

HJR

42



SENATE TRANSPORTATION COMMITTEE

State Capitol, Room 11
Juneau AK, 99801-1182
907-465-6828

REVISED

To: Senate Transportation Committee Members

From: Albert M. Kookesh, Chair, Senate Transportation Committee
465-6828 *a. kookesh*

Date: April 12, 2010

Re: Senate Transportation Committee
For the week of April 12-16, 2010

Tuesday, April 13, 2010: 1pm-2:30pm, Butrovich Room 205

- + **HB 357**: An Act relating to the sale of land owned by the Alaska Railroad that is not needed for railroad purposes. Sponsor: Representative Bill Stoltze
- CSHJR 42**: Proposing Amendments to the Constitution of the State of Alaska creating a transportation infrastructure fund. Sponsor: House Transportation Committee

Thursday, April 15, 2010—1:00pm to 2:30 pm, Butrovich Room 205

Bills previously heard or scheduled.

+indicates will be teleconferenced

ALASKA STATE LEGISLATURE

Interim:
P.O. Box 109
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Session:
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REPRESENTATIVE PEGGY WILSON
HOUSE DISTRICT 2

SPONSOR STATEMENT House Joint Resolution 42

“Proposing amendments to the constitution of the State of Alaska creating a transportation infrastructure fund”

HJR 42 will put a constitutional amendment before voters to change the Alaska constitution to allow a dedicated fund for Capital Transportation Projects.

In FY10 87% of our transportation budget came from the federal government. The current federal reauthorization legislation has already expired and is being extended month to month until new legislation can be passed. The new federal reauthorization bill is unfavorable for states with small populations by emphasizing mass transit and green transportation. It favors toll roads, bridges, and other transportation that are self-funding. Alaska's small population makes these self pay options prohibitive. There aren't enough cars on the road, people on the ferries or residents landing at our airports to generate the economy of scale that is needed.

The roads, bridges, airports, ferries and transit systems that make up our state's transportation system are essential to mobility, commerce and economic development. This system enhances economic competitiveness, increases safety and enhances quality of life. There is a growing imbalance between system use and capacity as well as the need for new infrastructure to access our valuable resources. To insure Alaska has the infrastructure necessary to develop our resources as well as providing a quality of life for our citizens we must commit to funding transportation. Having a guaranteed amount that can be counted on from year to year will allow Alaska to tackle today's congestion and maintenance projects as well as developing the needed access to resources and energy.

The crafters of the constitution grandfathered in dedicated funds. They realized that some funds would be needed no matter the economic or political climate. Transportation was one of the funds that predated the constitution. It lasted for several years until it was eliminated.

26-LS1411\P

CS FOR HOUSE JOINT RESOLUTION NO. 42()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE TRANSPORTATION COMMITTEE

A RESOLUTION

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

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** Article IX, sec. 7, Constitution of the State of Alaska, is amended to read:

5 **Section 7. Dedicated Funds.** The proceeds of any state tax or license shall not
6 be dedicated to any special purpose, except as provided in Sections 15 and 18
7 [SECTION 15] of this article or when required by the federal government for state
8 participation in federal programs. This provision shall not prohibit the continuance of
9 any dedication for special purposes existing on April 24, 1956 [UPON THE DATE
10 OF RATIFICATION OF THIS SECTION BY THE PEOPLE OF ALASKA].

11 * **Sec. 2.** Article IX, Constitution of the State of Alaska, is amended by adding a new
12 section to read:

13 **Section 18. Transportation Infrastructure Fund.** (a) The revenue received
14 after July 1, 2011, from any state tax on fuel used for the propulsion of motor vehicles,
15 aircraft, and watercraft, less refunds, credits, and collection costs as provided by law,
16 and from a registration fee levied for a motor vehicle that is not a special registration

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fee provided by law shall be placed in a transportation infrastructure fund. The legislature may appropriate additional amounts to the fund. The fund shall be managed as an endowment. Each year, the legislature may appropriate a percentage of the state fuel taxes and registration fees received by the fund in that year and a percentage of the average market value of the fund as established by law for capital projects for transportation and related facilities that are designated by law and for costs related to motor vehicle licensing and registration that are designated by law.

(b) The legislature shall provide by law for the management and investment of the fund balance. The income earned from the fund shall be deposited into the fund.

