

HOUSE FINANCE COMMITTEE

April 5, 2017

2:07 p.m.

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CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 2:07 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair  
Representative Paul Seaton, Co-Chair  
Representative Les Gara, Vice-Chair  
Representative Jason Grenn  
Representative David Guttenberg  
Representative Scott Kawasaki  
Representative Dan Ortiz  
Representative Lance Pruitt  
Representative Steve Thompson  
Representative Cathy Tilton  
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Christopher Cook, Board Appointee, Alaska Mental Health Trust Authority; Jerry Burnett, Deputy Commissioner, Treasury Division, Department of Revenue; Steven Hatter, Deputy Commissioner, Department of Transportation and Public Facilities; John Binder, Deputy Commissioner, Department of Transportation and Public Facilities; Peter Bibb, Juneau Plant Manager, Petro Marine Services, In Room; Representative Scott Kawasaki, Sponsor; Steven Hatter, Deputy Commissioner, Department of Transportation and Public Facilities.

PRESENT VIA TELECONFERENCE

Nick D'Andrea, Vice President, Public Affairs - UPS, Louisville, KY; Dana Debel, Managing Director of State and Local Government Affairs, Delta Airlines, Los Angeles, CA;

Paul Kendall, Self, Anchorage; April Monroe, Self, Fairbanks; Barbara Brink, Alaska Innocence Project, Anchorage; Marvin Roberts, Self, Fairbanks; Crystal Sisto, Self, Fairbanks; Misty Nickoli, Self, Fairbanks; Scherry Byers, Self, Fairbanks; Evan Eads, Self, Fairbanks; Marna Sanford, Tanana Chiefs Conference, Fairbanks; Virginia McCarty, Self, Fairbanks; Kathleen Peters Zuray, Self, Tanana; Brandon S. Spanos, Deputy Director, Tax Division, Department of Revenue.

#### SUMMARY

HB 60 MOTOR FUEL TAX;TRANSPORTATION MAINT. FUND

HB 60 was HEARD and HELD in committee for further consideration.

HB 127 CRIM. CONV. OVERTURNED: RECEIVE PAST PFD

HB 127 was HEARD and HELD in committee for further consideration.

CONFIRMATION HEARING: ALASKA MENTAL HEALTH TRUST BOARD OF TRUSTEES

Co-Chair Foster relayed the agenda for the day.

^CONFIRMATION HEARING: ALASKA MENTAL HEALTH TRUST BOARD OF TRUSTEES

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CHRISTOPHER COOK, BOARD APPOINTEE, ALASKA MENTAL HEALTH TRUST AUTHORITY, spoke to his appointment by Governor Walker. He provided information about his background. He shared that he was a retired attorney and judge and resided in the state for 49 years. He was excited to meet the challenges that came with the appointment. He felt that his experience living and working as an attorney in the state, his familiarity with the issues the trust dealt with, and his past experiences and contacts in rural Alaska would enable him to serve the trust. He opined that he brought a different emphasis and fresh perspective to the trust.

Representative Ortiz asked what he saw as the challenges of the board. Mr. Cook responded that the challenges were intrinsic to the position because of the nature of the

work; providing services and finding new and innovative ways of addressing chronic problems and relaying information regarding the trust's services. He noted the special challenges at present with changes in the trust's management and spoke of the search for a new executive director. He mentioned the legislative audit underway and looked forward to the examination of what the trust does and how it carried out its mission. Representative Ortiz could certainly appreciate some of the challenges of the board. He wanted to know how he viewed the intrinsic workings of the board currently. Mr. Cook replied that he was not currently a member of the board, but had attended some of the more recent meetings. He was aware of some of the friction between board members and noted disagreement in some areas but also the many areas where agreement existed. He did not want to upset any of the current board members. He noted meeting with many of the board members and thought he would be able to work with them. He was not coming with any pre-judgement. He wanted to hear all of the facts and make wise decisions. He acknowledged the great fiduciary responsibility of a board member. He did not feel that any difference of opinion among board members would last or hinder trust operations going forward.

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Representative Ortiz asked whether he viewed himself as offering direction for the board or as more of a facilitator. Mr. Cook indicated that he was not approaching the board with an established agenda. He felt that he could assist other board members in making decisions that were in the best interest of the trust and the beneficiaries. He noted that he had received letters of support from various board members, including the outgoing member Larry Noreen and support from the members, Carlton Smith and Laraine Derr. He thought he had a good relationship with all of the members.

Representative Kawasaki stated that Mr. Cook was once the chair of the Alaska Democratic Party. Mr. Cook responded affirmatively and added that his tenure took place 18 years ago. Representative Kawasaki asked if Mr. Cook was the Alaska Legal Services attorney involved with the Molly Hootch case. Mr. Cook responded in the affirmative. Representative Kawasaki asked how the case and his perspective of rural Alaska would be useful as a board member. Mr. Cook indicated that he started out as a legal

services attorney in Kotzebue in 1968. He relayed many of the duties he had in his position in addition to working on an array of issues. He reported on the lack of rural high schools at the time. Individuals from Kivalina had contacted him and through a series of actions with the state Board of Education, researching education laws, and consulting legal experts he began advocating for rural high schools. Community high schools ended the choice between students living with their families or attending high school. He declared that the issue was the core of the Molly Hootch case. Boarding school settings proved they were not right for everyone and created many "casualties." He reported that when the case was litigated in the Alaska Supreme Court the case lost. The litigation did not produce the desired result. However, the state administration agreed with the principle of local education that he had advocated and worked out a settlement with the clients which lead to the creation of rural high schools. He noted that much of the conclusion of the case happened after he left the job.

