), but in the current budget situation those funds were used for other purposes. Alaska should use the money it has already collected from the VRT rather than create a new tax for the exact same purpose.
6. Additional statewide tourism marketing funds are not needed. Despite reductions in state subsidies for tourism marketing in recent years, tourism in Alaska has grown in the exact same time period. That growth is projected to continue for the next several years:

See Visitor Traffic Trends 2007-2016, Total Spending 2016 and Total Visitor Spending by Category attached hereto.

Alaska Visitors Statistics Program (AVSP) VII shows a 4% growth in visitation to Alaska in 2016. Additional data can be found here:

<http://www.alaskatia.org/marketing/alaska-visitors-statistics-program-avsp-vii>.

The number of cruise ship passengers visiting Alaska has increased from 810,000 passengers in 2010 to 1.1 million passengers in 2017. The Alaska Cruise Association projects a 12% growth in passengers from 2018 to 2019. Additional statistics

regarding cruise passenger spend can be found on the Cruise Lines International Association Alaska's website at <http://www.cliaalaska.org/economy/alaska-cruisehistory> and <http://www.cliaalaska.org/economy/alaska-at-a-glance/>.

All this growth has occurred during an era of reduced state funding for tourism marketing. Additional statewide tourism marketing funds are unnecessary and will not likely have a positive impact. The need for 3 additional full-time positions to administer and collect this tax will negate the savings made by the state when the decision was made to eliminate tourism related positions for budget reasons. This effort also does not take into account the costs related to notifying via public ads/mailers, voting on, and administering results of the votes from the taxed entities related to changes in the tax levels by the board.

7. The tax cannot be dedicated to statewide tourism marketing. Despite ATIA's representations, the funds collected via this tax cannot be dedicated to the purpose for which they were collected and will go into the general fund. These funds can be, and very likely will be in this current budget crisis, reallocated for another purpose, just as has happened with the Vehicle Rental Tax (VRT).
8. The bill lacks performance metrics. There is no mechanism to track the performance of the Travel Alaska Board or the effectiveness of its marketing plan (e.g., website, social media, room nights generated, occupancy rate, sales generated via referrals, etc.). There is no certainty about how the funds will be allocated to market Alaska, especially in the "off seasons" to support growth of tourism for year-round sustainability. Efforts to market Alaska as a winter destination to date have been almost nonexistent. Although the bill contains a provision that the marketing plan must promote all assessed tourism segments, "tourism segment" is undefined and there is no clarity on how funds will be allocated to the various segments. One of the many flaws in ATIA's approach is to push for legislation that lacks a mechanism to track the effectiveness of the board's marketing plan and does not assure accountability.

Furthermore, less than half of ATIA's current marketing budget is spent on advertising and a majority of the budget is spent on the ATIA's overhead, including payroll, research and personnel travel. If the Travel Alaska Board is not accountable for marketing performance, an increase in the amount of funds allocated to statewide tourism marketing will not guarantee additional, effective ad spend as their metrics for success are by their own admission, not statistically significant nor can be directly tied to economic impact of businesses that would be taxed.

9. It is impossible to know which tourism businesses will be assessed. There is no transparency about which tourism businesses will be targeted and assessed. "Tourism industry", "tourism business" and "tourism segment" are undefined terms in the bill. The bill proposes the Travel Alaska Board will propose definitions for these terms for adoption by the Department of Revenue and thus the Travel Alaska Board has the power to determine which businesses will (or will not) be taxed. However, the bill legislates that an initial election will be held to nominate board members and propose an assessment. It is not possible to hold an election without knowing which "tourism businesses" will vote, and which "tourism businesses" and "tourism segments" will be assessed. Also, votes cannot be weighted until an assessment is levied because votes are weighted in proportion to the assessment that each voting "tourism business" is estimated to pay for the calendar year immediately following the election (as determined under AS 44.25.260).
10. SB 110 and HB 383 focused on assessing only a fraction of the tourism industry - vehicle rentals, tour activities and attractions, and accommodations. Other sectors of the tourism industry would not be assessed. Transportation, airlines, cruise ships, restaurant and retail, to name a few, were excluded. It is unfair that only some of the tourism sectors might be assessed. There is no clarity in HB 383 and SB 110 about which businesses might be assessed, which leads to a circular problem in establishing the Travel Alaska Board to implement this legislation.