* Sec. 3. The amendments proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HJR42
() Publish Date: _____

Identifier (file name): HJR-042-OOG-DOE-2-9-10 Dept. Affected: OOG
Title Constitutional amendment creating a transportation RDU Elections
infrastructure fund Component Elections
Sponsor House Transportation Committee
Requester House Transportation Committee Component Number 21

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES							
Personal Services							
Travel							
Contractual		1.5					
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	1.5	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES ()							
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FUND SOURCE (Thousands of Dollars)

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
1002 Federal Receipts						
1003 GF Match						
1004 GF		1.5				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other Interagency Receipts						
TOTAL	0.0	1.5	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
The passage of this resolution would require the constitutional amendment to appear on the 2010 general election ballot. The cost of providing information about the constitutional amendment in the Official Election Pamphlet, as required by AS 15.58 is \$1.5. Should the addition of this question require printing an 8-1/2 by 18 inch ballot, the cost will increase to \$22.0.

Prepared by: Gail Fenumiai, Director
Division Division of Elections
Approved by: Linda Perez, Director
Division of Administrative Services

Phone 465-4611
Date/Time 2/9/10, 3:49pm
Date 2/9/2010

**TO: Representative Peggy Wilson
Chair
House Transportation Committee**

**FROM: Larry Persily
Legislative Aide
House Finance Committee Co-Chair Rep. Mike Hawker**

RE: Funding options for a long-term statewide transportation plan

DATE: Sept. 28, 2009

As per your request, I have prepared this summary of possible funding options for a multiyear, statewide transportation initiative. There are three basic options for raising a substantial amount of money for a comprehensive transportation plan: Taxes, taking from savings, or borrowing against future state revenues in one form or another. All of the most feasible choices fall into those three categories.

I did not include as an option the possibility of relying on annual legislative appropriations in the state capital budget. Though that certainly is an option in the legal and political sense, and would not require new or increased taxes or issuing bonds or any legislative action outside of the annual budget battles, it also would not create any new money for highways, roads, harbors, airports or ferries. Simply put, it would not add anything to the state's financial resources and would merely continue the annual fight for transportation funds vs. other needs statewide. It doesn't get us anywhere that we haven't been for years. Therefore, I have left it off the list of productive options, assuming the status quo is not acceptable to the committee as it looks at how to generate a substantial amount of money or a dedicated revenue stream to fund the state's growing backlog of highway, road and other transportation projects.

For this discussion, the Department of Transportation has compiled the numbers for state capital spending the past 10 years on highways and roads, harbors, airports and ferries. The numbers are included in a separate Power Point presentation; they fluctuate year to year, generally linked to the rise and fall of oil prices and state revenues.

The rest of this report explains options for a statewide transportation funding plan, including some history; some legal, financial and political considerations; and pros and cons for several of the options. Please consider this report an ongoing work in progress, which I can expand or amend or update to meet the committee's needs.

Motor fuel taxes

Certainly, one option would be for the state to dedicate motor fuel taxes to highway construction and repair and other transportation needs.

The cleanest way would be for the Legislature to seek voter approval of a constitutional amendment for a dedicated fund. Such an account existed at statehood but was abolished the next year. Some have suggested over the years that perhaps the Legislature could somehow "reclaim" the dedicated fund for transportation-related purposes. Not likely, say the lawyers. A 1990 attorney general's opinion was not favorable to this approach, nor was a Sept. 15, 2009, Legislative Legal Affairs opinion prepared for this committee or a recent attorney general opinion. The Alaska Constitution prohibits dedicated funds, except for those that existed at statehood or are required by federal law. The 1990 attorney general legal opinion, the Sept. 15 Legislative Legal opinion and the recent attorney general opinion said the Legislature's 1960 decision to eliminate the motor fuel tax dedication cannot be reversed by legislative action; it would require an amendment to the constitution.

If legislators go with the constitutionally dedicated fund approach, a two-thirds majority vote is required in each legislative chamber to put a constitutional amendment on the ballot. State law requires that amendments must be scheduled for the next general election after legislative action.

As for the tax itself, after a one-year hiatus the state on Sept. 1, 2009, resumed collecting its excise tax on motor fuel. The 8-cent-a-gallon tax on highway fuel is the lowest state motor fuel tax in the nation. Alaska's tax rate has not changed since 1970.

The average state tax nationwide (total of excise and all other state taxes on motor fuel) is 28.6 cents on gasoline and 27 cents on diesel (Alaska collects the same 8 cents per gallon on gasoline and diesel). In addition, several states allow counties and municipalities to impose a local tax, plus many states add a sales tax, gross receipts tax, underground storage tank fee and other fees to motor fuels. Wyoming, at 14 cents a gallon in total gasoline taxes, is the closest to Alaska, while at least 16 states collect more than 30 cents a gallon when all their taxes are combined.

The federal tax rate is 18.4 cents per gallon.

If, for example, an Alaskan owned a vehicle that got 20 miles per gallon and drove 15,000 miles a year, the state tax would be \$60 for the year, with \$138 in federal taxes.

The 2008 legislative suspension of motor fuel taxes applied to all tax types, including marine fuel, jet fuel and aviation gasoline. The state does not tax heating fuel, fuel sales to government agencies, or fuel for electrical generating plants operated by utilities.