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Vice-Chair Gara indicated that in previous confirmation hearings Mr. Cook had not fared well because he lacked professional experience with mental health issues. He relayed from his previous personal experience as an attorney seeing Mr. Cook frequently work late and commended his work ethic. He thought research and work ethic were important to the appointment. He asked what Mr. Cook brought to the appointment in the areas mentioned. Mr. Cook relayed his experience as a trial judge in Bethel for 10 years where he presided over all kinds of cases including criminal, domestic violence, and mental health commitments. The experience familiarized him with mental health from the standpoint of the courts and law. He observed that the criminal justice process did not offer solutions. He was very interested in the programs the Alaska Mental Health Trust Authority were involved in with beneficiaries dealing with the criminal justice system. He surmised that there were many beneficiaries with civil issues that, if resolved would divert them from the criminal system. He noted that beneficiaries had civil needs such as access to housing, employment, and training but lacked resources. He learned that Alaska Legal Services via a grant through the AMHTA offered a program for "holistic defense." He explained that the grant provided help to the defendants' civil issues

which help keep them from the revolving door of the criminal justice system. He believed much of the trust's work involved aspects of legal interpretation and his experience as an attorney would be very helpful to the trust. He also had personal family members dealing with mental health issues which lead to his own personal interest in educating himself and finding solutions.

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Vice-Chair Gara indicated that his main interest was to determine whether Mr. Cook would do more research if warranted. Mr. Cook responded that he would do the research and mentioned that sometimes it would be a matter of requesting that staff engage in further development of a particular proposal. He also brought up the point that just because there was a need did not mean that a certain program would help the intended beneficiaries. He believed that the board's responsibility was to ensure funding went to programs that assisted beneficiaries.

Co-Chair Foster reported that Representative Guttenberg and Representative Pruitt had joined the meeting.

Co-Chair Seaton wanted to discuss the duties of the board and trust. He wondered whether the duties focused on treatment or if prevention was a concern. Mr. Cook answered that he hoped the trust would do both things as long as the programs were evidence based. He thought that the trust would always want to address prevention and help beneficiaries beyond the issue of treatment. He thought expanding public knowledge was important to prevention.

2:34:02 PM

Co-Chair Seaton asked whether he considered education as a preventative tool and was something he viewed as an appropriate function of the board. Mr. Cook answered in the affirmative.

Representative Guttenberg remarked that the board and trust was in transition. He mentioned that under the guidance of Mr. Jesse [Jess Jessie, former Chief Executive Officer, AMHTA] the trust would set up a pilot program for the state to make sure the program worked. He asked whether Mr. Cook thought that the board would continue the practice. Mr. Cook expected so. He viewed the trust as an innovator and

wanted the trust to act as a startup for new programs. Representative Guttenberg mentioned some criticisms about Mr. Cook's lack of mental health experience. He believed that Mr. Cook brought a unique perspective from his previous experience as a judge. He asked Mr. Cook to comment further. Mr. Cook observed that as a Superior Court judge in Bethel, cases often times ended up in court because other options in the community had failed. He characterized the situation as the "end of the line" for some individuals and the courts also did not offer solutions. He offered that often the individual had issues such as substance or alcohol abuse or family problems. The answers should be found before people went to jail.

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Co-Chair Foster OPENED Public Testimony.

[2:40:43 PM](#)

Co-Chair Foster CLOSED Public Testimony

Co-Chair Foster indicated the committee would be submitting Mr. Cook's name forward for confirmation.

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AT EASE

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RECONVENED

#hb60

HOUSE BILL NO. 60

"An Act relating to the motor fuel tax; relating to the disposition of revenue from the motor fuel tax; relating to a transportation maintenance fund; and providing for an effective date."

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JERRY BURNETT, DEPUTY COMMISSIONER, TREASURY DIVISION, DEPARTMENT OF REVENUE, introduced the PowerPoint Presentation: "HB 60 Motor Fuel Tax."

Mr. Burnett began with slide 2: "Motor Fuel Tax Increase":

"An Act relating to the motor fuel tax; relating to the disposition of revenue from the motor fuel tax; relating to the transportation maintenance fund; and providing for an effective date."

Mr. Burnett scrolled to slide 3: "Motor Fuel Tax History":

- Began in 1945
- Tax rates have increased over time, but structure unchanged
  - Last increase: highway 1970, marine 1977, aviation fuel 1994
- Tax was suspended from Sept. 1, 2008, to Aug. 31, 2009
- In 2015, HB 158 added \$0.0095 surcharge on motor fuels and some other refined fuels
  - Intended for spill prevention and response fund

Mr. Burnett offered a historical perspective on the tax. He relayed that the last motor fuel tax increase was in 1970 when gas was priced at about 30 cents per gallon and the tax averaged 20 to 25 percent of the cost of a gallon of gasoline. The budget for the prior Department of Highways was \$9 million paid for via the motor fuel tax. He added that the entire state budget in 1970 amounted to \$319 million in general funds (GF). The tax was a per gallon tax rather than a percentage tax.

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Mr. Burnett turned to slide 4: "Relative Motor Fuel Tax Rate":

- Alaska's fuel taxes are among lowest in U.S.1
  - Highway fuel: lowest and the longest time since increase
  - Jet fuel: 35th out of 50
  - Aviation gas: 24th out of 50
- Under this bill, Alaska taxes would be:
  - Below national average for highway fuel
  - Above national average for jet/aviation fuel

1 Per Institute on Taxation and Economic Policy 2017 No comprehensive data for other states' marine fuel taxes. However, we believe that in most states the "marine" rate is the "highway" rate. Therefore, our "marine" rate is likely also one of the lowest in the country.

Mr. Burnett reported that many states did not have a separate marine tax.

Mr. Burnett advanced to slide 5: "Motor Fuel Tax Proposal." He pointed out that the chart was from the original version of HB 60. He indicated that the current House Transportation Committee Substitute (CS) moved the proposed second increase to July 1, 2019 instead of 2018. The bill increased the highway tax from .08 cents to .16 cents on July 1, 2017 and increased to .24 cents July 1, 2019. The following fuels increased on the same stepped schedule:

- Marine fuel increased from .05 cents to .10 cents to .15 cents
- Jet fuel increased from .032 cents to .064 cents to .096 cents
- Aviation gas increased from .047 cents to .094 cents to .141 cents
- "Off-road use" credit increased from .06 cents to .12 cents to .18 cents

Mr. Burnett detailed that the "Off-road use" credit was typically used by mining and large construction companies operating vehicles off of the highways. The credit was available to users of other off-road vehicles like snow machines but the Department of Revenue (DOR) received most of their credit refund applications from large operators.