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11. The tax will hit certain Alaskan residents the hardest. A large percentage of the tax will come from Alaskan residents who would utilize the services of the assessed businesses year-round. This burdens Alaskan residents with funding Alaska's campaign to market the state as a summer tourist destination.

Alaskans travelling to annual Alaska Federation of Natives (AFN) convention would, for example, likely be one of the largest payers of this new tax. A tax for which rural areas would receive little benefit. The same would hold for travel for organizations like school boards and sports teams. All would be taxed for antiquated advertising designed to market tourists to come visit already full cruise ships and urban hotels in the summer months

Despite months of deliberation and eleven weeks of this legislative session, ATIA still has many questions to answer about an effective statewide tourism marketing plan and how it should be implemented before members of the tourism industry are asked to give support to a new assessment to fund statewide tourism marketing. ATIA and its members should go back to the drawing board. As you consider this legislation, we ask you obtain input from the all parties impacted by any proposed assessment, and not just ATIA whose governance is too heavily weighted toward local visitor bureaus, which largely live off of hotel bed taxes already. With half of the current tourism marketing funds controlled by ATIA going toward its overhead, administration and staffing, it would be a step in the wrong direction to give ATIA more money to support itself while it continues to undertake antiquated, expensive and inefficient marketing efforts.

12:09:23 PM

REPRESENTATIVE JOSEPHSON spoke to Mr. Fullerton's remark that the proposal would hurt "Alaskan consumers the most." He asked for confirmation that if he currently pays \$100 for a kayak excursion, with the proposal he would pay \$102.

MR. FULLERTON replied that he believes that would be the case.

REPRESENTATIVE NEUMAN asked Mr. Fullerton about his profit margin.

MR. FULLERTON answered that profit margins are already very slim. He added that as a year-round resort in Alaska, there is a need to create sustainability in the off-peak months. He explained that a potential gross tax would send more money to ATIA than he spends on marketing year-round.

REPRESENTATIVE NEUMAN reiterated that profit margins of [tourism] companies are very slim.

[12:11:44 PM](#)

JOHN LAMBETH, Industry Consultant, Alaska Travel Industry Association (ATIA), related his understanding that the committee appreciates the importance of travel and tourism to the state, noting that the tourism industry provides a tremendous job generator and economic engine for Alaska. He offered to briefly discuss tourism industry destination marketing. He identified two compelling reasons for destination marketing. He said that first, the primary motivator for a trip is the destination but not for an individual business; and second, the motivator is scale. He attested that no individual business can successfully market the entire state so businesses must band together. Other states have discovered that a lack of marketing results in lost tourism dollars, which has been supported and proven by studies. He acknowledged that it is very tempting for businesses to consider tourism marketing as an amenity; however, what they have found is that [absent tourism marketing] their businesses will lose market share. He cautioned that tourism is a very competitive business and competitors are eager to take customers away from other businesses. In fact, competitors raise a lot of money and work at a "feverish pace" to do so.

MR. LAMBETH offered his belief that the mechanism before the committee [in HB 383] is proven and not solely based on the California model, noting 14 other states have this model, which is a proven tool that has been customized to fit the unique nature of Alaska. Alaska has unique constraints and unique opportunities and [HB 383] reflects that, he said.

MR. LAMBETH addressed the essential government function concerns, noting that the proposal [in HB 383] reflects that the industry has come together. In closing, he said that if HB 383

is defeated, those who would be the happiest will be [their] competitors.