Consumers who use gasoline or diesel for off-road vehicles and equipment, such as mining and construction equipment that does not travel the highway, can apply to the state for a refund of 6 cents per gallon from the 8-cent tax.

The tax is paid not at the retail level but by fuel wholesalers, which greatly reduces the number of tax returns to the state. There are about 230 taxpayers that collect and remit motor fuel taxes to the state.

Alaska in Fiscal Year 2008 collected:

- \$30 million from its 8-cent tax on highway fuel (gasoline and diesel).
- \$5.6 million from marine fuel (5 cents a gallon).
- \$4.5 million from jet fuel (3.2 cents per gallon, with an exemption for flights originating in a foreign country and refueling in Alaska and also flights leaving Alaska for a foreign destination).
- \$670,000 for aviation gasoline (4.7 cents).

Alaska's motor fuel revenues do not vary much year to year; collections have ranged between \$39.2 million and \$41.8 million over the past five years.

All of the state's motor fuel revenues are deposited into the general fund. State law requires that 60 percent of aviation fuel tax proceeds must be shared with municipalities that own and operate an airport. The state in FY2007 sent \$147,322 to municipalities under this revenue-sharing provision:

- Juneau, \$79,914
- Ketchikan Gateway Borough, \$23,428
- Kenai, \$16,822
- Anchorage (Merrill Field), \$16,510
- Kodiak, \$6,955
- Soldotna, \$1,531
- Palmer, \$1,093
- Wasilla, \$1,069

The approximately \$41 million a year Alaska collects in all motor fuel taxes puts it between tobacco taxes (\$74 million) and alcohol taxes (\$39 million) among state excise tax revenues in FY2008. Motor fuel taxes provided about 7 percent of the state's non-oil and gas tax revenues in FY2008.

If, for example, the Legislature wanted to seek voter approval for a constitutional amendment to dedicate motor fuel taxes (gasoline and diesel only, not aviation or marine fuels) to transportation projects, and at the same time double the tax rate to 16 cents a gallon (still far below the national average), that would generate an estimated \$60 million a year for a comprehensive highway funding initiative.

With such a constitutionally dedicated fund, the Legislature could either appropriate the tax receipts annually, paying cash for projects, or the state could issue revenue bonds to raise a large amount of money up front and then use the tax receipts to repay the bonds over time. This is just a hypothetical suggestion, not a recommendation.

In addition to needing a constitutional amendment, in order to issue bonds secured by a dedicated motor fuel tax the Legislature also would need to adopt statutory authority for the State Bond Committee to issue the bonds on behalf of the state. A statute similar to the Alaska International Airport System authority at AS 37.15.410 - 37.15.550 would need to be established to provide the framework for the motor fuel tax bond issuance.

Pros Easy to collect and administer; no new program.
Clear link between users and payers.
Provides option of dedicated annual appropriations or revenue to repay bonds, or both.
Revenue stream continues indefinitely.
Taxing ourselves could help Alaska's congressional delegation counter the argument that Alaskans have their hand out too much in Washington.

Cons: Cost to consumers of higher taxes.
Politics of a tax increase.
Politics of opening the door to dedicated funds.

Revenue bonds and general obligation bonds

If lawmakers prefer raising cash up front for immediate transportation needs, rather than stretching out the construction work to match the motor fuel tax revenues available each year, the Legislature could opt for issuing bonds.

Continuing with the example of a 16-cent tax on gasoline/diesel that raises \$60 million a year, the state could use that revenue stream to cover debt service on a revenue bond issue of about \$400 million in today's market for transportation projects. Even though \$60 million a year, plus any potential gain from increased motor fuel consumption over the years, would cover annual debt service on closer to \$800 million in bonds, investors would discount the annual estimated tax receipts to reduce any risk that the revenues might come up short. The market, for example, would require that the state's estimated tax revenues equal two times the annual debt service on the bonds, to provide protection for investors. That's likely what it would take to earn an AA rating for the bonds.

Under this scenario, \$60 million in estimated annual tax receipts would cover \$30 million in annual debt service. The remaining \$30 million a year would be available for annual appropriation for transportation projects.

The actual amount the state could borrow in revenue bonds would depend on the motor fuel tax rate, bond interest rates at the time of issuance and other factors. The interest rate charged on revenue bonds would depend mostly on the creditworthiness of the revenue source — does the market believe the tax (or some other revenue source) would actually raise enough money to pay off the debt.