Co-Chair Foster asked whether the Off-road use credit applied to both diesel and gasoline. Mr. Burnett replied in the affirmative.

[2:50:26 PM](#)

Mr. Burnett continued to slide 6: "Motor Fuel Tax Impacts (examples)." He noted that the figures on the chart represented some examples of the tax burden. He relayed that the highway tax for someone commuting 25,000 miles a year getting 15 mpg (miles per gallon) equaling 1,666 gallons per year would currently spend \$133.00 per year

(\$0.08 per gallon tax) and \$266.00 per year (\$0.16 per gallon tax) on July 1, 2017 and \$399.00 per year (\$0.24 per gallon tax) on July 1, 2019. He continued that the highway fuel tax for freight estimated at 30,000 pounds (lbs.) of freight driven 360 miles at 5 mpg totaling 72 gallons calculated at .02 cents per 100 lbs. was currently \$5.76 per trip (\$0.08 per gallon tax), \$11.52 at \$0.04 cents, and \$17.28 at \$0.06 cents on the same stepped schedule. The slide contained examples for marine, jet fuel, and aviation gas.

Representative Guttenberg wanted to make sure the freight amounts listed on the chart were in addition to the freight rate and not a tax on the freight. Mr. Burnett responded in the affirmative.

[2:52:43 PM](#)

Mr. Burnett reviewed slide 7: "Disposition of Revenues":

- Creates "Transportation Maintenance Fund" as a new fund within the General Fund
  - Aviation fuel taxes are Designated General Fund under current law
  - HB 60 moves taxes on highway and marine fuel from Undesignated General Fund to Designated General Fund for budgeting
  - Creates confidence that revenues from motor fuel will be used to build and maintain transportation infrastructure

Representative Kawasaki relayed that his question had first been posed in a Department of Public Safety (DPS) subcommittee hearing. He explained that DPS wanted to utilize some funds from the Transportation Maintenance Fund due to the fact that Troopers "maintained the traffic." He asked how restrictive the fund would be. He indicated that the request was granted using GF because he had reservations about using the fund for the DPS request. Mr. Burnett responded that the definition was in statute and allowed use for safety concerns of the nature described. The DPS request reflected an allowable use, which was why the appropriation was in the budget. He delineated that the legislature ultimately determined the use of the fund. He did not anticipate a problem as long as the money was first appropriated to the Department of Transportation and Public

Facilities (DOT) and passed through to DPS or flowed the in the opposite direction.

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Representative Kawasaki asked if the funds would be apportioned based on the type of fuel. Mr. Burnett explained that proceeds from the aviation gas and jet fuel taxes had to be used exclusively at airports. The tax was also used for smaller airports handling smaller turbine engines. He reminded the committee that a portion of the revenue was shared with municipalities that owned its own airport. Representative Kawasaki asked whether proceeds from the marine fuel tax would be dedicated for the Marine Highway and if highway tax funds also apply to the Marine Highway. Mr. Burnett deferred to DOT for the answer.

Representative Wilson asked whether only the aviation fuel tax was dedicated and only applied to airports. She deduced that the remaining fuel taxes could be utilized for any type of state expenditure. She viewed them as two different taxes. Mr. Burnett clarified that the aviation fuel taxes had to be used at the airports. The legislation sets out a designation for how the other revenue from fuel taxes should be spent but the decision would be up to the legislature. Representative Wilson wondered why the fuel tax revenue was not dedicated as matching funds for Alaska's highways. Mr. Burnett relayed that the structure of the fund allowed for it to be used as matching funds under the designation.

2:59:20 PM

Vice-Chair Gara thought there were pros and cons to the legislation. He noted that a negative was the high price of fuel in the state. He asked Mr. Burnett to provide his reason for supporting the legislation as a revenue measure. Mr. Burnett responded that motor fuel tax was a traditional method of paying for highway infrastructure in the country. He suggested that as long as the revenue was spent on its designated purpose for highway infrastructure citizens tend to support the tax. He believed the motor fuel tax was a fair way to spread costs and worked elsewhere in the country. The legislation was a reasonable proposition at a reasonable level of taxation. He recognized that fuel was expensive but the proposed tax amounted to a "very small portion" of the costs.

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Vice-Chair Gara asked why the tax was staggered over two years. Mr. Burnett replied that he was unaware of all of the reasons the tax increase was stepped. He knew that the stepped approach eased in the increase lessening the immediate impact. In addition, some companies that use fuel, i.e., trucking companies, set rates in advance and needed time to adjust for the increase to reset rates.

Representative Guttenberg spoke to previous legislative efforts to deal with highway maintenance. He did not believe the roughly \$80 million generated each year from the proposed motor fuel tax covered DOT's yearly costs for maintenance. He thought that some would advocate for holding spending to the level collected yet, the public demanded adequate road maintenance. He indicated that the legislature retained the ability to appropriate the tax proceeds anywhere in the budget. He asked how the tax created confidence and support when the tax would not entirely fund maintenance, new roads, and other infrastructure needs. He acknowledged that the bill was only a component of the costs. Mr. Burnett responded that a team effort was necessary to create a plan that filled in all of the missing pieces.

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Mr. Burnett explained slide 8: "Transportation Committee Change to the CS":

- Refund for Commercial Fishing Operations
  - (2) a watercraft engaged in commercial fishing is entitled to a motor fuel tax refund of three cents a gallon if the tax on the motor fuel has been paid; in this paragraph, "commercial fishing" means the taking of, fishing for, or possession of fish, shellfish, or other fishery resources with the intent of disposing of them for profit or by sale.

Mr. Burnett recounted that the only other modification was the change of the effective date of the second tax increase.

Representative Wilson asked about the loss in revenue. She wondered about the reason for the change on the slide. Mr.

Burnett answered that the change had been proposed by the House Transportation Committee and came at a cost that was reflected in the fiscal note. He would address the cost later in the presentation. Representative Wilson requested information regarding the cost of passing the refund on to truckers as well.