[12:14:31 PM](#)

BRETT CARLSON testified in support of HB 383. He stated he is a lifelong resident of Alaska with 30-plus years of experience in the travel industry in the Healy to Kaktovik areas of the state. In response to Chair Lincoln, he said he works in Cold Foot as part of a family of companies that operates tours throughout the Interior and Arctic regions of Alaska.

MR. CARLSON highlighted the decision the committee faces is to figure out how to monetize Alaska's travel resource in the decade ahead to the maximum benefit for Alaska. The potential associated with Alaska's travel resources is immense, and the \$4.17 billion in travel resources currently being exported from Alaska is "just the tip of the iceberg," he said. He pointed out that Alaska knows from its North Slope natural gas experiences that "potential" remains as "potential" unless the specific resource can be brought to market. He said the Alaska travel experience represents a compelling offering in the global travel market, as others have stated, yet the challenge is to bring the Alaska travel resource to market - or in this case to bring the market to the resources. Alaska's travel markets are not next door, so the expense and time for travelers to reach Alaska as a travel destination is significant. This market access barrier can only be addressed through marketing, he said. Alaska's true competitors in the global marketplace are those with long-haul destinations who reinvest significant funds into tourism marketing programs in an effort to maintain and grow their market share.

[12:16:23 PM](#)

MR. CARLSON stated that he disagreed with the idea that Alaska's travel industry will not grow unless the state robustly reinvests in Alaska's tourism marketing effort, since multiple factors impact the travel industry's growth rate. He identified other factors, including global economic conditions, exchange rates, travel trends, and geopolitical events. He suggested it was reasonable to assume that without a well-funded tourism marketing program, Alaska's travel industry could stagger along with a 1-2 percent growth rate. However, he questioned whether accepting slow growth would be responsible stewardship of Alaska's travel resources and Alaska's economy as a whole. He felt it was accurate to state that supporting the resource

development initiative in HB 383, with robust reinvestment of travel industry dollars in the tourism marketing program will result in an upward growth curve of Alaska's travel industry and generate new wealth for Alaskans.

MR. CARLSON closed by stating that with an investment of \$20 million he felt it was realistic to assume that the growth rate would double from 1-2 percent to 3-4 percent, which would result in \$4.1-\$4.75 billion [at 3 percent] to \$5.7 billion at 4 percent. This would create a new billion-dollar industry in Alaska within a decade, he said. For those who are concerned about the \$10 million reinvestment of the vehicle rental tax, he emphasized that investing in marketing would benefit, but not harm, the budget. He projected that a 4 percent growth rate would result in \$22 million additional dollars to the state one decade from now. He thanked the committee for considering the bill and urged them to pass [HB 383] to assist small businesses.

[12:18:57 PM](#)

CHAIR LINCOLN, after first ascertaining no one else wished to testify, closed public testimony on HB 383.

REPRESENTATIVE TUCK referred to constitutional concerns about HB 383. He stated that one concern is the opportunity for assessments to be determined for the future. He referred to page 6, lines 16-26, HB 383, and asked Ms. Nauman, legislative legal counsel, whether that language would alleviate some of the concern. He said it appeared as though it was already predetermined, much as the Alaska Seafood Marketing Institute (ASMI) statutes provide, since ASMI's statutes also have a definition.

[12:21:07 PM](#)

EMILY NAUMAN, Deputy Director, Office of the Director, Legislative Legal Services, Legislative Affairs Agency (LAA), acknowledged that she understood Representative Tuck's comment. The set-out assessment rates on page 6, lines 18-26 of HB 383, mirror the type of taxing for assessment structure that appears in ASMI, she said. She highlighted that Version R concerns her a bit more than the statutory structure for ASMI. She said that other portions of the tax not determined in Version R would be determined in statute and would affect who would be taxed, and if they would be taxed. She pointed out it has been highlighted in previous committee discussions that the bill does not define the tourism industry; for example, whether the tourism industry

would include hotels or cruise ships or if they would be excluded. She characterized this as a huge void in determining who would be taxed, noting taxation is the purview of the legislature, or the executive branch via regulation, but mainly foundationally by the legislature. She related that [under Version R] the legislature would release that power to a board and to the department through regulation; however, it differs and is very unlike the structure in ASMI. In statute pertaining to ASMI, it is very clear who is taxed and on what product, she said.