If it wanted, the state could borrow additional funds — beyond what it could access under the traditional scenario above — by paying a higher interest rate and issuing what is called subordinate debt. Under that scheme, the state could go to the market and essentially say to borrowers, OK, the first-lien bond holders have claim to the first 50% in tax revenues each year, but any subordinate borrowers willing to bet on the next 30% of the estimated tax receipts each year could earn a higher interest rate for loaning money to the state. Under such a debt issuance, the state would be compensating those subordinate borrowers for the higher risk that perhaps, just maybe, Alaskans would buy less motor fuel and tax revenues would fall short of what's needed to fully cover the bond debt. Under such a plan, the state could leverage 80% of its estimated tax revenues to raise a total of \$600 million on today's bond market. This would leave 20% of the tax available for annual appropriations after the debt service payments, or about \$12 million a year. Leveraging anything more than 80% of the projected revenues would be extremely costly to the state in high interest rates.

Dedicating motor fuel taxes for transportation spending is not a new idea; half of the states have revenue bonds backed by motor fuel taxes.

One point to keep in mind is that any dedication of motor fuel taxes to repay revenue bonds would mean those tax dollars are no longer available in the general fund for annual appropriation. In a real sense, it is a cut to future revenues, leaving a little less for legislators as they build the annual state budget.

Another option — if lawmakers wanted to raise even more money at a bond sale than motor fuel taxes could support in a straight revenue bond issuance — would be to go to voters twice: Once, for a constitutional amendment to dedicate motor fuel taxes to highway projects, and, in a second vote, to seek public approval of general obligation bonds for highway projects. The Legislature could use the two approvals to issue both revenue and general obligation bonds to amass a larger war chest for transportation funding.

If legislators want to go with debt, using revenue bonds to pay for some of the state's transportation needs would avoid placing the entire burden on the state's capacity for general obligation bonds.

Or the legislature could skip the dedicated-fund, revenue-bond approach and go with straight general obligation bonds to raise substantial funds for transportation projects.

General obligation bonds are painless in a way, in that they do not require a new tax or dedicated revenue stream. Rather, they are a binding pledge that one way or another, no matter what other demands are placed on state revenues, the State of Alaska will repay the debt. The money could come from motor fuel taxes, driver's license fees, oil production taxes — it really doesn't matter where the dollars come from once the taxes or fees are deposited into the general fund. And bondholders don't much care either where the debt service money comes from, as long as the state pays on time. The debt service payments simply become part of the annual appropriations package approved by legislators, the same as the state share of municipal school construction debt.

General obligation bonds require a vote of the public; revenue bonds do not.

A downside to general obligation bonds is that the promise to use general fund revenues to make payments on the debt means there would be less money available in the years ahead for legislators to spend on other needs. For example, a bond issue of \$700 million or so that commits the state to repay \$50 million a year for 20 years means that much less money would be on the table for school foundation funding, public health, state troopers or anything else.

Certainly, there is an element of fiscal risk for the state to borrow money and promise to pay it back from future general fund revenues at a time of declining North Slope oil production and uncertainty of the proposed Alaska natural gas pipeline. Oil has been the major source of state revenues for more than three decades, and Alaskans hope that new oil discoveries — and a gas pipeline — will do the same for many more decades to come. But there is no guarantee of future oil and gas revenues, and Alaska has always been cautious not to overextend itself in general obligation borrowing.

The bond market would react negatively if the state tried to issue too much general obligation debt. Unfortunately, there is no exact answer to the question: How much debt could the state issue without risking a downgrade by rating agencies and subsequently higher borrowing costs. The imprecise answer is: It depends on the future price of oil.

Assuming oil hung out around today's \$65- to \$70-per-barrel price range, the state next year probably could take on an additional \$500 million in new general obligation debt without much risk of a rating downgrade. If the Legislature wanted to build on that initial \$500 million, and if the public approved, the state probably could issue as much as an additional \$1.5 billion or so over the next five to ten years and still keep within the guideline that total debt load not exceed 5 percent to 8 percent of annual unrestricted revenues.

Of course, those numbers assume oil prices stay high enough to avoid any budget deficits; no other substantial new debt shows up on the state's books to eat away at cash flow; and the state retires its existing debt on schedule.

The state in Fiscal Year 2010 will pay about \$200 million on debt (general obligation bonds, certificates of participation, state share of municipal school construction debt and other borrowings). The Department of Revenue Spring 2009 forecast predicted unrestricted general fund revenue in Fiscal 2010 at \$3.2 billion, at \$58.29 oil — 5 percent to 8 percent of that would be \$160 million to \$256 million. The state's \$200 million in debt payments fall well within the acceptable range.

At \$65 oil, however, due to the revenue boost from the progressivity factor in the state's oil production taxes, the acceptable range for debt service from unrestricted revenues would climb to \$300 million to \$400 million, giving the state capacity to take on additional debt. This example, while showing the benefit of higher oil prices, also shows the risk of betting on future oil revenues.