Representative Pruitt surmised that the state's administrative cost would rise with implementation of the tax. He asked whether the refund provision required additional employees.

Mr. Burnett answered that one full time equivalent position was necessary at a cost of approximately \$64,500 per year. Representative Pruitt clarified that the one position was only related to the refund component of the bill. Mr. Burnett replied in the affirmative.

Mr. Burnett advanced to slide 9: "Revenue Impact":

- Additional revenue about \$40 million first year \$80 per year thereafter
  - \$0.4 million will be shared with municipal-owned airports
  - Remainder: Transportation maintenance fund, special accounts for road, water transport, and aviation facilities
- Estimates based on fall 2016 revenue forecast
- Does not account for changes in fuel demand or stockpiling

Representative Guttenberg referenced slide 9 and asked about the \$0.4 million shared with municipal airports. He asked for details regarding how the revenue sharing worked. Mr. Burnett responded that he did not have the accounting details. He deferred to DOT for a complete answer. He would follow up to the extent possible.

[3:09:58 PM](#)

Mr. Burnett continued to slide 10: "Implementation Cost":

- Dept. of Revenue must update:
  - Tax Revenue Management System (TRMS)

- Revenue Online (ROL) which allows a taxpayer to file a return and apply for a dealer license online
- Tax return forms
- One-time implementation cost of \$50,000 to recreate tax forms and reprogram and test the tax system to accommodate the rate changes
- No additional costs to administer the tax program from tax change
- Transportation Committee amendment will require 1 tax technician at an annual cost of \$64,500 to process tax refunds

Co-Chair Foster asked whether the off-road tax credit applied to both diesel and gasoline.

BRANDON S. SPANOS, DEPUTY DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE (via teleconference), explained that the exemption specific to diesel was a regulation that allowed federally recognized tribes and municipalities to purchase diesel tax free for their own use and for resale to tribal members. He reported that the tax credit available for gas or diesel was a .06 cents per gallon refund for off-road use and was not an upfront exemption. The full tax was paid when purchased.

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Representative Pruitt related last year's concern regarding the impact resulting from the jet fuel increase and removal of the exemption for international flights. The exemption was not included in the current version of the legislation. He recounted that the previous legislature requested that DOT analyze the cost of imposing landing fees. He thought that a fee for service model would fund a portion of the airports' costs that currently were not covered. He queried why a jet fuel tax was being reconsidered this year versus landing fees.

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JOHN BINDER, DEPUTY COMMISSIONER, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, answered that the

department had been tasked to investigate landing fees at Dead Horse and other certificated airports. He detailed that certificated airports were generally the larger hub type airports around the state. Based on landing data from 2013, DOT discerned that landing fees generated approximately \$6 million in revenue. Through discussions with the aviation community, stakeholders, various aviation groups, and the Aviation Advisory Board the consensus was that the least administratively burdensome and most equitable way to generate additional revenues was to increase taxes. Representative Pruitt asked the commissioner to identify the largest competitors to the Anchorage International Airport. Mr. Binder replied that the competitors to the Anchorage and Fairbanks International Airports were related to air cargo carriers travelling to and from Asia. The competitive airports were located in Seattle, Vancouver, and Edmonton. Representative Pruitt asked what the "excess amount of taxes per gallon" were.

[3:17:18 PM](#)

Mr. Binder responded that state taxes were currently exempted on all international flights. Representative Pruitt asked what the equivalent fees and taxes were at the competitor airports. Mr. Binder did not currently have access to the figures. Representative Pruitt asked how many people were employed at the Anchorage International Airport. Mr. Binder responded that employment related to aviation in the Anchorage area numbered 47 thousand jobs. Representative Pruitt asked what impact the increase in fuel taxes would have on the associated jobs. Mr. Binder reported that DOT did not anticipate an impact on jobs. He furthered that the repercussions to removing the exemption for international flight was nearly impossible predict. He guessed that the reaction could range from negligible to significant. Representative Pruitt recapped that the economic impact on jobs from the "increase" "based on the fact" that Alaska was in completion "with other airports in the Pacific Northwest" was not really understood. He asked whether his understanding was correct. Mr. Binder's clarified that the legislation's impact on domestic carriers was negligible. He furthered that if a fuel tax was imposed on the international carriers, DOT anticipated that the amount of tax would double the cost of a carrier landings and eliminated Anchorage's competitive edge in the air cargo market.

Representative Wilson stated that "equitable meant fair." She asked how much state funding was appropriated to both airports. Mr. Binder replied that neither airport received state funding: both were self-sustained through air carrier and tenant rates and fees. Representative Wilson asked whether the airports were self-sustained at the current level of taxes. Mr. Binder responded that the fuel taxes collected at both airports flowed into the general fund. He remarked that the funds that sustained both airports were unrelated to the fuel tax. Representative Wilson clarified that both airports were self-sustainable without the state tax revenue. Mr. Binder affirmed her statement. She asked how much the state funding for other airports amounted to. Mr. Binder answered that the state spent \$40 million per year on the remaining rural airport system. Representative Wilson asked how much revenue the other airports generated. Mr. Binder explained that the rural airports generated approximately \$5 million primarily related to leasing revenue from land rent and concession fees. Representative Wilson recounted that the same discussion took place last year. She wondered why the administration would ask the international airports to subsidize the rural airport system even more. She wondered why the state would not charge landing fees and why the state "put so much stress" on its international airports in order to subsidize other airports. Mr. Binder answered that landing fees were always an option for revenue generation. He reiterated that the fuel tax was the aviation communities' requested method of fairly generating state revenue. He indicated that a large number of passengers and freight from the Anchorage and Fairbanks airports were using the rural airport system. He added that a large portion of passengers flying out of the state used rural carriers to connect through Anchorage or Fairbanks. He felt that it was reasonable to expect the larger carriers to help support the airports that provided them with passengers.