[12:22:58 PM](#)

REPRESENTATIVE JOSEPHSON, following up on Representative Tuck's comments, acknowledged Ms. Nauman's point. He referred to Ms. Nauman's legal memorandum [to Representative Chris Tuck dated March 22, 2018, in members' packets]. He referred [to page 2, paragraph 2], which read, "The legal theory underlying this approach was that the legislature has imposed the tax contingent upon the happening of the specified events." He asked for further clarification that in this instance, the "specified event" would be the election for an assessment.

MS. NAUMAN answered that is correct.

REPRESENTATIVE JOSEPHSON concurred with Representative Tuck that the authority is expressed in language on page 6, lines [16]-26 [of proposed AS 44.55.255 (c)]. He stated that the language is clear in paragraphs (1)-(9) that there can be a "zero to two percent assessment on gross revenue." He asked for further clarification if Ms. Nauman's concern was to whom [the assessment would apply].

MS. NAUMAN clarified her concern and stated it was twofold. She said she has a fundamental underlying concern that Version R goes too far into a constitutional gray area just by setting out tax rates. Secondly, she expressed her concern that it goes farther than ASMI, since the amount of authority transferred away from the legislature is even broader than ASMI's structure. She characterized this as "constitutional creep." She said she worried the little things could grow bigger and bigger and eventually turn in an unconstitutional direction. She reiterated that many things in [HB 383] would trigger a court to fall into the "unconstitutional" realm as compared to leaning toward the "constitutionality" of this bill.

[12:25:28 PM](#)

REPRESENTATIVE TUCK asked whether Ms. Nauman had expressed these concerns when she drafted [Version R].

MS. NAUMAN stated that she was unable to discuss any communications she might have had with individual legislators.

REPRESENTATIVE JOSEPHSON, referring to earlier testimony, said that some testifiers had expressed concern that the bill would create an illegal dedicated fund. He asked whether Ms. Nauman disputed that view, although he understood she [has expressed] other constitutional concerns.

MS. NAUMAN opined that the bill does not create an unconstitutional dedicated use of funds as far as she could tell. She characterized it as more of a bookkeeping function. She described the flow of money, such that the department places the funds into an account and the legislature receives a record of the amount of funds deposited. The legislature has the authority to appropriate the funds for whatever purposes it chooses. She stated that the bill suggests that the legislature appropriate it for tourism marketing.

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REPRESENTATIVE GRENN commended testifiers today for demonstrating the impact and need for a marketing fund in the state. These testifiers focused on the economic benefits to Alaskans from tourism marketing from small businesses to communities off the road system. He emphasized that the proposed legislation was brought forth because something is needed, and the tourism industry was told it needed to do something. He said Version R is the industry's response and his response to that intent language as the state moves forward in the next decade. He characterized tourism as the second largest private sector in the state. The bill before the committee asks that the state partner with the tourism industry as the industry assesses itself, and the industry wants to be part of the solution, he said.

REPRESENTATIVE GRENN stated that lawmakers typically identify a problem and are tasked to solve it. He stated that during the state's fiscal crisis the legislature cannot fund the tourism effort as it has done in the past. He offered his belief that everyone agrees with that view. He stated that the bill has raised some constitutional concerns, which have been brought up several times before the committee. He referred to Ms. Nauman's

memo [of March 22, 2018, to Representative Chris Tuck), which points out the concerns that the Legislative Legal Services has with [HB 383]. He expressed hope that the conversation could continue and find a way to raise awareness of this issue to all legislators. He acknowledged that this [issue] is tricky but he was confident that [solutions could be found] with more work on the bill. He highlighted that the Department of Revenue (DOR) has a task at hand with this bill, and it will fall under the purview of the House Finance Committee to find a solution. He emphasized that he would like to see the bill move forward but deferred to the committee. He highlighted that tourism marketing needs a solution. He concluded by stating he is determined to find a solution to the problem, and he will work with the tourism industry and other legislators to do so.