In considering a possible general obligation bond issuance for transportation projects, the Legislature would want to consider:

- How much money is needed for projects statewide?
- How much could Alaska borrow without jeopardizing its favorable credit ratings?
- What other needs exist that might also require general obligation bonds in the future? If the state issues too much debt for transportation projects it could leave Alaska short of borrowing capacity for other needs in the years ahead, until the highway bonds are retired or new revenues boost the state's cash flow.
- How much less would it cost the state to spend cash each year for transportation projects rather than borrowing money and paying interest? Legislators would want to weigh the cost of borrowing against the benefit of having a substantial amount of cash up front to complete projects sooner than paying for the work by annual appropriations. Inflation will drive up the cost of construction in the years ahead, so the sooner the state contracts for the work the less it would cost. But interest on bonds adds up to a substantial amount. There's also the calculation that future dollars used to repay debt are worth less than today's dollars — a consideration when borrowing money and paying it back in the years ahead.
- The Legislature would want to ask how much the state already owes, if there is any new debt coming on line, and the schedule for paying off existing debt.

The state's debt obligations as of June 30, 2009, totaled \$502.8 million in general obligation bonds. State officials expect to issue an additional \$150 million in bonds in 2010 (the second half of a transportation bond issue approved by voters in November 2008). The debt service on the state's general obligation bond debt in Fiscal 2011 is scheduled at \$53.8 million — not counting any payments that might be due on the \$150 million in bonds to be issued next year.

In addition to its general obligation debt, the state had \$51.4 million outstanding in certificates of participation debt as of June 30, 2009, with no additional debt authorized. Payments on the outstanding certificates of participation total about \$8 million a year.

The state also is responsible for the debt on the Atwood Building (state office building) in Anchorage, the Anchorage jail and the soon-to-be-built Matanuska-Susitna Borough Goose Creek prison. That debt totaled \$309.7 million as of June 30, 2009. No additional debt is authorized at this time. The annual payments on the existing debt are about \$26.5 million.

And as of June 30, 2009, the state's share of annual debt service on municipal school bonds totaled about \$106 million a year — with more debt possible after this fall's municipal elections. The state's share of outstanding municipal school bond debt is about \$900 million.

One other requirement to remember for general obligation bonds is this: The ballot question must list the specific projects that would be funded by the bonds. The ballot issue can be written to allow some discretion for state transportation planners, but the general requirement to list actual projects usually forces a political discussion and compromise along geographical lines — there has to be something (enough) on the list for each region to garner sufficient legislative votes and the public's vote for passage.

Pros: Revenue bonds would not directly limit the state's future general obligation bond capacity.

Revenue bonds stand alone and do not draw directly from general fund.

General obligation bonds do not require new or increased taxes.

The state could raise a substantial amount of funds with a bond issue.

Cons: Basing revenue bonds on the public's acceptance of higher motor fuel taxes. There is a real cost to borrowing money.

Debt service commits future state revenues and could create tighter budgets in the future.

Toll road financing

The state could use highway tolls instead of motor fuel taxes to cover the debt on revenue bonds for specific, high-traffic projects. Many states pay for major highways through toll-financed debt issuance. But is there a highway project in Alaska with enough traffic to generate enough money to pay the bills? It takes a lot of cars and trucks paying a lot of dollars to pay back tens of millions or maybe hundreds of millions in toll road bonds, along with maintenance costs.

At one extreme, for example, New Jersey's two toll roads — the Turnpike and the Garden State Parkway — recorded more than 670 million vehicle trips in 2007, deriving 92 percent of their revenues from tolls (the rest came from roadway concessions). Of that toll revenue, more than half was paid by out-of-state motorists driving all or some of the more than 320 miles on the two toll roads. The revenues covered all expenses and debt payments; as of 2007, the New Jersey Turnpike Authority carried almost \$5 billion in outstanding bond debt. The state opened its first toll road segment more than 50 years ago.

At the other end of the traffic scale, South Carolina sold revenue bonds to finance construction and opened the Southern Connector eight years ago, providing a 16-mile bypass around a congested traffic area south of Greenville (on the road between Atlanta and Charlotte). The short toll road carries fewer than 6 million vehicles a year, less than 1% of the traffic on New Jersey's toll roads. Though the road is short, it took a very long time to build the project — 34 years from the first proposal to ribbon cutting.

In Alaska, the Knik Arm Bridge and Toll Authority proposes to pay for most of the crossing's construction costs with bonds financed by toll revenues. KABATA estimates 6 million toll-paying trips per year by the third year of operations for the proposed Knik Arm Crossing. The authority believes the toll revenues would be sufficient to cover several hundred million dollars in construction costs, though skeptics are less certain of traffic projections. The bond market could very well require state backup for toll road revenue bonds to protect investors against unknown toll receipts falling short of projections.