[3:25:09 PM](#)

Representative Wilson countered that freight benefited the communities. She was concerned that the Aviation Advisory Board was comprised of members from "mostly small airports." She exemplified the Dead Horse Airport and asked why the state "would let them off for free." Mr. Binder was uncertain that the state was "letting airports off for free." Representative Wilson thought that the Dead Horse Airport was different than rural airports. She elaborated

that the Dead Horse Airport was commercialized. She asked why DOT did not believe that the Dead Horse Airport should be as sustainable as the international airports. Mr. Binder communicated that DOT desired moving all of the state's airports towards self-sustainability. He felt that many of the passengers departing in Dead Horse travelled on to rural Alaska and felt that landing fees imposed on Dead Horse still impacted rural Alaska. Representative Wilson asked for a funding breakdown of each of the state's airports by revenue generated and state funding received in the last year.

Co-Chair Foster OPENED Public Testimony.

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PETER BIBB, JUNEAU PLANT MANAGER, PETRO MARINE SERVICES, spoke in opposition to the marine fuel increase in the bill. He indicated that tripling the marine fuel tax would impose additional negative impacts on the "contracting" economy and would generate very little revenue. The company supported a further increase in the proposed highway motor fuel tax and determined that much more revenue was generated via a highway tax than a marine tax. He shared that Petro Marine Services operated 12 marine fuel terminals in Southeast and Southcentral Alaska. Much of the company's customer base was comprised of Seattle based large volume users that were sensitive to fuel prices. He thought that tripling the marine tax provided the Seattle based customers an added incentive to further minimize fuel purchases in Alaska, which was a customary practice. He thought that the increased marine tax would have an "adverse financial impact" on Alaskan marine businesses that could lead to a reduction in marine fuel purchases. As a result, less marine fuel purchased could reduce local tax revenues in marine communities that depended on the income. He reiterated his support for adjusting the highway tax higher than proposed instead of increasing the marine fuel tax.

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Representative Ortiz asked Mr. Bibb about the services that Petro Marine provided. He understood that Petro Marine Services was the main motor fuel providers for retail sales in Southeast Alaska. Mr. Bibb responded in the negative. He noted that the market was extremely competitive and was

comprised mainly of three large bulk fuel distributors; Petro Marine, Crowley, and Delta Western that supplied fuel "for all sectors."

Representative Thompson asked what the marine fuel tax was in other places such as Seattle or Portland. Mr. Bibb was uncertain but believed Seattle did not have a marine fuel tax.

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NICK D'ANDREA, VICE PRESIDENT, PUBLIC AFFAIRS - UPS, LOUISVILLE, KY (via teleconference), opposed the jet fuel portion of HB 60. He read a prepared statement of his testimony:

UPS appreciates our long-standing working relationship with Alaska, and we are proud to employ more than 1,100 UPSers in the state, including there. No matter where we operate, we strive to play our part in the local economy as a responsible corporate citizen. UPS currently pays \$6 million in taxes each year and more than \$7 million in landing fees annually to cover airport costs incurred at Ted Stevens International Airport.

Two components of Alaska's proposed motor fuel tax bill, however, stand to directly impact UPS. While we support a motor fuel tax increase to fund infrastructure building and repair, we strongly oppose the jet fuel tax increase contained in the same bill.

As we see it, the motor fuel tax portion is purely a user fee. UPS uses all the roads in Alaska and absolutely believes that we should pay our fair share for infrastructure. Alaska also currently has one of the lowest motor fuel tax rates in the nation. It is obviously difficult to fund 2017 transportation needs with 1970s funding; for this reason, UPS is supportive of the motor fuel tax increase.

The jet fuel tax increase, though, is not a user fee. In fact, it would effectively tax UPS twice.

UPS already pays more than \$7 million dollars annually in aviation user fees in the form of landing fees incurred at Ted Stevens International Airport. These

fees go directly into the aviation infrastructure where we operate (Anchorage). In fact, the Alaska International Airport System is self-sustaining due to the landing fee paid by its users. This means the current fuel tax generated is paying for smaller airports, which UPS does not utilize, and which do not charge landing fees to sustain their airport. The proposal to triple the jet fuel tax is asking UPS and other carriers to subsidize airports we do not use.

We also believe increasing the jet fuel tax could impact Alaska's role in the cargo industry. Currently, it is situated perfectly as UPS's gateway to and from Asia. We have a good relationship with the airport, and Alaska has always had a fair cost of doing business. As aircraft continue to evolve, flying longer ranges with better payload capacity, it is safe to assume those in the cargo industry will continue to evaluate the most efficient options for each carrier's network.

We understand the difficult situation you and other lawmakers are facing and we appreciate the work you are doing for your constituents, including our own UPSers. While we support the motor fuel tax increase. I hope you understand our concerns to increase the jet fuel tax. We aren't opposed to paying user fees for infrastructure we use, but subsidizing other airports we don't use and who do not levy landing fees is not a sustainable way to fund Alaska's aviation infrastructure.

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Vice-Chair Gara "sincerely" appreciated UPS' presence in Alaska. He noted that legislators had a duty to represent the Alaskan citizenry. He calculated that if the business portion of the motor fuel taxes were removed the tax would fall on consumers and especially hard on those with lower income. He believed the tax would become regressive. He also deduced that the increase in aviation gas prices would impact UPS operations by less than one percent. Mr. D'Andrea answered that UPS endorsed highway motor fuel taxes and viewed them as a "user fee." However, he felt that asking UPS to subsidize taxes on airports they do not utilize was unfair. He offered that labor and fuel were

cost drivers and increased jet fuel taxes would significantly add to its cost drivers.

Representative Pruitt recalled that 489 UPS pilots were domiciled in Alaska and that the company trained pilots for flying 747 and MD11 jets in Anchorage. He reported that the jet models were being phased out for newer models. He queried whether UPS would train pilots on the more fuel-efficient, newer models in Anchorage. Mr. D'Andrea responded that the company had recently purchased 14 747-8 models that were the largest 747's available and had an option to purchase 14 more. He indicated that UPS could technically fly directly from Seattle to Asia, resulting in a "huge hit to the payload." He qualified that Vancouver and other locations were cheaper in terms of landing fees. He noted that one company was flying 777's directly to Asia from Oakland, California. He qualified that increased fuel taxes "could be catastrophic in Anchorage."