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REPRESENTATIVE NEUMAN explained, as a person in charge of the [Fiscal Year 2017 (FY 17) operating budget that included intent language] such "that the tourism industry [has] to become more self-funded, it was because of the fact that we have a lot of strains in this budget right now." As Representative Grenn offered, some people consider this a crisis. The legislature is currently trying to fund education, public safety, and adhere to the requirements mandated by the Constitution of the State of Alaska; in fact, funding the FY 17 budget required borrowing billions of dollars and taking it out of the permanent fund dividend. Yet, he said, the tourism industry came back with a solution to backfill these funds with general fund dollars. He emphasized the importance of the tourism industry and expressed that the legislature let the industry down by not putting a plan forward to assist the industry.

REPRESENTATIVE NEUMAN reiterated that tourism is the second largest industry in this state. He said that he was disappointed in the plans that have come forward and that he would do everything he could to assist business owners who are having difficulties. He stated, "The state cannot just afford to put money and give private industry cash like this, basically what we're doing. Some companies will be able to apply for this or not; it is very unfair who would be able to apply for this ...." He then referred to Ms. White's testimony regarding corporate tax credits against the investments she makes. He opined that the legislature should continue to work on this with public input at the meetings.

REPRESENTATIVE GRENN asked Ms. Ivy to provide additional information related to corporate tax credits.

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MS. IVY clarified that the tax credit included in the legislation regards the vehicle rental tax solely. She opined that the intention of the industry is not to include the entities subject to the vehicle rental tax currently under law, as those entities are already paying a tax and passing that through to their visitor customers when renting a vehicle. Therefore, she explained, the idea is that as a part of the tourism industry that is producing revenue and given that under statute the assessment is for tourism development and marketing, this simply allows those entities to participate toward tourism marketing in the State of Alaska. It is unrelated to the corporate income tax, she explained.

REPRESENTATIVE TUCK commented that, as this bill moves forward, a few issues need to be addressed, such as sidebars on some of the assessments, and defining the assessments; for example, who is included under those segments, and what the segments are. He recalled when the legislature prepared the energy policy for the State of Alaska, there were numerous stakeholder meetings and the policy then became "good to go." He offered concern that many businesses would not "see this coming," and also expressed concern about the weighted votes. Representative Tuck surmised the more money someone makes in the industry, the more power they will have over "the little guys." He suggested the idea of one vote for one person.

REPRESENTATIVE GRENN responded that the weighted votes system is used in every TID model throughout the previously mentioned 14 states. The philosophy behind that, he explained, is that an entity has more votes because it ends up contributing more money through the assessment. He said if a certain entity was going to vote yes or no on an assessment, it knows it will be impacted to a larger degree through the bottom line.

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REPRESENTATIVE JOSEPHSON commented that the above system is similar to the United States House of Representatives wherein votes are determined by population. It is a policy call, and it would be concerning if the big players overwhelm the small players by dictating to them but, he pointed out, the legislation requires public meetings prior to any assessment.

REPRESENTATIVE JOSEPHSON explained that Section 1 of Version R dictates that credits cannot be sold or transferred. He said DOR would retain the power to adopt or amend board definitions of segments in tourism business and industry. He explained that the assessment could be left to the discretion of the tourism trade and fully paid for by the customers, which is theoretically designed to "hold the business harmless." The travel industry is willing to roll the dice and, he opined, that is a risk worth taking as the industry knows this fund cannot be dedicated and may or may not be appropriated. This is taking place with the vehicle rental tax where the legislature, under AS 43.52.080, stated that the remaining balance of the fund may be appropriated for tourism development and marketing.