The only existing toll operation in Alaska is the Whittier Tunnel, though the toll revenues cover only a small portion of the actual construction costs and operations.

Pros: Users pay the costs.
No general fund dollars.

Cons: Are Alaskans willing to pay a toll to use existing highways that are now free?
Are Alaskans willing to pay a toll for new highways?
And is the state willing to back the bonds, in case toll revenues come up short?

Public-private partnerships

Public-private partnerships, known as 3Ps, were quite the rage in the 1990s as states and municipalities looked for new ways to pay for highway construction. But, like many hot new financing schemes, the 3Ps are less popular these days.

The Knik Arm Bridge and Toll Authority had pegged its financing future to a 3P plan — a privately run toll road.

The state-established toll authority is waiting for federal approval for the Knik Arm Crossing and dealing with the Endangered Species Act listing for Cook Inlet beluga whales. Meanwhile, further negotiations on the details of a financing plan are mostly on hold. The private firms interested in financing, building and operating the project had wanted the state to guarantee a minimum level of traffic and toll revenues; anything less than the guaranteed minimum and the state could have been required to write a check to cover the shortfall. Using the state treasury as a backstop for financing did not go over very well with the Palin administration. Besides, the problems in the worldwide credit market have dampened interest in privately financed, publicly owned transportation projects, leaving such a financing option uncertain for the Knik Arm crossing. But all that is waiting for federal permit approval and more work on belugas.

One difficulty the Knik Arm crossing faces — and why investors would like some kind of guarantee — is that traffic is an unknown. It's not like when the State of Indiana cut a deal in 2006 to lease out the Indiana Toll Road for 75 years to a joint venture of Spanish and Australian firms. In exchange for handing over the next 75 years of toll revenues, Indiana received \$3.8 billion cash for the deal. But in making the deal, Indiana could point to a 50-year history of proven toll revenues on the highway.

Simply put, it's difficult to sell Blue Sky (unknown revenues from future projects) to investors.

Endowment funded by the Permanent Fund or Constitutional Budget Reserve

Lawmakers could withdraw a large sum of money from the Constitutional Budget Reserve or earnings reserve account of the Permanent Fund, using the money to establish a separate, dedicated Alaska Transportation Fund. The choice then would be whether to use investment earnings from the new fund to pay for construction projects on an annual cash basis, or issue debt and use the earnings to pay back the bonds.

Either way — annual appropriations for specific projects or making debt service payments on bonds — would require a constitutional amendment to establish the endowment and dedicate it and its revenues to transportation projects.

Withdrawing money from the Permanent Fund principal also would require its own constitutional amendment. Taking the money for the new endowment from the Permanent Fund earnings reserve or Constitutional Budget Reserve would require a legislative appropriation — not a constitutional amendment — though certainly a politically contentious appropriation.

And any reduction in the investment balance of the Permanent Fund — from principal or earnings reserve — would reduce future dividends. The less money in the fund earning a profit on investments, the less earnings would be available for future dividends.

As for taking the money from the Constitutional Budget Reserve Fund, that could leave the state short if a steep drop in oil prices required a deep draw on the CBRF. The fund's balance as of Sept. 21 was about \$8 billion, sufficient for several years of small to moderate budget deficits if oil prices fall. There is always the risk, however, of large draws on the fund if world oil prices collapse. Tapping the budget reserve for a new transportation endowment also would reduce future earnings by the reserve fund — a \$2 billion reduction in the CBRF, for example, would significantly reduce the annual investment earnings that help feed the fund.

To secure bonds and receive the lowest interest rate possible, the state likely would have to pledge not only the earnings from the transportation fund but also the principal to protect investors in case earnings fall short in any given year and cannot cover the debt service.

Pros: No new taxes.
Substantial funds could be made available.

Cons: A dedicated fund would require a constitutional amendment.
Any withdrawal from the Permanent Fund would reduce future dividends.
Any draw on the Constitutional Budget Reserve could cause problems in the years ahead if oil prices fall and the state runs a deficit.
A year of low or negative investment earnings on the transportation fund would require a draw on the fund's principal to pay debt service or fund projects.

Allocating a portion of oil royalties or Permanent Fund earnings

Instead of withdrawing money from the Constitutional Budget Reserve or the Permanent Fund, the Legislature could consider diverting a percentage of future oil and gas royalties away from the general fund to a transportation fund. Or diverting a portion of Permanent Fund earnings to transportation projects.

For example, Alaskans amended the constitution in 1976 to direct at least 25 percent of oil and gas royalties to the Permanent Fund. They could be asked a similar question to establish the Alaska Transportation Fund. A 2.5 percent annual dedication of oil and gas royalties would raise approximately \$55 million a year at \$65 oil. The fund could be used to pay directly for projects each year or as collateral for a revenue bond issue with earnings to help cover debt service payments.