[3:44:24 PM](#)

DANA DEBEL, MANAGING DIRECTOR FOR STATE AND LOCAL GOVERNMENT AFFAIRS, DELTA AIRLINES, LOS ANGELES, CALIFORNIA (via teleconference), spoke in opposition to the jet fuel tax in HB 60. She noted that over 100 Delta employees resided in Alaska. She stated that the threefold increase placed the state 15th in states' ranked by highest effective jet fuel tax rate. She informed the committee that the effective "all in" jet fuel tax rate in Seattle was 2.4 cents and was 3 cents per gallon in Portland. Delta currently operated 17 peak day flights to and from Alaska. Delta served Juneau, Sitka, and Ketchikan during peak summer travel months and Anchorage and Fairbanks year around. She indicated that due to the power of Delta's network and hubs, Alaska was really one stop away from over 600 destinations throughout the world not including partner airlines. She thought the reach would expand even further. She believed that Delta was only one of many commercial carriers with employees in Alaska and cited Federal Aviation Administration (FAA) statistics that 56 thousand jobs were located in Alaska; only three states outranked Alaska in the number of aviation jobs. She related that Alaska was a "very challenging place" to offer service and that even though the increase seemed minimal the repercussions could be significantly impactful on the cost of operating a flight. She referenced an Office of Budget and Management (OMB) state study that assigned a per

passenger cost to the increase in the jet fuel tax. She considered the analysis flawed in many ways. She maintained that the amount of jet fuel for each flight was variable depending on a variety of conditions and was not stagnant for each flight. The flights were not always sold out and in reality, the load factor in Alaska was approximately 85 percent. She furthered that the airline was the purchaser of jet fuel and not the consumer. The cost of an airline ticket was determined on supply and demand and what the consumer was willing to pay and not a function of the cost of the inputs. Therefore, Delta could not charge the amount that covered the cost of operation in Alaska and make a profit on top of cost recovery. Finally, the analysis was based on a shorter stage length, flying from Seattle to Juneau and was not typical. She understood the budgetary challenges the state was facing but did not support an increase in jet fuel.

[3:52:06 PM](#)

PAUL KENDALL, SELF, ANCHORAGE (via teleconference), spoke to matters other than HB 60. He discussed his ideas regarding how to cut the budget. He felt that the legislature should be more responsive to the public and strongly disagreed with using any Permanent Fund Dividend (PFD) money for government services.

[3:54:59 PM](#)

Co-Chair Foster CLOSED Public Testimony.

[3:55:20 PM](#)

STEVEN HATTER, DEPUTY COMMISSIONER, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, commented that HB 60 offered DOT an opportunity for an improved, stable, and predictable funding source to "provide necessary transportation results and services." He believed the tax provided "a mechanism for clear accountability regarding what Alaskans were paying for." He introduced the PowerPoint Presentation.

[3:56:19 PM](#)

Mr. Hatter began with slide 2: "Scope":

This briefing addresses the Department of Transportation & Public Facilities (DOT&PF) operating budget.

- The funds generated by Alaska's Motor Fuel Tax that will be placed in the Alaska Transportation Maintenance Fund (DGF/Other) replace an equal amount of Unrestricted General Funds (UGF) that currently fund DOT&PF's operating budget.

- UGF to DGF fund swap: \$64.8M
- UGF to Other fund swap (Aviation): \$4.5M
- Total fund swap: \$69.3M

- The budget components that are recipients of the fuel tax revenue are the regional Highways & Aviation components and the Alaska Marine Highway System.

[3:57:04 PM](#)

Mr. Hatter moved to slide 3: "FY2018 Governor's Proposed Operating Budget All Funding Sources" that graphically depicted the funding sources. He highlighted that the four funding sources for the department were color coded designated on the lower right of the slide. Two pie charts in the upper right corner compared the total FY 17 management plan to the FY 18 governor's budget. The largest change in distribution in fund categories was undesignated general funds (UGF) and designated general funds (DGF). The new proposed fund accounted for the larger DGF percentage in FY 18 and provided a direct and clear link for services from taxes "paid at the pump." The tax revenue would be used to preserve and operate Alaska's transportation infrastructure and was similar to a fee for service model. He continued that the bubble chart on the slide was colored to depict the funding category and the size of the bubble was proportionate to the amount of the funding spent.

[3:58:31 PM](#)

Mr. Hatter continued to slide 4: "Keep Alaska Moving through service and infrastructure." He reviewed the four core services of the department aligned with DOT's mission.

PRESERVE ALASKA'S TRANSPORTATION INFRASTRUCTURE  
Off-Surface Preservation  
Surface Preservation  
Vehicle Management

Bridge Preservation  
Vessel/Terminal Preservation

OPERATE ALASKA'S TRANSPORTATION INFRASTRUCTURE

Illumination  
Signals  
Snow & Ice Removal  
Signage  
Striping  
Operate Certificated Airports

MODERNIZE ALASKA'S TRANSPORTATION INFRASTRUCTURE

Plan Infrastructure  
Design/Engineer  
Construct

PROVIDE TRANSPORTATION SERVICES

Manage Ferry Reservation System  
Operating Ferry Terminals  
Operating Ferries on Routes  
Retain and Expand Business  
Transit

Mr. Hatter emphasized the department's commitment to accountability. He indicated that the department developed clear performance metrics to measure its performance and efficiency when delivering the core services. He emphasized that as stewards of state funding, measuring performance resulted in accountability. He reiterated that the tax revenue would flow primarily to preserve and operate core services.

[3:59:59 PM](#)

Mr. Hatter reviewed slide 5: "Preserve":

Preserve Alaska's Transportation Infrastructure

Preserve extends the life of existing infrastructure - it is the responsibility of the department to maximize the lifespan of our transportation infrastructure; to ensure assets meet federal transportation standards; and to restore deficiencies in the various structures upon which the system operates.

Direct Services that support Preserve:

- Surface Preservation

- Off-Surface Preservation
- Bridge Preservation
- Vehicle Management
- Vessel/Terminal Management

Mr. Hatter turned to slide 6: "FY2017 Management Plan: Operating Budget: Preserve \$138.998.5." He detailed that the slide depicted the current budgeting by the department and pointed out that UGF decreased and DGF increased under the provisions in HB 60.