REPRESENTATIVE JOSEPHSON offered that he shares Representative Neuman's concern that "those" agencies will need their \$9 million. In the event this legislation moves along, the two bodies would have to come together to cover those needs. He offered that those needs have "pretty thoroughly usurped this fund" and turned it into something that is quasi-tourism, but not truly tourism. He explained that tourism trades can appeal under AS 43.05, and the Alaska Tourism Marketing Board is sunseting, so the only connection the executive branch would have to tourism would be "through this" unless the legislature reinvigorates the Alaska Tourism Marketing Board.

REPRESENTATIVE JOSEPHSON said Version R of HB 383 broadly complies with legislative intent, and he opined that it makes sense that Representative Grenn would bring the bill forward since he represents the House "on the travel board." He referred to a previous testifier who seemed to discount the idea that HB 383 was needed at all, and he opined that "the other 48 states or whatever," must know what they are doing with regard to marketing. There are issues to iron out, but the committee understands the bill and the legislation is sufficient to pass muster, he said.

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REPRESENTATIVE KNOPP referred to the assessment and asked how to make it work, whether it was actually somewhat like an income tax but called an assessment. He asked whether it is on the honor system, if they must file a tax return, and whether this is bordering on an income tax that the state does not have at the state level. The gross revenue component concerns him, he said, and net revenue is substantially different at the end of

the year than gross revenue. He added that he is more concerned about the collection of this revenue.

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KEN ALPER, Director, Tax Division, Department of Revenue (DOR), explained that under Version R, DOR is charged with collecting and administrating the assessment, and from the Tax Division's perspective, it is a tax. He described that it would not be considered an income tax, and in many ways, it is a miniature sales tax because it is at the gross transaction level. The Tax Division would perform certain outreach to the members of the industry to get them enrolled and licensed, which is why the Tax Division has a relatively robust [Fiscal Note Identifier: DOR TAX HB 383 version 1 (fiscal note)]. The Tax Division envisions the necessity of building a module onto its overarching tax management software to be able to take care of this. The fiscal note adds three positions that would be running this new tax, thus giving the Tax Division the ability to "take care of the people," communicate with them, make sure everything is done right, help with regulations, and provide possible economic analysis and reporting. The scale of this is more like some of the smaller receipts-type taxes, for example, wholesale cigarette merchants or alcoholic beverage distributors. There is an online form through which they make monthly or quarterly payments. When the system flags anything that does not look right, the Tax Division will put resources into auditing them to make sure they pay correctly.

REPRESENTATIVE GRENN opined that funds are allowed through this assessment to cover the cost of the fiscal note, and if something was already in place, this would be easier to roll out.

MR. ALPER agreed with the sponsor and explained the changes made in Version R reacted to the fiscal note, which came in based on the original bill version and clarified that the Tax Division could use some of those funds. The revenue side of this bill is indeterminate because the rate is not yet set and the segments that will be taxed are not set, but the industry is looking for something in the \$10-\$15 million range. The fiscal note, once the systems are set up, is approximately \$300,000 to \$400,000 per year to put that into scale. The legislature could appropriate from the fund the amount the Tax Division requires for its budgetary needs, and the rest would go to the tourism marketing entity. In the event the state already had a sales tax, the Tax Division would have already had a tax relationship

with most of these businesses and would be collecting the tax at their point of sale. He offered that the hardest part for the Tax Division is not the ongoing administration but the initial outreach in locating all of these businesses, making initial contact, and asking them to estimate what their revenue might be next year for the purpose of weighting the votes, so that when the vote does occur, the Tax Division can help the Division of Elections count and determine whether it was a successful election.

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CHAIR LINCOLN inquired as to the benefit of using gross revenue rather than net revenue.