Of course, any diversion of royalties to a special fund would reduce state general fund revenues in future years. And it would require a constitutional amendment for the dedicated fund.

There also is the option of drawing each year on Permanent Fund earnings. The Legislature could adopt a percent-of-market-value approach for imposing a limit and governing the availability of Permanent Fund earnings for annual appropriation. If, for example, the Legislature wanted to adopt an annual withdrawal limit of no more than 5 percent of the Permanent Fund's market value (as the Permanent Fund trustees and others have long proposed), it could choose to dedicate — from within that 5 percent — 0.25 percent of the market value for annual appropriation to transportation projects. At a market value of \$32 billion, that would generate \$80 million a year.

Though much of the public is skeptical of the POMV approach for limiting annual expenditures from the Permanent Fund, perhaps some would react more favorably if a comprehensive, statewide transportation initiative were part of the deal?

Pros: No new taxes.

Substantial sum of money would be available.

Cons: Any diversion of oil and gas taxes or royalties away from the general fund could create revenue shortages in years of low oil prices.

Dedicated funds require a constitutional amendment.

Using Permanent Fund earnings could result in lower future dividends.

The politics of using Permanent Fund earnings would be controversial.

Selling off future state oil taxes or royalties

The state could raise cash today by selling off a portion of its future revenue stream from oil taxes or royalties. The state could approach investors and turn over a percentage of future taxes or royalties or even a fixed amount of barrels of oil each month in exchange for a large, up-front cash payment. Mining companies often generate cash for new developments this way by forward selling future gold production.

The risk to investors is that oil prices or production could fall, leaving them short. Which means investors would pay the state a discounted price for the future revenue stream.

The risk to the state is shortchanging the general fund of future revenues.

Pros: No new taxes.

Cons: Diverts future state revenues away from the general fund and annual appropriation process.

It would cost less to raise the same amount of money by general obligation or revenue bonds.

Stimulus Build America Bonds

The state could save money by availing itself of the Build America Bond program offered under the federal economic stimulus act. Under this program, the federal government pays a substantial portion of the interest on taxable public debt issues. The subsidy is available only on financings that could otherwise be sold as tax-exempt debt but where the issuer elects to sell taxable bonds to receive the federal subsidy equal to 35% of the interest expense on the bonds. The federal aid essentially buys down the state's cost to below the interest rate of tax-free debt

The State of Alaska could save 25 to 100 basis points on actual debt costs under the program, depending on the market, the term of the bonds, size of the bond issue and the issue's debt rating. It is estimated that in the current market a \$100 million, 20-year AA-rated bond issue by the State of Alaska would be priced at about 4.2% on a tax-exempt basis, while under the Build America Bond program the true cost to the state would be approximately 3.3%.

The idea is that the higher interest earned on taxable bonds would be attractive to some investors (such as pension funds and other institutional investors that do not pay income tax), and attractive to investors looking for lower-risk public debt, while the federal subsidy would drop the actual cost to states and municipalities below the lower interest rate they normally pay on tax-exempt bonds.

The federal subsidy on Build America Bonds is 35 percent of the interest rate for the life of the bonds. The subsidy is available on bonds issued through Dec. 31, 2010. There is no limit on the amount of bonds that can be issued under the program, though only government projects that otherwise would qualify for tax-exempt financing — such as schools, roads, universities and such — are eligible for the program.

The White House reported that 66 bond issues, totaling \$11 billion, were issued in the first seven weeks of the program. Several of the early issuances were for transportation work, including the New Jersey Turnpike Authority and New York State's Metropolitan Transportation Authority.

The state would face an extremely tight timeline to get in on this program, and the Legislature would need to consider changing statute to eliminate the requirement for a competitive bond sale to speed up the process.

Pros: Federal assistance reduces cost of borrowing.
No dollar limit to federal program.

Cons: Dec. 31, 2010, deadline for participation. That could be extremely tight if the bonds cannot go before voters until the November 2010 general election.

Creative financing

One idea the state has discussed with financial services firm J.P. Morgan Chase is using a general fund appropriation, say maybe \$2 billion, to create an oversize reserve for a bond issuance of an equal amount by a public corporation of the state. Debt service on the bonds, perhaps around \$145 million a year, could be covered by the general fund with help from earnings on the \$2 billion reserve.

The benefit of the oversized reserve is that it likely would achieve an AAA rating for the bond issue and therefore lower interest rates. The downside is that the \$2 billion in reserve is then yield restricted to the yield on the bonds that are issued. This essentially guarantees that the state would earn less on the \$2 billion than it would pay in interest on the bonds. This is because in periods of low investment earnings the state would still be responsible for all of the debt service, but in periods of high earnings any investment earnings on the reserve in excess of the rate on the bonds must be paid to the IRS.