Mr. Hatter advanced to slide 7: "Off-Surface Preservation \$26.255.5." He noted the measures that the department used to demonstrate accountability in Off-Surface Preservation.

Measures:

1. Percent of System Meeting Service Standards
2. Maintenance                      Cost/Lane                      Miles                      Maintained

Mr. Hatter noted that the slide portrayed photos of examples of desired and insufficient standards. A pie chart denoted fund source percentages to the direct services level and the apportionment to the regions and statewide agencies. He underlined that the data offered better clarity about where the funding was spent and accountability on how effective and efficiently the funds were spent.

[4:02:31 PM](#)

Mr. Hatter scrolled to slide 8: "Operate":

Operate Alaska's Transportation Infrastructure

Operate allows movement on existing infrastructure - it is the responsibility of the department to insure our transportation system functions smoothly; that streets and runways are free of snow and ice; that lighting, signage and signals are all operational; that roads are swept and striping is visible. Airports are operated for the safe movement of people and cargo.

Direct Services that support Operate:

- Illumination
- Snow & Ice Removal
- Operate Certificated Airports

- Striping
- Signage
- Signals
- Information Transportation Services

Mr. Hatter explained slide 9: "FY2017 Management Plan: Operating Budget: Operate \$105.292.8." He pointed to how the funds flowed in the FY 17 management plan under the category and noted the large UGF bar that would shorten with increased DGF with implementation of the tax plan.

Mr. Hatter advanced to slide 10: "Snow and Ice Removal." He noted the measures that lead to the desired standards of safety after a weather event:

Measures:

1. Average Time per event to Achieve performance target for each priority level
2. Average equipment and labor costs per event/lane mile

Mr. Hatter remarked that the slide also contained a pie chart showing the funding percentages broken down to the direct service level and apportionment to the regions and statewide agencies. He repeated his previous comments regarding the measures leading to clarity and accountability. He scrolled to slide 11: "Comparison of Fund Category Distribution: FY2018 Governor's Proposed vs. FY2017." that depicted the same pie charts on slide 3. He reiterated that the motor fuel tax which created the Alaska Transportation Maintenance Fund was an opportunity to decrease UGF via increased DGF and clearly linked core direct services and performance and was also a mechanism for accountability.

[4:05:44 PM](#)

Representative Ortiz referenced slide 6, regarding the operating budget spend. He wondered what percentage of the 72 percent "Other" fund category was federal funds. Mr. Hatter responded that he did not have the exact numbers. Representative Ortiz asked Mr. Hatter for an estimate. Mr. Hatter offered to provide the information later.

Representative Wilson pointed to slide 11 and noted that the pie chart depicted the amount of overall federal

funding. She wondered what the "Other" funding was comprised of. Mr. Hatter cited slide 3 and pointed to the breakdown of the "Other" funding category in the dark green bubbles. He pointed to "CIP Receipts" and explained that represented the authority to spend federal dollars by allowing the charge of personal expenses to capital projects. He mentioned the International Airport Revenue Fund was a self-contained fund for the international airports. The Highway Equipment and Working Capital fund was appropriated for the state equipment fleet. He mentioned that the remaining other funds in the smaller bubbles represented "quite a bit" of other funding. Representative Wilson inquired what percentage of Marine Highway System Funds were GF and whether the Maine Highway "paid for itself." Mr. Hatter offered to provide the exact percentage breakdown. He remembered that the rate charges and fees contributed to a "relatively small amount of the total costs."

[4:09:41 PM](#)

Representative Wilson asked when the rates were last increased. Mr. Hatter answered that the rates had been increased over the last two years and he would follow up by providing a rate schedule and timing of the rate increases.

Vice-Chair Gara expressed frustration with the department. He believed that the department attempted to obstruct information he had requested and was never "responsive" to his concerns. He identified \$20 million in maintenance and operation of the Dalton Highway and asked DOT whether the state could impose a toll designed for the end users. He reported receiving a negative answer with a 30 year old Attorney General opinion attached. He researched and discovered that a toll was possible on all users except Alyeska. He believed the department was stuck in the status quo and he had to do much of his own research after asking questions to the department in the past. He queried why the department was not charging landing fees at the Dead Horse Airport and received an answer that "side stepped" the question regarding charges for property use that covered airport costs but did not address landing fees. He felt "side stepped" by the department on both issues. He felt that the issues represented \$20 million DOT should not need. He requested real answers from the department.

[4:13:42 PM](#)

Mr. Hatter responded that his message was received and he would take the request back to the commissioner. Vice-Chair Gara wanted proactive help from DOT when answering his questions. He referred to the question Representative Wilson had asked about the Dead Horse Airport and the testifier answered with a reference to rural users. Vice-Chair Gara thought that the Dead Horse Airport was almost exclusively used by industry. Deputy Commissioner Hatter agreed with Vice-Chair Gara.

HB 60 was HEARD and HELD in committee for further consideration.

#hb127

HOUSE BILL NO. 127

"An Act relating to a permanent fund dividend for an individual whose conviction has been vacated, reversed, or dismissed; and relating to the calculation of the value of the permanent fund dividend by including payment to individuals eligible for a permanent fund dividend because of a conviction that has been vacated, reversed, or dismissed."

4:16:30 PM

REPRESENTATIVE SCOTT KAWASAKI, SPONSOR, provided a brief overview of the legislation. He reminded the committee that the state relinquished incarcerated Alaskans rights to their Permanent Fund Dividends (PFD). He elaborated that the legislation provided the PFD to Alaskans whose convictions were vacated, reversed, or dismissed. If passed, those eligible must apply for the PFD within 120 days following the new judgment or within 120 days of the effective date of the bill. He believed that the state providing PFD's to individuals wrongfully convicted helped them reestablish a normal life. It was incumbent upon the legislature to recognize the injustice. He pointed out that last year that state had the highest number of individuals with overturned convictions that were wrongly incarcerated.