MR. ALPER responded the sponsor may have better insight as to why gross revenue was selected. He stated that this is typical for the TID, but once it goes to a net-based tax, a much deeper set of information is required, such as people's tax returns and expenses. The net-based tax would require someone to determine what is and what is not an allowable expense. The Tax Division has a massive track record in the subject area of corporate income taxes and oil and gas production taxes, and he said he would not like to have to replicate that for an industry-specific tax such as this; it just is not big enough to warrant the effort. He said the intent of multiple assessment rates within the bill is the option of different rates, it allows the possibility that one industry segment might come in at a proposed rate different from another industry segment, and that would be done to reflect the inherent profitability differences. For example, someone who is a tour vendor might have a thinner profit margin than someone who has a hotel, and if that were determined, the board might choose to try to assess hotels at two percent and tours at one percent. That would be a way to compensate for those issues that vary from industry to industry, he explained.

CHAIR LINCOLN stated some of the concern may be due to the fact that even within the same industry, the cost of doing business is much greater in some places in Alaska. He added the margins can vary as well.

MR. ALPER agreed that a retail purchase in some districts may cost more than in Anchorage. He said the 2 percent tax will be seen as twice as much, "but it's still a 2 percent tax." He suggested that once it does not carve into gross revenue, the customer absorbs it. He said it would be a normal add-on cost.

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REPRESENTATIVE KNOPP spoke to gross revenue versus net revenue. He opined it could create a serious hardship in some [remote] areas of the state.

MR. ALPER pointed out that all the competitors are in the same boat. He said if the fee cannot be absorbed for some reason, there may be more difficulty passing it on. He reiterated the fee cost would be passed on to the consumer.

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REPRESENTATIVE NEUMAN addressed language in Section 1 regarding corporate tax. He said he can apply for corporate tax credit against the corporate tax he owes the state. He asked whether it would be considered "double-dipping."

MR. ALPER answered that Version R does two separate and distinct things. All the sections proposed in AS 44 concern the new assessment and the Alaska Tourism Marketing Board. Section 1, he explained, concerns the vehicle rental tax which already exists in [AS 43.52]. Section 1 provides that a car rental company could choose to donate money to the tourism marketing fund and credit its donation against their tax obligation.

REPRESENTATIVE TALERICO suggested a "preassessment" would be needed to seat the board established by the bill.

MR. ALPER said the hardest part is at the start. He said the state does not currently have a taxpaying relationship with the tourism industry. He gave examples of possible scenarios related to weighting industry sectors through the regulation process.

REPRESENTATIVE TALERICO stated he has an issue with the term "weighted voting," in particular with regard to the public perception of that term. He described tourism growth rates in his area and shared his concern that "it won't ever balance itself out ...." He said the rapid growth of hotels is a good example.

MR. ALPER agreed that the situation described by Representative Talerico is one of the concerns that needs to be addressed. He opined the bill may suffer legal challenges and noted an additional unsettled issue.

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REPRESENTATIVE JOSEPHSON moved to report the proposed committee substitute (CS) for HB 383, Version 30-LS1214\R, Nauman, 3/21/18, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE NEUMAN objected. He expressed disappointment that the House Special Committee on Arctic Policy, Economic Development, and Tourism did not get more help drafting the bill and cautioned the bill would not pass the legislature in its current form. He said he did not support moving the bill from committee before work on the bill is finished.

REPRESENTATIVE KNOPP stated he is not in support of moving the bill because the sponsor should complete further work on the bill; he spoke in support of the industry and of local marketing through trade shows and other mechanisms. Further, he questioned the efficacy of continuing marketing the industry in the same manner as the state has done in the past.

CHAIR LINCOLN agreed with many comments on HB 383. He said he has serious concerns about the bill, but that tourism marketing is such an important issue it deserves to be addressed in the House Finance Committee or in the next legislative session.

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A roll call vote was taken. Representatives Edgmon, Josephson, Tuck, and Lincoln voted in favor of the CS for HB 383, Version R. Representatives Talerico, Neuman, and Knopp voted against it. Therefore, CSHB 383(AET) was reported out of the House Special Committee on Arctic Policy, Economic Development, and Tourism by a vote of 4-3.

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#### **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.