While this idea would ensure that \$2 billion would be available for transportation projects, it is not beneficial from a financial perspective and the state would be better off simply appropriating \$2 billion to fund projects without any borrowing.

And, as with all debt, there would be costs of issuing the bonds — about \$20 million for \$2 billion in bonds

An additional downside is such a large appropriation for the bond reserve would be dependent on high oil prices to generate the extra general fund cash needed to fund the reserve. Or lawmakers could draw on the Constitutional Budget Reserve to set up the \$2 billion account, reducing the state's oil-price cushion in future years.

Pros: Ensures \$2 billion for transportation projects.
No new taxes.

Cons: It would reduce the state's earnings on the \$2 billion put into reserve.
The state would lose flexibility in using the \$2 billion while it's held in reserve.

Federal funds

Separate but pertinent to this discussion is the fact that the federal Highway Trust Fund is running close to empty. The account, which pays the federal share of highway projects nationwide, is supposed to be continuously refilled with federal motor fuel tax receipts. But tax revenues are not keeping up with spending needs, with the gap especially troublesome as Americans buy less gasoline and diesel and pay less in taxes.

Congress approved a stopgap \$7 billion appropriation for the highway fund before adjourning for its summer recess. The money, however, is not expected to last much past the end of the federal fiscal year Sept. 30, which means Congress will need to take further action to maintain the fund.

This was the second year Congress has had to appropriate general fund dollars to bail out the trust fund. Lawmakers added \$8 billion to the account last September.

The point of this information is the reality that Alaska probably should not look to Congress and the federal government for substantial additional amounts of transportation funds for the next several years. Congress will have enough trouble finding the money just to maintain existing commitments for federal sharing.

The separate Power Point presentation accompanying this report shows year-to-year federal funding for transportation projects in Alaska.



Alaska State Legislature

Representative Peggy Wilson
House District 2

MEMORANDUM

Date: April 12, 2010

To: Senator Albert Kookesh
Senate Transportation Committee

From: Representative Peggy Wilson

Re: HJR 42 - Constitutional Amendment:Transportation Fund

I would like to request the Senate Transportation Committee schedule a hearing on HJR42.

HJR 42 will put a constitutional amendment before voters to change the Alaska constitution to allow a dedicated fund for Capital Transportation Projects.

Alaska is geographically the largest state in the country, and the future of the economic and social well being of its citizens is critically dependent on a reliable transportation system. This change to the State Constitution, allowing a dedicated transportation fund, is needed to create and maintain a modern, reliable transportation system for Alaska.

Thank you for your consideration.

26-LS1411\T
Kane
4/13/10

SENATE CS FOR CS FOR HOUSE JOINT RESOLUTION NO. 42()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): HOUSE TRANSPORTATION COMMITTEE

A RESOLUTION

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

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** Article IX, sec. 7, Constitution of the State of Alaska, is amended to read:

5 **Section 7. Dedicated Funds.** The proceeds of any state tax or license shall not
6 be dedicated to any special purpose, except as provided in Sections 15 and 18
7 [SECTION 15] of this article or when required by the federal government for state
8 participation in federal programs. This provision shall not prohibit the continuance of
9 any dedication for special purposes existing on April 24, 1956 [UPON THE DATE
10 OF RATIFICATION OF THIS SECTION BY THE PEOPLE OF ALASKA].

11 *** Sec. 2.** Article IX, Constitution of the State of Alaska, is amended by adding a new
12 section to read:

13 **Section 18. Transportation Infrastructure Fund.** (a) The revenue received
14 after July 1, 2011, from any state tax on fuel used for the propulsion of motor vehicles,
15 aircraft, and watercraft, less those refunds, credits, and collection costs that are
16 provided by law, and from a registration fee levied for a motor vehicle, not including

1 special registration fees as provided by law, shall be placed in a transportation
 2 infrastructure fund. The legislature may appropriate additional amounts to the fund.
 3 The fund shall be managed as an endowment. Each year, the legislature may
 4 appropriate a percentage of the state fuel taxes and registration fees received by the
 5 fund in that year and a percentage of the average market value of the fund as
 6 established by law for capital projects ^{or major maintenance} for transportation and related facilities that are
 7 designated by law and for costs related to motor vehicle licensing and registration that
 8 are designated by law.

9 (b) The legislature shall provide by law for the management and investment of
 10 the fund balance. The income earned from the fund shall be deposited into the fund.

11 * Sec. 3. The amendments proposed by this resolution shall be placed before the voters of
 12 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the
 13 State of Alaska, and the election laws of the state.

*Major
 Maintenance Projects
 Provision: included?*