Co-Chair Foster stated that Vice-Chair Gara would act as a stand-in chair of the meeting.

4:19:34 PM

Co-Chair Foster OPENED Public Testimony.

4:19:39 PM

APRIL MONROE, SELF, FAIRBANKS (via teleconference), spoke in favor of the legislation. She shared that she had done a lot of advocacy work on the issue. She stressed that it would be a travesty to deny a person their dividend because of a wrongful conviction. She could not imagine anyone opposing the legislation.

4:21:22 PM

BARBARA BRINK, ALASKA INNOCENCE PROJECT, ANCHORAGE (via teleconference), spoke in favor of HB 127. She thanked the co-sponsors of the bill. She shared that she was the volunteer president of the project's board and relayed her extensive career involving indigent criminal defense as a state and federal public defender attorney over the last 35 years. She elucidated that under the current law a person lost eligibility for the PFD if sentenced or were incarcerated for a felony conviction. The bill was "stating the obvious" for individuals found not guilty, or when convictions were vacated or reversed, or charges were dismissed. The legislation recognized that a person should be eligible for the PFD under the stated conditions. She provided an example of a person found not guilty after being convicted of a DUI who could have his driver's license reinstated. She emphasized that the legislation continued to right a wrong and let "truth and justice" prevail. The measure was not a compensation bill or a punitive damage claim. She offered the example of Texas that statutorily provided \$80 thousand for each year a person was imprisoned due to a wrongful conviction. She thanked the committee.

4:25:06 PM

Representative Thompson wondered whether a vacated conviction still carried the felony conviction. Ms. Brink remarked that the language was tricky. She responded that a vacated sentence did not infer innocence but a vacated conviction lead to a re-trial or dismissed charges. Dismissed charges or acquittal meant that the person was innocent and not convicted of a crime. Representative Thompson noted that a portion of inmates PFD's went to their healthcare while incarcerated and the remainder to victim's compensation. He wondered whether the money spent on healthcare would be deducted from the PFD money the

person now qualified for. Ms. Brinks responded that the PFD had not been issued for medical costs and that was a common misconception. The person was completely disqualified from receiving their PFD while in prison. Representative Thompson relayed that he had heard from the Victims Compensation Board and Department of Corrections (DOC) that they applied for the PFD in lieu of the convicted individual and a percentage was divided among the inmate's health care and victim's compensation. He wanted further clarification.

Representative Wilson indicated that Representative Thompson was correct and the percentage that DOC received was used collectively for all inmates medical prison costs.

Vice-Chair Gara did not believe that wrongly convicted individuals could be compensated enough for the injustice.

[4:29:41 PM](#)

MARVIN ROBERTS, SELF, FAIRBANKS (via teleconference), spoke in support of HB 127. He was one of the "Fairbanks Four" who had been wrongfully incarcerated for 18 years. He thanked all of the legislators who supported the bill. He indicated that the result of the bill would go a long way to help him and his family and all wrongfully convicted individuals.

Vice-Chair Gara sincerely apologized for what happened.

[4:31:17 PM](#)

CRYSTAL SISTO, SELF, FAIRBANKS (via teleconference), spoke in favor of HB 127. She related that she was close to one of the "Fairbanks Four." George Frese, one of the four, was the father of Ms. Sisto's daughter, who lost her father and his emotional and financial support 18 years ago when she was 3 years old. She suggested that the PFD money would substantially help Mr. Frese rebuild his life and reconnect with his family which presently included grandchildren. She relayed her daughters support for the bill and informed the committee that she had lost faith in the system from her experience. She urged support for the bill.

[4:33:17 PM](#)

MISTY NICKOLI, SELF, FAIRBANKS (via teleconference), spoke in support of HB 127. She shared that she had advocated for the Fairbanks Four and that George Frese was her cousin. She offered that she was struggling to reconcile her sense of belonging and trust with the judicial system. The PFD was unjustly confiscated from the four and she felt the bill was one step toward reestablishing justice and equity.

[4:35:20 PM](#)

SCHERRY BYERS, SELF, FAIRBANKS (via teleconference), urged support for HB 127. She relayed that she was a licensed clinical social worker and worked in bush villages since 1984. She spoke of sadness and frustration that the effort to prove the four's innocence took over \$1 million in pro bono attorney work and intense community support. She wanted people to truly understand that "everyone knew that the four were not guilty." She recounted that the four men were just graduating high school at the time of their wrongful conviction and were robbed of their opportunities to develop work and career lives. She felt that was a very significant part of the story unrelated to the PFD issue. She added that at least three out of the four were Alaska natives. She believed that the PFD money was rightfully theirs. She thought that if the legislation did not pass people would keep fighting the issue.

Vice-Chair Gara remarked that Representative Kawasaki was educating his fellow legislators about the issue.

[4:39:12 PM](#)

EVAN EADS, SELF, FAIRBANKS (via teleconference), supported HB 127. He spoke of an event he attended on behalf of the Fairbanks Four. He stated that the event was moving for the attendees and for the four men themselves. He thought the bill was a small gesture: returning something that was unjustly confiscated. He thought it was not a partisan issue and supported passage of the bill.

[4:41:17 PM](#)

MARNA SANFORD, TANANA CHIEFS CONFERENCE, FAIRBANKS (via teleconference), supported HB 127 and advocated for post-conviction release reform. She agreed with all of the previous testifiers. She thought the bill was a "no

brainer." She appreciated Representative Kawasaki's support and urged for passage of the bill.

[4:43:21 PM](#)

VIRGINIA MCCARTY, SELF, FAIRBANKS (via teleconference), supported HB 127. She relayed that she had no specific testimony.

KATHLEEN PETERS ZURAY, SELF, TANANA (via teleconference), stated her and her husband's support and urged members to support HB 127. She wanted to see the PFD's restored to the four wrongfully convicted men.

[4:45:11 PM](#)

Vice-Chair Gara CLOSED Public Testimony for HB 127.

HB 127 was HEARD and HELD in committee for further consideration.

#

ADJOURNMENT

[4:47:48 PM](#)

The meeting was adjourned at 4:47 p.m.